

Death before birth

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DOI:

[10.1007/978-3-030-42200-4](https://doi.org/10.1007/978-3-030-42200-4)

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Document Version

Peer reviewed version

Citation for published version (Harvard):

Kuberska, K, Fuller, D, Littlemore, J, McGuinness, S & Turner, S 2020, Death before birth: liminal bodies and legal frameworks. in C Dietz & M Travis (eds), *A Jurisprudence of the Body*. 1 edn, Palgrave Socio-Legal Studies (PSLS), Palgrave Macmillan, Basingstoke, pp. 149-178. <https://doi.org/10.1007/978-3-030-42200-4>

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Death Before Birth: Liminal Bodies & Legal Frameworks

Section 1: Introduction

It is estimated that approximately 1 in 5 known pregnancies end in miscarriage, approximately 1 in every 200 births is a stillbirth, and roughly 2000 terminations for reasons of fetal anomaly are performed in the UK each year (NHS, 2018; Tommy's, 2019). Following a pregnancy loss, both the woman's body and that of the fetus have somewhat uncertain statuses; both occupy a liminal space between different states of being. The woman has begun to develop an identity as a mother but cannot perform this identity with this particular child in the way she had expected; she has lost something that was physically part of her but that was also on track to become a person in their own right. On a physical level, her body may still look pregnant. The experience of pregnancy loss is thus a disruption to the expected linear reproductive experience and can result in a woman not being recognised as the parent she may feel she is. The fetus, too, occupies a liminal space in that it lies somewhere between a baby and 'human tissue' (Squier, 2004); it is at once part of the mother and a separate entity, and, in many cases, it embodies an imagined future that will never be. Pregnancy loss can be distinguished from other forms of bereavement due to the liminal status of what is lost and its close involvement with the body; a death has occurred inside the woman's body. This form of highly-embodied bereavement engenders complex emotions that are difficult to articulate, and that may also be contradictory (Layne, 2003). Much of the disorientation emanates from the liminal and embodied nature of the experience.

The liminal status of the fetus raises interesting challenges for the law surrounding pregnancy loss. Fetal remains are lawfully the tissue of the pregnant woman, but socially and culturally they have a far more complex and nuanced status as being potentially representative of an absent child or a lost life (Austin and McGuinness, 2019). As such, experiences of reproductive loss and the liminal status of the woman's body and the fetal remains are challenging, unsettling normal fixed categories in healthcare law. These challenges have consequences for those affected (henceforth referred to as 'the bereaved'), who often lack knowledge of the legal options for the disposal and memorialisation of the remains available to them, and may find that the legal options available to them do not reflect their lived experiences.

This chapter has two connected aims. Firstly, it shows how metaphor analysis can be used to inform socio-legal understanding of pregnancy loss with a particular focus on its status as a liminal, embodied experience. This new understanding can inform researching and teaching on the body by showing how metaphor can be used as a socio-legal method to explore the liminal nature of pregnancy loss. Secondly, it contributes to the increased interest in, and value of, liminality in health law scholarship (Laurie, 2017).

Feminist research ~~that has focused~~ focusing on the place of law in social, political, economic and cultural life has highlighted the gendered way in which law and legal concepts are constructed, with the normative body of the law focusing on the male, and paying insufficient attention to the female, pregnant, and fetal forms (Bordo, 1993; Morgan, 1997; Young, 1990). This chapter aims to address this issue, furthering our knowledge and understanding of the socio-legal and theoretical approaches to understanding bodies and embodiment in law (Fox & Thomson, 2017). We provide an

Comment [KK1]: This phrase is used again on page 17 – i.e. we don't refer to them as "the bereaved" in this chapter too much

overview of the legal framework that governs reproductive loss in England and Wales. We also give an overview of the law on miscarriage and stillbirth and how that shapes experience of reproductive loss and also practices for disposal of fetal remains. In doing so, we critically assess the legal frameworks that regulate and contain bodies and bodily material. Brazier (2009) has questioned whether bodily integrity constitutes the ‘core legal value’ in contemporary health care law. This chapter takes up Brazier’s question by critically assessing the conceptual limits of bodily integrity in law given its reliance on a normative account of the body that is often male and always singular (Naffine, 2003). This normative account is challenged in the case of pregnancy, where the body is not one but not two, and in the case of pregnancy loss – more challenging again – where the body never progresses beyond this liminal position before returning to being just one (Karpin, 1992). As such, this chapter provides a critique of the conceptual limits of bodily integrity and our analysis is grounded in a feminist epistemological framework that emphasises the importance of respecting lived experience as a form of knowledge (D. E. Smith, 1987).

