

The Spectacle of Criminal Justice

Rosie Alice Smith

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Abstract

This thesis examines the role of the spectacle in criminal justice. No longer is the spectacle focused on the punishment of offenders splayed and leaking atop the town scaffold, but rather the focus has moved to the visual drama of criminal trials broadcast and exposed on television screens and in newspapers. Fundamentally, questions of justice have moved into the media spotlight, taking on spectacular properties. It examines the shift in visibility away from punishment and towards criminal justice, and investigates the role of the spectacle in these processes. To construct this narrative, the concept of ‘Spectacular Justice’ is proposed. Spectacular justice describes the ways in which the mass media has the power to take the private matters of criminal cases and turn them into high-profile public dramas. Adopting a visual criminological approach, spectacular justice is used to examine the relationship between a post-nineteenth century decline in the spectacle of public punishment (Foucault, 1991) and the upsurge in technologies which facilitate a social world defined by media spectacles (Debord, 2012). Through the discourse analysis of print and broadcast media archives, and focusing upon the figures of the victim, the perpetrator, and the expert, the research explores eight case studies from the United Kingdom, the United States, and Norway dating between 1811 and 2014, to illuminate how the spectacle of justice operates. As such, *spectacular justice* is used to reignite scholarly interest in narratives of the spectacle and contributes to the field of criminology by privileging sight as central, and media materials as mobilisers of insight and debate. We are living in a society defined by global media spectacles and this thesis examines how criminal justice has become a keystone within these visual structures. Spectacular justice gives meaning to the power of media discourses to make justice visible and the condemned notorious.

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Author's Declaration

I declare that this thesis is a presentation of original work and I am the sole author. This work has not previously been presented for an award at this, or any other, University. All sources are acknowledged as References.

Chapter One: Introduction

1.1 Research Introduction

Towards the end of the nineteenth century there was “a shift from the spectacle of public bodily punishment to the spectacle of the trial itself” (D’Cruze, 2006: 38). This thesis examines this shift away from the visibility of punishment and towards the visibility of the criminal trial to consider the role of the spectacle in justice. In doing so, the thesis speaks to and develops the argument made in Michel Foucault’s eminent text *Discipline and Punish* (1991) that post-nineteenth century society has witnessed a decline in the spectacle of punishment. In parallel with the privatisation of punishment and the decline in “spectacles of social suffering” (Brown, 2014: 181), Debord (2012) argues we are living in a society defined by media spectacles, saturated by systems of twenty-four-hour information, super-fast technologies, and global connectedness (Mathiesen, 1997). Thus, this thesis uses both Foucauldian theories of the privatisation of punishment and Debord’s (2012) narrative of the spectacle, to understand the role and significance of visibility to the criminal trial and to locate criminal justice within visual structures. It will be argued that the intersections between the spectacle and justice are ubiquitous and palpable. Perhaps the most powerful example concerns the media spectacle surrounding the O.J. Simpson trial whereby nearly 100 million viewers tuned in to spectate the daily minutiae of the courtroom (Garcia-Blanco and Bennett, 2018; Grabe, 2000; Felman, 2007). According to Kellner, the mega drama that surrounded the Simpson case “created a national media megaspectacle perhaps unparalleled in its intensity and explosive in its effects” (2003: 108). Unparalleled perhaps until twenty years later when in 2014, Olympic athlete Oscar Pistorius dominated international news headlines; another spectacular “media circus” (Garcia-Blanco and Bennett, 2018: 7; Biber, 2018) had emerged. Charged with murdering his girlfriend, South African model Reeva Steenkamp, Pistorius faced trial. The case was deemed the “trial of the century” (Smith, 2014), and finally came to a close in 2016 after being televised live, minute by minute, across the world. Pistorius was found guilty. Both the O.J. Simpson and Pistorius cases speak to the ways in which we are living in a society defined by media spectacles (Kellner, 2003; Debord, 2012; Carrabine, 2008; Rafter, 2014; Spierenburg, 1984; Mathiesen, 1997; Brown, 2014; Adorno & Horkheimer, 2002) and how the criminal justice system is a key feature within these increasingly ubiquitous visual structures. Visibility is central to justice. Ferrell, Hayward and Young argue that the “everyday experience of late modernity...is

certainly suffused with images, and with images of crime” (2015: 228). Whilst images of crime and criminality are profuse within the late modern spectacle, this thesis seeks to illuminate the more specific place of justice within a media saturated, visual culture. It is argued that the media’s transparency of criminal justice can be seen as an “extension of the public gallery” (Garcia-Blanco and Bennett, 2018: 3). In doing so the research finds meaning in the spectacle beyond punishment and strengthens the argument for the spectacle as a narrative for understanding justice.

1.2 Research Aims

To explore the intricate relationship between the spectacle and criminal justice there are four research aims that this thesis will address.

| Aims | Questions |
|---|---|
| 1. To assert the notion of the spectacle in justice. | 1. How has justice become a spectacle? |
| 2. To expose the role of the mass media in making a spectacle of criminal justice. | 2. What role does media discourse play in creating a spectacle of justice? |
| 3. To investigate the international impact and appeal of justice as a public, media spectacle. | 3. How does the spectacle of justice vary culturally? |
| 4. To explore the moral and political issues that arise in spectacular and highly visible moments of justice, and explore what this reveals about the fluid character of the spectacle. | 4. What are the implications of the spectacular nature of justice for our understanding of the political, moral, and social condition of a society? |

Table 1 Aims and Questions

1. To assert the notion of the spectacle in justice.

The aim of this thesis is to elevate notions of the spectacle in relation to criminal justice and the mass media, and highlight the prevalence of the visual spectacle in parallel with developments in privatisation. Seal writes in her discussion of capital punishment in twentieth-century Britain, that despite the fact that the privatisation of the execution around the mid-nineteenth century meant that “the audience was no longer physically present...this did not mean it had disappeared” (2014: 33). Echoing Seal’s (2014) work, in particular the view that alongside shifts towards privatisation of punishment the popular press and mass media was gaining momentum, this thesis argues that the public, visible spectacle has not disappeared. Rather it has shifted away from punishment and onto criminal justice as a result of the “critical mediating role” (Sarat et al, 2012: 1) of the mass media.

Beyond establishing the prevalence of spectacle around justice, the thesis aims to highlight the historicity of this relationship; the historicity of the spectacle of justice is conspicuous. As such it is important to the understanding of the spectacle around justice to assert both its contemporary existence, as well as establish its historical lineage. Three historical cases that illuminate the spectacle of justice from the nineteenth to the twentieth century are analysed to further develop this area. The first case study is the Ratcliffe Highway murders (1811) in which a national response followed two fatal attacks against two separate families in London¹. The second case study is the infamous serial killer Jack the Ripper (1888). Thirdly, the Lindbergh Jr case (1932), whereby the infant son of American aviator Charles Lindbergh was kidnapped and murdered. Each historical case study will be analysed to open up the historicity of the visual spectacle in justice, which in turn seeks to enhance the spectacle as a dominant narrative in relation to the criminal trial in parallel with the privatisation of punishment.

2. To expose the role of the mass media in making a spectacle of criminal justice.

Drawing on literature that investigates the interrelationships between the mass media and narratives of the spectacle, such as Mathiesen (1997), Debord (2012), and Garland (1986), the research focus is on evidencing how the mass media performs its function as a facilitator of the spectacle, rather than assessing whether this is a positive or negative social function. Drawing

¹ See Appendix 1 for detailed outline of each case study

on visual criminological literature, the research will explore this question and discuss issues, such as whether or not the physical act of seeing the implementation of judicial process guarantees justice is served. From this, the research aims to make seeing and the visual central to its criminological and theoretical inquiry and speak to the relevance of the mass media to the public representation of criminal justice.

3. To investigate the international impact and appeal of justice as a public, media spectacle.

The thesis will speak to the structural move away from the local spectacle of public punishment to the international spectacle of justice. To achieve this research aim, high profile criminal case studies are identified across the United Kingdom, the United States, and Norway. Thus, not only does the research expose examples of spectacular moments of justice, the data further highlights their international media presence and reach. Beyond the theoretical implications of analysing European and non-European case studies, to do so equally demonstrates cross-cultural variations in the use of language, information, and the underlying social norms and values that are disseminated to incite public debate. From this, the research will investigate how narratives of the spectacle flourish at the intersection between crime and justice, but do so in many different forms, and beyond the boundaries of Western Europe which occupy literature on the spectacle of public punishment (Foucault, 1991).

4. To explore the moral and political issues that arise in spectacular and highly visible moments of justice, and explore what this reveals about the fluid character of the spectacle.

This research focuses on analysing the ways in which narratives of the spectacle can reveal details about the socio-political, cultural, and moral condition of a given society. It seeks to examine, firstly, the moral and political issues that arise in spectacular and highly visible moments of justice. Secondly, it considers how in doing so the spectacle can be understood as a narrative that is complex, fluid, and variable along social, political and cultural lines.

1.3 Research Questions

To address these four research aims the following research questions are asked and responded to:

Q1. How has justice become a spectacle?

Asking this question allows the research to address the first research aim. The research seeks to explore the lived ways the criminal trial and criminal justice are made a spectacle in the everyday world. Building on D’Cruze’s (2006) argument that we have moved towards the spectacle of the criminal trial, the research seeks to establish in what ways justice is made publicly visible, accessible, and consumable. Conducting a discourse analysis² of print and broadcast media archives enables the thesis to draw upon qualitative data and human stories to substantiate the argument that the mass media is a key mechanism in facilitating the spectacle of criminal justice.

Q2. What role does media discourse play in creating a spectacle of justice?

Importantly, the research recognises that there is a discernible difference between mediated and non-mediated justice, nonetheless, in order to examine the role of the spectacle in justice, the thesis focuses on illuminating those cases that *are* mediatised. It identifies print and broadcast media as key agents in facilitating a spectacle, both in terms of its creation and dissemination. To answer the question of the role of the media to the spectacle of justice, a discourse analysis of the print and broadcast media archives of eight case studies is employed to deconstruct the language and emotive techniques that the media uses and the public responses it elicits. Analysing the discursive techniques of the mass media and their representation of criminal cases illustrates and exposes its role in fostering processes of the spectacle. Herein, this research question directly addresses the second research aim.

Q3. How does the spectacle of justice vary culturally?

The third research question, which addresses the third research aim, builds on the already established global reach of the mass media to develop and evidence the spectacle of justice. By

² See Chapter Three: Methodology for a detailed discussion on how the research employs the discourse analysis method

analysing a range of case studies, both European and non-European, the research aims to identify the cultural, global, and historical similarities and differences in not only the character of the spectacle of justice, but simultaneously how the public engages with processes of the spectacle. How different social systems and media institutions react to cases of criminality and turn them into high profile public dramas will be investigated, alongside a consideration of the impact different social climates play on the vitality and nature of the spectacle.

Q4. What are the implications of the spectacular nature of justice for our understanding of the political, moral, and social condition of a society?

The final research question addresses the fourth research aim. To examine the spectacle that surrounds criminal justice sheds a light on an alternative vision of the social world, wherein the spectacle and the private intersect, between which runs the power of a global mass media. In doing so it invariably exposes a supplementary way of understanding the political, moral and social condition of society; one which acknowledges the transition of the spectacle away from punishment and towards criminal justice process. Thus, not only do case studies of a justice spectacle reveal something specific about that particular social microcosm in which the crime took place, but seeks to open up an alternative vision of the socio-criminological landscape.

1.4 Spectacular Justice

In response to the above research questions, and in order to explore the shift towards visibility around justice, this thesis makes an original contribution through the development of the concept of 'spectacular justice'. Spectacular justice is the conceptual tool this thesis will use to answer the research questions outlined above and to achieve its research aims; spectacular justice is the framework upon which this thesis is built and with which this thesis navigates the complex structures of the spectacle around justice.

Spectacular justice is a concept which describes the interrelationships between the public, the mass media, and the criminal justice system. Specifically, spectacular justice describes the ways in which the mass media has the power to take the private matters of criminal cases and turn them into high profile public dramas. Justice is played out in a visible way; it is brought into the public eye constructed for consumption and entertainment and in doing so brings moral questions to the fore. In doing so, this new concept strives to go beyond the visual traditions of

cultural criminology as defined by ‘edgework’ (Lyng, 1990; Ferrell, Milovanovic and Lyng, 2001) and ‘transgression’ (Jenks, 2003; Bakhtin, 1984; Stallybrass and White, 1986; O’Neill and Seal, 2012). Spectacular justice strives to revitalise the narrative of the visual spectacle within criminology and contributes to the growing field of research where the visual is central to criminological inquiry. Building on this expanding research field, it supports the case for a “sophisticated understanding of the centrality of the image to crime” (Young, 2014: 160). By seeking to enhance existing literature on the use of the visual as an insightful route into understanding crime, deviance and criminal justice (Rafter, 2014; Brown, 2014; Carrabine, 2012, 2014, 2016), spectacular justice gives meaning to the prolific place of criminal justice process within a global mass media. And it is through its drive to embrace a “visual turn of mind” (Rafter, 2014: 131) in order to better understand the centrality of criminal justice in mass media discourse, that constitutes its original criminological contribution.

Within spectacular justice a number of sub-categories were developed for the purposes of navigating the data, addressing the research aims and questions, and providing structure for the thesis. The conceptual breakdown of spectacular justice is illustrated in the following diagram:

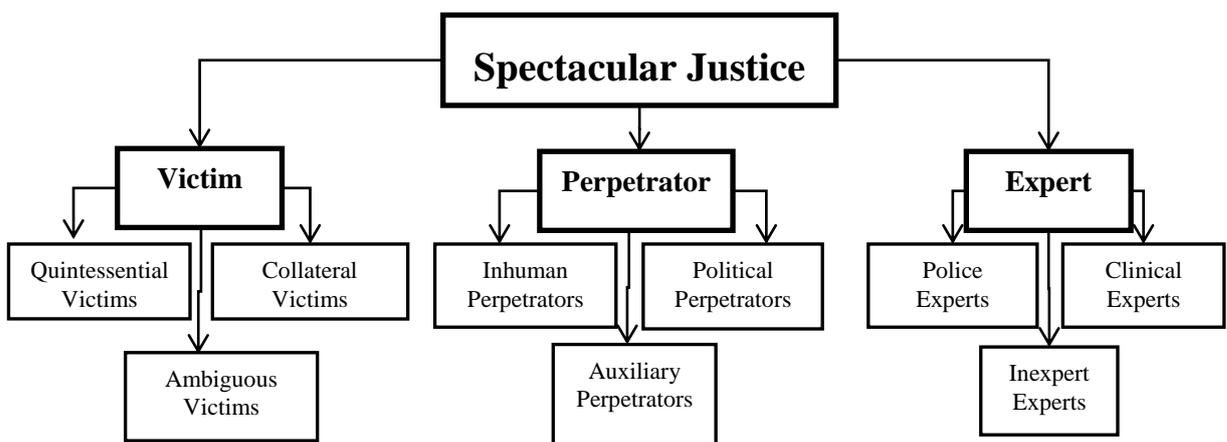


Figure 1: Conceptual breakdown map

Using the conceptual breakdown map, the thesis is structured around three main characters: the *Victim*, the *Perpetrator*, and the *Expert*. Each character acts as a lens through which spectacular justice is explored and its conceptual intricacies developed. These three characters are defined in the following ways:

- The victim is an individual and/or group that has suffered or that is affected either directly or indirectly by the illegal or perceived criminal actions of another individual and/or group.
- The perpetrator is an individual and/or group who commit or contribute to an illegal or perceived criminal act.
- The expert is an individual and/or group that are knowledgeable or skilful in a specific area (in this case a criminal case or criminal justice process).

These characters form the structural basis for the thesis because of their centrality and visibility within criminal justice process; the victim, the perpetrator, and the expert consistently feature in media discourse and representations of criminal cases. Beyond their centrality within spectacular and highly visible moments of justice, they also focus the research on the human element of the spectacle in relation to justice. It will be argued that spectacular justice is determined by human stories; human characters provoke the spectacle of justice rather than the crime itself. Thus, the *Victim*, the *Perpetrator*, and the *Expert* are the human keystones not only around which this thesis is structured, but with which spectacular justice flourishes.

Each of the three characters is also considered familiar within public discourse. As a consequence of both their familiarity within public discourses of criminality, and their relative simplicity, they form the pillars upon which the research proposes, outlines, and introduces spectacular justice. During the early design phases, the research was aware of the need to balance the complexity of introducing a new concept with a structure that is easily understood and easily translated beyond the criminological discipline. Spectacular justice is a ubiquitous and observable feature of many international social worlds, and so it is hoped that by drawing on clear, palpable characters, the research will act as a framework with which readers can go away and find further evidence of the concept in their own everyday world. And so, more than mechanisms for interpreting and condensing data, the three characters allow the research narrative to be creative, and introduce tools with which the reader can access and evaluate spectacular justice for themselves.

The role of each character to the spectacle of justice as a supplementary narrative is explored through a threefold analysis of case study data. The archives showed that the mass media, whether print or broadcast, does not represent one simple characterisation of the victim, the perpetrator, and the expert when reporting on a criminal case. Within the victim, the perpetrator,

and the expert, the research identifies three variations³ in how they are constructed by the mass media and the function they serve to the spectacle of justice.

The Victim

The *Victim* sits at the intersection between criminality and justice, often emotively embodying the social transgressions of the perpetrator. As such, victims are central to the role of the spectacle within justice. The research looks at how the victim can be mechanised by the mass media to incite public solidarity and sympathy, against which the perpetrator is contrasted, critiqued, and constructed as the antithesis. Each case study involves a unique relationship between the victim, the mass media, and narratives of the spectacle, and it is from these social, cultural, and historical variations that the victim's role in spectacular justice is examined. It draws on issues and debates surrounding the victim's identity such as their gender, class, ethnicity, sexuality, and age to analyse how this affects spectacular justice and the extent to which the criminal case is turned into a high profile public drama.

The thesis reflects on the variations in how a 'victim' is defined, and conceptualises the character in three main ways: the *Quintessential Victim*, the *Collateral Victim*, and *Ambiguous Victims*. Each sub-category seeks to highlight the spectacle around justice as well as the inherent subjectivities and complexities which surround victims. Drawing on issues of voyeurism and mediated erotica (Seltzer, 1998; Penfold-Mounce, 2010; 2016; Haggerty, 2009; Foltyn, 2008b; Moscoso, 2012; Scarry, 1985; Spivey, 2001); the ideal victim (Christie, 1986); as well as solidarity, community, and newsworthiness (Jewkes, 2010; Katz, 1987; Galtung & Ruge, 1965; Chibnall, 1977) the victim character builds a strong case for exposing the role of the media in making a spectacle of criminal justice.

The Perpetrator

The *Perpetrator* is equally crucial to understanding how justice has become a spectacle, and therefore the conceptual development of spectacular justice. The research explores the ways in which spectacular justice arises out of the conflict that criminality and criminal perpetrators

³ These categories are not designed to be exhaustive. Each category is analysed because of their visibility within the data, and as such the researcher recognises the potential for many other variations to be identified.

pose to social order. It seeks to make explicit the disruption and uncertainty that stems from the transgression of social boundaries, as well as the challenging of social norms, and demonstrate the significance of this in relation to Foucauldian (1991) theories of the panoptic utopian ideal. Speaking to the non-homogeneity of power, the perpetrator character is conceptualised in three main ways: the *Inhuman Perpetrator*, the *Political Perpetrator*, and the *Auxiliary Perpetrator*.

The research makes the role of the perpetrator to the spectacle of justice explicit and relevant. By analysing the currency of criminal perpetrators in media discourse establishes the value of the criminal perpetrator beyond the spectacle of bodily punishment and demonstrates the historically conspicuous fascination with criminal perpetrators and their place in the spectacle of justice.

The Expert

The *Expert* simultaneously orbits the criminal justice process and mass media discourse; investigating, analysing, evaluating, diagnosing, and labelling issues of criminality. Much like the visibility of the victim and the perpetrator, experts are conspicuous at every stage of the criminal justice process. As a result, they occupy a privileged place in mass media spectacles. Drawing on broader Foucauldian literature on the knowledge-power relationship (1978; 1991; 2006; 2007) this section speaks firstly to the complexity of knowledge and power, and secondly, the co-existence of technologies of both the private and the spectacle. Challenging the rigid hierarchy of knowledge and power under the disciplinary regime it makes explicit the complex ways knowledge and power exist and asserts the spectacle around justice.

The expert character is conceptualised in three main ways: the *Police*, the *Clinical Expert*, and the *Inexpert Expert*. Each conceptualisation highlights a different variation in expert knowledge and each offers a distinct insight into how the relationship between the mass media, the justice system, and experts creates a spectacle. Experts are understood to act as a lens which colours a criminal case and its justice process; the features of the expert change the character and scale of the spectacle. In order to assert the notion of the spectacle of justice it is necessary to explore how the mass media utilises experts and their knowledge, and positions them as authorities, when reporting on a criminal case.

Differentiating 'spectacular justice' from a 'moral panic'

In addition to outlining the conceptual background of spectacular justice, it is useful at this early stage to clearly differentiate 'spectacular justice' from the concept of the 'moral panic'. This is done in the interest of theoretical clarity and to establish the conceptual originality of spectacular justice. Moral panics are extensively theorised within criminology (Garland, 2008; Goode & Ben Yehudi, 1994; Jewkes, 2010) but for the purposes of this research it is Cohen's (1972) conceptualisation that is the focus. A 'moral panic' according to Cohen (1972) is understood to be when a condition, episode, or person or group of persons emerges to become defined as a threat to societal values or interests. 'Moral panics' are founded on the premise that the media has a disproportionate reaction to an individual or event perceived to challenge the stability of society. From this overreaction, Cohen contends that widespread social condemnation is encouraged, and control pursued. Building on the labelling perspective and with a distinct focus on marginalized social groups, Cohen's work highlights how moral panics can foster increased social control and perpetuate the power of existing authorities. Through his examination of the media representation of the supposed conflict between the mods and rockers of 1960s Britain, Cohen identifies five stages in the construction of a moral panic:

- 1) Someone or something is perceived and defined as a threat to the norms and values of society.
- 2) News media and social actors depict the threat in a simplistic and symbolic way that becomes recognizable to the public.
- 3) Widespread social concern is aroused.
- 4) Authorities and policy makers respond.
- 5) Social change occurs within the community.

Herein Cohen maps the development of a moral panic from creation to manipulation, as well as how it gains momentum, and the subsequent policy and structural effects. Undoubtedly Cohen's theory is one of the most influential theories in modern criminology, and such examples are latent; moral panic is herein a useful tool when understanding the interrelationships between the mass media, criminality, and the public. Despite the tangibility of moral panics, the concept of spectacular justice offers a supplementary narrative which both draws on and expands Cohen's work in this area. As the concept suggests, moral panic theory offers an explanation for the construction of panic and anxiety following perceived threats to social order. In particular, it demonstrates how the mass media plays a vital role in the exacerbation of these emotions and the potential function it serves in perpetuating the existing hegemony. Relatedly, there are two

main differences between moral panics and spectacular justice, which are also ways in which the theories supplement one another.

Firstly, for Cohen, the public face of criminality and how it is made visible by the mass media is a social fact that is taken for granted. Cohen identifies in stage two of the construction of moral panics that news media and social actors depict the threat in a simplistic and symbolic way that becomes recognizable to the public (1972). Accordingly, Cohen focuses on the moral panic *effect* of certain media stereotypical and symbolic representations of criminality and how this outcome perpetuates social control. Thus, the fact that the media represents and reports on newsworthy (Jewkes, 2010; Galtung & Ruge, 1965; Chibnall, 1977) ‘threats’ is seen as an inherent feature of social life, and the background for the exploration of media effects. The visibility of criminality and deviance is not Cohen’s main object of inquiry, but rather the panicky, anxiety ridden effects of this visibility.

In contrast, spectacular justice serves to make the visibility of criminality and criminal justice *visible*; processes of visibility are the main object of inquiry. For this thesis, case studies which exhibit highly visible moments of justice are analysed to better understand what this reveals about the social condition and systems of power that function in society. Taking the visibility of the justice system as its foundation, of which moral panics are considered one potential effect, it asks a number of questions. For example, what does the spectacle of justice reveal about the changing historical position of justice within society and how has the development of media technologies altered the way the public understands and engages with justice? From there it investigates how the visibility of the justice system varies along cultural, global, and historical lines. As such, moral panics are an effect made possible by the process of spectacular justice.

Therefore, spectacular justice does not simply examine the moral panic effect of the media’s representation and relationship with criminality and deviance, but rather it asks what are the implications of this visibility for our understanding of the moral, political, and social condition of a society? With this in mind, moral panics can be present in case studies of spectacular justice, such as that of Thompson and Venables the two ten-year-olds who murdered James Bulger in 1993⁴, but absent in others. Within the Thompson and Venables’ case, the boys were identified as a threat to social order and norms, specifically orthodox understandings of

⁴ See Appendix 1 for detailed outline of each case study

childhood criminality and as a result, there was widespread anxiety regarding the age of criminal responsibility. The public moral outrage in response to this case is the embodiment of Cohen's (1972) theory of the moral panic. In other cases however, moral panics are absent. Spectacular justice examines highly visible case studies, which, rather than resulting in widespread panic and calls for reform, result in alternative public engagements with crime and justice. In some cases, such as the Norwegian massacres committed by Anders Breivik in 2011⁵, the moral, political, and cultural conditions were conducive to public solidarity and the active disengagement of the media with the case. Herein, spectacular justice accords significance to the historical, cultural, and political variations in the relationships between the media, the public, and justice to recognise that whilst moral panics are visible in certain cases, they are notably absent in others.

The second and related difference concerns how spectacular justice illustrates how the interactions between the media, criminality, and the public can be understood beyond notions of 'panic' and 'anxiety'. Spectacular justice goes beyond an understanding of the media as a tool of the state to control and discipline individuals through stereotypical and symbolic representations of perceived threats. Exploring case studies of spectacular justice opens up the complexities of this relationship and the varied ways in which these relationships function. Stereotypical and symbolic representations, as well as the docility and passivity described by Cohen (1972), are present in some cases of spectacular justice, in which individuals' unquestioned adherence to the same moral and cultural frameworks results in a homogeneous response to threats. Yet moral panics are one effect of one manifestation of media power; the power to symbolically stereotype and ostracize non-conformers. In comparison spectacular justice recognises the value of this particular media power, whilst simultaneously making alternative representations of crime, criminals, and justice explicit.

The relationships between the public, the media, and crime are not limited to the boundaries of Cohen's (1972) work; power is not inherently unidirectional, as the stages of the construction of a moral panic suggests. Both the ways in which the media represents crime and deviance, as well as the inherent visibility which makes this possible, has value beyond the study of moral panics and the political value of anxiety and fear (Altheide, 2002; 2006). The very fact that the

⁵ See Appendix 1 for detailed outline of each case study

media is visible and public is, in itself, valuable as it represents a specific stage in the development of criminality and systems of justice. Spectacular justice henceforth takes Cohen's (1972) concept of the moral panic and analyses the step before this outcome. Spectacular justice examines the complexities within media processes which make justice public and visible; it looks at how power is manifest in these relationships and how this can help to understand the trajectory of the historical development of justice and the socio-criminological interpretation of this.

The theory of the moral panic is a theory of effects. Spectacular justice examines the processes which create this effect and explores not only the complexities and socio-cultural variations of these processes, but also its implications for understanding the power configurations in the social world.

1.5 The origins of spectacular justice

Beyond Cohen's moral panic, in order to understand the relationship between visibility and justice, and thus develop spectacular justice, it was vital to the conceptual project of the thesis to work closely with Michel Foucault's eminent text *Discipline and Punish* (1991). More specifically, the concept of spectacular justice was created in direct response to the main conceptual product of *Discipline and Punish* namely, panopticism. The Foucauldian (1991) concept of panopticism and panoptic power are the keystones around which spectacular justice orbits. The concept of spectacular justice questions Foucault's assertion, made in *Discipline and Punish* (1991), that the modern justice system is panoptic and privatised; spectacular justice finds a reversal of the panoptic, privatised process in justice. The classic text offers a rich historical trajectory of discipline and punishment throughout Europe. The main argument that Foucault proffers is that both discipline and punishment passed historically, and linearly, through two main phases. The first phase of this timeline concerns pre-eighteenth-century Europe, whereby the discipline and punishment of criminals was public; they were a visual spectacle. Foucault's influential text begins with a visually arresting description of the torture and execution of Robert-François Damiens the regicide in Paris, 1757. Rafter writes of the "unforgettable" (2014: 131) ways in which Foucault describes gruesome bodily dismemberment; the centrality of visual imagery he employs, and the imagination he asks of the reader to comprehend such corporeal brutality.

Accordingly, Damien was

“taken and conveyed in a cart...to the Place de Grève, where, on a scaffold...the flesh [was] torn from his breasts, arms, thighs, and calves with red-hot pincers...and, on those places where the flesh [was] torn away, poured molten lead, boiling oil, burning resin, wax and sulphur” (ibid: 3).

Discipline and Punish makes the case that in Europe during the eighteenth century, the public were directly partisan to the punishment of criminals, which was seen as an opportunity to emphasise the brutality and fragility of life (Spierenburg, 1984; Hibbert, 1963; Rusche & Kirchheimer, 1968). Thus, Foucault’s conceptualisation of the spectacle is bound to the visibility and invisibility of punishment. Closely bound up with punishment during Foucault’s spectacular penal period was justice. The concept of justice, although not explicitly addressed in *Discipline and Punish*, is understood here to involve the swift pursuit of retribution by the sovereign for whom arresting dissent was paramount. This understanding of justice is supported in Garland’s review in which he argues that “justice is a manifestation of armed violence, an exercise in terror intended to remind the populace of the unrestrained power behind the law” (1986: 854).

The second key phase of Foucault’s historical trajectory of power and punishment concerns the disciplining turn. For Foucault, the nineteenth-century was the juncture to the next developmental phase of power. “[T]he gloomy festival of punishment was dying out” (1991: 8) and the public became distanced from punitive matters. Punishment entered the panoptic phase. Drawing on Jeremy Bentham’s analogy of the ‘Panopticon’, Foucault contends that it “was a time when...the entire economy of punishment was redistributed” (ibid: 7). Foucault argued that punishment moved behind closed doors and retreated into the hands of privatised institutions. In addition to its privatisation, the character of punishment changed; it moved away from the body to focus on the soul, and became, alongside the justice system more broadly, subject to strict regulations, timetabling, and control. Accordingly, power, although not conceptualised in any singular way by Foucault, undergoes a radical transformation during this transition phase. Pre-panoptic power, as manifested in the public spectacle of torturous punishment was visible, oppressive, and centrally located in the body of the sovereign. Panoptic power on the other hand operates under the surface, invisibly working its way through the capillaries of society. The text

argues that panoptic power induces in social actors, both within and beyond the confines of penal institutions, “a state of conscious and permanent visibility that assures the automatic functioning of power” (ibid: 201). And thus, whilst Foucault argues that disciplining populations became less centralised, more capillary and democratic, and that this shift gave greater power to non-State institutions, punishment during this period was essentially private.

During this period of transition, *Discipline and Punish* (1991) emphasises the growing relationship between punishment and commercial demands. Specifically, according to Foucault, the privatisation and institutionalisation of punishment developed alongside the growing demand for new, enlightened forms of knowledge and power. These new systems of knowledge, and therefore power, were achieved through the categorisation and state collection of information and data on individuals. Equally, an extension of these structural changes was the aim to use panoptic punishment to maximise the potential of individuals whilst requiring the least possible resources; panoptic punishment was a move towards a more economical penal system. Under these systems of discipline and control, social actors were individualised, their movements limited, and their capacities maximised.

Although Foucault speaks primarily of the changing face of penalty during this period, the disciplining turn of panopticism was not only indicative of changes in the institutional management of criminals, but was a lens through which Foucault argued one could understand a shift in power structures more broadly. *Discipline and Punish* (1991) is “not so much a history of punishment as a structural analysis of power” (Garland, 1986: 848). And so, much like the inmates of Bentham’s panoptic prison were “alone, perfectly individualized and constantly visible” (Foucault, 1991: 200), and suspended by the constant fear of surveillance, Foucault argues that panoptic power structures infiltrated and controlled the minute capillaries of the social system. Importantly, the spectacle within *Discipline and Punish* is understood in relation to punishment. The text contends that European societies moved *from* public, spectacular punishment *to* privatised punishment, and this was a by-product of the growing power of panoptic discipline and control throughout social structures more broadly. And it was out of the simplicity of this two-part transition that inspired this thesis to take Foucault’s conceptualisation of the privatisation of punishment and look at the status of privatisation in justice. More specifically, Foucault’s discussion of visibility and invisibility in relation to punishment

stimulated this research to consider, with the decline in spectacular punishment, whether an alternative spectacle had taken its place. From this, the spectacle of justice emerged.

Central to this conceptual project is the development of the mass media and the impact the media has on the relationship between the public and criminal justice. The mass media has the power to report on, and make visible, criminal cases and the criminal justice system and to mechanise this power in the process of generating newsworthy public dramas. This thesis argues that the mass media plays a significant role in upsetting the conviction with which Foucault (1991) argued panoptic privatisation would infiltrate all arenas of the social microcosm. In particular, the media is central to the establishment of criminal justice as a public, rather than a wholly panoptic, concern. And so, spectacular justice contends that the narrative of the spectacle has not been completely lost since the disciplinary turn of the nineteenth century.

To elaborate, criminal justice is not explicitly addressed in *Discipline and Punish* but can be understood as an element of penal power and an intrinsic feature of panopticism. This thesis understands Foucault's conceptualisation of panoptic justice as power exercised by the agents of control who, rather than focusing on the spectacular brutality of punitive retribution, concern themselves instead with the management of individuals, efficient docility, and the transformation of 'waste products' into 'useful products'. However, this thesis argues that whilst Foucault's theory of the panopticism and privatisation of punishment is a tangible social phenomenon, it is the presumption of inflated rhetoric (Garland, 1986) that assumes criminal justice has undergone the same transformations. Justice is conceptualised within this thesis as a complex and flexible entity that is dual sided. On the one hand, justice is understood to be manifest in state institutions such as criminal courts, the prison system, and embedded within the people that run them and enforce their rules. On the other hand, justice is understood within this thesis to be manifest in the feelings and emotions of the public; justice exists in the relationships between social actors and is visible in public responses to criminal acts⁶. This thesis uses the concept of spectacular justice to expand on Foucault's conceptualisation of the spectacle around punishment. It seeks to explain the significance of the spectacle as a formative narrative of criminal justice and how the visibility and spectacular nature of justice exists in *parallel*, rather than competition, with the privatisation of punishment. The research will expose

⁶ For a full discussion of how this thesis conceptualises justice and how it incorporates wider theoretical literature, please see Chapter Two.

the role of the mass media in creating a spectacle of criminal justice that is absent in narratives of spectacular punishment and panopticism. Criminal justice has not completely shed its cloak of pre-panopticism and thus the panoptic and the spectacular are not mutually exclusive terms; they co-exist in a number of complex ways.

Whilst in western societies *punishment* is still very much hidden from public view, the *justice* system is increasingly transparent. In this way, the spectacle of justice functions as a supplementary narrative which seeks to compliment, not depose, Foucauldian theories of panopticism. In doing so it speaks to the importance of supplementary narratives to Foucauldian theories of panopticism, and makes explicit how in parallel to the development of panoptic, privatised, institutions of punishment, the spectacle remains an influential narrative. The spectacle has not disappeared, it has simply moved away from punishment and towards criminal justice process. Crucially, not only does spectacular justice illustrate the prevalence of the spectacle to criminal justice process, which in itself problematizes Foucault's panoptic, privatisation theory, it also demonstrates how this media spectacle is global. In contrast to the uniquely European focus of *Discipline and Punish* (1991), spectacular justice, with its emphasis on the power of the mass media, highlights how not only is the spectacle still relevant, but that arguably the spectacle has moved beyond the local platforms of the execution scaffold and has global reach.

Of course, not all criminal cases are turned into high profile public spectacles, indeed the majority of 'everyday' criminal cases are not mediatised; they remain private. But the fact that there are numerous examples wherein criminal cases do attract media attention, and are made public, is evidence that the concept of the spectacle, as a descriptive tool for the criminal justice system, is still relevant. It makes explicit the multifaceted ways in which narratives of the spectacle are palpable and present; they are a key stone in the society of the spectacle (Debord, 2012). Thus, the primary focus of this research is to investigate the continued vitality of the notion of the spectacle to the criminal justice system and build on literature that calls for greater scholarly recognition of narratives of power that exist alongside, not in competition with, Foucauldian theories of panopticism. Spectacular justice is the tool with which this is achieved. It makes explicit how whereas the wooden scaffold once framed the spectacle of punishment, now the mass media and the television screen "offer[] an avalanche of crime imagery" (Ferrell,

Hayward, and Young, 2015: 228) and act as the lenses through which the public engage with and understand criminal justice process.

How is power conceptualised?

Building on this, it is important to consider both how this thesis understands power in *Discipline and Punish* (Foucault, 1991) as well as power in relation to the concept spectacular justice.

Foucault does not simply have one conception of power, there are many. This thesis contends that within Foucault's conceptualisation of panoptic punishment, power takes two primary forms. The first form of power which Foucault describes is exercised in the pre-panoptic era and is embodied in the public, sovereign exercise of brutalised bodily punishment. During this period, power is conceptualised as something that operates from the top down; pre-panoptic power is oppressive, it is visible, and it objectifies the human body. Pre-panoptic power is further defined by the marked differences of power between social actors at different points in the socio-structural hierarchy. Under these conditions, power is used to destroy enemies, limit bodies, and create fear.

The second form that power takes is dependent on changing penal structures and privatisation. For Foucault, this transition meant that power moved underground, and rather than oppressively bearing down on social actors at the hands of tyrannical monarchs, power moved through the capillaries of the social world, invisibly, yet forcefully, disciplining social actors. This movement heralded in the formation of bio power. Within the framework of bio power a new political subject is created through the categorisation, mapping, and recording of individuals' movements. Bio power represents a broad trend towards including bodies into the mechanisms of state power through the de-centralization of punishment and control away from the confines of penal institutions and sovereignty, and towards typically non-penal institutions. Bio power, under panoptic punishment, is exercised upon individuals at every level of their social experience, through employment, education, health care, and the law; individuals are under constant surveillance. Therefore, an essential difference between panoptic bio power and pre-panoptic sovereign power, is that whilst panoptic power is effective at getting individuals to conform to social norms, values, and structures, it achieves this not through the repressive enforcement of the state, but through the internalisation of normative and moral frameworks.

Force is increasingly unnecessary as control shifts away from external bodily sanctions to internal moral constraints.

In both phases, power operates through relationships to achieve the control of human bodies. However, panoptic bio power takes a distinct break from power as destructive, to embrace techniques of governmentality. Thus, with the new panoptic penal-system power becomes intricately bound to knowledge. Panoptic power is therefore posited as transformative at both an individual and institutional level. It seeks to make bodies useful, to sculpt them, and train them to be disciplined and productive, and in doing so, society increases its knowledge of its populations and thus increases its power. Power and knowledge interact and are interdependent. Controlling bodies in this way, Foucault contends, created a disciplinary society defined by pervasive surveillance procedures, panopticism, governmentality, bio power, and the interrelationship between power and knowledge.

With this in mind, it is useful at this early stage in the thesis to outline how power is understood in relation to spectacular justice. Spectacular justice's conceptualisation of power is heavily influenced by Edward Said's (1986) critique of Foucauldian theory. This thesis concurs that panoptic power operates as a decentralised force within institutions throughout the social structure. And so, it can be reasonably argued that the mass media is an institute of panoptic power and thus serves as an extension of the panoptic arm of control as conceptualised in *Discipline and Punish* (1991). Accordingly, one conceptualisation of the mass media is as a mechanism of power that is utilised against powerless, docile populations to discipline and control. However, the panoptic conceptualisation of power as manifested within mass media institutions and their representations of criminal justice is overly simplistic. Said (1986) echoes these sentiments in his argument against Foucault's conceptualisation of power in relation to the control of bodies. Said's critique is founded upon three main counter narrative points. The first is that theories of panoptic power represent a denial of personal agency. Secondly, panoptic power presents limited possibilities for resistance. And thirdly, panoptic theories of power are constructed above notions of conflict and oppression. Power, as understood in the concept of spectacular justice, builds upon these critiques of panoptic power and Foucauldian governmentality.

Power within spectacular justice recognises personal agency; it recognises possibilities for resistance; and it recognises conflict and oppression. To restrict one's understanding of the mass media as purely an extension of panoptic power is to understand the mass media as having a non-political, unidirectional relationship with social actors; it removes the mass media from any socio-cultural or political landscape. Whilst the mass media clearly exhibits the power to communicate dominant narratives of control in subtle and panoptic ways, this understanding is limited and fails to recognise the power that is simultaneously embodied within lay individuals. Spectacular justice makes it explicit that the panoptic power of the mass media, whilst visible, does not function in isolation; spectacular justice moves beyond the singular view of power as acting upon individuals. The relationship between the mass media and social actors is far more complex than the unidirectional interactions made possible with Foucault's theory of the panopticon. As aforementioned, this thesis does not dispute the potential of the mass media to disseminate panoptic narratives of the dominant social regime, but it recognises how it also disseminates power among the public and can act as a platform for the voices of the public. The media-public relationship is more fluid and permeable than Foucault's conception of panoptic power suggests, and spectacular justice illustrates the ways in which media representations of criminal justice serve to increase public knowledge, and therefore power. The visibility of the criminal justice system combines panoptic institutional power with the agency and power of social actors. Thus, spectacular justice recognises the power of social actors, with or without the aid of the mass media, to resist dominant discourses and construct their own counter-narratives.

1.6 Thesis Outline

In conclusion, this thesis examines the intersection between the spectacle and justice and how we are witnessing "a shift from the spectacle of public bodily punishment to the spectacle of the trial itself" (D'Cruze, 2006: 38). To examine this shift and the complex relationship between the visibility and invisibility of justice this thesis develops and utilises the new concept of spectacular justice. Putting the visual at the heart of criminological inquiry, the research uses spectacular justice to illustrate how the mass media reports on criminal cases and makes them public. It examines the power of media discourses to turn a criminal case into a high-profile drama, and how these narratives shed light on how justice has become a public spectacle. To understand this shift spectacular justice is constructed in response to the theory put forward in *Discipline and Punish* (Foucault, 1991) that Europe underwent a transition towards panoptic

privatisation around the nineteenth century. This thesis contends that Foucault's abandonment of narratives of the spectacle to pre-nineteenth century, whilst useful in understanding the decline of the spectacle of punishment, does not effectively translate the powerful relationships that exist between the mass media, the public, and criminal justice process. Thus although the body of the perpetrator is no longer paraded through the cobbled streets of England, nor is the scaffold the symbol of the wrath of the law, these functions are emulated by the mass media; the "paparazzi are not so much the parasites as the inaugurators of this age" (Carney in Hayward and Presdee, 2010: 28). The television screen, the laptop, the front page of a newspaper all play the role of the scaffold upon which criminal trials are made public and perpetrators are made notorious.

In conclusion, this thesis examines how justice has become a spectacle. Situated with a society of the spectacle (Debord, 2012), the research analyses the role of the mass media and its discourses in constructing justice into a high-profile public drama. In doing so, the thesis aims to establish the criminal justice system as a keystone within the visual structures of a society saturated by media exhibitions (Debord, 2012; Carrabine, 2008, 2014; Hayward and Presdee, 2010; Rafter, 2014; Spierenburg, 1984; Mathiesen, 1997; Brown, 2014; Adorno & Horkheimer, 2002).

Chapter Two examines and reviews existing literature within the research field, covering areas including *Justice, The Spectacle, Power and Agency*, and *The Complexity of Cultural Change*. It begins with a discussion of the Spectacle and how notions of the spectacle are constructed and understood within sociology and criminology. It further explores notions of Power and Agency, specifically how power and agency are constructed within literature that investigates the changing face of the spectacle in relation to punishment and justice. The chapter concludes with a review of literature which highlights the complexity of cultural change and the need for supplementary narratives to support Foucauldian notions of social change, specifically concerning the role of the spectacle in punishment and justice.

Chapter Three details the research methodology. The chapter outlines how the research utilized *Archival Research, Case Study Analysis*, and *Discourse Analysis*. Beyond this, the chapter details how the research navigates issues such as *Media Bias* and *Ethical Considerations*, as well as the practicalities of carrying out *Data Collection and Analysis*.

Chapter Four analyses the *Victim* character. Through an analysis of the *Quintessential Victim*, *Collateral Victim*, and *Ambiguous Victim* the chapter explores the different ways the victim character interacts with narratives of the spectacle and contributes to the visibility of justice.

Chapter Five examines the *Perpetrator* character. The perpetrator chapter is split into three substantive sections each focusing on a different subcategory. The chapter moves through *Inhuman Perpetrators*, *Political Perpetrators*, and *Auxiliary Perpetrators*. Each section highlights the important role the perpetrator character plays in generating a spectacle of the criminal trial as well as how the nature of the spectacle changes depending on the perpetrator identity.

Chapter Six investigates the *Expert* character. The expert chapter is divided into three sub-categories *Police Experts*, *Clinical Experts*, and *Inexpert Experts* each of which illuminates how the spectacle functions in relation to justice. Beyond this they demonstrate how expert figures have the power to change the focus and tone of the spectacle surrounding a specific case.

Chapter Seven concludes the thesis with a discussion of key research findings and considers the significance and contribution of spectacular justice as an original concept.

Chapter Two: Literature Review

2.1 Introduction

To address the research aims of this thesis and to assert the notion of the spectacle in justice, the existing literature will be analysed in relation to four dominant themes that are central to this thesis.

The first theme offers an examination of justice, more specifically, it identifies the key theories of justice which dominate the socio-criminological field and from this, establish the perspective of justice this thesis adopts. Justice is a pluralistic and transient concept that is the subject of much debate and definition and so it is vital to establish exactly which combination of theories this thesis draws upon in its quest to conceptualise the spectacle of criminal justice.

The second theme explores the concept of *The Spectacle* and analyses its place within existing literature. The section begins by outlining the place of the spectacle within the social sciences, more specifically, how it has developed through cultural studies, criminology, cultural criminology, and subsequently visual criminology. This is done in order to highlight the historical positioning of the visual within sociological and criminological research, and thus emphasise the significance of researching the spectacle of justice. Moving beyond the broad historical trajectory of the spectacle and the visual, the section investigates the different ways the literature approaches the notion of the spectacle; what constitutes the spectacle; how the spectacle forms; and the place of the spectacle throughout history. The literature highlights the close relationship between the spectacle and the development of media technologies, capitalist industry, and punishment. Specifically, in relation to crime, punishment, and justice process, the literature makes explicit the vitality of the spectacle in the face of wider trends towards privatisation. Overviewing existing literature on the notion of the spectacle firstly strengthens the case for using the spectacle as a valid lens through which criminal justice can be understood. Secondly it makes clear the unique contribution this thesis, and its concept spectacular justice, makes to literature on the spectacle and the theoretical and conceptual gaps it addresses.

The third theme explores *Power and Agency* within the literature. Power and agency are inherently far-reaching concepts and are crucial to Foucauldian (1991) theory as well as the analysis of the spectacle of justice. And so, to manage the scope of the literature, power and

agency are primarily explored within literature that either directly or indirectly speaks to the need to develop alternative narratives of power beyond *Discipline and Punish* (ibid). To elaborate, this literary theme seeks to draw on existing literature to understand how an awareness of power and agency, as embodied within social actors and institutions, affects the notion of the spectacle and its application to criminal justice. In particular, this section outlines how the literature defines power and agency; who has power and agency; and how power and agency manifest in the social world.

The fourth theme builds on the foundation laid by the previous two. It explores the *Complexity of Cultural Change*. This section examines literature which challenges, both directly and indirectly, the clean break which Foucault claims to have occurred and from which panoptic disciplinary power and privatisation became dominant post-nineteenth century. As such, the literature within this theme highlights the complexities of economic, social, political, and cultural processes that upset the power structures of Foucault's panopticism and which strengthen the case for supplementary narratives of the spectacle. By analysing literature in this field, the research firstly highlights the spectacle in justice, and secondly it exposes the role of the mass media in these processes. In doing so, the section situates the spectacle of justice within an established field in which scholars critically evaluate the simplicity of Foucault's (1991) historical analysis, and, as with the previous two sections, differentiates this research from existing literature.

Combined, these four themes (Justice, The Spectacle; Power and Agency; Complexity of Cultural Change) represent three dominant narratives within the field. Furthermore, each theme speaks to a defining and overarching line of argument within this thesis and its conceptual development. *The Spectacle, Power and Agency*, and the *Complexity of Cultural Change* are threads that run throughout the development of spectacular justice. Each theme either examines existing supplementary narratives which critically examine Foucauldian theories of panopticism, or, exposes gaps in the literature that the supplementary narrative of the spectacle seeks to address. In combination the themes outline the literary backdrop upon which this research sits and from this, it is hoped, that the literature legitimates the scholarly need to analyse the spectacle in relation to justice. In conclusion, this chapter builds the case for greater academic attention to the visual within criminology and finds meaning in the spectacle beyond punishment.

2.2 Justice

Historically both philosophers and sociologists alike have debated the meaning of justice. Standing out among these approaches there are a number of key theories of justice that are important to consider and from which this thesis has developed its own approach to justice.

The first theory concerns the social contract model of society. Originating from the seventeenth century onwards, contract theory seeks to understand the power and purpose of the state and in particular to find meaning in the laws and formal controls that arose following the medieval world-view (Smith and Natalier, 2005). During this time, the state was seen to perform an important social function and prevented society from developing into tyranny and disorder; formal control and justice were designed to keep citizens safe and controlled. There are three main philosophers associated with the contract theory of society and justice: Hobbes (1991 [1616]), Locke (1936 [1690]), and Rousseau (1968 [1762]). Defined by overarching narratives of democracy and individual freedom, such contract theorists analyse systems of power and how they influence the social body. In *Leviathan* (1991 [1616]), Hobbes writes that the social contract describes a situation wherein the law operates to both regulate the relationships between citizens and between citizens and the state. It was a means of governing social relations to maximise order. According to Hobbes (*ibid*), citizens would consciously and willingly give up some of their freedoms and liberties to the state to ensure their protection. This was a social contract that individuals entered if they were to be law abiding members of the community. These themes were later developed by scholars Locke (1936 [1690]) and Rousseau (1968 [1762]). For Locke (1936 [1690]), both criminal justice and the law are essential for any democracy as it is a way of guaranteeing certain freedoms and therefore contributed to both individual and social notions of equilibrium. Moving beyond Hobbes (1991 [1616]) and Locke (1936 [1690]), Rousseau argued that the law and criminal justice system mirrored the social will of the people; formal controls were representative of popular sentiment and therefore ought to be implemented with confidence (Smith and Natalier, 2005). Contract theories represent the pioneering philosophical developments in social thought and are central to ones understanding of justice.

The second defining theory of justice within the socio-criminological field comes from the Durkheimian perspective. More so than the contract theories, Durkheimian (1984 [1893]) ideas relating to law and justice are valuable in their contribution to this thesis and its conceptual

development of spectacular justice. For Durkheim, criminal justice and law are inherently bound to the healthy functioning of society. Justice is a mechanism by which society addresses social infractions and strengthens social norms and values; justice represents the boundaries of conformity. In this way, justice is heavily influenced by emotion and morals of both the public and social entrepreneurs. Justice is an indicator of social harmony and punishment is a way of communicating anger and frustration against non-conformers. The functionality of criminal justice, as described by Durkheim, is drawn upon throughout this thesis. Spectacular justice is understood to be complex and multifaceted, however, many of the case studies analysed illustrate the sustained social function of justice as a way of communicating social harm and disgust. The mass media, in creating a spectacle of justice, communicates the social harm a crime has inflicted upon society and amplifies the strength of its message. Moreover, under Durkheimian direction, the public, and public opinion, are deemed to be significant in determining how the criminally condemned are processed. Echoing these themes, the conceptual development of spectacular justice highlights the close interactions between criminality and the public, made only more significant by the globalising powers of the mass media. Thus, this thesis conceptualises spectacular justice in relation to Durkheimian theories and concurs most strongly with the argument that justice is a tool used by society to communicate dissatisfaction and to reaffirm social norms and values.

Beyond Durkheimian (1984 [1893]) theories of justice, the third most influential theoretical perspective comes from the Marxian tradition. In contrast to the consensus framework of Durkheim or the individual investment espoused by contract theorists, the Marxist perspective on criminal justice and law is defined by power, ideology, and inequality. Whilst Marx never wrote explicitly about crime and deviance, the themes and ideas that run throughout his work can be applied, and prove useful, to better understand systems of justice. Perhaps the most useful text to shed light on Marxist interpretations of justice is *The German Ideology* (Marx and Engels, 1964 [1846]). For Marx and Engels, both the law and the criminal justice system are extensions of bourgeoisie control; they are tools of political and ideological power.

Accordingly, notions of justice are inherently bound to inequality in that the criminal justice system is both created by, and for, the powerful so that exploitation is more deeply embedded within the social framework. Beyond the immediate power imbalance that defines justice and law, according to classical Marxism, the criminal justice system equally makes the revolution

and protest of the proletariat more difficult. Thus, the bourgeoisie monopolisation of power serves a dual effect. The ways in which the Marxist perspective marries justice, law, power, and inequality together are reflected within several case studies within this thesis. The spectacle of criminal justice can be understood to be, at times, an intricately political process that exposes power struggles and ideological difference. These themes are exposed within the Michael Brown, Anders Breivik, and Edward Snowden case studies in particular. Therefore, whilst this thesis draws more directly from a Durkheimian perspective of law and justice, the Marxian theory surfaces in case studies where the spectacle of justice is defined by their political or counter-cultural character.

The fourth distinctive perspective that is relevant to this thesis comes from Michel Foucault, in particular, his affiliation with post structural schools of thought. The post structural perspective on justice is largely defined by *Discipline and Punish* (Foucault, 1991) and its formulations of power and knowledge. Power/ knowledge are central to Foucauldian theories of justice and law (Smith and Natalier, 2005). *Discipline and Punish* (Foucault, 1991) combines arguments for both the value of structure and agency to society and individuals. On the one hand, the text demonstrates Foucault's affiliation with the idea that institutions and individual lives are dependent upon the discourses that surround them. According to Smith and Natalier, Foucault places significant "emphasis on the power of ideas to classify the world and structure action" (2005: 30). In the context of law and justice, Foucault discusses the power of experts and their discourses to explain situations and define individuals and highlights how they are vital in determining the character of justice and penal institutions. The power of discourse similarly characterises the conceptual development of spectacular justice and in this way this thesis utilises Foucauldian theories of justice and its close association with ideas, knowledge, and discourse. In the context of the spectacle of justice, this thesis pays close attention to the discourses of both experts and the mass media, both of which are seen to impact on the scale and character of a criminal case.

On the other hand, the Foucauldian perspective of justice simultaneously recognises the importance of struggle, resistance, and agency and considers the impact this has on the character of discipline and punishment. As before, this thesis is also influenced by this Foucauldian theory of justice and control and recognises the power of agency and resistance in the development and success of a media spectacle of justice. Structure, power, and agency are all powerful factors in

the construction of media spectacles and it is important to note that this thesis does not adopt a clear alliance either way in terms of the power/knowledge debate in relation to justice.

Nevertheless, it does use the duality of Foucault's (1991) perspective as a guide to navigate media discourse and the power of the public.

The final key conceptualisation of justice comes from a more contemporary social thinker, David Garland. In his book *Culture of Control* (2001) Garland develops a useful conceptualisation of justice that proved important to this thesis. For Garland (2001), justice is a broad and complex thing that is challenging for academics to define. In order to understand the complex picture of crime and crime control in society, Garland writes that one needs to look at control and justice according to two main areas. The first is formal notions of control and justice, as enforced through the state and governmental agencies. The second notion refers to informal notions of control and justice as enacted through the everyday interactions and actions of individuals. Thus, for Garland justice is a dual process that comes from both formal and informal areas of the social world. Importantly however, the relationship between the two elements, according to Garland, changes historically and this has significant impacts on the character of justice and the effectiveness of social control. In fact, echoing the dominant narrative within Foucault's (1991) *Discipline and Punish*, Garland writes that to understand the changing face of justice one needs to take an historical perspective. Like Foucault, Garland recognises that societies, particularly within the global North and West, have witnessed the gradual retreat of public, bodily expressions of justice and punishment. For Garland, the spectacle of control, as manifest within the public destruction of the corporeal, has faded. These themes are also echoed throughout Garland's earlier work of *Punishment and Modern Society* (1991a) in which Garland specifically discusses Foucauldian theories of justice and how before the twentieth century, "justice [was] a manifestation of armed violence, an exercise in terror intended to remind the populace of the unrestrained power behind the law" (ibid: 140). The turn of the nineteenth and twentieth centuries, Garland writes, signalled a shift in the character of control and justice more broadly away from inflicting bodily pain and distress and towards understanding the criminal, such as their background and their family. Garland (1991a and 2001), much like Foucault (1991), equates penal and judicial relations with power and more importantly how rather than using mechanisms of justice and control to ostracise and

differentiate the criminally condemned, it became about normalising them and embedding them in a system of conformity.

Garland's (1991a) argument for conceptualising justice as double-sided, combining both the formal and the informal, is reiterated throughout this thesis and its conceptualisation of spectacular justice. Drawing on both the *Culture of Control* (Garland, 2001) and *Punishment and Modern Society* (Garland, 1991a) justice is understood to be a complex social institution and desire that is influenced by both state and individuals. The spectacle of criminal justice is a product of both arms of justice and signals a unique relationship between both the state and the public, as well as the mass media. The analysis chapters will demonstrate how the spectacle is visible and manifest within the micro interactions between lay individuals who are both the object of media spectacles and the receivers (informal), as well as the institutions of justice that are being represented by the mass media (formal). The ability of the mass media to turn the private matters of a criminal case into a high profile, public drama speaks to the reciprocity and interaction between Garland's two main agents of control and justice. Nevertheless, Garland's conceptualisations of control and justice have value to this thesis beyond its formal/informal distinction. Distinguishing himself from Foucault (1991), Garland (2001) argues that it is too simple to argue justice has become sanitised in its transition away from public punishment spectacles. Instead, the *Culture of Control* (2001) highlights a growth in public expressions of justice; the informal arms of control and justice have gained in strength. For Garland, society has witnessed the re-emergence of punitive sanctions and expressive justice (2001: 8-9). He writes that increasingly the public convey feelings of retribution towards certain criminal actors and events and the rise in what he deems "just desserts" (ibid: 9).

The legacy of the repressive, retributive justice of the pre-nineteenth century state is made explicit within discussions of spectacular justice. Spectacular justice and its conceptual development highlights how developments in mass media and digital technologies have facilitated the punitive motivations for justice to continue despite their disappearance from the public eye in the physical form. The narrative of the spectacle of justice supports Garland's (2001) theory of justice that public shaming maintains a social function; expressive, public forms of justice are visible, and they are relevant.

After drawing upon the main theoretical approaches to justice that dominate socio-criminological literature (Contract Theory, Durkheimian, Marxist, Foucauldian), it is valuable to outline succinctly the justice perspective that this thesis will adopt going forward. This thesis adopts a justice perspective that is perhaps most greatly affiliated with Garland's (1991a; 2001) work in that it utilises both Durkheimian and Foucauldian theories of power and control. In combining the two approaches, the thesis recognises both the formal and informal expressions of justice and investigates how they interact with one another. It gives equal attention to both institutional structures such as the criminal justice system or the mass media, as well as the voice and agency of the individual and recognises how both the formal and the informal mechanisms of control and justice are integral to creating a spectacle of criminal justice. Justice is thus understood here as both systems and mechanisms of control inflicted by macro, societal structures such as the courts and prison system, as well as the emotions and feelings of justice, and injustice, as communicated by the public in response to a criminal act. Under the panoptic regime of power, as described within *Discipline and Punish* (Foucault, 1991), power is assumed to function ceaselessly under the surface, existing in the capillaries of society. Power and justice do not have a human essence. Building upon Garland's (1991a; 2001) theory, this thesis, in its conceptual development of spectacular justice, reimagines justice as something that is both institutional and individual, and which is characterised by human emotion, morals, and values.

After examining the position of justice within the literature and clearly clarifying and justifying the particular definition of justice adopted in the thesis, the chapter now moves on to consider the three core narratives that define the literary fields this research contribute to.

2.3 The Spectacle

The Spectacle is a core narrative within this research. It is the lens through which this thesis responds to a "tangible media culture" (Kellner, 2012: 12) which is "drenching" (Longhurst, 2007: 102 see also Carrabine, 2008) and saturating the contemporary world. The spectacle can thus be closely allied with media representation. Before discussing the spectacle, it is first helpful to discuss mass media developments and literature that details the relationship between mass media and audience reception.

Media spectacle (Kellner, 2003) can be seen as an end product in a long history of technological development and change throughout the global North and West. Between the seventeenth and

nineteenth century, media technologies were largely limited to print newspapers and pamphlets that were typically local in scale and slow to produce. It was the nineteenth century that signalled the most significant change and became characterised by the dawn of telecommunication. Key developments included the first transatlantic cable being laid, allowing communication between Europe and the U.S as well as the invention of the telephone in 1876 by Alexander Graham Bell. Bookending these rapid advancements, the 1800s concluded by developing the first radio. The twentieth century further progressed innovation. During the first half of the century, both the U.K. and the U.S. witnessed substantial changes including the first television transmission, colour film, and political radio broadcasts. By the mid twentieth century, the mass media had begun to infiltrate everyday life. Over the course of the next few decades, technology rapidly changed with major world events being televised globally in colour such as Armstrong's 1969 moon walk and the 1960 Olympic Games. During the 1970s, email technology was introduced bringing immediacy to international written communication. At the same time companies such as Apple and Microsoft were created expanding technological literacy. The 1980s witnessed the development of cable television and colour technology quickly becoming the norm. The 1990s was the digital decade with the launching of Internet Explorer, the rise of talk radio, and DVD technology. From here, the beginning of the twenty-first century has seen continued advancement, from the rise of mobile phone technology, digital television, satellite radio, and broadband internet. At this point the mass media saturates contemporary life.

One of the leading theorisations of these shifts, and the end point to these changes, comes from Castells (2000) in the *Rise of the Network Society*. Closely bound to changes in capitalism throughout the twentieth century, Castells argues society has undergone significant processes of individualisation and connectivity, so much so that "all processes of our individual and collective existence are directly shaped...by the new technological medium" (ibid: 70). He argues that we are living in a network society. From this perspective society is defined by global technological systems that link individuals together and create new formations of power that are both highly capitalist and dynamic. Herein for Castells, the mass medias ability to create, reproduce, and disseminate information is "the key ingredient of our social organization" (ibid: 508) and the framework upon which our increasingly globalized social world is built. As such not only are media developments significant in the physical expansion of knowledge they

represent but also in the new power structure they signal as the mass media “produce[s] and reproduce[s] power relations by constructing knowledge, values, conceptions, and beliefs” (Orgad, 2012: 25). Writing on Castells, Curran argues society’s “backbone is made of computer networks, whose language is digital, and whose senders are globally distributed and globally interactive” (2010: 9).

According to Kellner (2003) we are living in a world defined by media spectacle in which the media sees, reacts, and reports on a myriad of social events and seeks to touch every corner of the globe. Thus importantly, not only are media spectacles omnipresent but they are global in their reach; media spectacle are “a defining feature of globalization” (ibid: 2). Accordingly, the mass media brings events to social actors who readily consume and interact with them on a daily basis. For Habermas, the globalisation of the media impacts on the social and, in particular, its political function; the media is a public sphere that facilitates individuals to come together and form collective values (Seidman, 1989). For Habermas, since the eighteenth century the daily media has played a political role and acts as a social space where citizens can come together and consider and respond to key government issues. Thus, vast developments in mass media have constructed a political, public space that is essential for social harmony; media developments trigger an active public and process of reflection and communication. The process of public/media interaction is an object of study that occupies cultural studies and its focus on the politics of culture. According to Storey, the field of culture which includes the media is characterised by a “struggle to articulate, disarticulate and rearticulate cultural texts and practices for particular ideologies” (2006: xvii). In essence we can interpret the media as a cultural space wherein hegemony “is to be won or lost” (ibid: xviii).

Kitzinger (in Thornham et al, 2010) echoes the power and agency of social actors to work alongside, not under, media institutions. Kitzinger writes that audiences undertake an active process of interpretation with the media and vehemently contends that people are not cultural dopes who passively absorb and are influenced by what is mediated. Embracing a critical approach to the sociology of media power, Kitzinger argues that the relationship between the media and the individual is not “*fait accompli*” (emphasis in original) (ibid: 414) but is a process. This echoes the work of Halloran who urges social theorists to move away from seeing media audiences as “tabula rasa” (ibid: 385) and instead recognise the constantly adapting interaction between audience and medium. For Halloran it is important that future research

critically reflects on the overuse of words such as vulnerability, exploitation, and manipulation, which, according to Halloran, cloud the judgment of existing literature.

In contrast to literature which details the reciprocal relationship between the public and media developments, for other social theorists, such as Baudrillard (in Thornham et al, 2010), such changes are symptomatic of transformations in the social fabric that are potentially problematic. For Baudrillard, the global spectacle of the mass media “destabiliz[es] the real and the true” (ibid: 61); it dis-embeds individuals from reality by immersing them in an orchestrated universe that is designed to entertain and manipulate. Baudrillard concludes on a portentous note claiming that media and technology “have muddled the cards and deprived any subject of the disposal of his or her own body, desire, choice, and liberty” (ibid: 58). Couldry (2012) too recognises the illusory nature of global, digital media as he describes the vast inequalities that are embedded within the system and argues to perceive mass media as unilaterally beneficial is to fall victim to the mask the institution portrays. Mass media incites imagination and invites individuals to participate in a complex, orchestrated performance of reality. The sceptical notion of orchestration and media power is echoed by Miller and Philo (1999) who argue that in recognising citizens as active in their engagement with mass media blinds one to the real effects of media power; the media is a powerful ideological tool that should not be underestimated in favour or a rose-tinted view of individual agency and participation.