Comment [KK2]: Should be “not one but **not** two” – below it says “not one but not two” on p 4 and p 10

We begin our chapter by providing an in-depth account of the conceptual and methodological framing for our approach. We discuss liminality, embodiment, and metaphor and show how they inform our understandings of the socio-legal relationship between law and pregnancy loss. We then use some of the findings from our ESRC-funded interdisciplinary project ‘Death before Birth’¹, which investigated the accounts of women who had experienced some form of pregnancy loss, to illustrate the ways in which a metaphor analysis can provide insights into the ways in which people communicate their lived experience. We use these findings to critique the legal framework which governs reproductive loss. Our analysis focuses primarily on the experience of pre-24-week loss (miscarriage) and considers; (i) the relationship between the formerly pregnant person and fetal remains and (ii) disposal of the remains and associated ceremonial practices (See also Austin & McGuinness, 2019; Kuberska, 2020). We focus on the individual and socially-constructed character of the liminal nature of the fetus and of the woman’s body as well as the implications that these have for those involved. This chapter follows the line of reasoning presented by Fletcher and colleagues who state that²

[I]aw’s conventional approach to regulating bodily interventions has been to consider the body as an object of analysis rather than as a category of analysis. In our view, legal analysis could offer a richer understanding of law’s engagement with bodies and bodily materials if it adopted a thicker conception of embodiment.² (Fletcher, Fox, & McCandless, 2008).

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Section 2: Conceptual Framings: Liminality, Embodiment

In this section we provide further detail on how the concepts of liminality and embodiment can work together to shed light on the experience of pregnancy loss which is at once highly private but at the same time subject to public scrutiny. We suggest that a recuperation of our understanding of bodily integrity in law is necessary if legal frameworks are to be sufficient to accommodate those who experience reproductive loss, or indeed any understandings of bodily integrity that deviate from

¹ ESRC grant identifier: ES-N008359, <https://deathbeforebirthproject.org>.

traditional normative understanding. Our analysis follows the recent approach advocated for by Fox and Thomson who argue that

the concept should be reframed in a way that reflects the theoretical shift from physical bodies to embodiment [...], and that is grounded in the lived experience of embodied beings. This would understand bodies both as a constitutive part of human identity and as existing at the intersection of the material, the institutional and the symbolic. (2017, p. 521)

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The 'Death Before Birth' project had the overall aim of examining the law surrounding the disposal of the remains of pregnancy and the ways in which it is interpreted, and to examine the narratives of women and those who support them, focusing on metaphor as a commonly-used resource for expressing the inexpressible. Our research examined questions ranging from the status of fetal material to an examination of how law can legitimatise or stigmatise certain sorts of pregnancy loss and bereavement. Through a detailed analysis of interviews with a range of stakeholders and bereaved individuals we uncovered the way in which law shapes experiences of pregnancy loss and bereavement. In this project, our legal interpretation of the issues surrounding pregnancy loss was informed by an analysis of the ways in which women who have experienced pregnancy loss employed metaphor to describe and frame their experience. Our use of mixed methods in our research design and our analytic focus on metaphor allowed us to reach a fuller understanding of their responses to the liminal embodied nature of their experiences, and the ways in which they were affected by the law. Our approach aligned broadly with studies in legal consciousness in that we avoided a 'law-first' approach (Silbey, 2005) and instead adopted a narrative interview method eliciting participant 'stories' about their experiences of reproductive loss (Squire et al., 2014). We then analysed the metaphors used in these 'stories' to outline the nature of the legal framework which shaped and defined these experiences. Our findings highlight the limitations in how legal frameworks accurately reflect experiences of reproductive loss.

2.1: Liminality as a theoretical frame for analysing health law concept

Liminality, a concept from anthropology, has become a popular lens for socio-legal healthcare research (see e.g. Laurie, 2017). We do not attempt here to provide a comprehensive overview of the anthropological work that has been done on liminality. Instead, we will provide a basic account of what liminality means and how it is useful for the purposes of healthcare law and our understanding of experiences of pregnancy loss. In his ground-breaking work *The Rites of Passage*, Arnold van Gennep outlined three key stages in rites of passage, with liminality occurring at the middle stage ([1909] 2004). This understanding was then applied and nuanced in anthropological work by Victor Turner (1967, 1969, 1974). For Turner, the middle stage, or liminality, is the point of being 'betwixt and between' or 'on the threshold' (1967). As a conceptual lens then, liminality sheds light on the ways in which entities or things can be unlike both what came before and what comes after; as such, liminal entities have a *sui generis* quality.

Legal analysis and legal concepts, particularly with regard to the human body and human material, have often been reliant on binary constructions of persons and property or persons and things (Hyde, 1997). Human relations are often bound in such

constructions and legal relations are often defined by this processes of categorisation. However, when we identify one thing as like the others, we are not merely classifying the world; we are investing particular classifications with consequences and positioning ourselves in relation to those meanings. As such, it is mistaken to assume that the categories we use for analysis just exist and simply sort our experiences, perceptions, and problems through them (Minow, 1990).

Liminality is useful when considering experiences of pregnancy loss and also of disposal of pregnancy remains. Pregnancy has often been understood as a liminal phase, between woman and mother, not one but not two (Karpin, 1992; Kukla, 2005). While in the womb, the fetus exists in a liminal space, on a threshold

betwixt-and-between the moral, day-to-day cultural and social stages and processes of getting and spending, preserving law and order, and registering social status. (Turner, 1979, p. 465)²

When a fetus is expelled early from the womb, its liminality has the power to destabilise or disrupt legal categories, and such disruption often demands a regulatory response (Fox & McGuinness, 2016). The regulation of ‘bodies situated at the margins of humanity reveal[s] much about what law values in terms of embodiment’ (Fletcher, Fox, & McCandless, 2008). The boundaries of these legal categorisations, or the grey area in between, is often unclear and ambiguous:

Liminal entities are neither here nor there; they are betwixt and between the positions assigned and arrayed by law, custom, convention, and ceremonial. (Turner, 1969, p. 95)

There is a rich body of academic critique that has explored liminality in depth and that has normalised it as one of possible ontological statuses for all kinds of beings (see e.g. Han, Betsinger, & Scott, 2018; Kaufman & Morgan, 2005; Kilshaw, 2017; Squier, 2004). In other words, liminality as an ontological status does not need resolving into a more permanent condition in order to be understood and accepted. However, as this chapter elucidates, the liminality of *the fetus* is problematic when considered in the context of the law. Legal structures tend to require unambiguity as a condition to function. Pregnancy and the fetus as liminal concepts need not be problematic all the while a pregnancy is progressing in an expected fashion, as pregnant women have a range of broadly shared social scripts which legitimise and contain the liminal complexities. However, a pregnancy loss disrupts these well-known patterns. In seeking to achieve order over acknowledging complexity, the legal imaginary risks overlooking lived embodied experiences, which are complex in their liminal status.

2.2: Pregnancy Loss as an Embodied Experience

Embodied cognition holds that people’s experiences of the world are mediated by their bodies and the ways in which they interact with the world through their bodies (Gibbs, 2006a, 2006b). Pregnancy and pregnancy loss thus have significant effects on

² See also Squier (2004), especially Chapter 1.

individuals' experiences of the world, due to their status as important and transformative life events. Not only does pregnancy have the power to change social and legal identities (through conferring the status of 'parent'), it also effects significant changes in the body. Pregnancy can thus be considered transformative, not just in terms of producing a new person, but also transformative of the self of the pregnant woman (see Thompson, 2005; Côté-Arsenault, Brody, & Dombeck, 2009). Young describes the embodied nature of pregnant experience, the shifting boundaries of bodily integrity, and the liminal status of the body as follows:

[A pregnant woman] experiences her body as herself and not herself. Its inner movements belong to another being, yet they are not other, because her body boundaries shift and because her bodily self-location is focused on her trunk in addition to her head. (1990, p. 161)