Taking this discussion further, the academic study of this allied relationship, within the social sciences, has its origins within cultural studies. Pioneered by the Birmingham School of Cultural Studies (CCCS) and led by scholars such as Hall and Jefferson (1976), Hebdige (1979), and Willis (1978) among others, cultural studies emerged in the United Kingdom during the 1970s and is regarded to be one of the first academic disciplines which sought to critically understand ‘mass’ culture such as television, music, and fashion. For cultural theorists, the spectacle is a cultural product. Importantly, cultural studies during the 1970s was largely interdisciplinary, drawing on literature studies, sociology, history, and anthropology, in order to study how mass, visual spectacles influenced the contemporary world. Given its interdisciplinary approach, the cultural studies’ approach to the spectacle is varied and is widely perceived to be a catalyst in making the study of media forms and practices a legitimate form of academic inquiry worthy of both social and political concern.

Around the same time, and emerging out of the British new criminology movement (Taylor et al, 1973), the broader discipline of criminology witnessed an increasing focus on the intersections between crime and the media. Influential texts such as *Folk Devils and Moral Panics* (Cohen, 1972), *Policing the Crisis* (Hall et al, 1978), and *The Manufacture of News* (Cohen and Young, 1973) were produced, and began to highlight the important relationships between visual mass media and crime. Within this field, media spectacles of crime are understood in relation to notions of sensationalism (Garcia-Blanco and Bennett, 2018), and literature examines debates around transparency, fear, and misrepresentation. However, it can be argued that to consider criminology more broadly, concerns such as the visual media spectacle are “seen by some as a frippery, a marginal concern well beyond the scope and remit of mainstream (state-sanctioned) criminology” (Hayward in Hayward and Presdee, 2010: 5).

Drawing on the critical traditions of cultural studies and sociologically inspired criminological research, cultural criminology emerged during the mid-1990s across both the United States and United Kingdom, established by texts such as *Cultural Criminology* (Ferrell and Sanders, 1995) and *Cultural Criminology Unleashed* (Ferrell, 1999). Perceived as radical at its point of inception, the field of cultural criminology analyses media images and their relationship to both emotional and collective experiences of crime (Hayward and Presdee, 2010). As a discipline, cultural criminology responded to the infiltration of media analysis within criminology; it seeks to understand how power interacts with crime and highlights how crime and crime control are shaped by the social meanings that are assigned to them (Brown, 2017). Cultural criminology’s pursuit of the visual is driven by concepts such as ‘edgework’ (Lyng, 1990; Ferrell, Milovanovic and Lyng, 2001), ‘transgression’ (Jenks, 2003; Bakhtin, 1984; Stallybrass and White, 1986; O’Neill and Seal, 2012), and the ‘carnavalesque’ (Presdee, 2000; 2004). Within these narratives, the visual spectacle of crime is understood through the lens of resistance, excitement, and revelry. A key text that builds on cultural criminological inquiry into transgression and the mediated construction of crime, is O’Neill and Seal’s (2012) *Transgressive Imaginations*. The authors understand ‘transgression’ as more than the breaking of boundaries and instead draw on notions of transgression as a means of protest and escape. Making a unique contribution to cultural criminology, the text analyses how fictive texts, art, and ethnographic research construct outsiders, and how they contribute to social and cultural understandings of ‘moral panics’, ‘folk heroes’, and ‘folk devils’. Thus, they highlight how

“crime and deviance are culturally embedded both in the imagination and in material practices” (ibid: 2). Using case studies, O’Neill and Seal emphasise a complexity to transgression and spectacle that goes beyond existing cultural criminological understandings (Jenks, 2003; Bakhtin, 1984; Presdee, 2004; Lyng, 1990). They argue transgression changes with shifting cultural boundaries, and that transgression partially exposes the rules and limits of society. Arguably, the concept of spectacular justice thus provokes the transgressive imagination and exposes another way in which “the everyday life is lived in the imaginary” (Young, 1996: 27). By analysing media discourse and visual images, the concept of spectacular justice demonstrates how the spectacle is conspicuous at the intersection between crime and transgression. Thus, this thesis builds on cultural criminology and reflects on O’Neill and Seal’s (2012) transgressive imagination, to analyse the spectacle of criminal justice as a product of transgressive acts and how they are represented and constructed within the media.

According to O’Neill and Seal, cultural criminology holds the potential for “diverse and eclectic analyses of crime, transgression and culture” (2012: 17) and should be open to “porousness and fluidity” (ibid). In line with the authors’ vision, and in response to the potential blindness of criminology, Hayward and Presdee wrote, almost a decade ago, of the need to develop a new orientation towards the visual “that is capable of encompassing meaning, affect, situation, symbolic power...efficiency, and spectacle in the same frame” (ibid: 3). Supporting this revival, Young stresses the need for criminology to develop a more “sophisticated understanding of the centrality of the image to crime” (Young, 2014: 160) and move beyond the “relatively formulaic body of work” (Hayward in Hayward and Presdee, 2010: 5) that dominates cultural criminology.

The developing field of visual criminology can be seen to respond to Hayward and Presdee’s (2010) call. Visual criminology pays close attention to the power of images and the spectacle, and how they affect crime and crime control. According to Brown, visual criminology, as a sub-discipline of cultural criminology, “look[s] at more constitutive ways in which the visual represents and reproduces the worlds within which we live” (2017: 7). Providing an alternative space, visual criminology takes Hayward and Presdee’s argument further, and urges criminological scholars to investigate the role of the image and the visual beyond traditional understandings of crime and the media. It attempts to creatively reinvent criminology by recognising the centrality of the visual in the discipline and its historic foundations. Building on

the visually centred work of scholars such as Rafter (2014), Carrabine (2011; 2012; 2014; 2016) and Brown (2014; 2017), and using the concept of spectacular justice, this research moves beyond cultural criminology's spectacle as defined by style and transgression, as well as broader criminological literature which indirectly examines the spectacle as a product of the media's relationship with crime and justice. Instead, it seeks to enliven criminological interest in the visual in relation to criminal justice process and consider its theoretical implications for Foucauldian (1991) theories of panopticism.

Distancing itself from existing fields whereby the visual spectacle is underestimated, sight, seeing, and the visual are at the centre of this research, from which it is hoped the value of the visual to criminological research will continue to grow. In a discipline "dominated by 'words and numbers'" (Ferrell, Hayward and Young, 2008: 186 in Carrabine, 2011: 463), the role of the visual spectacle as valuable mobilisers of insight and debate is often overlooked. In response, this thesis embraces a "visual turn of mind" (Rafter, 2014: 131) to examine the implications of the spectacle in relation to criminal justice. Thus, examining the role of the spectacle within existing literature is not only valuable to better understand media representations of crime, as Young (1996) argues, but for broader theoretical discussions concerning a perceived trend towards privatisation and control. In doing so, using the concept of spectacular justice this thesis adds to cultural criminology by working closely with literature within the subdiscipline of visual criminology; the spectacle of justice is largely absent within criminology and thus constitutes the original contribution of this thesis.

To elaborate on the visual criminological understanding of the spectacle, according to Rafter, it was Foucault's *Discipline and Punish* (1991) which "woke [visual criminology] up again" (2014: 131). With this in mind, it is to Foucault's conceptualisation of *The Spectacle* that this discussion turns to first. Since Foucault originally published *Discipline and Punish* in 1975, society has witnessed the growth of "mediatized cultures" (Carrabine, 2014: 134) and vast accelerations in media and communication technologies. And so, although *Discipline and Punish* is not interpreted as a social commentary on Appadurai's (1996) later modern mediascape, narratives of the visual spectacle are still central. Within this renowned text, the notion of the spectacle is constructed as a historically specific exercise of punishment and exercise of power. For Foucault, it is argued that the spectacle acts as a counterpoint to the theoretical development of panoptic discipline. His chapter on *The Spectacle of the Scaffold*

recounts how during seventeenth and eighteenth-century France, punishment was exercised at the heart of the community; it was public; it was carnivalesque; it was a spectacle. Herein, Foucault's spectacle closely interacts with the exercise of social power and, more specifically, is an insight into the dynamics of hierarchy between the state and the public. Accordingly, during this historical period, for power to be considered legitimate and justified it had to be a brutal, corporeal spectacle, characterised by an excess of violence. This is significant as it constructs a clear picture of the Foucauldian spectacle, as one that exists within the tangible relationships between the powerful and the powerless; inextricably bound to torture, aggression, and what Lynch refers to as "an ongoing public attraction to death machinery and the suffering body of the condemned" (1999: 1). Foucault claims to observe how "from the point of view of the law that imposes it, public torture and execution must be spectacular, it must be seen by all...men will remember public exhibition...bodies dragged on hurdles and exhibited at the roadside. Justice pursues the body beyond all possible pain" (1991: 34).

The public brutality of Foucault's spectacle echoes Seal's work on capital punishment in which she writes that "the audience is an essential aspect" (2014: 33); the spectacle of punishment performs a pedagogical, community function. The association of punishment with the public pursuit of power by the sovereign is imperative to the Foucauldian characterisation of the spectacle. During this time crime was seen as an attack against the sovereign; "it attacks him personally, since the force of the law is the force of the prince" (Foucault, 1991: 47). Therefore, the "right to punish...is an aspect of the sovereign's right to make war on his enemies" (ibid: 48). However, the spectacular, torturous nature of punishment was discarded towards the end of the nineteenth century, according to Foucault, as public discourses came to "denounce [it] as a survival of the barbarities of another age" (ibid: 39). This shift, which is the focus of this research, away from the public spectacle of punishment is explained within the *Discipline and Punish* by the panoptic disciplining of society; the antithesis of Foucault's spectacle.

According to Foucault (1991) the shift in the disciplinary mechanisms of power away from the spectacle and towards privatisation was not only dominant in representations of punishment but was indicative of a wider system of power operating across all spheres of the social world. Wider bodies of literature echo Foucault's (1991) theory that the spectacle, as manifested in public forms of punishment, retreated after the nineteenth century; "the body in pain became increasingly intolerable and profane" (Seal, 2014: 36). However, whereas Foucault argues the

decline of the spectacle is the result of the waning power of the authoritarian sovereign and in its place, panopticism, other texts pay greater attention to capitalist structures and economic developments to both the wellbeing of the spectacle and its demise. A tension in the literature is exposed; on the one hand Foucault attributes the decline in the spectacle of punishment to a decline in hierarchy and the development of the state. On the other hand, wider literature attributes the changing nature of the spectacle to industrialisation and a changing economy.

As mentioned earlier, much of the literature recognises the decline in the spectacle of punishment around the nineteenth century. Nevertheless, the character of the spectacle, as defined within broader literary spheres is arguably more complex than Foucault's conflation with disorganisation and monarchical wrath. Much of the literature in this field identifies a strong positioning of capitalism in the development of the spectacle; the spectacle of punishment is a product of, and motivated by, capitalist forces. Some texts go further than attributing the spectacle of punishment to capitalist profit motives to argue that capitalism is simultaneously responsible for supporting the privatisation of punishment; capitalist technologies are ubiquitous and thus both support and question Foucauldian theories of panopticism. To firstly consider the role of capitalism, one text which identifies some of the earliest and most conspicuous interactions between capitalism and the spectacle of punishment is *The Roots of Evil* (Hibbert, 1963). Hibbert (1963) closely affiliates the notion of the spectacle with the punishment of criminals and implementation of state justice. He identifies how punishment was a public spectacle during the sixteenth and seventeenth centuries. This, he writes, was a means to accustom "men to the sight and smells and instruments of human butchery" (ibid: 27) and deter criminality. Hibbert's theory of the spectacle echoes the brutality and corporeality of Foucault's (1991) pre-panoptic spectacle. Similar to the visual language Foucault employs, Hibbert's descriptions of the "iconography of suffering" (Brown, 2014 in Rafter, 2014: 130) and public technologies of power are characteristically visual. No more tangible is this than in his retelling of Charles Dickens' encounter with a public hanging in 1849. Dickens recalls how "The conduct of the people was so indescribably frightful, that I felt for some time afterwards almost as if I were living in a city of devils" (1963: 71). With this in mind, it is clear that Hibbert's understanding of the spectacle, in relation to punishment, is bound up with public deterrence and the visibility of the physical body in pain. According to Presdee (2000; 2004) such a spectacular event can also be understood as an empowering

moment for those typically disempowered and distanced from structures of control (see also O'Neill and Seal, 2012); seeing the spectacle of punishment gave the powerless knowledge, and thus power.

Nonetheless, Dickens' story speaks to Stallybrass and White's account of Bakhtin's (1984) carnivalesque spectacle "as a world of topsy-turvy, of heteroglot exuberance, of ceaseless overrunning and excess where all is mixed, hybrid, ritually degraded and defiled" (1986: 8). Taking "spectacles of social suffering" (Brown, 2014: 181) as its focus, Hibbert's (1963) analysis of the spectacle is defined by such scenes of debauchery and violence, which are clearly in line with Foucault's (1991) analysis of public indulgence in punishment pre-panopticism. This literary trend constructs the spectacle in relation to notions of the carnival, but more specifically, the view that such spaces have a "vulgar, 'earthy' quality to [them]" (Stallybrass and White, 1986: 8). Significantly, Hibbert's (1963) historical analysis of the spectacle is echoed throughout *Punishment and Social Structure* (Rusche and Kirchheimer, 1968). Rusche and Kirchheimer similarly locate the notion of the spectacle alongside the criminal carnivalesque and control, the likes of which even "the most morbid imagination can hardly picture" (ibid: 21).

As established, Hibbert (1963) as well as Rusche and Kirchheimer's (1968) spectacle is characterised by bodily violence and the public visibility of suffering. Nevertheless, distancing themselves from *Discipline and Punish* (Foucault, 1991), and as society progressed towards the eighteenth century, the scholars contend that the torturous spectacle was driven not so much by sovereign control, but by the capitalist commodification of bodily distress. For Hibbert (1963) the spectacle was driven by "an almost universal greed for quick profits" (ibid: 38); suffering was profitable and a central feature of public life. Accordingly, the spectacle of punishment was a capitalist endeavour to commodify human torture and state endorsed violence. Hibbert's (1963) historical analysis of the interplay between the spectacle, public torture, and capitalism is similarly echoed throughout Rusche and Kirchheimer's (1968) structuralist account of punishment. The authors argue for greater awareness of understanding the spectacle of punishment as a social phenomenon that is closely tied to capitalist relations. Here the literature departs from the Foucauldian spectacle. The literature challenges Foucault's (1991) theory that the spectacle of punishment, as defined by pre-panoptic penal technologies, can simply be understood as a product of undisciplined social structures. Rather, Hibbert (1963) and Rusche

and Kirchheimer's (1968) spectacle is fuelled by a complex network of relationships between punishment, state control, and changing modes of production and market forces. The literature thus paints a picture of the capillary micropower of capitalism and how it serves as a driving force for the spectacle.

With this in mind, Rusche and Kirchheimer (1968) argue that the spectacle of punishment diminished between the seventeenth and twentieth centuries. Nevertheless, unlike Hibbert (1963), *Punishment and Social Structure* argues that the shift towards privatised punishment and the distancing of the public from the corporeal was "not the result of humanitarian considerations" (ibid: 24). Neither do they attribute the transition to panoptic disciplinary power; unlike Foucault (1991). Instead, they argue the retreat of the spectacle was the result of "certain economic developments which revealed the potential value of a mass human material completely at the disposal of the administration" (1968: 24). An interpretation of this is that the text identifies the significant role of capitalism as a causal factor and defining feature of both the "voyeuristic spectacle" (Brown, 2014: 182) of torture as well as the privatisation of punishment. In doing so, the literature aligns both the spectacle and privatisation of punishment with capitalist power. And so, the efficiency, surveillance, and productivity that Hibbert (1963) and Rusche and Kirchheimer (1968) seem to observe post-nineteenth century is driven by capitalism and its pursuit of profit. Herein the literature arguably further upsets Foucauldian theories of power and builds a case for supplementary narratives in order to understand these structural changes.

At this stage it is clear that literature on the spectacle is focused on punishment. Equally clear is the literary trend to align capitalism with both the spectacle and the privatisation of punishment. However, the characterisation of the spectacle as a capitalist product is not isolated to discussions of public punishment and the commodification of bodily distress. Rather, the literature turns to the development of capitalism towards late modernity and with this, the definition of the spectacle changes; it takes a new form in light of developing media technologies. Literature shifts away from punishment and towards the role of the mass media and the spectacle of society.

One of the most valuable contributions to this field can be found in the work of Kellner, in particular, his book *Media Spectacle* (2003). According to Kellner, Western societies are awash

with the mass media, and media spectacle define all areas of social life. From this perspective, media spectacle are pervasive and touch upon multiple arenas of the social world from politics, television, crime, sport and many more. Kellner (2003) focuses on media spectacle as products of globalization and celebrity culture, and offers insight into how living under conditions of a mediated, information society creates an insatiable desire for entertainment and consumption. Society is witnessing the amalgamation of “media and computer culture and of entertainment and information in a new networked and multimedia infotainment society” (ibid: 13). This scale of social infiltration by media spectacle is captured in the idea that we are witnessing the “spectacularization of politics, of culture, and of consciousness” (ibid: 14).

Importantly for this thesis, Kellner’s analysis is broad and encompassing, examining media spectacle as a diverse specimen. This research takes *Media Spectacle* (2003) and applies it to a specifically criminological context to examine justice as an object of the visual. Nevertheless, Kellner does analyse the close relationship between media representation and criminality, albeit briefly, in an examination of the O.J. Simpson murder trial. As aforementioned in Chapter One, the Simpson trial was the object of global media and became “one of the greatest media circuses of all time” (ibid: 100). Reflecting some of the key debates of the time in relation to race and identity, compounded by the celebrity status of the criminally condemned, the case was quickly catapulted into the media spotlight. One of the most significant impacts the Simpson case had, according to Kellner, was that it signalled the end of investigative journalism and an orthodox media culture, and instead triggered “the transformation of news into infotainment” (ibid: 96).

The mass media re-presented the events of the trial and brought the public in as active participators in scenes of justice. The media constructed a version of social reality that was consumable and political with which the public interacted with the case. Kellner’s (2003) media spectacle are more than simply visible across different sections of the social world, but they are powerful tools that “define social reality and the key issues and dramas of an epoch” (ibid: 119). A precursor to *Media Spectacle* (2003) and further contributing to this literary theme is Debord, whose text *Society of the Spectacle* (2012) applies the historically grounded theory of the capitalised spectacle to an increasingly mediated world. *Society of the Spectacle* argues that the notion of the spectacle is a social phenomenon influenced by the development of capitalism and technology. Debord’s (2012) spectacle is ubiquitous, operating at the intersection between capitalism and media technologies. It takes a critical Marxist perspective to offer a critical

assessment of the capitalist motivations behind media spectacles. For Debord (2012) capitalism is a powerful discourse and the mediated spectacle is the mouthpiece through which ideologies are communicated. Debord (2012) loosely defines the spectacle as a phenomenon that has the power to concretise and justify social structures by demanding obedience; the spectacle has turned appearance into commodity to which social actors are enslaved. Echoing Orwellian (2013) narratives, and resisting a criminological focus, Debord describes how modernity is defined by a media, technological, and capitalist spectacle. Debord's spectacle does not discuss punishment.

Whilst Debord resists offering a concrete explanation of what exactly constitutes the spectacle, he writes how the spectacle is tightly bound to the development of late capitalism, mass industrialisation, and commodity fetishism. Through a close analysis of the changing nature of capitalism, and its relationship with mass media institutions, Debord's work takes the historically linear narratives of Hibbert (1963) and Rusche and Kirchheimer (1968) and constructs a more contemporary approach. Taking the Debordian view that the spectacle is inherently driven by media technologies further, this thesis explores the role of the mass media and its discourses in creating a spectacle of justice. In doing so, the research seeks to contend that criminal justice is a key feature within Debord's capitalist driven consumerism and the visual, commodification of everyday life. This research aim speaks to Debord's argument that the relationship between capitalism, media technologies, and the spectacle moved away from specific applications to punishment; Debord's spectacle is applied to broader capillaries of the social world beyond the realm of the penal system. Thus, *Society of the Spectacle* (2012) can be seen to straddle two literary spheres; recognising both the sustained function of the spectacle alongside the privatisation of other social institutions. This theoretical positioning arguably further aligns the text with the research aims of this thesis; narratives of privatisation and narratives of the spectacle are not mutually exclusive but rather co-exist in parallel. By exploring how justice has become a spectacle, this research builds on Debord's work, particularly his call to analyse the spectacle within the broad capillaries of the social structure. Herein, the thesis exposes a theoretical gap in the literature on the spectacle; the spectacle of punishment and the media spectacle of society are both rigorously examined, but the more specific notion of justice is absent as an object of spectacle within academia. Using the concept

of spectacular justice this thesis addresses this gap and thus asserts the notion of the spectacle in justice.

Furthermore, Debord (2012) describes the oppressive capillary functioning of the capitalist spectacle and how these social developments have resulted in the growing individualisation and isolation of social actors. Debord argues that under these conditions

“Spectators are linked solely by their one-way relationship to the very centre that keeps them isolated from each other. The spectacle thus reunites the separated, but it reunites them only in their separateness” (ibid: 40).

Debord (2012) situates himself here alongside Mathiesen’s (1997) concept of the ‘Synopticon’, which details how an increasingly individualised, spectacular society is structured so that systems of surveillance now operate enabling the many to see and contemplate the few. According to Debord (2012), because of the strength of capitalism and mediated representation, individuals are left alienated from their true being and exist only as fractious beings in amongst “lonely crowds” (ibid: 40). This exposes a gap in the literature. As with Foucault (1991), Hibbert (1963) and Rusche and Kirchheimer’s (1968) spectacles, the literature conflates the spectacle with pain; whether bodily dismemberment (spectacle of punishment) or emotional isolation and alienation (society of the spectacle). This is significant as the literature denies the spectacle positive effects such as a relationship with community solidarity and collectivism. By interrogating the role of the spectacle in justice, and the proposed conceptual development of spectacular justice, the research seeks to expand and supplement this existing literary gap. The thesis investigates how the spectacle of justice varies culturally and historically, and thus exposes multiple moral and political issues that arise in highly visible moments of justice, illuminating both positive and negative effects.

For Debord (2012) the ubiquity of the late modern capitalist spectacle is distancing and disempowering. Herein it can be asserted that the *Society of the Spectacle* (2012) acts as a bridge between Foucauldian notions of panoptic docility and notions of the spectacle; the real and the hyperreal; the passive and the active. Foucauldian discourses attribute individualised isolation to panoptic systems of governance and control, in which individuals are enslaved by the unrelenting uncertainty of surveillance. In comparison, Debord (2012) seems to argue it is

the oppressive nature of the spectacle, not panoptic surveillance, that is the main social cause of docility. From this perspective, the spectacle is so established that it acts as an extension of capitalism's power and controls populations through the oppressive "quest for the hyperreal" (Jewkes, 2015: 240). Thus, whereas Foucault (1991), Hibbert (1963), and Rusche and Kirchheimer's (1968) spectacle of the body is shocking in its corporeal brutality, Debord's (2012) spectacle is inhibiting. The society of the spectacle paralyses individuals with the dazzling power of capitalist marketing and consumerism, exacerbating loneliness and competition.

Central to Debord's (2012) capitalist, hyperreal spectacle is the apparent surge in consumer culture. Indeed, he suggests that the spectacle is a destructive force that seeks to degrade "being into having" (ibid: 35). In this view, modern modes of production have enabled a surplus of the necessities of life meaning individuals no longer face the reality of mortality. This is a significant point that the literature identifies, and which can be understood to have implications for Foucauldian theory. One interpretation is that the literature highlights how panopticism fails to account for causal factors, for privatisation, beyond an increased need for control and discipline. Specifically, Foucault's failure to recognise capitalism's power to commodify illusion and the value of the spectacle to consumerism and commodification.

Despite these observations, Debord (2012) identifies several dangers within this environment. The primary danger of spectacular consumerism that Debord (2012) identifies is that individuals are reduced to "consumer[s] of illusion" (2012: 48); "the spectacle is not a collection of images; rather, it is a social relationship between people that is mediated by images" (2012: 32 see also Rojek, 2001). Thus, the meanings that individuals invest in commodities and media images, as a means of understanding reality, are hollow representations of reality. He writes that social actors are duped by the spectacle of illusion. Debatably, the illusory nature of Debord's (2012) spectacle stands in contrast with the conspicuous display of power within Foucault (1991), Hibbert (1963) and Rusche and Kirchheimer's (1968) spectacle of bodily destruction atop the seventeenth century scaffold. However, for some theorists the deceptive relationship between the media, the spectacle, and the public is inevitable. As Lichtenberg and MacLean write, "there is altogether too much reality: subatomic reality, chemical reality, astronomical reality, psychological reality, political reality" (1991: 165-167). And thus, for such scholars the media as tools of the spectacle and creators of illusion, is unavoidable. Nevertheless, in both cases the

literature speaks to Scott Bray's argument that "we need to remain alert to the significance of context, the politics of consumption, [and] the global economy of images" (2017: 149). To elaborate, Scott Bray theorises that the spectacle is highly susceptible to social and political context. With this in mind, the literature arguably problematises the simplicity of Foucault's spectacle which he clearly isolates to the pre-panoptic era. In response to this literary gap, this thesis investigates the implications of the spectacular nature of justice for our understanding of the political, moral, and social condition of a society; the spectacle of justice is understood to be intricately bound up with moral and political issues.

Building on this, Debord's (2012) explanation of the spectacle as an instrument of oppression and exposing how it limits the movements of the lower classes, serves to expose the falsehood of the public façade of the spectacle. Thus, for Debord (2012), to consider the positive effects of the *Society of the Spectacle* is to be duped by capitalist illusion. The *Society of the Spectacle* has a "fetishistic appearance of pure objectivity" (ibid: 38) which "conceals the true character" (ibid) of the relationship between human beings and classes. In this way, Debord's Marxian thesis contends that the spectacle is "a permanent opium war designed to force people to equate goods with commodities and to equate satisfaction with a survival that expands according to its own laws" (ibid: 47). The conceptual development of spectacular justice unsettles this tension. For Debord (2012), the spectacle is almost an entirely negative instrument of the capitalist machine. As such, his capitalist construction of the spectacle is a piece of literature that constructs the framework for understanding the spectacular, public face of justice. But it can be argued that he populates this framework with inhibiting pessimism. And so, as aforementioned, there is a gap in the literature to explore alternative functions and effects of the contemporary, capitalist, media spectacle which this thesis analyses.

Despite sharing an equal commitment to critical thought, Debord (2012) and Foucault's (1991) conceptualisations of the historical development of power are oppositional. Debord observes a narcissistic society in which reality is replaced by illusion, necessity by abundance, and community by commodity. Thus, his conceptualisation of the social world is debatably one of the degrading effects of the growing media spectacle. In contrast, Foucault's theory describes increasing privatisation and panopticism, and thus fundamentally, the decline of the spectacle of punishment in the face of increasing disciplinary power. As demonstrated, the Foucauldian prioritising of the privatisation of punishment and the corresponding decline of visibility is

prominent throughout other literary texts, in particular Rusche and Kirchheimer's (1968) *Punishment and Social Structure*. Nonetheless, existing literature diverges from Foucauldian theory to explicitly argue the decline in the spectacle of punishment is a consequence of the development of capitalism, not panoptic systems of control.

As a result, *Society of the Spectacle* (2012), despite being written within a decade of *Discipline and Punish* (1991), arguably stands in opposition to Foucauldian theories of panopticism. Debord's recognition of the spectacle as a narrative that is made increasingly relevant with the dominance of capitalism and the mass media, can be interpreted as theoretically antithetical to the dominant Foucauldian narrative in which the spectacle is lost, overshadowed by control, discipline, and capitalist power overlooked. Yet it is in the disparity between wider literature and *Discipline and Punish* (Foucault, 1991) which attests to the strength of supplementary narratives and the need to understand the spectacle further. The value of Debord's (2012) literature lies in its description of the relationship between social actors, mediated representation, and direct experience. In particular how these processes are indicative of the power of capitalism. Thus, whilst *Discipline and Punish* (Foucault, 1991) and *Society of the Spectacle* (Debord, 2012) demonstrate a shared critique of the notion of the spectacle, Debord's (2012) pessimism drives him to recognise its significance and attribute its success to the momentum of late capitalism and the mass media. Debord argues that the spectacle "is the very heart of this real society's unreality...[and] serves as total justification for the conditions and aims of the existing system" (ibid: 33). And thus, Debord's politicised critique of the stabilising effect of the spectacle to capitalism, presents an alternative narrative to the Foucauldian panoptic privatisation of society. For both Debord (2012) and Rusche and Kirchheimer (1968), capitalism is a catalyst for the spectacle and its sustained vitality, which is a structural development that is seemingly not accounted for in *Discipline and Punish* (1991). "The spectacle is the *leading production* of present-day society" (Debord, 2012: 35) [emphasis in original], and far from ceasing to exist as *Discipline and Punish* (1991) contends, Debord recognises how the spectacle "covers the entire globe, basking in the perpetual warmth of its own glory" (ibid: 35). And so, whereas Foucault's spectacle is limited to the microcosm of punishment, Debord's media spectacle is everywhere; it is the lens through which capitalist society must be understood. Taking this forward, spectacular justice aims to offer meaning to

the commodification of the criminal trial and asserts the central position of justice in a consumer, media society.

The perceived value of Debord's alternative conceptualisation of the spectacle is mirrored within *The Viewer Society* (Mathiesen, 1997), a text defined by seeing, sight, and the visual. Mathiesen writes that the "whole thing is much *worse* than Michel Foucault imagined" (ibid: 231) [emphasis in original]. Thus, beyond understanding the spectacle simply through the lens of top-down power, *The Viewer Society* describes how developments in media technologies enable "*the many to see and contemplate the few*" (ibid: 219) [emphasis in original], a process coined 'synopticism'. Subverting the Latin origin of 'panopticon', Mathiesen argues synopticism exists in parallel with disciplinary technologies of surveillance. It contrasts the Foucauldian theory that with panopticism the few see and control the many and instead recognises the dynamic potential of the spectacle. In this knowledge Mathiesen's spectacle strongly intersects with developments in media technologies, the economy, and justice. A further point which sets Mathiesen's work apart from wider literature on the spectacle is its consideration of crime. And so, combined with its explicit drive to create an alternative narrative to Foucault's panopticon, Mathiesen's analysis of the spectacle sits alongside this thesis. Mathiesen (1997) emphasises the currency of criminality to the capitalist, synoptic spectacle. It is argued that the parts of Foucault's panopticon that are close to the prison still have their functions, especially crime news. The newsworthiness (Galtung and Ruge, 1965) of prisons, escapes, trials and crimes are the foundations of the synoptic relationship between the public and the capitalist commodification of crime. Building on Mathiesen's (1997) work, this thesis goes beyond analysing the role of crime to the spectacle, to analyse the relationship between criminal justice and the visual spectacle.

Synoptic media can be understood to have the power to turn a criminal case into a high-profile event and the potential to cause widespread social panic (Cohen, 2002; Garland, 2008; Goode & Ben Yehudi, 1994; Jewkes, 2010). This idea is supported by the concept spectacular justice as arguably the synoptic power of the media is one way in which justice has become a spectacle. Accordingly, such media stories dissect individuals and their crimes for public consumption; lives are uncovered by a dynamic media and baying crowd. Mathiesen demonstrates how this theory of the spectacle "completely contradict[s] Foucault's thesis that punishment tends to become the most hidden part of the penal process" (1997: 231). The power and relevance of the

counter-Foucauldian, capitalist paradigm put forward in *The Viewer Society* is altogether captured in the following line: “[t]he execution in Paris in 1757 becomes, as a spectacle, peanuts compared to the executions (real or metaphoric) on the screens of the modern television” (ibid: 231). Spectacular justice offers meaning to this process and is explored to better understand the scale and scope of visibility surrounding justice process today.

To further elaborate, this thesis echoes Mathiesen’s literary commitment to providing alternative narratives that speak to the spectacle as a product of media technology and as latent in public interactions with criminality. The spectacle of justice is bound to notions of synopticism and *The Viewer Society*, but more specifically, the co-existence of the capitalist spectacle and panoptic privatisation. Mathiesen’s (1997) spectacle as defined by mediated, capitalist control is in line with additional literature on the spectacle within the Frankfurt School. Specifically, Adorno and Horkheimer’s *The Dialectic of Enlightenment* (2002), written following the fall of the Weimar Republic and the subsequent rise of the Nazi regime during the mid-twentieth century. Akin to Kafka’s (1956) *The Trial* in which he describes the banality of terror, characteristic of totalitarian regimes of the First World War, Adorno and Horkheimer construct a notion of the spectacle that is defined by media power, ideology, and political control. Adorno and Horkheimer’s (2002) spectacle exist at the intersection between the visual power of the media, and the privatised, controlling gaze of institutional control. To elaborate, during their exile in the United States both scholars observed the predominance of advertising and the distribution of capitalist ideologies in the United States. Under such conditions they noted the power of capitalism to cultivate a developed false consciousness amongst its citizens. This false consciousness was fuelled by the spectacle. As such, their post-war capitalist media spectacle is characterised by duplicity and inauthenticity, which distinctly concurs with the falsehood of Debord’s (2012) spectacle. *The Dialectic of Enlightenment* goes on to reiterate the threatening nature of the spectacle by drawing comparisons with the widespread spectacle of fascist propaganda and Nazi ideologies in Europe. The Frankfurt School scholars witnessed fascist regimes utilising new communication technologies to disseminate dominant ideologies (Carney in Hayward and Presdee, 2010). In response, they sought firstly to better understand the structure and development of authority, and secondly, the emergence and proliferation of mass culture. Heavily influenced by Marxian and Weberian theory, and therefore aligned with Debordian (2012) literature, they paint an apocalyptic portrait of the United States during this

period in which individuals became alienated and passive under the powerful spectacle of the mass media.

The main argument throughout the text is that the culture industry, and its spectacle, are no longer concerned with the quest for enlightenment and truth, instead it, like the public preoccupation with profit in Hibbert's (1963) nineteenth century Europe, is driven by financial gain. Enlightenment is perceived to be undermined by capitalist enslavement; the real by the hyperreal; the private by the spectacle. According to Baudrillard (1988), "under this kind of postmodern 'hyperreality' ...the boundary separating reality from its representation has 'imploded', leaving images with no real-world referents" (in Carrabine, 2008: 9, see also Hayward and Presdee, 2010; Eldridge, 1993). The culture industry was thus interpreted as a distracting mechanism aimed at diverting the attention of the powerless away from the serious political concerns of the period and inducing individuals into a state of passive docility. This text shines a light on a discernible literary trend which is focused on critiquing the inherent exploitation in the absolute power of capitalism. It illustrates the view that mass culture and its spectacle do not enable positive means of personal expression and freedom. Rather, it defines the mass cultural, media spectacle as an oppressive uniform structure in which everything is the same, individuality is an illusion, and resistance impossible. As Postman (1986) argues, "we are *Amusing Ourselves to Death* through tranquilizing entertainment forms that trivialise issues of importance" (in Carrabine, 2008: 11) [emphasis in original]. This presents a valuable literary evaluation of the spectacle. The spectacle within *The Dialectic of Enlightenment* (2002) combines the disciplining powers of the panopticon alongside the mediated powers of the spectacle; Adorno and Horkheimer's spectacle demonstrates both the validity of Foucault's theory and the need for supplementary narratives that explore the power of media technologies and discourse to the spectacle.

Thus, Adorno and Horkheimer (2002) contribute to the growing case for supplementary narratives of power, in relation to the spectacle, beyond Foucauldian (1991) panopticism. This argument, which constructs the spectacle as a media, capitalist commodity is reiterated in Jewkes' (2015) analysis of the relationship between media and crime, which she directly applies to *Discipline and Punish* (1991). For Jewkes (2015) it is paramount to understand panopticism and discipline in relation to "a backdrop of changes which have resulted in the supremacy of conspicuous consumption and the commodification of the city" (2015: 237-238). Jewkes (2015)

contends that Foucault (1991) fails to recognise such developments and that this consequently leaves the concept of panopticism, and its socio-criminological dominance, open to alternative discourses. Therefore, for Jewkes (2015: 237-238) “conspicuous consumption and the commodification of the city” contributes to the argument that Foucauldian theories are fallible when applied to a social world saturated by information, media technology, and consumerism. Considering this, by analysing the spectacle of justice this thesis develops both Jewkes (2015) and Adorno and Horkheimer’s (2002) theories on the dominance of consumption and commodification in narratives of the spectacle beyond the torturous public displays of punishment in pre-nineteenth century Europe. Specifically, it considers the ways in which criminal justice process interacts with the proliferation of capitalist media technologies and profit motives.

Consequently, Adorno and Horkheimer’s (2002) spectacle is defined by discourses of oppression and illusion. Thus, on the one hand this thesis seeks to replicate their scholarly focus on social, cultural, and political forces and the impact they have on the spectacle. On the other hand, the criminological focus this research takes enables spectacular justice to move beyond the spectacle’s affiliation with the culture industry and to consider a broader range of social, cultural, and political intricacies.

Beyond the illusory power of mass culture and media spectacles, Adorno and Horkheimer (2002) speak to the scale of this process. For the authors the mediated, cultural spectacle “now impresses the same stamp on everything” (2002: 120). To elaborate, Adorno and Horkheimer (2002) contend that commodification is infiltrating all areas of social life. At the heart of this commodification is the rise of mass culture and new technologies which have the power to construct and alter reality as well as recruit individuals in their own alienation; “real life is becoming indistinguishable from the movies” (ibid: 126). This research, using the proposed concept of spectacular justice, develops this idea and looks at how media technologies and discourses create a spectacle of justice and in what ways they turn trials into high profile dramas. Moreover, Adorno and Horkheimer’s spectacle is defined by the culture industry and the media’s saturation of the social world (Rojek, 2001). The authors contend that “the whole world is made to pass through the filter of the culture industry” (2002: 126). Spectacular justice is a tool for understanding how justice can be seen as an important social institution subjected to the media gaze. The literature thus historically asserts the pervasiveness of the mass media and

in doing so not only explicates its relationship with culture, but additionally it's defining role in maintaining narratives of the spectacle. According to prominent theorists within the Frankfurt School, the mass media does not lie dormant in the background of social structures but rather it is an influential component of the culture industry bound up with powers of meaning making, symbolisation, and representation. The spectacle of justice concurs with this argument and seeks to develop the dominant narrative throughout the literature of the socio-cultural impact of changing technologies and mass mediated culture (Jewkes, 2015). Inevitably Adorno and Horkheimer's (2002) capillary, cultural spectacle is a perspective that has important consequences for the position of criminality and justice in a mediated society.

As such, the mass media and information technologies are central to narratives of the spectacle within the literature, particularly how it takes the concept beyond notions of punishment and penalty. The mass media as a catalyst for both the spectacle, and its transition towards criminal justice process, is an argument that is equally central to the conceptual development of spectacular justice. "Whether we term it the information society, the network society, the image world, postmodernity, or late modernity [the contemporary era] is a fundamentally mediated era" (Greer, 2013: 143). As discussed earlier in this chapter, the role of the media in the spectacle of crime is well documented. It's powerful role has led to a wealth of literature, including but not limited to previously mentioned theories of 'moral panics' (Cohen, 2002; Garland, 2008; Goode & Ben-Yehudi, 1994; McLaughlin, 2014, McRobbie & Thornton, 1995); the social construction of crime news (Hall, 1978; Katz, 1987; Jewkes, 2010; Galtung and Ruge, 1965; Chibnall 1977); fear (Altheide, 2002; Surette, 2011, Box et al, 1988); or the visual in relation to subculture and control (Ferrell, 1993, Ferrell and Weide, 2010). A more recent research area at the intersection between the media, crime, and spectacles, is the debate around televising criminal trials; notions of visual, open justice underpin these discourses. This is where justice begins to be examined in the literature. In particular, Garcia-Blanco and Bennett's (2018: 3 see also Biber, 2018) recent content analysis of media coverage on the debate highlights how "transparency' ...has rapidly become one of the buzzwords dominating public discourse" (see also Han, 2015; Heald, 2006; Schudson, 2015). Not only do they draw on the visibility of crime within the media, they go on to write that transparency is "considered vital for the optimal functioning of the judicial system" (Garcia-Blanco and Bennett, 2018: 3). The authors thus speak to the pertinence of exploring the spectacle of justice. As such, whilst distinctly valuable

in their own right, socio-criminological literature that explores the connections between the spectacle, mass media, and crime, more recent literature which investigates the visibility of criminal justice is ever strengthening. And in doing so the literature validates a thorough analysis of the spectacle in criminal justice and speaks to the observable tangibility of these processes which increasingly warrant academic attention.

Taking the scholarly interest in the “media drenching of ordinary life” (Longhurst, 2007: 102) further, visual criminological literature examines what the social fascination with visible criminality reveals about the social condition; “rather than dismiss the enduring popular fascination with crime and punishment we must seek to understand it” (Carrabine, 2008: 8). In line with Debordian (2012) theories of the Marxian role of capitalism in media saturation and Mathiesen’s (1997) theory of the *Viewer Society*, Carrabine speaks to the ways in which society is increasingly organised “around the immense consumption of images, relentless array of commodities and dizzying profusion of sensations in crucial ways” (2008: 11). Crucial to Carrabine’s media saturated spectacle is how the mass media directly impacts on the public/private interface with violence and constructs a society that is “awash in images” (Sherwin, 2011: 13). Fundamentally, Carrabine’s spectacle is violent and voyeuristic. His research into the seeing, violence, and voyeurism draws attention to the emotive nature behind visual spectacles of criminality and justice. However, for Carrabine (2008) the almost capillary effects of the spectacle of violence and crime, with its broad social and emotional impact, is not a new social phenomenon. Rather

“From the papyrus, clay and stone of the ancient world to the plastic, metal and wire of modern media it is clear that the technologies of communication have an immense influence, ranging from the most inner dimensions of personal experience to the organization of power, political practice and social control” (2008: 10).

Therefore, according to Carrabine not only do communication and media technologies have an “immense influence” (ibid) on micro and macro elements of the social world, but their influence in the spectacle is not confined to the present. This analysis is significant, and echoes broader sentiments made across the literature, because it draws attention to the notable absence of the media within Foucauldian (1991) literature, whether detailing panoptic power, or its pre-panoptic counterpart. In doing so, literature which recognises the significant role of the mass

media and information technologies on the spectacle points to *Discipline and Punish* as outside the analytical scope of the field. Despite occupying a relative monopoly on theories of discipline and punishment, Foucault's panoptic theory of power situates itself as an outlier in a field dominated by media spectacles of crime.

Foucault's (1991) marginal position within the field and its absent analysis of the mass media spectacle is addressed by fellow theorists, one of the most notable being Mathiesen (1997). Although Mathiesen concedes that Foucault could not have predicted the huge developments in technology, a view this research echoes, he emphasises that the broad structures were established by 1975, the time around which *Discipline and Punish* was originally published. Mathiesen's critiques expose a gap within Foucauldian narratives. The literary focus on the role of the mass media on representations of crime speaks to the research aims of this thesis. This thesis draws on literature which explores the function of the mass media to narratives of the spectacle within justice to understand how these two processes may function in parallel, not in opposition, to Foucauldian theories of panoptic privatisation. According to the literature within the field, panoptic society, defined by control and privatisation, as constructed in *Discipline and Punish* (Foucault, 1991), is largely ahistorical and apolitical. And thus, like theorists such as Mathiesen (1997), this thesis contends that there needs to be greater recognition of the blending between accounts of panopticism and the spectacle so as to understand the visibility of justice. Much like supplementary literature, this thesis calls not for the abolition of panoptical systems of thought, but rather for greater awareness of alternative systems of thought and their value as supplementary narratives. Thus, existing research in this field concurs with Said's (1986) theory that

“there is no doubt at all that Foucault is nevertheless extraordinarily brilliant as a visionary of power who calls forth in his reader a whole gamut of responses testifying not so much to the rightness of Foucault's reports but to alternative visions of power not entirely suppressed or obliterated by his work, but stimulated and enlivened by it” (in Couzens Hoy, 1986: 152).

This thesis, and its examination of the spectacle of criminal justice, aims to provide a supplementary narrative to Foucault's theory of panoptic privatisation and the spectacle of punishment. It concurs with literature which states we are living in a society defined by

spectacles (Debord, 2012); a world in which “the street scripts the screen and the screen scripts the street” (Hayward in Hayward and Presdee, 2010: 4). A world characterised by images in which lives are “uploaded and downloaded, copied and cross-posted, Flickr-ed, Facebook-ed and Photoshop-ped” (Hayward in *ibid*: 1). This being the case, within socio-criminological literature, the influence of the mass media and capitalist technologies represent dominant discourses through which the spectacle is understood and given meaning. And thus, whilst there is a general literary consensus with Foucault’s (1991) theory that society underwent a structural shift towards the privatisation of punishment and greater social discipline post-nineteenth century, literature on the spectacle upsets the simplicity of this theory. The relevance of the spectacle is still tangible both within socio-criminological fields as well as society more broadly, and the literature acknowledges that these processes exist alongside privatisation agendas.

Outlining the established position of the spectacle within the literature is insightful for the construction of spectacular justice. First and foremost, it cements the legitimacy of the spectacle as a narrative that is both historically and contemporarily relevant. Consequently, the literature exposes perceived weaknesses of Foucauldian theory. In particular it explicates its failure, when constructing a genealogy of discipline and punishment, to account for the huge developments in mass media technologies and the economic changes that accompanied the growth of capitalism. The development of capitalism, and more specifically the impact this has on technology and mass media institutions, and thus the spectacle, is identified within the literature as absent within *Discipline and Punish* (Foucault, 1991). And so, the argument is made that Foucault’s theory of panoptic privatisation is founded upon a societal vision which appears to exist outside media, economic, and technological frameworks. This is crucial because it demonstrates the ways in which the mass media and communication technologies enable the spectacle to continue. The mass media has the power to turn criminal cases into high-profile public dramas and normalises the public spectacle of justice.

In summary, literature on the spectacle across the social sciences is well established. The first conceptualisation of the spectacle comes from authors such as Foucault (1991), Hibbert (1963) and Rusche and Kirchheimer (1968) for whom the spectacle is understood in relation to a specific exercise of power over the criminal body pre-nineteenth century. Within this field, the spectacle is bound to punishment, and more specifically the public display of the criminally

condemned as a visible exercise of sovereign power. In this way, the spectacle is closely bound up with narratives of suffering and deterring crime. The concept of spectacular justice is used within this project as a tool to understand the place of the spectacle beyond punishment, especially in light of the privatisation of punishment in the West around the nineteenth century. To do this it draws on the second significant area of research in which the spectacle is constructed. The second dominant characterisation of the spectacle in the literature is as a product of growing media technologies; the media spectacle of society. Thus, beyond the spectacle of punishment the literature establishes society itself as the focus of the spectacle, most notably within *The Society of the Spectacle* (Debord, 2012). Here, the notion of the spectacle is expanded beyond public displays of sovereign authority and penalty and towards the representation, illusion, and commodification of everyday life; the spectacle is the product of a media-saturated society. In its examination of the spectacle of justice, this research project examines how the media constructs a spectacle of criminal justice, and uses the concept of spectacular justice to give meaning to this relationship. Herein, this thesis builds on the notion of the spectacle of punishment (Foucault, 1991), as well as the spectacle of society (Debord, 2012), to develop the concept spectacular justice and thus make an original contribution within the field of the spectacle.

Furthermore, spectacular justice simultaneously acknowledges a decline in the spectacle of punishment around the nineteenth century and the subsequent rise in media spectacles and amalgamates the two narratives. Combining these two developments, the thesis explores how the media interacts with the justice system and constructs a visual, public spectacle akin to the public punishment of criminals atop the scaffold in pre-nineteenth century society. This distinguishes the research from wider criminological research. This is because, the spectacle of crime and the criminal is well documented throughout sociology and criminology, led by influential texts such as *Folk Devils and Moral Panics* (Cohen, 2002) and *Policing the Crisis* (Hall et al, 1978). By comparison, the spectacle of criminal justice remains notably undeveloped. Equally, literature on media spectacles is overwhelmed by a Marxian analysis which stresses the media as an ideological tool of oppression. Thus, where there is an overlap between the media and the spectacle in the literature this is largely a critical analysis. In response, not only does this thesis aim to expose the role of the mass media in making a

spectacle of criminal justice, but to remain open to the possibility that this relationship has both positive and negative implications for individuals.

And so, building on literature on the spectacle and embracing a “visual turn” (Rafter, 2014: 130), the spectacle of justice is attuned to both the influence of the mass media and capitalism on systems of visibility and privatisation. Using the concept of spectacular justice, this thesis brings together the multiple threads within the literature on the spectacle; mass media technologies, capitalist forces, culture, justice, and punishment. And thus, by bringing the visual spectacle to the forefront of criminological analysis it establishes a strong case for the notion of the spectacle in justice.

2.4 Power and Agency

Analysing power and its corresponding notion of agency is imperative when constructing a supplementary narrative on the exercise of justice and control. Just as power is central to Foucauldian theory, power and agency have a similarly extensive, and variable, presence throughout wider sociological and criminological literature. In the context of crime, justice, and control, how power and agency are understood; who has power and agency; and how they are exercised are important questions within the literature and thus the conceptual development of spectacular justice. Using the concept of spectacular justice, this research seeks to investigate the assertion that post-nineteenth century “the notion of power [was] displaced” (Couzens Hoy, 1986: 3). And so, to understand how justice has become a spectacle, it is important to firstly explore how power and agency are understood within wider literature which operates at the intersection between the spectacle, crime, and justice.

One of the key texts which interrogate historical developments in the public face of justice, specifically in relation to the power, agency and human essence is *The Spectacle of Suffering* (Spierenburg, 1984). Spierenburg speaks to not only the essential tension between visibility and invisibility but also how this “dialectic...is regularly animated by the exercise of power” (Ferrell, Hayward and Young, 2015: 233). Written as a direct and explicit response to Foucauldian notions of panoptic power, the text puts forward two main arguments detailing how power and agency function throughout the capillaries of social life within, yet also beyond, the hands of the elite. For Spierenburg (1984), power is complex and is more fluid than the rigid definitional boundaries of Panopticism within *Discipline and Punish* (Foucault, 1991) suggest.

The first thesis Spierenburg puts forward is a developmental perspective which recognises how the pre-industrial public positivity towards the spectacular sufferings of criminal perpetrators slowly declined because of rising sensitivities towards the corporeal torture and punishment of convicts. As previously mentioned, this echoes Seals findings on public attitudes towards capital punishment in which “the body in pain became increasingly intolerable and profane” (2014: 36). Spierenburg contends that these developing sensitivities and a broader increase in inter-human identification, reached its threshold in the nineteenth century, at which point punishment “disappeared from public life” (ibid: x). Thus, the outcome of Spierenburg’s first thesis can be compared with the broad sentiments of *Discipline and Punish* (Foucault, 1991) which establishes the nineteenth century as a pivotal juncture in the publicity of punishment and demonstrations of justice. Although he resists the narrative of panoptic power as the dominant driving force for change, Spierenburg (1984) echoes sentiments that

“the old power depended on the ideas of public space, and of a public authority...which overawed us with its majesty, and relegated the subjects to a less visible status, the new power operates by universal surveillance...power no longer appears. It is hidden, but the lives of all the subjects are now under scrutiny” (Taylor, in Couzens Hoy, 1986: 74).

The corresponding second thesis attributes these developments in the spectacle of punishment to the rise of network states and processes of industrialisation. According to Spierenburg, society witnessed the “transition from the early modern state, whether absolutist or patrician, to the nation-state” (1984: x). The second thesis herein claims that during this period there was a significant restructuring of power and adjustment of individual agency. Again, *The Spectacle of Suffering* (1984) arguably maps a similar historical development to *Discipline and Punish* (Foucault, 1991) and can be seen to attest to the validity of Foucauldian literature as an analysis of the historical privatisation and panopticism of punishment.

Herein, *The Spectacle of Suffering* focuses on developing a “history of mentalities” (1984: vii) and in doing so echoes Foucauldian literature. It explores the intricate relationships between the public, punishment, and control during the seventeenth and eighteenth centuries in Germany, the Netherlands, France, and England, to better understand the shift from public to private systems of justice and control. The outcome being, Spierenburg’s (1984) literature echoes Foucault’s broad historical assessment that society underwent a process of privatisation around

the nineteenth century. Despite the texts' seemingly broad correspondence with Foucauldian theories of the spectacle within punishment, *The Spectacle of Suffering* (1984) arguably demonstrates a significant departure from *Discipline and Punish* (1991). This point of departure relates to the reasons identified for the privatisation developments in justice and control. Specifically, Spierenburg's testimony to the value of humanitarianism, individual agency, and public sentiment. Thus, *The Spectacle of Suffering* (1984) prioritises the role of public power and public agency when analysing the changing face of punishment and control post-nineteenth century. To clarify, narratives of the spectacle are maintained because of individual human emotion and agency.

This causal difference, and identification with the human essence behind these socio-political changes, is the foundation upon which Spierenburg's text is constructed. As a result, despite echoing Foucault's theory of the general shift from public to private punishment, the text positions itself in direct opposition to Foucault's causal factors in his histories of discipline and punishment. Spierenburg (1984) sets about the task of developing a "counter-paradigm to Foucault's" with "[t]he primary task...to elaborate the paradigm" (1984: xi) and understanding the significant role that lay actors and emotions play in the privatisation of justice and punishment. In an explicit attempt to distance himself from Foucauldian analysis, Spierenburg (1984) argues for the recognition of supplementary humanitarian narratives. Spectacular justice responds to this call. Within *The Spectacle of Suffering*, it is the power and agency of individuals, rather than the power of institutions which contributed to structural change. And thus, Spierenburg seeks to establish alternatives with which the limitations of *Discipline and Punishment* (1991) as a dominant explanation on historical variations in power can be evaluated. This thesis speaks to Spierenburg's argument and shares his call for greater recognition of individual power, agency, and emotion within historical analyses of the spectacle; investigating the spectacle of justice takes Spierenburg's research aim, to see the human element to social change, forward.

The importance of power, agency, and seeing the human behind social change runs throughout the literature and establishes the complex web of individual and institutional dynamics behind power and agency. Scholars such as Spierenburg (1984), Carrabine (2014), and Hibbert (1963) all emphasise how the societal shift towards the privatisation of punishment is a transition imbued with complexities. Specifically, they assert the conspicuous impact of power, agency,

and emotions. An interpretation of the literature is that Foucault's desire for surveillance is simplistic and that in emphasising the importance of control and utilitarianism as the guiding principles for the move towards privatisation, it disregards the intricacies of human agency and emotion in affecting change. This exposes a gap in the literature, which, using the concept of spectacular justice, this research develops. Asserting the spectacle of justice questions the status of power and agency in *Discipline and Punish* (Foucault, 1991) and aims to move the discussion beyond control and utilitarianism. This links to Spierenburg's argument that "absolutes do not exist" (1984: 205) and as a result his alternative narrative stresses that these gradual transformations cannot be explained simply as the product of either the need for state control (Foucault, 1991) or capitalism (Hibbert, 1963; Debord, 2012; Rusche and Kirchheimer, 1968; Mathiesen, 1997), but also an underlying shift in population mentality and power;

"[i]n fact, the desire to control was always there; also in the sixteenth century. But the ways sought to achieve this control change and these changes reflect an underlying shift in mentalities" (Spierenburg, 1984: 184).

Building on these counter-absolutism arguments, one of the most significant theories within the text can be found in Spierenburg's conclusions in which he states that "[f]eelings of sensitivity...did not vanish after their appearance in the late eighteenth century" (1984: 206). Indeed, throughout the nineteenth century, up until around 1870, opposition from within the House of Commons, pioneered by reformers Romilly and Peel (Hibbert, 1963), as well as the public more broadly, gained significant traction and culminated in the privatisation of repression. The last public capital execution in Britain took place in Newgate on 26 May 1868 and around half a century later the last public execution in France took place in 1939 (ibid). With this historical context in mind, Spierenburg's (1984) thesis is significant in that it interrogates associations, within the literature, of the privatisation of punishment and justice with individuals' docility and obedience. As such, Spierenburg (1984) concurs that there needs to be greater recognition within the histories of discipline and control of the agency, power, and emotions of social actors and their ability not only to reflect on dominant structures but to also affect change. This is a point that strongly influences this research project, which aims to explore the moral and political issues that arise in spectacular and highly visible moments of justice, and explore what this reveals about the fluid character of the spectacle. Beyond discussions of privatisation and panopticism, Spierenburg's work is also useful for

understandings of the spectacle. By elevating individual power within narratives of privatisation, Scott Bray argues “help[s] us better explore the murky centre of [Foucault’s] visibility’s spectrum” (2017: 143). In doing so, it can be argued, that the literature explicates the many ways in which “images can be, and are, mobilised as political instruments” (ibid: 144). The argument for greater recognition of the power and agency of individuals when analysing privatisation processes, and its tensions with the spectacle, are echoed throughout Garland’s (1986) review of *Discipline and Punish* (1991).

Garland (1986) contends that in order to comprehensively understand the history of discipline, punishment, and justice, there needs to be an analytical balance between the prominence of structures of power and knowledge as well as “the agents and events that produced them” (ibid: 849). This comprehensive understanding of power is central to this analysis of the spectacle of justice and the conceptual development of spectacular justice. As with Spierenburg (1984), Garland’s text was written in response to *Discipline and Punish* (Foucault, 1991). He critiques the Foucauldian conceptualisation of power, in particular the argument that Foucault’s understanding of power is developed through a focused “analysis of the machinery of imprisonment” (1986: 849). To elaborate, Garland takes issue with Foucault’s extrapolation from what can be “seen as an extreme and atypical institution” to “a general anatomy of modern forms of power and control” (ibid). Garland argues that this analysis of power and agency is accredited “a centrality which makes the whole thesis seem alarmist and implausible” (ibid). As such the review presents a staunch critique of Foucault’s theory that “[t]he ethical values and compassionate concern...as the causes of penal change are...at best the “incidental music” which accompanies change” (1986: 877). Garland’s (1986) commentary on Foucault’s disregard for the importance of individual agency bolsters a broader literary critique of Foucauldian panoptic power which, according to Garland, fails to recognise the agents of power. Power and agency, as held simultaneously by individuals and institutions, are crucial to Garland’s understanding of these social and structural changes. For Garland, any analysis of power must recognise the role of the individual, lay person, a perspective that is central to this thesis and its aim to assert the notion of the spectacle in justice.

To further elaborate, Garland (1986) contends that there needs to be a greater sociological and criminological recognition of power as held by individuals. As a result, his review echoes Spierenburg’s (1984) reservations, that rather than recognising the complex political relations

between individuals, power, and knowledge, Foucauldian (1991) literature is instead “a rather simple conflict between a dominating class and those who are dominated” (1986: 879). Jewkes concretises this critique by arguing that panopticism “flatten[s] the terrain of power, control, and the role of individuals in societal systems” (2015: 246) and in its place a “more finely nuanced approach is required” (ibid). As such there is growing literature on how the “disciplinary and repressive character of the Panopticon” (ibid: 236) is a structural narrative that is blinded to the many cases of “lateral, intrasocial” (Dovey, 2006: 126) power, which, according to Dovey (2006) oppose oppressive control. Thus, Garland (1986), Spierenburg (1984), and Jewkes (2015) engage with human complexities; they prioritise agency, emotion, and human essence in their analysis of power, punishment, and justice post-*Discipline and Punish* (Foucault, 1991). For such theorists, Foucault’s theory of panopticism is founded on a conceptualisation of society that is inhabited with idealist, apolitical caricatures that neither accurately represent human emotions, individual agency, nor social solidarity. This is a crucial argument within the literature and this project’s development of a supplementary narrative of the spectacle which explores the moral and political issues that arise in highly visible moments of justice.

However, in contrast with the above literature which emphasises the value of individual power and essence in the complex transition towards privatisation, there are many scholars whose historical analyses deny such factors. An area of literature of particular note is that which supports the case for the spectacle in parallel with privatisation trends. Thus, in comparison, alternative literature that is more focused on the spectacle, favours a structuralist approach and in doing so denies the role of power, agency, and emotion and in their place docility and passivity. This is significant as it speaks to a dominant conceptualisation of the spectacle as a tool of an oppressive regime. To illustrate this trend, it is useful to consider the following texts.

Using *Discipline and Punish* (Foucault, 1991) as its point of departure, Mathiesen’s (1997) *The Viewer Society* shares the Marxian analysis of capitalism found in Debord’s *The Society of the Spectacle* (2012). Within Mathiesen’s (1997) text, power is constructed as multidimensional; agency and control rest firmly within the hands of the bourgeoisie elite, with which, the proletariat are denied agency and are oppressively maintained in a state of docile powerlessness. As has previously been stressed, Mathiesen highlights how the growth of the newspaper generated “a changed political role of citizens” (1997: 220) whilst film “presupposed a social structure where mobility...was possible” (ibid). However, the text goes on to argue that “all of

this is performed within the context of a broader hidden agenda of political [and] economic interests” (Curran et al, 1988 in *ibid*: 226). Echoing both Mathiesen (1997) and Foucault’s (1991) conceptualisation of power, Bauman (1988) stresses how “the freedom of some make the dependence of others both necessary and profitable” (in Lyon, 2010: 327). The coexistence of the spectacle with oppression and docility is further bound up with *The Culture Industry* (Adorno and Horkheimer, 2002), in particular its affiliation with the entertainment business and the importance of escapism as a pacifying ideology. Accordingly, *The Culture Industry* provides social actors with a plethora of entertainment products aimed at maintaining the status quo and maximising profits. Fundamentally therefore, to ensure passive ignorance and active capitalism, Adorno and Horkheimer argue that the culture industry and the entertainment business must collaborate to guarantee “no independent thinking must be expected from the audience” (*ibid*: 137).

With this in mind the literature highlights the politicised and structural nature of the mass media and explores how such institutions are constructed and controlled by powerful social actors. Herein it can be observed that lay social actors are denied power and agency, overshadowed and subsumed by a media spectacle. As part of this media control, Mathiesen’s (1997) text introduces the concept of illusion, as does Debord (2012), and questions whether, under virulent capitalist conditions, lay actors are ever free and powerful. The answer Mathiesen (1997) provides is that lay social actors, and thus audiences, are only ever presented with a choice between a number of constructed realities. This is an interesting analysis as within *The Viewer Society*, there is a combination of both panoptic (few see the many) and synoptic (many see the few) power. Thus, although the many, according to Mathiesen, have the power to watch and observe the few, arguably such visibility is only cursory. It is a form of power that is constructed by powerful elites to subdue and pacify the masses.

Herein, literature working at the intersection between the mass media, the spectacle, and criminality presents a conceptualisation of lay actors, driven by Marxian structuralism, as powerless. The literature largely denies social actors power, opting instead to relegate them to the position of choosers rather than creators (Johansen, 1981 in Mathiesen, 1997: 225). In this way the literature replicates the docile bodies found in *Discipline and Punish* (1991) albeit for Mathiesen (1997) as many other authors, docility and passivity are the product of spectacular, not panoptic, forces. The literary conceptualisation of an apolitical and powerless social body is

a perspective which is heavily criticised by scholars such as Said and Smart who “wrestle with the difficulty that Foucault describes power as so pervasive and irresistible as to make resistance seem futile” (in Couzens Hoy, 1986: 13).

In line with Said and Smart’s (1986) counter-narratives, and in contrast to Mathiesen (1997), Carrabine (2008) draws on Hall’s (1980) theory of decoding to analyse power and agency. In particular they resist conflating the spectacle with powerlessness. Specifically, Carrabine explores the powerful influence of media texts as “commercially produced commodities”, but in comparison with Mathiesen (1997) and Debord (2012), he argues that media texts are “circulate[d] as culturally meaningful objects and are actively interpreted by audiences in diverse settings” (2008: 12). According to Carrabine (2008) and Hall (1980) media texts, objects of the spectacle, are not passively consumed. Hall argues that “audiences actively decode meanings- by accepting, negotiating or opposing dominant messages” (2008: 30). Thus, in contrast to the illusory potential of capitalist consumerism, Carrabine (2008) and Hall (1980) argue individuals are active in their engagement with media spectacles. Building on Hall’s (1980) theory of decoding, this thesis contributes to the growing field of literature which resists “conceptualizing the audience as undifferentiated, easily manipulated mass” (Carrabine, 2008: 57) in favour of the view that there are “culturally specific groups with distinctive identities and subjectivities” (ibid). Herein, spectacular justice seeks to take Carrabine’s (2008) work forward and apply his understanding of power and the masses to justice process; the spectacle of justice highlights how individuals actively engage with representatives of criminal trials and decode media discourses.

Carney (2010) echoes this perspective in his discussion of the relationship between crime, punishment and the force of the photographic spectacle. Carney argues that to fully and critically understand the visual spectacle in relation to crime and punishment, researchers need to recognise that audiences of spectacles “may act as a crowd pulsing with barely conscious desire” (in Hayward and Presdee, 2010: 29). For the cultural criminologist, audiences are “not passive victim[s] of power” (ibid) but are simultaneously controlled and in control. The concept of spectacular justice seeks therefore to contribute to this literary trend to conceptualise actors and audiences as actively interacting with texts and creatively interpreting what they see, read, and hear. It contributes to the narrative that social actors have power and agency; by exploring

the specific area of justice, this research explores how images of justice are “watched, heard, felt, lived, and remembered” (Young, 2010: 7) and how this contributes to its spectacular nature.

To diverge, Mathiesen’s (1997) theories of docility and powerlessness are situated within a general recognition that mass media technologies are not democratically available. Mathiesen argues that technologies, which perpetuate *The Viewer Society* produce and are affected by a range of social divisions and entrench social inequalities. The effect being that the dominant conception of docility and powerlessness within *The Viewer Society* (ibid) is seen as the product of the inequalities of a politicised society. The importance Mathiesen places on structural inequality and political difference is understood as a strength of the literature and, debatably, sets it apart from its counterpart *Discipline and Punish* (Foucault, 1991). Much like Garland’s view that “Foucault’s tendency to discuss the spread of discipline as if it were politically unopposed is a serious deficiency in his account” (1986: 879), or Said’s critique (in Couzens Hoy, 1986) of Foucault’s “profoundly pessimistic view [with which] went also a singular lack of interest in the force of effective resistance to it” (ibid: 151), *The Viewer Society* (Mathiesen, 1997) directly opposes the apolitical nature of *Discipline and Punish* (1991). Here, the literature appears to suggest that Foucault’s discussion of the movement from the spectacle to surveillance, and the corresponding docility of social actors, fails to recognise how social divisions and structures differentially affect panopticism. This exposes a gap in the literature, which, in answering research question four⁷, this research addresses and offers a thorough investigation of the relationship between the spectacle, power, and the social, cultural, and political structure of society.

As previously highlighted, narratives of docility are not only present in theories that deny the spectacle; oppressed docility is present across literature which recognises and champions narratives of the spectacle. For some,

“The word spectacle might conjure up an elevated screen or stage commanding a quiet, perhaps even docile audience, with a clear line of demarcation between activity on the stage and passivity in the auditorium” (Carney in Hayward and Presdee, 2010: 29).

⁷ What are the implications of the spectacular nature of justice for our understanding of the political, moral, and social condition of a society?

Carney goes on to explicitly link this binary between the spectacle and passivity with Frankfurt School scholars, Adorno and Horkheimer. Whilst Adorno and Horkheimer (2002) recognise the capillary functioning of mediated technology and capitalist production, *The Dialectic of Enlightenment* (2002) is arguably limited in its conceptualisation of power, agency, and essence. Much like Debord (2012), Mathiesen (1997), and Foucault (1991), Adorno and Horkheimer (2002) share in the privileging of a fatalistic view of oppressed docile individuals and the dismissal of free will and agency. As highlighted in Garland's (1986) review article, a consequence of Foucault's conceptualisation of power as merely "an apparatus of constraint" (ibid: 879) is the view that "the only possible ends of power are power and more power, control and more control" (ibid: 878). As such, despite supporting literature on the dominance of the spectacle, Adorno and Horkheimer's (2002) text does not account for the power of social actors to challenge the powerful elite or actively engage with the media.

Adorno and Horkheimer's (2002) observations of the virulent nature of capitalism mirror Debord's (2012) analysis of the spectacle as a harmful extension of capitalism's micropower, as well Spierenburg's (1984) analysis of the late middle ages in which the spectacle was used by the sovereign to demonstrate their strength and dominance. In all three cases, notions of the spectacle are arguably constructed either as a tool for reinforcing the existing power of those in authority or to concretise passivity amongst the masses. And thus, despite concurring with Adorno and Horkheimer (2002) on the power and influence of the mass media and the culture industry, it is the passivity and docility of the social actors who occupy this space that signal the point at which this thesis departs from *The Dialectic of Enlightenment* (2002). Through the three analysis chapters, and the concept of spectacular justice, the research examines how the spectacle of justice affects and is affected by social actors; this research project investigates how individuals actively interact with media discourses of justice and goes beyond fatalistic audience theories. In contrast, under the repressive conditions described in *The Dialectic of Enlightenment* (ibid), Adorno and Horkheimer argue that everything loses its meaning and social objects and artefacts lose their authenticity. Rather than being grounded in reality, in "the culture industry...imitation finally becomes absolute. Having ceased to be anything but style, it reveals the latter's secret: obedience to the social hierarchy" (131). Accordingly, social actors are so immersed in the capitalist consumer and culture industry that resistance moves beyond futility and into impossibility. As such, survival depends on fitting in with the indistinguishable

masses and embracing a non-thinking, non-powerful lifestyle. Herein, building on a Marxian analysis of bourgeois oppression, Adorno and Horkheimer (2002) highlight the ideological and illusionary effect of the media and culture industry, and their ideological power over social actors who see it as “the elixir of life” (ibid: 162). Thusly the literature emphasises how social actors become dependent on the culture industry as a central feature of existence in a capitalist society and who are thus seemingly unaware of their alienation. This is significant to the conceptualisation of power and agency as although

“All are free to dance and enjoy themselves, just as they have been free, since the historical neutralization of religion, to join any of the innumerable sects. But freedom to choose an ideology- since ideology always reflects economic coercion- everywhere proves to be freedom to choose what is always the same” (ibid: 166-167).

The Culture Industry (2002) herein constructs a picture of a micro power stealthily infiltrating society and controlling, disciplining, and disempowering social actors. This can be likened to Said’s (1986) characterisation of the Foucauldian (1991) perspective on the modern period as one in which “there is an unremitting and unstoppable expansion of power favouring the administrators, managers, and technocrats...Power...is everywhere” (in Couzens Hoy, 1986: 150). Similarly, for Adorno and Horkheimer (2002), the capitalist ideology and culture industry have an oppressive effect on individual bodies, and as a result the text situates itself firmly within a discourse of irretrievable control and determinism. This can be interpreted as significant as it claims that any expression of individuality is not true but rather a product of a limited choice between predefined categories of which there are only a few to choose from. This is encapsulated in the following quote: “The defiant reserve or elegant appearance of the individual on show is mass-produced like Yale locks, whose only difference can be measured in fractions of millimetres.” (ibid: 154). One cannot fail to recognise the distinct similarities between the individuals consuming Adorno and Horkheimer’s (2002) culture industry, the inhabitants of Foucault’s (1991) panoptic machine, and so too the “lonely crowds” within Debord’s *The Society of the Spectacle* (2012: 40).

Adorno and Horkheimer’s (2002) social actors are perceived to be rendered compliant through the capitalist culture industry, Debord’s (2012) social actors through their similar obedience to the spectacle, whilst Foucault’s (1991) social actors are rendered compliant through the

disciplining force of panopticism. An analysis of the literature is that Debord's theses reiterate the docility and passivity of the bodies that inhabit Foucault's panopticism (1991). By evaluation Debord adheres to the Foucauldian theory that

“Spectators are linked solely by their one-way relationship to the very center that keeps them isolated from each other. The spectacle thus reunites the separated, but it reunites them only in their separateness” (2012: 40).

From this perspective it can be seen that the literature argues that late capitalism has meant that social actors no longer identify as a social collective, defined by unified community values. Instead, social actors exist as individuals who live alongside fellow social actors who are similarly isolated by a fragmented adherence to the spectacle. This perspective is explored when analysing the spectacle of justice; spectacular justice aims to illuminate both the individualising and collective responses to the mediated visibility of justice.

Notably, both Debord's (2012) citizens of the *Society of the Spectacle*, and Foucault's (1991) individuals of the panoptic machine are distinctly individualised and pacified. Debord's (2012) social actors are rendered compliant through their obedience to the spectacle, whilst Foucault's (1991) social actors are rendered compliant through the oppressive force of panopticism. Arguably, both scholars present a sombre vision of the world in which individuals are indoctrinated into a life of serfdom. Debord (2012) describes the servitude of the spectacle of capitalism as “[t]he spectacle is the bad dream of modern society in chains, expressing nothing more than its wish for sleep. The spectacle is the guardian of that sleep” (ibid: 37) and that “the mass media are a powerful force producing conformity and passivity among indiscriminating audiences” (Carrabine, 2008: 11). Considering this, research stresses the force of a micro-power or ideology which exists above and beyond, and in many cases within, the social body which has the effect of “taming revolutionary and barbaric instincts” (Adorno and Horkheimer, 1995: 152). This signifies a literary gap. It can be argued that to conflate the power of the culture industry, capitalism, and panopticism with passive engagement is limiting in its determinism. Arguably it does not account for both the agency of social actors or the possibility that the mass media and the culture industry do not inherently work against the social masses. This investigation into the spectacle of justice stands in contrast and constructs an alternative

narrative that recognises the productive, as well as the non-productive, elements of the spectacle.

In summary, the literature is divided on the issue of power and agency. On the one hand, certain authors (see Debord, 2012; Mathiesen, 1997; Adorno and Horkheimer, 2002) echo the Foucauldian narrative within *Discipline and Punish* (1991) in which individuals are docile; they are “the object of information, never a subject in communication” (ibid: 200). This area of literature is significant because it adheres to a structuralist paradigm in which both media and capitalist spectacles are imbued with ideologies, and which subsequently oppress and limit individuals. This thesis argues it is reductionist to limit ones understanding of the spectacle to one defined by control and ideology. These perceived limitations serve as a justification for resisting a critical, structuralist perspective when examining the spectacle of justice. Instead, this thesis aims to examine how justice has become a spectacle, as well as what role media discourse plays in creating a spectacle of justice. As such, to adopt a structuralist theoretical perspective risks research bias and predisposing the research to see these relationships as inherently negative and thus blind the researcher to the potentially productive outcomes of the spectacle. In response, and through the concept of spectacular justice, this thesis seeks an alternative narrative of the spectacle that is at once aware of the ideological forces of the media spectacle as well as the positive, liberating functions it serves in the context of justice. In keeping with this aim, alternative literature conceptualise power by campaigning (Spierenburg, 1984; Scott-Bray, 2017; Garland, 1986; Dovey, 2006; Said, 1986; Carrabine, 2008; Hall, 1980; Carney, 2010) for the socio-criminological recognition of the agency and essence of social actors. The spectacle of justice is understood through this lens. In particular, using spectacular justice, the research draws on the arguments made in *Media and Crime* that the “main limitation of the panoptic thesis is that it overstates the power of systems, institutions, and processes and underplays the importance of the individual actors” (Jewkes, 2015: 246). Foucault’s (1991) panoptic theory of discipline and punishment is founded upon the premise that individuals are docile receptacles of surveillance, control, and power. As identified, this is a theme that is echoed throughout wider literature which seeks to analyse the relationships between media, public, and crime. Within this field, it is argued that wider literature fails to recognise the role and power of social actors to react and resist. This thesis identifies this as a problematic theme that is largely determined by conflict theoretical perspectives, and which does not recognise the

power of individuals and social groups to act above and beyond structural constraints. The concept of spectacular justice is founded upon the premise that individuals and social groups are neither ubiquitously docile nor passive and this has an impact on not only individuals who are involved in criminal cases, but also those individuals involved in the representation process. In doing so the research offers a unique contribution to literature on the spectacle and power and does so through the lens of justice.

2.5 The Complexity of Cultural Change

Building on the foundations laid by the previous two themes, the next literary section explores *The Complexity of Cultural Change*. As the literature on *The Spectacle* and *Power and Agency* demonstrate, there are many complexities that contribute to the changing nature of justice, discipline, and punishment post-nineteenth century, and this section seeks to amalgamate literature on this topic. Combined, the literature challenges the simplicity with which *Discipline and Punish* (Foucault, 1991) described the transition from the pre-panoptic spectacle of punishment to panoptic discipline and surveillance. In doing so, this section highlights the importance of researching the spectacle of justice and how spectacular justice may offer meaning to the place of the spectacle beyond punishment in a society saturated by the mass media.

In a direct conversation with *Discipline and Punish* (1991), one of the primary authors that takes issue with notions of cultural definitiveness is Spierenburg (1984). Spierenburg posits that “Foucault’s picture of one system quickly replacing another is actually far from historical reality. The infliction of pain and the public character of punishment did not disappear overnight” (viii). Spierenburg’s critical perspective is supported by Taylor (in Couzens Hoy, 1986) for whom the “reality of history is mixed and messy. The problem is that Foucault tidies it up too much” (98). Both literary critiques are strengthened further by observations made in Hibbert’s (1963) *The Roots of Evil* which observes counter-Foucauldian narratives of the public enjoyment and investment in the spectacle of punishment and justice. Echoing literature within the *Power and Agency* section, Hibbert’s historical analysis identifies how “violence was still an accepted part of everyday life” (46) throughout the crucial cross over period which *Discipline and Punish* (Foucault, 1991) describes as unanimous and clean. For example, Hibbert contends that:

“The practice of displaying heads ‘for an example to all traitors’ was not discontinued until well into the eighteenth century when passers-by paid sixpence to inspect them through telescopes before they were blown down into the streets on a windy night” (1963: 26).

Hibbert’s (1963) literature herein concurs with Spierenburg (1984) and Taylor (1986) that the definitive break between one power structure and another, whilst tangible, was neither as unanimous nor simple as Foucault (1991) posits. Seltzer’s ‘wound culture’ echoes Hibbert’s text. In a wound culture, that is a society that is “bound to excitations of the torn and opened body, the torn and exposed individual, as public spectacle” (1998: 253), Seltzer argues that “death is a theatre for the living” (1998: 22 see also Stone and Sharpley, 2008). The authors strengthen this case in their discussion of carnival transgressions, and the role of the spectacle to “flaunt[] the material body as a pleasurable grotesquerie” (1986: 183). Herein, by drawing attention to the blurriness of this break, the literature implicitly strengthens the narrative of the spectacle and its infiltration into social capillaries. More specifically, the literature emphasises the importance of researching the spectacle as a powerful narrative in contemporary society; the spectacle has not disappeared, but rather has grown in strength. The concept of spectacular justice responds to this area of literature and the contention that the violence and public taste for the spectacular continues “as an attraction to gore, death, and the macabre” (Penfold-Mounce, 2010: 255 see also Foltyn, 2008a; 2008b). Thus, by examining the role of the mass media in the spectacle of justice, this research further develops the conversation within the social sciences on the public fascination with the spectacle of the criminal body and how it passes through the justice system. Furthermore, spectacular justice aims to illuminate how the transition from one power system to another, as described within *Discipline and Punish* (Foucault, 1991), may be more complex.

With this in mind, Carney echoes Penfold-Mounce’s perspective that we are witnessing the fervent development of consumerism “alongside a keen desire to participate in collective forms of viewing pleasure” (2010 in Hayward and Presdee, 2010: 19). As a result, investigating the spectacle of justice investigates how whereas punishment used to occupy the public imagination, with the growth of the mass media, the public fascination with seeing, and visually engaging with penalty and its effects, has not disappeared but rather shifted towards criminal justice process. The public desire for, and engagement with, criminality in this way can now be

seen to be bolstered by the mass media which “enable[s] the public to ‘see and judge for themselves...instead of having a second-hand filtered account’” (Branigan, 2003 in Garcia-Blanco and Bennett, 2018: 13).

A similarly ardent account that shares the commitment to challenging the absolutism of Foucauldian theories of discipline and order is *The Viewer Society* (Mathiesen, 1997). Mathiesen contends that the definitiveness with which Foucault argues society moved from a society in which the many watch the few (the spectacle) to one defined by the few seeing the many (surveillance) needs supplementing. As with both Spierenburg (1984) and Debord (2012), when describing Foucauldian theories of the changing nature and content of punishment and discipline, Mathiesen does not denounce the idea of panopticism in its entirety. *The Viewer Society* (1997) recognises that panoptic systems of control and discipline are visible and agrees in part that it has been transported outside the realms of the penal institution and into the social body; “[w]e certainly live in a society where the few see the many” (ibid: 218). However, Mathiesen does not take such visibility for granted and instead sets to work on “putting the magnifying glass” (ibid) on panoptical surveillance and asking whether Foucault is “right in saying that we have developed from a situation where the many see the few to a situation where the few see the many” (ibid: 219).

As such, the literature builds a case for understanding the value of the spectacle beyond punishment. Consequently, the literature speaks to the unstable absolutism of *Discipline and Punish* (Foucault, 1991) and calls for the development of counter-narratives to understand the changing nature of the spectacle. This thesis responds to and explores the spectacle of justice as a counter-narrative which sits alongside Foucault’s theory of punishment. Thus, whilst Spierenburg (1984) argues systems of punishment have undergone a process of privatisation throughout history, Spierenburg (1984), Hibbert (1963), Mathiesen (1997) and Debord (2012) contend there are complexities to this argument that *Discipline and Punish* (1991) fails to recognise. The development of spectacular justice aligns this research with this literary trend and highlights the parallel ways in which the spectacle operates alongside broader trends in privatisation. The prevalence of the spectacle in justice is seen to represent a complexity to the history of discipline that is not accounted for by Foucault (1991).

To further expose these complexities, Spierenburg's (1984) historical trajectory begins in the late middle ages, an epoch in which the punishment of criminals was a public spectacle. Many discussions pertaining to the historical development of punishment similarly choose this period as their point of departure, with the most prominent perhaps being Rusche and Kirchheimer's (1968) *Punishment and Social Structure*. During this period, Europe witnessed the expropriation of private vengeance and in its place the state, in its infancy, controlled criminal justice. As a result, "[t]he scaffold and the gallows were symbols of authority" (ibid: 55), and were utilised by the state as a manifestation of its strength to deter future offenders. The expropriation by the state at this time therefore meant that the spectacle of suffering and "visible, violent repression exemplified a relative monopoly of authority" (ibid: 78). The dialogue between the development of the state and the spectacle of punishment continued as societies moved into the late preindustrial stage. Such turbulent times meant that those in power "could not yet afford to hide [repression] partly behind the scenes and to individualize it" (ibid: 80); justice had to be seen to be done.

Spierenburg (1984) makes explicit the links between the development of the state, the position of punishment, and human agency. In doing so the literature emphasises the political nature of this transitory period and firmly speaks to how power is something held in the hands of individuals rather than an abstract force exercised upon social actors. As aforementioned, the social, political, and moral environment are central considerations to this investigation of the spectacle of justice; spectacular justice seeks to develop Spierenburg's work in this area. The way in which *The Spectacle of Suffering* (1984) alludes to the politicisation of the spectacle is a complexity that distances it from *Discipline and Punish* (1991); it argues for the recognition of human agency and the development of the state when analysing the historical development of punishment and justice. The public spectacle of punishment, according to the literature, played an important role in maintaining state control and power over citizens, and thus did not disintegrate as the Foucauldian analysis of panopticism posits. Even so, in calling for greater recognition of the blurred nature of human essence and politics in the transition from the spectacle to privatisation, Spierenburg's (1984) argues that the spectacle during this period served as a mechanism of the powerful.

As Spierenburg's (1984) trajectory continues into the seventeenth and eighteenth centuries the public face of punishment and justice was still common throughout Europe. Spierenburg

emphasises the popularity of the spectacle in the claim “[t]hat public executions in pre-industrial Europe drew large audiences can be considered as one of the most undisputable ‘facts’ in history” (1984: 81). Spierenburg notes how in “eighteenth-century London the market for accounts of criminals’ lives was so good that the condemned often sold their biography to the highest-bidding prospective author” (ibid: 94). In France, during this period and with the introduction of the guillotine technologies, public punishment was actively consumed outside accepted judicial spaces; punishment and justice were brought into the private spheres of social life. The symbol of the guillotine “was reproduced in miniature as a table decoration; its design was incorporated in earrings, brooches, snuff boxes, cups and plates...it became a popular tattoo mark, it became a tattoo” (Hibbert, 1963: 79). Kellner writes that in the digital world “media spectacle is invading every field of experience” (2003: 10). The social significance of the guillotine suggests that the social saturation of crime spectacle was inherent in society well before the media developments witnessed by Kellner. Whilst its popularity was high with many, Spierenburg (1984) notes how simultaneously during this period a growing ambivalence towards public punishment began to filter into the public consciousness. Spectators were less emotionally laden, and few people opposed the state’s expropriation of violence. Such developments coincided with a parallel movement towards the retreat of other aspects of human existence such as death, sexuality, violence, and other bodily functions “behind the scenes of social life” (ibid: 97), a theory which is echoed throughout the work of Elias (1994) and Stallybrass and White’s (1986) literature on transgression.

Herein, not only does the literature reiterate the arguments highlighting the role of capitalism, but so too, the significance of human essence, emotion, and agency during this period on the spectacle. The literature illustrates how there were political, economic, and emotional reasons why society relied heavily on the spectacle of punishment during this period. Thus, whilst there are visible societal shifts towards privatisation, there are elements of human agency, capitalism, and political control that maintain notions of the spectacle. As such, it may be argued that the spectacle has shifted away from punishment and to criminal justice and the definitiveness with which Foucault (1991) argues European societies moved from one system to another is challenged and weaknesses exposed. Spectacular justice examines this shift, and through an awareness of how meaning, affect, situation, symbolic power, and efficiency this thesis aims to assert the notion of the spectacle in justice.

Accordingly, Spierenburg's (1984) text illustrates how after the mid-eighteenth century this ambivalence transformed into discontent, and confidence in public punishment deteriorated; social actors demonstrated greater empathy and convicts were increasingly seen as human beings. Spierenburg's (1984) historical argument for the public distaste for visualising distress is similarly represented in more contemporary literature, in particular Carrabine's (2014) visual criminological assessment of the historical relationship between seeing things, violence, and voyeurism. At the heart of Carrabine's (2014) analysis of the changing relationships between the public and the visibility of violence is the camera. Similarly, Seal, in her discussion of the media portrayal of Ruth Ellis, argues that "voyeuristic curiosity in the popular press [has] shaded into fascination with the macabre" (2012: 19). The literature builds on Spierenburg's (1984) work to illustrate how the camera historically has acted as a mechanism for the spectacular, but Carrabine highlights the contentions surrounding this mechanisation.

On the one hand, the notion that visualising violence can be considered a damaging process as the camera "routinely aestheticizes all that it pictures" (2014: 138), and on the other hand, as "both artistically and politically reactionary" (Reinhardt, 2007: 14). Postman (1986) favours the critical commentary that the visualising technologies of the camera and television are intrinsically harmful mediums. Arguably the camera prioritises show business and consequently promotes incoherence and trivialises serious democratic discussions. The argument that the public desire for "visceral immediacy" (ibid: 149) and the camera's representative function degrades history "into an entertaining spectacle" (ibid: 138) echoes Spierenburg's (1984) claim that history transgressed towards a growing reluctance for public displays of punishment. This argument contends that the public indulgence in the visualisation of violence and indecent curiosity stands in stark opposition to wider civilising processes (Seal, 2014; Elias, 1994). However, Carrabine (2014) speaks to the complexity of this transition. On the other side of the debate, rather than concurring with the historical theory of public disengagement as the product of institutionalised disgust, Carrabine (2014) identifies a large cohort of theorists, himself included, who recognise the positive political power of the camera. Literature from theorists such as Sekula (1986), Rosler (1981), and Sontag (1977) advocate for the continued vitality of narratives of the spectacle and the public appetite for the visualisation of violence and emotion. As Dauphinée contends "to mobilise images to participate in violence, but to not circulate them in a highly visual culture risks denying violence" (2007: 152). The literary momentum for

theories that recognise the value of visualising violence, and the political capital it carries, supports discourses of the spectacle. Developing this point, the spectacle of justice aims to demonstrate the broad value of the visual in contemporary society, and the more specific role of the camera and media discourses as mediums through which the public understand and engage with justice (Carney in Hayward and Presdee, 2010). Arguably, the development of media technologies offers society new ways of looking, and this thesis investigates justice as an object of visual intrigue. Theorists from across the critically engaged visual criminology (Brown, 2014; Carrabine, 2011, 2012, 2014) sphere highlight the tension between how “given criminology often deals with violence as a subject of inquiry, it is surprising that image research is relatively new” (Scott Bray, 2017: 139). Spectacular justice reflects on these arguments to explore how the camera, and thus the mass media, serve as a medium through which the public understand and engage with justice.

The previous three themes coalesce in the final theme; problematising the definitive break from one historical period to another and the implications this has on the spectacle. This theme is dominant throughout the literature and critiques the seemingly simple transition from one epoch to another that is characteristic of *Discipline and Punish* (Foucault, 1991). There is a consensus throughout literature that this historical transition is more complex than Foucault (1991) allows for. The literature suggests that there is not a clear point in which the spectacle became lost and that this is significant when using Foucauldian literature to understand the historical development of privatisation, punishment, and control. Thus, by problematising the Foucauldian definitive break, and how it specifically relates to the public face of punishment, exposes a gap in the literature, in which the concept of spectacular justice fits. Therefore, to fully understand the narrative of the spectacle and its relevance to the public understanding of justice there needs to be a recognition of the powerful role of capitalism; of human agency and essence; of the mass media and how they combine to maintain the spectacle of justice despite the privatisation of punishment.

And so, to return to Said’s (in Couzens Hoy, 1986: 152) contention that

“there is no doubt at all that Foucault is nevertheless extraordinarily brilliant as a visionary of power who calls forth in his reader a whole gamut of responses testifying

not so much to the rightness of Foucault's reports but to alternative visions of power not entirely suppressed or obliterated by his work, but stimulated and enlivened by it".

Said's perspective is representative of the research aims of this thesis, in particular, the need not to eliminate Foucauldian theory, but to use it as a valuable piece of literature, from which alternative theories or understandings can be developed. Foucault's (1991) history of mentalities on discipline and punishment presents some powerful insights but it is important to read these theories in relation to both historical studies which seek to map the same processes. Equally important is the use of literature which seeks to better understand the developments in media technology and modes of representation which cannot be discounted as they are vital to any understanding of the interactions between the spectacle and privatisation.

In summary, the literature speaks to the rich complexities that make up social change, specifically change regarding punishment and justice post-nineteenth century. Spierenburg (1984) contends that the public spectacle of punishment did not disappear overnight; it is overly simplistic to argue that one power system seamlessly replaced its predecessor. According to Spierenburg, who speaks directly to Foucault (1991), the strength of panoptic control and discipline are overestimated and rather than subsuming the spectacle the two systems operated alongside one another. Hibbert (1963) echoes the blurriness of this transition and argued that the spectacle of violence and the body was still a visible and significant part of everyday life well into the nineteenth century. For both theorists, the spectacle remained a powerful feature of social life and was symptomatic of capitalist forces and the agency of individual social actors. Drawing on the work of both Spierenburg and Hibbert, this thesis echoes the contention that narratives of the spectacle did not vanish upon the heralding of the nineteenth century. However, rather than investigating the spectacle of punishment, this thesis explores the ways in which justice has become a spectacle, and with this, considers the potential punitive functions this serves for both the public and the state, following the retreat of punishment from the public eye.

More contemporarily, cultural and visual criminology have explored the complexity of cultural change. Moving away from the concept of the spectacle, literature draws on notions such as 'wound culture' (Seltzer, 1998), the "attraction to gore, death, and the macabre" (Penfold-Mounce, 2010: 255, see also Foltyn, 2008a; 2008b), and voyeurism of violence (Carrabine,

2014). From this perspective, the literature speaks to a sustained public interest and fascination with suffering and the criminal body, which problematizes the clean break away from the spectacle identified within *Discipline and Punish* (Foucault, 1991). Using the concept of spectacular justice, this research sits alongside literature in this area and recognises the prominence of violence and voyeurism in a media saturated society. Thus, this thesis concurs that the transition of power and cultural change is blurry (Mathiesen, 1997), and asks how justice has become a spectacle and what role does the mass media play in creating a spectacle. Spectacular justice contributes to research into the visual appeal of the macabre and offers an original commentary on the appeal of criminal trials and justice process. In conclusion, by asserting the notion of the spectacle in justice, this thesis builds on the existing body of literature which questions the simplicity with which power developed from the spectacle of punishment to privatisation, discipline, and control (Foucault, 1991). Spectacular justice is a means of understanding the complexity of this transition and with which this research makes an original contribution.

2.6 Conclusion

In conclusion, there are three themes that dominate the literature in this field. These three themes draw on literature which both directly and indirectly pursues a similar research aim to this thesis; highlighting the continued value of the spectacle; assessing the changing nature of power in relation to the position of punishment and justice; and questioning the simplicity with which Foucauldian (1991) theories argue panoptic privatisation developed. The three themes are *The Spectacle, Power and Agency*, and *The Complexity of Cultural Change*. Not only do they have implications for understanding how justice has become a spectacle, but also how this functions as a parallel narrative to Foucault's panoptic privatisation of punishment and control within *Discipline and Punish* (1991). Combined, they touch on issues which demonstrate the legitimacy of the argument that the spectacle may have retreated from processes of punishment, however, with capitalism, media technologies, power and agency, as well as complex social, cultural, political, and economic change, the spectacle has shifted its focus. This thesis argues it has shifted towards criminal justice process.

Central to the value of literature across these three fields is how, in combination, they embolden this thesis' drive to revitalise narratives of the spectacle. As part of this endeavour, the first

theme makes clear the role of the visual within existing cultural criminological literature and speaks to how spectacular justice moves beyond this. Cultural criminology is understood within this thesis as “the many ways in which cultural dynamics intertwine with the practices of crime and crime control in contemporary society” (Ferrell, Hayward and Young, 2008: 4). It is shown how the field understands crime as produced through social relations and cultural expressions, and how it focuses its analysis around issues of risk, transgression and edgework. Turning its attention away from the broad theoretical back drop of cultural criminology, a more specific exploration of literature on the notion of *The Spectacle* exposes the presence of the spectacle both historically and more contemporarily. Firstly, it explicates the significant public interest in the spectacle of punishment beyond the nineteenth century. Secondly it speaks to the power of the spectacle in relation to how developments in media technology influence relationships between the public and the private and feed into broader structures such as capitalism. By combining these two facets of the spectacle, this thesis analyses the intersection between the mass media and criminal justice. It explores how the two changing social systems interact with one another and consequently problematise the theory of panopticism as a unilateral, dominant narrative.

Building on *The Spectacle*, the second literary theme *Power and Agency* pursues how literature on both sides of the spectacle/panopticism debate conceptualise power. This is significant in that it recognises how under these broad structural changes there are arguments for docility and powerlessness, as well as agency and empowerment among social actors. These conflicting narratives recognise the co-existence of both docility under panopticism, and agency under the spectacle. This thesis recognises both discourses and in doing so strengthens the case for supplementary theories for *Discipline and Punish* (Foucault, 1991) which function in parallel, rather than theories which seek to displace and monopolise. The final theme *The Complexity of Cultural Change*, speaks to the overarching narrative of this thesis. It combines literature that offers alternative discourses on the changing face of punishment and justice post-nineteenth century, in relation to privatisation. Consequently, it supports the argument that there are alternative visions of power and control beyond Foucault (1991) which are not mutually exclusive, but rather co-exist and interact with theories of panoptic privatisation. Through the concept of spectacular justice, this thesis contributes to the rich literary stream that is both enlivened and critical of panopticism.

Chapter Three: Methodology

3.1 Introduction

The spectacle of criminal justice is explored and developed using a threefold methodological approach: archival research, case study analysis, and discourse analysis.

The chapter opens with a discussion of these three central methodologies and seeks to examine the theoretical reasoning behind their selection. This is done to highlight the validity of using archival, case study, and discourse analysis methods to explore the spectacle in justice and to demonstrate how the methods illuminate the proposed concept of spectacular justice. The chapter goes on to discuss issues surrounding media bias and how this was navigated during the research process. In order to analyse both the role of the spectacle in criminal justice and the power of the media to facilitate the spectacle, an awareness of the political ideologies of media discourses was imperative. It will be shown how spectacular justice, as the answer to the question ‘what role does media discourse play in creating a spectacle of justice?’, makes the diversity and variations in political agenda within the media apparent. And thus, this thesis demonstrates how the notion of the spectacle in justice is not a monolithic social feature, but rather takes many different forms. These variations are embodied within the suggested concept of spectacular justice. Beyond media bias, the chapter details the process of data collection and analysis. This section outlines how case study data was collected within historical media archives, and then subsequently how the discourse analysis method was implemented to analyse the data. The chapter concludes with a discussion of the ethical considerations of the research, in particular, the section draws on wider literature which works with archival and documentary methods to illuminate the ethical challenges that arise despite not using human research participants. In conclusion, this chapter speaks to the value of using archival, case study, and discourse analysis methods to study the spectacle of justice, and how these methods illuminate, and were further enlightened by, the proposed concept of spectacular justice.

3.2 Archival Research

The first methodology that is central to this thesis is archival research. In Seal’s research on gender representations of mid-twentieth century women accused of murder, she writes that “for most historical explorations of the criminal justice system, documents represent the only means of carrying out the research” (2012a: 6). Echoing Seal’s (2012a) argument, during the early

research stages into the spectacle of justice, archival methods surfaced as the most appropriate source of historical media data. Exploring media archives across a diverse range of cases, spread throughout history, and having to navigate different cultural representations was both rewarding and challenging. Data collection for certain cases, particularly those identified as historical, such as Charles Lindbergh Jr and the Ratcliffe Highway murders, was especially gratifying. For example, *The New York Times* archives which contain digital copies of every publication since 1851 provided a rich research experience and a tangible relationship with the data. According to Plummer, archives and documents “are not just stories” (2001: 221), but instead are imbued with political, ethical, and emotional complexity. In its response to research question four, this thesis echoes Plummer’s (2001) argument and explores the political, moral, and emotional complexities that are revealed within media archives, and considers what impact these intricacies have on the spectacle within justice and what they reveal about the social condition. Building on this, archives have the power to transport the reader back to specific historical moments with such clarity and quality that it is as if you are reading them on the day they were published. For example, the Ratcliffe Highway Murder archives were rewarding in their tactility. Whilst sat in a dimly lit and unheated room at the British Library, the Ratcliffe archives offered a unique insight into the physical experience of historical literature research. The experiential, physicality of archival, documentary analysis is best captured in *The Allure of the Archives* (Farge, 2013). Farge explains how

“whether its summer or winter, you freeze. Your hands grow stiff as you try to decipher the document...The writing, no matter how meticulous, how regular, is barely legible to untrained eyes” (2013: 1).

Despite having the benefit of analysing digitised microfilms of printed newspapers, and therefore evading Farge’s (2013) challenges of illegible handwriting, it was nevertheless a largely solitary (Seal, 2012a), and cold endeavour.

In all cases, the archives presented the researcher with a maze. However, the characteristic maze of the archives was not as inherently terrifying as that which features in Stephen King’s *The Shining*. In many ways, being lost within the archival mazes of eight criminal case studies was an enlightening and engaging experience. The huge scale of the media archives allowed for the freedom to organically navigate the data and explore avenues of particular interest from which

new compelling data was found. Instinctive data collection was one of the primary benefits of researching the role of media discourses in the spectacle of criminal justice. It enabled the research to make discoveries; shining a light on corners of the archives seemingly previously untouched by research. These experiences speak to Steedman's view that archival research ideally positions the researcher to unearth snapshots into history which are otherwise invisible and unnoticed until "read...used, and narrativized" (1998: 67).

Whilst the scale and scope of the media archives presented a plethora of rich data with which to examine the supplementary narrative of the spectacle within justice, in certain cases there was simply too much data to analyse, and the archival maze took on a character that was more overwhelming than enlightening. This challenge was a distinguishing feature of the case study that inspired this thesis; the murder trial of Oscar Pistorius. Pistorius' trial is the embodiment of the spectacle in criminal justice; he embodies the proposed concept of spectacular justice. However, given the vitality of its spectacle and its dominance within international mass media coverage, when the process of data collection began, the archive was perceived to be "excessive and overwhelming, like a spring tide, an avalanche, or a flood" (Farge, 2013: 4). Archives on Oscar Pistorius' trial are at the point of saturation and there was simply too much data. Thus, despite Pistorius' significant value to the research into the spectacle, the case study was excluded on the basis that the scope of the data was too large to cover within the restraints of a doctoral thesis. On the one hand, it may be argued that by not including data on the Pistorius trial prevents the research from exploring a momentous example of spectacular justice. On the other hand, this outcome is understood to be an effect of the spectacular nature of Pistorius' trial; its impenetrable amount of data is testament to the strength and validity of the spectacle of justice as a parallel narrative to Foucauldian theories of panoptic privatisation.

Overcoming such archival challenges is touched upon within Seal's work in which she argues that confronting uncertainty and ambivalence in research "deepens" (2012a: 3) reflexivity and critical thought in research practice. Accordingly, confronting challenging archival data, such as the overwhelming scale of Pistorius' media presence, can be seen to have positive implications for critical research. And so, despite its challenges, using media archives to examine the notion of the spectacle in justice provides insight into the lived experiences of constructed media spectacles. Beyond this, according to Farge, exploring the world of the historical archive "entails a roaming voyage through the words of others" (2013: 123), which, it is argued,

provides palpable evidence of the presence and vitality of spectacular narratives. Archival research facilitated a close engagement with media discourses and gave a first-hand insight into how justice has become a spectacle and the role of the media in this shift. Ferrell (2015) argues that the visual within cultural criminology is understood primarily in terms of visual ethnographies. In contrast, and in keeping with the drive to embrace what Rafter coins a “visual turn of mind” (2014: 131), the spectacle of justice broadens the definition of the visual to understand the ocular powers and visionary moments which emerge out of the dusty pages of the historical archive.

3.3 Case Study Analysis

To focus and refine the project, the case study method is used to help navigate the scale and scope of the media archives; high profile instances of criminal justice are everywhere and thus case studies were chosen to offer eight, in-depth snapshots, into how justice has become a spectacle. Yin’s (2003) case study research identifies three types of case studies; exploratory, descriptive, and explanatory. Out of these three categories, a combination of exploratory and descriptive case studies are used. Exploratory, because they enable the researcher to select “the cases [which] reflect strong, positive examples of the phenomenon of interest” (2003: 13). In this case, cases were selected as means of exploring the different ways justice has become a spectacle. In addition, descriptive case studies are used; the thesis explicitly states its aim (to assert the notion of the spectacle in justice) at the beginning, and the case studies are then used to “cover the scope and depth of the object (case) being described” (ibid: 22). Case studies are used to examine how justice has become a spectacle and the role media discourses play in creating a spectacle.

The case study methodology enables the researcher to be creative and to select cases in a flexible and illustrative way. The merit of case studies is how they empower the researcher to design and construct a thesis that demonstrates specific theoretical points. Whilst case studies are criticised for allowing the “authorial narrative” (Branum & Charteris-Black, 2015: 202) to infringe on validity, it was, in this thesis, the very fact that they allow for an “authorial narrative” (ibid) that led to this methodological choice. In order to uncover the relationship between the spectacle and justice, eight culturally and historically variable case studies, which each demonstrate highly visible moments of justice, were chosen. The differences between each

case are important to recognise, especially in relation to their historical positioning as each case is situated along an extensive timeline of media development. For example, the Ratcliffe Highway murders took place before telephone, radio, international newspapers, or telegraph technologies and thus the media spectacle was characterised by local print media and pamphlets that spread around the country. In comparison, more contemporary cases such as the murder trial of Jodi Arias are emblematic of a “culture of...technospectacle” (Kellner, 2003: 14), symptomatic of a society at media saturation point. Despite their differences, the spectacle is visible and significant in all cases and rather than exposing a scale of spectacle from weak to strong, they illuminate the role of media discourse in constructing a justice spectacle and how the spectacle of justice varies historically and culturally. Thus, each case plays a central role in the development of spectacular justice as a concept which gives meaning to questions around the spectacle in justice. As such, case studies offer a boundless fluidity that is arguably absent in many other methodological approaches, and with which research can grow and support conceptual development.

Related to the benefits of the case study method, grounded theory (Glaser & Strauss, 1967) was also a prominent influence on methodological rationale. In particular, this thesis does not go looking for data but instead the research “avoid[s] preconceptions and let[s] categories...[and palpable social phenomena] ‘emerge’ from the data” (Dey in Bryant & Charmaz, 2007: 175). Building on the principles of grounded theory, whilst case studies facilitate a great degree of autonomy over case selection, there is a degree to which the cases were allowed to surface as and when their spectacular nature put them in the public consciousness. By organically surfacing as highly visible moments of justice, the case studies expose the role of the mass media in making a spectacle of criminal justice. As such, this method of case selection was deemed both appropriate and necessary to answer the question ‘how has justice become a spectacle?’ This is because to not do so, and instead to search for the spectacular, would be paradoxical because by nature, the notion of the spectacle is not hidden.

Alongside this more heuristic approach, case studies were selected by assessing criminal cases which hold significant theoretical value such as those which “replicate or extend theory by filling conceptual categories” (Eisenhardt, 1989: 533). Each of the eight case studies epitomise the spectacle of justice; each has an established media presence, their stories sold as mediated judicial commodities, and are most importantly understood to both evidence and strengthen the

narrative of the spectacle. More specifically, and to move beyond their general function within the spectacle, each case study was chosen because they offer a significant contribution to the understanding of the role of the *Victim*, the *Perpetrator*, and the *Expert*; the data grants insight into how the spectacle of justice functions in latent media discourses and social practice.

To conclude this section, Yin (2009) argues that it is a common misconception within the social sciences that research methodologies and strategies need to be ranked hierarchically and speaks instead to the need for resistance. Within such orthodox hierarchies, Yin posits, that case studies typically feature towards the bottom, identified as inferior to other empirical, experimental methodologies because of their primary association with the exploratory phase of research. He goes as far to argue that case studies are often viewed with “disdain” (2009: 9). Echoing Yin’s critique of this hierarchical approach to methodology within the social sciences, case study methods are considered the most appropriate method to investigate the notion of the spectacle in justice, a process out of which spectacular justice is developed. Case studies are understood within this project as a powerful “all-encompassing method” (ibid: 13) which facilitate a comprehensive response to the research questions and contribute to the project’s successful address of the research aims.

3.4 Discourse Analysis

Once case studies are chosen, the archival data is analysed using the discourse analysis method. Discourse analysis is used to examine how justice process is represented within print and broadcast media coverage of each case study and from which the character and nature of the spectacle is explored. For many scholars, discourse and its boundaries are enigmatic. Seal writes on the “porous” (2009: 8) quality of discourse, whilst for Phillips and Hardy, discourse is often “incomplete, ambiguous, and contradictory” (2002: 2). Despite its perceived uncertainty, discourse is the focus of this research because of the complex ways it enables the researcher to critically engage with media meanings and structures. More specifically, discourse analysis gives insight to the different ways the media’s “encoding” (Hall, 1980) of discourse, affects the narrative and creation of the visual spectacle within justice.

For Ferrell, a defining feature of cultural criminology is to challenge the perceived authority and rigour of quantitative methodologies; research success is “defined not by detached objectivity and analysis but by theoretically informed subjectivity” (2015: 300). This perspective, which

this thesis reiterates, is evidenced through the discourse analysis method. In comparison with alternative methods, such as content analysis, discourse analysis was chosen because of the value this thesis places in its qualitative essence. Furthermore, discourse analysis illuminates the relationship between media discourse and the spectacle, and unearths how media discourses represent criminal trials and make them visible. In comparison, content analysis is, at times, overly quantitative and its focus on an objective and systematic descriptions of the manifest content of communication (Berelson, 1952: 18), limits subjective interpretation of the discursive ways power is negotiated (Kracauer, 1952). In comparison discourse analytic methods are critical; they allow the researcher to challenge the taken-for-granted and facilitate closeness with the data. Considering these strengths, the qualitative nature of discourse analysis allows the research to examine the depth and breadth of the spectacle in justice. By this it is meant that discourse analysis is used to specifically inspect how discourse(s) of criminality and justice are applied across different media platforms, and from there to identify patterns and meaning. Discourse analysis is herein considered to be a flexible methodology that gives the researcher the freedom to explore how justice has become a spectacle in the mass media and then investigate how specific discursive techniques exacerbate and contribute to its vitality. Bakker and Hellsten's (2013) discussion on methodological framing as a dual process of selection and salience (in Qin, 2015: 168) clarifies this methodological choice; discourse analysis was selected based on the perceived salience of criminal justice within media discourse.

To consider discourse analysis more specifically, the research uses a combination of both critical (CDA) and Foucauldian discourse analysis (FDA). Van Dijk (1993, see also Fairclough, 1993; Wodak and Meyer, 2001) outlines the criteria for CDA and states it should "deal primarily with the discourse dimensions of power abuse and the injustice and inequality that result from it" (252). Within these parameters, CDA should aim to identify the power structures and inequalities within specific discourses, make them explicit to the reader, and strive for change. Discourses of power, (in)justice, and inequality are not only the keystones that highlight the spectacle, but also how media discourses report on criminal cases and make them public; media representation is inherently imbued with inequality (Mathiesen, 1997). Further aligning itself with the principles of CDA, this thesis takes a clear theoretical stance. It is argued that Foucauldian (1991) theories of panoptic privatisation ought to be understood in relation to supplementary narratives of power which recognise the power of the spectacle and its vitality

within justice process. The supplementary narrative argues that the spectacle, whilst predominantly absent in relation to punishment within the West, has been transferred onto criminal justice process; the spectacle of justice does not displace panopticism, but rather exists in parallel. With this in mind, and to draw upon critical discourse analyses' own terminology, the discourse analysis method is used to examine the different ways justice has become a spectacle and to investigate the power and centrality of the mass media in these processes. Therefore, the research's political and questioning nature makes using CDA an instinctive choice.

In correspondence with CDA, Foucauldian discourse analysis (FDA) explores how discourse produces identities and knowledge, and considers how dominant discourses support certain institutions and their ideological effects. Unlike CDA which focuses on specific instances of language use and language texts, discourse, as understood within FDA, is closely affiliated with discipline; discourse is knowledge, practice, and power (Arribas-Ayllon and Walkerdine in Willig and Stainton-Rogers, 2008, see also Cheek, 2004; Cheek and Rudge, 1993; Fairclough, 1993). The FDA perspective prioritises understanding that systems of thought are historically and culturally located, and that these systems determine what is sayable, and who can speak, in a particular time and context. Power, knowledge, and practice are central to this investigation into discourses within spectacular narratives of justice. More specifically, discourse is examined in relation to the power of mass media institutions and their role in reflecting and challenging existing power structures surrounding justice and control. The research will illustrate the reciprocity of the justice system between the public and the private, whilst acknowledging that the movement and allocation of knowledge and power is still unequal within the criminal justice system and the mass media. These processes are embodied within spectacular justice.

The close association of discourse with power was a driving force in this methodological choice. Methodologically, both CDA and FDA speak to the significant role of the media in the changing face of power, control, discipline, and justice, and considers it one of the most fundamental sites in which the public is informed and involved in justice process. The power of media discourse is widely acknowledged throughout existing socio-criminological literature⁸ (Surette, 2011; Jewkes, 2015; Greer, 2008; Bailey & Hale, 1998). However, as the previous

⁸ See Chapter Two: Literature Review for a more detailed discussion on the intersections between the mass media, crime, and power.

chapter highlights, the power of media discourse is overlooked and underestimated within *Discipline and Punish* (1991). And so, to address this literary gap, this thesis analyses the qualitative discursive representations of each case study in order to build a comprehensive picture of how the spectacle of justice has a discursive, social, political, and historical presence. With discursive methods, it can be argued, that theoretical development is propelled beyond the realm of grand theoretical and illustrative case studies, to provide the reader with evidence that is supported by a critical analysis of how the spectacle of justice is expressed and negotiated in the intricate minutiae of the social world. And so, to conclude this section, this thesis does not simply use discourse analysis because arguably the spectacle of justice exists *within* media discourses, but rather the spectacle of justice exists *because* of media discourses. The spectacle of justice has not disappeared; it is embedded within the discourses of everyday life.

3.5 Media Bias

A key methodological concern was the issue of media bias. Fairclough writes that media reports are never neutral, instead, “the media constitute a powerful ideological apparatus” (1995: 46). This perspective is foundational within the proposed concept of spectacular justice and is an issue that is at the forefront of methodological practice. Negotiating the political leanings and biases of media sources was a key concern when using the discourse analysis method. With this in mind, there are two main points regarding media bias that are fundamental to this research into the spectacle of justice: firstly, the relationship between the media and the social elite (Mathiesen, 1997; Adorno and Horkheimer, 2002), and secondly how the media arguably represents a version of reality, rather than reality itself (see Debord, 2012; Baudrillard, 1988; Carrabine, 2008; Hayward and Presdee, 2010).

Van Dijk’s (1991) *Racism and the Press* was a valuable resource in understanding the biases of the media and how this impacts discourse analysis. Van Dijk (1991) argues that the media is a powerful social institution which has the power to define situations, determine newsworthiness, perpetuate dominant ideologies, and manipulate public opinion. Central to understanding the role of the media to dictate and define, is the relationship between the media and the elite. Accordingly, “the Press, and especially the quality Press, is the dominant communication medium for the elites themselves” (ibid: 251), and it was thus this particular conflict perspective which directed the ways in which data was approached during collection and analysis.

Specifically, using van Dijk's analysis, this thesis is reflexive of the relationship between the media and socio-cultural capital, and how media discourses typically reflect the discursive structures of the social elite. Additionally, the research focuses on how the media serves as a mouthpiece for political ideologies and how it reproduces and challenges the social, economic, and cultural power relations in society.

With this in mind, Hall et al (1978) offer a similarly valuable perspective on political and moral bias in the media. Whilst recognising the power of the media to define situations and construct hierarchies of knowledge, Hall et al argue that the media are not the “‘primary definers’ of news events” (1978: 59), rather they “play a crucial but secondary role in reproducing the definitions of those who have privileged access...to the media” (ibid). For such scholars, it is misguided to argue media institutions themselves are distinctly powerful, this is because institutional power must be understood in relation to those higher up in the power structure; “in the moment of news production, the media stand in a position of structured subordination to the primary definers” (ibid). As a result, media selectivity is not unbridled and free from constraint, in actuality, it is subject to the ideologies of the powerful elite. In this way, Hall et al (1978) echo conflict notions of ideology that the bourgeoisie who in addition to controlling the means of production, also control mental production; “[t]hose who govern, govern also through ideas” (1978:59).

To move beyond recognising how the media echo the views of the powerful elite, Eldridge (1993), drawing on the work of Baudrillard (1988) and C. Wright Mills (1963), highlights how “television is a massive feat of social construction. Yet it is not reality that is constructed but a “semblance of it”” (1993: 4). For Eldridge (1993) media representations of the social world are constructs, recreations, and reflections on reality. In this way, the media does not reflect the social world, but rather offers an illusion of reality, one which is motivated by capitalist motives of production and consumption. From this perspective it can be argued that print and broadcast media representations of high-profile criminal cases, as part of spectacular processes, do not reflect the socio-cultural reality of the case. However, Fairclough's (1995) theory that “[t]he only way of gaining access to the truth is through representations of it, and all representations involve particular points of view, values, and goals” (46-47) is useful when exploring justice as an object of spectacle and the subsequent proposal of spectacular justice as a concept. The research is fundamentally concerned with exploring how the media represents criminal cases

and has the power to turn them into high-profile public dramas. As such the fact that the media deals solely in representations rather than absolute versions of reality is not problematic, but rather it is the object of study; the ways in which the media represent reality and the form that this representation takes is in itself valuable to understanding how justice has become a spectacle. News media as simulations are considered valuable and insightful cultural artefacts in and of themselves.

To reflect the varying political ideologies that inform news production and the different audiences they appeal to, the research analyses a combination of both left and right-wing media from multiple international data sets. Not only does this directly respond to research question four, but in doing so it examines how the spectacle of justice operates across the political spectrum and speaks to how the spectacle is not isolated to a particular political perspective. This is important in firstly establishing narratives of the spectacle as a parallel narrative to Foucault's (1991) theory of panoptic privatisation, and secondly a concept which is not limited in terms of ideological scope and scale. Furthermore, by analysing media data across countries, across history, and across political boundaries, allows a deeper understanding of the different forms the spectacle of justice takes depending on the political bias of the media source. We are living in a society defined by global media spectacles which are neither unanimous in structure nor style, and thus, this research project highlights the necessity of being attuned to these distinctive variations.

3.6 Data Collection and Analysis

The first stage of data collection involved case study selection; case studies were selected according to three main criteria. The first criteria is that each case offers a unique snapshot of how the spectacle of justice functions, and how the mass media reports on criminal cases and makes them public. Although the reader may not be familiar with all of the cases, each can be considered to be a high-profile example of spectacular justice, relative to both their spatial and historical location. The second criteria which informed case selection concerns temporal value. Foucauldian theory is defined by genealogies and richly visual, historical stories (Rafter, 2014) and so, timing is considered hugely important to the analysis of the spectacle of justice as a supplementary narrative. Foucault (1991) pinpoints the nineteenth century as the juncture which heralded in structures of privatisation, control, and surveillance, and so the historical location of

each case study has been selected to best question the domination of this theory. To establish historical continuity is to demonstrate the resilience of the spectacle; it explicates the transferral of the spectacle away from penalty and towards criminal justice process and how this shift operates alongside trends towards panoptic privatisation. Not only can temporality be considered in terms of a case study's positioning along an historical timeline, but it can also be considered in relation to the longevity of the data's life. Each case varies in how long its data spans, for some it is only a matter of months such as the Ratcliffe Highway Murders, whereas for others such as the James Bulger case, data expands for many years after the crime itself and is anticipated to continue growing beyond the scope of this thesis. Despite these case by case variations in data life, as a collective, the eight cases speak to narratives of the spectacle, as facilitated through media discourse, since the early 1800s; the pivotal juncture at which point Foucault (1991) predicted its demise.

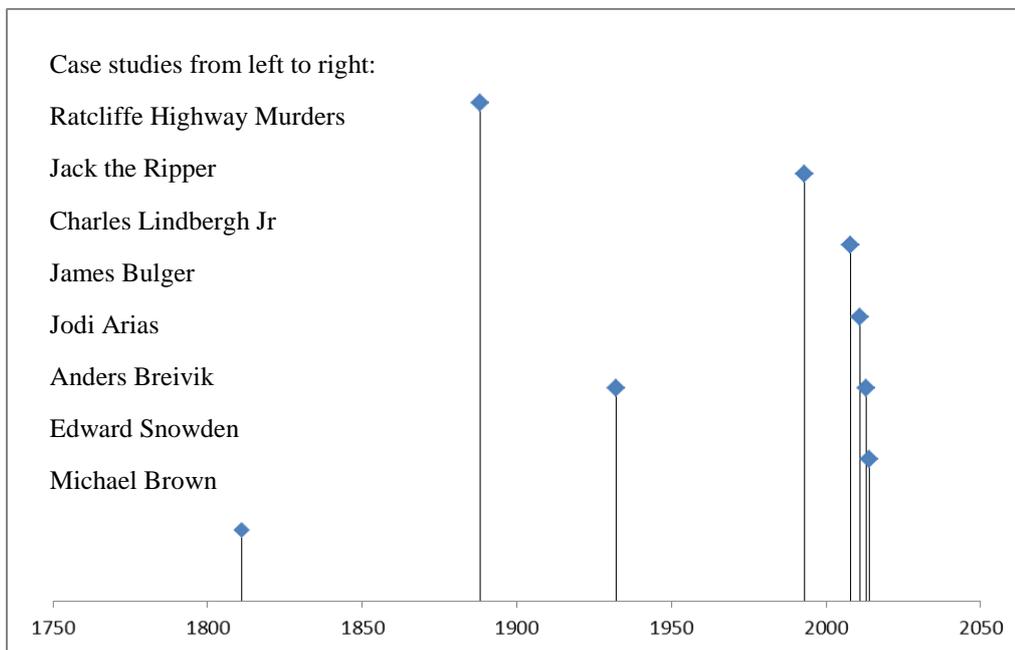


Figure 2 Chart illustrating the data life of each case study

Figure 2 illustrates the historical placement of each case study along a timeline from 1800 to 2017. The length of each bar represents the timespan of each data set in their respective archives. The chart offers a clear visual representation of the value of each case to this exploration into the role of the mass media in creating a spectacle of criminal justice. In seven out of eight of the cases, the data overlaps and shows how cases of spectacular justice exist in

parallel. As a result, the selected cases clarify how the spectacle of justice does not occur in isolated pockets of history but is an ongoing and ubiquitous process. Spectacular justice, as a proposed new concept, strives to give meaning to this historical presence.

The third and final aspect of the case study selection process involved a consideration of their geographical location. In order to address the third research aim, the case studies must not only demonstrate how the spectacle of justice is manifested across time, but also beyond the Foucauldian European limits. With this in mind and following careful consideration of the barriers of language translation, cases represent highly visible and spectacular moments of justice in the United Kingdom, the United States, and Norway. These three locations allow for an investigation into how the spectacle functions as a parallel narrative to the privatisation of justice despite vast international variations in the relationship between the media and the criminal justice system. For example, currently in the United Kingdom, criminal trials are not allowed to be televised and mass media coverage of criminal trials is heavily regulated (Garcia-Blanco and Bennett, 2018). In comparison, the United States' approach to the visibility of justice is considerably more liberal. The US judicial system's relationship with both broadcast and print media is comparatively open and as a result US case studies offer an insight into how the spectacle of justice functions with fewer regulations regarding transparency (see Cusac, 2009; Pratt, 2008). Norway's judicial system and visibility is equally divergent and consequently provides yet another combination of social moral and political conditions under which the spectacle exists (De Graaf et al, 2013). Each of the three locales present a specific understanding of justice, as well as the relationship between the public, the media, and the criminal justice system. As such, analysing case study data from these three countries not only aims to illustrate the international breadth and scope of the spectacle of justice but also illuminates the social, political and moral differences in how countries respond to instances of high-profile criminality and justice.

Beyond this, there were also many considerations around the number of case studies to select. Eight case studies were chosen on the basis that this number would strike the balance between gathering a large enough data set to make a comprehensive argument, but also small enough so that the data for each case could be analysed in suitable depth. This balancing approach also informed decisions on when and where to stop data collection. Due to the natural restrictions of the research project it was deemed impossible to collect and analyse each case's entire data

archive. Nevertheless, in cases where data life is limited to a matter of months or a couple of years (such as Ratcliffe Highway Murders, Charles Lindbergh Jr, Anders Breivik) then data was analysed across the whole data life. In cases where the data life is much longer, (such as Jack the Ripper, James Bulger, Jodi Arias, Edward Snowden, Michael Brown), then data collection and analysis is limited to the time periods immediately following the crime(s) whilst the media attention was at its peak (Cohen, 2002) and for the time span of the investigation.

Once the case studies were selected, immersion in data was central to beginning the research analysis. Understanding each case study began with full engrossment in print and broadcast news, blogs, social media, videos, documentaries, and academic literature in order to gain a broad, documentary overview (Edney, 2006). These processes are understood to be a defining benefit of archival and case study methodologies, and engagement with data during these initial stages serves a dual function. Firstly, it offers the opportunity to develop a strong knowledge base both of the substantive details of the criminal case and how it features more generally in the public consciousness. Secondly, it further allows for closeness and intimacy with the data that sparks creative, conceptual ideas. This stage is distinctly flexible and is the opportunity to freely explore avenues that the researcher identifies as interesting.

After the preliminary immersion process, data was sourced from LexisNexis Academic legal database. LexisNexis has the world's largest collection of legal and journalistic records and is "the most widely used news archive in the social sciences" (Weaver & Bimber, 2008: 516). It has an accessible interface that makes it easy to search, refine, and collect data from a wide variety of international media outlets. Data collection was focused around its print media data and TV and radio broadcast transcript collections. At this stage, research was focused on identifying key words or phrases that are associated with the case name. Once key words were established, they served as initial springboards or frames of reference with which data was collected. After this initial searching process was complete, the research moved on to create a number of "word net[s]" (Koenig, 2004 in Qin, 2015: 170). For example, when conducting the pilot study into the Jodi Arias case study, the following word nets were identified:

Jodi Arias + Justice

Jodi Arias + Victim

Jodi Arias + Gender

Jodi Arias + Innocent/ Guilty

Jodi Arias + Expert

Much like the work of Branum and Charteris-Black (2015), and in keeping with Van Dijk's definition of 'exploratory' case studies, word nets and key words "were selected and evaluated qualitatively on their potential to answer the research questions" (2003: 203). As such, the research challenges the critique that a "scholar-centred approach [that] involves subjective frame identification" (Qin, 2015: 179) is negative. In this instance, subjective frame identification flexibly enables a comprehensive understanding of the case and facilitates creative conceptual development. In practical terms, generating word nets was done within the *News & All News* database to ensure maximum data retrieval. From here, the data was streamlined to find data from *Major World Publications*. During this process the most common mediums that reported on the case were identified, for example whether the case study had a large newspaper presence, or whether TV broadcasts provided the most detail. Consideration was also made at this point to identify in which geographical contexts the case was most visible.

After assessing the case's presence in *Major World Publications*; where (geographically) they were most situated; and in which mediums the case was reported most frequently, the data was searched using the word nets. There are many categories within LexisNexis, including *All News; Newspapers & Wires; Web News- Last 90 days; TV & Radio Transcripts; International News; College & University; Business & Industry*. To take the Jodi Arias case as an example, earlier data searches within the pilot study indicated that broadcast and audio-visual media were the leading agents of the spectacle, and so, the search concentrated on *TV & Radio Transcript* data. In contrast, the Thompson and Venables case required *Newspapers & Wires* to be at the centre of data collection.

Once the search frame had been inputted, data was identified and then filtered. To do this the data was coded according to *High Similarity*. This function groups replicas of the same data into one file. Similarly, data was organised from *Oldest to Newest*. By temporally organising the data, the trajectory of the spectacle over time could be tracked. In cases that retrieved over three thousand results, which is the maximum data set within LexisNexis, a further two refining

techniques were applied. Firstly, the search was refined to focus on data where the individual is mentioned in for example the *Headline & Lead* or *At Least 5 Occurrences*. And secondly, in the case of excessive data, the results were ordered according to their perceived relevance. After reading each article that was deemed significant to responding to the research questions, the data file was downloaded and thematically coded according to the *Victim*, *Perpetrator*, and *Expert* categories. Within each category a separate folder was created for the individual case studies⁹. In this way data management acted as an exercise in conceptual organisation and in doing so made the transition between data collection, data analysis, and theoretical application fluid and coordinated. There are two exceptions to this rule, the Anders Breivik case and the historical case studies (Ratcliffe Highway Murders, Jack the Ripper, and Charles Lindbergh Jr). The data collection for these cases was different in light of language and temporal issues that meant data in LexisNexis was limited.

Once the data files were gathered and thematically organised, the process moved onto data and discourse analysis; the data was coded manually, rather than use coding software such as NVivo. The decision to code the data by hand was made on the grounds that manual analysis allowed for a close engagement with the data and fostered a creative and dynamic working environment. According to Basit, analysing qualitative data “is a...process of inductive reasoning, thinking and theorizing” (2003: 143) and so guided by this perspective, it was deemed unfavourable to compromise on this for technologically aided speed. The common data analysis practices across the case studies are as follows:

Each media file was coded for the *Victim*, the *Perpetrator*, and the *Expert*. As previously mentioned in the opening chapter, these three characters were chosen because of their central position and visibility within criminal justice process. Data was coded in this way because victims, perpetrators, and experts were clearly identified as featuring heavily within criminal cases and thus their role within narratives of the spectacle was deemed essential to explore. Moreover, they illuminate the human face of the spectacle and the importance of human stories and characters to understanding how justice has become a spectacle; human characters arguably provoke the spectacle of justice more so than the crime itself. With this in mind, coding focused on identifying who the media labels the *Victim*, the *Perpetrator*, and the *Expert*, and how they

⁹ See Figure 1: Conceptual breakdown map for a visual representation of data management. Figure 1 can be found in both Chapter One: Introduction and in the Appendix.

are represented in discourse. Alongside conducting a broad coded reading of the data, specific analysis was done on the micro manifestations of the spectacle and explored how the media was mechanised by individuals within the case to construct their own identity. The focus was on understanding the role of headlines and titles as immediate soundbites of information, versus the substantive content of an article or news story and what this reveals about the role of media discourse in creating a spectacle of justice. From here, it was theorised how different characters are depicted, and how this can be situated within a social, political, and historical understanding of culture.

After conducting a detailed analysis of each media file within each case study, the research looked laterally across the case studies to construct a data file for each of the *Victim*, the *Perpetrator*, and the *Expert*. To elaborate, data from each of the eight case studies is analysed within each of the *Victim*, *Perpetrator*, and *Expert* characters. In some cases, data from one case study is analysed multiple times within an analysis chapter as it intersects with multiple typologies. In comparison, other case studies may only feature in one typology within an analysis section. Across both circumstances, the case studies provide insight into the process and character of the spectacle of justice. Furthermore, the case studies enable the research to find meaning in the spectacle beyond punishment and strengthen the framework of spectacular justice as a tool this thesis uses to address its research questions.

In conclusion, the data collection and analysis process of this thesis can be defined by the coming together of historical archives, LexisNexis, coloured pencils, and sketching paper. On the whole, the process was an organic practice of creatively tying data sets from eight case studies together and generating lateral comparisons to paint a detailed picture of the spectacle of justice. But beyond this, analysis is conducted, and data used as a lens through which the researcher can re-read Foucault's (1991) *Discipline and Punish*. Analysing data in this way allows the research to shed light on the dark corners of one of Foucault's most preliminary texts and construct a conceptually and theoretically rich parallel-narrative. Using these methods of data collection and analysis this thesis addresses its research questions and in so doing allows the concept of spectacular justice to give meaning to the prolific place of criminal justice process within a global mass media.

3.7 Ethical Considerations

Although this thesis does not deal directly with human participants, and therefore, arguably, neither requires the interpersonal skills of empirical human research, nor “involve[s] encountering the immediate pain of flesh and blood of others” (Seal, 2012a: 7) it was still, at times, an emotionally challenging experience. And thus, although this research adopts a conceptual approach and focuses on the qualitative textual analysis of archival documents, it was not without its ethical dilemmas. Whereas other doctoral projects may encounter ethics through the lens of the research participant, within this project ethical dilemmas were navigated primarily through the often less considered lens of the researcher (Dickson-Swift et al, 2008). Jewkes writes that within criminology there is “an unspoken understanding that if we disclose the emotions that underpin and inform our work, our colleagues will question its “validity”” (2011: 63). And so, in an explicit attempt to reject criminology’s history of abstracting and neutralising emotional experience (ibid), ethical concerns are guided by what this thesis interprets as one of the most influential pieces of literature on the intersections between archival methods, emotion, and ethics: Seal’s (2012a) research on *Emotion and Allegiance in Researching Four Mid Twentieth-Century Cases of Women Accused of Murder*. Seal’s literature gave voice to many of the ethical and emotional concerns encountered within this doctoral research and speaks to the often-overlooked nature of emotion and affect in document and archival analysis.

The primary ethical consideration that was encountered, was the potential risk factor of analysing (often violent) criminal case studies to the researcher’s personal well-being. Each criminal case study that is analysed, with the exception of Edward Snowden, derive their spectacular nature from, in part, actions which resulted in the death of another. This meant that the data, whilst all publicly available, was at times shocking and/or graphic in nature. Such ethical considerations speak to “challenging research encounters” (Scott Bray, 2017: 137) in which researchers face “repeated exposure to text describing traumatic events such as coroners files...coding data, and writing up reports” (Coles et al, 2014: 97; see also Barlow, 2016; Finchman, Scourfield & Langer, 2008; Kiyimba & O’Reilly, 2015; Jackson et al., 2013; Woodby, Williams Wittich & Burgio, 2011; Woodthorpe, 2009, 2011). For Seal (2012a), the emotional impact on the researcher of prolonged exposure to criminological documents and archives, can be extensive. Drawing on the work on Bosworth (2001), she writes that “closely

reading and analysing documents that relate to crime and punishment, and which therefore articulate the wreckage of human suffering and misery, can be intensely emotional” (2012a: 7-8). Additionally, Seal’s research highlights how there are not only ethical and emotional complexities within archival and document analysis, but there are also ethical hazards in relation to how the researcher reflexively manages these emotions (Hochschild, 2012). In her case study analysis, Seal identifies ethical dilemmas in attempting to remain indifferent; by distancing oneself emotionally through fear of appearing “unscientific” (ibid: 10), compounded by pursuing ethically challenging research areas to bolster an academic career, may be considered “amoral” (ibid: 9). With this in mind, the value Seal (2012) places on both emotional reflexivity when researching criminological archives, as well as her arguments for the potentially harmful impact of prolonged archival research for the criminologist, positioned the text as a central resource when considering the methodology of this thesis.