In law, bodily integrity has often been reduced to respect for autonomy reliant on individual and fixed understandings of corporeality. This contrasts with anthropological and feminist critique of the mind-body dualism where there has been an increased understanding of the complex interplay and connection between the physical and mental aspects of bodily integrity, both of which form part of our ontology and are constitutive of self (see Bendelow & Williams, 1998; Fox & Thomson, 2017; Grosz, 1994; Herring & Wall, 2017; Scheper-Hughes & Lock, 1987; Fox & Thompson, 2017). Authors like Drucilla Cornell have long argued that it is not possible to disentangle the mind from the body – key for Cornell is the capacity for self-imagination and integration (Cornell, 1995). This approach can easily be applied to pregnancy, as the pregnant body is not fixed and is constantly subject to change (Young, 1990). This is summarised well in the following passage from Iris Marion Young:

As my pregnancy begins, I experience it as a change in my body, I become different from what I have been. My nipples become reddened and tender, my belly swells into a pear. I feel this elastic around my waist, itching, this round, hard middle replacing the doughy belly with which I still identify. Then I feel a little tickle, a little gurgle in my belly, it is my feeling, my insides, and it feels somewhat like a gas bubble, but it is not, it is different, in another place, belonging to another, another that is nevertheless my body. (1990, p. 163)

The pregnant woman, her body and the fetus challenge traditional legal understanding which see the body as fixed and bounded. As such we need a reimagination of bodily understandings in law in order to accommodate women's perceptions of themselves and their relationship to their fetus. In the opening to *Mass Hysteria: Medicine, Culture, and Mothers' Bodies*, Rebecca Kukla states that

the fetus and, with it, the pregnant woman are not objects that come with ready-made stable boundaries. ... [T]he maternal body incarnates one human being at the beginning of pregnancy and two at the end of it, and it is by no means clear how to tell a coherent story of this passage. (2005, p. 4)

For those who experience reproductive loss, particularly prior to 24 weeks, this lack of coherence continues, or indeed can be exacerbated, once the pregnancy ends in a way which disrupts the standard perceptions of reproduction as a linear process that results in a live born child (Reiheld, 2015; Murphy, 2012). When reproductive loss is mediated through the cultural taboo surrounding it, the experience can be made worse through lack of recognition or acknowledgement, both socially and legally, of what the person has been through. The disruptive nature of reproductive loss is important not just in terms of ruptures to sense of self but also practically in terms of how it shapes (legal) decision-making at this time.

Section 3: Metaphor as an interpretative tool for socio-legal analysis

In order to better understand the experience of pregnancy loss, and the implications that this has for healthcare law, we need to develop a stronger understanding of the liminal status of the woman's body and that of the fetus, and to more fully appreciate the ways in which pregnancy loss is an *embodied* experience. One obvious way to improve our understanding of pregnancy loss is to ask women about their experiences and to analyse the narratives that they produce. However, simply looking at what they say may not be enough. It is also important to look at *how* they say it. One analytical tool that is useful in this endeavor is metaphor. The ways in which people use metaphor to describe their experiences can provide rich insights that may not be accessed via more superficial analyses of the content of what they say. Metaphor (where one thing is described in terms of another) is very good at describing experiences that are not widely shared or that are otherwise difficult to express (Semino, 2010, 2011). Furthermore, when people describe intense emotional experiences they tend to make use of creative metaphor (Gibbs & Franks, 2002). More importantly, with reference to liminality and the embodied nature of pregnancy loss, metaphor allows us to say two things at once as it always works on at least two levels (i.e. the concept being described and the concept being drawn upon to describe it). It thus allows people to express the corporeal and the incorporeal elements of a lived experience at the same time, in the same phrase. People may therefore reach for metaphors in response to liminality. Finally, metaphor has been shown to be a useful mechanism for exploring experiences that are not widely shared and provides an insight into experiences which may not otherwise be accessible (Littlemore & Turner, 2019a, 2019b). Metaphor is thus particularly useful in talking about the experience of reproductive loss, which is just as common as it is a social taboo (Layne, 2003).

We understood the tension that can arise between the law around the disposal of remains and the interpretation of that law by clinical practitioners, support agencies and bereaved parents as both a social problem and an intellectual challenge. In designing our interdisciplinary investigation into the choices and decisions that people make about how to dispose of fetal remains after a pregnancy loss, we wanted to respect the ways in which all parties understood and experienced the law, while exploring how options and choices about disposal might be better communicated. We were also keenly aware that public discussion about what happens to remains after pregnancy loss is often limited to 'scandals' about disposal that are reported (often somewhat sensationally) in the mass media.³

³ See for example 'Dispatches – Exposing Hospital Heartache', Channel 4, 2014.

Metaphor is a useful mechanism for exploring experiences that are not widely shared as it frequently involves the use of something that is familiar, tangible or common to describe something that is abstract, emotional or unfamiliar (Littlemore, 2019). Unlike a more conventional content analysis, a metaphor analysis permits an in-depth exploration of the ways in which people conceptualise emotional experiences and the underlying attitudes and assumptions that inform the way they describe them. As such, rather than relying on an explicit articulation of how participants' experiences are shaped by law, a metaphor analysis provides insights into experiences that can then be situated within broader legal frameworks.

At this point, it is useful to define what we mean by metaphor. Metaphor is a device by which one concept, experience or object is defined or described in terms of another (Cameron, 2003). For example, people sometimes talk about the need for a 'level playing field' in the workplace to refer to the idea that there should be equal opportunities for all in areas such as career progression. There is no actual playing field involved here, but the workplace is construed metaphorically as if it were a football game or some other sports game that requires a level terrain so that one of the teams does not have an unfair advantage over the other. While traditionally considered solely a literary or creative device, contemporary views of metaphor consider it to be a fundamental element of human language and thought, and an important device that we use to understand, conceptualise and express our experiences (Lakoff & Johnson, 1980). Metaphor allows us to express abstract content and emotional experiences in very physical, bodily-based terms. For example, we talk (and think) about affection as warmth (e.g. 'he has such a warm personality'), importance as size (e.g. 'we have a big day coming up'), and difficulties as burdens (e.g. 'that's a weight off my shoulders') (Lakoff & Johnson, 1999). In each of these cases, an abstract concept or experience is understood and expressed in more concrete, physical terms, via metaphor.

Although people employ metaphors such as these all the time, they are particularly prevalent when people are talking about complex, difficult or emotionally-charged experiences. As such, metaphor analysis has been shown to offer important insights into health experiences, for example, depression (Charteris-Black, 2012), illness (Sontag, 1979) cancer (Gibbs & Franks, 2002), addiction (Shinebourne & Smith, 2010), mental health post-trauma (Wilson & Lindy, 2013) and end-of-life care (Semino [et al.](#), [Demjén, Hardi, Payne, & Rayson](#), 2017). The reason for this is that metaphors provide a tool to understand and describe these abstract, personal experiences by relating them to more concrete, universal ones. Metaphors highlight some aspects of an experience whilst downplaying others (Lakoff & Johnson, 1980) and it is often necessary to employ more than one metaphor to capture the richness and conflicting facets of an experience, as evidenced in many of the papers written by Raymond Gibbs (e.g. 2016). Thus, by examining the metaphors that people use when talking about their lived experiences, we gain insights into the ways in which they highlight some aspects of these experiences whilst downplaying others. Metaphor analysis is therefore a useful method for gaining insight into real life experiences and how legal frameworks shape such experiences. Because metaphor analysis is effective in showing the complexities, tensions, and ambiguities of emotionally-charged experiences, it is a useful tool for exploring the experience of pregnancy loss ~~and as~~ [well as](#) the legal categorisations and frameworks that structure it. The analysis of metaphorical language can provide deeper and more nuanced insights into the lived experience of embodied liminality that characterises pregnancy loss.