To minimise the potential risk to the researcher’s emotional well-being a number of measures were put in place. At the point of contact between the researcher and the data, data sources were vigilantly checked for signs of their legitimacy and websites that could potentially contain unregulated images or content were avoided. As a further precaution, whilst searching for, or collecting, visual data, especially during the initial immersion process, it was necessary to take regular breaks away from this area of work to focus on more conceptual areas of research. Beyond data collection, measures were taken in order to navigate and prevent future risks. The researcher utilised both formal supervisions with academic supervisors as well as informal supervisions in the form of conversations with fellow peers, friends, and family members; supervision and debriefing were important management strategies (Dickson-Swift et al, 2008). By taking these measures, the research process sought to balance collecting the data that the thesis required as well as helping the researcher navigate the many potential challenges which researchers of sensitive issues may face.

The second ethical concern surrounds notions of the gaze and voyeurism. Spectacular justice is strongly influenced by the visual and recognises the power of aesthetics and images to our understanding of crime, culture, and representation. However, the ethical issues of the visual turn in criminology are reflected throughout the research. The main ethical concern surrounding voyeurism and ‘the gaze’ is explained in the work of Carrabine (2012: 478) who argues that documentary reporting often turns “suffering into entertaining spectacle and effectively

neutraliz[es] the political force of the image”. By its very nature, data in this thesis is selected on the basis that it sheds light on the spectacle of criminal justice. Given this, the data exemplifies how journalism and documentary photography can turn “suffering into [an] entertaining spectacle” (ibid). According to Thompson, the aestheticisation of suffering is a process that runs in parallel with “the rapid expansion of global news broadcasting 24 hours a day, the rise of the internet and the spread of new media technologies” (2005:49). From this perspective, the spectacular quality and proliferation of images and information about criminal cases within the media are commonplace. As highlighted in Chapter Two, many scholars argue that the ubiquity of criminal voyeurism risks individuals’ ability to distance themselves from the spectacle and remain impartial.

With this in mind the research is reflexive of its potential role in the structural dehumanisation of individuals involved in criminal case studies; the glorification of violent criminality; and to the market for tragedy as entertainment. Spectacular justice, tautologically, deals with the spectacular. It analyses cases which hold a privileged position within the public eye which exist because of both the human stories as well as the spectacular nature of their crime, and the spectacular, dramatising powers of the mass media. Despite their prominent position, the research was acutely aware that the cases detail the real lives of real social actors. The research seeks to analyse the narrative of the spectacle and position it in relation to Foucauldian (1991) theories of panoptic privatisation. Therefore, whilst explicitly researching the spectacular, the research seeks to distance itself from the media trend towards the glorification of crime and is cautious about the impact such a thesis may have on the already extensive attention on certain high-profile cases from both the media and the academic world.

The third and final ethical consideration concerns the role of the researcher as both an active interpreter and passive receiver of media discourse and ideology. Much like all researchers of media content, the research navigates the blurred line between simultaneously recognising the role of the mass media as an instrument of political ideology whilst attempting to escape its effects and critically reflect on the data in an impartial way. According to Kellner, the media helps “shape our view of the world and our deepest values: what we consider good or bad, positive or negative, moral or evil” (2011: 7). If this is the case, then researching how justice has become a spectacle means the researcher must occupy the precarious role of both audience and analyst. Bourdieu (1984) argues that neither cultural forms nor individual judgments are ever

neutral or innocent, as both will always be imbued with social power. This argument is at the heart of ethical considerations surrounding the gaze and voyeurism in this research. The data is understood to be a product of social, political, and cultural values, which “*presents* more than it represents, *produces* more than it reproduces and *performs* more than it signifies” [emphasis in original] (Carney in Hayward & Presdee, 2010: 31). The mass media, like photography, has the “ability to record the truth authentically and to present a radically new way of seeing the world” (Carrabine, 2014: 135). An important perspective for understanding the subjectivities of the media is Young’s argument that “[a]ny image is...contingent and metaphorical, standing in for an infinite number of alternative imaginings” (in Hayward & Presdee, 2010: 94). Consequently, throughout the research process the researcher reflected firstly on the power of the data as an ideological cultural form but also how the researcher’s own individual judgments are not only informed by the social power of academic research, but also by their own individual experiences as a spectator of mediated justice.

3.8 Conclusion

In conclusion, the methodological framework for this research project was chosen to best reflect and achieve the theses’ research aims. The Foucauldian (1991) theory of panoptic privatisation, with its focus on post-nineteenth century Europe, is both historically and culturally specific. And so, in order to investigate the role of the spectacle, and its relationship with justice, and understand how this narrative supplements and sits alongside the dominance of Foucault’s panopticism, a multi-method approach was necessary. Archives offer the researcher a rich visual and textual experience, wherein, the researcher can become lost in the complex, maze-like structures of the spectacle. To focus the overwhelming mass of archival data on the spectacle, eight criminal case studies were identified. Through this method, the project was able to creatively engage with the features of the spectacle; case studies facilitated a narrative style of writing and opened up the concept of spectacular justice to a myriad of different combinations and variations. Finally, and in tandem with the archival and case study methodologies, discourse analysis promoted closeness between the researcher and the data. It enabled engagement with the minutiae of the spectacle and explore, in depth, the micro narratives which sit alongside panoptic privatisation.

Out of this mixed method empirical approach, and using spectacular justice, the research ensures that the spectacle beyond punishment is not only shown to simply ‘exist’ in a brief moment of history or in an isolated culture. This methodological approach analyses how narratives of the spectacle exist historically beyond the nineteenth century (archival methods); cross-culturally (case study method); and across both the macro and micro structures of discourse (discourse analysis). By explicating this, the research aims to assert the notion of spectacle in justice not as an alternative narrative to Foucault’s (1991) theory but rather a parallel narrative. Beyond the links between method and Foucauldian theory, methodological choice is also key in situating the research alongside the broader field of cultural criminology. For Ferrell, cultural criminological research requires

“a methodology of attentiveness that promotes deep immersion with situations and subjects...that heralds the...increasingly self-aware...researcher, and that conceptualizes method not as a set of timeless guidelines but as an orienting process necessarily attuned to time” (2015: 299).

Drawing on the importance Ferrell (2015) places on time, the methodologies of this thesis speak to the timeliness of the visual, specifically the mass media. Methodologically, the research adopts the cultural criminological focus on immersion in data, researcher reflexivity, timeliness, and critical thought; these processes are embodied within spectacular justice which aims to embrace the keystones of cultural criminology and apply it to the visual sphere.

Chapter Four: The Victim

4.1 Introduction

Victims are the individuals who suffer the consequences of a criminal act. Not only do victims play a crucial part in criminal justice, they are also corner stones in maintaining the narrative of the spectacle. With this in mind, victims have a prevailing impact on the vitality of the spectacle within criminal justice. This thesis identifies three distinct ways (quintessential victims, collateral victims, ambiguous victim) in which the victim label is applied to individuals involved in criminal cases and thus three ways the victim identity is utilised by media discourses in processes designed to make justice visible and open to the public. Each manifestation of the victim illustrates the endurance of the spectacle and the variations in how the visual interacts with crime and criminal justice (Rafter, 2014).

The first category explores the close relationship between the spectacle of justice, innocence, and the criminal wound. This category of victims will be referred to as the *Quintessential Victims* of spectacular justice. Quintessential victims are here defined as individuals who represent the most perfect embodiment of victimisation, and whose quintessential nature is derived from both their ideal status and an extreme means of victimisation; their innocence and purity, combined with intense violence, positions them centrally within media spectacles. Using the proposed concept of spectacular justice, this section describes how the mass media has the power to take the quintessential victim and raise them to a central status that contributes to turning criminal justice into a high-profile drama.

In contrast, the second victim category locates victimisation outside the realm of the individual. It identifies social actors and social groups whose lives are affected by a crime but who are not necessarily victimised first-hand. This category of victims will be referred to as *Collateral Victims*. Collateral victims are defined in terms of how, following a criminal act, national and international citizens may respond with collective displays of mourning, loss, and grief. Analysing both historical and contemporary case studies of collateral victims enables the research to expose the moral, political, and social condition of societies within which the spectacle operates, as well as how criminalisation has public ramifications beyond the boundaries of the private institution. The theme facilitates a discussion on the extent to which the spectacle of justice supplements panoptic privatised control, and the powerful role of the

mass media as communicator and embodiment of social values both within and beyond national boundaries. It demonstrates the sustained presence of communal displays of solidarity and mourning surrounding high-profile criminal cases, and the ways in which mass media discourses utilise such displays to strengthen moral bonds and reinforce the values and norms of society following the threat posed by criminality. Spectacular justice brings these themes to the fore.

Whilst the victim identity, within the previous two themes, is easily identified, the third victim category reflects the innate ambiguity that surrounds the victim label within criminal discourses. This category of victimhood will be referred to as *Ambiguous Victims*. Ambiguous victims are defined as individuals or social groups who experience victimisation but around whom there is social, cultural, or media ambiguity surrounding the validity of their claim to the victim status. The data highlights how the definitional boundary between the perpetrator and the victim is often unclear, and how there are cases wherein social actors have the perpetrator and the victim label applied to them interchangeably by different social groups and institutions. The fluidity of these processes shows how the way these labels are applied is dependent on the expert lens through which one understands a criminal case, as well as the cultural, historical, and global approaches to issues such as privacy, freedom, truth-telling, and innocence. Spectacular justice condenses these arguments and gives meaning to the prolific place of ambiguous victims within a global mass media.

Together, the three categories highlight the powerful role victims play in creating a spectacle of justice. Each category is considered imperative to constructing a supplementary narrative to Foucault's (1991) theory of panopticism. In particular it helps formulate a narrative that is acutely aware of the social capital of quintessential victims; the visual presence of bodily destruction in the media; the co-existence of the collective and the individual; and ambiguity alongside panoptic certainty. Investigating the role of victims is vital to better understand how justice has become a spectacle; they expose the role of media discourse, highlight how the spectacle varies culturally, and speak to the implications of the spectacular nature of justice for our understanding of the political, moral, and social condition of a society.

4.2 Quintessential Victims

Quintessential victims embody spectacular justice. Quintessential victims are those who have both an ideal status in society and who are also victimised by extreme means of criminality; their perceived innocence and purity (ideal victim), combined with intense violence and bodily destruction (ideal wound), positions them centrally within media spectacles. This is because it is understood that the violation or destruction of those deemed the most pure and innocent members of society constitutes one of the most abhorrent acts and as such becomes a spectacle. Importantly, quintessential victims draw on and develop both Nils Christie's (1986) concept of 'ideal victims' and Mark Seltzer's (1998) notion of 'wound culture' to make an original contribution and shed light on how justice has become a spectacle.

To elaborate, quintessential victims develop Christie's (1986) eminent work on 'ideal victims', a concept which describes how the criminal victimisation of social actors such as children, women, or the elderly, represents a distinctly challenging attack against social norms and values. According to Christie (1986), the social capital which surrounds these individuals' supposed weakness and innocence, means that ideal victims and their victimisation are considered especially newsworthy (Jewkes, 2015). Christie writes that an 'ideal victim' is "a person or category of individuals who – when hit by crime – most readily are given the complete and legitimate status of being a victim" (in Fattah 1986: 18). As such, ideal victims feature at the top of the hierarchy of victimisation (Greer, 2017). There are two main conceptualisations of Christie's (1986) ideal victim. Firstly, Christie identifies the individuals who are most likely to become ideal victims of crime as women, children, and the elderly (see also Madriz, 1997; Humphries & Caringella-MacDonald, 1990). Accordingly, these individuals can be typically associated with notions of weakness and innocence and their victimisation therefore signifies a unique cultural abhorrence. The second main conceptualisation around ideal victims is the theory that ideal victims and ideal offenders are interdependent. More specifically, "[t]he ideal offender differs from the victim" (ibid: 26), and so when a crime involves an ideal offender, that is, an individual who is "a distant being. The more foreign the better. The less humane...the better" (ibid: 28-29), then consequently the individual who is made a victim, is identified as 'ideal'. Both facets of ideal victims, that is individuals defined as weak and vulnerable, and the interdependence between ideal offenders and ideal victims, contribute to the spectacle of justice. This thesis argues that Christie's (1986) ideal victims

attract media spectacles and are mechanised by media discourse to generate public sympathy, reinforce norms and values, and enact justice against the perpetrator. Spectacular justice illuminates how ideal victims are key mechanisms in driving a supplementary narrative of the spectacle and its relationship with the media. However, in order to investigate how justice has become a spectacle it will be argued Christie's (1986) theory does not go far enough and as such this thesis develops the concept of quintessential victims to best answer its research questions.

To move beyond Christie (1986), when ideal victims are victimised using particularly bodily and violent means, their demise comes to represent what this thesis conceptualises as the 'ideal wound'. Combined, the ideal victim and ideal wound statuses enable victim identities to transcend beyond the realms of newsworthy, and into the quintessential; the visual spectacle and the human body are bound together in a powerful relationship. Making an original contribution, this thesis argues quintessential victims invigorate spectacular justice, and the social and media currency they carry represent one-way justice has become a spectacle. With this, quintessential victims further develop Foucault's (1991) argument that with the panoptic turn the body ceased to be the target of visual penal repression. And thus, whilst this is largely true of the contemporary Western mediated world, images of the "tortured, dismembered, amputated body" (ibid: 8) still feature in the popular imagination through media interactions with quintessential victims. As Foltyn writes, "any story about the gruesome murder of a pretty victim is a national obsession" (2008b: 99).

Throughout sociological and criminological literature it is established that there exists a sustained fascination with the ritualistic voyeurism of mutilated criminal victims, as the mass media serves, as did the scaffold, to accustom society "to the sight and smells and instruments of human butchery" (Hibbert, 2003: 27, see also Stallybrass and White, 1986; Stone and Sharpley, 2008; Penfold-Mounce, 2010; Seal, 2012; Scott-Bray, 2017). Foltyn writes that under contemporary conditions of media saturation, "cyberspace ha[s]...for some reinstated the carnival-like atmosphere of legal and extra-judicial public executions" (2008a: 157). Seeking to develop this area of literature, this section will explore the relationship between ideal victims and ideal wounds. More specifically it will demonstrate how combined with the innocence of ideal victims, the openness and fleshly descriptions of victim's bodies and the graphic details of their death are evocatively reminiscent of a carnivalesque spectacle of criminal justice and the understanding of death as the point at which truth is publicly ascertained.

By focusing on the notoriety and spectacle of quintessential victims within the criminal justice system and their currency within the spectacle of justice, the chapter will explore the power of the mass media to construct identities within a criminal case. Directly linking to research question two, this chapter will demonstrate how mass media discourses play an active role in the spectacle of justice, not only through discursive representations of the case, but through the opening up and visual exploration of the victim's body. One of the roles of mass media discourse in creating a spectacle of justice is to put the vulnerable and exposed quintessential victim at the heart of public consciousness. In doing so the data explicates how narratives of the spectacle thrive within justice process because of the cultural sanctity of social actors who are considered especially vulnerable. Additionally, this section speaks to the sustained public fascination with the bodily wounding and victimisation of quintessential actors. Thus, the argument is made that one of the ways justice has become a spectacle is through the "new pornography of death [which]...dazzles the audience with its shocking corpses, flashy forensic science, and exotic causes of death" (Foltyn, 2008a: 164); the mass media facilitates "an ongoing public attraction to death machinery" (Seal, 2014: 37) and the spectacle of suffering. This is seen to be a core role of media discourse and how it creates a spectacle of justice, and with this spectacular justice demonstrates the importance of quintessential victims to the notion of the spectacle in justice and the spectacle beyond punishment.

As aforementioned, the spectacle of justice surrounding ideal victims is most conspicuous at the intersection between carnal violence, death, and innocence. There are three case studies that profoundly illustrate these characteristics and which make explicit how mass media discourses facilitate the "binding of violence to mass spectacle" (Seltzer, 1998: 129 see also Lynch, 1999). They are: James Bulger, Charles Lindbergh Jr, and the Ratcliffe Highway Murders¹⁰. In all three cases, the victims were violently murdered and the graphic and bodily nature of their victimisation was mechanised by mass media discourses, in combination with their seemingly inherent vulnerabilities, to create an "atrocities exhibition" (ibid: 2) of the ideal wound. In all three cases, media discourses actively used their violent deaths to generate and exacerbate a spectacle of justice. Equally each case speaks to the historical variations in how media discourses are implemented, spanning both the U.S. and the U.K. the cases take place roughly over the course of two centuries, during which time the mass media witnessed vast

¹⁰ See Appendix One: Case Study Overview.

developments both in technology and in audience participation. The variations in media development will be considered in relation to each case and will help illuminate the changing character of the spectacle across time. As such, the three cases concretise narratives of a public spectacle, diverge from the privatisation narratives of panopticism, and become the quintessential victim.

Lindbergh Jr and Bulger, both of whom were kidnapped and murdered, exemplify the quintessential victim, despite occurring in different cultures and almost a century apart. Occurring during the 1930s in America, the kidnap and murder of the Lindbergh baby took place during the golden age of radio, television, and film wherein the spectacle of the visual, whether for political or entertainment purposes became increasingly mainstream for American citizens. During the early 1900s the world witnessed the social impact of the industrial revolution, alongside cultural developments such as the first colour film and the enhancing of international communication lines. The early twentieth century signalled a shift in media spectacle, away from the national and towards the global; away from the obscured and towards the realistic. In comparison, the Bulger case of 1993 took place during the rise of the digital decade at which point dial up internet became increasingly universal in U.K. homes and mobile phone technology had been established for around a decade. Thus, in comparison to the Lindbergh Jr case occurring at the forefront of visual video technology, the Bulger case was deeply embedded in a visual media culture that had was embarking on the digital revolution.

Irrespective of these spatial and temporal differences, and the impact this has on digital technology, both cases embody the quintessential victim in two main ways. Firstly, both children embody Christie's (1986) theory of ideal victims, and arguably because of their explicit 'ideal' statuses, the spectacle surrounding their cases gained a powerful momentum. Mass media institutions relied heavily upon characterisations of the two young children as vulnerable and passive, and whose victimisation emotively represented the corruption of innate purity (see Wilczynski, 1997; Elkin, 1968; James and James, 2004; James et al, 1997; Jenks, 1992; Morgan and Zedner, 1992). Media discourse can be seen to construct the two children in line with Durkheim's conceptualisation of children as "the puniest of beings, a small body that the merest blow can break" (in Jenks, 1992, 147), as well as Christie's (1986) later theory of the relationship between ideal victims and passivity. And thus, the children's victimisation was constructed as the product of incomprehensible violence and injustice, and indicative of the

dangers of removing children from the safety and security of the adult world. Justice herein became a spectacle because of the privileged social and cultural position of children and the abhorrence of their deaths.

The media constructed sense of injustice is emphasised through language that the children were “snatched”¹¹, “led away”¹², or “spirited away”¹³. Here mass media discourses, at different points throughout the twentieth century, embody Christie’s theory that one of the key attributes of an ideal victim is that the victim “could not possibly be blamed” (1986:19). But beyond their blameless role in their victimisation, the ideal status of Bulger and Lindbergh Jr is compounded by a discursive emphasis on their almost celestial purity. News reports were saturated with descriptions of Bulger as a “bubbly kid who g[o]t on with anyone”¹⁴, and how the death of the “little blond-haired, blue-eyed boy”¹⁵ represented the “slaughter of innocence”¹⁶. Similarly, Lindbergh Jr was constructed by news media as a “chubby, golden-haired boy” with “blue eyes, curly hair, [and] fair complexion”¹⁷.

In both cases, media discourses are reminiscent of eighteenth and nineteenth century understandings of children as virtuous (James et al, 1999). According to James et al (1999) such constructions of childhood draw on notions of innocence and purity as defining essences. Holt goes on to write that under such conditions, childhood is seen “as a kind of walled garden in which children, being small and weak, are protected from the harshness of the world” (1975: 22). Both Bulger and Lindbergh Jr embody these themes and are clearly established as idealised forms of childhood, whose angelic innocence necessitates nurture and protection. As such, the combination of the children’s physical descriptions and the dramatic details of how they were stolen away from the protection of the adult world by figures of antithetical monstrosity¹⁸ signify a discursive attempt to construct a scene of powerlessness and vulnerability. Indeed, the perceived helplessness of both children, as well as the failure of the adult population to prevent harm, exacerbates processes of spectacular justice. However, it is not only physical

¹¹ Bennetto, J. *Video captures abduction of boy, aged two*. The Independent (London). 14 February 1993.

¹² Ibid.

¹³ The New York Times. *Baby Safe, Say Messages*. 8 March 1932, p1.

¹⁴ Alderson, A. *Police hunt widens as fears for snatched two-year-old grow*. The Sunday Times (London). 14 February 1993.

¹⁵ Schiller, B. *English town can find no pity for boys in murder trial*. The Toronto Star. 9 November 1993.

¹⁶ Ellis, W. *Slaughter of innocence*. The Sunday Times (London). 28 November 1993.

¹⁷ The New York Times. *Four States Join Hunt*. 2 March 1932, p1.

¹⁸ See Chapter Five: The Perpetrator.

representations of innocence that makes the children objects of a justice spectacle; not only are they illustrative of the “cutest thing you ever saw”¹⁹, but their victimisation was bodily, physical, and an aggressive violation of their self. The children represented the ideal wound and therefore further exacerbated the spectacle.

The brutal destruction of Bulger’s body dominated media discourses following his murder and newspapers emotively captured the journey Thompson, Venables, and Bulger walked. Bulger was taken to “a lonely stretch of railway track”²⁰ where his “little corpse” was “savagely battered...carried, kicked and dragged”²¹, until his “lifeless, beaten body was left to be sliced in two by a passenger train”²². Similar notions of bodily abandonment and isolationism characterised media discourses reporting on the discovery of Lindbergh Jr’s body. The child’s body was discovered over two months after his disappearance and was found “lying face down in a depression and partly covered with dead leaves and wind-blown debris”²³. News reports highlighted the “tragic irony” in that whilst the case had gained international scale and scope, “the child had been lying all those weeks near the home from which he had been stolen”²⁴ in amongst “scrubby second growth maple and locust trees, thickly grown with underbrush...seventy-five yards back from the turnpike”²⁵.

Print media discourses can here be seen to emphasise how the deceased bodies of the two ideal victims, following their violent destruction, were left isolated and exposed. As such, Bulger and Lindbergh Jr’s victim identities are defined by the lonely and graphic nature of their death. This is significant, as it enables both Christie’s (1986) theory of ideal victims and also quintessential victims to be developed. Not only do the victims “mobilize our sympathy” (ibid: 22) because they are weak and blameless, but because of the cultural fascination with “erotized spectacles of torn bodies” (Seltzer, 1998: 129) that are discarded and abandoned. Seltzer argues that we are living in a society defined by wound culture. To elaborate, a wound culture is characterised by the intersections between private fantasy and public collective space, in which the “torn and opened body, the torn and exposed individual” (1998: 253) is a normalised public spectacle.

¹⁹ The New York Times. *World Hailed Birth of Lindbergh’s Son*. 2 March 1932, p3.

²⁰ Veloo, R. *Tot’s murder: 2 jailed, but who’s to blame?* The Straits Times. 28 November 1993.

²¹ Holland, M. *Toddler trail of horror*. Herald Sun. 25 November 1993.

²² Schiller, B. *English town can find no pity for boys in murder trial*. The Toronto Star. 9 November 1993.

²³ The New York Times. *Body Mile from Hopewell*. 13 May 1932, p1.

²⁴ Ibid.

²⁵ ibid: p3.

From this it can be argued that media representations of violence and violated bodies have become “cultural flashpoints” (ibid: 21) which stand in opposition to the decorporealised nature of Foucault’s (1991) panopticism. Thus, whilst Christie’s (1986) theory of ‘ideal victims’ is a useful tool for understanding the newsworthiness (Jewkes, 2015) of certain individuals upon victimisation, in order for a case to be transformed into a high-profile public drama and gain spectacular notoriety, it not only matters *who* the victim is, but also *how* they were victimised. Herein, whilst Foucault’s conceptualisation of the spectacle in relation to punishment has largely disappeared, we see here how media discourse has taken on the role of the scaffold to make quintessential victims and bodily destruction visible and publicly consumable; this is spectacular justice.

Quintessential victims and their value to the spectacle of justice is echoed throughout media reports detailing the discovery of the bodies of the Marr and Williamson families; victims of the Ratcliffe Highway murders in 1811. At the beginning of the nineteenth century the mass media was in its infancy with local print newspapers being the primary means of public information and communication. Although media technology was primarily local in scale and scope at the time, the news was reported on from around the country with discourses commonly lamenting the murder of “the unfortunate bodies of Mr. Marr, Mrs. Marr, and her infant”²⁶ and the ideal status of the Williamsons’ who “were characters highly respected in the neighbourhood”²⁷. However, not only can the families be understood as ‘ideal’ because of their commitment to upholding the values of the nuclear family and their communities, but they were also quintessential victims because of the graphic, bloody drama surrounding their death. As such, the Ratcliffe Highway murders illustrate the work of Grabosky and Wilson who argue that violence against the “‘right sort of people’” (1989: 14 in Naylor, 2001: 157) speaks to the power of the media as a spectacular morality play.

“Mr Marr, his wife, and servant boy, were found with their brains beat out, lying in the shop, and their child with its throat cut in the cradle”²⁸, but more “horrid” than the Marr family, the most “horrid spectacle” was that of

²⁶ The Oxford University and City Herald and Midland County Chronicle, 21 December 1811, no 291, vol VI, part I.

²⁷ Morning Post, 21 December 1811, no 12762.

²⁸ Caledonian Mercury, 12 December 1811.

“the errand-boy, James Biggs, about fourteen years of age, lying on his face, at the farther part of the shop with his brains knocked out, part of them actually covering the ceiling, the blood on the wall and counter”²⁹.

Media discourses surrounding the Ratcliffe Highway murders illuminate the accuracy of Seltzer’s theory that “[i]t is around the wound- the torn and opened body, the torn and opened person, the opening and spilling and becoming-visible of interiors- that this culture gathers” (1998: 138). The strength of Seltzer’s (1998) theory to the narrative of the spectacle is further supported by the fleshly discourses detailing the demise of the Williamsons who epitomise quintessential victims and their centrality to spectacular justice.

National newspapers reported, in detail, the discovery of the bodies:

“Mr. Williamson lying on his back, with his legs upon the stairs, his head downwards...Mr. W had received a wound on the head; his throat was dreadfully cut, and also his right-leg was broke by a blow, and his hand severely cut...Mrs. Williamson lying on her left side; her skull was fractured, and her throat cut, bleeding most profusely...the servant girl...lying on her back...her skull was more dreadfully fractured than that of her mistress, her throat most inhumanly cut to the neckbone; neither of the dead bodies were cold”³⁰.

And thus just as in response to the death of Bulger, an attack deemed “so dark, so terrible...that the imagination refuses to accept it”³¹, so too the media response to Lindbergh Jr’s death in which “[o]ne is stupefied with horror at the news of the tragic climax of the...baby”³², following the death and internment of the Marr family, media discourses reported that “no language can describe the grief depicted in every countenance on witnessing the coffins containing the unfortunate bodies”; it was “a scene of sorrow and lamentation”³³.

²⁹ Caledonian Mercury, 14 December 1811.

³⁰ Morning Post, 21 December 1811, no 12762.

³¹ Thomas Ellis, A. *Innocence and the Edge of Darkness; The Concept of the Vulnerability of Children is Increasingly Eroded, Together with the Concept of Personal Responsibility Towards Others*. Evening Standard (London). 15 February 1993, p9.

³² The New York Times. *World is Shocked; Demands Justice*. 14 May 1932, p2.

³³ The Courier, 16 December 1811, no5130.

The victimisation of Bulger, Lindbergh Jr, the Marr, and Williamson families perfectly capture the value of quintessential victims to the spectacle of justice. They are constructed by media discourses as ideal because they embody the purity and sanctity of childhood as well as the traditional family structure. However, as with Lindbergh Jr and Bulger, their ideal identity as defined by Christie (1986) is advanced to the level of quintessential because of the public spectacle of their bodily condition post-victimisation and the violent means with which they were killed. All three case studies make explicit the power of violence in the spectacle of justice, and the media appeal of the ripping apart of the boundaries between the private and the public sphere that violent criminality exposes. The mass media's attraction to the criminal wound presents a strong counter-point to Foucault's (1991) panoptic privatisation theory of justice, and supports Seltzer's (1998) argument that despite Foucault's case for "decorporealized discretion" (ibid: 129) "the fascination with spectacles of bodily violence clearly [has not] go[ne] away" (ibid). *Discipline and Punish* (1991) contends that the spectacle of suffering and the collective sociality surrounding criminal justice, such as the torture embodied in the execution of Damians in 1757 (ibid: 3), was discarded with the turn of the nineteenth century. The media discourses surrounding Bulger, Lindbergh Jr, and the Ratcliffe Highway murders make the fallibility of this theory explicit and illustrate the capital of both the ideal victim (Christie, 1986) and the eroticised violence of the ideal wound. Furthermore, they speak to how quintessential victims make both an original literary contribution as well as develop the value of spectacular justice.

The close relationship between carnal descriptions of crime victims and bodily witnessing is also prevalent in cases where the quintessential victim identity is less readily applied by media discourses. This is the case in the prototypical serial killer case, Jack the Ripper. The Jack the Ripper murder took place over the course of 1888 at which point, in comparison to the relatively primitive nature of the mass media during the Ratcliffe highway murders, the U.K. had witnessed significant changes in mass media including telegram and telephone technology. The case was at the point of major change; it was on the brink of global, visual, spectacle. These fast developing media technologies feasted on the details of the deaths³⁴ and presented conflicting judgments, wherein the women were simultaneously constructed as both 'other' and 'ideal'.

³⁴ The victims' names were: Mary Ann Nichols, Annie Chapman, Elizabeth Stride, Catherine Eddowes, and Mary Jane Kelly.

Descriptions of the women as “unfortunate”³⁵ and “absolutely defenceless”³⁶ echo Christie’s lament for the ideal victimisation of “the little old lady on her way home in the middle of the day after having cared for her sick sister” (1986: 18). However, Christie’s (1986) ideals are overshadowed by dominant discourses which describe the women as of “a quarrelsome disposition”³⁷ with “intemperate habits”³⁸ who were all “at the time of their death leading an irregular life, and eking out a miserable and precarious existence in common lodging houses”³⁹. The negativity directed towards the women echo the work of Seal (2010) who writes that historically, within the UK, there is a relationship between sex work, regulation of public space and moral order, the state, and working-class communities. The outcome, Seal argues, is the “identification of women selling sex with symbols of immorality and disease” (2010: 212 see also Stallybrass and White, 1986). Walkowitz (1980a) reiterates these tensions in her study of women who sell sex in the Victorian era. She identifies this period, in which the victims of Jack the Ripper were working, as a time in which such women were identified by the state, and society more broadly, as an outcast group (see also Sanders, O’Neill and Pitcher, 2017).

The purported quarrelsome dispositions of the women whose careers selling sex deemed them “too public” (Seltzer, 1998: 9), situate them outside the boundaries of Christie’s ideal victim status as they were not “carrying out a respectable project” (1986: 19) like the “little old lady” (ibid: 18). Nevertheless, ambiguity surrounding the women’s victim status is negated by the carnal and gruesome descriptions of their death and bodily state in victimhood; they were made quintessential because of the social value and spectacle of the ideal wound. Media discourses indulged in the voyeuristic gaze (Penfold-Mounce, 2016) and macabre descriptions of bodily matter which takes the reader inside the dead body. As such, news reports surrounding the Ripper victims are significant as they demonstrate how the spectacle of justice around ideal victims is exacerbated by the “lurid attraction” and “public fascination with torn and open bodies” (Seltzer, 1998: 1). To elaborate, the spectacle is compounded by the ideal wound and is therefore closely bound to quintessential victims. National publications sought to captivate the public with gory, bloody descriptions of the victim’s bodies, and document the “horrific departure from normalcy” (ibid: 6) that their death represented. In doing so, media discourses

³⁵ London Echo. *The Whitechapel Murder*. 3 September 1888.

³⁶ East London Observer. *The Whitechapel Tragedy*. 8 September 1888.

³⁷ London Echo. *A Sad East-End Exhibition*. 15 September 1888.

³⁸ Penny Illustrated Press, *The Whitechapel Murders*. 20 September 1888.

³⁹ Daily News. *The Whitechapel Murders*. 24 September 1888.

speak to the strength of Penfold-Mounce's (2016) theory of the abject gaze in which cadavers are subjected to voyeuristic, eroticised processes of seeing as part of normalised visual spectacle. Through a distinctly gendered lens, newspapers depicted scenes of:

“a woman...with her throat cut from ear to ear. The wound was about two inches wide, and the woman was lying in a pool of blood...the lower part of the abdomen was completely ripped open and the bowels were protruding”⁴⁰.

“she was lying on her back, with hands that were tightly clenched, and presenting altogether the appearance of one who had died in the greatest agony...battered almost out of recognition...her dress thrown slightly open, revealing a horrible gash more than an inch in diameter, extending from one ear to the other, and completely severing the windpipe, which protruded from the deep wound”⁴¹.

The detail with which media reports described the bodies of the dead women, outside the safe space of fiction (Penfold-Mounce, 2016), echo the “arsenal of horrors” (Foucault, 1991: 32) inflicted upon the bodies of the criminally condemned at the spectacle of the scaffold. The most notable example Foucault offers in *Discipline and Punish* (1991) is Damians the regicide who, in 1757, had the “flesh torn from his breasts, arms, thighs and calves with red hot pincers” (ibid: 3). And whilst “capital punishment is hardly ever inflicted out in the open” (Spierenburg, 1984: vii), if at all in contemporary Western societies, a movement that is in itself indicative of a Foucauldian panoptic privatisation, the social drama of ceremonial violence continues because of the power of mass media discourses. This is a key role media discourses play in sustaining the spectacle. And arguably, the ceremonial reporting of bodily and fleshly deaths is representative of a level of festivity comparable to the building of a new gallows (ibid: 87).

To conclude, quintessential victims are vital to the spectacle of justice. Fundamentally, Christie's (1986) theory of ideal victims is useful in better understanding those individuals whose victimisation is more newsworthy (Jewkes, 2015) than others, but it needs to be taken further. Christie's (1986) theory exposes the reasons behind the cultural abhorrence surrounding the victimisation of individuals characterised by weakness and innocence. Yet, when an ideal

⁴⁰ Grimsby Observer and Humber News. *Horrible Murder of a Woman: Another Whitechapel Mystery*. 1 September 1888.

⁴¹ East London Advertiser. *Another Whitechapel Mystery*. 1 September 1888.

victim is victimised by particularly violent or criminal means, characterised in this thesis as the ‘ideal wound’, then their ideal status is intensified to become quintessential. Under conditions of both the ideal victim and the ideal wound, criminal cases are transformed into quintessential high-profile public dramas and the spectacular notoriety of the victim and justice is exacerbated. The concept of spectacular justice seeks to describe the interrelationships between the public, the mass media, and the criminal justice system, and as such is enlivened and enhanced by quintessential victims.

This adaptation of Christie’s (1986) theory can be illustrated using the following formula:

$$\text{Ideal Victim} + \text{Ideal Wound} = \text{Spectacular Justice}$$

Therefore, the value of Christie’s (1986) work to the case for spectacular justice, as a parallel narrative to Foucault’s panoptic privatisation, is best realised when in conjunction with Seltzer’s (1998) theory of wound culture. Seltzer (1998) maintains that the public are fascinated and drawn to lurid attractions and the bloody and violent death of criminal victims. Witnessing the victims’ bodies in this way can be understood as a moment that truth is actualised and realised. The way the mass media focuses on the graphically carnal descriptions of the victim, highlights the importance of inscribing the crime on the victims’ body as a way of understanding and interacting with the perpetrator and notions of justice. The physical and descriptive opening up of the body by the mass media, and the institutionalisation of public spectatorship, can serve not only as a place around which the public can come together as a collective, and lament the destruction of social, cultural, and normative boundaries, but also of concretising mortality and the irregularity of the perpetrator. And so, to expand on the work of Penfold-Mounce (2010: 250) the corpses of quintessential victims have not only “held a fascination for the living, across time, culture and place” but have held a central role in the spectacle of justice also.

Foucault argued that “[a]t the end of the eighteenth century, torture was to be denounced as a survival of the barbarities of another age: the mark of savagery that was denounced as ‘Gothic’” (1991: 39). However, this transition has neither happened in its entirety nor with the ease with which Foucault theorises in *Discipline and Punish* (1991). The spectacle and carnivalesque nature of torture may have been correctly understood to weaken post-nineteenth century, however, quintessential victimhood illustrates how there is a sustained spectacle around death

and dead bodies. The public and the mass media still seek truth and justice through the visible exploration of bodies branded by criminality; the spectacle of the scaffold may have disappeared, so too the carnivalesque nature of torture and punishment (Bakhtin, 1984; Stallybrass and White, 1986; Presdee, 2000; 2004; Rusche and Kirchheimer, 1968), but the spectacle of justice has not; this is spectacular justice. Mass media discourses inscribe criminality and calls for justice on the bodies of victims, and in line with Seltzer's (1998) work around wound culture, the public and the media respond, especially when an 'ideal' victim is consumed through a violent and bloody demise.

Fundamentally, the spectacle of justice flourishes at the intersection between the ideal victim (Christie, 1986) and the ideal wound that builds on Seltzer's work around 'wound culture' (1998). Christie argued that victimisation is "not an objective phenomenon" (1986: 18), and thus, beyond the subjectivities that exist at the personal level of victimisation, victimisations and specifically the spectacle surrounding such individuals, must be understood in relation to the cultural, political, and social condition of society. The development of the mass media has not only facilitated the reporting of criminal cases and their transformation into high-profile public dramas, but also the ability to take the public *inside* the dead victim's body. An individual's victimisation and ideal status is compounded by their bodily, and bloody, relationship with criminality and thus provides social actors with an opportunity and space within which they can immerse themselves within criminal macabre. As such, the spectacle of justice functions as a parallel narrative to Foucault's privatisation theory not only because of the socio-cultural currency of ideal victims, as Christie (1986) suggests, but because of the enduring allure of, and public enchantment with, the relationship between crime, death, and justice. And thus, whilst the West has predominantly witnessed the demise of public punishment, the social engagement with justice and death maintains the "juridico-political function" (Foucault, 1991: 48) which Foucault isolated within the temporal confines of pre-nineteenth century Europe; the spectacle of justice continues because power is still manifested in the ceremony of quintessential victims.

4.3 Collateral Victims

Collateral victims give meaning to the collective displays of mourning, loss, and grief that individuals display following a criminal act and explore how such emotions are manifested in mass media discourse and what role this plays in creating a justice spectacle. They expose the

collateral impact of criminality upon communities and illuminate how the spectacle of justice thrives when victimisation is experienced at a structural, as well as individual, level. This is significant because it provides a supplementary narrative to the dominant discourse within *Discipline and Punish* (1991) that panopticism “gave rise to disciplinary projects” (ibid: 198) with which individuals were caught up in relentless practices of differentiation and isolation. Collateral victims make the co-existence of individual and collective responses to crime, and interactions with justice process, explicit, and their role is further emphasised by the proposed concept of spectacular justice. In doing so, collateral victims speak to the importance of using Garland’s (2001) conceptualisation of justice to understand how certain criminal cases are catapulted into becoming high-profile dramas. As explained in Chapter Two, Garland (ibid) calls for greater recognition of informal sites of justice as well as the rise in “expressive punishment” (ibid: 9). He argues that the public are a key element of justice. The analysis of collateral victims makes this explicit and speaks to the significant role the public, and their expressions of emotion, play in cultivating a spectacle of criminal justice. In line with *Culture of Control* (Garland, 2001), this thesis contends that to conceptualise justice without an awareness of public involvement is to overlook a valuable element in a complex process.

Collateral victimisation is arguably a key facet in maintaining the spectacle and its transfer to justice along two main lines. Firstly, since the early nineteenth century evidence can be found of criminal case studies that motivate collective displays of loss, grief, and anger; emotions which encourage communities to come together either physically or figuratively through the mass media and attempt to alleviate the pains of victimisation through the catharsis of collectivism. Fundamentally, despite the absence of the scaffold, criminal cases still provoke community solidarity and collective processes of resolve. Secondly, and in contrast to the Foucauldian theory that the spectacle of the scaffold was a ceremony used to exert the power of the community against the perpetrator, collateral victimisation and the spectacle of justice balances the punishment of the perpetrator with solidarity with the victim. As such, the spectacle of justice can be seen to continue through instances of collateral victimisation because of the public call for solidarity and justice for the victim. Herein there is strong evidence in support of the case that “Foucault’s picture of one system quickly replacing another is...far from historical reality” (Spierenburg, 1984: viii).

As highlighted by the quintessential victims, *Discipline and Punish* (1991) contends that pre-panopticism the punishment of criminals was a public spectacle. During this period, Foucault argues that there was an “insatiable curiosity that drove spectators to the scaffold” (1991: 46) upon which the body of the perpetrator was “displayed, exhibited in procession, tortured...[and] the sentence [was made] legible for all” (ibid: 43). Hibbert’s *The Roots of Evil* (2003) concurs with this historical analysis, and argues that during the eighteenth and nineteenth century, Tyburn “thronged” with spectators who wished “to see [a] dreadful show, and they [would be] packed into a...limited space, disporting themselves as heretofore by brutal horseplay, coarse jests and frantic yells” (ibid: 70). The carnivalesque nature of public punishment during eighteenth and nineteenth century Europe was distinctly ceremonial and “executions were dramatized in order to serve as a morality play” (Spierenburg, 1984: 43). As part of this morality play, the spectacle of punishment was a means of addressing “a shaky position of authority” (ibid); a ceremony by which power was manifested (Foucault, 1991). Beyond public punishment affirming the power of the sovereign and state, the spectacle of punishment provided societies with a space in which power that was lost through criminality could be “reactivated” (Foucault, 1991). It served as a chance for community affirmation and the strengthening of social norms, values, and morals; a chance to address and heal societal victimisation. Despite the fervour with which the spectacle of punishment is described in *Discipline and Punish*, Foucault argued that “[t]he Enlightenment was soon to condemn public torture and execution as an ‘atrocious’” (1991: 55). And whilst the spectacle of punishment has indeed largely been eradicated, the spectacle of justice continues through media discourses on collateral victims.

Collective displays of loss and grief are particularly discernible within the Ratcliffe Highway Murder case. Following his suicide, the body of suspected perpetrator and seaman John Williams, was paraded through the streets of London on which the murders of the two families were committed. His body was placed on a cart that had been purposefully designed to ensure “the greatest possible degree of exposure, to the face and body of Williams”, and the body rested and was “so much elevated, as to be completely exposed to public view”⁴². This is spectacular justice. The public visibility of Williams’ body, as an enactment of justice, illustrates the fallibility of Foucault’s (1991) theory that the spectacle of punishment and justice

⁴² Oxford University Herald, 4 January 1812, no.293: vol VII.

faded with the nineteenth century. However, beyond the prominence of Williams' body in the ceremony of justice around the streets of London, "the main character was the people" (Foucault, 1991: 57).

"An immense cavalcade of the inhabitants of two parishes"⁴³ of London lined the streets to bear witness to the spectacle. National newspapers reported that

"[t]he concourse of spectators on this awful, and we might add disgusting occasion, was immense. Every window of the streets through which the procession passed, was crowded beyond example...the body was left perfectly exposed to the view of every spectator"⁴⁴.

The scale of public concern regarding Williams' internment illuminates embedded social feelings of victimisation in response to "eruptions of social violence" (Kellner, 2012: 2). Media discourses reported that "[t]he feelings of all ranks of society were never so much interested, and alive to...the unhappy mystery that overhangs the particulars of the recent atrocious murder"⁴⁵. As such, the Ratcliffe Highway murders shows how the spectacle of justice is maintained because of the sustained need for social actors to come together in sobriety and to collectively reaffirm the boundaries of their community and reactivate power in a "moment of truth" (Foucault, 1991: 43). The ceremonial procession of Williams' body before his eventual internment provides a compelling challenge to the historical foundations on which *Discipline and Punish* (1991) is built and Foucault's conceptualisation of the spectacle more broadly. The ceremonial procession was a public spectacle that expresses notable similarities to the tortured bodies inscribed by legal ceremony which Foucault (1991) theorised would cease to exist as the nineteenth century heralded in panoptic privatisation. As such, it was a spectacle of justice for the collateral victims.

Reactivating power through collective displays of grief and loss similarly defines the Norwegian massacres in 2011⁴⁶ and the death of Michael Brown in 2014⁴⁷. There are profound dissimilarities in the nature of the two cases, one a terrorist act driven by right-wing extremist

⁴³ Ibid.

⁴⁴ Ibid.

⁴⁵ Caledonian Mercury, 16 December 1811.

⁴⁶ See Appendix One: Case Study Overview.

⁴⁷ See Appendix One: Case Study Overview.

ideologies (Kellner, 2012), the other a fatal example of institutional racism within the police force, however, importantly for this thesis they both occur during similar stages of media development and therefore their relationship to the spectacle is comparable. Both the Breivik and Brown cases are symbolic of the interactions between criminality and a global mass media, interconnected society; their spectacle is indicative of a social system that primarily “mak[es] sense of the world...through, or in reliance on, media” (Couldry, 2012: 160) [emphasis in original]. Beyond this, the cases are valuable to compare for this discussion because firstly they make the fallibility of Foucault’s (1991) historical analysis of justice and punishment explicit and secondly, offer insight into how justice has become a spectacle. In a public speech shortly after the massacre, the Norwegian Prime Minister at the time, Jens Stoltenberg, issued a statement that “Together we link an unbreakable chain of care, democracy, and security...It’s our protection against violence”⁴⁸. A functionalist sense of solidarity characterised Norway’s post-attack response, and significantly, both political and media discourses, as Stoltenberg illustrates, engendered a sense of collective loss and defiance through rousing speeches such as:

“No one will bomb us to silence. No one will shoot us to silence. No one will ever scare us away from being Norway. You will not destroy our democracy or our ideals for a better world”⁴⁹.

Media discourses herein play an active role in the spectacle of justice. Not only do media discourses make social actors aware of their victimisation and how the massacres served as an attack against both the members of the Youth Labour party but also Norwegian social values, but they also actively encourage the public to embrace their victimisation and find strength in the shared values and experiences of the collective. Media institutions perpetuated discourses of defiance, claiming “You will not destroy us”⁵⁰. Such discourses are reminiscent of how the internment of Williams in 1811 was attended by “an immense number of spectators [who] had assembled to witness th[e] extraordinary exhibition”⁵¹. In both cases, a criminal act serves as a triggering point for the strengthening of social bonds and the collective gathering of social

⁴⁸ Criscione, V. *Norway commemorates those killed in Anders Breivik’s July 22 rampage*. The Christian Science Monitor. 21 August 2011.

⁴⁹ Norman, T. *Nothing Mythological About this Madman*. Pittsburgh Post-Gazette. 26 July 2011

⁵⁰ News in English. *You will not destroy us*. 23 July 2011.

⁵¹ Public Ledger, 1 January 1812.

actors. In both cases the criminal case provokes the “[p]ublic [to] gather to mourn attacks”⁵² in an “[e]xtraordinary show of solidarity”⁵³. With this in mind, collateral victims are central to the spectacle of justice and shed light on the implications of the spectacular nature of justice for our understanding of the political, moral, and social condition of society. In particular, they demonstrate the pivotal role victims play for both formal and informal mechanisms of justice (Garland, 2001). According to Garland, since the twentieth century victims have reclaimed “centre stage” (ibid: 11) in social understandings of criminality, but beyond this, they are utilised by the mass media in the move towards the dramatization of crime (ibid: 10).

Recognising the human element in discussions of crime and justice is something that sets Garland’s (1991a; 2001) work apart from Foucauldian (1991) literature, and which warrants its central position within this project’s framework. For Garland, the late nineteenth and early twentieth century signalled a shift in power, with the waning of the sovereign and the rise of public power (2001: 30). Importantly for this thesis, he writes the “law came to hold itself out as ‘the will of the people’” (ibid). This is significant because the conceptualisation of collateral victims emphasises the close interaction between the public and crime, and in particular the power of the public to be seen and heard; the law is a reflection of public will, and the public will is constantly being communicated to the law makers.

Norwegian displays of grief and collective empowerment of collateral victims, emboldened by mass media discourses, culminated on the 25 July 2011. Four days after Breivik committed the massacres “Oslo came alive with a Rose March of more than 150,000 people”⁵⁴. Hundreds of thousands of people lined the streets of Oslo, each holding a single rose in the air as they walked from the town hall to the cathedral. The crowds were joined by members of the Norwegian Royal family, who had earlier observed a minute silence for the victims, during this time trading on the Stock Exchange and public transport were halted. The Norwegian Rose March is a significant event in an alternative narrative to Foucault’s theory of panoptic privatisation. A.K. Cohen (1966) concurs with Durkheim’s functionalist theory that crime has the potential to increase social solidarity and the intensity of interactions between members of the community. Both the Oslo Rose March and the internment of Williams are indicative of this social

⁵² The Local, 24 July 2011.

⁵³ News in English. *Extraordinary Show of Solidarity*. 26 July 2011.

⁵⁴ McLeod, K. *United in Mourning: Norway Massacre the People Turn out for March for Love Country Honours Victims of Right-Wing Slaughter*. Daily Record, 26 July 2011, p8.

movement. This is important because it stands in contrast to James Q. Wilson's theory that crime can have a destabilising rather than solidifying effect on the bonds of the community. For Wilson, crime can "disrupt[] the delicate nexus of ties, formal and informal, by which we are linked with our neighbours" (1975: 21). Wilson's theory is analogous to Foucault's (1991) theory of panopticism within *Discipline and Punish* wherein with the commencement of the nineteenth century, social systems moved towards greater control and discipline and the disruptive face of crime is dealt with through the careful partitioning of space and the meticulous management of populations. Therefore, the social response following the Ratcliffe Highway murders in 1811 and the Norwegian massacres two centuries later, exemplify the parallel Foucauldian narrative that populations continue to demonstrate principles of the collective, and have the power to govern and ask for justice at a social, not simply institutional, level. Such displays are understood within this thesis as central to narratives of the spectacle in justice.

This argument is further strengthened by the Michael Brown case⁵⁵, which, despite clear differences from the solemnity that characterised London and Norway's displays of collateral victimisation, demonstrates the ability of communities to achieve empowerment through collectivism, and the governance of justice at a social and spectacular level. Following Brown's death and the failure of the grand jury to charge Officer Wilson, "Ferguson became more than a neighbourhood demonstration...It expanded into a national night of witness and protest"⁵⁶. According to Jackson and Foucault Welles the unrest in Ferguson, Missouri, "sparked a national dialog...that some have dubbed America's 'New Civil Rights Movement'" (2015: 398). Both public and media discourses "seethed with indignation about police violence and state suppression" (ibid: 409). As such, the murder of Michael Brown served as a symbolic threat to the values of the Ferguson community, who in response, publicly campaigned for justice. On 9 August 2014, "[p]rotesters carr[ied] roses as they march[ed] in Ferguson"⁵⁷; symbols of solidarity and peace in the face of protests and riots that swept across the city⁵⁸.

⁵⁵ See Appendix One: Case Study Overview.

⁵⁶ Timpane, J. *Social Media Bring Ferguson to the World*. The Philadelphia Inquirer. 26 November 2014.

⁵⁷ Sultan, A. *Facebook talk on #Ferguson race causing a friend fallout, chilling relationships*. St. Louis Post-Dispatch (Missouri). 24 August 2014.

⁵⁸ See Chapter Five: The Perpetrator for a full discussion.

The nights of protest throughout Ferguson, together with the marches of Norway, and the stoicism of London citizens in 1811, emphasise how the spectacle of justice varies culturally and makes the imperfections of Foucault's theory explicit. *Discipline and Punish* (Foucault, 1991) contends that in comparison to the power structures which dealt with the pre-enlightenment leper, panopticism subjected social actors to "a meticulous tactical partitioning in which individual differentiations were the constricting effects of a power multiplied" (1991: 198). The panoptic disciplinary methods that observed, controlled, and isolated individuals sick of the plague can also be found in Bentham's 'Panopticon'. Here, "[e]ach individual, in his place, is securely confined to a cell" (ibid: 200) and is perpetually rendered immobile by a "sequestered and observed solitude" (ibid: 201). Under both conditions, panopticism is synonymous with individualism and isolationism, and "makes it possible to draw up differences" (ibid: 203) between social actors.

However, the panoptic focus on individualism and isolationism means that Foucault's (1991) theory does not account for the sustained presence of the collective and the value of community relationships. The Ratcliffe Highway murders, the Norwegian massacres, and the death of Michael Brown all induced collective demonstrations of collateral victimisation and solidarity. In each case, the public engaged in ceremonies of justice in which power was manifested and stability sought to be restored. Herein, despite the absence of the scaffold, and the disintegration of public punishment in Western societies, the spectacle continues to function according to the principles of Foucault's pre-panoptic society and is evident in media representations of criminal justice. This is because the spectacle of justice thrives at the intersection between crime, the community, and societal victimisation. Notably therefore, Foucault can be seen as overly presumptuous in the assertion that post-nineteenth century individuals would become isolated docile bodies, held captive within the panoptic machine and prevented from coming into contact with companions. Collateral victimhood demonstrates how the collective still functions as a core facet of the criminal justice system and the catharsis it provides social actors contributes not only to the spectacle of justice, but the healing process societies must undergo following crime. Moreover, not only do collective displays of loss and grief by collateral victims challenge Foucault's theory of panoptic privatisation through the sustained value of the collective in the face of individualism, they are also inherently challenging in their focus on the victim. The spectacle of justice and societal victimisation not only flourish surrounding the vilification and

punishment of criminal perpetrators who stand alone on the scaffold⁵⁹, they are increasingly focused on the victim. Thus, the spectacle of justice functions as a supplementary narrative because of the value of collective displays of solidarity with the victim and collective calls for justice on their behalf.

Building on this, the kidnap and murder of Charles Lindbergh Jr “and its subsequent reverberations became the most noted case in American crime annals. It attracted attention in every corner of the world”⁶⁰, but more importantly, it offers a concrete example of the relationship between the spectacle, collateral victimisation, and the post-panoptic victim centric justice. The Lindbergh Jr case exemplifies collateral victimisation and its role in the spectacle of justice. As one expert explained:

“The entire country will be shocked at the greatest outrage against law and order in the history of the nation. No one can ably describe the horror of such an atrocity. Lindbergh is more than just a name to Americans, and that such a thing could happen to an innocent child is one of the greatest crimes against civilisation that has ever occurred in the history of America”⁶¹.

The sense of social victimisation at the kidnap and murder of Lindbergh Jr is clear. However, collateral victimisation was not only experienced within the United States, but rather had international reach; “there were no boundaries to it. It was literally world wide”⁶². The U.S. mass media was saturated with discourses describing the internationality of the search and foreign nations whose citizens shared the American peoples feeling of victimisation that the nation’s “Golden-Haired Baby”⁶³ had been kidnapped. Headlines dominated the news informing American citizens that “Sympathy Pours in From all the World”⁶⁴, and that American’s were not alone in their grief; the “World Followed [the] Case with Unparalleled Concern”⁶⁵. As such, the scale of international concern and the “Floods of Messages Tells [of

⁵⁹ Ibid.

⁶⁰ The New York Times. *Nation Shocked by Lindbergh Case*. 21 September 1934, p4.

⁶¹ The New York Times. *Sympathy Pours in From Many Lands*. 13 May 1932, p2.

⁶² The New York Times. *World Waits Hopefully for News That the Lindbergh Baby is Safe*. 4 March 1932, p1.

⁶³ The New York Times. *Will Rogers Recalls a Golden-Haired Baby Toddling About in the Lindbergh Nursery*. 3 March 1932, p8.

⁶⁴ The New York Times. *Sympathy Pours in From All the World*. 13 May 1932, p1.

⁶⁵ Ibid: p2.

the] World's Pity"⁶⁶. The internationality of the Lindbergh Jr case perfectly captures the international impact and appeal of justice as a public spectacle and the powerful role of mass media discourse in extending the reach of the case.

Moreover, news discourses drew on the social capital of high-profile individuals in their reports to concretise the value of the missing child and validate widespread feelings of victimisation. In Italy, public figures such as Mgr. Ottaviani, Papal Under-Secretary of State claimed that "[i]t was an execrable crime, certain to horrify any one of the most elementary sentiments of humanity"⁶⁷. In Germany, Albert Einstein argued that he "thought [the] kidnapping was a sign of lack of sanity in social development and not a lack of laws"⁶⁸. And in France, Francois Latour, President of the Paris Municipal Council "compare[d] murder of baby to [the] Assassination of their President" and claimed that "Paris officials and population join in heartfelt sympathy for you in your great sorrow"⁶⁹. The scope of collateral victimisation and the spectacular nature of justice that surrounded international outpourings of grief, is encompassed in an article by The New York Times that described how the case was the "Centre of Interest in London" and that

"The News Chronicle said editorially today that the historian of the future, seeking to record what the people of England were talking and thinking most about in March, 1932, would have to write: "The real question of the hour was neither politics, business nor sport, but the Lindbergh's baby"⁷⁰.

The fervour the child's disappearance was accorded has important theoretical implications for theories surrounding the spectacle, collectivism, and the carnivalesque nature of crime (Presdee, 2000).

With this in mind, Charles Dickens attended the execution of François Courvoisier who was hanged in 1840 for murdering his employer Lord William Russell. Dickens' observations of the events correspond with Foucault's understanding of the pre-panoptic spectacle of punishment

⁶⁶ The New York Times. *Flood of Messages Tells World's Pity*. 14 May 1932, p3.

⁶⁷ The New York Times. *Vatican Circles Stirred*. 8 March 1932, p2.

⁶⁸ The New York Times. *Einstein on Kidnapping*. 4 March 1932, p9.

⁶⁹ The New York Times. *World is Shocked; Demands Justice*. 14 May 1932, p2.

⁷⁰ The New York Times. *Centre of Interest in London*. 8 March 1932, p2.

and how justice functioned at the time according to principles of a barbaric “theatre of terror” (1991: 49). Dickens recounts how he saw

“[n]o sorrow, no salutary terror, no abhorrence, no seriousness; nothing but ribaldry, debauchery, drunkenness, and flaunting vice in fifty other shapes...It was so loathsome, pitiful and vile a sight”⁷¹.

Whilst Dickens’ debauchery is representative of the celebratory face of punishment during the mid-nineteenth century, which in itself is challenging to Foucauldian (1991) theories of punishment, the societal pleasure which Dickens claims individuals gleaned from the occasion is not replicable in the Lindbergh Jr case. Arguably, spectacular justice highlights how the spectacle continues not because of the public investment in debauchery and hedonism, but rather because of their investment in the community and solidarity with the wronged. Thus, the spectacle has not disappeared, but rather it functions under a new guise. The carnival which Foucault (1991) argued surrounded the spectacle of punishment, although at times still present, is less prominent, joined instead by collective displays of mourning and political lament for the victim.

The energy with which socio-political and media discourses within the U.S. demonstrated solidarity with Charles Lindbergh Jr is but one example of a story that “comes along [and] hits deep down and touches us all”⁷². The murder of James Bulger is another of these criminal stories that explicates the relationship between the spectacle, collateral victimisation, and victim focused justice; the Bulger case embodies spectacular justice. The death of the two-year-old child was considered by many as a “crime against society”⁷³, and contributes to the theory that collateral victimisation is no longer expressed through the carnivalesque display of “violence, sexuality, death, [and] bodily functions” (Spiereburg, 1984: 97), but rather collective reflection. At the heart of the public solidarity with the victim and the spectacle of societal victimisation, is the strong sense of community within the local area. Bulger was kidnapped from the Strand Shopping Centre in Bootle, a town in the North West of England near Liverpool.

⁷¹ The Daily News, 23 February 1846.

⁷² ABC NEWS. *Innocence and Evil*. 29 November 1993, Day One 8:00pm ET.

⁷³ Kelly, P. *Letter: Bulger: A Crime Against Society*. The Independent (London), 26 December 1999.

“Liverpool is most famous as the birthplace of the Beatles, but the Beatles never recorded the city’s anthem. ‘You’ll Never Walk Alone’. It idealizes Liverpoolians’ sense of community, which makes what has just happened here all the more devastating”⁷⁴.

The community sentiments that are at the heart of Liverpool’s collateral victimisation are most visible at Bulger’s funeral. Media discourses were saturated with reports of how local residents had come together in solidarity for James, and to mourn for the “death that shocked Britain and the world”⁷⁵. The funeral was a spectacle of “unprecedented grief”⁷⁶ by family, friends, and collateral victims and shed light on the important community function the spectacle of justice can serve and the role of the media not only to create a spectacle but to give voice to those in mourning. Indeed, like the pre-panoptic scaffold, the funeral acted as a foundation around which power was affirmed and community identity established. In the same way the Norwegian massacres induced collective displays of grief and loss, and in parallel to the geographical scope of the Lindbergh Jr case, the “grief of Liverpool was echoed around the country...Thousands more watched a live broadcast of the moving ceremony on television”⁷⁷. The societal victimisation following the Bulger case is encompassed in a quote in *The Independent* which simply stated that “Liverpool weeps as James Bulger is buried”⁷⁸.

In conclusion, the collateral victimisation that is present throughout these case studies is evidence that whilst the spectacle of punishment has faded with the growth of the enlightenment and systems of panopticism, the spectacle of justice persists. Whilst the public are no longer witnesses of a body erected upon a scaffold, upon which “the flesh will be torn away, poured molten lead, boiling oil, burning resin, wax and sulphur” (Foucault, 1991: 3), the crowds which descended upon these scenes, and the cathartic nature of collectivism in the face of crime and calls for justice are still present today. *Discipline and Punish* contends that punishment and justice “belong to a political technology of the body” (1991: 30). But not only is justice a political technology of the physical human body as demonstrated by quintessential victims, but

⁷⁴ ABC NEWS. *Innocence and Evil*. 29 November 1993, Day One 8:00pm ET.

⁷⁵ Collins, P. *Who’s on trial in toddler’s killing?* The Age (Melbourne, Australia). 3 March 1993.

⁷⁶ O’Hagan, A. *BAD-BASTARDNESS; ‘If all of this sounds uncommonly horrific, then I can only say that it did not seem so then; it was the main way that most of the boys I knew used up their spare time’*. The Guardian (London). 10 March 1993.

⁷⁷ Harris, S. *Hundreds mourn for James Bulger*. Herald Sun. 2 March 1993.

⁷⁸ Foster, J. *Liverpool weeps as James Bulger is buried*. The Independent (London). 2 March 1993.

also a technology of the social body. As an investment in power, criminal justice continues not only as a spectacle, but as an opportunity for the reactivation of the community following widespread societal victimisation.

In the Breivik, Bulger, Lindbergh Jr, and Brown cases, the scale of collateral victimisation is made clear, and so too is the public solidarity with the victim. This is significant because it directly challenges the Foucauldian theory that post-panopticism, systems of power and control would eradicate the social “uniform mass” (1991: 170) in favour of disciplined and regulated individuals. Indeed, not only does collateral victimisation illustrate the collective impact crime can have on a community, but also how communities throughout history can respond to crimes and call for justice on a collective basis. Thus, despite Foucault’s theory that the spectacle of punishment would fade with the nineteenth century, this success must not be conflated with the argument that privatisation is universally dominant.

4.4 Ambiguous Victims

Ambiguous victims are defined as individuals or social groups who experience feelings of victimisation but around whom there is social, cultural, or media questions relating to the validity of their claim to the victim status. To elaborate on this definition, in some case studies, media discourses present a clear and seemingly unproblematic representation of the victim and the perpetrator. These case studies fit neatly within the orthodox understanding of criminality, in which an individual or social group is identified by the criminal justice system as criminal, whilst another individual or social group is made subsequently their victim. Such case studies of clarity are discussed throughout the thesis. However, definitional clarity is not present in all cases. There are many criminal case studies in which definitional boundaries are variable, and who is the victim and who is the perpetrator is a matter of subjectivity rather than certainty. Ambiguous victims are herein important because arguably when the boundary between the victim and the perpetrator is blurred, the ambiguities surrounding the two identities and the consequential anomie (Durkheim, 2002) and turmoil this can cause, can be seen to trigger the spectacle of criminal justice. Building on literature which details the blurring powers of the mass media (see Debord, 2012; Baudrillard, 1988; Carrabine, 2008; Hayward and Presdee, 2010; Eldridge, 1993), ambiguous victimhood demonstrates how international criminal justice systems can be defined by agency, subjectivity, and the spectacular, in addition to the fixed

absolutism of panopticism. Spectacular justice makes clear how justice is made a spectacle when a case involves ambiguity and uncertainty, and individuals do not neatly conform to criminal and social labels.

As such, ambiguous boundaries trigger the spectacle of justice, and this relationship is most conspicuous at the intersection between social stasis and social change; justice has become a spectacle because of the close relationship between the mass media and institutions of control. To elaborate, when panoptic regimes of power are under threat by ambiguities within criminal cases, the spectacle of justice is active. Mass media discourses, as an “agenc[y] of social control, in the hands of established authority...used to manage and manipulate the emergence of mass opinion and mass democracy to serve their ends” (Eldridge et al, 1991: 12) work alongside agents of power to restore control and publicly seek justice against the perpetrator. Mass media discourses are fundamentally utilised by panoptic regimes of power to defend institutional norms and publicly seek the punitive punishment of perpetrators. In tandem, media and political institutions work to strengthen the value of the binary opposition between the victim and the perpetrator label, and consequently prevent future transgressions. Spectacular justice thus highlights the conspicuous relationship between criminality, ambiguity, and the need to restore panoptic equilibrium.

In parallel with the stabilising effect of media discourses in processes of social stasis, media discourses are also seen to contribute to the spectacle of justice through their active collaboration with social actors who wish to incite social change. In this way, justice has also become a spectacle because of the empowering function of the mass media and its role in facilitating rebellion and resistance. Mass media discourses have the power to hold agents of power to account and facilitate structural reflexivity, and in many cases plays an important role in identifying corruption and the need for justice to be served against those in power. Fundamentally, mass media discourses can enable social actors’ agency to undermine the power of the state to define, and their power to control. Thus, spectacular justice as a proposed supplementary narrative, gives meaning to the spectacle as a product of the reflexive agency of social actors to critique existing power structures, through criminality, and whose power is bolstered by the mass media.

In both cases, whether media discourses contribute to social stasis or social change, the mass media plays a powerful role in liaising with the public and creating a spectacle of justice. Firstly, it will be shown how the blurring of boundaries through crime undermines the power and knowledge of the state to define social actors and enforce social control. And as a result, agents of power draw on the mass media to publicly, rather than privately, demonstrate their authority and justify attacks against opposition. Secondly to successfully instigate social change and make reflexive accusations that those in power are corrupt and therefore perpetrators, requires social actors to utilise the power and reach of mass media discourses to embed anti-institutional and anti-state sentiments throughout the capillary systems of the panoptic machine. Definitional clarity and stark boundaries between the victim and the perpetrator are characteristic of the panoptic machine. Bentham's 'Panopticon' is designed so that there are clear power differentials between the supervisor in the watchtower and the actor in their cell; it is a machine "that assures dissymmetry" (Foucault, 1991: 202). And so too, within Foucault's panoptic society, discipline and order are maintained through conspicuous power differentials between capillary mechanisms of power and social actors whose lives are restrained by the mechanics of the panoptic machine. In light of this, one of the primary aims of the panoptic machine is to abolish "[t]he crowd, a compact mass, a locus of multiple exchanges, individualities merging together, a collective effect" (ibid: 201) and replace it with "a power situation of which [the social actors] themselves are the bearers" (ibid).

Therefore, under conditions of panoptic privatisation and discipline, ambiguity and blurred boundaries represent uncertainty and are indicative of failing social control. Panopticism functions according to principles of strict partitioning and governance (Foucault, 1991), and thus individuals who reject socially sanctioned labels and threaten the stability of clear social boundaries, must be controlled to prevent contagion and resistance spreading to the rest of the social body. As such, panoptic systems of control, "[i]nstead of bending all its subjects into a single uniform mass...separate, analyse, [and] differentiate" (ibid: 170). With this in mind, the Jodi Arias case⁷⁹, in which the perpetrator Arias, is described as both "like...the devil"⁸⁰ and "a

⁷⁹ See Appendix One: Case Study Overview.

⁸⁰ Hughes, D. *HLN After Dark: Jodi Arias, Bold Accusation: Jodi is a danger to society*. HLN. 19 April 2013.

remorseful and mentally ill woman who had been abused since childhood”⁸¹, presents the panoptic regime with a threatening ambiguity.

Arias seemingly fits neatly within typical definitions of what a perpetrator identity entails. However, key to the case is Arias’ defence that her criminality was a product of her own victimisation at the hands of the deceased, Travis Alexander. The defence claimed that “Alexander [w]as a cheating womanizer who used Arias for sex and abused her physically and emotionally”⁸². As such, judicial discourses present clear ambiguities within the case as to who is the victim and who is the perpetrator. With this in mind, Arias’ defence neatly corresponds to research into justifications for female violence against men and how “with regard to attributions for their aggression, convicted female offenders often attribute their behaviour to self-defence, leading many to conclude that these women are really victims rather than primary aggressors” (Hamberger & Potente, 1994; Saunders, 1995 in Henning et al, 2005: 132). And thus, Arias’ claims to self-defence and victimisation, as an attempt to present a valid claim to the victim label, and to distance herself from the perpetrator identity, represents a rejection of the perpetrator label provided by the panoptic disciplinary apparatus. Beyond this, Arias’ contradictory, double identity can be seen to provoke the mass media into creating a spectacle of justice because of how she undermines and challenges gender norms.

To address the challenge posed by Arias’ ambiguity, the mass media, fuelled by the fear that

“[i]f the crowd gathered round the scaffold, it was not simply to witness the sufferings of the condemned man or to excite the anger of the executioner: it was also to hear an individual who had nothing more to lose curse the judges, the laws, the government and religion” (Foucault, 1991: 60).

In doing so, media discourses closed off alternative identity statuses for Arias; she was locked within the definitional boundaries of the perpetrator and denied access to the victim label by gatekeepers within the mass media. In the pursuit of stability and the binary opposition between the victim and the perpetrator, broadcast media coverage of Arias’ case is defined by spectacular antagonism. The mass media descends into using transparent, manifest labels to

⁸¹ Nye, J. *A sisters anguish: Agony of victim’s family as Jodi Arias escapes death penalty after just ONE juror held out and is sentenced to life in jail instead*. Mail Online. 5 March 2015.

⁸² Warren, L. *Jodi Arias found GUILTY of stabbing and shooting dead her ex-boyfriend in sex-driven murder the gripped America*. Mail Online. 9 May 2013.

galvanise public doubt and foster solidarity with the victim Alexander. In this way, the tone of media discourses resembles the retributive squalor of Foucault's pre-panoptic spectacle of punishment, and this, this thesis argues, is a key discursive mechanism in creating a spectacle. Nevertheless, unlike the squalor of the execution scaffold, the Arias case is emblematic of a uniquely technological society defined by Kellner as "an ever-mushrooming tabloid and infotainment culture" (2003: 93). In contrast to Kellner's analysis of the O.J. Simpson trial, for whom the media spectacle that surrounded the case stemmed, in part, from an already established celebrity status, Arias was instead transformed into a celebrity *because* of her criminality. The public spectacle of Arias' case embodies how "celebrity...is manufactured and managed in the world of media spectacle" (ibid: 4), yet, rather than becoming an icon in the traditional sense, Arias' celebrity was a mediatised spectacle of anger, disdain, and shame cementing the view that perceived "transgressions...sell" (ibid).

The following data extracts highlight the power of the media to reinforce doubt and cynicism amongst the public, and how by petitioning for the binary between the victim and the perpetrator within Arias' case, the media is able to support the legitimacy of the criminal justice system and concretise panoptic discipline and segmentation.

- "She *played* the poor, innocent victim...She cried and sobbed"⁸³
- "She's going to...*paint* herself the victim"⁸⁴
- "How can this woman just sit there and *play* the victim?"⁸⁵
- "Oscar-winning *performance*"⁸⁶
- "[S]he'd get [an] Academy Award for what she's doing. She's *presenting* herself as a sort of passive victim"⁸⁷

From these media discourses, it is clear that U.S. broadcast media channel CNN rejected Arias' claim to victimisation in favour of a public construction of Arias that supports Jack's (2001) theory that "[t]hroughout history, women have been punished for obvious displays of aggression" (in Gilbert, 2002: 1279). The punishment used here is arguably the resounding disregard for Arias' claims to victimhood, and the explicit support for the prosecution who

⁸³ Velez-Mitchell, J. *Jodi Arias back in court*. CNN. 5 August 2014.

⁸⁴ Hughes, D. *Jodi Arias back in court*. CNN. 5 August 2014.

⁸⁵ Cevallos. *HLN host: Arias should plead insanity*. CNN. 26 August 2013.

⁸⁶ Velez-Mitchell, J. 2013. *Jodi Arias back in court*. CNN. 20 August 2013.

⁸⁷ Pinsky, D. 2013. *Arias describes first sex with Alexander*. CNN. 6 February 2013.

“described Arias as a liar who was trying to trick the jury into believing she was the victim”⁸⁸. In consequence, broadcast media presents the public with no alternative discourse other than the one offered by Allred that “[a] real victim definitely is someone who is very much the opposite of Jodi Arias...N.A.V. Not a victim”⁸⁹. This is important for exposing the role of the mass media in making a spectacle of justice because it highlights how media discourses extend the punitive function of the justice system; the media plays a punitive role and incites public discontent against the perpetrator in pursuit of justice. According to Young “such moments fulfil a desire for harshness...and...participation in the suffering of the criminality more associated with the days of the spectacle on the scaffold” (1996: 127).

The silencing techniques of the mass media represent an active disengagement with the principles of a liberal democracy which Cottle argues comprises of an “informed citizenry” (2003:137). Furthermore, rather than “shed[ding] light in dark corners...[and] present[ing] information...with impartiality and objectivity” (ibid) it obscures the ‘Arias as victim’ narrative from the public and in doing so denies social actors full knowledge in the pursuit of the preservation of the established order. These discourses support the credibility of Foucault’s (1991) theory of privatisation as the primary power narrative. In *Discipline and Punish* (1991), Foucault argued that the European plague of the seventeenth century heralded a new panoptic system of discipline and order. Under these conditions, power structures created a “segmented, immobile, frozen space” in which “[e]ach individual is fixed in his place. And, if he moves, he does so at the risk of his life, contagion or punishment” (ibid: 195). Herein, order is maintained through the constant and universal exercise of power against social actors; bodies are strictly managed within spaces and “inspection functions ceaselessly” (ibid). These panoptic principles of patrol and observation, in order to “ensure the prompt obedience of the people and the most absolute authority of the magistrates” (ibid: 196), can be seen in media discourses that report on Arias’ case and in particular the medias resolute contempt for her claims to the victim identity.

⁸⁸ Nye, J. 2015. *A sisters anguish: Agony of victim’s family as Jodi Arias escapes death penalty after just ONE juror held out and is sentenced to life in jail instead*. Mail Online. 5 March 2015.

⁸⁹ Allred, G. 2013. *HLN After Dark: Jodi Arias. Bold Accusation: Jodi is not a victim*. HLN. 24 April 2013.

In an HLN programme entitled *Jodi Arias: victim or victimizer?* presenter Vinnie Politan introduces “Tonight’s bold accusation: Jodi is *not* a victim”⁹⁰. The show explicitly dismisses Arias’ claim to victimhood by directing discourses towards her “portrayal as a femme fatale masquerading as a woman of faith”⁹¹. The show begins with a video montage of Arias’ testimony in court and examples of when she described abuse by her mother who “had acrylic nails and sometimes...would grab [her] and dig her nails into [her] skin”; her father who “would get rougher and rougher, one time [she] hit a door post...and it knocked [her] out”⁹². Arias also recalls abuse by Travis Alexander:

“he wanted me to dress up like Little Red Riding Hood and he body slammed me on the floor...and he said ‘don’t act like that hurts’, he called me a bitch, and he kicked me in the ribs”⁹³.

After the video the show cuts to an in-studio interview between presenter Vinnie Politan and Gloria Allred, a victim’s rights attorney. Politan directs the camera and invites the audience to “take a little look into Jodi’s Garden of Secrets, where we see good [points at Alexander] and we see evil [points at Arias]”⁹⁴ (ibid) displayed on an interactive in studio television.

“Let’s take a look at Jodi Arias, not only is she a not a victim, but she’s a bit of a bully...she’s not a victim ladies and gentlemen, she victimises others, like she victimised Travis Alexander”⁹⁵.

Such discourses illustrate the panoptic ramifications of transgression⁹⁶ (see Jenks, 2003; Bakhtin, 1984; Stallybrass and White, 1986; O’Neill and Seal, 2012) and the currency of retribution in media spectacles of justice. Through her criminality, Arias broke free from the shackles of the “segmented, immobile, space” (Foucault, 1991: 195) of panoptic control and

⁹⁰ Politan, V. 2013. *HLN After Dark: Jodi Arias. Bold Accusation: Jodi is not a victim*. HLN. 24 April 2013.

⁹¹ The Irish Times. *Innocent or guilty, it makes for great ratings; At any one time it seems US public opinion is absorbed by a murder trial*. 13 July 2013, p11.

⁹² Politan, V. 2013. *HLN After Dark: Jodi Arias. Bold Accusation: Jodi is not a victim*. HLN 24 April 2013.

⁹³ Ibid.

⁹⁴ Ibid.

⁹⁵ Ibid.

⁹⁶ A more detailed discussion on transgression and spectacular justice can be found in Chapter Five: The Perpetrator.

gender norms (Naylor, 2001), and as a result, her testimony which aimed to secure an alternative identity, was denied all credibility. Instead, media discourses used Arias' testimony that she was a victim as further evidence of her ability to construct a false identity, her guilt, and therefore Alexander's innocence. The mass media can here be seen to patrol the moral barricades of society (Hall et al, 1978; Cohen, 2002; Jewkes, 2010) much like the syndicate patrolled city limits during the panoptic plague. As such, the proposed concept of spectacular justice highlights the role of media spectacles in reinforcing the moral boundaries of society and responding to the threats posed by criminality. Just like the inspectorate of the plague required "[e]veryone locked up in his cage, everyone at his window, answering to his name and showing himself when asked" (Foucault, 1991: 196), mass media discourses reinforce the power of the state and demand Arias is accountable for her criminality. She must be served justice for her pathological (Foucault, 1991) tendencies and she must not continue to function outside the confines of the panoptically assigned, normative cell (Showalter, 1987). The power of the mass media to maintain the "absolute authority of the magistrates" (Foucault, 1991: 196) and in so doing support the smooth functioning of a panoptic regime, is indicative of the strength of panoptic privatisation, and the sustained need to maintain and regain social stasis in the face of challenging individuals and bodies out of place.

However, despite clearly demonstrating the panoptic power to manage populations, punish infractions, and identify transgressors, importantly, these systems of panoptic power are not conducted within the private confines of judicial institutions; these systems of population management and the enforcement of norms and values are conducted in the public eye; they are media spectacles. Fundamentally, the Jodi Arias case and its ambiguity between the victim and perpetrator is an instance of spectacular justice in the quest for social stasis. In *Discipline and Punish* (1991), it is argued that

"from the point of view of the law that imposes it, public torture and execution must be spectacular, it must be seen by all almost as its triumph. The very excess of violence, employed is one of the elements of its glory: the fact that the guilty man should moan and cry out under the blows is not a shameful side-effect, it is the very ceremonial of justice being expressed in all its force" (Foucault, 1991: 34).

The spectacle of justice surrounding the Arias case is reminiscent of Foucault's pre-panoptic torture. The panoptic aversion to ambiguity is a means of strengthening existing social structures, and reinforcing the boundaries broken by the threat of criminality. But fundamentally, this was a public process empowered by media discourse. The trial was broadcast live each day and then trial footage was utilised by broadcast media institutions as fuel within a "violent media culture" (Kellner, 2012: 12). This presents a significant challenge for Foucault's theory of privatisation, because not only does the case demonstrate the public dissection of Arias' life, but also the public and moral condemnation of her victim status and claims to credibility. In *Discipline and Punish* (Foucault, 1991) the execution of Massola in Avignon was a physical manifestation of the power of the sovereign against the body; he was tied to a stake and had his organs cut out of him "each piece is placed on display" (Foucault, 1991: 50-51). According to Garland, during the "ancien regimes" (1991a: 140), as described by Foucault (1991), "justice [was] a manifestation of armed violence, an exercise in terror intended to remind the populace of the unrestrained power behind the law" (Garland, 1991a: 140). To extend this, Garland writes that for both Foucault and Durkheim, understanding mechanisms and systems of punishment and justice are integral in understanding society more broadly. More specifically, "punishment serves as a key with which to unlock a larger cultural text" (1991: 12). Such a metaphor is helpful in understanding the Arias case and the overlap between the mass media, the public, and desires to punish. The violent, bodily nature of justice as understood by Garland (1991a) and Foucault (1991) during the ancient regimes can be transferred to the Jodi Arias trial. Whilst on trial, Arias' entire persona was analysed and then consumed by the mass media, which ensured that every utterance of victimhood was questioned and expelled. Her public dissections echo how

"the executioner...severed the sinews near the two heels, and then opened up the belly from which he drew the heart, liver, spleen and lungs, which he stuck on an iron hook, and cut and dissected into pieces, which he then stuck on the other hooks as he cut them, as one does with an animal' (Bruneau, 259)" (Foucault, 1991: 51).

In fact, not only is Arias' case reminiscent of the pre-panoptic spectacle and evidence that "the great murders ha[ve not] become the quiet game of the well behaved" (Foucault, 1991: 69), it also illustrates the potential brutality of this spectacle; a punitive system akin to the barbarism with which Damians the regicide was condemned "to make the *amende honorable* before the

main door of the Church of Paris” (Foucault, 1991: 3). Thus, Arias’ case echoes regimes of power found in 1757 when the spectacle was an established facet of punishment, and is antithetical to the ordered and regimented structure of panoptic justice. Media discourses seemingly relish in public malevolence towards Arias, and exert control in ways distinctly analogous to the eighteenth century “arsenal of horrors” (Foucault, 1991: 32) which pursued the most violent criminals and ensured there was no ambiguity over who is the victim and who is the perpetrator. Thus, the punitive character of Foucault’s spectacle of punishment is still present, but operates in media discourses on criminal trials and justice rather than the execution scaffold.

However, the relationship between ambiguous victims, boundaries, and the spectacle of justice are not limited to periods of anomic distress and the socio-political search for stasis. In contrast to the aggressive pursuit of social equilibrium in the Arias case, the media can also serve as the primary generators of the ambiguity between the victim and the perpetrator and can collaborate with social actors who mechanise such ambiguity to affect social change. To elaborate, mass media discourses can aid social actors in their campaign for social change through the promotion of greater reflexivity and flexibility around the labels ‘victim’ and ‘perpetrator’. Arguably this is a central role that the mass media plays and contributes to its creation of a spectacle of justice. The relationship between social change, mass media discourses, and the spectacle is epitomised by the Edward Snowden case study⁹⁷.

The dominant ambiguity concerns how Edward Snowden utilised mass media discourses to call for social change and pursue a spectacular call for justice through the public criminalisation and vilification of the U.S. governments’ surveillance practices. According to Snowden, these practices, arguably much like Foucault’s panoptic system of power, “ha[ve] seeped so far into the very arteries, the capillaries of culture, that it is often seen as an unquestioned requirement of modern life” (Lyon, 2015: vi see also Lyon 2014; 2015a; 2015b; Bauman et al, 2014). The case exemplifies the complexities and subjectivities surrounding the victim and the perpetrator label and exposes how these contribute to the spectacle of justice and social change. The ambiguity between victim and perpetrator that characterises Snowden’s case so powerfully, illustrates how despite *Discipline and Punish*, individuals have not transformed into docile

⁹⁷ See Appendix One: Case Study Overview.

“object[s] and target[s] of power” (Foucault, 1991: 136), neither have they become “political puppets” (ibid) as Foucault theorised. Individuals have power and they have agency (Spierenburg, 1984; Garland, 1986; Said, 1986; Carney, 2010). Beyond recognising the sustained agency of individuals, it is important to note how individuals can apply their agency against institutions and agents of social control, and subject them to management, analysis, and discipline similar to that enforced on the inhabitants of Bentham’s ‘Panopticon’ (Foucault, 1991). According to Couldry, in a contemporary, globalised, technologically saturated society, not only is “politics...fundamentally mediatised” (2012: 24), by the media lens “may be the most effective way for voices and questions that challenge traditional and elite discourse to break through” (ibid: 25). In essence, the stage of media development within which the Snowden case operated signals how “government and media, popular and individual discourse [have] become meshed together” (ibid: 103) on an international scale. Thus, the watchmen in the panoptic tower are no longer able to evade observation and surveillance; the individuals in their cells have the ability to watch the watch tower and expose perceived shortcomings.

The watchmen in the Snowden case are represented by the U.S. government. Snowden “observed from within the NSA the systematic sucking-up of personal information into a voracious vacuum by government agencies” (Lyon, 2015: 5). The close interaction between the spectacle and surveillance speaks to Castell’s notion of a network society and the understanding that the contemporary digital age is defined by “the pursuit of knowledge and information” (2000: 17); the U.S. government’s citizen surveillance practices take this to its extreme. These observations compelled Snowden to make this information public and so he revealed how the “NSA [is] collecting phone records of millions of Americans daily”⁹⁸ and that in carrying “out the biggest intelligence leak in a generation”⁹⁹ Snowden hoped to “reignite longstanding debates in the U.S. over the proper extent of the government’s domestic spying powers”¹⁰⁰. The importance of Snowden’s whistleblowing goes beyond the socio-political implications of arguing that “the United States, which has long been trying to play innocent as a victim of

⁹⁸ Greenwald, G. *Revealed: NSA collecting phone records of millions of Americans daily*. The Guardian. 6 June 2013.

⁹⁹ Greenwald, G. *NSA whistleblower Edward Snowden: ‘I do not expect to see home again’*. The Guardian. 9 June 2013.

¹⁰⁰ Greenwald, G. *Revealed: NSA collecting phone records of millions of Americans daily*. The Guardian. 6 June 2013.

cyber-attacks...is the biggest villain in our age”¹⁰¹. More than this, it asserts the notion of the spectacle in justice; it exposes the central communication role of the mass media in its creation and highlights the intricate relationship between the spectacle and political issues. Therefore, Snowden’s agency, driven by a desire for socio-structural change, illustrates not only the power of the mass media to make criminal justice public, but also to publicise campaigns against supposed injustices of the state.

Aided by the British newspaper the *Guardian*, Snowden campaigned to publicly and visibly blur the boundary between the victim and the perpetrator and to deflect accusations of guilt onto the U.S. government. Following the information leaks, the *Guardian* reported that “the communication records of millions of U.S. citizens are being collected indiscriminately and in bulk- regardless of whether they are suspected of any wrongdoing”¹⁰². Media discourses went on to argue that such levels of surveillance by the State against its citizens is indicative of how “those who control the law have become corrupt...the law in this case...is a tool of injustice”¹⁰³. The media denigrates the U.S. government’s “evil intrusion”¹⁰⁴, and much like the aggressive vilification and pursuit of perpetrators such as Thompson, Venables, and Arias¹⁰⁵, they present the reader with an image of the malign, antagonistic, and harmful criminal perpetrator. As with the Arias case, the mass media’s role in the spectacle of justice is characterised here by retribution and conflict. The *Guardian* grounds the malignance of the U.S. government within the view that “no espionage tool that Congress gives the National Security Agency is big enough or intrusive enough to satisfy the agency’s inexhaustible appetite for delving into the communications of Americans”¹⁰⁶.

These discourses are significant because they question Foucault’s theory that “[t]here is no risk...that the increase of power created by the panoptic machine may degenerate into tyranny” (1991: 207). The characterisation of the U.S. government and its surveillance practices as

¹⁰¹ Philippines Daily Inquirer. *Snowden leaves Hong Kong, reportedly bound for Russia*. 23 June 2013.

¹⁰² Greenwald, G. *Revealed: NSA collecting phone records of millions of Americans daily*. The Guardian. 6 June 2013.

¹⁰³ Greenwald, G. *On the Espionage Act charges against Edward Snowden*. The Guardian. 22 June 2013.

¹⁰⁴ Lo, A. *Snowden vindicated by NSA reforms*. South China Morning Post. 13 August 2013.

¹⁰⁵ See Chapter Five: The Perpetrator for a full discussion.

¹⁰⁶ Greenwald, G. *Email service used by Snowden shuts itself down, warns against using US-based companies*. The Guardian. 9 August 2013.

“nefarious”¹⁰⁷ and “monstrous”¹⁰⁸ is representative of the view that the guards within the panoptic watchtower have become corrupt. Herein Snowden’s whistleblowing and alliance with the *Guardian* can be understood as a public attack against the supposed tyrants of the panoptic machine who fail to implement Foucault’s (1991) theory that “the disciplinary mechanism will be democratically controlled, since it will be constantly accessible ‘to the great tribunal committee of the world’” (207). Combined, Snowden and mass media discourses create a spectacle by upsetting the line between perpetrator and victim, and making it ambiguous; ambiguous victimhood triggers the spectacle of justice. According to Snowden, the power of the state is not “democratically controlled”, but rather information on U.S. citizens is collected “without the[ir] consent”¹⁰⁹ and communications are “directly and unilaterally seized”¹¹⁰. For Snowden, creating a spectacle of justice is necessary in order for the public to realise that “[t]he celebrated, transparent, circular cage, with its high tower, powerful and knowing” (Foucault, 1991: 208) is not the victim, but rather the perpetrator. And so, aided by the power of mass media discourses, Snowden’s whistleblowing spectacularly and publicly “cement[ed] [the] morally flexible authoritarian roles in [the U.S.] government”¹¹¹. For Snowden, social change can only be realised when the line between the victim and the perpetrator, which is “a thin one indeed”¹¹² is re-conceptualised.

The discourses of Snowden, and supported by the *Guardian*, detailing the perceived corruption of the United States government, echoes Marxist theories of justice. In particular, the theory that the criminal justice system is designed to disadvantage the powerless and prevent revolt occurring. It highlights the contemporary relevance of theories that the law functions as a tool for political and ideological control; by navigating the laws around surveillance in such a way, the U.S. government were potentially able to control and surveil the population in unparalleled ways. However, channelling Garland’s (2001) perspective on justice and the equal weighting of informal mechanisms of control, Snowden’s response and reflexivity in many ways mimics the uprising behaviours of the proletariat, bolstered by the rise in mass media technologies.

¹⁰⁷ Times of Oman. *Venezuela offers asylum to U.S. fugitive Snowden*. 6 July 2013.

¹⁰⁸ The Nation (Thailand). *The World owes Edward Snowden a debt of gratitude*. 16 June 2013.

¹⁰⁹ Greenwald, G. *Revealed: NSA collecting phone records of millions of Americans daily*. The Guardian. 6 June 2013.

¹¹⁰ Ibid.

¹¹¹ James, N. *Snowden must be recognized for heroic endeavours*. The Crimson White: University of Alabama. 26 June 2013.

¹¹² Lo, A. *Snowden vindicated by NSA reforms*. South China Morning Post. 13 August 2013.

The power of the *Guardian* to blur the line between the victim and the perpetrator, through its explicit accusations against the government does not stand in isolation. In fact, accusatory and anti-state discourses are echoed throughout international media institutions which share similar democratic principles, and the aim of vilifying the U.S. government. German newspaper *Der Spiegel Online* played a significant role in the argument for Snowden's de-criminalisation and recognition of the criminality of the U.S. state. The online newspaper argued that "Edward Snowden, the biggest whistleblower in recent American history...is now a hero for many, because he burst America's dream of total data control"¹¹³ and acted on behalf of the citizens who are "powerless against it"¹¹⁴. *Der Spiegel Online* contributed to Snowden and the *Guardian's* spectacular pursuit of social change and justice, as it made rallying calls, pleading with its readers to "Fight for [their] Right to Privacy"¹¹⁵. These media discourses challenge the democracy with which Foucault attributed panoptic systems of power, and instead argues that

"[t]he next weeks and months will show whether democratic societies across the world are strong enough to take a stand against the unlimited, totalitarian ambitions of Western secret services- or not".¹¹⁶

Discipline and Punish (Foucault, 1991) posits the theory that with the nineteenth century, new programmes of discipline would render social actors powerless, and reduce them to "small captive shadows" (1991: 200), trapped by anxiety of perpetual yet unverifiable surveillance. Media discourses within the Snowden case reject this passive identity status and encourage social actors to be reflexive and recognise their victimisation and the criminal identity of the State. Spectacular justice herein highlights the moral and political issues that arise in spectacular and highly visible moments of justice and exposes the role of the mass media in liaising between the state and the individual.

With this in mind, the power of the media and agency of social actors to construct ambiguous victimhood can be understood as a rejection of systems of panoptic privatisation. And so arguably, the spectacular pursuit of justice against representatives of power, naturally co-exist with institutions of panoptic privatisation. Social agency, and the spectacle of justice is a

¹¹³ Der Spiegel Online. *The Global Hunt for Edward Snowden*. 1 July 2013.

¹¹⁴ Pitzke, M. Der Spiegel Online. 10 June 2013.

¹¹⁵ Stöcker, C. *The Public Must Fight for its Right to Privacy*. Der Spiegel Online. 24 June 2013.

¹¹⁶ Ibid.

response against the U.S. government, who, “[b]y the effect of backlighting...can observe from the tower” (ibid) and create a social environment in which “visibility is a trap” (ibid) for vulnerable social actors. Thus, Snowden’s “bombshell leaks”¹¹⁷ make explicit how the U.S. government is representative of Foucault’s panoptic regime of power and the power that the State has to reduce its citizens to “object[s] of information, never a subject in communication” (1991: 200). Spectacular justice can thus be used as a supplementary narrative which bolsters Foucault’s theory of panoptic power.

Moreover, not only does the U.S. surveillance system conform to Foucault’s theory of panoptic privatisation, the level of secrecy with which it is carried out illustrates the parallel trend for the state to retain the principles of the dungeon. The pre-panoptic dungeon had three main functions which were “to enclose, to deprive of light and to hide” (ibid). And according to Foucault, with the panoptic turn they were eradicated; the dungeon enables the prisoner to find safety in darkness; safety in invisibility. And thus, the power of “political leaders to work against their own citizens and...[place them] in the dark, with zero transparency or real accountability”¹¹⁸ demonstrates the co-existence of panoptic and pre-panoptic techniques of power, and the sustained socio-political need to seek safety in darkness. And so, by conducting surveillance behind the high walls and cloaked in the darkness of the panoptic dungeon, the U.S. government minimises the visibility of its transgressions, maintains social equilibrium, but also concretises the view that “secrecy corrupts, just as power corrupts”¹¹⁹.

In spite of examples of how the “vast, unchecked spying power [of the U.S. government] in the dark”¹²⁰ contributes to the vitality of panoptic privatisation, the Snowden case also illustrates how this is not representative of all criminal cases. Furthermore, Snowden’s choice “to unravel his own life to make the world aware of what the U.S. government has been doing in the dark”¹²¹ illustrates this. Snowden’s objective, according to media discourses was “to educate, to democratize, to create accountability for those in power”¹²², and in alliance with media

¹¹⁷ AFP. *Hero or traitor: Americans divided over US leaker*. Agence France Presse. 25 June 2013.

¹¹⁸ Greenwald, G. *On the Espionage Act charges against Edward Snowden*. The Guardian. 22 June 2013.

¹¹⁹ Ellsberg, D. in Greenwald, G. *The Snowden video sequel and Brazil fallout*. The Guardian. 8 July 2013.

¹²⁰ Greenwald, G. *Detaining my partner: a failed attempt at intimidation*. The Guardian. 18 August 2013.

¹²¹ Ibid.

¹²² Greenwald, G. *On whistleblowers and government threats of investigation*. The Guardian. 7 June 2013.

discourses argued that “[a] more informed citizenry will create a better and fuller democracy” (Schudson, 1995: 204). And thus, when *Guardian* journalist Glenn Greenwald questions “[w]ho is actually bringing “injury to America”: those who are secretly building a massive surveillance system or those who inform citizens that it’s being done?”¹²³, media discourses publicly, visibly, and spectacularly critique systems of panopticism. Importantly, the Snowden case demonstrates the power of the media to work alongside social actors and challenge “the tall outline of the central tower from which [society] is spied from” (Foucault, 1991: 201) and “shine a light on this secret system of injustice”¹²⁴. Therefore, despite illustrating how the panoptic machinery of power that “assures dissymmetry, disequilibrium, [and] difference” (Foucault, 1991: 202) continues, the Snowden case simultaneously makes explicit the power of social actors and institutions of the state to reflect and actively critique processes of panopticism. Snowden’s case is the embodiment of the proposed concept spectacular justice.

Building on this, Foucault argued that

“[t]he Panopticon functions as a kind of laboratory of power...it gains in efficiency and in the ability to penetrate into men’s behaviour; knowledge follows the advances of power, discovering new objects of knowledge over all the surfaces on which power is exercised” (1991: 204).

As has been alluded to in previous chapters, it is perhaps premature to critique Foucault for failing to predict the immense ascension of visual technologies and its effect on the social world (Mathiesen, 1997). With this in mind and given the speed with which social and cultural developments have materialised, oversights are to be expected. Nonetheless, in failing to predict the agency and reflexivity of social actors and institutions, Foucault simultaneously does not account for the possibility that the state itself can become an object within the laboratory of power. Furthermore, *Discipline and Punish* (Foucault, 1991) arguably overlooks how, empowered by the strength of media discourses, individuals have agency and they have knowledge that can forcibly subject the state to anti-panoptic scrutiny; the rigid boundaries of panoptic power are far more porous than Foucault credits. And thus, whilst many societies do continue to operate under the watchful eye of the panoptic supervisor, this unilateral power

¹²³ Greenwald, G. *On the Espionage Act charges against Edward Snowden*. The Guardian. 22 June 2013.

¹²⁴ Times of Oman. *Edward Snowden asks numerous countries including India for asylum*. 2 July 2013.

dynamic shows evidence of being under threat. Foucault argued that “the arrangement of [the prisoner’s room], opposite the central tower, imposes on him an axial visibility;...[which] imply a lateral invisibility. And this invisibility is a guarantee of order” (ibid). This is no longer guaranteed; the “state of conscious and permanent visibility” (ibid: 201) does not assure “the automatic functioning of power” as the mass media plays an important role in awakening social actors to their victimisation and gives them the knowledge to exercise power against the injustices of the state; the medium is the message (McLuhan, 1973).

Ambiguous victimhood is representative of the growing socio-political discontent with panoptic regimes of power, and the changing nature of discipline, control, and spectacle. Spectacular justice encapsulates these shifts. The mass media plays a significant role in encouraging social change (Hall et al., 1978; Cohen, 2002; Taylor, Walton and Young, 1973; Fairclough, 1993; 1995; 2001¹²⁵) through the public critique of existing social systems and campaigning for greater reflexivity amongst the general public. Fundamentally, the mass media trains the docile bodies of the panopticon to recognise how

“the irony is obvious: the same people who are building a ubiquitous surveillance system to spy on everyone in the world...are now accusing the person who exposed it of “espionage””¹²⁶.

And as a result, the Snowden case study and its ambiguous victims offers evidence that Foucault’s analysis of power within a panoptic regime does not comprehensively map onto the power structures of a media saturated social system. Mass media discourses play an orchestrating and mediating role between the public and the State and in cementing the narrative of the spectacle to justice. This can be interpreted as an empowering process because by making the criminal justice system and the institutions that create and enforce these systems more visible, it allows for reciprocity of knowledge and therefore power. Just like Foucault’s spectacle of punishment can be interpreted as empowering to both the monarch and the lay individual, media discourses and their spectacle of justice bring the justice system to the public and therefore increase their knowledge and power. The spectacle that the media creates around

¹²⁵ See Chapter Three: Literature Review for a full discussion on the role of the media in relation to social change.

¹²⁶ Greenwald, G. *On the Espionage Act charges against Edward Snowden*. The Guardian. 22 June 2013.

certain cases enables for greater fluidity of surveillance and allows the public to subject the State to surveillance, as well as the public being the objects of the State's panoptic gaze. Thus, the proposed concept of spectacular justice supports Thomas Mathiesen's theory of *The Viewer Society* (1997) in which there is the coexistence of panoptic (the few see the many) and synoptic (the many see the few) justice. And therefore, ambiguous victims demonstrate how the relationship between empowerment, disempowerment, the public, and the State is far more symbiotic than *Discipline and Punish* (Foucault, 1991) suggests.

In conclusion, this section demonstrates there are clear ambiguities between the victim and the perpetrator throughout criminal cases. As a result, ambiguous victims have two significant implications for the credibility of Foucault's (1991) theories of the spectacle and panopticism. Firstly, ambiguous victimhood shows how agents of power and control continue to publicly pursue and perform justice in order to justify and legitimise their power. Herein, justice has not fully retreated behind the private walls of the panoptic regime, as there is still great value to be found in the pre-panoptic, public, display of centralised control. Instead, ambiguous victims strengthen the notion of the spectacle in justice. Secondly, ambiguous victims contradict Foucault's theory that the panoptic machine is not susceptible to corruption or fault. Foucault argued that the panopticism is "a marvellous machine which, whatever use one may wish to put it to, produces homogeneous effects of power" (202). However, the panoptic machine is neither as private nor as stable as Foucault (1991) envisaged, but rather exists in parallel to systems of the spectacle in justice which seek to bolster as well as hinder panoptic privatisation. Indeed, the panoptic machine does have many uses, however, many of these uses utilise and embody the spectacle of justice, not only its privatisation.

By understanding the media's relationship with social stasis, social change, and ambiguous victims, it becomes clear that media discourses can function to both spectacularly defend and spectacularly attack the panoptic regime. And importantly, regardless of whether media discourses are facilitating an attack or defence of the panoptic regime, the narrative of the spectacle is present. The spectacle of justice is a product of the growing force of reflexivity and subjectivity which is absent in Foucault's eminent text *Discipline and Punish* (1991).

4.5 Conclusion

This chapter makes the close relationship between victimisation and the spectacle explicit and demonstrates both how justice has become a spectacle and the significance of spectacular justice as a parallel narrative to Foucault's privatisation theory. There are three main ways that victims are produced by and reproduce spectacular structures of justice.

Firstly, *Quintessential Victims* demonstrates how the spectacle of justice surrounds individuals who are representations of both the ideal victim (Christie, 1986) and the ideal wound. The following formula demonstrates how under such conditions, mass media discourses have the power to transform, and make relevant, a criminal case beyond the rigid confines of the panoptic machine (Foucault, 1991); beyond understandings of newsworthiness (Jewkes, 2015) and into the sphere of the spectacular.

Ideal Victim + Ideal Wound = Spectacular Justice

In *Discipline and Punish* (Foucault, 1991), it is posited that the body of the condemned became the subject of civilisation processes (Elias, 1939; Spierenburg, 1984; Seal, 2014), and that penal styles transgressed beyond physical, bodily torture and towards the spatial and temporal management of bodies. However, as *Quintessential Victims* demonstrates, these profound and “great institutional transformations” (Foucault, 1991: 7) did not happen with neither as much ease nor certainty as *Discipline and Punish* (Foucault, 1991) accords. And thus, whilst the West has seen the gradual decline of Foucault's conceptualisation of the spectacle of punishment during this period (Rusche and Kirchheimer, 1968; Hibbert, 1963; Spierenburg, 1984; Seal, 2014; Stallybrass and White, 1986), “atrocious exhibition” (Seltzer, 1998: 2) has not disappeared. Rather, voyeurism and spectatorship have transferred to the body of the victim, and in doing so compounds their ideal status and their spectacular attraction. Media representations of criminal violence “are a cultural flashpoint” (ibid: 21); a platform upon which justice is sought and truth is realised, akin to the role of the scaffold discarded by Foucault as a forgotten tenet of a by-gone era. According to Larson, whereas for centuries the scaffold was the stage upon which life and death were enacted, now, “the severed heads are held up for the camera and the spectators can watch at home” (2014: 78). As such, this section speaks directly to the research questions by concretising how the Foucauldian theory of the socio-cultural transgression towards “decorporealized discretion” (ibid: 129) can be challenged by sustained evidence of a

“fascination with spectacles of bodily violence” (ibid) and the socio-cultural currency of innocent victims. Spectacular justice and quintessential victims herein contribute to the growing area within criminology which explores the visual in relation to the attraction to the macabre “pleasurable grotesquerie” (Stallybrass and White, 1986: 183).

Beyond their significance for understanding *Discipline and Punish* (Foucault, 1991), and visual criminology more broadly, quintessential victims and their embodiment of both the ideal victim and the ideal wound develops existing cultural criminological literature. As aforementioned in the previous chapter, cultural criminology historically examines the intersections between crime and the media using three lenses. Research typically focuses on media representations of crime and its effects (Cohen, 1972; Altheide, 2002; Goode and Ben-Yehuda, 1994); the attractions of criminality (Goldstein, 1999; Katz, 1998; Leitch, 2002); and subcultures and control (Ferrell, 1993; Ferrell and Weide, 2010). As such, quintessential victims re-focus cultural criminology’s approach to the visual and explores the ways in which the mass media, as a technology of power, facilitates seeing practices which take the viewer inside the human body. Putting the visual at the heart of criminological research, spectacular justice explicates the role of media discourse to open up victims’ destructed bodies and actively feeds and encourages public spectatorship of the torn and wounded body (Seltzer, 1998; Stone and Sharpley, 2008; Penfold-Mounce, 2010; Foltyn, 2008a; 2008b).

Beyond the mediatised erotica surrounding torn and victimised bodies, the spectacle of justice can be seen to similarly flourish at the intersection between victimisation and community.

The second category, *Collateral Victims*, illustrate an additional relationship between the spectacle, the media, and justice. They demonstrate the fallibility of Foucault’s (1991) panoptic privatisation theory of justice. It explores how the victim label can be applied not only to the individual or social group immediately affected by a criminal act, but also social actors and social groups who feel victimised as a result of a crime, despite not being the initial or primary target. Foucault’s panoptical theory of justice presents a judicial and punitive utopia defined by seamless individualism and visibility (Garland, 1986; Dovey, 2006; Spierenburg, 1984; Jewkes, 2015; Said, 1986). Each individual is isolated within their own cellular existence, suspended like “small captive shadows” (Foucault, 1991: 200) and paralysed by the oppressiveness of disembodied “permanent visibility” (ibid: 201). However, as before, the

confidence with which Foucault (1991) contends such discipline and order is enforced, is challenged by the parallel evidence of how “[t]he public sphere is an arena simultaneously of solidarity and choice” (Calhoun, 2002: 163). Social actors are not emotionless docile bodies that exist alongside one another, albeit in isolation, but rather criminality is still bound to notions of community, solidarity, and cohesion (Hall, 1980; Carrabine, 2008; Carney, 2010; Young, 2010). This is manifested not only in social responses to criminality but also the empathic union that triggers collective feelings of victimisation and spectacular calls for justice.

Further embedding the relationship between the spectacle, victimhood, and ambiguity, the third category, *Ambiguous Victims*, demonstrates the subjectivity of the victim label and the fluidity with which it is applied to individuals. The blurring of these two labels reveal a significant challenge to the rigid power structures and systems of deviance which characterise Foucault’s (1991) panoptic privatisation theory of justice. In fact, ambiguous victims highlight the reflexivity of social actors and the flexibility of criminal labels that is not accounted for in *Discipline and Punish* (1991). Foucault’s (1991) panoptic disciplinary machine is defined by definitional clarity and stark boundaries, specifically the movement away from understanding society as one “uniform mass” (ibid: 170) towards processes which “separate, analyse, [and] differentiate” (ibid). However, under conditions of both social stasis and social change, mass media discourses are utilised as both stabilisers of social stability and catalysts for development. As such, spectacular justice illustrates the agency of social actors and media institutions to preserve social stasis and affect social change. Thus, the collaborative power of social actors and media institutions enables the reflexive interpretation of (in)justice and criminality, which Foucault (1991) overlooks in *Discipline and Punish*. The result: spectacular justice.

The data on victims of crime asserts the notion of the spectacle in justice and how the spectacle is ubiquitous and functions as a supplementary narrative to Foucault’s panoptic privatisation. Fundamentally, mass media discourses play an active role in the implementation and adaptation of justice. In collaboration with social actors, media discourses highlight the subjectivities of criminal labels and the power individuals and institutions have to (re)define power and affect orthodox definitions and understandings of justice. This is important because Foucault equates the panoptic turn with the improved efficiency and streamlining of control, as well as the management of populations within the confines of state-controlled discipline. This level of social and judicial clarity is challenged by the spectacular victim category. Foucault focuses

heavily on an understanding of the social world as one of stark boundaries, definitional clarity, and emotional dislocation. Consequently, the text not only fails to account for the sustained function of subjectivity in crime and justice, but also overlooks the social value of community and the coming together of individuals in response to crime, in the pursuit of justice, and in collective solace. The panoptic privatisation theory of power is thus arguably blinded by a pursuit of reason, individualism, and order, that is weakened by the parallel visual narrative of spectacular victims and spectacular justice.

Chapter Five: The Perpetrator

5.1 Introduction

For a crime to be committed there must be a perpetrator – the person who commits a crime.

However, the perpetrator label can be applied in a multitude of ways, from an individual, to an institution, or to someone or something entirely unidentifiable. Despite its variability, arguably the spectacle of justice is built around the criminal category of ‘perpetrator’. As such, this thesis argues the criminal perpetrator identity is considered a cornerstone in the celebrity of criminal justice and the visual sensationalism that surrounds criminal trials (Garcia-Blanco and Bennett, 2018). To make this case, this chapter divides the perpetrator into three main categories and explores the varying ways in which perpetrators are represented through media discourse, and their role in creating a visual spectacle of criminal justice process.

The first category draws heavily upon the association of perpetrators of crime with malevolence and social malaise. This category of perpetrators will be referred to as the *Inhuman Perpetrators* of spectacular justice. Building on established cultural criminological literature that details the power of the mass media to vilify (Cohen, 2002; Hall et al, 1978; Furedi, 2013; Ferrell, Hayward, and Young, 2008; Becker, 1997), and the field’s central interest in ‘transgression’ and ‘limit’ (O’Neill and Seal, 2012), this section highlights individuals who, because of their perpetrator status, are marginalised and demonised by media discourses of the dangerous ‘other’. Under these circumstances the role of media discourse can be seen to be to distance the reader from the perpetrator, who is used as a marker of both the social and judicial consequences of transgressing normative boundaries through criminality. To elaborate, cultural criminological literature on concepts such as ‘moral panic’ (Cohen, 2002; Garland, 2008; Goode and Ben Yehudi, 1994; Jewkes, 2010) arguably take the public visibility of criminality, within the mass media, as a taken for granted social fact from which effect can be studied. In contrast, examining the vilifying role of media discourse, and its construction of inhuman perpetrators, serves to make the visibility of criminality and criminal justice visible. It explores how the discursive construction of criminal creatures, as embodied within the criminally condemned, sheds light on the place of the spectacle within criminal justice.

Exploring the interactions between transgression, vilification, and the spectacle, allows the thesis to address three key research questions. Firstly, it evidences the villainous role that media

discourses often play in their narration of criminal cases; media institutions have the power not only to control, but at times also dominate public sentiments about a perpetrator. In doing so, the data strongly speaks to research question two¹²⁷. Secondly, the inhuman perpetrator analysis illuminates how media companies' and journalists' characterisations of perpetrators varies along cultural, historical, and global lines and how this affects the character of the spectacle. From this, the research responds to research question three¹²⁸. Finally, the variability in cultural and historical approaches to the vilification of perpetrators, also helps develop an understanding of the political, moral, and social condition of particular societies at a particular historical juncture. With this in mind, the research applies itself to research question four¹²⁹ and makes a thorough case for the role inhuman perpetrators play in the narrative of the visual spectacle within justice.

The second perpetrator category investigates individuals whose criminality is politically motivated and how these conditions produce and reproduce narratives of the spectacle alongside panopticism (Foucault, 1991). These individuals are referred to as the *Political Perpetrators* of spectacular justice. This complex category highlights how political perpetrators can be used by media corporations and the State as political pawns in the game of international relations. A critical analysis of political perpetrators thus emphasises discourses and debates surrounding the contemporary politics of fear, as well as political turbulence, hostility, and threats to democracy. The data on political perpetrators establishes the close relationship between political and mass media discourses and consequently explores how the politicisation of the criminal justice system contributes to its increasing public visibility, alongside its privatisation. As such, this section uses politicised crimes and political conflict to help assert the notion of the spectacle in justice and examine how this supplements and develops Foucault's conceptualisation of the spectacle in relation to punishment.

The third perpetrator category continues to investigate the role of ambiguity and uncertainty to the spectacle of justice that is established in the previous chapter. More specifically it develops the discussion on the blurred boundaries between perpetrator and the victim beyond Ambiguous Victims; this new, supplementary category is coined *Auxiliary Perpetrators*. This label recognises how in certain criminal cases the perpetrator label can be applied to social actors

¹²⁷ What role(s) does media discourse play in spectacular justice?

¹²⁸ How does spectacular justice vary along international lines?

¹²⁹ What are the implications of spectacular justice for our understanding of the political, moral, and social condition of a society?

beyond the actor who commits the crime. To expand, whilst auxiliary perpetrators do not commit the crime themselves, their actions may be interpreted by the media and the public more widely, to have contributed to the criminal outcome. Under these circumstances, notions of blame and responsibility are problematised, and orthodox, binary understandings of a criminal perpetrator and a non-criminal victim are challenged. In line with research question two, ‘what role does media discourse play in creating a spectacle of justice?’ this category demonstrates the investigative role of media discourses in creating a spectacle of justice and how the mass media is inquisitorial and questioning of the lay actor in the pursuit of justice. Furthermore, the proposed concept of spectacular justice uses auxiliary perpetrators to demonstrate the political, moral, and social concerns of a particular historical epoch, and thus how the justice system has a public façade that supplements the privatised institutions Foucault theorised. By addressing research question four, ‘what are the implications of the spectacular nature of justice for our understanding of the political, moral, and social condition of society?’ the research shows the fluidity and complexity of spectacular justice and considers its implications for the arguably apolitical, simplistic model of panopticism (Spierenburg, 1984; Mathiesen, 1997; Garland, 1986).

In combination, the three perpetrator categories illuminate a number of different ways justice has become a spectacle and the currency of the perpetrator, and their human stories, within media discourses and their creation of a spectacle. Together, each section develops the broad concept of the perpetrator to reveal the intricate, minute ways in which media discourse represents the criminally condemned. This is important because it highlights the relationship between media discourses and perpetrators of crime, and how this complex relationship helps explain how justice has become a spectacle. To examine this relationship, this thesis uses spectacular justice to demonstrate the value of recognising narratives of the spectacle beyond punishment and to consider its role within justice process.

5.2 Inhuman Perpetrators

As I was sat in the British library reading rooms, pouring over a stack of microfilm reels of UK newspapers dating back to 1811, I was struck by the basic and informative nature of the crime reports. Media discourses surrounding the Ratcliffe Highway Murders during the early nineteenth century centred heavily around providing the reader with a detailed description of the

case, the logistics, the fundamentals, and on lamenting the tragic loss of the victims. In fact, the reader is presented with an abundance of such information. But in doing so, the perpetrator of the murders is enigmatic and absent from media narratives; a figure who plays only a supplementary role in the un-dramatised spectacle of justice. To elaborate, the perpetrator occupies a non-space, a ghostly space, whose intimidating nature stems from their public invisibility. The non-identity and elusive character of the Ratcliffe Highway murderer highlighted the various, almost unfixed, ways criminal perpetrators are defined as inhuman within media discourses. And whilst the Ratcliffe Highway Murderer was notably absent, many criminal perpetrators are converted into monstrous and ghoulish figures, designed to generate excitement and profits from the grizzly details of a criminal case (Christie, 1986; Barak, 1994; Madriz, 1997). Inhuman perpetrators are valuable in a society in which “[m]urder is, doubtless a very shocking offence...Hereupon we turn a murderer into a commodity and open an account with homicide”¹³⁰; the mass media arguably trade in “[i]nhuman monsters...[who must be] brought to justice”¹³¹ and create a spectacle out of their story.

As such, the spectacle of justice prospers in part because of the public and media fascination with inhuman perpetrators, defined here as those individuals who commit serious crimes, and whose criminality undermines normative values and the moral foundations of society (Merton, 1938; Agnew, 1985). This chapter explores these issues through the lens of children and women and explores how transgressing boundaries of age and gender through criminality positions individuals both as liminal within society, and the targets of vilification. This trend, towards the mediated seeing of criminal justice as a public spectacle, is in itself significant, as it demonstrates historical continuity and the sustained visibility of justice in the public consciousness. Furthermore, it speaks to how the spectacle has not disappeared but rather how we can locate criminal justice within visual structures and how the spectacle of justice acts as an extension of Foucault’s spectacle of punishment. Out of these developments, mass media discourses are seen to play an active role in processes of vilification (Cohen, 2002; Young, 1971; Hayward, 2002; Presdee, 2000) and have the power to label criminal actors as monsters, witches, and aliens and invite the public to partake in their social marginalisation. There are two dominant ways in which media discourses create a spectacle of justice through the vilification of

¹³⁰ Punch. *Blood*. January-June 1842.

¹³¹ Oxford University Herald, 28 December 1811. No.292 vol VI.

those who transgress normative and legal boundaries. Firstly, inhuman perpetrators are violently and aggressively pursued and characterised as evil, monstrous, and non-human. Secondly inhuman perpetrators are defined by media and public discourses as non-citizens, as the foreign ‘other’ and therefore beyond the values of society. Both violent vilification and social ‘othering’ work together to expel and ostracise criminal actors, and in doing so highlight the public implementation of justice and the role of media discourse in creating a justice spectacle.

Now, whilst punishment in the West has predominantly lost its bloody and visible nature since the eighteenth century¹³², the criminal body is metaphorically “drawn and quartered...and...limbs and body consumed by fire” (ibid) by mass media discourses and the public vilification and othering of criminal actors. These discourses perform a dual function. Firstly, they perform a similarly punitive and retaliatory function, and facilitate the public display of justice against individuals whose criminality constructs them as “beyond comprehension” (Trinca, 1993: 13 in Wilczynski, 1997: 179). Secondly, they remain loyal to the importance of the visual as a means of ensuring justice, as embodied in public executions.

To demonstrate this, Thompson and Venables’ case exemplifies a crime in which both the crime and the criminals’ identities are “beyond comprehension” (ibid); the violence of the murder challenges notions of humanity (Maier-Katkin et al, 2009), whilst the boys’ child status challenges the social fabric and existing understandings of childhood (James et al, 1999; Holt, 1975; James and Prout, 1997; Jenks, 1992). As a result, media discourses were fervently focused on establishing the boys as outside this normative framework, and thus, characterising them as evil. Thompson and Venables were the “[e]vil that shocked the nation”¹³³ and whilst “children who kill are a rare phenomenon in Europe. You would not think so if you have read the newspaper coverage of the Bulger case” (Sereny in Cavadino, 1996: 20). The British media built an intricately detailed picture of the two boys and explained how the murder of Bulger was the result of Thompson and Venables’ natural born evils. International newspapers such as *The Toronto Star* commented on the ferocity with which the British media pursued the two young boys and the discursive reliance on the boys as evil and wicked. “They’re calling them evil. Freaks of nature. Monsters. Demon seed. Nothing to it but to cut them out like social cancer;

¹³² See Chapter Two: Literature Review for a full discussion.

¹³³ Ford, R. *Evil that shocked the nation*. The Times (London). 27 October 2000.

quarantine them for life, like lepers of old”¹³⁴. *The Sunday Times* exemplifies the trend within British media discourse towards character assassination:

“Thompson...The menace he presents is buried deep inside him, piled layer upon layer all the way up to the surface, where his behaviour and responses are as calculated as a computer program...we never know which [child] has the Satan Bug inside him”¹³⁵.

Thompson’s identity is publicly constructed here in three ways; as a child; as robotic; and as an embodiment of Satan. His identity as a child, a role which is contemporarily considered within western societies as “essentially pure in heart...angelic and uncorrupted” (James et al, 1999: 13), is polarised by the denotations of the mechanical inhumanity of a computer program, and the nefariousness of Satan. Not only is Thompson constructed as antithetical to the normal parameters of childhood, but also to humanity itself, and all notions of goodness and this worldly existence. In so doing, mass media discourses are reminiscent of seventeenth century understandings of children as intrinsically evil, in which public moralising was centred around the belief that “evil, corruption and baseness are primary elements in the constitution of ‘the child’” (ibid: 10). Media discourses, surrounding Thompson and Venables, reject the ‘innocent child’ understandings of childhood which are rooted in the eighteenth and nineteenth centuries, and instead call on mythological representations of children as “demonic, harbourers of potentially dark forces” (ibid).

This is significant because in their focus on representations of mythological evil, media discourses draw attention to Thompson and Venables’ untrained nature as a means of exacerbating the public spectacle. To elaborate using Foucauldian language, the adult collectivity has failed to train them correctly and as a result, the liberation of their primal forces culminates in the fatal attack against Bulger. Foucault (1991) argued in *Discipline and Punish* that panopticism would give rise to docile bodies, as individuals are subjected to new levels of bodily and psychological control. Under such conditions, individuals are controlled both by increasing surveillance technologies as well as the internalisation of control measures which suspends individuals in a state of constant, yet unverifiable, visibility. And so, in murdering James Bulger, Thompson and Venables explicitly undermine Foucault’s theory of docile bodies,

¹³⁴ Hall, J. *Murderous children aren’t ‘born bad,’ psychiatrists say*. The Toronto Star. 2 December 1993.

¹³⁵ Ellis, W. *Slaughter of Innocence*. The Sunday Times (London). 28 November 1993.

because they represent a failure of panoptic mechanisms of power to correctly train them to be disciplined and controlled. Thompson and Venables, both before and during their criminality, existed outside the boundaries of panoptic control, and arguably out of their resistance, mediated visualisation and spectacular justice grew rapidly. This is because, the view that children are vulnerable and innocent, and that the adult world, as socialising agents, are responsible for correctly training them to be docile, “hinges upon the denial...of the agency of children” (James and James, 2004: 168-169); Thompson and Venables undermine this theory, and in doing so illuminate how the spectacle of justice often surrounds individuals who exist at the boundaries of the social world and are deemed ‘inhuman’.

In response to their transgressions and to counteract adult feelings of inadequacy and failure, the mass media vilifies them. This is symbolic of Morrissey’s theory that “murderers considered to have performed especially dastardly acts are transformed into monsters...and are thus disconnected from their societies and from the human race in general” (2003: 16). Drawing on Cooley’s (1902) theory of human nature, Elkin argues that for a child to be correctly socialised, they require human nature, “defined as the ability to establish emotional relationships with others and to experience such sentiments as love, sympathy, shames, envy, pity, and awe” (1968:7). Elkin’s concept of children as uniquely mouldable and in need of training, is further supported by Jenks (1992) who writes childhood is an obscure period of life which is dependent on adult guidance in order to develop normatively. With this in mind, media and political discourses surrounding Thompson and Venables question whether the boys have human nature. One discourse in particular stems from Detective Sergeant Philip Roberts, one of the lead investigators in the case, who became a regular feature in international news coverage after arguing that “I believe that human nature, from time to time, produces freaks- in this case, evil freaks.”¹³⁶ This moral rhetoric echoes the sentiments of many British tabloid newspapers and their focus on “sensational human interest stories” (Tunstall, 1996:11). Within these discourses, the media placed “an overwhelming emphasis on personalities” (ibid) and characterised Thompson and Venables as “[f]reaks of nature. Satanic monsters. Aliens from the Planet Evil”¹³⁷. Consequently, Detective Sergeant Roberts is inserted into media narratives as part of

¹³⁶ Roberts, P. and Britton, P. *Innocence and Evil*. ABC News. 29 November 1993, Day One 8:00pm ET.

¹³⁷ Morrison, B. *The Time has Come to Forget These Faces; Anonymity for the Killers of James Bulger is the Only way to Reprive Them and us*. Independent on Sunday (London). 17 June 2001.

“the narrative structure...to decrease the threat the criminal poses to society” (Morrissey, 2003: 15). This is because, by identifying the two boys as social and historical anomalies, senior police and media discourses attempt to restore calm and cohesion in a community suffering from unparalleled distress.

Here, the Bulger case illuminates the contemporary relevance of Durkheimian (1984 [1893]) theories of justice, law, and community. The public response to the crime, detailed above as being characterised by anger and disgust, supports theories of mechanical solidarity in which the law reflects morality, emotion, and public sentiment. Under conditions of mechanical solidarity, crime is seen to offend the collective conscience and therefore threatens the wellbeing of society; crime is seen to be inherently damaging and therefore must be swiftly and adeptly eradicated. Justice, in the Bulger case, is closely aligned with public sentiment and strongly supports Durkheimian (ibid) theories of law. It suggests that although there are broader trends away from mechanical solidarity and towards organic solidarity, as Durkheim predicted, under certain circumstances there remains a general will for repressive control and public morality remains at the heart of justice matters.

The aggressive media and political vilification of untrained criminals and their subsequent label ‘inhuman’, is also supported by the Jodi Arias case. Similar to the rarity of children killing children, when on 4 June 2008 Jodi Arias “the pretty platinum blonde”¹³⁸ stabbed her ex-boyfriend Travis Alexander, “an upstanding Mormon, chaste; an elder”¹³⁹ twenty-nine times in the shower, the story became national headline news in the U.S. Much like the incomprehensibility of Thompson and Venables’ disobedience, “violent women often fall into th[e] category of “incoherent” or “discontinuous” beings who fail to conform to the gendered norms of our culture” (Gilbert, 2002: 1274). And thus, just as Thompson and Venables’ monstrosity was compounded by their age, Arias’ characterisation as evil and wicked by the mass media, stems from her perceived antithesis to female gender norms. A similar case about a “glamorous 28-year-old woman” and her “melodramatic love story [and]...stormy relationship” (Seal, 2012b: 17) is Ruth Ellis¹⁴⁰. Ellis, according to Seal (ibid) and Worrall (1981), embodies

¹³⁸ Velez-Mitchell, J. *Secret Lives: The Jodi Arias Story*. 30 May 2013, 19:00 ET.

¹³⁹ Ibid.

¹⁴⁰ Ruth Ellis was the last woman to be executed in England and Wales in July 1955.

the “out of place-ness” characteristic of transgressive femininity and highlights its central position within a visual society of spectacles (Debord, 2012).

Like Arias, Ellis’ gender was crucial to the visual media spectacle that surrounded her case. Seal writes that Ellis’ subversive female identity was mechanised by the mass media as “a lesson for every young girl from a respectable home who is attracted to the champagne and chandeliers of London after dark” (2014: 47). As such, although at that time, penalty and executions were privatised “newspapers play[ed] a critical mediating role between the execution and the...public” (ibid: 33). Naylor (2001) elaborates on this notion of the newsworthiness and spectacle of defective femininity, in her writing on the construction of the ‘bad mother’. Naylor argues that violent women, especially mothers, represent a significant departure from social ideals of femininity; violent women undermine notions of women as caring, selfless, loving, and maternally nurturing. They are inhuman. Both Arias and Ellis challenge these social constructions and thus, within media discourse, represent a “peculiarly powerful and emotive figure” (Naylor, 2001: 170); “she is...a ‘monster’” (ibid: 171). Thus, in transgressing societal norms on gender, both Arias and Ellis were labelled as “mad, bad, and abject” (O’Neill and Seal, 2012: 1).

There are clear intersections between femininity, violence, and the spectacle, but at the heart of the voyeuristic interest in Arias’ case, is sex; sex compounded Arias’ “novel oddity” (Seal, 2012b: 19) and proved crucial to the media campaign to demonise and situate her in a marginal space. This acutely supports Kellner’s argument that “in the culture of the spectacle, sex becomes shockingly exotic” (2003: 9). D’Emilio & Freedman (1988) argue that there has been a significant shift in Western gender norms specifically regarding sexuality, during the last century. They focus on how “certain behaviours, such as illegitimate pregnancy, extramarital sex, and prostitution, are less alarming today than one hundred years ago, both to the public and the law” (Alder and Worrall, 2004). However, as Carrabine argues “storytelling has become infused with the imagery of sex and violence” (2008: 22). And so, data from the Arias case, in which “her active sex life was often presented in a salacious and judgmental manner [and] the media associated the offender’s crimes with her sexuality” (Humphries, 2009: 42), exposes how D’Emilio and Freedman’s (1988) perceived move towards liberalism and progression has not been universally adopted. There is still “a pervasive cultural belief in the virgin-whore duality”

(Gilbert, 2002: 1272) and which arguably serves as a catalyst for the spectacle of criminal justice.

Gilbert (2002: 1293) argues that women are constructed according to binary oppositions. On the one hand, society constructs women as gentle, nurturing, non-violent, and innocent. On the other hand, women are viewed as vampires, dangerous, sexual, evil, and black widows. Nevertheless, according to Gilbert, these constructions are both myths, but women are ‘the other’ (ibid), a label which comprehensively describes Jodi Arias. The public are accorded an unprecedented level of access to Arias’ sexual history, so much so that at times it leaves one feeling “like [you are] gaining access to somewhere you’re not sure you should be”¹⁴¹. This sense of voyeurism and the gaze closely echoes Seal’s aforementioned research into the Ruth Ellis case, about which she writes, the media facilitated “a voyeuristic aspect as it promised a peek into this subterranean world” (2014: 47). Arias and Alexander’s mutual sexual history is utilised by the media as “stunning evidence of Jodi’s secret sexual proclivities”¹⁴². Thus, to reiterate, not only does broadcast and print media explicate spectacular justice by making the criminal justice system visible through broadcasting trial footage, but also by selecting “lurid and graphic testimony about sex and lies”¹⁴³, media discourses expose the moral ammunition behind the spectacle.

Much like the polarisation of pre- and post-eighteenth-century notions of childhood and the evil/innocent dichotomy, Arias’ case makes visible how “female deviance is polarised: Madonna/whore, the gentler sex or the more deadly species: Snow White/ the Wicked Queen” (Naylor, 1990:5). The media’s discursive emphasis on Arias’ sexuality and sexual relationships with Alexander, demonstrates an institutional belief that discipline is best exercised through “a mechanism that coerces by means of observation” (Foucault, 1991: 170), and how a public morality play will reinforce the dominant hegemony (Morrissey, 2003: 16) and punish disobedient bodies. Lee-Potter attributes the force of moral condemnation associated with female criminality and understandings of criminal women as disobedient, who are argued to relish in the liberation of their primal forces, “not on venom, but on an acceptance that society

¹⁴¹ Kamm, R. *Rebecca Kamm: Why I’m obsessed with the Mormon Murder Trial*. The New Zealand Herald. 5 April 2013.

¹⁴² Velez-Mitchell, J. *Secret Lives: The Jodi Arias Story*. 30 May 2013, 19:00 ET.

¹⁴³ Velez-Mitchell, J. *Secret Lives: The Jodi Arias Story*. 30 May 2013, 19:00 ET.

will disintegrate unless evil is countered with adequate retribution”¹⁴⁴. Thus, media discourses use the “tale of an attractive and soft-spoken young woman charged with a brutal crime”¹⁴⁵ in an effort to justify and legitimate gender behaviour norms. These themes echo the spectacular marginalisation of Thompson and Venables and the political and moral scramble to rectify the damage disobedient individuals pose to social order.