Section 3: The 'Death before Birth' project

3.1 Data Gathering

In order to investigate the experience of pregnancy loss, we gathered qualitative and textual data that spanned a range of institutional, professional and experiential points of view, including those of our project partner organisations the MA, ARC and SANDS.⁴ We designed five stages of research investigation. Of these, two are pertinent to the current discussion. Stage two consisted of semi-structured interviews with bereavement care providers in hospitals within NHS England and with professionals in the funerary industry (5 funeral directors, 8 bereavement service managers, and 2 officers at national funeral care institutions). These interviews enquired about practitioners' knowledge, use of and opinions about the Human Tissue Authority's 'Guidance on the disposal of pregnancy remains following pregnancy loss or termination'. In the fourth research stage we conducted 31 qualitative interviews with women who had experienced a pregnancy loss, i.e. miscarriage (n =11), termination due to fetal anomaly (n=11) or stillbirth (n=9). Since we wanted interviewees to talk about the aspects of their experience in a style that felt comfortable to them, we used a form of narrative elicitation adapted from narrative methods, and restricted our prompts to phrases like 'can you tell me how that felt?' (Riessman, 2008). We encouraged reflection on the emotional responses to pregnancy loss and decision-making about what to do with fetal remains and how or if to mark the death of their fetus or baby as we wished to honour the experiences of loss as fully embodied and affective realities for the women involved. Phase four of the research also involved interviewing a small sample of partners and friends who had supported a parent through a miscarriage, termination for fetal anomaly or stillbirth (n=5).

As the above description of our project methods suggests, we were committed to examining how the people who are most intimately involved in making choices and decisions about the disposal of fetal remains understand the law, the guidance about disposal, and, where applicable, their own experiences of loss. Our methods of data gathering and data analysis were therefore informed by feminist epistemology, especially standpoint theory which emphasises the importance of respecting lived experience as a form of knowledge (Harding, 1991; D. E. Smith, 1987). An advantage of employing such a methodology in a project that tackles socio-legal issues such as the liminality of the fetus or of fetal remains, is that feminist standpoint theory recognises all knowledge as partial and situated (Haraway, 1988). In other words, there is no 'objective' or 'omniscient' viewpoint from which the issue of liminality regarding the disposal of fetal remains can be understood. There are multiple viewpoints and multiple knowledges, regardless of what the law of a nation-state might demand of its citizens in terms of definitions, actions and limits. For example, when a doctor uses the legal term 'fetal remains', people who have experienced a miscarriage might react by baulking at that term if they understand their loss to involve a baby (i.e. a human being) who requires a funeral ceremony. In evidence here are several forms of knowledge: common sense knowledge legitimated by

⁴ Miscarriage Association (MA) supports people with experiences of miscarriage (MA, 2019). Antenatal Results and Choices (ARC) helps parents and healthcare professionals through antenatal testing and its consequences (ARC, 2019). Stillbirth and Neonatal Death Charity (Sands) works to reduce the number of babies dying and to better understand the causes of baby deaths and to provide bereavement support services at a local and national level (Sands, 2019).

culturally valent ideas about miscarriages as a form of baby loss, medical knowledge about pregnancy loss, and knowledge of legal definitions of the pregnancy remains as the mother's tissue. Some of these areas of knowledge are the result of professional training, while others are acquired more informally as the result of everyday experience that is, in turn, informed by people's situation within specific socio-economic, political, legal and cultural contexts. Researchers employing methods such as the ones we designed and combined, must therefore also attend to the structures (e.g. legal parameters, institutional regulations and practices), ideologies, discourses and power differences that shape people's relationship to their experiences.

3.2 Metaphor Identification and Analysis

The interviews were transcribed and the transcripts were coded for metaphor in NVivo. We employed an adapted version of the PRAGGLEJAZ Group (2007) Metaphor Identification Procedure, which we combined with Cameron's (2003) vehicle identification procedure to identify metaphors at the level of the phrase. We then categorised the metaphors into at least one semantic category. These included, for example, space, darkness and light, movement, growth, ascent and descent, and containment. For example, the metaphor 'I was in quite a dark place there' was categorised as 'lightness and darkness', 'location' and 'container'. Through an iterative process, we identified 71 topics that these metaphors were being used to talk about. These included for example, 'the diagnosis', 'memory-making', 'decision-making' and 'recovery'. Each metaphorical chunk of language was assigned to at least one topic. The coding schemes that we used for the identification of the topics and the metaphor categories were developed by three coders through joint analyses of the first five transcripts. Subsequent transcripts were then coded individually. Each transcript was checked by a second coder and marginal cases were discussed until agreement was reached (see Littlemore & Turner, 2019b).