The media vilification of Arias’ sexuality speaks to the need to develop a narrative of the spectacle that is closely linked to the cultural criminological interest in transgression. According to Hayward and Young (2004), cultural criminology seeks to understand practices of meaning making, and more specifically, the attractions of boundary breaking. From this perspective, transgression is inherently bound to social and cultural practice, and as such, literature in this field typically locates transgression in relation to rule-breaking as well as notions of style (Ferrell, 1993; Hebdige, 1979; Jenks, 2003). However, it is Stallybrass and White’s (1986) conceptualisation of transgression that is perhaps most useful in the analysis of the visual spectacle of Jodi Arias. Focusing on the nineteenth century, Stallybrass and White conceptualise transgression as being inextricably bound to the carnivalesque. To elaborate, they draw on tensions between social classes during this period, changing social environments, and the separation of ‘dirt’ from the ‘clean’. Accordingly, the nineteenth century “was produced as the locus of fear, disgust, and fascination” (ibid: 125), during which transgression, primarily seen to reside in the poor, upset the boundaries of the “‘civilized’ body” (ibid:132). The affiliation of transgression with precariousness and pollution is epitomised in the following quote:

“The police and soap, then, were the antithesis of the crime and disease which supposedly lurked in the slums, prowling out at night to the suburbs; they were the agents of discipline, surveillance, purity” (ibid: 134).

The “social purity crusade” (ibid: 138) which Stallybrass and White describe, inherently binds transgression with notions of impurity; transgression is a source of contagion. Thus, media discourses reporting on Arias’ transgression triggered discourses of danger, contamination, and vulgarity with which the media instigated her social marginalisation.

¹⁴⁴ Lee-Potter, L. *Why I now think James’s killers should not be freed*. Daily Mail (London). 20 June 2001.

¹⁴⁵ Gaynor, T. *Jodi Arias denied mistrial in death penalty hearing*. San Jose Mercury News (California). 20 May 2013.

Fundamentally therefore, Arias' case highlights the close relationship between spectacular justice, the transgression of boundaries, and disobedient women. By making Jodi's private sexual acts public, media discourse casts her out of the safe space that is 'women as Madonnas' and into the perilous arena of 'women as whores' (Naylor, 1990:6). To elaborate, because Arias' perpetrator identity locates her outside the realm of normative and passive femininity, moral entrepreneurs are forced to rebuild the parameters of acceptable femininity and publicly denounce Arias as a symptom and a cause of social malaise; she is 'inhuman'. Employed in this reconstruction are the media, who aggravate the campaign for bilateral punishment; firstly, Arias is criminalised by the State because of her illegal actions. The second criminalisation stems from Arias' disregard for the sanctioned cultural script on being a woman (Gilbert, 2002: 1279). Crucially, the public facing nature of the media and moral vilification against Arias, evidences the power of digital technologies and how they have "turned the world into a new *theatrum mundi*- a theatre whose moralising force lies in the fact that we do not only passively watch distant others but we can also enter their own reality as actors" (Chouliaraki, 2013: 16). Moral entrepreneurs and media discourses are at the forefront of spectacular pursuits of justice against those who break moral and legal codes and undermine panoptic discipline.

Morrissey builds on this point and argues that "one of the most common stock narratives used in crime reporting is the morality play which places the forces of good...on one side and the forces of evil...on the other" (2003: 15). However, media discourses in the spectacular pursuit of justice against untrained, transgressive inhuman perpetrators, go beyond characterising perpetrators as evil. Instead they situate their identities within the realm of predatory animals, and as bestial non-humans; vilified in ways akin only to Foucault's (1991) pre-panoptic leper. For Stallybrass and White, post-nineteenth century, "transgressions...are transcoded into the 'grotesque body' terms of excrement, pigs and arses" (1986: 24), a process which is arguably imperative to sustaining narratives of the spectacle.

There are three main cases that evidence this particular manifestation of spectacular justice and the powerful role of media discourse to vilify. The "Bloodbath beast Anders Breivik...caged for the rest of his evil life"¹⁴⁶ following the Norwegian massacres, was characterised as the "defiant

¹⁴⁶ Syson, N. *Deluded, Defiant, Evil...But Not Mad; Oslo Monster Jailed Over Massacre of 77*. The Sun (England). 25 August 2012.

demon”¹⁴⁷ who’s predatory monstrosity “would have been considered barbaric even by the bloody standards of the Vikings”¹⁴⁸. Equally indicative of the reductive, vilifying, visual role of the media in creating a spectacle of justice is the Thompson and Venables case, which demonstrates the continued demand for the complexities of crime to be compressed into elementary categories of human behaviour (Jewkes, 2015) so as to exonerate society from blame. Like Breivik, Thompson and Venables were placed into animalistic categories by the media, characterised not only as evil but as predatory beasts. “The language of the Old Testament, of good and evil, surfaced to fill the void in our understanding”¹⁴⁹ as Thompson and Venables’ crimes came to “be seen both as a parable of modern times and a reminder of humanity’s most ancient and bestial instincts”¹⁵⁰. In both cases, the data captures the interrelationships between the transgression of normative boundaries, vilification, and the spectacle. The third case is significant because it emphasises the historical continuity of this manifestation of the spectacle, as it concerns the media discourses covering nineteenth-century Jack the Ripper, commonly known as the “Whitechapel Monster”¹⁵¹. International media speculated over the unknown perpetrator who roamed “a decaying district in the East End of London synonymous with squalor, sex and crime” (Carrabine, 2008: 102) and contemplated them to be

- “[S]ome homicidal maniac...For the credit of human nature who would if possible like to believe that only some madman could have committed such an outrage”¹⁵²
- A “monster...inspired by hellish mania”¹⁵³
- A “ferocious maniac”¹⁵⁴.
- “[T]he most dangerous kind of lunatic”¹⁵⁵.
- “[M]aniacal fanaticism and abhorrent wickedness”¹⁵⁶.

¹⁴⁷ Siemaszko, C. *DEFIANT DEMON: Norway Killer gets 21 yrs*. Daily News (New York). 25 August 2012.

¹⁴⁸ Norman, T. *Nothing Mythological About this Madman*. Pittsburgh Post-Gazette (Pennsylvania). 26 July 2011.

¹⁴⁹ Moore, S. *SHE-DEVILS, SAINTS AND SINGLE MUMS: This has been the year of the scapegoat, as private lives caused public panic*. The Guardian (London). 31 December 1993.

¹⁵⁰ The Times (London). *The Three Evils*. 25 November 1993.

¹⁵¹ The Illustrated Police News. *The Whitechapel Monster*. 24 November 1888.

¹⁵² Daily News (London). *The Murder in Whitechapel: Theory of the Crime*. 3 September 1888.

¹⁵³ Morning Advertiser (London). *Murder in Whitechapel*. 1 September 1888.

¹⁵⁴ Freeman’s Journal and Daily Commercial Advertiser (Dublin). *Another London Tragedy: A Woman Murdered in Whitechapel*. 1 September 1888.

¹⁵⁵ Fort Wayne Gazette (Indiana, USA). 2 September 1888.

¹⁵⁶ Penny Illustrated Paper (London). *Coroner Wynne Baxter on the Whitechapel Murders*. 29 September 1888.

- A “short, thickset, half crazy creature, with fiendish black eyes...like a veritable imp haunted the gloom”¹⁵⁷.

The story became a case “of exceptional interest”¹⁵⁸ of which “few occurrences of the kind have ever created greater sensation”¹⁵⁹. The impact of the case, and the scale of spectacular justice, is here argued to be largely the result of the ‘moral panic’ (Cohen, 2002) that “terrible monsters were going about cutting females to pieces to satisfy their hellish thirst for human blood”¹⁶⁰.

As such the active vilification of perpetrators by the media has a profound effect on the construction of inhuman perpetrators and the spectacle of justice. The media, through political and moral discourses, aggressively pursues individuals who transgress legal and normative codes, and encourage the public to engage in the punishment of such transgressors. It is argued that the power of “the media [to] construct predatory criminality- criminals who are animalistic, irrational, and innately predatory and who commit violent, sensational, and senseless crimes- as the dominant crime problem in the nation” (Surette, 2011: 54) is part of the ritualistic expulsion of ‘evil’ from society. Furthermore, it represents the internal drive to “quell internal unrest” (Garland, 1996: 449) and negate the threat these individuals pose to social stability. Garland goes on to argue that “crime has become a routine part of modern consciousness, an everyday risk to be assessed and managed in much the same way that we deal with road traffic” (Garland, 1996: 446). However, it has been shown that the routinisation of crime is not conducive to, nor representative of, the privatisation of justice. With this in mind, media discourses can be seen to reinforce social cleansing techniques and make public attempts to expel the criminally condemned to the edge of society. As such, spectacular justice describes the ways in which the mass media has the power to turn criminal cases into high profile public dramas and how the mass media draw on discourses of evil and harm to create an us against them dynamic and exacerbate the spectacle.

In parallel to the role inhuman perpetrators and violent vilification play in the spectacle of criminal justice, criminal actors who demonstrate disobedience are characterised as ‘aliens’, as non-citizens, as foreigners. Individuals are not only made a spectacle of and vilified, but they

¹⁵⁷ Austin Statesman (Texas, USA). *The English Murder Mystery*. 5 September 1888.

¹⁵⁸ East London Advertiser. *A Possible Clue*. 29 September 1888.

¹⁵⁹ Daily News (London). *The Murder in Whitechapel: Theory of the Crime*. 3 September 1888.

¹⁶⁰ East London Advertiser. *The Whitechapel Murders the Police Still at Fault. The Resumed Inquests. Latest Particulars*. 22 September 1888.

are also marginalised, expelled, and their power neutralised; a symptom of pre-panoptic sovereign spectacles. This process of othering is heavily bound up with Cohen's (2002) work on folk devils and moral panics and Foucault's (1991) theory of the contagion. Cohen (2002) argues that 'moral panics' are a

“condition, episode, person or group of persons defined as a threat to societal values and interests; its nature is presented in a stylized and stereotypical fashion by the mass media; [and] the moral barricades are manned by editors” (2002:47).

To elaborate “Cohen was interested in...the role of the mass media in defining and interpreting the nature and significance of social deviance” (Eldridge et al, 2005:61). In parallel, Foucault argued that during the plague, which heralded in new panoptic systems of control, “[e]ach individual is fixed in his place. And, if he moves, he does so at the risk of his life, contagion, or punishment” (1991: 195). However, although post-nineteenth century the State continues to identify social causes of contagion and of social malaise, rather than disciplining them according to panoptic principles, they are cast aside like lepers subject to the ferocity of sovereign power.

In accordance with Cohen and building on existing arguments on the vilification of disobedient bodies, there is evidence that the spectacle of criminal justice is conspicuous when a criminal actor is perceived to undermine dominant social norms and values. As such, political powers use media discourses to publicly and visibly marginalise criminal actors and position the State as the protector of conforming citizens who are made vulnerable by dangerous 'others'. Herein, the spectacle of justice is made necessary in times of perceived threat to authority, and consequently the State must publicly minimise structural disruption, regain stability, and reinforce the value of conformity. In essence, political and media discourses combine forces to man the “moral barricades” (Cohen, 2002: 47).

To demonstrate this, speaking in *The New York Times* in 1935 at the time of the Bruno Hauptmann trial, an unnamed Rabbi claimed

“I doubt if there is another country in the world where there would be so much ado about the trial of a kidnapping and murder suspect, no matter how prominent the family... The newspapers are chiefly to blame. The entire press, conservative,

respectable newspapers, as well as 'yellow' journals, has capitulated to 'ballyhoo'.

Giving Hauptmann more space in the daily press than the World War occupied"¹⁶¹.

As has previously been mentioned, the Lindbergh baby was the most famous and beloved baby in the world during the early twentieth century and was arguably the embodiment of American values (Penfold, 2004); "[p]erhaps nowhere in the world at any time in history had a child been the object of such wide public interest as was the Lindbergh baby"¹⁶². And so, when the child was kidnapped and murdered, the perpetrator, Bruno Richard Hauptmann, was symbolically represented within media discourses as the antithesis to American principles and an enemy of the American people. The murder of the nation's "golden-haired baby"¹⁶³, a child in which the nation's hopes and values were placed, was a crime considered so abhorrent that society immediately cast Hauptmann as the 'other'. In doing so, Penfold (2004) writes that media discourses mobilised emotions, specifically fear and anxiety, among the "true American public" (Hall, 1997: 226). Not only was Hauptmann deemed counter-normative, but his identity as dangerous 'other' was compounded by his Germanic heritage. Upon his arrest, Hauptmann was described as an "[a]lien German resident of the Bronx"¹⁶⁴, a "[j]obless carpenter [who] had no close friends...[a] blonde-haired, tight-lipped...and former German Army machine-gunner"¹⁶⁵. These discourses are significant because they highlight the power of media and political rhetoric to make Hauptmann's German identity relevant to the case. In doing so, U.S. values, social structures, and State institutions were publicly legitimised and the public pursuit of justice against antagonistic 'others' was justified. Much like the Thompson, Venables, and Arias cases, media discourses were fundamental in cementing the legitimacy of existing political discourses; defining social reality and reconstructing the definitional boundaries of normative and deviant behaviour. And as a result, it is made clear that spectacular justice was driven by the socio-political rhetoric that Hauptmann's transgressions endangered citizens' lives and harsh justice would be a justified act of defence.

¹⁶¹ The New York Times. *Complete Trial News is Assailed by Rabbi: Goldstein Calls for Hauptmann Case Sample of Press 'Ballyhoo' - Reisner Gives Warning*. 14 January 1935, p6.

¹⁶² The New York Times. *World Hailed Birth of Lindbergh's Son*. 2 March 1932, p3.

¹⁶³ The New York Times. *Will Rogers Recalls a Golden-Haired Baby Toddlng About in the Lindbergh Nursery*. 3 March 1932, p8.

¹⁶⁴ The New York Times. *Held As Extortionist*. 21 September 1934, p1.

¹⁶⁵ The New York Times. *Suspect Seldom Talked*. 21 September 1934, p1.

Discourses of militaristic and democratic opposition triggered a ‘moral panic’ (Cohen, 2002) around foreign nationals endangering the lives of American citizens, specifically, American children. In response, Samuel Dickstein, a New York Congressman, drew on mass media discourses to change the laws surrounding immigration and deportation of foreign citizens. Dickstein campaigned to make “the laws relating to the admission and deportation of alien criminals so stringent that no such type of alien should ever be able to enter this country or remain therein”¹⁶⁶. Media discourses perpetuated the fear that Hauptmann’s crimes would herald a new wave of crime committed by foreign citizens, and it was speculated that “this alien stowaway is connected with a group of other alien criminals all of whom have undoubtedly found their way into the United States in the same manner”¹⁶⁷.

Building on this, Foucault argued in *Discipline and Punish* that during the era of the spectacle of punishment, “[t]he public execution...ha[d] a juridico-political function. It [was] a ceremonial by which a momentarily injured sovereignty is reconstituted. It restore[d] that sovereignty by manifesting it at its most spectacular” (1991: 48). This is significant because these themes continue and are exemplified by the Hauptmann case and its spectacle of criminal justice. “The media have long operated as agents of moral indignation” (Cohen, 2002: 10), and so by using the power of media discourses to label Hauptmann as a dangerous ‘other’, the U.S. state diminished the perceived threat he posed to society. Media discourses abstracted Hauptmann from the normative framework and cast him aside. Following the public denouncement of Hauptmann’s power, a public trial was used to “restore the sovereignty” of the State and visibly reinforce the power that was momentarily “eclipsed” (Foucault, 1991: 48) by “deploy[ing] before all eyes [the] invincible force” (ibid) of the State. Thus, this section highlights how, within the Hauptmann case, processes of ‘othering’ were central to both political and media discourses of the trial and the case more broadly. From this, spectacular justice exposes the moral and political issues that arise in spectacular and highly visible moments of justice and how the spectacle of justice that surrounded the Hauptmann case was somewhat triggered and influenced by post-war politics and relations with Germany.

Nevertheless, the relationship between processes of ‘othering’ and the spectacle of justice are not isolated to the Hauptmann case. As the Edward Snowden case further demonstrates, society

¹⁶⁶ The New York Times. *Raising Alien Bars Plan of Dickstein*. 23 September 1934, p25.

¹⁶⁷ Ibid.

is witnessing the spectacular marginalisation of social ‘aliens’, whilst at the same time, the power of the mass media to engender political morals and values is increasing. Whereas Hauptmann’s ambivalent identity was the result of foreign descent and the destruction of American values, Snowden’s ambivalent identity was the result of his decision to actively challenge the U.S. panopticon, and call for the democratic enforcement of transparency. Snowden embrace’s the counter-panoptic paradigm of the visual spectacle in calling for a social system that “enables everyone to come and observe any of the observers” (ibid: 207). In resisting the privatisation of panoptic politics, Snowden’s whistleblowing led many senior politicians to label him as a traitor who consequently should be denied citizenship. John Boehner, a senior Republican and House Speaker, argued that “He’s a traitor...these are important national security programs to help keep Americans safe...The disclosure of this information puts Americans at risk”¹⁶⁸. Reiterating the exclusionary powers of political and media discourses in the Hauptmann case, Boehner’s argument explicitly identifies Snowden as a non-citizen because of his perceived decision to actively go against the national interest. Boehner’s argument bolsters an us against them rhetoric (Maier-Katkin et al, 2009) and draws on anti-terrorist hostility that fuels contemporary politics of fear (Altheide, 2006). For Altheide, politics of fear are inherently bound up with “relationships [between] order, danger, and threat” (ibid: 416). As such, Snowden is constructed within spectacular media discourse as a transgressor of order and thus dangerous to conforming citizens; Snowden is perceived to embody an inherent hostility within narratives of the spectacle. Protectionist sentiments are echoed by Democratic Senator Dianne Feinstein who claimed that Snowden’s job required him to take an oath of secrecy and “[i]f you can’t keep the oath, get out”¹⁶⁹.

Similarly, Senator Rand Paul argued that

“[i]f he cozies up to either the Russian government, the Chinese government, or any of these governments that are perceived still as enemies of ours...that will be a real problem for him in history”¹⁷⁰.

¹⁶⁸ Millar, L. *Snowden branded traitor and hero*. ABC Transcripts (Australia). 12 June 2013.

¹⁶⁹ Agence France Presse. *Hero or traitor: Americans divided over US leaker*. Agence France Presse. 25 June 2013.

¹⁷⁰ Ibid.

“The...clear effort to portray Snowden in the media by senators as a ‘traitor’”¹⁷¹ illustrates how the spectacle of justice is grounded in political discourses that “these whistle-blowers are ‘traitors’ who need to be punished severely because they have weakened the U.S. against its ‘enemies’”¹⁷². Snowden was labelled an expatriate; “a criminal of the highest sort, putting our people in danger, and is in all senses a traitor to our country”, for whom “[e]xecution would be merciful”¹⁷³. And whilst “some readers think he’s a hero [and] others say he’s a traitor”¹⁷⁴, the spectacle of justice is necessary for the U.S. government, because in order to strengthen public support for State security and surveillance policies, they must publicly, rather than panoptically, discredit any opposition. Arguably, this is a “familiar excuse used in the U.S. since September 11, 2001, to scare people into supporting actions they don’t necessarily agree with”¹⁷⁵. And thus, in branding him as an enemy of the State, a political dissident, Washington officials demonstrate their desire “to deter and intimidate anyone...who might shed light on what they’re doing with their abusive, manipulative exploitation of the power of law to punish those who bring about transparency”¹⁷⁶.

Whilst very different cases, each a product and embodiment of their historical and cultural location, the Hauptmann and Snowden cases do not illustrate a power system “whose object and end are...the relations of discipline” (Foucault, 1991: 208). Rather, they are visible manifestations of the relations of the sovereign and “the exercise of the right of the sword” (ibid: 207). There remains a strong dissymmetry of power, from which “[t]he justice of the King [is] shown to be an armed justice [and] [t]he sword that punishe[s] the guilty” also “destroy[s] enemies” (Foucault, 1991: 50). To elaborate, describing punishment and justice systems in eighteenth century France, Wright observes how

“transgressors were not viewed as tragic victims of an overpowering fate...or of a crime-breeding social milieu, or of some uncontrollable biological or psychological

¹⁷¹ Turley, J. *Treason’ a tough sell in Edward Snowden case*. Legal Monitor Worldwide. 14 June 2013.

¹⁷² Asian Tribune. *Edward Snowden’s Wake-up Call: Cyber Security, Surveillance and Democracy*. 23 June 2013.

¹⁷³ Edwards, V in Firestone, D. *What Should Happen to Edward Snowden*. The New York Times Blogs (Taking Note). 2 January 2014.

¹⁷⁴ Ibid.

¹⁷⁵ Weihua, C. *The World Owes Edward Snowden a Debt of Gratitude*. The Nation (Thailand). 16 June 2013.

¹⁷⁶ Greenwald, G. *On whistleblowers and government threats of investigation*. The Guardian. 8 June 2013.

drive; they were evil doers, dangerous types who had chosen to violate society's norms...Harsh punishment, therefore, seemed only natural, since its purpose was retribution and deterrence" (1983:4-5).

The media and political discourses surrounding both the Hauptmann and Snowden cases are reminiscent of these judicial practices. Each offers concrete evidence for spectacular justice, a system which flourishes because of the sustained need to identify individuals who undermine core societal values and cast them out of society, so that they do not influence conforming social actors.

In conclusion, *Inhuman Perpetrators* are evidence of the "massive, binary division between one set of people and another" (Foucault, 1991: 198). They are individuals who are "caught up in a practice of rejection, [and] exile-enclosure"; individuals who are exiled in the hope of achieving a "pure community" (ibid: 198). The aggressive vilification of criminal actors, and the public, political, and media pursuit of them in the name of justice, contributes to the aim of this thesis to assert the notion of the spectacle in justice. We are still witnessing the binary branding of the "normal and the abnormal" (Foucault, 1991: 199), and mechanisms of power are centred around notions of the abnormal individual who is conflated with the dangerous 'other'. This is significant because Foucault (1991) argues that the dual projects of power combine; that of the leper and that of the plague, and practices of exclusion are balanced with the power to alter and discipline. However, data on *Inhuman Perpetrators* questions the simplicity of this. It does not demonstrate the need to alter and discipline, to improve and make more efficient, but rather it demonstrates the continued reliance on expulsion and vilification to the disposal of individuals who threaten the dominant social order. But most importantly it emphasises the visibility of these processes; social, political and media constructions and responses to *Inhuman Perpetrators* are spectacular.

5.3 Political Perpetrators

Picking up on the relationship between spectacular justice and challenging individuals, spectacular justice is additionally conspicuous at the intersection between crime and politics; "spectacle becomes ever more central to the organization of politics" (Couldry, 2012: 147). As a result, both the individuals who commit politically motivated crimes, as well as the institutional political reactions to such crimes are fundamental to the argument that the criminal justice

system has not universally become privatised. To make this case, this section explores the complex relationship between political perpetrators, the media, and the State and how these multifaceted relationships contribute to the spectacle of criminal justice. The first theme it will explore looks at how spectacular justice is visible when political perpetrators ground their actions in anti-State ideologies and therein justify their criminality on the grounds that the victims constitute ‘legitimate targets’. And secondly, it will establish how political perpetrators and their cases are mechanised by members of the public, the media, and State institutions into political pawns as part of ongoing international political conflicts on issues surrounding fear, national identity, and power.

The spectacle of justice is particularly visible when the ideologies of political perpetrators are counter-normative, anti-governmental, and are justified with claims that the victim constitutes a legitimate target. This notion of ‘legitimate targets’ is saturated with the ideology that within the hierarchy of victimisation (Greer, 2017) there are deserving and undeserving victims; in this instance, individuals whose victimhood can be justified with claims to political difference and subjective ideas of failure. During his trial Anders Breivik explained how “absolutely all victims of political assassinations are defenceless”¹⁷⁷, but that “political activists who work for the implementation of multiculturalism, are legitimate targets”¹⁷⁸. To elaborate, Breivik intended his actions to serve as a political message directed at two main social groups; two ‘legitimate targets’.

Firstly, he aimed to attack the political elite and policy makers. Breivik claimed that the multiculturalist, immigration, and employment policies of the Norwegian Labour Party “deprived” many “Norwegians, Scandinavians and Europeans...of their ethnic, indigenous, cultural, and territorial rights”¹⁷⁹. These claims are used by Breivik to justify his actions as “acting in self-defence on behalf of [his] people, [his] culture, [his] religion, [his] city, and [his] country”¹⁸⁰. Discourses of political criminality in defence of broader injustices culminates in Breivik’s claim that

¹⁷⁷ The Breivik Archive. 2012. *The Breivik Archive: Transcripts*. [online]. 23 April 2012.

¹⁷⁸ The Breivik Archive. 2012. *The Breivik Archive: Transcripts*. [online]. 25 April 2012.

¹⁷⁹ The Breivik Archive. 2012. *The Breivik Archive: Transcripts*. [online]. 17 April 2012.

¹⁸⁰ The Breivik Archive. 2012. *The Breivik Archive: Transcripts*. [online]. 22 April 2012.

“[in] Norway...we do not have a real democracy, we have no freedom of speech, and living under a dictatorship, like we see it, without having real freedom of speech, there is a grave injustice”¹⁸¹.

Building on this rhetoric of injustice and the failure of democracy, Breivik argues his actions presented a political attack against a second social group; the members of the Labour Youth Party, who Breivik perceived as future icons of injustice. Thus, Breivik argued that through his attacks on Utøya island, he would help “to stop the multicultural experiment in Europe...[and]...save hundreds of thousands, perhaps millions of lives when a great civil war is averted”¹⁸².

Breivik’s politicised crimes clearly situate him outside the boundaries of normative social action, and collective understandings of Norwegian citizenship. But more importantly, Breivik’s case emphasises the facilitating power of media discourse and its fundamental role in creating a spectacle of justice. This is because, beyond his identification of legitimate targets, in his political manifesto *2083: A European Declaration of Independence* (2011), Breivik directly addresses the reader and states “Your trial offers you a stage to the world” (Breivik, 2011: 7b). Breivik makes explicit his desire to mobilise the power of the media to publicly disseminate his political views and use the media as a platform to highlight the inadequacies and illegitimacy of the Norwegian criminal justice system. This offers clear insight into the current stage in mass media developments and its relationship with the public and politics. Couldry’s analysis states that “politics is fundamentally mediated” (2012: 24) and that the mass media serves as a stage through which power functions; “media do not have power as such...but rather comprise nodes through which power now operates” (ibid: 85-86). With this in mind, it is clear that the vast accelerations in mass media technology have facilitated a broadening of the terrain upon which politics is enacted, and the corresponding democratisation of ideas that allows social actors to participate in media spectacle. Thus, unlike the more traditional media technologies available to historical case studies such as the Ratcliffe Highway murders, Jack the Ripper, or Charles Lindbergh Jr, the media spectacle that surrounded the Breivik case was inherently political, multidimensional, and publicly responsive because “we can now meet and organize politically

¹⁸¹ The Breivik Archive. 2012. *The Breivik Archive: Transcripts*. [online]. 19 April 2012.

¹⁸² The Breivik Archive. 2012. *The Breivik Archive: Transcripts*. [online]. 17 April 2012.

with people we do[not] know and can[not] see, doing so at great speed, across local, regional and even national boundaries” (ibid: 110).

In response to Breivik’s political crimes, and the increased power of the media to “frame, mobilize and influence political issues” (Kellner, 2003: 94), the spectacle of justice and mass media attention was significant. However, instead of mechanising the media in a fight against the Norwegian justice system, “the trial was viewed by many as not sending Breivik’s message, but instead, effectively demonstrating the Norwegian system of criminal justice to the world” (de Graaf, 2013: 11). The spectacular nature of Breivik’s case and trial has significant theoretical value because it highlights how the spectacle of justice is undeniably conspicuous in cases of extreme anti-State ideology, a process that is reminiscent of the pre-panoptic spectacle of punishment against Damiens the regicide on 2 March 1757 (Foucault, 1991: 3).

Rhetoric of ‘legitimate targets’ is a theme which runs throughout cases of political criminality and is arguably central to how justice has become a spectacle. This theme and these political discourses are echoed in Edward Snowden’s case study, and they too contribute to the spectacle, rather than privatisation, of justice. In a discussion on the U.S. government’s surveillance practices Glenn Greenwald, Snowden’s journalistic ally, argues the State

“completely abused their own terrorism law for reasons having nothing whatsoever to do with terrorism... and...helpfully underscore why it’s so dangerous to allow [the government] to exercise vast, unchecked spying power in the dark”¹⁸³.

As such, the dominant discourse throughout media representations of Snowden’s case is the justification of his actions based on the supposedly undemocratic surveillance practices being conducted by the U.S. government. Snowden’s case, as represented in the centre-left British newspaper *The Guardian*, characterises the U.S. government as ‘legitimate targets’ and stands in opposition to its secret panoptic surveillance in which “individuals are inserted in a fixed place...the slightest movements are supervised...all events are recorded” (Foucault, 1991: 197). This defiant rhetoric presents the visibility of Snowden’s whistleblowing as a necessary outcome of the States injustices and a method of raising awareness and protecting the public. This

¹⁸³ Greenwald, G. *Detaining my partner: a failed attempt at intimidation*. The Guardian. 18 August 2013.

supports Kölbel and Herold's (2017 see also Rothschild and Miethe, 1999) work into whistleblowing as a product of strain and sustained conflict. From this perspective,

“[Snowden] did not act with any self-interest in mind. The opposite is true: [he] undertook great personal risk and sacrifice for one overarching reason: to make...fellow citizens aware of what their government is doing in the dark. The objective is to educate, to democratize, to create accountability for those in power”¹⁸⁴.

Here, Snowden's discourses are not dissimilar from the injustice undertones of Breivik's justifications. By labelling the U.S. government as 'legitimate targets', Snowden seeks to absolve himself from the perpetrator label, and instead assume a romanticised hero role whose "intention[s]...were to inform the public to that which is done in their name and that which is done against them"¹⁸⁵. Snowden uses media discourses and the consequent spectacle to actively position himself against the orthodox understanding that criminals "are spectres of evil that terrorize honest citizens" (Kooistra, 1989:7), and instead applies this label to the U.S. government. Both Breivik and Snowden's politicised crimes are justified as being on behalf of the general public and acts of necessity against the State. In both cases the media is perceived to be a mechanism with which the political perpetrators hope to cultivate a public identity and gain public leverage; the spectacle of criminal justice can be employed to activate socio-structural change.

As such, within the Snowden case, the media facilitates the exercise of individual agency and offers a platform on which individuals can reject the power of the State and call for the overhaul of a defective institutional machine. Because of this, the themes of 'legitimate targets' and anti-governmental ideologies, within cases of political criminality, have significant value in understanding how justice has become a spectacle. To expand, the mass media and its discourses worked alongside the criminally condemned and mechanised its power and influence to create a spectacle of justice. Justice has herein become a spectacle because of the collaborative relationship between the mass media and lay social actors. This argument makes an interesting link to one of the founding arguments in *Discipline and Punish* (Foucault, 1991)

¹⁸⁴ Greenwald, G. *On whistleblowers and government threats of investigation*. The Guardian. 7 June 2013.

¹⁸⁵ Snowden, E. 2013. *Email exchange between Edward Snowden and former GOP Senator Gordon Humphrey*. The Guardian. 16 July 2013.

and its theory of new projects of docility. According to Foucault, following the decline of the spectacle, disciplinary and State institutions exerted new forms of “subtle coercion” (ibid: 137) upon individuals, whose “movements, gestures, attitudes, [and] rapidity” (ibid) were under “meticulous control” (ibid). For Foucault, docile bodies are integral to the decline of the spectacle. In contrast, spectacular justice demonstrates the potential role of the media as a mediator between the public and the state and considers the impact this has on maintaining a spectacle.

Political perpetrators and rhetoric of legitimate targets make the fallibility of Foucault’s theory explicit and assert the notion of the spectacle in justice. Breivik and Snowden’s actions illustrate the agency of individuals to reflexively critique those at the helm of the disciplinary machine, and how human bodies resist the “machinery of power that [strives to] explore it, break it down and rearrange it” (ibid: 138). As such, the spectacle of justice continues because of the sustained ability of individuals to reflect on perceived institutional (in)justice and use their agency to call for structural change. Individuals undermine the notion that politics are universally understood as “a technique of internal peace and order” and question the ethical basis and legitimacy of “implement[ing] the mechanism of the perfect army, of the disciplined mass, of the docile, [the] useful troop” (ibid: 168). Political perpetrators and the theme of legitimate targets challenge the theory that the disciplinary society sculpted a homogeneous social order. And so, the spectacle of justice can be seen to thrive because of profound heterogeneities both within and between global societies. This is significant because it speaks to the research questions of this thesis by revealing how the political, moral, and social condition of a society plays a large part in the extent to which justice has become a spectacle. Furthermore, it speaks to how when political climates are defined by conflict and tension, the spectacle of criminal justice is especially visible.

As has been explained, Breivik and Snowden’s actions represent the agency of political perpetrators and their crimes. However, political impact does not only function at an individual level; political crimes and their perpetrators also have the ability to enable State and media institutions to comment on international political practices. To elaborate, the individual political perpetrator can serve as a catalyst for macro political tensions to surface and can be adapted to become global political pawns. That is, certain crimes are given wider structural meaning and are used in international political conflicts by mass media institutions, the public and

international governments, to challenge the legitimacy of governmental authority, and highlight the successes and superiority of their own State practices. Therefore, such cases of global justice spectacle are inherently political. Fundamentally, political perpetrators catalyse international political and moral debates and, in so doing, contribute to the transparency and democratisation of the criminal justice system rather than its privatisation.

The utilisation of a criminal act as a political pawn, fuelled by public criticism and moral debates characterises the Michael Brown case, specifically the “raw and tense...issue of race...in [the U.S.] since Ferguson police officer Darren Wilson fatally shot 18-year-old, unarmed Michael Brown”¹⁸⁶. Michael Brown’s death symbolically resulted in debates around the equitability of policing “reach[ing] a boiling point” (Dunham and Petersen, 2017: 342) and public debate sought to challenge the “long shadow” (ibid: 345) that racial inequality casts on the history of American policing. The shooting sparked the international Black Lives Matter campaign¹⁸⁷ against institutional racism and police brutality within the U.S. and is significant because firstly it highlights how individual acts can ignite wide-scale public unrest and political discussion. Secondly it makes explicit the international reach of spectacular justice and how international social actors use media technologies to communicate and offer support in the face of state violence, oppression, and injustice. The case became a political pawn in the game of improving race relations and institutional racism in the U.S. and is thus an exceptional embodiment of the mediated visualisation of justice.

Much like the Edward Snowden and Jodi Arias cases, the Michael Brown killing is defined by the ambiguity surrounding who is the victim and who is the perpetrator. For example, to “many experts, Officer Wilson’s actions in the confrontation with Mr. Brown...were within the bounds of standard police protocol”¹⁸⁸. On the one hand it is argued that “Michael Brown [who] ‘looked like a demon’...made [Officer Wilson] fear for his life and said when he grabbed him

¹⁸⁶ Sultan, A. *Facebook talk on #Ferguson, race causing a friend fallout, chilling relationships*. St Louis Post-Dispatch (Missouri). 24 August 2014.

¹⁸⁷ The Black Lives Matter campaign is a global network member-led organisation that aims to build local power and seeks to challenge violence that is inflicted on Black communities by the state and vigilantes. It is a movement driven by politics of inclusion and liberation.

¹⁸⁸ Schwirtz, M. and Oppel, R. *Experts Weigh Police Officer’s Decisions Leading to Fatal Shooting of Teenager*. The New York Times. 27 November 2014.

[it] ‘felt like a 5-year-old holding onto Hulk Hogan’¹⁸⁹. A contrasting discourse argues that the death of Michael Brown was symptomatic of institutional police racism within the U.S. and should be considered innately criminal. This latter discourse left many international communities feeling angered about the fact that “we are still witnessing the phenomenon of racism in the Western societies...and that those who claim to be advocates of human rights are pursuing such an approach”¹⁹⁰. These counter-State discourses employ the case as a political pawn to directly undermine the legitimacy of the U.S. government and its management of race relations.

The most discernible example of condemnation and conflict following Brown’s death follows the U.S. grand jury’s decision not to charge Officer Wilson. The failure of the grand jury to charge Officer Wilson “triggered massive protests in the mostly-black city of Ferguson and started a national debate on race relations and the use of force by police”¹⁹¹. Newspaper headlines described how “Ferguson burn[ed] as armed rioters torch[ed] police cars and buildings and looters ransack[ed] shops in the aftermath of [the] grand jury decision”¹⁹². The conflict and politically inflammatory response to Browns death, shows striking similarities to the aftermath of James Bulger’s death in the UK in 1993. The public response in Merseyside following the sentencing of ten-year-old perpetrators, Thompson and Venables, was considered “seismic”¹⁹³, and sparked “angry mob[s] shouting and screaming for revenge”¹⁹⁴. When the perpetrators left the Liverpool courthouse “crowd[s] surged forward and broke through a police line. They spat abuse and hurled accusations. Some kicked the police with frustration. Others threw bricks”¹⁹⁵. Public and political unrest following the case was manifested in physical demonstrations of powerlessness, and in keeping with Michael Brown, the case, fuelled by public protests and media attention, was adapted into a political pawn in debates on childhood

¹⁸⁹ Grossman, A. and Evans, S.J. *Michael Brown ‘looked like a demon’: Officer Darren Wilson said teenage made him fear for his life and said when he grabbed him he ‘felt like a 5-year-old holding onto Hulk Hogan’*. Mail Online. 25 November 2014.

¹⁹⁰ Solomon, A.B. *Cairo, Tehran make use of Missouri News*. Jerusalem Post. 20 August 2014.

¹⁹¹ Charlton, C. *Justice Department to investigate Ferguson police department after shooting of unarmed teenager Michael Brown*. Mail Online. 4 September 2014.

¹⁹² Reilly, J., Boyle, L., Collman, A., Martokso, D. and Bates, D. *Ferguson burns as armed rioters torch police cars and buildings and looters ransack shops in aftermath of grand jury decision NOT to indict cop Darren Wilson for Killing black teen Michael Brown*. Mail Online. 25 November 2014.

¹⁹³ Low, V. *Mob fury follows arrests*. Evening Standard (London). 17 February 1993.

¹⁹⁴ Ibid.

¹⁹⁵ Laing, A. *Police convoy runs the gauntlet after Jamie murder hearing: Mob fury at accused boys*. The Herald (Glasgow). 23 February 1993.

criminality and concerns of a broken society. The James Bulger case is a commanding example of spectacular justice largely because of its political and moral longevity.

However, whereas the public politicisation and weaponising of Bulger's death was largely restricted to the UK, public protests in support of the Black Lives Matter campaign were not isolated to Ferguson, indeed, the jury's decision ignited a global sense of public injustice. "Hundreds of people in central London took the streets...[whilst] support for the Ferguson protestors has spread to...Hong Kong and Palestine"¹⁹⁶. One newspaper captures the visual justice spectacle when describing how the media "export[ed] the conflict and meaning of Ferguson to the rest of the world. Ferguson was and is everybody's business- in a way news has never been before"¹⁹⁷.

One area of the world that was most responsive to the spectacular media call for social action was found in the Middle East. Both diplomats and lay social actors from countries including Egypt, Iran, Israel, Bahrain, and Palestine used social media to demonstrate solidarity with the U.S. protestors and condemn the U.S. government and police for their use of force. One newspaper recounts how "using the hashtag #Palestine2Ferguson, a Palestinian activist published an image on Twitter showing himself holding a banner reading: 'the Palestinian people know [what it means] to be shot while unarmed because of ethnicity'"¹⁹⁸. As such, media discourses, both social and traditional, exposed the U.S. criminal justice system, but not only did it increase visibility and transparency, it also facilitated communication and made criminal justice issues accessible to the lay actor. The international effect on global citizens in the aftermath of Michael Brown's death quickly gained political momentum. Using media outlets, social actors from all parts of the world responded in solidarity, with "thousands rall[ying] around U.S. after Ferguson decision [chanting] 'The People Say Guilty!'"¹⁹⁹. These social media discourses are part of the wider political rhetoric against the U.S. government, encapsulated in the following quote "Cairo on Tuesday urged U.S. authorities to exercise

¹⁹⁶ Karlidag, I. *Support for Ferguson protestors spread around the world*. Anadolu Agency. 27 November 2014.

¹⁹⁷ Bynes, P. in Timpane, J. *Social media bring Ferguson to the world*. The Philadelphia Inquirer. 26 November 2014.

¹⁹⁸ Karlidag, I. *Support for Ferguson protestors spread around the world*. Anadolu Agency. 27 November 2014.

¹⁹⁹ Gurman, S. *Thousands rally around U.S. after Ferguson decision: FERGUSON DECISION: NATIONAL REACTION*. St. Louis Post-Dispatch (Missouri). 25 November 2014.

restraint in dealing with racially charged demonstrations in Ferguson.... echoing language Washington used to caution Egypt as it cracked down on Islamist protestors last year”²⁰⁰. The convergence of both traditional and social media is further indicative of the pervasiveness of digital media and its ability to bring people together. Couldry writes, that today’s media culture, in particular its reliance on digital technology and internet powers, provides society with a “means for individual discovery, collective contact and guaranteed mutual surveillance” (2012: 5). The interconnectedness afforded a global public in the twenty-first century signals a significant difference in how the spectacle is constructed in comparison to the more historical case studies analysed in this thesis. Not only was the Brown case the subject of print, broadcast, social, and traditional media coverage, often in real time, but it speaks to the mass media as a facilitator of political and social action. The media spectacle (Kellner, 2003) surrounding the events enabled “action [to] gather force, gain attention and generate extreme pressure on institutional actors” (Couldry, 2012: 126).

In many examples, feelings of solidarity and combativeness manifested themselves in discourses of practical advice, detailing how to deal with protest hazards such as tear gas. This is important to this investigation into the ways in which justice can be understood as a spectacle because it highlights the power of empathy and the human stories, as manifested in the perpetrator character. The data on political perpetrators illustrates how the spectacle of justice functions because of the medias role in giving voice to oppressed and dispossessed social groups who seek visible and public means of justice. The following data embodies the visible spectacle of justice.

- “Solidarity with #Ferguson. Remember not to touch your face when tear-gassed or put water on it”²⁰¹.
- “Yeast solution is 5% yeast and 95% water that’s it. Spray it before and after #teargas tips #Ferguson”²⁰².
- “Don’t keep much distance from the police, if you’re close to them they can’t tear gas. To #Ferguson from #Palestine”²⁰³.
- “Spray alcohol-based perfume on scarf & wrap on face. The smell helps counteract teargas, scarf protects identity ;) #Palestine to #Ferguson”²⁰⁴.

²⁰⁰ Solomon, A.B. *Cairo, Tehran make use of Missouri News*. Jerusalem Post. 20 August 2014.

²⁰¹ Mackey, R. *Advice for Ferguson’s Protestors From the Middle East*. The New York Times. 15 August 2014.

²⁰² Ibid.

²⁰³ Ibid.

²⁰⁴ Ibid.

In response to the protests, Missouri police issued a no-fly zone over Ferguson, a decision that was later revealed was intended to prevent news media from publicising the protests, and, consequently, police responses. Police efforts to prevent the visibility of the criminal justice system and its orbiting processes was strongly criticised by then President Obama who said the “local authorities, including police, have “a responsibility to be transparent and open””²⁰⁵. The actions of the Missouri police are symbolic of the State manifestations of power that Edward Snowden’s whistleblowing reacted against. Snowden’s politicised crimes were premised on the idea that the U.S. government has a responsibility to be transparent and accountable. Using discourses of accountability and transparency, and aided by the support of *Guardian* journalists, the case became a political pawn in the fight against those who “are waging war on basic tenets of transparency”²⁰⁶. The U.S. government was accused of “overreact[ing] to measures of accountability and transparency” and in doing so “abus[ing] their power of secrecy”²⁰⁷.

As a result, the U.S. government can repeatedly be seen to actively reject the pre-panoptic view that “public torture and execution must be spectacular, it must be seen by all” (Foucault, 1991: 34). Therefore, the way in which the U.S. State resisted calls to make its judicial actions against the protestors public, supports Foucault’s theory of panoptic privatisation and abandons the pre-panoptic period of justice. During the pre-nineteenth century period, an era defined by the circus of the spectacle, “[p]eople were summoned as spectators: they were assembled to observe public exhibitions and *amendes honorables*; Not only must people know, they must see with their own eyes” (ibid: 58). Foucault explains that under these conditions it was the State who had both the power to impose the rule of spectatorship and the notion that visibility is conducive to truth. However, the politicisation of the Michael Brown case shows that this is no longer the case, and that in many instances it is the public who are demanding visibility of justice and punishment, not the State. To elaborate, Foucault (1991) argued that “[a]n execution that was known to be taking place, but which did so in secret, would scarcely have had any meaning” (ibid: 57-58). And so, arguably by imposing a no-fly over zone for the media, the Missouri police force tried to inhibit meaning being attributed to their actions and any political repercussions; they were obscuring the truth by rejecting the visual.

²⁰⁵ The New York Times. *The Search for Calm in Missouri*. 15 August 2014.

²⁰⁶ Greenwald, G. *On the Espionage Act charges against Edward Snowden*. The Guardian. 22 June 2013.

²⁰⁷ Greenwald, G. *On whistleblowers and government threats of investigation*. The Guardian. 7 June 2013.

In direct contrast, international communities, bolstered by mass media discourse, demanded visibility and transparency and argued that “secrecy corrupts, just as power corrupts”²⁰⁸. In doing so, the public resisted the imposition of privatisation measures and instead made the case into a political pawn to expose the moral and political wrongdoings of the U.S. State. The media emboldened these international calls for justice and made them spectacular and this has important theoretical implications. It shows how it cannot be legitimately argued that social actors unanimously conform to the docile behaviours of Foucault’s panoptic prison, in which individuals are “seen, but...does not see; [they are] the object of information, never a subject of communication” (1991: 200). Herein, not only do the media play a powerful role in facilitating the spectacle of justice, but it also facilitates the structural rejection of panoptic privatisation through liberating social actors from their shackles of docility.

No longer is “visibility...a trap” (Foucault, 1991: 200) for the powerless, no longer is it a unilateral demonstration of force by the powerful against the powerless. Media discourses and representations of the Michael Brown murder, and its resulting protests, show how it is more complex than this. Visibility, that is transparency, is not inherently used against the powerless and neither is the watch tower light fixed, but rather it can be turned around to expose the powerful. In this case it was turned around to expose the police and the U.S. government. The government and police are clearly aware of the dangers of transparency because transparency naturally has implications for truth and accountability.

To conclude, spectacular justice is conspicuous at the intersection between crime and politics and political perpetrators secure the success of the spectacle in criminal justice process. The two main themes, legitimate targets and political pawns, emphasise the power of political ideologies and discourses to the public visibility of criminal justice. The Breivik, Snowden, Bulger, and Brown cases illustrate how political perpetrators and their criminal cases can gain value and significance beyond the immediate crime, become symbolic of wider socio-structural debates, and bolster the authority of domestic policies. Thus, media discourse plays an active role in extending the reach of the spectacle of justice following political crimes. Media platforms facilitate communication, action, and reaction, and bring individuals together around the common commitment to protecting democracy, morality, and justice. These examples of

²⁰⁸ Ellsberg, D. in Greenwald, G. *The Snowden video sequel and Brazil fallout*. The Guardian. 8 July 2013.

political perpetrators and their crimes were not kept within the confines of a privatised, panoptic justice system, but were instead made visible because of the public value of transparency and accountability in criminal justice. Whilst the public were not always successful in their attempts to achieve change, and whilst a large proportion of the media discourses were fractious, symptomatic of a “culture where the 24/7 news cycle dissects events and often fills the information void with opinion”²⁰⁹, the very fact that these conversations were taking place and were facilitated by media institutions, demonstrates that justice has become a spectacle.

5.4 Auxiliary Perpetrators

The third perpetrator category explores the relationship between spectacular justice and auxiliary perpetrators. The concept of auxiliary perpetrators, as outlined in this chapter’s introduction, recognises that in certain criminal cases individuals or social groups may feel responsible or are held accountable by others for a crime whilst not committing the criminal act themselves. As such, the spectacle of justice thrives when, following a criminal act, individuals and social groups are blamed by media and political discourses for facilitating the crime through absenteeism. Furthermore, the spectacle of criminal justice is especially visible when crime is perceived to be symptomatic of a broken society and moral degeneration. Under both circumstances, auxiliary perpetrators and their visibility within justice process have significant implications for the theoretical credibility of Foucault’s theory of panoptic privatisation.

Discipline and Punish proposes that “[t]he Panopticon is a marvellous machine which, whatever use one may wish to put to it, produces homogeneous effects of power” (1991: 202). Auxiliary perpetrators challenge this assumption by demonstrating how the effects of power are not homogeneous. Rather, they speak to how the supposed “automatic functioning of power” (ibid: 201) is neither assured nor automatic but often in flux. It demonstrates the multiple conceptions of what constitutes the successful functioning of power, and how different definitions are spectacularly defended in the pursuit of justice. Consequently, not only does this section emphasise the theoretical and practical fallibility of Foucault’s (1991) theory, but also how the theory of spectacular justice prospers in parallel.

²⁰⁹ Melley, B. *Ferguson’s flashpoint sparks national outrage: Ferguson Police Shooting*. St. Louis Post-Dispatch (Missouri). 1 September 2014.

The spectacle of justice and mediated visualisation are conspicuous at the intersection between criminality and societal blame, and as such this is the first main theme within auxiliary perpetrators. Media discourses play a central role in perpetuating political rhetoric that social actors and institutions are inherently to blame for facilitating a criminal act through their perceived incompetence and absenteeism. These discourses are exceptionally prevalent following the Norwegian massacres in 2011 and in particular how the U.S. media, fuelled by historical penal excess (Garland, 2005), called for a public recognition of the inadequacies and responsibility of the Norwegian government for the massacre. On the one hand, many international news corporations were vocal in their support for the Norwegian media response to the crimes and their social displays of community and humility. On the other hand, following Breivik's trial and sentencing the U.S. media defined the Norwegian government as an auxiliary perpetrator; complicit in the Norwegian massacres on two levels. Firstly, their supposed guilt was founded on their perceived failure to implement effective surveillance and security measures following the 9/11 terror attacks, and secondly, how the governmental inadequacies were manifested in Scandinavian exceptionalism in an era of penal excess (Pratt, 2008). Indeed, "in America, where shoplifters can be sentenced to life for a third strike, this is incomprehensible. Here, gun massacres are easier to understand than light prison sentences"²¹⁰. As such, the United States' domineering response to Breivik's sentencing is indicative of the close relationship in the U.S. between the spectacle of justice, penal excess, and the need to legitimise judicial practices. U.S. defensiveness and spectacular calls for justice are similarly represented in the Edward Snowden case, to which international media discourses accused the United States' of using "draconian responses"²¹¹ because of the countries' "long history of tension between the constitutionally guaranteed rights of U.S. citizens and government actions that abridge those rights"²¹².

However, in Breivik's case rather than focusing on the perpetrator, the U.S. media shifted its focus towards the Norwegian government, claiming that it failed to mobilise power and separate, immobilise and partition an "extraordinary evil" (Foucault, 1991: 205). Thus, in response to Norway's perceived failure to implement the "cruel, ingenious cage" (ibid: 205) of

²¹⁰ Norman, T. *Nothing Mythological About This Madman*. Pittsburgh Post-Gazette (Pennsylvania). 26 July 2011.

²¹¹ Snowden, E. in Nakashima, E. and Horwitz, S. *Snowden says he can't get a fair U.S. trial*. The Washington Post. 18 June 2013.

²¹² The New Zealand Herald. *Analysis: Snowden caught in historic conflict*. 12 July 2013.

the panoptic machinery of power, the U.S. media triggered a spectacular call for justice. U.S. media directly challenged the way the Norwegian justice system handled the case and mocked its apparent “enlightened sensibilities”²¹³. The mass media perpetuated discourses of U.S. judicial supremacy by claiming the Norwegian massacres

“illustrates what’s wrong with banning the death penalty in all cases. If executing an innocent man is the worst-case scenario for proponents of the death penalty, then threatening Breivik with prison is the reduction ad absurdum of death-penalty abolitionism”²¹⁴.

Therefore, whilst “the verdict within Norway was relief, both among victims and the wider society” (De Graaf et al, 2013: 1), many Americans interpreted the judicial decision with a sense of injustice; the

“Norwegian Justice System failed: If Norway intended, in the trial of Anders Breivik, to showcase to the world its enlightened sensibilities, it failed miserably. His 21-year prison sentence is an obscenity...by squandering compassion on a smirking, unrepentant sociopath, they have made a mockery of all legal decency”²¹⁵.

By vilifying Breivik as a “smirking, unrepentant sociopath”²¹⁶ the newspaper suggests that the justice system has been overpowered by the will of the criminal perpetrator. U.S. media interprets this as a fundamental failure of the Norwegian State to apply the panoptic principles and ensure “inmates [are] caught up in a power situation of which they themselves are the bearers” (Foucault, 1991: 201). Other newspapers share the popularised and impassioned rejection of “leniency for Norway’s unrepentant killer”²¹⁷ and demean the foundations of non-American justice in statements such as: “If you’re a lunatic mass murderer, you couldn’t pick a much better venue for the crime than Norway”²¹⁸; the criminally condemned should look to the

²¹³ Chico Enterprise-Record (California). *Letter: Norwegian justice system fails*. 29 August 2012.

²¹⁴ Lane, C. *No more death row?* The Washington Post. 1 May 2012.

²¹⁵ Chico Enterprise-Record (California). *Letter: Norwegian justice system fails*. 29 August 2012.

²¹⁶ Ibid.

²¹⁷ Greenberg, P. *Leniency for Norway’s unrepentant killer*. Tulsa World (Oklahoma). 9 September 2012.

²¹⁸ Sentinel & Enterprise (Fitchburg, Massachusetts). *Gentle justice for mass murderer*. 18 April 2012.

“defiant demon, [the] Norway killer [who got] 21 years”²¹⁹; “not even 21 years for each victim, but for all”²²⁰.

However, the U.S. and Norway have polarised conceptualisations of discipline and punishment, which in turn has implications for how the spectacle of justice varies culturally. The World Prison Brief’s (WPB) global prison population rankings reveal that the United States of America is ranked number one, with a total prison population of 2,121,600 people. This equates to around 693 per 100,000 of the national population. Norway on the other hand is featured at number 129, with a total prison population of around 3,933. This estimates that its prison population rate is around 73 per 100,000 of the national population²²¹ (WPB, 2018). The significance of these statistics is palpable. They illustrate how in the U.S. “punishment is [not only] populist” (Cusac, 2009: 6), but “punishment practices cannot be separated...from [its] identity as a people” (ibid: 15). Along these lines it can be argued that “in the context of the United States the egalitarian tradition...contributed to a dynamic that has led to a tolerance of more degrading and inhumane punishments” (Whitman, 2003 in Pratt, 2008). Since the 1970s the U.S. can be seen to pursue a route that “led toward a much greater emphasis on incarceration, coupled with a waning commitment to rehabilitation” (Currie, 1998: 186). The mass incarceration movement in the U.S. supports Foucault’s (1991) theory of privatisation, and the movement towards institutionalisation and punishment against the soul rather than the body. This is significant because in contrast to the U.S. judicial embodiment of Foucault’s (1991) panoptic principles of discipline and punishment, the Norwegian system is perceivably failing to implement mechanisms of control through its resistance towards greater social surveillance and stringent control mechanisms. In response, the U.S. media spectacularly and publicly berates Norway’s reluctance to enforce disciplinary power so that “any...institution...may without difficulty be subjected to such irregular and constant inspections” (Foucault, 1991: 207). Nevertheless, Norway’s judicial system, as understood through the auxiliary perpetrator theme, illustrates how there are multiple conceptions of how “the immediate salvation of a threatened society” (Foucault, 1991: 208) is achieved, but more importantly, how social forces can be strengthened without the cumbersome logic of the panoptic privatisation of justice.

²¹⁹ Siemaszko, C. *DEFIANT DEMON Norway killer gets 21 yrs.* Daily News (New York). 25 August 2012.

²²⁰ Greenberg, P. *Leniency for Norway’s unrepentant killer.* Tulsa World (Oklahoma). 9 September 2012.

²²¹ Figures from 2016.

In this knowledge, Foucault (1991) posed the question “is not the directors own fate entirely bound up with [the panopticon]?” He then goes on to argue that “[t]he incompetent physician who has allowed the contagion to spread, the incompetent prison governor or workshop manager will be the first victims of an epidemic or a revolt” (1991: 204). Foucault herein attributes significant power to those individuals at the helm and in the watchtower of the panoptic machine, and these sentiments and notions of responsibility are echoed throughout U.S. media discourses following the Norwegian massacres. However, these failings are not perceived in a socio-political vacuum, and it can be argued that Foucault overlooks the power of the spectacle in the subsequent epidemic or revolt. To elaborate, the data on Breivik shows how when political and media powers perceive individuals or social groups to be incompetent and to have made mistakes, in response, justice process is focused on visibility and spectacularly highlighting conflict. Therefore, spectacular justice is cultivated by perceived injustice and the need to attribute blame for criminal actions beyond the orthodox perpetrator.

In a similar pursuit of justice beyond the orthodox perpetrator, the second dominant theme throughout the auxiliary perpetrator category is the notion of a ‘broken society’. “[A]dvanced by Conservative politicians in the UK as emblematic of social and moral decay” (Hancock & Mooney, 2012: 46), the narrative of a ‘broken society’ is a “flexible notion” with an “emphasis on individual and family responsibility...[and] a need to encourage a revival of community ‘spirit’, civic interaction and mutuality” (Mooney & Neal, 2010: 145). Such discourses echo the sentiments in Foucault’s (1991) *Discipline and Punish* in which seventeenth century Europe was plunged into anomic (Durkheim, 2002) distress when civilisations were struck by the plague. Similarly, crimes like the murder of James Bulger which are fatal and unpredictable, present society with a threatening dilemma, which individuals and institutions must manage. In both cases, whether crime or disease, society is thrown into a state of anomie and normlessness (ibid), the severity of which threatens the stability of society. Herein, processes of spectacular justice are visible when society faces disintegration. In particular, justice is a spectacle when a criminal case is interpreted as symptomatic of wider social ills, and when media and political discourses mechanise members of the public to facilitate reformation and change through social action.

This is best exemplified by the Thompson and Venables case in 1993; Liverpool became known as “the city with a murder on its conscience”²²². This is because whilst not directly involved in the murder itself, many local adults felt as if the murder could have been prevented had they taken earlier action; had they questioned the boys when they saw them walking with James; had they investigated the boys truanting from school; or had they raised concerns over family welfare. The murder of James Bulger was characterised by media discourses as indicative of a broken society in which dramatic changes to the normative understandings of childhood were taking place. Beyond this, the case emphasises the weakening of social bonds and the failure of disciplinary institutions such as schools and families to adequately socialise children. To elaborate, British media discourses mechanised the murder of Bulger in an attempt to engage the public in a reflexive assessment of their role as adults to protect the cultural sanctity of childhood in Britain and reinforce the view that “childhood in the twentieth century is...separate from adulthood” (James & Prout, 1997: 91). Herein, following the murder and the trial, media discourses focused on the failure of British adults to protect James Bulger from Thompson and Venables; the criminal justice system was made transparent so that the public could evaluate their position as auxiliary perpetrators. And thus, the mediated visualisation of the criminal justice system acts as a mirror in which individuals can reflect and evaluate.

Numerous media accounts argued that the tragedy was symptomatic of how the modern social condition “ha[s] dissolved the bonds of community...[and how] children [have] no framework within which to learn civic virtue and responsibility”²²³. This sentiment is echoed in a reader comment in *The Independent* which described how “the trial is like the end of a nightmare for a society unable to recognise itself in the children who murdered James. Perhaps those children are the result of some terrible disintegration of that society”²²⁴. Notions of irreparable change and disintegration are a defining narrative throughout the Thompson and Venables’ case and a key stone in the success of spectacular justice. Media discourses lamented “schools, society and families...for failing to inculcate a conscience. And...the Church of England [that] had failed in its duty to teach youngsters the difference between right and wrong”²²⁵.

²²² Ellis, W. *The city with a murder on its conscience*. The Times. 19 February 1993.

²²³ Sacks, J. *Holes in the moral fabric*. The Times. 3 December 1993.

²²⁴ The Independent (London). *James Bulger/ As others see it*. The Independent. 28 November 1993.

²²⁵ Veloo, R. *Tot’s murder: 2 jailed, but who’s to blame?* The Straits Times. 28 November 1993.

One article vividly describes the missed opportunities for adult supervision and prevention in detailed descriptions of the circumstances which led up to the two boys committing murder:

[Jon Venables] “was bullied by other children; he would return home visibly upset. He used to roll vertically along classroom walls, bang his head against furniture, tear down fellow pupil’s work, cut himself with scissors and stick paper all over his face...Separated parents, poverty, truancing, videos, a brutal atmosphere- all these may have been contributory factors”²²⁶

Whilst Robert Thompson

“was a persistent truant, who...wandered the streets...One of Robert’s older brothers asked to be taken into council care. He was sent home after a year, and swallowed a bottle of paracetamol in a suicide bid to get back in”²²⁷.

Such accounts are explicit in their condemnation of populist media discourses which claim the boys are evil monsters, and instead argue that such

“attempts to demonise these thumb-sucking murderers are efforts to distance ourselves from our culpability. Little monsters who pulled the heads off live baby pigeons, freaks of nature with chemically imbalanced minds, children whom no one failed because the outcome was inevitable. But fail them we did”²²⁸.

Thus, the public can be considered auxiliary perpetrators for two main reasons; firstly, social actors and institutions failed to protect Bulger in the time immediately preceding the murder. Secondly, by investing heavily in the theory that children are inherently innocent and vulnerable, the public did not recognise the emotional complexity of the perpetrators and who were consequently measured against unrealistic behavioural expectations and demonised accordingly. The product: the spectacle of criminal justice.

²²⁶ Bedell, G. *James Bulger: The death of innocence; There are no meanings to be found in James Bulger’s murder, says Geraldine Bedell, except that it shows us hell.* The Independent (London). 28 November 1993.

²²⁷ Ibid.

²²⁸ McTeirnan, A. *All of us must share the blame.* The Irish Times. 26 November 1993.

This apocalyptic notion that “society has turned children into aliens in their own country”²²⁹, as well as narratives of disintegration, crumbling social order, and the rupturing of norms, puts “[f]ull lighting and the eye of the supervisor” (Foucault, 1991: 201) on society itself rather than the perpetrators. Herein, media discourses counter balance the moral judgments against Thompson and Venables²³⁰, and instead identifies social actors and social institutions as auxiliary perpetrators, whose failings contributed to the murder of James Bulger, and can be “observe[d] from the tower, standing out precisely against the light” (Foucault, 1991: 200) of media discourses.

Peter Collins of the Australian newspaper *The Age* reiterates this message by acknowledging how “these 10-year-olds are messengers with a truth about us and our society...The 10-year-olds are the victims of the violence of society. The violence of ignorance. The violence of lives without affection and meaning”²³¹. Collins’ view that Thompson and Venables’ criminality was rooted in social ills is shared by Philips and Kettle (1993) in *The Guardian* who lament how “the case of James Bulger exposes once again our society’s growing indifference and our own increasing isolation”²³². This data from *The Age* and *The Guardian* reveals how the spectacle of justice is visible in cases where the perpetrator label can include society itself. This is because, under circumstances where “all of us must share the blame”²³³ the criminal justice system prioritises transparency so that society can work together to consolidate social norms around childhood criminality and adult responsibility. Thus, whereas some of the disciplinary mechanisms and systems of power may reflect panoptic principles advocated by Foucault (1991), these principles are public, and they are spectacular. And thusly, institutionalised, covert, panoptic justice is not suitable in the Bulger case because it would fail to address the issue of societal accountability and it would infringe on social change.

News media discourses therefore played an active role in provoking the nation to reassess its approach to children, childhood criminality, and adult responsibility. From which “the nation

²²⁹ Collins, P. *Who’s on trial in toddler’s killing*. *The Age* (Melbourne, Australia). 3 March 1993.

²³⁰ As discussed in the *Inhuman Perpetrator* subsection.

²³¹ Collins, P. *Who’s on trial in toddler’s killing*. *The Age* (Melbourne, Australia). 3 March 1993.

²³² Phillips, M. and Kettle, M. *THE MURDER OF INNOCENCE; The case of James Bulger exposes once again our society’s growing indifference and our own increasing isolation. He trusted a stranger and now he is dead*. *The Guardian* (London). 16 February 1993.

²³³ McTeirnan, A. *All of us must share the blame*. *The Irish Times*. 26 November 1993.

embarked on an agony of questioning, seeking reasons in the face of chaos”²³⁴ in the hope of redressing “the fear, the shame, [and] the guilt”²³⁵. There is clearly the sense that by employing the auxiliary perpetrator label to the public, through media discourses of blame and culpability, purposely produced panic, distress, and concern (Cohen, 2002). The public were consequently left feeling bewildered as they had to contemplate their part in the

“great...mystery [as to] why the rest of us not just Liverpoolians allow such horrors to be committed in our midst and simply walk away, telling ourselves nothing is wrong and everything will be alright”²³⁶.

This is important because it demonstrates how in response to cases of violent and unpredictable criminality, social dilemmas akin to the ferocity of the plague (Foucault, 1991), are not uniformly met with privatised mechanisms of control and discipline. Instead, it is shown that discourses of a broken society can be reflected back onto society itself rather than being the sole responsibility of a limited number of intendants (Foucault, 1991). In view of this, it is not only about disciplining society from the outside or inserting individuals into an “enclosed, segmented space...in which power is exercised without division, according to a continuous hierarchical figure” (Foucault, 1991: 197). But rather it can also be argued that control and discipline is the responsibility of social actors, who must galvanise and collaborate to achieve change. Control, discipline, and justice are both spectacular and panoptic.

5.5 Conclusion

This chapter has shown how spectacular justice arises out of conflict; it arises out of conditions where social norms are challenged, boundaries are transgressed, and political tensions dominate the social landscape (Jenks, 2003; Lyng, 1990; Ferrell, Milovanovic and Lyng, 2001; O’Neill and Seal 2012). In so doing, the chapter works within the boundaries of cultural criminology and applies it to a unique conceptual development project. Accordingly, the research questions Foucault’s (1991) theory of panoptic privatisation and constructs the supplementary narrative of the spectacle of justice using three distinct perpetrator categories.

²³⁴ Mooney, B. *Suffer the little children- and they did, they did*. The Sunday Times (London). 26 December 1993.

²³⁵ Cohen, N. *Murder in Liverpool/ The fear, the shame, the guilt*. The Independent (London). 21 February 1993.

²³⁶ Ellis, W. *The city with a murder on its conscience*. The Times. 19 February 1993.

Firstly, *Inhuman Perpetrators* demonstrates the power of media discourses to expel and isolate criminals like the leper of Foucault's (1991) pre-panoptic, sovereign society. It explicates the powerful role that media discourses play in creating a spectacle of justice through the vilification and expulsion of criminal actors. As such, media discourses arguably perpetuate the orthodox treatment of criminals whereby they are identified as 'other' and marginalised from society. This section reveals evidence that Foucault's (1991) panoptic machine, aimed at efficiency and discipline, has not fully prevailed. Instead, in its place is a machinery of power designed to cleanse society of ills and dangers (Stallybrass and White, 1986; Elias, 1994; Seal, 2014). Indeed, by drawing on data from this chapter, it can be argued that powers within society have not become efficient at discipline, but rather efficient at cleansing in a political game in which media discourses perpetuate the view that the State is a guardian of morals and democracy.

Secondly, *Political Perpetrators* demonstrates how Foucault's (1991) theory of docile bodies is fallible, by illustrating how individuals have agency, are thinking, and are critical. The theory of spectacular justice recognises the power of individuals to reject panoptic systems of power, and to be reflexive in their assessment of their social positioning and the power that is enforced upon them. In contrast, *Discipline and Punish* (1991) is arguably founded upon a utopian view of society in which power functions ceaselessly throughout the minutiae of everyday life, wherein social actors are passive recipients of power who unquestioningly maintain the socio-political status quo (Said in Couzens Hoy, 1986; Mathiesen, 1997; Garland, 1986; Spierenburg, 1984; Rusche and Kirchheimer, 1968). This is not the case, and importantly, mass media discourses play an important role in helping to facilitate dissidence, normalise the rejection of socio-political norms, and celebrate the untrained body.

Finally, *Auxiliary Perpetrators* demonstrates how power is not homogeneously produced, and how the panoptic machine is neither as efficient nor as mechanically reliable as Foucault (1991) theorised. The panoptic dream whereby disciplinary mechanisms increase and surveillance and control swarms throughout society, does not function as harmoniously as Foucault theorised, and it is at the juncture between crime and social malfunctions that the supplementary narrative of the spectacle is tangible.

The data on criminal perpetrators show that spectacular justice is a parallel narrative to Foucault's panoptic privatisation, and furthermore, the conceptual development of spectacular justice gives voice to individual cases which challenge the foundations of panopticism. Spectacular justice accounts for the political nature of justice process and the power of the mass media to globally transport a criminal case to politically adverse nations. It also adds depth to the simplistic narrative of panopticism which relies heavily upon differentiation and clarity. Criminals and their cases cannot be unilaterally dealt with behind the high walls of panoptic privatisation; the visibility of justice process is more complex than, and thus less comparable with, the swift shutting away of bodily punishment and torture. Arguably, under certain conditions, criminal case studies and their perpetrators necessitate public involvement, transparency, and a widespread re-evaluation of the social world that would not be possible without the involvement of mass media and its powers of visualisation. Certain case studies have inherent spectacular currency. Fundamentally, the mass media facilitates the expulsion and punishment of criminal actors rather than their discipline and segmentation. The mass media facilitates political dissidence and brings social actors together in defiance of normative understandings of justice. And finally, spectacular justice flourishes at the intersection between crime, social malaise, and conflict. And it is the social conflict that is raised in the perpetrator category that concretises spectacular justice as a supplementary narrative; Foucault's (1991) focus in *Discipline and Punish* on control, timetabling, and invisibility needs supplementing with the knowledge, transparency, and seeing powers of media technologies.

Chapter Six: The Expert

6.1 Introduction

An expert is defined as “a person regarded or consulted as an authority on account of special skill, training, or knowledge” (Oxford English Dictionary, 2018). Knowledge and expertise are central to Foucauldian literature, specifically *The History of Madness* (2006), within which the notions of reason and knowledge are established in relation to madness and insanity. According to Foucault, from the sixteenth century onwards, “[m]adness becomes a form related to reason...madness and reason enter into a perpetually reversible relationship” (2006: 28-29). In tracking the genealogy of madness within European civilisation, Foucault’s text contends that from the sixteenth century

“[m]adness was no longer a dark power that threatened to undo the world...madness is robbed of its absolute existence in the night of the world, and now only exists in relation to reason” (ibid: 32).

Beyond *The History of Madness* (2006), Foucault (1991) constructs a picture of expertise and reason within criminal justice. He argues that the panopticon functions seamlessly as a “laboratory of power” (ibid: 204) which serves as a “privileged place for experiments on men, and for analysing with complete certainty the transformations that may be obtained from them” (ibid). According to Foucault, the rise of panoptic power following the nineteenth century signalled a more general shift towards greater institutions of control, new economies and political technologies of power, and thus advanced structures of expertise designed to normalise and discipline. For Foucault the integration of panoptic power within society signalled a fundamental structural change in which knowledge, power, and expertise reached “into the very grain of individuals, touche[d] their bodies and insert[ed] itself into their actions and attitudes, their discourses, learning processes and everyday lives” (Gordon, 1980: 39).

Building on the central role of expertise within *Discipline and Punish* (1991) and the panoptic shifts in power, expertise is also considered essential to understanding the ways in which criminal justice process has become a spectacle. As such, this chapter explores the relationship between experts, knowledge, and media discourse to examine how criminal justice has become a spectacle. Expertise and knowledge is understood here through three main categories: *The*

Police; Clinical Experts; Inexpert Experts, each of which illuminates both a unique manifestation of the spectacle and the moral and political issues that arise in highly visible moments of justice. The notion of the ‘expert’, within discourses of spectacular justice is multifaceted and so, this chapter will explore the different ways expertise is constructed and the different social identities that can be seen to possess expertise. This will directly contribute to the ways in which this thesis asserts the notion of the spectacle in justice and develops the concept of spectacular justice as a framework with which to make sense of these complex structures.

The first expert category that opens up the relationship between expertise, media discourse, and the spectacle is the *Police*. Public attitudes towards the police have changed dramatically since the golden age of PC George Dixon and his eponymous embodiment of the ideal police hero (Reiner, 1992). Nevertheless, Reiner writes that the “hallmark of the modern state [is] the monopolisation of legitimate force in its territory. The police are the domestic specialists in the exercise of legitimate force” (ibid: 761-762). As such, according to Reiner the police, as agents of control and as the front-line enforcers of criminal justice, are symbolic of orthodox expertise on crime control and the implementation of the law. The police are powerful agents of control; they are agents of the state. The centrality of the police to the implementation of control and criminal justice is historically ubiquitous, and thus it can be argued that since the early nineteenth century the police have been a principal feature of the spectacle of criminal justice. Yet policing “has always been as much a matter of image as substance” (Reiner, 1994: 11) and as a result, the visual is central to any understanding of the media’s representation of, and interaction with, the police. This section will navigate the historical changes in the role of the police, as well as the subsequent challenges the police have faced, as experts, and assess what impact this has on processes of spectacular justice. An analysis of media discourses within the Jack the Ripper, Ratcliffe Highway murders, Charles Lindbergh Jr, and Michael Brown case studies opens up Foucauldian theories of expertise, knowledge, and power. Specifically, it explicates not only how the role of the police as experts changes historically, politically, and culturally, but also highlights how their expert identity can be challenged and undermined. Exploring the role of the police as experts in processes of the spectacle acknowledges the need to understand how spectacular justice varies along cultural, global, and historical parameters.

But beyond this, the representation of the police, as experts, within media discourse reveals the strength of the mass media to turn a case into a high-profile drama and exacerbate the spectacle.

The second expert category explores *Clinical Experts*. Intricately bound up with processes of medicalisation, this section will explore the role of such individuals, whose knowledge and intellectual capital is used within media discourses, and it will consider how this impacts criminal justice as an object of spectacle. The research will focus on how clinical experts are used within media discourses in an attempt to justify, through techniques of rationalisation, the often negative, and at times pernicious, attitudes of media personalities towards criminal cases. The data will illustrate how clinical experts are often mechanised by the media to legitimise moral judgments against the criminally condemned and their crimes. Drawing on data from the Charles Lindbergh Jr, Thompson and Venables, and Anders Breivik case studies, this section will emphasise the ongoing dominance of clinical expertise within media discourses of crime and justice, not only as evidence for the growth of objective ‘truths’ in criminal discourse, but as justifications for the moral explanations that fuelled Foucault’s pre-panoptic world of spectacle. In short, the analysis of clinical experts advances the case that narratives of the spectacle operate in parallel alongside Foucauldian theories of privatisation. The rise in clinical expertise and the medical turn, as observed throughout Foucauldian theories of panopticism, did not exist in isolation; clinical experts are considered integral to the strength of the spectacle of criminal justice.

Analysing the social currency of clinical experts allows the thesis to assess in what ways justice has become a spectacle. It achieves this through an understanding of how clinical and moral explanations of crime are used within media discourses to pursue and justify justice. Therefore, an engagement with medico-judicial experts and their interaction with the moral, and more abstract, explanations of crime, offers an insight into the political, moral, and social condition of that society.

The final category of experts is coined the *Inexpert Experts*. As earlier defined, experts can be understood as individuals who are very knowledgeable about, or skilful in, a particular area. With this in mind, inexpert experts are not antithetical to this definition. Rather, inexpert experts are defined within this thesis as individuals or social groups for whom the mass media offers a platform upon which they can exercise their opinions and insights into a criminal case. Inexpert

experts are typically identified as lay actors whose voices are amplified and become central to media discourses on criminal justice. As such, they are central to an investigation into the role of the mass media in making a spectacle of criminal justice. Inexpert experts are critical to spectacular justice because they highlight the ongoing importance of criminal justice to the public and the role of the media in bringing the private concerns of the courtroom to the public eye and making it relevant. This section will focus specifically on examining the reasons behind how inexpert experts are utilised within media discourse, what expertise is selected, and to assess this functionality against that of the *police* and *clinical* experts.

Data on *inexpert experts* offers a crucial insight into the cultural, as well as the global, variations in the spectacle of criminal justice; the way they are utilised by the media and the degree of credibility their voices are given provides an insight into the variable, moral and cultural, approaches to crime and criminal actors. In much the same way, by acknowledging the important role that *inexpert experts* play in media discourses of crime, the thesis shows the fluid interactions between private institutions, the general public, and criminal actors.

6.2 Police Experts

“The police pervade contemporary social life” (Ericson and Haggerty, 2001: 3) and yet despite their visibility, the role of the police as ‘experts’ has a long history of being contested throughout socio-criminological literature (Hall, 1978; Reiner, 2000; Critchley, 1978; Hall et al, 2009; Ignatieff, 1979). Critiques against state institutions, correctionalism, and the politics of criminalisation are particularly dominant throughout critical criminological literature (Taylor, Walton and Young, 1975; Pratt in Carrington and Hogg, 2002; DeKeseredy, 2011; Ericson and Haggerty, 2001) which takes issue with status quo understandings of power and social control. And thus, despite being gatekeepers to the criminal justice process, the expertise of the police and the legitimacy of their power, does not go without question. And it is precisely because of their gatekeeper role, that they will be analysed here as keystones to maintaining narratives of the spectacle. Taking heed from Foucault’s genealogical methodologies, this section will explore the changing role of the police throughout history. Through a detailed analysis of Jack the Ripper, the Ratcliffe Highway murders, and Charles Lindbergh Jr. it will expose the historical changes in the relationship between the public and the police, and consider how this impacts the spectacle of criminal justice. From this, it will explore the contentious role of the

police in the death of Michael Brown and consider the fractious relationships between black and minority ethnic groups and the legacy of institutional racism. In making the fragile position of the police as experts clear, this section will expose the relevance of the police to spectacular justice through a detailed exploration of the debates and conflicts that surround their power, and the significance of the public to their legitimacy.

During the eighteenth century, England was facing a rapidly growing population and with such growth, cities soon became seen as “breeding grounds of crime and disorder” (Reiner, 2000: 17). English cities such as London experienced unprecedented urban and industrial development bringing with it “immense social dislocation and disruption in its wake, engendering demoralization, crime and social conflict” (ibid). After visiting Manchester, de Tocqueville wrote “Civilisation works its miracles and civilised man is turned back into a savage” (cited in Hobsbawm, 1968: 86). Under such precarious conditions, burgeoning pressure was put onto the government to reduce crime and the public fear of crime in line with a shift towards a ‘science of police’ (Reiner, 1988; Pasquino, 1991; McMullan, 1996, 1988; Garland, 1997). The ‘new’ police, with their new efficiency and integrity, grounded in orthodox notions of community self-policing, were established between 1829 and 1856 following the Metropolitan Police Act.

Described as “One of the Lowest Slums in the Great Metropolis of the World”²³⁷, the Whitechapel area of London in 1888 was home to the murders of the infamous Jack the Ripper. The police and their role as experts were at the heart of media discourses and visual representations of the case and consequently, the case perfectly captures spectacular justice. During the late nineteenth century

“The fact that so many women could be slaughtered, evidently by the same hand, and the murderer for so long a time elude the London police is a surprise to Londoners, who believe they have the best police force in the world”²³⁸

Seen as “the golden age of gangsterdom” (Midwinter, 1968: 14) the structural reorganisation of the police, in the wake of Metropolitan Police Act 1829, sought to create a public image of

²³⁷ Atchison Daily Globe. *Some facts to Regard Thereon and Considered Timely by the Terrible Murders in Whitechapel, One of the Lowest Slums in the Great Metropolis of the World*. Atchison Daily Globe. 16 October 1888.

²³⁸ Ibid.

being “remarkably efficient”²³⁹ and protecting society against moral decay. This structural shift is indicative of Foucauldian theories that the nineteenth century was the juncture at which point society underwent a transition, leaving behind the disordered chaos of the spectacle and towards control, order, and discipline. Arguably, the drive towards a rise in police legitimacy embodies the capillary functioning of panoptic power and how, in parallel with the imposing architecture of the panopticon, the police force sought to gain in “efficiency and in the ability to penetrate into men’s behaviour... discovering new objects of knowledge over all the surfaces on which power is exercised” (Foucault, 1991: 204). Drives towards police reform speak to the legitimacy of this Foucauldian narrative. However, in parallel with panoptic regimes of power, as demonstrated through the development of the police force, the reality of the construction of the police as honourable experts did not manifest in its entirety and the instability of their expert status fuels the spectacle of criminal justice. For the citizens of London in the wake of the Whitechapel murders, “the most significant feature of these butcheries...[was] the utter inability of the police to find any clue to the perpetrators of them”²⁴⁰. The role of the police as experts was rigorously deconstructed as the investigation moved forward without any sign of finding the perpetrator. On 20 September 1888 it was claimed that “no further arrest in connection with the Whitechapel murders had been made...and the police are still at fault”²⁴¹.

Headlines reporting on the “East End Tragedies”²⁴² spoke of crimes “distinguished by wanton and unnecessary brutality” and how, had “police protection approached the standard to be desired” the crimes may have been avoided. Media discourses rendered the protection of the ‘new’ police “inadequate”²⁴³. Rather than commending the disciplined, controlled, efficiency of panoptic power embodied within the police force, media discourses descended into anger; media discourses played an emotive role which compounded the spectacular nature of the crime. Media discourses played an active role in rousing pleas of desperation and anger arguing that they were witnessing

²³⁹ Ibid.

²⁴⁰ Evening News (London). *Another East End Murder*. 8 September 1888.

²⁴¹ Times (London) *Inquests*. 20 September 1888.

²⁴² East London Observer. *The East End Tragedies*. 8 September 1888.

²⁴³ Ibid.

“An absolutely deplorable and at the same time exasperating spectacle of general incapacity and imbecility on the part of officials from whom the public have a right to expect the display of some reasonable amount of energy, vigilance, and foresight”²⁴⁴

The police were described as “blundering and slovenly” guardians of “muddle-headed chaos”²⁴⁵, leaving media outlets asking:

“Where is the sagacity, where are the keenness and astuteness, the inventiveness, the knowledge of the world, the fertility of expedients which should be shown by those who ought to be the ubiquitous eyes and ears of the police? and, intelligence and experience, who should act at the head of the Detective Department in Scotland-yard?”²⁴⁶

The public distrust in, and the subsequent decline in police legitimacy and their role as experts, can be seen as central to how justice became a spectacle. This is because public fears around the efficacy of the police and their failure to catch the perpetrator not only undermined the police’s legitimacy as experts, but compounded the spectacle as emotions were “aggravated to the proportions of positive panic”²⁴⁷ (see Cohen, 2002; Garland, 2008; Goode and Ben-Yehudi, 1994; McRobbie and Thornton, 1995). Orgad’s theory of visibility and power is important here, as they argue “visibility in the media, in image and narrative, is a means of claiming recognition and exercising power” (2012: 5), and thus arguably in failing to catch the perpetrator, the murderer remained invisible, rendering the public and the state powerless.

Foundational to the spectacularly combative relationship between the public and the police was the fear that the police were passive. Such despair and angst were similarly echoed throughout the 1811 Ratcliffe Highway murders. Preceding the police reforms of 1829, and in response to the two fatal attacks on two separate families, the role of the police as experts fell into disarray. On the 26 December 1811 the *Caledonian Mercury* wrote that

“the late and present murders are a disgrace to the country, and almost a reproach on civilization: while the exertions of the police, with the ordinary power of the parochial officers, are found insufficient to protect person’s from the hand of violence...without

²⁴⁴ Daily Telegraph. *The Whitechapel Murders*. 19 September 1888.

²⁴⁵ Ibid.

²⁴⁶ Ibid.

²⁴⁷ Ibid.

the possibility of delivering the perpetrators to justice and punishment, our houses are no longer our castles, and we are unsafe in our beds”²⁴⁸

The gravity with which the public lost confidence in the police, was echoed throughout media discourse. Again, much like the public reproach towards the officers dealing with Jack the Ripper, the Ratcliffe Highway murders stand in stark contrast with Foucauldian narratives of the police as guardians of the panoptic regime. The Public Ledger captured Foucauldian discourse, emphasising how the police continued to demonstrate “vigilance and active exertions”²⁴⁹; to conduct “very long and rigid interrogation[s]”²⁵⁰; to adopt the “most effectual measures for the discovery of the perpetrators”²⁵¹. Despite fervent, yet sporadic, media constructions of the police as images of discipline, representatives of a new more effective power structure, more rapid and lighter, the expertise of the police, as alluded to within Foucauldian political anatomy and relations of discipline, needs supplementing. The role of the police as experts within the disciplinary society is fallible. Much like how women, following the Jack the Ripper murders, armed themselves “ready for the Whitechapel fiend”²⁵², in their despair at the inadequate expertise of the police, “inhabitants of Ratcliffe and Shadwell formed their patrols, each of them armed with swords and pistols”²⁵³. Here we see a fractious divide between the public and the police, harnessed out of frustration at the perceived insufficiency of police expertise. Whilst the case demonstrates the strength of panoptic power to “transform[] the whole social body into a field of perception: thousands of eyes posted everywhere, mobile attentions ever on alert” (Foucault, 1991: 214), this is not an effect of the successful functioning of the panoptic machine. Rather this is the result of its failure; the “automatic functioning of power” (ibid: 201) that *Discipline and Punish* argues spreads across all areas of social life is imperfect. The role of media discourse in creating a spectacle of justice provides a supplementary narrative; spectacular justice is palpable.

The role of the police as experts was similarly challenged following the death of Michael Brown who was shot dead by police officer Darren Wilson in August 2014, Ferguson, Missouri. In

²⁴⁸ Caledonian Mercury, 26 December 1811.

²⁴⁹ Public Ledger, 24 December 1811.

²⁵⁰ Ibid.

²⁵¹ Public Ledger, 21 December 1811.

²⁵² The Illustrated Police News. *The Whitechapel Murders*. 22 September 1888.

²⁵³ Morning Post, 23 December 1811, no.12763.

contrast to the challenges posed within the Ratcliffe Highway and Jack the Ripper cases which were arguably a product of the politicisation of marginalised classes, the challenge against police expertise within the Brown case was driven by resistance against institutional racism and the politicisation of marginalised ethnic groups. Public animosity and dissent towards the police and their role as experts was in response to an institution of social control that is “historically white and male” (Bolton & Feagin, 2004: v). This is in line with arguments put forward by Reiner (2000). Reiner writes how “police activity has always borne most heavily on the economically marginal elements in society” (2000: 78) and as a result certain powerless social groups are considered police property (Cray, 1972; Lee, 1981). Thus, the public discontent with the power of the police and their role as experts can be seen as a product of the exclusion of black communities in the United States from full ‘citizenship’ and their historical persecution by the police system (Waddington, 1999). According to Bolton et al, and as evidenced by the Brown case, African Americans are treated “more or less as *objects* of police activities” (2004: viii). With this in mind, not only was public discontent a product of historical, social, cultural and political exclusion, but it was a trigger for the spectacle of criminal justice.

After the grand jury failed to indict Officer Wilson, claiming Wilson had acted lawfully and as such there were no grounds on which to criminally charge him, the role of the police as experts came under international scrutiny. Simultaneously, the spectacle of justice came to the fore. The death of an unarmed black teenager by a white police officer immediately became a “national controversy”²⁵⁴ that “exposed deep racial tensions between African-Americans and police”²⁵⁵. The international justice spectacle that surrounded the death of Michael Brown, and that was intimately bound up with issues of institutional racism and police supremacy, highlights a powerful relationship between the role of the police as experts and *collateral victimhood*²⁵⁶. The Michael Brown case was racially charged and embodies the historical, cultural, and political meanings that are embedded within race relations across the United States (Brown, 2003). It makes explicit how community anger, loss, and frustration at recurring police violence against the black community is inseparable from the public identity of the police and their role as

²⁵⁴ Couch, A. *Ferguson Grand Jury Decision Sparks Outrage: Hollywood Reacts*. Hollywoodreporter.com. 24 November 2014.

²⁵⁵ Reilly, J., Boyle, L., Collman, A., and Martokso, D. *Ferguson burns as armed rioters torch police cars and buildings and looters ransack shops in aftermath of grand jury decision NOT to indict cop Darren Wilson for killing black teen Michael Brown*. Mail Online. 25 November 2014.

²⁵⁶ See Chapter Four: The Victim.

experts. Racial inequality, grounded in history and culture, were the structurally rooted sources of public opposition to the police and which consequently lead to the “St. Louis area [becoming] synonymous with “racial discord” to the rest of the world”²⁵⁷; the St. Louis area became synonymous with spectacular justice.

Across the Jack the Ripper, Ratcliffe Highway, and Michael Brown case studies we see the rise of politicised antagonism towards the police and a growing consciousness among dispossessed and disadvantaged social groups. This is meaningful as it problematises the unilateral power structure that is described within *Discipline and Punish* (1991). Extrapolating from the architecture of Bentham’s ‘Panopticon’ and the disciplinary mechanisms of the plague, Foucault argues that disciplinary power

“lays down for each individual his place, his body, his disease and his death, his well-being by means of an omnipresent and omniscient power that subdivides itself in a regular, uninterrupted way even to the ultimate determination of the individual, of what characterises him, of what belongs to him, of what happens to him” (Foucault, 1991: 197).

The police, as experts and gatekeepers, are symbolic of the disciplinary power of the guardians operating the central tower of the panoptic institution. In the Brown case this further problematises Foucault’s disciplinary construction of power, in that power is clearly held in the hands of white police officers (Waddington, 1999), and is used repressively in interactions with the African American community. In doing so, the case echoes the supervisory functions of panoptic guards. However, in reality it simultaneously demonstrates the power of the spectacle, as well as the potential for communities to resist repression. Thus, in reality, Foucault’s (1991) power structure, as defined in *Discipline and Punish* is too simplistic (Mathiesen, 1997) because it does not account for the role of media discourse and its role in creating a spectacle. Whilst the supervisory power of the police may enable the State “to shut up in each cell a madman, a patient, a condemned man, a worker or a schoolboy” (Foucault, 1991: 200), panoptic power does not exist in isolation. As the Jack the Ripper, Ratcliffe Highway, and Michael Brown case studies show, subjects of the panoptic regime are able to deflect the panoptic light upon their supervisors and collectively critique the police; agents of the panoptic machine are not

²⁵⁷ St. Louis Post-Dispatch. *Scenes of the Day- Ferguson Police Shooting*. 15 August 2014.

unaccountable. In doing so, the role of the police as experts, as supervisors of the panopticon, and as representatives of the state, is challenged. A central force in the public and spectacular critique of the police is media discourse; “the news media is deployed as a weapon, our collective mind becomes a battlefield, and biases are land mines waiting to explode”²⁵⁸. Thus, African Americans, as reflected throughout the Brown case, have experienced profoundly widespread segregation, but in this instance the power of mass media discourse facilitates a lifting of the oppressive cloak of control. The mass media facilitates discussion and dissent against the police and their role as experts, and this can be seen to have a momentous impact on maintaining narratives of the spectacle.

Nevertheless, the hard boundaries that defined the public relations with the police in the above case studies, are not indicative of all interpretations of the role of the police as experts. The Charles Lindbergh Jr case study speaks to the validity and legitimacy of Foucauldian theories of privatisation, specifically in relation to the growing dominance of experts involved in making society more efficient, more effective, and more controlled. The Charles Lindbergh Jr case signals the shift towards the capillary functioning of power, but this does not mean panoptic theories of power occupy a monopoly. In conjunction with explicating the sustained value of panoptic theories of power, analysing the role of the police as experts throughout the search for Charles Lindbergh Jr exposes the parallel power and supplementary narrative of the spectacle in criminal justice. The expertise of the police does not simply function to generate panoptic privatisation; the orthodox expertise of the police was a causal factor in the scale and impact of the spectacle of justice surrounding the kidnap and murder of the most famous child in the world during the twentieth century. The role of the police as experts and their relationship with the mass media helps to expose and assert the notion of the spectacle in justice.

The search for Charles Lindbergh Jr on the 1 March 1932 was an international effort of colossal proportions (Penfold, 2004). On the night of the kidnap, within ten minutes “every communication method of modern science had been utilized to broadcast the alarm and to

²⁵⁸ Washington Post Blogs, *Black America and the burden of the perfect victim; Michael Brown wasn't and angel. Does that mean he had it coming?*. 23 August 2014.

mobilize the police systems of four states and scores of communities in the search”²⁵⁹. The scale of police efforts was unprecedented:

“the entire New York Police Department plunged...into the hunt for the child and the persons who took him. It was the greatest police effort in the history of the city. Every man of the entire 19,000 on the force was put on the case, with order to work on it on their own time as well as during their hours on duty, doing without sleep if necessary. In addition the families of all members of the police were instructed to be on the alert for any information concerning strange babies in their neighbourhoods or for any unusual actions...It was the first time in history that such action had been taken”²⁶⁰.

The response of the police exemplifies the capillary coordination of panoptic discipline and control; eyes were watching everywhere; surveillance was universal. But, unlike the unidirectional force of panopticism, in the wake of the kidnap, and subsequent murder, the case demonstrates a blurring of the boundary between the police and the public. Consequently, a porous definition of expertise is exposed²⁶¹. In comparison to the hostility and suspicion of the police’s expertise within the Ratcliffe Highway, Jack the Ripper, and Michael Brown cases, the expertise of the U.S. police was experienced in tandem with public cooperation; it was a joint response. In this way, the police utilised mass media discourses to extend their investigating reach and agents of panoptic power cooperated with institutions of the spectacle.

The police issued public pleas inciting awareness and vigilance that

“If there is an abandoned farm, hunting lodge or fishing camp in your community, make certain that it is not occupied. If unknown persons have recently moved into your neighbourhood watch for suspicious action and report to police for investigation. Let everybody search the area in which they live and travel and report...suspicions”²⁶².

The centrality of the police and their inherent position of power, and influence within U.S. society at the time exacerbated the spectacle of criminal justice; the police embraced technologies of the spectacle. The public trust in the police and the perceived legitimacy of their

²⁵⁹ The New York Times, 2 March 1932, pg 1 & 3.

²⁶⁰ The New York Times, 3 March 1932, pg 9.

²⁶¹ See *Inexpert Expert* section for wider discussion of the expertise of lay social actors.

²⁶² The New York Times, 3 March 1932, pg 1 & 8.

power is symbolic of how a panoptic institution, such as the police, operates with greater fluidity than is suggested in *Discipline and Punish* (1991) and coexists alongside narratives of the spectacle. With this in mind, it is misplaced of Foucault to argue that we have moved towards

“a society in which the principal elements are no longer the community and public life, but, on the one hand, private individuals and, on the other, the state, relations can be regulated only in a form that is the exact reverse of the spectacle” (ibid: 216).

The Charles Lindbergh Jr case explicates how panoptic and spectacular powers exist in parallel, and how the panoptic expertise of the police was bolstered by community solidarity and collective empathy. The police took advantage of the mass media and its power to disseminate information quickly, and in doing so not only did they open themselves up to interaction with the spectacle, but the police fostered a working relationship with the public.

These interrelationships are captured in the following news report which outlines how

“All through the day the roads leading to the Lindbergh country home were black with cards filled with sight-seers, who made the comings and goings of officials both hazardous and slow. Above the house large passenger air-liners circled and banked so that the occupants could gaze from above at the house on a hilltop, its lawns dotted with hurrying blue-coated figures of the police and the less colourfully dressed newspaper men and photographers who swarmed the scene”²⁶³.

This scene legitimates the conceptual development of spectacular justice and highlights the power of the mass media in creating a spectacle of justice. This section demonstrates how panoptic expertise is not mutually exclusive at the expense of the spectacle, and instead, makes explicit the ways in which both the public and the mass media can challenge the expert status of the police. It further highlights the complex social, political, and cultural factors that are bound up with the power of the police, and their social status, such as industrialisation, poverty, and racism. Fundamentally, the role of the police as experts is contested, however, regardless of whether the mass media agree or disagree with this discourse, both their expertise and their

²⁶³ The New York Times, 3 March 1932, pg 1 & 9.

fallibility occupy a central position within media discourse and illuminate the notion of the spectacle in justice.

6.3 Clinical Experts

Clinical experts are similarly significant to investigating the spectacle of justice. Central to understanding their relationship with the spectacle, is Foucault's conceptualisation of power-knowledge. Foucault discusses the co-existence of power and knowledge in many of his texts, of which the most relevant here are *The History of Sexuality* (1984), *Discipline and Punish* (1991), and *Security, Territory, Population: Lectures at the Collège de France 1977-78* (2007). As previously mentioned, for Foucault, power is neither a 'thing' that is owned by anyone, and nor is it solely repressive. In the modern age power belongs to no one; it exists in relations and interactions between individuals and groups. Foucault moves beyond understandings of power as purely repressive to argue that power can be productive, and can work to improve, shape, and mould individuals and social groups. With this in mind, Foucault contends that power and knowledge are bound to each other and this relationship is central to his historical and philosophical projects. Building on this, this chapter explores the power and knowledge of clinical experts and how they are used within media discourse and considers how this impacts criminal justice and its position as an object of spectacle.

Since the nineteenth century, Western Europe has demonstrated a narrative that societies are moving towards gradual progress, in terms of human rights, freedom, and standards of living among many other things (Schirato et al, 2012). This change is further reflected in the rise of liberal democracies, as echoed throughout *Discipline and Punish* (1991) and Foucauldian theories of panoptic privatisation. Unlike in pre-panoptic periods in which power was held centrally by the sovereign, power, post-nineteenth century, has moved out into nation-states. This transition that occupies *Discipline and Punish* (1991) can be understood as the shift from a 'macrophysics' to a 'microphysics' of power. Under this new regime of power, Foucault argues, that we see the development of a disciplinary society and its panoptic trends of privatisation. Thusly, in order for power and knowledge to operate as part of the disciplinary society, social structures rely heavily upon order and regularity. Central to the greater social control and order that is definitive of Foucault's disciplinary power structure, is the theory that knowledge is founded upon systems of categorisation and taxonomies. Taxonomies and categories are herein

created so that it is increasingly easy to identify the 'normal' and the 'abnormal' and classify such cases as threats to the social order.

From this perspective, and gaining momentum since the nineteenth century, it can be argued that clinical experts such as psychiatrists and other medical professionals have been the driving force behind these shifts towards a new power-knowledge structure. Post-nineteenth century and in tandem with both the rise in clinical expertise as well as movements towards panoptic structures of power, Foucault argued that there were accelerations in the 'examination'. Within *Discipline and Punish* (1991) it is argued that the 'examination' is the embodiment of surveillance and normalisation technologies, both of which are fundamental mechanisms to the success of panopticism. Schirato et al write that "the status, legitimacy and authority of psychiatry were predicated on demonstrating that it could detect a danger within certain subjects" (2012: 62). Clinical experts, such as psychiatrists were seen to use their knowledge to protect society from potential social ills, and to provide clarity and answers in response to bearers of social disease. Such theories of disciplinary power, in tandem with the 'examination' of clinical experts, echoes social Darwinism and functionalist models. Foucauldian thought herein identifies how power-knowledge, as embodied within clinical expertise and medical professionals, was used during the nineteenth century to eradicate potential dangers. Embodying these dangers are criminals. In light of this, this thesis contends that clinical expertise, examination, and normalisation are meaningful to this investigation into how justice has become a spectacle and the moral and political issues that arise in highly visible moments of justice. This is because the criminally condemned exist at the margins of the social world and therefore by exploring how clinical experts process and define them, offers insight into the character of the spectacle and the power of media discourse. Clinical experts and their power-knowledge reveal the currency of binaries such as normal/abnormal, criminal/law-abiding to media discourses and how such binaries function to create and exacerbate a spectacle of justice.

Clinical experts, symbolic of panoptic microphysics of power and disciplinary society, are powerful agents within the criminal justice system. Their power and knowledge are used to organise and legitimise the power of the established social order and norms of state control (Schirato et al, 2012: 45). More specifically, according to Foucauldian narratives, clinical experts continue to be mechanised by criminal justice processes to validate the 'othering' of criminal perpetrators as 'abnormal' and dangerous to social equilibrium. Once again, to

legitimate Foucauldian theories of privatisation where possible, the panoptic functions of clinical expertise are particularly explicit in the case of Bruno Richard Hauptmann and his trial for the kidnap and murder of Charles Lindbergh Jr. Hauptmann's trial offers a vibrant illustration of the use of clinical expertise and panoptic microphysics of power within the criminal justice system. Hauptmann was the subject of many new technologies of power and his trial was indicative of Foucauldian regimes of power, of a panoptic, disciplinary, social order. Upon entering the criminal justice system, Hauptmann was categorised, enclosed, measured and observed; he was an object confined within his own "private tier" of the Bronx County jail, kept behind "no ordinary barred door. It was of solid steel, with a small iron panel in it for the introduction of food"²⁶⁴. This is significant because not only can this be seen as the exercise of panoptic power upon the criminal perpetrator, but a means through which representatives of the state sought to mould and shape the behaviours of wider social actors.

In parallel, clinical experts played a key role in transforming the case into a justice spectacle; clinical expertise saturated media discourses covering the trial. The New York Times²⁶⁵ ran the headline "Lindbergh kidnapper was 'Moral Imbecile With Brilliant Mind,' Psychiatrists Hold". The article continues with assessments by "two leading authorities attending the American Medical Association convention" claiming that the kidnapper was "probably brilliant, diseased mentality...Both said the kidnapper was probably a "psychopathic personality"". Psychiatric experts were used to label the moral faculties of Hauptmann, with the aim of establishing him, within medical discourse, as a dangerous, psychologically unstable individual. Chicago authorities claimed that "Charles A. Lindbergh Jr was perpetrated by a maniac rather than professionals"²⁶⁶. Compounded by his status as an "[a]lien German resident of the Bronx"²⁶⁷, the Hauptmann case is evidence of the strength of disciplinary society to create a political anatomy of power. Clinical experts were employed by the state firstly to demonstrate their technologies of power and establish the U.S. as world leaders in criminal investigation, and secondly to individualise Hauptmann, define him as abnormal, and impose a quarantine style power upon him.

²⁶⁴ The New York Times, *Experts Pit Wits Against Suspect's*. 23 September 1934, p25.

²⁶⁵ The New York Times, *Lindbergh Kidnapper Was 'Moral Imbecile with Brilliant Mind', Psychiatrists Hold*. 14 May 1932, p3.

²⁶⁶ The New York Times, *Authorities Lay Kidnapping to Maniac*. 13 May 1932, p4.

²⁶⁷ The New York Times, *Held As Extortionist: Alien Is Identified by Taxi Man as One Who Dealt With 'Jafsie'*. 21 September 1934, p2.

In so doing, the investigation and trial of Hauptmann is reminiscent of Foucault's conceptualisation of the plague, which was established as the catalyst for disciplinary, panoptic order. Under these conditions, Foucault contends that the "registration of the pathological must be constantly centralized" (1991: 196) and that "power is exercised without division, according to a continuous hierarchical figure" (ibid: 197). Herein, the use of clinical expertise throughout the case seeks to reaffirm the representatives of power. Foucault's (1991) plague was the compact model of the disciplinary mechanism. Nevertheless, this relationship is not simple. And whilst Hauptmann was undoubtedly the object of the panoptic, clinical gaze which is reminiscent of the plague, he was also the object of an international spectacle and the subject of communication between experts, criminal justice, the public and the mass media. Clinical expertise was utilised by mass media discourses as part of its role to create a public spectacle; the increasing momentum of clinical power and knowledge during the early twentieth century catapulted the case into the public eye and created a media spectacle of justice. The Hauptmann case demonstrates how narratives of the spectacle have not disappeared, and rather than punishment it was justice that was played out in a visible way; the spectacle of justice surrounding the case was characterised by clinical experts and their power-knowledge.

Thus, the Hauptmann trial embodies the co-existence of both private and spectacular structures of power. On the one hand, Hauptmann is the object of panoptic mechanisms of power and on the other hand as an "alien stowaway", symbolic of techniques of exclusion against foreign nationals, "all of whom have undoubtedly found their way in to the United States in the same manner"²⁶⁸. Such taxonomies of abnormality are perceived to endanger national identity. These power dichotomies are also closely linked to other case studies, especially those that involved *Inhuman Perpetrators* such as Jodi Arias, Thompson and Venables, and Jack the Ripper. According to Foucault "the plague was met with order; it's function is to sort out every possible confusion: that of the disease...[and] that of the evil" (ibid: 197). Much like the 'intendants, syndics, guards, and 'crows' (ibid: 195) implementing control upon villages ravaged by the plague, clinical experts within criminal justice are asked to restore order and instil calm. And, whilst the role of clinical experts to panoptic privatisation is valuable, their regimented power and control, characteristic of panopticism, in cases such as Hauptmann's, was the focus of a media spectacle. The panoptic, disciplinary mechanisms of power were a public, international

²⁶⁸ The New York Times, *Raising Alien Bars Plan of Dickstein*. 23 September 1934, p.25.

spectacle tied up with exclusionary powers of the leper society. This demonstrates the importance of looking at mass media discourses when investigating the place of the spectacle because, as in the Hauptmann case, media discourses upset the conviction within *Discipline and Punish* that privatisation infiltrated all areas of the social world post-nineteenth century. Spectacular justice, as illustrated by the Hauptmann case, gives voice to this and contends that narratives of the spectacle have not been lost; whilst punishment is still very much hidden from public view, the justice system is increasingly transparent.

And so, especially within the Hauptmann trial not only do we see the spectacle of disciplinary techniques and mechanisms of control, but we also see the spectacular legacy of the leper society in which clinical experts and control agencies seek to eradicate and cleanse through their power-knowledge (see also Stallybrass and White, 1986). Thus, clinical experts and their power to categorise, order, and measure Hauptmann were public. Clinical expertise and their power-knowledge were driving forces for the spectacle of criminal justice. Much like the public access to the sexual proclivities that defined the Jodi Arias trial around a century later, the mass media gave an international public audience intimate access to the clinical expertise, knowledge, and criminal evidence of the Hauptmann trial. This is spectacular justice.

During the early twentieth century the incorporation of clinical and medical expertise within criminal justice was gaining momentum, and a new knowledge system was developing in which crime was both the responsibility of judges as well as criminologists, psychiatrists, and psychologists (Foucault, 1978). Much like the hangman of sixteenth century Europe, clinical expertise symbolised State vengeance (Spierenburg, 1984). In response to their role in the stabilisation of justice, public curiosity was avid and expert opinion was a dominant lens through which criminal justice was reported on and made a spectacle by the mass media. Echoing the productive public relationship with the police²⁶⁹, during this period clinical expertise and medical power-knowledge held significant currency within media and public discourse. Media discourses would detail how

²⁶⁹ As discussed in previous section *Police Experts*.

“Science Used in Search: Bit by Bit Experts Put Together Description of Man They Never Saw: Their Work Rivals Fiction: Microscope Showed that the Ransom Money had been Buried by a Mechanic: Hunt Was Unrelenting”²⁷⁰.

The close relationship and trust between the public, the police, and clinical expertise, bolstered the scale of the spectacle surrounding the case. Experts were at the very epicentre of the spectacle of justice following the kidnap and murder of Charles Lindbergh Jr; the mass media brought clinical experts to the fore and elevated their status to increase the spectacle and generate public appetite. These patterns are equally visible within the Jodi Arias case, in which media companies such as *HLN* had a number of clinical experts at their disposal to garner public interest and legitimise moral critiques. The overlap between expertise and the media in the Arias case was a key means to “Keep the audience engaged... You’re really servicing them well with a story they love”²⁷¹. In fact, it can be argued that combined with parallel developments in media technology, clinical experts and their corresponding knowledge-systems cultivated a whole new spectacle. Thus, the spectacle of justice surrounding the Hauptmann and Arias cases was driven by public awe for the efficiency and efficacy of clinical experts; the media mechanised their social capital and capitalised on it. In the case of Hauptmann, this power-dualism is captured in the following quote:

“The New York detectives had a complete description of him even as to his habits. They put it together, like a jig-aw puzzle, with information furnished by psychiatrists, toxicologists and other man of science, who had never seen Hauptmann. “And the amazing and almost unbelievable thing about it... is that the entire structure of the man, both physical and mental, as developed in laboratory research, was accurate in almost every detail”²⁷².

In addition to the medico-judicial expertise of psychiatrists and other agents of medical knowledge, expertise extended into neo-investigatory fields such as handwriting experts. “It was when the mail was heaviest that psychiatrists, trained to read human character as revealed in

²⁷⁰ The New York Times, *Science Used in Search: Bit by Bit Experts Put Together Description of Man They Never Saw*. 22 September 1934, p1-3.

²⁷¹ Ho, R. *Television: Jodi Arias case is a ratings grabber for HLN*. The Atlanta Journal Constitution. 27 March 2013.

²⁷² Ibid.

handwriting, gave the police their first aid”²⁷³. From close examinations of the ransom notes sent to the Lindbergh family bargaining for their son, experts claimed that they

“could give “most positive” expert opinion that all the kidnapping notes were written by Hauptmann... “I think the evidence is clear and unmistakable, and sufficient in amount so that a most positive opinion can be given”²⁷⁴.

Handwriting experts were similarly used to analyse the Russian asylum request made by Edward Snowden, following his whistleblowing, to show he was “emotional, desperate and paranoid”²⁷⁵. Yet beyond the discursive power of clinical experts within Snowden and Hauptmann’s case, drawing on visual criminology and in the “understanding of the centrality of the image to crime” (Young, 2014: 160), it is valuable to consider the spectacle and visual nature of experts. As Rafter (2014) argues, images aid our understanding of how individuals, groups, and crimes are constructed and how public attitudes are produced. In light of this, the visual representation of the clinical experts in the Hauptmann trial are equally, if not more, meaningful to understanding how spectacular justice operates and the role the mass media plays.

Throughout the investigation the identity of clinical experts was the focus of a mass media spectacle; experts were accorded a celebrity-like status and were publicly visible. Data shows the symbiotic relationship between the private spheres of clinical expertise, and the spectacle of media institutions. To illustrate this, readers of *The New York Times* were granted direct access to criminal evidence including ransom notes, crime scene photographs, images of experts inspecting handwriting samples and evidence found at Hauptmann’s home. Thus, clinical experts not only had a dominant position in public discourse, but they were dominant in the public imagination; images of experts and their active practice saturated media discourse and framed the spectacle of justice surrounding the case.

As a result, the Hauptmann case was an international media spectacle that was strengthened by the currency and newsworthiness of clinical experts. The level of detail the public were accorded, offers a real sense that during the early twentieth century in the United States, the

²⁷³ Ibid.

²⁷⁴ The New York Times, *Hauptmann Wrote All the Ransom Notes, Handwriting Expert Reports to Police*. 23 September 1934, p1.

²⁷⁵ Nye, J. 2013. *Handwriting analysis of Edward Snowden’s Russian asylum request shows he’s ‘emotional, desperate and paranoid’*. Mail Online. 17 July 2013.

criminal justice system was accountable, and visible, to the public and this was because of mass media discourses. As such the visibility of both the trial and criminal evidence asserts the notion of the spectacle in justice and its centrality within twentieth century news media. In fact, the Lindbergh Jr trial shows how the public were actively drawn into the judicial spectacle and were not passive in their readership; U.S. citizens in response to the death of Charles Lindbergh Jr were not “docile bodies” (Foucault, 1991). The coexistence of both disciplinary, panoptic mechanisms of power, as embodied in clinical experts themselves, as well as the legacy of the leper and the spectacular function of the mass media, is similarly poignant in the Thompson and Venables case.

Clinical expertise was formative in response to the death of James Bulger and the trial of ten-year-old Thompson and Venables and was key to the case’s spectacle of justice. To understand the relationship between clinical experts and the spectacle of justice in Thompson and Venables’ case it is helpful to consider *The History of Sexuality* (Foucault, 1984). This research was another key text in which Foucault explores the productive practices of power, and he discusses how during the Victorian era, controlling childhood masturbation became a key social concern (Fishman, 1982). This is important for understanding the Bulger case because for Foucault, power is always tied up with bodies, and so this practice quickly became an object of concern; part of a discourse; activating social relations; and generating knowledge. Similar disciplinary mechanisms and the need for adult control and clinical expertise can be found in pursuit of Thompson and Venables in 1993. This is significant not only in how it develops Foucault’s conceptualisation of power, but also how it builds on the Hauptmann case and brings the public directly to the forefront of discussion. As has been discussed at length in previous chapters, following the kidnap and brutal murder of two-year-old James Bulger in Merseyside, 1993, there was a fervent drive from the public to ensure the vilification of both perpetrators²⁷⁶. The public, much like in the Hauptmann, Jack the Ripper, Jodi Arias case studies, called for the expulsion of Thompson and Venables, “calling them evil. Freaks of nature. Monsters. Demon seed. Nothing to it but to cut them out like social cancer, quarantine them for life, like lepers of old”²⁷⁷.

²⁷⁶ See Chapter 5 and *Inexpert Experts* later in this chapter.

²⁷⁷ Hall, J. *Murderous children aren’t ‘born bad’, psychiatrists say*. The Toronto Star, 2 December 1993.

As part of the international media attention that the case received, “psychologists and other experts [began] trying to prise open the boys’ minds and tr[ied] to find out why they killed”²⁷⁸. Dr. David Palframan, an Associate Professor of Psychiatry at the University of Ottawa was interviewed for an article in *The Toronto Star* almost a year after the murder. Based on his observations Dr. Palframan argued that “a lot of these (violent children) have had brain injuries...and/or some damage to their sense of well-being”²⁷⁹. He goes on to suggest that as a result, Thompson and Venables could be considered “unusually selfish, unusually aggressive; difficult if not impossible to train in terms of ordinary social consequences of life”²⁸⁰. Dr. Palframan’s diagnosis relies on a comparison of the boys with understandings of what it means to be a ‘normal’ child (Jenks, 1992). In this instance clinical experts situate the boys outside the realm of normal society and objectify them according to medical taxonomies; “discipline brings into play its power, which is one of analysis” (Foucault, 1991: 197). These disciplinary techniques echo the Foucauldian narrative, in *The History of Sexuality* (1984), that experts were used to establish perversion and reinforce boundaries of normality. Therefore, for Dr. Palframan it is “only when we have found out why Thompson and Venables are disturbed [that we will] be able to help them into more normal patterns of behaviour”²⁸¹. In line with the clinical view that the children would be “difficult if not impossible to train”²⁸² clinical psychologist David Glasgow echoes discourses of punitive medicalisation. Specialising in working with young sex offenders in Liverpool, Glasgow argued that “my money would be on a sexual motivation in this case...they will never be the same again and they must be put away for a good long time”²⁸³. Thusly, medical discourses perpetuated by clinical experts are used to validate political and public views that rehabilitation is futile. Herein, techniques of discipline and rehabilitation were absent in certain punitive expert discourses responding to Thompson and Venables. The expert opinion created a scene more akin to the criminally condemned whose fate was decided at the hand of the sovereign, in front of whom the condemned begged for mercy.

²⁷⁸ The Observer. *Consumed in the Bonfire of Misery*. The Observer. 28 November 1993.

²⁷⁹ Hall, J. *Murderous children aren’t ‘born bad’, psychiatrists say*. The Toronto Star, 2 December 1993.

²⁸⁰ Ibid.

²⁸¹ The Observer. *Consumed in the Bonfire of Misery*. The Observer. 28 November 1993.

²⁸² Hall, J. *Murderous children aren’t ‘born bad’, psychiatrists say*. The Toronto Star. 2 December 1993.

²⁸³ Schiller, B. *‘Evil freaks of nature’ get life for murdering tot Psychiatrists probe twisted fantasy*. The Toronto Star. 25 November 1993.

In *The History of Madness*, Foucault, on discussing the confinement era, argued that “certain aspects of evil had a power of contagion, and such scandalous force that publicity risked causing them to multiply infinitely” (2006: 142). He goes on to write that “Houses of confinement were no longer simply the lazar house on the edges of town, but became themselves a form of leprosy that scarred the face of the town” (Foucault, 2006: 355). The above clinical discourses reflect these ideas and seek to isolate and expel the contagion as embodied in Thompson and Venables; in doing so the case embodies spectacular justice. They are utilised within media reports to parade the children in front of the public, in a manner not dissimilar to the public spectacle of the criminally insane in the Middle Ages, or asylums that displayed their inmates for payment in the nineteenth century (ibid). Clinical experts helped drive this expulsion and were at the forefront of media discourses. However, as with the Hauptmann case, punitive, retributive clinical expertise in the Thompson and Venables case was balanced by powerful agents who resisted these trends. Indeed, the role of clinical experts commenting on the case challenges Foucault’s theory that under panoptic conditions there would be the “constant division between the normal and the abnormal...and [the application of] the binary branding and exile of the leper” (Foucault, 1991: 199-200). Rather, clinical experts who were prominent within the media and justice spectacle were predominantly in defence of the two boys and rejected attempts to demonise the children.

Psychiatrist Dr. Chamberlain said “it’s highly unlikely anyone is born with evil imprinted on their minds”²⁸⁴. Chamberlain develops this argument to suggest that “it’s pretty fanciful that anybody can be born evil or bad. Some people are born with brains that don’t work normally, but that doesn’t make them either bad or good”²⁸⁵. Chamberlain’s sentiments are reflected in wider clinical discourse, which, rather than affirming the boys as pathological (Foucault, 1991: 196-197), grounded their criminality within the boundaries of normal childhood behaviour. According to Pearce, a Professor of Child and Adolescent Psychiatry at Nottingham University “it would be wrong to assume these children are different, evil. We all have aggressive impulses”²⁸⁶. Contrary to claims that Thompson and Venables displayed early signs of ‘evil’

²⁸⁴ Hall, J. *Murderous children aren’t ‘born bad’ psychiatrists say*. The Toronto Star, 2 December 1993.

²⁸⁵ Ibid.

²⁸⁶ Bedell, G. *James Bulger: The death of innocence; There are no meanings to be found in James Bulger’s murder, says Geraldine Bedell, except it shows us hell*. The Independent, 28 November 1993.

behaviour, “snaring birds using traps in the back yard”²⁸⁷, Dr. Persaud (Professor at London University’s Institute of Psychiatry) contended that “many of the two boys’ actions suggested little more than “childish bad behaviour”²⁸⁸.

Clinical commentary on the murderers of James Bulger offers a comparatively holistic perspective on the cause of Thompson and Venables’ behaviour. A particularly interesting piece of data from Tucker, a lecturer in Child Psychology at Sussex University, concerns a discussion of his own practitioner experiences with children who kill other children, and how he had “thought of all the games [he] played when [he] was a child that could have gone wrong. Even quite nice children drop kittens out of windows”²⁸⁹. The comparison of the boys to ‘normal’ children by clinical experts is significant in understanding how justice became a spectacle. This is because, many media discourses draw on testimonies from Detective Sergeant Roberts, one of the leading investigators in the Bulger case. Roberts claimed that when he first met Thompson at the police station for interviews, he was just “like any normal 10-year-old boy. He was- he was well dressed- He had short cropped hair. He had a pleasant face, a likeable face with a nice smile”²⁹⁰. However, as Detective Sergeant Roberts continues his account he describes an increasingly malevolent figure; “Robert Thompson- there was no reaction at all...he looked towards me... [with] one hell of a look...a look of evilness...a chilling look...no remorse there, none at all”²⁹¹.

This explicitly negative view of Thompson shows how “the police turned to [psychologists] with expertise in understanding the criminal mind”²⁹² but, many clinical experts resisted the public will to label the boys with a mental illness or psychological affliction. Instead

“to many child care experts, these events were not incomprehensible...they could have predicted many of the background factors: disordered and emotionally inadequate families, educational problems, truanting, petty crime, video nasties. Although this

²⁸⁷ The Times. ‘*There’s no remorse he does not accept he has done wrong*’. The Times. 25 November 1993.

²⁸⁸ Veloo, R. *Tot’s murder: 2 jailed, but who’s to blame?* The Straits Times. 28 November 1993.

²⁸⁹ Bedell, G. *James Bulger: The death of innocence; There are no meanings to be found in James Bulger’s murder, says Geraldine Bedell, except it shows us hell.* The Independent, 28 November 1993.

²⁹⁰ ABC News, 29 November 1993.

²⁹¹ Ibid.

²⁹² Ibid.

murder was an extraordinary act, the context in which it occurred was all too familiar”²⁹³.

On the one hand clinical experts are dominant figures within Thompson and Venables’ case, and whose presence is symbolic of disciplinary order and panoptic control. Clinical expertise further embodies the political transition, which according to Foucault (1991) began around the late sixteenth century, away from sovereignty as authorised by God, to control driven by human reason and rational decisions. Yet, the Thompson and Venables case suggests that the art of control, through the development of systematic knowledge, needs supplementing. The case explicates the fluidity of power and how, depending on changing alliances and circumstances, power is mobile and contingent. And thus, in the Thompson and Venables case, clinical experts resisted the taxonomies of disciplinary power as well as the binaries of the leper. Foucault contended that disciplinary power

“act[s] on the consciousness of people” so that “their opinion is modified...and along with their opinion, their way of doing things, their way of acting, their behaviour as economic subjects and as practical subjects” (2007: 275).

With this in mind, it seems that such techniques and regimes of panoptic standardisation have not occurred in their entirety. Foucault goes on to argue that the

“underlying disciplinary projects the image of the plague stands for all forms of confusion and disorder; just as the image of the leper, cut off from all human contact, underlies projects of exclusion” (1991: 199).

O’Farrell responds to Foucault’s certainty here to argue that his analysis of power-knowledge is “a Utopia of a perfect social order” (2005: 105) that does not exist. This sentiment is echoed throughout this thesis, specifically the critique of the simplicity of Foucault’s (1991) arguments relating to the complex issues of power, knowledge, and agency. For Taylor “the point is that collective disciplines can function in both ways, as structures of discipline, and as a basis for equal collective action” (in Couzens Hoy, 1986: 82). Foucault himself argued that any relation of power can be resisted because it necessarily constitutes and reproduces, in its relationship, oppositional categories, dispositions and forces. Yet such fluidity and resistance are not

²⁹³ The Observer. *How we make demons of our children*. The Observer. 28 November 1993

represented within *Discipline and Punish* (1991). Clinical expertise, that is, power-knowledge of disciplinary society is not fixed in place; it is not immobile; it is not simply repressively enforced from the top-down. Neither are order, power and knowledge only enforced upon a society that is disordered. Schirato et al argue that “the authority of the medical gaze is conditional on a disciplined order and a regularised distribution of time, space, bodies, actions and discourses” (2012: 52). But, objects of panoptic, disciplinary power and knowledge, as embodied in clinical experts, can resist.

Following the Norwegian massacres in 2011, international media discourses, specifically from the U.S. and UK, sought to label Breivik insane²⁹⁴, so much so, that such discourses were characteristic of the spectacle surrounding the case. In doing so, they constructed a powerful dichotomy between the ‘reason’ of the population and the ‘unreason’ of Breivik. In *The History of Madness* Foucault argues that

“On the one hand madness existed in relation to reason, or at least in relation to the ‘others’ who, in their anonymous generality, were supposed to represent it and grant it the value of an exigence; and on the other hand it existed for reason, in that it appeared in the consideration of an ideal consciousness, which perceived it as difference from the others” (2006: 182).

In this way, the perceived insanity and madness of Breivik’s criminality, much like that in Bruno Hauptmann, Thompson and Venables, and Arias, was interpreted as a “violent flame” (ibid: 260) that endangered the stability of social order. Here we see political tactics not purely of a disciplined society, nor of its corresponding power and knowledge, but of the coexistence of both the plague and the leper; the abnormal and the normal; the healthy and the diseased; the private and the spectacle. Throughout this section we see the coexistence of the spectacle of justice and the privatisation of punishment. To elaborate, clinical experts are a prevailing feature of mass media discourses and the interrelationship between the public, the media, criminal justice, and clinical expertise is imperative to understanding how justice has become a spectacle.

²⁹⁴ See Chapter Five: The Perpetrator for further detail.

6.4 Inexpert Experts

In comparison, *Inexpert experts* upset orthodox understandings of what it means to be an expert. Whilst the expertise of the police is challenged, and they are best understood as gatekeepers, their identity as authorities, whether legitimate or illegitimate, is historically established. Equally, as the previous section identified, clinical experts play an important role in the generation of knowledge, skill, and power. Clinical experts are considered to be individuals who have knowledge and skill within the (pseudo)medical fields, which in this thesis, are applied to the judicial world. Beyond this, both police and clinical experts are foundational to understanding different ways in which justice has become a spectacle. However, unlike the tangible identity of the police and clinical experts, around whom a clear definitional boundary can be drawn, inexpert experts are atypical. They expand the definition of expertise to include lay social actors; they demonstrate the subjectivity of the 'expert' label and how expertise is dependent on the social lens through which one is looking. This section will explore different illustrations of inexpert expertise and expose how they help this thesis achieve its research aims; inexpert experts are invaluable to understanding the interrelationships between the spectacle and criminal justice. Specifically, this section will explore the intersections between the mass media and criminal justice, to analyse what impact the moral and political faculties of the crime, and its social climate, has on the spectacle of justice and the definition of expertise. This classification is particularly useful to the development of spectacular justice as a supplementary narrative to Foucauldian theories of panoptic privatisation. This is because it speaks to alternative narratives of power (Said, 1986; Mathiesen, 1997) and problematises Foucault's (1991) conceptualisation of panoptic power as held centrally within institutions and applied in a capillary function throughout the social body. It further highlights the power of the mass media to implement a truly capillary system of power to include the lay actors; the media blurs the definitional understanding of expertise and exposes the moral and political heart of spectacular justice. Essentially inexpert experts expose the role of the mass media in making a spectacle of criminal justice.

Inexpert experts poignantly explicate systems of power that are typically associated with the absolute power of sovereignty and its spectacle. Relatedly they show how justice continues to be driven by moral, emotional, and political sensitivities (Spierenburg, 1984), which are not accounted for within the disciplined regime of panopticism (Foucault, 1991). According to

Foucault, post-nineteenth century the public became increasingly distanced from systems of punishment and justice; “it’s effectiveness is seen as resulting from its inevitability, not from its visible intensity” (ibid: 9). Thus, whereas once the public were directly partisan to the torturous demonstration of violence against the criminally condemned, such as the execution of Damiens in 1757 (ibid:3), Foucault argues that under the disciplinary regime, visibility and thus expertise, shifted away from the public and towards the intendants of the panoptic machine. Thus, whereas pre-panopticism the public were directly involved in justice processes and whose power and ‘expertise’ was earned through their tangible engagement with seeing justice being done, according to Foucault, this disappeared post-nineteenth century. Corresponding to these disciplinary projects, Foucault contends there are projects of docility; social actors both criminal and non-criminal became subject to “a whole set of techniques, a whole corpus of methods and knowledge, descriptions, plans and data” (ibid: 141). This is important to this investigation because, *Discipline and Punish* (1991) outlines the argument that gone are the days of a collective social body defined by community solidarity, morals, and emotions, and in their place, under the cloak of panopticism, “the individual body becomes an element that may be placed, moved, articulated on others” (ibid: 164). Inexpert experts problematise this theory and bring narratives of the spectacle to the fore.

Whilst there is substantial evidence, as identified throughout this thesis, of the strength and stamina of panoptic systems of control and discipline²⁹⁵, the role of inexpert experts moves beyond the simplicity of this argument. *Inexpert experts* strengthen the argument for alternative narratives of power, especially with regards to understanding *who* has power and structural incentives that drive justice to become a spectacle. This is best captured within the Thompson and Venables case in 1993. Following the brutal murder of James Bulger, lay members of the public were at the heart of the inquiry, and were influential on judicial practice; the case encapsulates spectacular justice and the value of inexpert experts. Media discourses shone a light on how “power was shifted from those best qualified and those best placed to meet the surge in child criminality...to...the press and public opinion”²⁹⁶. This is supported by Couldry who, in an analysis of changes in mass media and social practice, argues that in a contemporary media culture “government and media, popular and individual discourse become meshed

²⁹⁵ As captured in the previous section on Edward Snowden.

²⁹⁶ Jenkins, S. 2000. *Rule by justice, not by media lynch law*. The Times (London). 15 March 2000.

together” (2012: 103). Herein we see the importance of the lay actor on judicial process, and how, rather than assigning sole power to archetypal sources of expertise such as the police or clinical experts, power shifted to inexpert experts; riding “a wave of anger”²⁹⁷, “the whole world was a criminologist”²⁹⁸.

Thus, the Thompson and Venables case speaks to the theoretical need to explore the moral and political issues that arise in spectacular and highly visible moments of justice and highlights the power of media discourse to turn a case into a high-profile public drama. In this case, the public actively collaborated with mass media discourses and were driven to ensure the criminal justice system was an international spectacle. Rather than being suspended in fear and isolation (Foucault, 1991), the public, as inexpert experts, played an active role, in tandem with mass media discourses, in creating a justice spectacle characterised by retribution and vengeance. They were consulted by both the media and politicians as experts in the human, moral, and political direction of the community. And so, the Merseyside public are integral to asserting the notion of the spectacle in justice, and in so doing, they subvert Foucauldian power dynamics away from a monolithic understanding of the social body as “analysable” and “manipulable” (Foucault, 1991: 136) to one that is simultaneously characterised by emotional and morally loaded calls for retribution. Essentially, the Bulger case was characterised by community solidarity, emotion, inexpert experts, and a media spectacle.

Beyond highlighting the relationship between emotion, morals, and politics and their impact on creating a spectacle of justice, a further important consideration is how such power and expertise is facilitated by the mass media. The mass media were central to public empowerment, and thus central to the reconceptualising of panoptic privatisation to account for the supplementary narrative of spectacular justice. Media discourses, across both the tabloid and broadsheet press, turned to inexpert experts in the Merseyside area as a litmus test for public hostility towards the judicial system and the perpetrators. According to a “Boy sitting on a wall during the trial”, “[t]hey were just your average scruff- like the rest of us”²⁹⁹. Such first-hand knowledge was characteristic of media discourses in which Thompson and Venables were firmly situated within a working-class community, who had turned against them. By publishing

²⁹⁷ The Associated Press. *Bulger Judge Says Public Needs to Debate Killers’ Background*. The Associated Press. 26 November 1993.

²⁹⁸ Jenkins, S. 2000. *Rule by justice, not by media lynch law*. The Times (London). 15 March 2000.

²⁹⁹ The Guardian (London). *Quotes*. The Guardian. 25 November 1993.

the views of individuals such as “a normal 55-year-old father of three...a law abiding citizen”³⁰⁰ or a woman “pushing a pram around Bootle” for whom “the fear of vigilante murder is not being exaggerated...If anyone finds out [Thompson and Venables’] identity, they will get lynched”³⁰¹ the media and politicians situate power firmly in the hands of the public who seemingly flourish on “the gruesome and gory”³⁰². Therefore, one of the ways in which justice has become a spectacle is through the mass media’s power to elevate the voices of the public to that of the inexpert expert and in doing so turn justice process into something lay social actors can actively take part in. The media brought justice into the homes of the public and turned their community power into a spectacle.

In response, certain critical media discourses claimed that in doing so journalists “exchanged reason for spasm” instigating a return to “plebiscitary justice...of newspapers as jurors”³⁰³. In the same article, Jenkins contends that “the handling of the Bulger case had made even Sharia seem sophisticated. Such was the hysteria after the murder”³⁰⁴. Regardless of whether or not such an approach is considered debasing or not, it is vital to the case for spectacular justice because it upsets the discipline and regimented order of the panoptic machine. Thus, just as whistle-blowers such as Snowden “put the machine itself at risk”³⁰⁵, the power of the public and their status as inexpert experts exposes the structural fragility of Foucault’s panopticism. Rather than symbolically representing how the political anatomy of panopticism is “a technique of internal peace and order [designed] to implement the mechanism of the perfect army, of the disciplined mass, of the docile, useful troop” (Foucault, 1991: 168), the British public demonstrated their agency, their knowledge, and their power, and thus their status as inexpert experts. Public agency and mass media power produce the spectacle of justice. The epitome of their power and their expertise was the critically coined “rabble-rousing petition from the Sun, further increased by Michael Howard” to increase the prison sentence of the two boys, based on

³⁰⁰ Williams, R. 2001. *Letters: Your Views*. Coventry Evening Telegraph. 2 February 2001, p.10 & 11

³⁰¹ Mackay, N. 2001. *No hiding place; Eight years ago the murder of James Bulger shocked the nation. As his killers prepare for release, Home Affairs Editor Neil Mackay examines how they will cope living a lie in an unforgiving nation that does not want to forget*. The Sunday Herald. 24 June 2001.