We used our metaphor analysis to explore the different ways in which the women were experiencing their loss. In this paper we focus on the metaphors that were used to describe aspects of the experience that affected the decision-making process for the disposal of the remains of pregnancy, including decisions that were made about memorialisation and funeral arrangements. In our analysis, we also considered metonymy. Metonymy is a much more subtle form of figurative language than metaphor and, as such, is harder to identify in a systematic manner (Littlemore, 2015). Unlike metaphor, where one thing is described or experienced in terms of another unrelated entity, metonymy involves the use of one entity to refer to another that is closely related or even something that it forms part of, so we might for example use the term 9/11 to refer to the terrorist attack that took place in New York on that dateday in 2001. Metonymy is often more nuanced than metaphor; it allows the analyst to gauge which aspects of a situation are most salient in the speaker's mind, and how the ways in which the speaker chooses to frame a situation can change. Therefore, like metaphor, it is a useful tool for examining liminal experiences. Our analysis of metonymy was not as systematic as our analysis of metaphor, and did not attempt to identify every use of metonymy in the dataset. Rather, we identified and then conducted in-depth analyses of salient uses of metonymy that related directly to embodiment and liminality.

Comment [KK3]: We cite it later as well but Jeannette has literally written a book about metonymy that is not cited in a paragraph about metonymy 😊

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Section 4: Liminal bodies, Legal frameworks, & Metaphorical insights

In England and Wales, the Births and Deaths Registration Act 1953 section 41 (as amended by the Stillbirth (Definition) Act 1992 section 1(1)) defines stillbirth as ‘a child which has issued forth from its mother after the 24th week of pregnancy and which did not at any time after being expelled from its mother breathe or show any other signs of life’.⁵ When a stillbirth occurs, a Medical Certificate of Stillbirth is issued, which must then be taken to the register office within a specified period in order to register the stillbirth. Upon registration, the parents will be issued with a stillbirth certificate and also a certificate which permits burial or cremation. Some of our participants would have preferred to receive both a birth and death certificate in recognition of their experience and their child’s existence (Fuller et al., 2018). Women who have had a stillbirth are entitled to maternity leave and benefits.

Comment [KK5]: This capitalisation is inconsistent – wither capitalise all nouns & verbs or just the first one. Were we given a style guide or will they change it?

Pregnancy losses that occur prior to 24 weeks’ gestation are considered a miscarriage and legally the remains are considered the woman’s tissue (Human Tissue Act 2004). There is no legal possibility to formally register a miscarriage although many hospitals will provide the woman with an informal certificate and many crematoria keep non-statutory registers. Our research evidenced a range of opinions from women who had experienced pregnancy loss about the registration of births pre-24 weeks’ gestation. Some were content with an informal certificate of loss that they had been offered by the hospital; others wished for the opportunity to formally register their baby’s birth or death in recognition of their experience (Fuller et al., 2018). Burial, cremation, and sensitive incineration of pre-24-week remains are all permissible (HTA, 2015). Our findings show that the legal rules on disposal of remains before 24 weeks’ gestation are ambiguous and poorly understood (McGuinness & Kuberska, 2017). Finally, there is no formal entitlement to leave or benefits following a miscarriage other than statutory sick leave.

Comment [KK6]: We should cite our report to the DHSC – we do not cite this report in this chapter at the moment.

In what follows we present three areas where the women’s use of metaphor provides insights into the lived experience of pregnancy loss and how this is shaped by law. These insights provide an understanding of the embodied, liminal nature of this experience and reveal limits of, and tensions in, legal frameworks with regard to three key aspects of pregnancy loss: pregnant embodiment; the disposal of fetal remains, and the use of ceremonial practices which often follow reproductive loss. Our analysis shows how law has the capacity to legitimatise and stigmatise different experiences of pregnancy loss and bereavement.

4.1: Pregnant Embodiment and the Divided Self

Isabel Karpin has influentially argued for the importance of reconceptualising the maternal-fetal relationship in law to counter narratives that frame the pregnant person in opposition to the fetal subject (Karpin, 1992). Using the frame of ‘not one but not two’ she suggests we recuperate the maternal-fetal connection

to place the woman in control of her body/self and the fetus and not, as she was constructed in the pre-technological era, as subject to her body nor, as she might otherwise be constructed in the age of technology, as subject to the fetus. (1992, p. 330)

⁵ Similar legislation governing this distinction also applies to Northern Ireland and Scotland.