³⁰² Redd, B. 2013. *Bluefield Daily Telegraph, W.Va., Bob Redd column*. Bluefield Daily Telegraph (West Virginia). 22 December 2013.

³⁰³ Jenkins, S. 2000. *Rule by justice, not by media lynch law*. The Times (London). 15 March 2000.

³⁰⁴ Ibid.

³⁰⁵ Bacevick, A.J. *How Manning and Snowden made secrecy impossible*. The Washington Post. 18 August 2013.

the “wishes of the ordinary man in the street”³⁰⁶. Herein, the domination which the public sought to impose upon the criminal perpetrators is indicative of the retributive force of the public execution “in which violence bursts...into flame” (Foucault, 1991: 9). Thus, the inexpert expertise of the Thompson and Venables case make explicit how whilst “Discipline is a political anatomy of detail” (ibid: 139), the spectacle is a political anatomy of collectivism and emotion. Inexpert experts speak to the intricate relationships between the public, the mass media, and criminal justice.

And thus, although “the publicity has shifted to the trial, and to the sentence” (Foucault, 1991: 9), case studies show individuals “who are not content to observe the trial. They want to participate”³⁰⁷. Thus, not only can justice be argued to be a spectacle, but it is an arena in which power is negotiated and communication had; according to Castells, in a contemporary media network society “users and doers...become the same” (2000: 31). Much like the morally loaded pursuit of Thompson and Venables, the mass media reporting of the Arias trial gave an international audience the knowledge and information needed to elevate their status to inexpert expert. In both cases, the mass media exacerbate the spectacle of justice and expand Foucauldian theories of power beyond institutions of panopticism to include lay social actors. Echoing the judicial and clinical expertise within the courtroom, outside legal spaces

“the issue of playing along at home [was] in play in the Arias trial...When court is in session, tweets with a #jodiarias hashtag roll like a river as thousands of people weigh in minute-by-minute...Tweeters swap theories and debate legal strategy. They rail at her lawyers and cheer, loudly, for the prosecution”³⁰⁸.

Herein, Arias’ case clearly exposes the international impact and appeal of justice as a public spectacle, as well as the interactive role of the mass media in creating this spectacle. It exemplifies Kellner’s theory that the mass media “bring[s]...multimedia extravaganzas into the home and workplace” (2003: 14); media spectacle are omnipresent, existing within and between the social capillaries. With this in mind, the case exposes the fallibility of Foucault’s theory that the “disappearance of public executions marks...the decline of the spectacle” (1991: 10);

³⁰⁶ Jenkins, S. 2000. *Rule by justice, not by media lynch law*. The Times (London). 15 March 2000.

³⁰⁷ Quinn, J. 2013. *Killer ratings; With its heady mix of jealousy, murder and sex, the Jodi Arias case shows what happens when the justice system becomes entertainment*. The Toronto Star. 4 May 2013.

³⁰⁸ Ibid.

despite the privatisation of punishment, the spectacle continues to thrive in its focus on justice. Mass media discourses in the Arias case evidence that the concept of the spectacle, as a descriptive tool for the criminal justice system, is still relevant. Beyond this, the saturation of media information and knowledge given to the public illustrates the frailty of Foucault's theory that "the sentences that we judges pass are [not] activated by a desire to punish; they are intended to correct, reclaim, 'cure'" (ibid). Both mass and social media worked to resist the "glacial pace of the judicial system"³⁰⁹ by instilling knowledge in the public that is representative of both pre- and panoptic systems of power; it represents the desire to punish as well as to correct, reclaim, and cure. In fact, "the court found no reason that modern technology should limit the public's right to see the judicial system in action"³¹⁰ and so, the trial became a public spectacle and lay social actors and their inexpert expertise were the driving forces.

As both the Bulger and Arias cases show, visibility and seeing is central to the public's role as inexpert experts; the visual is the keystone upon which spectacular justice is founded. This echoes Carrabine's analysis of "increasingly mediatized cultures" (2014:134) and builds on the importance of recognising how "the dynamics of celebrity, criminality, desire, fame, trauma and voyeurism" (2014: 134-135) shape social practice. But visibility is not only central to narratives of the spectacle. In fact, the visual is equally central to Foucault's (1991) panoptic mechanism; it arrests space and time so that it is "possible to see constantly and recognize immediately" (200). Within Bentham's architecture the eye of the supervisor is all-seeing and all-knowing, and thus in line with Foucauldian theories of the interconnectedness of knowledge and power, they were omnipotent. However, the inexpert experts within the Arias and Bulger case studies problematise notions of power within Benthamite architecture. In line with Mathiesen's (1997) theory of synopticism, they illustrate how through the power of the mass media, it is not only the supervisor who has the power and knowledge but so too the public see; the public know; the public act. Thus, although individual bodies may be "subjected, used, transformed" (Foucault, 1991: 136), subtle mechanisms of power, as embodied in the mass media, balance this and foster agency, knowledge and expertise. "With every twitch, grimace and smile analysed on TV and online"³¹¹ not only were the case studies a public spectacle, but in so doing, the media

³⁰⁹ Hondo, 2013. *Hondo makes Pitt stop*. The New York Post. 23 May 2013.

³¹⁰ Ostrow, J. 2015. *Media prepping for trial*. Denver Post. 14 March 2015.

³¹¹ Quinn, J. 2013. *Ex-girlfriend found guilty; Could face the death penalty for murder of former boyfriend*. The Toronto Star. 9 May 2013.

redirected the supervisors light of the panopticon and we see both the few seeing the many (panopticism) and the many seeing the few (synopticism). We see the powerful role of the public, the powerful role of media discourse, and their sustained role in spectacles of justice. The mass media takes the private world of the courtroom and makes it public; it makes seeing accessible to a global audience and within this thesis seeing is translated into knowledge and thus power.

The visual and seeing are equally important to the construction of expertise, specifically, inexpert expertise in the Edward Snowden case study. Snowden sought to illuminate the “never-blinking eye of Washington surveillance”³¹² and consequently Snowden’s U.S. is the perfect embodiment of Foucault’s panoptic, disciplinary society. And thus, in contrast to Bulger and Arias which perhaps expose the spectacular, retributive function of inexpert experts, the Snowden case is more complex and further helps develop the proposed concept of spectacular justice. Much like the ambiguity surrounding who is the victim within the case³¹³, there is discursive uncertainty over how expertise is defined. Specifically, there is uncertainty around Snowden’s status as an expert and whether, as a whistle-blower, he is simultaneously an expert and an inexpert expert.

On the one hand the case is an exemplar of the hard boundaries of panopticism, in which the government is an all-seeing, all-knowing, surveillance machine. Thus, their expertise and knowledge are garnered from the capillary structure of the panopticon and the seeing powers of observation; seeing and the visual are vital to their knowledge, power, and expertise. Under these conditions, media discourses argued that transparency and truth were compromised and the “public [can] only...hear what the government wants the public to hear”³¹⁴. This is important for this thesis because it shows how discourses and mechanisms of privatisation operate alongside the spectacle; they are parallel narratives. Under such structures of privatisation, the public is seen but does not see; it is the object of information, never a subject in communication (Foucault, 1991, 200). And so, in contrast to the supposedly productive force of panopticism, we see its repressive function. And thus, Snowden’s whistleblowing is defined,

³¹² The New Zealand Herald. *Analysis: Snowden caught in historic conflict*. 12 July 2013.

³¹³ See Chapter Four: Ambiguous Victims for further details.

³¹⁴ The New Zealand Herald. *Analysis: Snowden caught in historic conflict*. 12 July 2013.

by the State, not as an act of expertise, but as a treasonous threat³¹⁵. Fundamentally, the case makes clear how “behind the disciplinary mechanisms can be read the haunting memory of ‘contagions’, of the plague, of rebellions, crimes, vagabondage, desertions” (Foucault, 1991: 198). But rather than inhuman disease, it is Snowden who is defined by government experts as the contagion and the dangerous ‘other’ and it is precisely because of the social and political transgression that Snowden embodies which attracted a media spectacle. And thus

“The medical supervision of diseases and contagions is inseparable from a whole series of other controls: the military control over deserters, fiscal control over commodities, administrative control over remedies, rations, disappearances, cures, deaths, simulations” (Foucault, 1991: 144).

An alternative understanding posits Snowden as a lay social actor; he is but one individual in the “compact, swarming, howling masses” (ibid: 200). Snowden’s identity as a lay social actor is compounded within media discourses which argue “if Snowden is truly a traitor, then the American people have been classified as an enemy of the American government”³¹⁶. Arguably, more so than the panoptic powers of governmental surveillance conducted by the U.S. government, Snowden’s actions are indicative of the Foucauldian, productive forces of power. This is because Snowden operationalised his knowledge and expertise, gained through his position at the NSA to “facilitate disclosures in the public interest”³¹⁷. And it was in his release of confidential State secrets that Snowden problematised Foucauldian theory; he gave the public knowledge; he gave the public expertise; he gave the public power. Thus, whilst the status of both Snowden and the U.S. public as experts is widely disputed, they expose how closely bound together knowledge and power are. This is significant because it highlights the potential for media discourses to create a more transparent and visible political system; in creating a spectacle and giving the public knowledge, mass media discourses perform an empowering function and highlight the political intricacies that are present in spectacular and high visible moments of justice.

³¹⁵ See Chapter Five: The Perpetrator for further details.

³¹⁶ James, N. 2013. *Snowden must be recognized for heroic endeavours*. The Crimson White: University of Alabama.

³¹⁷ Garzon, B. 2013. *White House expects Russia to expel fugitive NSA whistleblower Edward Snowden and extradite him to US*. Mail Online. 24 June 2013.

The visibility that mass media discourses and Snowden gave the public can be understood in relation to a quote by Foucault:

“opposite the central tower, imposes on him an axial visibility; but the divisions of the ring, those separated cells, imply a lateral invisibility. And this invisibility is a guarantee of order. If the inmates are convicts, there is no danger of a plot, an attempt at collective escape, the planning of new crimes...if they are patients, there is no danger of contagion; if they are madmen there is no risk of their committing violence upon one another...if they are workers, there are no disorders, no theft, no coalitions” (1991: 200-201).

If we apply this quote to the Snowden case, specifically in relation to the complex interactions between knowledge and power, not only do we see an anatomy of power defined by discipline and order, but also by isolationism and fear. Arguably, there was a fear within the U.S. State of giving power to the powerless; empowering the general public through knowledge was considered dangerous. As a result, far from living in an environment in which “we’re supposed to know virtually everything about what they do: that’s why they’re called *public* servants. They’re supposed to know virtually nothing about what we do: that’s why we’re called *private* individuals”³¹⁸, we live “in an age where people who tell the truth about what the government is doing get[] into trouble”³¹⁹. The Edward Snowden case speaks to the coexistence of both panoptic and spectacular structures of power. On the one hand, the U.S. government developed a system of secrecy and privacy and therefore, much like the guards within Foucault’s panoptic tower, they were unseen; power was gained through invisibility. On the other hand, through Snowden’s whistleblowing, using the mass media, he made the invisible visible and made the U.S. justice system a media spectacle. Here we have the spectacle and panoptic power existing in parallel; narratives of the spectacle have not been lost. Inexpert experts played an important role in illuminating the power of the mass media to create a justice spectacle. The power of Snowden, and the American people, as inexpert experts, that is individuals with insight, knowledge, and thus power, was a challenging prospect for the U.S. government. And so, both the U.S. government and Edward Snowden can be seen to spectacularly pursue criminal justice

³¹⁸ Greenwald, G. 2013. *On whistleblowers and government threats of investigation*. Guardian.com. 7 June 2013.

³¹⁹ Reilly, J. 2013. *‘I’m worried our government will kill him with a cruise missile’: Ron Paul fears US will use a drone to take out Edward Snowden*. Mail Online. 12 June 2013.

by utilising the international reach and power of mass media discourse. Driving the momentum of this spectacular justice project was the debate around inexpert experts and issues surrounding the public right to know; inexpert experts were a catalyst for the spectacle of criminal justice.

6.5 Conclusion

This chapter has shown the role, the prominence, and the contribution of experts to understanding how justice has become a spectacle. Simultaneously it has shown how Foucauldian theories of expertise, as identified within *Discipline and Punish* (1991) and upon which panopticism is built, need supplementing. It exposes the instability of Foucauldian theories of disciplinary power and how the role of experts and guardians of control, are far more complex than is accounted for in theories of panopticism. These complexities are given meaning through the conceptual development of spectacular justice. Accordingly, this chapter has examined the role of the expert according to three principles, each of which is central to understanding the spectacle in criminal justice.

Firstly, *The Police* section demonstrates how the role of the police as ‘experts’ is neither predictable nor clear; a product of this ambiguity is the spectacle of justice. The role of the police as ‘experts’ is intricately bound up with issues around identity and politics, and thus whilst on the one hand they may be understood as guardians of the panoptic regime, on the other hand, the expert status of the police is far more complex than the power of the guards as constructed in *Discipline and Punish* (Foucault, 1991). Relationships between the public and the police are historically variable and highlight the social, political, and cultural identity of a society, nonetheless, their position within the mass media remains a constant. This thesis argues that the relationships between the mass media, the police, and the public are foundational to the creation of criminal justice as a spectacle. Fundamentally, criminal justice has become a spectacle, and media discourses surrounding the police and their role as experts is a key trigger in moving justice into the public eye and out of the shadows.

Secondly, *Clinical Experts* further assert the notion of the spectacle in justice and demonstrate both the validity of Foucauldian theories of knowledge-power, as well as the need for them to be supplemented. This section explores Foucauldian theories of power-knowledge and how they are intricately linked together. Moving beyond Foucault, this thesis recognises the powerful role of the media and explores how it interacts with clinical knowledge to create a spectacle of

justice. The proposed concept of spectacular justice is thus designed to supplement theories of panopticism and privatisation, and the analysis of *Clinical Experts* does this succinctly. Clinical experts illuminate the strength of spectacular narratives of power and justice, as well as the role of the mass media in turning the private matters of a criminal case into a high-profile drama.

Finally, *Inexpert Experts* upset orthodox definitions of expertise and in doing so offer a unique answer to the question, how has justice become a spectacle? They expand notions of power and knowledge, and challenge Foucauldian theories of docile bodies and passivity. It opens up understandings of expertise to include lay social actors and thus illustrates the power of the mass media to act as a platform upon which lay actors can express both support and dissatisfaction with established regimes. The public remain central to criminal justice and embolden its position as a spectacle.

The data on experts makes a unique contribution to a primary aim of this thesis to assert the notion of the spectacle in justice. To elaborate, experts are important to this research project because their authority and knowledge are centrally positioned within media discourses of justice; experts are pervasive within media representations of criminality and justice. Experts not only offer their knowledge to mass media discourses but they also often function as gatekeepers; they open to the doors of the justice system to the media. As a result of their central position within media discourses on criminal justice, this thesis considers experts, whether *police*, *clinical experts*, or *inexpert experts*, to be integral to understanding the ways in which justice has become a spectacle. This chapter speaks to the ways in which the mass media reports on criminal cases and makes them public, and the power of media discourses to draw on figures and notions of expertise to turn a case into a high-profile drama and legitimate mechanisms of control. Mass media discourses utilise police, clinical, and inexpert experts to construct a spectacle of justice and in doing so they revitalise the dialogue between public and private institutions. The role of experts is varied but importantly it highlights the complex relationships between knowledge and power, and demonstrates how the way the justice system, the mass media, and the public negotiate these differences in power and knowledge impacts upon the spectacle. It also further highlights the relationship between the spectacle and human narratives as it makes clear how power and authority is never absolute but rather can be challenged and embraced by lay social actors. These tensions and power differentials over knowledge and power embody spectacular justice. In conclusion, experts help this thesis assert

the notion of the spectacle in justice; expose the role of the mass media in making a spectacle of criminal justice; and illuminate the moral and political issues that arise in spectacular and highly visible moments of justice.

Chapter Seven: Conclusion

The Significance of Spectacular Justice

7.1 Overview

In conclusion, this thesis has introduced and advanced the concept of Spectacular Justice.

Spectacular justice describes the ways in which the mass media has the power to take the private matters of criminal cases and turn them into high-profile public dramas; spectacular justice puts question of justice into the public sphere. It revitalises the narrative of the visual spectacle within criminology and supports the need to develop a “sophisticated understanding of the centrality of the image to crime” (Young, 2014: 160). The visual is an insightful route into understanding crime, deviance and criminal justice (Rafter, 2014; Brown, 2014; Carrabine, 2012, 2014, 2016). In this knowledge, this thesis contributes to the growing field where sight is central, and where visual materials are mobilisers of insight and debate. Presser and Sandberg argue that “images both tell stories and mobilize story making” (2015: 296) and it is in this knowledge that spectacular justice appreciates the power of the visual in revealing “taken-for-granted and dominant narratives” (ibid) within criminology. Through a media discourse analysis, spanning a two-hundred-year period and the immersion in archival records of historical criminal executions and filmed criminal trials in the contemporary, the concept of spectacular justice is a lens through which prolific media coverage of criminal justice process can be understood and its significance explored. As such it has sought to reignite scholarly interest in narratives of the spectacle and embrace a “visual turn of mind” (ibid: 131) and demonstrate the pertinence and value of the spectacle to the way the public understands and engages with criminal justice.

Beyond advocating for greater criminological awareness of the visual as an important element of creating media spectacle, spectacular justice serves to supplement Foucauldian theories of panoptic privatisation, born from his book *Discipline and Punish: The Birth of the Prison* (1991). The catalyst for this literary critique was the Oscar Pistorius murder trial in 2014. Similar to the original trial of the century following the kidnap and murder of Charles Lindbergh Jr in 1932, and the scale of the O.J. Simpson trial in 1994 (Garcia-Blanco and

Bennett, 2018), Pistorius' case became known as the new "trial of the century"³²⁰. Watching the trial unfold, thousands of miles away in North Yorkshire, it quickly became clear that whilst *Discipline and Punish* (Foucault, 1991) is one of the most influential texts within socio-criminological theory, it does not take into consideration the significant role the mass media plays in sustaining narratives of the spectacle. As a historical text it can be argued that it could not have possibly foreseen the media infrastructures that have evolved. Foucault argues that post-nineteenth century Europe underwent a disciplining turn, in which there was greater surveillance, order, and control. Using the analogy of Jeremy Bentham's 'Panopticon', the text argues that rather than the brutal, bodily, and spectacular nature of punishment and control that defined previous centuries, control shifted focus and came to be exercised upon the soul. But for Foucault, the panoptic turn was not only indicative of a change in the penal institution but represented a shift in power structures more broadly. In Bentham's 'Panopticon' inmates were

"securely confined to a cell from which he is seen from the front by the supervisor...He is seen, but he does not see; he is the object of information, never a subject in communication" (ibid: 200).

Herein, just as the prisoners of Bentham's panoptic prison were individualised and isolated, suspended in a state of perpetual fear that they were being observed, Foucault contends that social actors in society at large are affected by panoptic power. The text contends that individuals are controlled and do control themselves based on panoptic, privatised, technologies of power. According to *Discipline and Punish* (Foucault, 1991) the panoptic, disciplining powers of Bentham's prison architecture "penetrat[ed]" and "regulat[ed]" the "smallest details of everyday life" (ibid: 198), infiltrating the capillaries of the social body and gradually relinquishing the antiquated structures of the spectacle.

Importantly, spectacular justice does not seek to discredit Foucauldian theories of panoptic power, nor his observations of the privatisation of punishment. In fact, the legitimacy of panopticism is crucial to the conceptual development of spectacular justice; spectacular justice and panopticism are not constructed as mutually exclusive concepts. Rather than being panopticism's theoretical antithesis, spectacular justice is an original concept that is "stimulated

³²⁰ Smith, D. Oscar Pistorius: will one of most hyped murder trials in history be fair? *The Guardian*. 28 February 2014.

and enlivened by it” (Said in Couzens Hoy, 1986: 152). It enters into a relationship with panoptic theories of power through which, it is hoped, both concepts can be utilised to their fullest. An important theoretical influence in the construction of this supplementary narrative is Mathiesen’s (1997) *The Viewer Society* in which he questions whether Foucault (1991) was correct in arguing that we have moved *from* a society in which the many see the few, *to* one in which the few see the many. For Mathiesen, such a theory is limiting in its simplicity and in response he calls for greater recognition of the plurality of power and complexities of social change (see also Spierenburg, 1984; Said, 1986; Hibbert, 1963; Garland, 1986; O’Farrell, 2005). *The Viewer Society* (1997) contends that rather than the definitive break that *Discipline and Punish* (Foucault, 1991) sets out, individuals have greater agency, and power has a degree of fluidity, that problematises a clean transformation from one power system to another. And so, building on Foucauldian thought, Mathiesen argues that we are witnessing the co-existence of power; society is structured around both the few seeing the many (panoptic power) and the many seeing the few (synoptic power). This thesis recognises the significant contribution of Mathiesen’s work to socio-criminological thought on surveillance, control, and discipline. Echoing Mathiesen, this thesis agrees that Foucault’s theory of panopticism contributes in an important way to contemporary understandings of surveillance. With this in mind and building on the theoretical critiques developed in *The Viewer Society* (Mathiesen, 1997), spectacular justice complements the perceived gaps in Foucauldian theory and explores the evidence of additional narratives of power. It highlights the role of the visual, as embodied in the mass media, to the criminal justice system and explores the influence this has on Foucauldian theories of panoptic privatisation. Spectacular justice problematises Foucault’s theory that the spectacle vanished post-nineteenth century, relegated to the “barbarities of another age” (1991: 39) and usurped by the power of panopticism. It offers tangible examples of where the spectacle has not vanished, but rather it has transferred away from punishment and onto criminal justice process.

Important to understanding the unique contribution this thesis makes is understanding how justice is conceptualised. One of the main critiques this thesis identifies with *Discipline and Punish* (1991) stems from its conceptualisation of power and control. As discussed in Chapter One, for Foucault (1991) power is multifaceted and porous. The non-linear notion of power is echoed throughout this thesis, but more importantly, for Foucault, power does not have a face. By this, it is meant that Foucauldian theories of power, discipline, and panopticism are devoid

of an understanding of *who* has power and *who* is at the helm of the panoptic machine. In response, this thesis draws upon the work of Garland (1991a; 2001) owing to his theoretical focus on both the institutional and human elements of power and justice. Building upon Garland's work, this thesis makes the case that with the development of mass media technologies, issues of power, control, and justice are opened up to the public and there is a need to examine such issues beyond Foucauldian theory. Garland argues it is vital to see both institutions (macro) and lay actors (micro) as central to power. This approach to power is echoed throughout this thesis's conceptualisation of justice. Justice is understood as something that is manifest in social institutions (such as the criminal courts and prison system) and which represent the law and social norms. But beyond this, justice is equally understood as manifest in the emotions, morals, and values of the public; notions of justice are communicated through public sentiment such as anger, solidarity, empathy, and shame. Justice is varied and the relationship between the mass media and the criminal justice system makes the institutional/personal duality stronger. The spectacle of criminal justice explicates how the mass media facilitates this dual relationship of power between institutions of control and the public.

Beyond this, a further significant contribution that spectacular justice makes, in terms of supplementing Foucauldian theory, regards Foucault's (1991) characteristic genealogical methodology. In *Discipline and Punish* (1991) Foucault "shifts his emphasis" (Shiner, 1982: 385) to explore how knowledge and power and their micro-political structures change historically and how this can be understood through a detailed analysis of the economy of punishment. By tracking systems of power from the social control of lepers, to the crisis of the plague, and finally Bentham's 'Panopticon', Foucault (1991) theorises a seemingly clean timeline of the historically contingent nature of power, knowledge, and control. At the heart of Foucault's genealogical focus is the theory that Europe underwent a disciplining turn characterised by "innumerable small tactics of discipline" (Shiner, 1982: 395). And thus, this thesis echoes Foucauldian methodologies to explore the changing face of the spectacle as a system of power, knowledge, and control. It historically maps narratives of the spectacle and analyses how they exist in parallel to panoptic, disciplinary power. Foucault argued that society moved from a period of spectacular punishment to the privatisation of punishment around the nineteenth century. This thesis has shown how the concept of spectacular justice can be used to explain the continued relevance of the spectacle as a narrative of criminal justice and how the

visibility and spectacular nature of justice exists in *parallel*, rather than competition, with the privatisation of punishment. Therefore, despite the development of panoptic, privatised institutions of punishment, the spectacle has not been eradicated. This thesis evidences how society has moved through three historically discernible phases; the spectacle of punishment *to* the privatisation of punishment, and finally *to* the spectacle of justice. It is not a relic of pre-panoptic eras, but a key stone of the society of the spectacle (Debord, 2012) in which we live. It speaks to the contemporary relevance of Foucault's principles of panopticism and how alongside the prevalence of panoptic punishment exists an increasingly transparent spectacular justice system, made visible by the mass media.

In summary, spectacular justice offers insights into how the spectacle functions in media representations of criminal justice. To achieve these insights, the thesis has explored eight criminal case studies that vary historically, culturally, and politically, all of which differentially illustrate the existence of spectacular justice, its intricacies, and variations. The different ways in which the case studies map onto the nine conceptual categories is explicated in Figure 3³²¹. This table is a useful tool from which a number of key concluding findings about spectacular justice will be henceforth explored. These reflections speak to the four research aims of this thesis:

1. To assert the notion of the spectacle in justice.
2. To expose the role of the mass media in making a spectacle of criminal justice.
3. To investigate the international impact and appeal of justice as a public, media spectacle.
4. To explore the moral and political issues that arise in spectacular and highly visible moments of justice, and explore what this reveals about the fluid character of the spectacle.

³²¹ Also in appendix.

| | | Conceptual Categories | | | | | | | | |
|--------------|---------------------------|-----------------------|-------------------|----------------------|---------------------|-----------------------|-----------------------|---------------|-----------------|-----------------|
| | | Quintessential Victim | Collateral Victim | Ambiguous Victimhood | Inhuman Perpetrator | Political Perpetrator | Auxiliary Perpetrator | Police Expert | Clinical Expert | Inexpert Expert |
| Case studies | Ratcliffe Highway Murders | X | X | | X | | | X | | |
| | Jack the Ripper | X | | | X | | | X | | |
| | Charles Lindbergh Jr | X | X | | X | | | X | X | |
| | James Bulger | X | X | X | X | | X | | X | X |
| | Jodi Arias | | | X | X | | | | X | X |
| | Anders Breivik | X | X | | | X | X | | X | |
| | Edward Snowden | | | X | | X | | | | X |
| | Michael Brown | | X | X | | X | | X | | |

Figure 3: Table mapping out the relationship between characters and case studies

The table was formulated with the rationale that it visually represents the data from the eight cases of spectacular justice and shows how each case relates to the nine different conceptual categories that span the Victim, the Perpetrator, and the Expert characters. By mapping out how each case relates to each category, and condensing the knowledge in this way, allows for patterns, anomalies, and trends to visually emerge from the data. The table is arranged in chronological order and so not only does it become clear how each case relates to the conceptual features of spectacular justice, it also allows for inter-case comparisons and historical trends to surface. In this knowledge, the thesis will now turn to a discussion of the four key research findings that emerge from the data.

7.2 Research Finding One: The ‘Perfect’ Crime

The stand out theme from the case study data concerns the James Bulger case study. The murder of two-year-old James Bulger, by ten-year-old Robert Thompson and Jon Venables, is the embodiment of spectacular justice. Evidencing seven of the conceptual categories it is distinct from the other case studies. The strength with which the Bulger case conforms to the conceptual criteria of spectacular justice constructs the case as the ‘perfect’ crime and the most spectacular representation of criminal justice. The notion of the ‘perfect’ crime is used here to encapsulate

how the features of the murder case made it distinctly newsworthy and the focus of an international media spectacle. The spectacle of justice surrounding the death of Bulger illustrates how narratives of the spectacle continue to flourish at the intersection between the death of innocence and a graphic and bloody demise. As such, Bulger was the embodiment of the *Quintessential Victim*, encapsulating both the ideal victim (Christie, 1986) and the ideal death. Because of the victim's innocence and weakness, the case "mobilize[s] our sympathy" (ibid: 22) whilst simultaneously exposing the cultural and media fascination with "eroticized spectacles of torn bodies" (Seltzer, 1998: 129). Out of this tension it makes a strong case for *Collateral Victims* and *Auxiliary Perpetrators* as key influences on spectacular justice as a supplementary narrative to Foucauldian theories of panoptic privatisation. Despite the clear palpability of Bulger's quintessential identity, given the youth of perpetrators Thompson and Venables, media discourses debated the possibility that their criminality was the result of parental and social failings. Compounding the spectacle of Bulger's death and the social harm it caused, discourses questioned whether or not the perpetrators were also victims. Herein lies the evidence of *Ambiguous Victimhood* as a driver of spectacular justice. Yet, in direct tension with the ambiguous victimhood that surrounded Thompson and Venables, is the discursive reliance on the two boys as *Inhuman Perpetrators*. Thus, through the brutal murder of Bulger, Thompson and Venables occupy the pernicious space of both innocent victim and "Freaks of nature. Monsters. Demon seed"³²². Finally, when analysing the data on the role of the expert to spectacular justice, we see the reliance on both *Clinical* and *Inexpert* expertise. Clinical expertise was at the centre of the investigation given the violent nature of the crime and the destructive nature of the children's actions to Bulger's body. Herein, not only were they used to analyse the minute details of the crime scene but also to offer a detailed analysis of the two boys' psyche. Nevertheless, given the morally loaded nature of the case, the "lynch mob tabloid press"³²³ gave a platform for *Inexpert Experts*, particularly lay members of the public, to analyse and critique the minds of Thompson and Venables.

Combined, the Bulger case was a high-profile public drama characterised by a visual media spectacle. It was the spectacle of justice in action and it highlights the power of the mass media

³²² Hall, J. *Murderous children aren't 'born bad,' psychiatrists say*. The Toronto Star. 2 December 1993, p1.

³²³ Morrison, B. 1999. *So how should you deal with two child murderers?* The Independent. 19 December 1999, p23.

to make the boundaries of private penal institutions porous and to infiltrate the minutiae of a criminal case. But beyond evidencing the spectacle of justice, the Bulger case exposes its intricacies and the multiple ways in which narratives of the spectacle, and the close interactions between the public, the media, and criminal justice process, manifest. It helps construct a detailed picture of spectacular justice and the legitimacy of its claim to be a supplementary narrative to Foucauldian (1991) theories of the panoptic privatisation of punishment.

7.3 Research Finding Two: The Power of Ambiguity and Mystery

In comparison to the multifaceted nature of the spectacle surrounding Bulger's case study, other case studies reveal that spectacular justice does not depend on the 'perfect crime' to exist and flourish. These alternative cases expose the variability of spectacular justice as, unlike the other criminal case studies, spectacular justice is still visible and present whilst conforming to fewer conceptual categories. The two case studies that most explicitly demonstrate this complexity are the profoundly dissimilar Edward Snowden and Jack the Ripper. Despite their differences both case studies offer a unique contribution to the conceptual development of spectacular justice. And thus, although they do not conform to the extensive number of conceptual categories that cases such as Bulger's do, the spectacle of justice is not weaker, it simply takes a different character.

Edward Snowden is the only case study wherein the perceived criminality and its subsequent spectacle do not stem from a fatality. As a result, the spectacle shifts and is focused primarily on *Ambiguous Victims*, *Political Perpetrators*, and the *Inexpert Experts*. Herein, the strength of Snowden's case as a robust example of spectacular justice stems from how it actively pursues questions around surveillance and privacy, blurring the line between public and private, legal and illegal as it does so (Lyon, 2014, 2015a, 2015b, Bauman et al, 2014). Arguably, the international spectacle that engulfed the Snowden case was caused by the ambiguities surrounding justice, debates around who is the perpetrator, who is the victim, and the distrust of institutions and structures of control. It exposes the value of ambiguity and uncertainty to the spectacle of justice. Snowden's case embodies the global reach of spectacular justice which speaks to the research aim of this thesis to investigate the international impact and appeal of spectacular justice. With this in mind, Snowden's case is valuable to the understanding of spectacular justice because it demonstrates how justice processes, with the development of the

mass media, have become globalised and politicised. Systems of justice are made visible and accessible to individuals beyond the local and national level and can be witnessed and engaged with by individuals that are geographically, culturally, socially, and politically distant around the world. This is a product of the spectacular and visual nature of the mass media. In doing so, the Edward Snowden case study challenges the rigid structures of justice and punishment put forward in *Discipline and Punish* (Foucault, 1991), and shows how justice is not only more global, but how power is more subjective and variable than he predicted.

Ambiguity and mystery are similarly definitive within the infamous Jack the Ripper case. Whilst the Jack the Ripper case has the longest data life, spanning from 1888 to the current day³²⁴, paradoxically it conforms to a smaller number of conceptual categories. To elaborate, the case primarily illustrates the *Quintessential Victim*, the *Inhuman Perpetrator*, and the *Police Expert*. Herein it can be posited that the historical spectacle that surrounds Jack the Ripper can be attributed not so much to its multiple intersections with conceptual categorisations, but rather to the mysterious nature of the crime, and the orthodox murder mystery notion of ‘whodunnit?’ (Puckett & Lundman, 2003; Reiner, 2002). For Seltzer, the mysterious nature of the Ripper case is understood through the “social mirror-effect”, that is, “the absence of any knowledge of the identity of the killer has made Jack the Ripper the prototype of the serial killer...[and] reflects...the commonplace anxieties and crises of his culture” (1998: 126). Such ambiguity can be seen to compound the already spectacular features of the murders, which were characterised by violent, bodily dismemberment and mutilation (Seltzer, 1998; Penfold-Mounce, 2010, 2016; Haggerty, 2009; Foltyn, 2008b; Moscoso, 2012; Scarry, 1985; Spivey, 2001). This exposes a tension. On the one hand, the case has the longest data life of all case studies and continues to feature heavily within popular culture and imagination (Sugden, 2002; Begg, 2005). On the other hand, the case demonstrates a small number of conceptual categories that are imperative to the generation of spectacular justice. This inspires an important reflection; the conceptual categories (within the Victim, Perpetrator, and Expert characters) are not equally weighted. Rather it can be observed that different categories carry different amounts of social value and thus their contribution to spectacular justice is variable. This being the case, the data table exposes the moral and political issues that arise in spectacular and highly visible moments of justice, as well as the hierarchy of value that determines the currency of certain criminal cases.

³²⁴ See Data Timeline in Appendix.

To elaborate, it can be observed that depending on which conceptual categories a criminal case conforms to, the potential to significantly impact the scale and character of its public spectacle changes. This has implications for *Discipline and Punish* (Foucault, 1991) and the construction of spectacular justice in that it makes explicit the historicity and longevity of the spectacle as a tangible and observable phenomenon.

7.4. Research Finding Three: Unequal Weighting

A key observation from the data on spectacular justice is that the most heavily weighted categories are the *Quintessential Victims*, *Collateral Victims*, and *Inhuman Perpetrators*. It is contended here that these categories hold the highest currency within the spectacular justice framework. Although not every case evidences these conceptual categories, and whilst they may change culturally and historically, these categories are arguably the most pertinent to narratives of the spectacle. *Quintessential Victims* and the violent, often bloody, victimisation of individuals with a unique level of social capital (such as women, children, and the elderly) present society with a distinctly abhorrent challenge (Christie, 1986; Jewkes, 2015; Cohen and Young, 1973). Spectacular justice is the observable outcome. The spectacle of justice that seeks to rectify the harm inflicted against *Quintessential Victims* challenges the notion of privatised justice as alluded to within *Discipline and Punish* (Foucault, 1991). Beyond this, it gives a human face to theories of panopticism (O'Farrell, 2005; Garland, 1986; Said, 1986; Spierenburg, 1984) and accounts for greater levels of socio-cultural and political complexity; the privileging of *Quintessential victims* within spectacular justice narratives is evidence of a social hierarchy beyond the observed and the observers of Bentham's 'Panopticon'.

Just as *Quintessential Victims* present a perceived threat to social order, *Collateral Victims* question the theoretical monopoly of Foucault's panopticism. It opens up the victim identity to include those who may not be directly affected by a crime but who still experience feelings of victimisation. This category is neatly embodied in the societal response to the Norwegian massacres, as well as the collective grief experienced by international citizens in response to the kidnap and murder of Charles Lindbergh Jr. Both cases expose the role of the media in the revitalisation of spectacular justice, but more specifically how the visibility of mediated criminality encourages collective feelings of empathy and victimisation. The spectacular nature of the media and the high-profile coverage of criminal trials, arguably, has the power to bring

individuals together in parallel with the individualising effects of panopticism. In view of this, this thesis contends that *Collateral Victims* expose a degree of social empathy and plurality that supplements narratives of individualisation and privatisation in *Discipline and Punish* (Foucault, 1991). This collective empathy and shared experiences contribute to maintaining narratives of the spectacle in parallel with broader societal trends towards privatisation and institutionalisation.

The third category that carries notable spectacular currency is the *Inhuman Perpetrators* category. In the same way that *Quintessential Victims* draw out the simplistic stereotypes of innocence, media discourses on *Inhuman Perpetrators* present social actors with archetypal, orthodox notions of the criminal perpetrator as an embodiment of evil. Based on media constructed binaries of the “normal and the abnormal” (ibid: 199 see also Morrissey, 2003; Cohen, 2002; Becker, 1997; Surette, 2011; Naylor, 1990), *Inhuman Perpetrators* are labelled as antithetical to conforming members of society, and whose criminality results in them being “caught up in a practice of rejection” (Foucault, 1991: 198). Like the lepers of Foucault’s pre-panoptic plague, *Inhuman Perpetrators* are ostracised as anti-normative, defined by simplistic categories of difference in an effort to distance society from blame in favour of theories of exceptionalism. *Inhuman Perpetrators* exacerbate the spectacle, rather than the panoptic privatisation of justice. This is because they represent an individual around whom society can galvanise in an attempt to reaffirm social norms, values, and a sense of cohesion. In doing so, the spectacle of justice that surrounds *Inhuman Perpetrators* is reminiscent of the punitive function of the scaffold during the seventeenth and eighteenth centuries, and the corresponding functionalist idea that criminality stands in opposition to the successful functioning of society and therefore must be entirely quelled and obliterated. Just as in 1757, accused of regicide, Robert-François Damiens was

“taken and conveyed in a cart...to the Place de Grève, where, on a scaffold...the flesh [was] torn from his breasts, arms, thighs, and calves with red-hot pincers...and, on those places where the flesh [was] torn away, poured molten lead, boiling oil, burning resin, wax and sulphur” (Foucault, 1991: 3).

The *Inhuman Perpetrators* of spectacular justice are publicly condemned, dissected, and eradicated, not by physical instruments of torture, but lynch-mob public responses and media discourse.

7.5 Research Finding Four: Historical Trends and Changes

To move beyond the uneven weighting of the conceptual categories, the Jack the Ripper case reveals a broader trend in the conceptual equation table. The final key finding speaks to the historical differences in the composition of spectacular justice. The spectacle of justice surrounding the three historical case studies can be seen to have a different focus compared with more contemporary case studies. To elaborate, across the three historical case studies that were analysed, the spectacle of justice was situated predominantly during the discovery of the crime and the subsequent search for the perpetrator. In the immediate aftermath following the historical crimes being committed, media discourses sought to generate a visual spectacle to initiate an active public response and aid the police in restoring social equilibrium (Hall, 1978; Reiner, 2000; Critchley, 1978; Hall et al, 2009; Ignatieff, 1979). Herein, the spectacle of justice surrounding the historical cases is intimately bound to the interrelationships between the public, the media, and the police service and their individual responsibilities to be active in the fight against crime. In comparison, the table suggests that as the cases become more contemporary, the temporal placing of spectacular justice shifts. Unlike the more historical cases, spectacular justice moves away from instigating a collective search for the perpetrator towards analysing criminal justice process and a space for public debate. Arguably, it is no longer the search for the perpetrator that has the greatest currency in the spectacle of justice, but rather ensuring justice is served fairly.

Not only does Figure 3 illustrate the shifting focus of spectacular justice, there are additional discernible patterns in the data which not only reveal how spectacular justice manifests in a singular case, but also its fluidity and adaptability. To elaborate, the Ratcliffe Highway Murders, Jack the Ripper, and Charles Lindbergh Jr are almost unanimous in their conceptual patterning. Each shows a strong affiliation with the *Quintessential Victim*, *Inhuman Perpetrator*, and *Police Expert* categories. This is indicative of the patterned ways in which the spectacle of justice functions and operates historically and culturally; the data shows how during the nineteenth and twentieth century, *Quintessential Victims*, *Inhuman Perpetrators*, and *Police*

Experts carried the highest spectacular currency. However, spectacular justice is not prescriptive. With the kidnapping of Charles Lindbergh Jr in 1932 we see the addition of the *Clinical Expert*. This signals a more general shift in the character of spectacular justice away from the collective public search for the criminal towards the measured expertise of the clinical world. The *Clinical Expert* was at the heart of Lindbergh Jr case, with the psychological analysis of Bruno Richard Hauptmann, handwriting expert analysis of ransom letters, and state of the art forensic technologies to analyse the crime scene. During the early twentieth century it can be suggested that whilst the *Clinical Expert* was gaining prominence, clinical expertise did not replace the role of the police as experts; they represented a supplementary power. As such, the Charles Lindbergh Jr case is indicative of a transitory period wherein we see the co-existence of police and clinical expertise in the spectacle of justice, and the increasingly contested nature of the totemic status of the police (Reiner, 2000).

Here, as Foucault (1991) contends in *Discipline and Punish*, we see evidence to suggest that the nineteenth century was the juncture at which point the spectacle of punishment faded and the spectacle shifted towards criminal justice. In its place, we see a rise in the panoptic exercise of control and the increasingly clinical collection of data and information on criminal cases. The prolific reliance on clinical experts throughout the Lindbergh Jr case in 1932 embodies this change. But crucially, unlike in Foucauldian theory, the presence of panoptic technologies of power is not indicative of their monopoly or dominance; panoptic representatives of power existed in tandem with mediated visual spectacles. Indeed, the *Clinical Expert* was central to the spectacle of later cases, namely James Bulger, Jodi Arias, and Anders Breivik. Correspondingly, following the kidnap and murder of Lindbergh Jr the table indicates a decline in the role of the police as experts. This is perhaps one of the most significant concluding reflections, because it highlights how beyond the co-existence of the police and clinicians within the early twentieth century, the discourse of police as experts can be seen to lose its currency, almost entirely, within the spectacle of justice. With the “profound structural changes in the political economy of Western capitalism” (Reiner, 2000: 79) we are witnessing the politicisation of the police and their corresponding decline in authority.

That is not to say that the police do not feature in the spectacle of justice, quite the contrary. But, where the police retain a central role, it is arguably not so much because of public trust and cooperation, but rather distrust, suspicion, and fear (Reiner, 2000; Cray, 1972; Lee, 1981;

Waddington, 1999; Bolton et al, 2004; Dowler, 2003; Goldsmith, 2005). Here, Figure 3 speaks to the historical and cultural shifts in understandings of expertise. Embodying these cultural and social shifts is the Michael Brown case. In this case the role of the police as experts in the spectacle of justice takes a uniquely different form to that of the historical case studies. Here, their role as experts is neither confirmed nor supported by mass media and public discourses; it is challenged. The spectacle surrounding the Brown case is interpreted as a product of the need to challenge these orthodox understandings and discourses of the police which stem from the profound decay of the police's relationship with black communities. Spectacular justice in the Brown case surrounds the politicised undermining of the police, as well as the public and media plea for the democratisation of race relations. It is a spectacular manifestation of public protest and debate surrounding the police, who are at the centre of the spectacle not as experts but as the focus of a scandal. Couzens Hoy writes that "Foucault treats power exclusively as an impersonal, deterministic structure and thereby fails to explain how power is exercised by individuals who bear the responsibility for their actions" (1986: 10-11). This is an important argument to consider, because by analysing the role of the police as experts and the conceptual development of spectacular justice, this thesis demonstrates the personal and subjective structures of power and in doing so calls for greater recognition of the human stories of power when understanding the spectacle.

The data thus upsets the panoptic power structures that define *Discipline and Punish* (1991) and their corresponding effect on the docility of social actors. Said (1986) argues that "Foucault's imagination of power is largely *with* rather than *against* it" [emphasis in original] (ibid: 152). The inevitability and ceaselessness of power is exemplified in his discussion of the architecture of Bentham's 'Panopticon'. He describes how all that is needed to ensure control is a "supervisor in a central tower and to shut up in each cell a madman, a patient, a condemned man, a worker or a schoolboy" (ibid: 200). Once this power dynamic is established, according to Foucault, the powerless are housed in "so many cages, so many small theatres, in which each actor is alone, perfectly individualized and constantly visible" (ibid). The passive docility of social actors and the all effective power of the panoptic supervisor is not seamlessly translated in the criminal case studies analysed in this thesis. Consequently, a strong case can be made that theories of the ceaseless functioning of the panoptic machine need supplementing. Foucault (1991) may have contended that with the panoptic turn society would operate according to

principles of visibility and surveillance, wherein “[f]ull lighting and the eye of a supervisor capture better than darkness, which ultimately protected. Visibility is a trap” (ibid: 200). But, as the table illustrates, no longer is the supervisor exempt from surveillance; no longer is the supervisor, like the prisoner held in a dungeon, protected by darkness. Spectacular justice has the power to turn the light of the panopticon onto those in control. No longer are social actors “seen but do[] not see” (ibid); the smooth running of the panoptic machine is disrupted by the agency and free will of the public who react to perceived injustices. As such, despite tangible evidence in support of panoptic theories of privatisation and the disciplining turn of Foucauldian thought (1991), his conceptualisation of agency and power needs supplementing. The power of wardens of the panoptic regime is balanced by the agency of power embodied within agents of the spectacle.

In addition to the changing role of the police as experts and the increase in clinical expertise, there are additional historical developments that are illustrated by the data table. Paradoxically, the table demonstrates a general rise in levels of ambiguity, specifically *Ambiguous Victims* and the corresponding rise in *Inexpert Experts*. This is a particularly intriguing observation because it represents a tension. On the one hand we see the rise of *Clinical Experts*, with its corresponding decline in public trust towards the police, and on the other hand we see the rise in *Ambiguous Victims*. This is of note because it highlights the coexistence of seemingly contradictory narratives. One might expect that with the rise in clinical expertise there would be an increase in certainty regarding criminal justice process. However, it can be argued that the rise in *Ambiguous Victimhood* is tangential to the rise of *Inexpert Experts* both of which are attributed to the democratising effect of the mass media and its visual spectacle.

The *Inexpert Expert* category suggests the growth of mass media technology and discourses surrounding criminal justice systems has had a democratising effect on justice. More specifically, media discourses serve as a platform upon which lay social actors can interact with a criminal case and experience an intimate level of engagement. The media has the power to give people a voice on criminal justice issues. Thus, although lay social actors may be experiencing a general shift away from the direct implementation of justice that characterised historical cases, the development of mass media technologies brings justice to the public. The visual spectacle of the media encourages and facilitates public engagement. From this, we are witnessing the rise in *Inexpert Experts*. The table indicates how inexpert expertise and the

democratising powers of the mass media played a significant role in the spectacular representation of the James Bulger case. The voice of the public was at the heart of the Bulger investigation, much like the Arias and Snowden cases and in all three cases we see individuals who have dramatically transgressed social norms. In the Bulger case, Thompson and Venables directly undermined normative understandings of childhood, defined by innocence and vulnerability. In equal measure, with the brutal murder of Travis Alexander, Jodi Arias challenged orthodox understandings of gender. Her anti-femininity was further compounded by her elicited sexuality that was made a public spectacle through the televising of the criminal trial. Finally, Edward Snowden's perceived criminality is founded on the assumption that he openly challenged the authority of the U.S. state, and actively rejected the norms of American patriotism. All three cases explosively transgress social norms concerning their age, gender, and nationality; they represent the "exceptional situation" (Foucault, 1991: 205) of the plague-stricken town.

"Against an extraordinary evil" the power of the mass media and *Inexpert Experts* are "mobilized"; "it separates, it immobilizes, it partitions" (ibid). There are distinct parallels here with the pre-panoptic understanding of justice in *Discipline and Punish* (1991) wherein punishment and justice were characterised by carnivalesque, community solidarity (Presdee, 2000; 2004). The ways in which *Inexpert Experts* utilise mass media discourses to communicate emotions such as anger and frustration when justice is seen to fail, at times, echo "the sight and smells and instruments of human butchery" (Hibbert, 1963: 27) of the seventeenth century. This is because it demonstrates the punitive function of spectacular justice, and thus although the spectacle has moved away from punishment and towards justice, the thesis explicates how there is still a public demand for punitive spectacles and the finality of observing the breaking of the criminally accused. Such punitive retribution is embodied within spectacular media technologies of power, not panoptic privatisation.

This is an important observation because it speaks to the coexistence of panoptic and synoptic (Mathiesen, 1997) systems of power, and therefore, the legitimacy of spectacular justice as a supplementary narrative to Foucault's (1991) panoptic privatisation. Out of this, it is argued that Foucauldian (1991) theory lacks an analysis of the role of the mass media and its relationship to privatisation and panopticism. In particular, by focusing on mechanisms of control, *Discipline and Punish* (ibid) is arguably deprived of technological awareness. This is significant when

considering the development, around the same time, of the Birmingham Centre for Contemporary Cultural Studies (CCCS) in the United Kingdom, and its critical thought, led by Hall et al (1978), on media forms and practices. And thus, although Mathiesen (1997) concedes that Foucault could not have predicted the huge developments in technology, there is value in his view that the broad structures were established at this time. Thus, Foucault's fallibility with regards to the role of the mass media on panoptic privatisation is amplified when one considers the pioneering work carried out around the same time by the CCCS. Spectacular justice highlights the democratising effect of the mass media as a means through which the public engage with the criminal justice system and how this is similar to how the public used to interact with the brutal and bloody punishment of criminals atop the scaffold. And thus, this historical shift demonstrates a level of reciprocity that is not communicated in *Discipline and Punish* (1991). The relationship between the criminal justice system and the public cannot be defined as one "placed under the authority of a syndic" (ibid: 195), with those being watched under surveillance left powerless, "fixed in his place" in a "segmented, immobile, frozen space" (ibid). Spectacular justice illustrates how control, discipline, and justice do not function with the authority nor certainty of the plague. The mass media breaks down these boundaries and facilitates an interrelationship within which power is more democratised.

7.6 Conclusion: Original Contribution and Impact

To conclude, spectacular justice is everywhere. We are living in a society defined by media spectacles (Debord, 2012; Carrabine, 2008, 2014; Hayward and Presdee, 2010; Rafter, 2014; Spierenburg, 1984; Mathiesen, 1997; Brown, 2014; Adorno & Horkheimer, 2002) and the criminal justice system is a keystone within these visual structures. Spectacular justice is a new concept that was created in response to the perceived gaps in *Discipline and Punish* (Foucault, 1991), the most important of which was its failure to recognise the value of the spectacle beyond the public punishment of the criminally condemned pre-nineteenth century. For Foucault (1991), the nineteenth century was the juncture at which point societies underwent a disciplining turn. Leaving the spectacle behind, punishment moved behind closed doors, the body became an "instrument for transforming the soul rather than a surface on which to inflict pain" (Garland, 1991a: 135), and individuals were suspended in a state of conformity by a perpetual fear of surveillance. There is a lot of evidence in support of this general shift towards panoptic power, none other than the pervasive belief in the prison system as a primary

institution of punishment (Rusche & Kirchheimer, 1968; Hibbert, 1963; Mathiesen, 1997; Garland, 1991). However, this thesis has made explicit how this shift is not conspicuous across all areas of society; narratives of the spectacle continue to play an important role in the criminal justice system. Far from being defined solely by the rationalised, instrumentalised, and privatised power of disciplinary power, the criminal justice system is transformed into a public spectacle by the mass media. The mass media makes the private concerns of the criminal justice system visible and invites the public to actively observe and engage with criminal cases much like how citizens of seventeenth century France flocked to see the spectacle of the scaffold.

Furthermore, Foucault (1991) contends that “the major effect of the Panopticon [is] to induce in the inmate a state of conscious and permanent visibility that assures the automatic functioning of power” (201). The mechanical nature of the panoptic society is thus dependent on the assumption that panoptic structures will function ceaselessly, be permanent in their effect, and that the authority of those operating the machinery will not be challenged. It also assumes that those who are subjected to panoptic and privatised control live according to a system of “sequestered and observed solitude” (ibid). In this way, the individuals that occupy Foucault’s panoptic society are rendered powerless, who, like animals in the cages of the royal menagerie (Foucault, 1991) are objects of oppressive, and arguably productive, power. Accordingly, it can be argued that Foucault’s conceptualisation of panopticism within *Discipline and Punish* (ibid) is apolitical. To elaborate, Foucault underestimates the free will and agency of social actors, for whom life is not simply a monotonous drudge of docility. And although the panopticon may be an effective way of “defining power relations in terms of the everyday life of men” (ibid: 205), this is not the case for all power relations. Spectacular justice makes it explicit that the panoptic power of the mass media, whilst visible, does not function in isolation; spectacular justice moves beyond the singular view of power as acting upon individuals. The visibility of the criminal justice system combines panoptic institutional power with the agency of social actors.

Building on this, narratives of the spectacle are historically ubiquitous, and this is well-established throughout socio-criminological literature. Despite its historicity, the spectacle remains a fresh undated concept that has only gained momentum in response to vast developments in media and communication technologies in contemporary society. As such, spectacular justice is proposed as a springboard for further discussion on the role of spectacle within contemporary criminal justice. By placing the visual at the heart of criminological

research it contributes to the growing field where visual materials are mobilisers of insight. This thesis reacts to the limitations of working within a “discipline [that] is so dominated by ‘words and numbers’” (Ferrell, Hayward and Young, 2008: 186 in Carrabine, 2011: 463) and revitalises the narrative of the visual spectacle. Embracing “a visual turn of mind” (Rafter, 2014: 131) spectacular justice functions both as a parallel and supplementary narrative with which Foucault’s (1991) theory of panoptic privatisation and disciplinary societies is bolstered and enhanced. The concept also works closely in conjunction with Mathiesen’s (1997) *The Viewer Society* which contends there needs to be greater scholarly recognition of the blending between accounts of panopticism and the spectacle. And thus, building on the work of Mathiesen (1997), which focuses broadly on the vitality of media technologies and their impact on panopticism, this article takes a distinctly criminological focus to look specifically at the importance of criminal justice process in media representation. In doing so this thesis contributes to a growing body of literature that is both enlivened yet critical (Said in Couzens Hoy, 1986) of *Discipline and Punish* (Foucault, 1991) by exposing the vitality of the visual spectacle in criminal justice process. Spectacular justice calls not for the abolition of panoptical systems of thought, but rather for greater awareness of the value of alternative narratives. It strives to sit alongside panopticism (Foucault, 1991), and within synopticism (Mathiesen, 1997), contributing to the growing field of literature that recognises the prevailing impact and existence of the spectacle, alongside broader trends of privatisation, institutionalisation, and surveillance. Carrabine writes that “visual analysis is never an end in, and of, itself, but must have the goal of social and political explanation firmly in sight” (2011: 463) and it is to this end that spectacular justice is formulated.

Foucault ends his chapter *Panopticism* within *Discipline and Punish* (1991) by asking

“Is it surprising that the cellular prison, with its regular chronologies, forced labour, its authorities of surveillance and registration, its experts in normality, who continue and multiply the functions of the judge, should have become the modern instrument of penalty? Is it surprising that prisons resemble factories, schools, barracks, hospitals, which all resemble prisons?” (ibid: 228).

And it is with a similar question that this thesis concludes. Is it surprising that narratives of the spectacle should remain so prominent given the globalising growth in media, technology, and

communication? Is it surprising that the high-profile public criminal justice dramas that are created by the media, resemble the punitive destruction of an individual atop the execution scaffold? The media has replaced the wooden scaffold as the lens through which the public engage with and understand criminal justice. Spectacular justice defines our understanding of twenty-first century criminal justice.

Appendices

Appendix One: Case Study Overview

| Case Study | Date | Location | Case Description | Key Figures |
|-------------------------------|------|------------------------|--|---|
| The Ratcliffe Highway Murders | 1811 | London, United Kingdom | <p>Between 7-19 December 1811, two fatal attacks on two separate families in Wapping occurred.</p> <p>The first attack took place on 7 December at a linen draper's shop, and the second on 19 December at the Kings Arms tavern.</p> <p>Both families were violently murdered with a maul. Seaman John Williams was arrested on suspicion of murder, but on 27 December hanged himself in his cell on the morning of the trial.</p> | <p>Suspected Perpetrator: John Williams</p> <p>Victims: Timothy Marr, Celia Marr, Timothy Marr Jr, James Gowan, Margaret Jewell, John Williamson, Elizabeth Lane, Bridget Harrington.</p> |

| Case Study | Date | Location | Case Description | Key Figures |
|-----------------|------|------------------------|--|--|
| Jack the Ripper | 1888 | London, United Kingdom | <p>Between August and November 1888, seven women were murdered in the Whitechapel area of London. The victims were all female sex workers, whose bodies had been mutilated. The case became one of the first national crime sensation stories in the UK. The perpetrator was never caught.</p> | <p>Perpetrator: Unknown</p> <p>Victims: Martha Tabram, Mary Ann Nicholls, Annie Chapman, Elizabeth Stride, Catherine Eddoweson, Mary Jane Kelly.</p> |

| Case Study | Date | Location | Case Description | Key Figures |
|----------------------|-----------|--------------------------------------|---|---|
| Charles Lindbergh Jr | 1932-1936 | New Jersey, United States of America | <p>On 1 March 1932, Charles Lindbergh Jr was kidnapped from his nursery in his New Jersey family home. The body was found on 12 May 1932.</p> <p>On 19 September 1934, Bruno Richard Hauptmann, a German national, was arrested on suspicion of kidnap and murder. The trial began on 3 January 1935 in Flemington, New Jersey. On 13 February 1935 Hauptmann was found guilty of first degree murder.</p> <p>On 3 April 1936 at 8:47pm Bruno Hauptmann was killed by electric chair.</p> | <p>Perpetrator: Bruno Richard Hauptmann</p> <p>Victim: Charles Lindbergh Jr</p> <p>Mother: Anne Morrow Lindbergh</p> <p>Father: Charles Lindbergh</p> |

| Case Study | Date | Location | Case Description | Key Figures |
|--------------|------|----------------------------|--|---|
| James Bulger | 1993 | Merseyside, United Kingdom | <p>On 12 February 1993, two-year-old James Bulger was abducted, tortured and murdered by ten-year-old boys Robert Thompson and Jon Venables.</p> <p>Bulger was abducted whilst shopping with his mother in New Strand Shopping Centre in Bootle. Two days later, Bulger's body was found on a railway line 2.5 miles away in Walton, Liverpool.</p> <p>Thompson and Venables were found guilty on 24 November 1993; they were the youngest convicted murderers in English history.</p> | <p>Perpetrators: Robert Thompson; Jon Venables</p> <p>Victim: James Bulger</p> <p>Trial Judge: Mr Justice Morland</p> <p>Home Secretary: Michael Howard</p> |

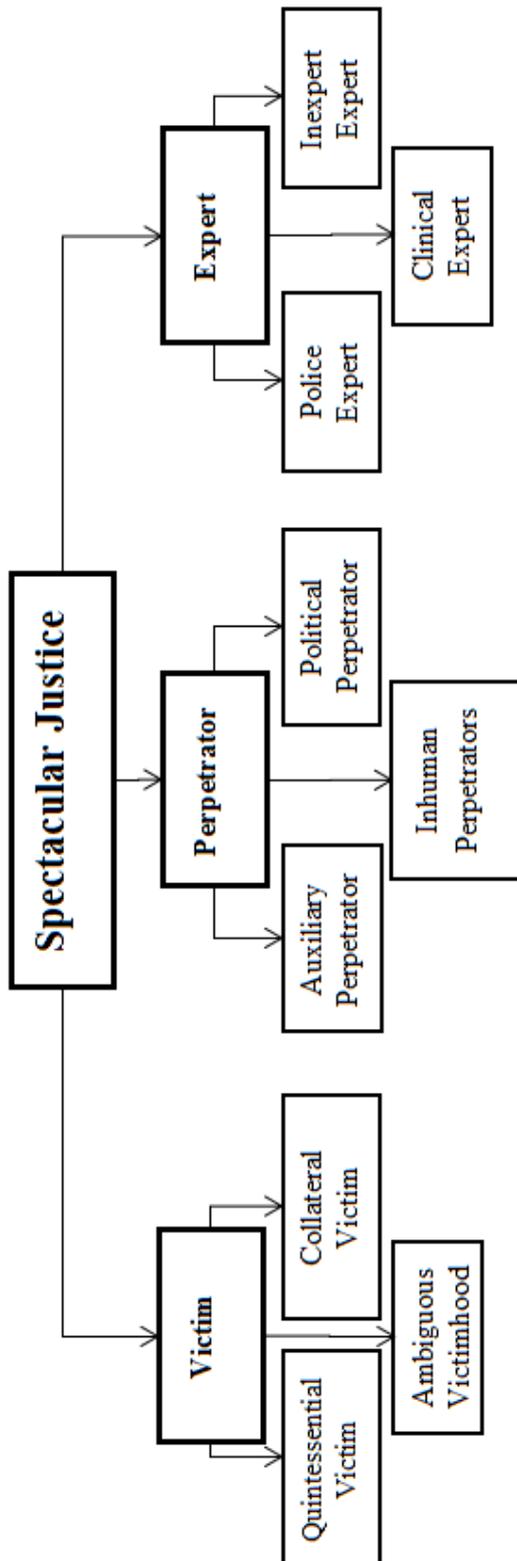
| Case Study | Date | Location | Case Description | Key Figures |
|------------|-----------|---|---|---|
| Jodi Arias | 2008-2015 | Mesa, Arizona, United States of America | <p>On 4 June 2008, Jodi Arias murdered her ex-boyfriend Travis Alexander in Mesa, Arizona.</p> <p>Alexander sustained numerous stab wounds and a single penetrating gunshot wound to the head.</p> <p>Arias was arrested on suspicion of murder on 15 July 2008.</p> <p>Arias was convicted of murder in 2013 and was sentenced to life imprisonment without the possibility of parole in April 2015.</p> | <p>Perpetrator: Jodi Arias</p> <p>Victim: Travis Alexander</p> <p>Prosecutor: Juan Martinez</p> <p>Defence Attorneys: Jennifer Willmott and Laurence 'Kirk' Nurmi</p> |

| Case Study | Date | Location | Case Description | Key Figures |
|------------------------|------|----------------------|--|--|
| Anders Behring Breivik | 2011 | Oslo & Utøya, Norway | <p>On 22 July 2011, Anders Breivik detonated a car bomb outside the central Government buildings in Oslo, killing in 8 people. From there he travelled to the island of Utøya, the location of the annual Norwegian Youth Labour Party summer camp. He killed 69 people.</p> <p>Breivik is a self-proclaimed far-right terrorist, anti-islamist and anti-feminist. Breivik claimed his actions were against the growing 'Islamization' of Europe.</p> <p>On 16 April 2012 Breivik was sentenced to 21 years imprisonment (maximum sentence in Norway).</p> | <p>Perpetrator: Anders Behring Breivik</p> <p>Victims: Oslo: 8 dead Utøya: 69 dead</p> <p>Prime Minister: Jens Stoltenberg</p> |

| Case Study | Date | Location | Case Description | Key Figure |
|----------------|-------|---|---|---|
| Edward Snowden | 2013- | United States; Hong Kong; Moscow, Russia | Edward Snowden, former employee of Central Intelligence Agency, is a 'whistle-blower' who in June 2013 released thousands of documents showing how the US government was conducting widespread and illegal surveillance of US citizens. Snowden fled to Hong Kong where he stayed until seeking asylum in Moscow, Russia, later in June 2013. Snowden is still living in Russia. | Perpetrator: Edward Snowden Key Journalists: Glenn Greenwald, Laura Poitras, Ewen MacAskill, Barton Gellman |

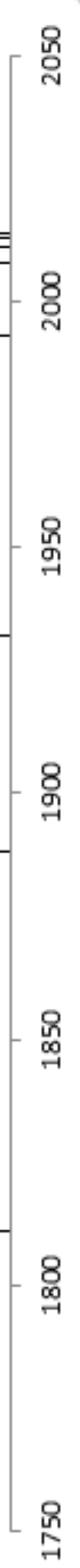
| Case Study | Date | Location | Case Description | Key Figures |
|---------------|------|--|---|---|
| Michael Brown | 2014 | Missouri, United States of America | On 9 August 2014, white police officer Darren Wilson shot and killed black teenager Michael Brown in Ferguson, Missouri. The murder sparked international riots about the relationship between US law enforcement and African American citizens. On 24 November 2014 the 3 month grand jury trial reached the decision not to indict Wilson. | Perpetrator: Darren Wilson Victim: Michael Brown Prosecuting attorney: Robert P. McCulloch |

Appendix Two: Figure 1 Conceptual Breakdown Map



Appendix Three: Figure 2 Chart illustrating the data life of each case study

Case studies from left to right: Ratcliffe Highway Murders/ Jack the Ripper/ Charles Lindbergh Jr/ James Bulger/ Jodi Arias/ Anders Breivik/ Edward Snowden/ Michael Brown.



Appendix Four: Figure 3 Table mapping out the relationship between characters and case studies

| | | Conceptual Categories | | | | | | | | | | |
|--------------|---------------------------|-----------------------|-------------------|----------------------|---------------------|-----------------------|-----------------------|---------------|-----------------|-----------------|---|---|
| | | Quintessential Victim | Collateral Victim | Ambiguous Victimhood | Inhuman Perpetrator | Political Perpetrator | Auxiliary Perpetrator | Police Expert | Clinical Expert | Inexpert Expert | | |
| Case Studies | Ratcliffe Highway Murders | X | X | | X | | | X | | | | |
| | Jack the Ripper | X | | | X | | | X | | | | |
| | Charles Lindbergh Jr | X | X | | X | | | X | X | | | |
| | James Bulger | X | X | X | X | | X | | X | X | | X |
| | Jodi Arias | | | X | X | | | | X | X | | X |
| | Anders Breivik | X | X | | | X | | | X | X | | |
| | Edward Snowden | | | X | | X | | | | | | X |
| | Michael Brown | | X | X | | X | | | | | X | |

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