Recent work on bodily integrity has emphasised the importance of adopting an integral approach to the understanding of self and body (Fox & Thompson, 2017). Our findings show how such approaches are important in order to accommodate the variety of ways in which body and self are fractured by experiences of pregnancy loss.

The embodied nature of pregnancy loss was found to manifest in metaphors where the women blended the physical and emotional experience of loss. Here is a comment from a woman who had opted for a termination following a diagnosis of fetal abnormality:

I feel a lot stronger 'cos not many people go through this. ... It's not like losing a parent ... I've lost grandparents and even friends that have died but it's NOT like that because *it's part of you and is a part of me*. It's like *I lost myself for a long, long time and then you have to try and rebuild yourself*, and your confidence, and everything. (WP4-T11-FA-3, our emphasis)⁶

The physicality is extremely strong in this quote and she uses it to distinguish her experience from other forms of bereavement.

The disruptive nature of reproductive loss is important not just in terms of ruptures to the sense of self but also practically in terms of how it shapes legal decision-making. Many of the women we spoke to used bodily-based metaphors to describe feelings of confusion and an inability to think coherently. Here are two accounts, both from women who experienced miscarriages:

I think it's quite hard because you have that massive shock ... *and your brain shuts down* ... and I couldn't process it. (WP4-T4-M-3, our emphasis)

And then as soon as it [became] a real thing ... I had to say the words 'I've had a miscarriage' ... that's when I just felt like *everything had just fallen out of the world* and like I just failed and that ... there was no control there was ... nothing and I just felt so *empty* and ... confused. (WP4-T9-M-8, our emphasis)

The use of metaphor in these accounts links to the liminal status of the pregnancy, the fetus and the loss as discussed by Young (1990). In the second quote, the woman feels empty because what has been lost is an embodied part of her. Her confusion comes from how her bodily boundaries have shifted and she has lost something that was part of her but also had the potential to be a person in their own right. Her body has expanded literally and metaphorically to include another being and when that being is no longer there, this is an attack on both her body and her identity. She has been violently returned to her pre-liminal state rather than moving to the post liminal state in which she would have been transformed into a mother, had the pregnancy progressed to term (Côté-Arsenault, Brody, & Dombeket-al., 2009). This can be exacerbated through the lack of formal legal recognition of her experience.

In our analysis we also came across many 'divided self' metaphors (they constituted the eighth most used metaphor category overall) as evidence of the ways in which women tried to manage and control these transformations. This suggests that some

⁶ Some of the quotations in this paper have been edited to ensure they are intelligible to the reader. These edits have been minimal and have not impacted the substance of the quotations.

acknowledgement of this need to split oneself into separate ‘parts’ may be beneficial for those who experience reproductive loss. One of our participants, who had made the decision to terminate following diagnosis of fetal abnormality, recognised her own ambivalence, commenting ~~that~~:

I took that decision to end it... Because, you know. I didn’t want to do that part...the *mother part of me didn’t want to do that at all*. I wanted to carry him and have him. (WP4-T11-FA-3, our emphasis)

Such acknowledgement might not only help people to distance themselves from difficult decisions, it might also enable them to incorporate their identity as parents in their decision-making processes. Although the idea of dividing one’s identity into different roles is a fairly conventional one, here we see that the woman has already acquired a new role, that of the mother, and that this role is in conflict with the reality of the situation, where she is ending her pregnancy.

The recognition or validation of self in the wake of pregnancy loss is a recognised challenge. Samantha Murphy states ‘by creating this foetus, this unborn child as a social being, we turn this woman into “its mother” – defining her in terms of the foetus’ (2012, p. 118). Yet, in situations of reproductive loss, where there is no living child existing in the world,

the very people who have encouraged the mother-in-the-making to take on this role and may have participated with her in the social construction of her ‘baby’ often withdraw their support for these interrelated projects and act as if nothing of any significance took place. (Layne, 2003, p. 17)

One of our project participants who had themselves experienced reproductive loss and now supported others in this situation, describes the situation as follows:

There’s only me that knew that I was ever pregnant. You know. There’s only me that knows I ever had a baby. Well obviously my family knows but there is nothing to say that she existed. Okay, she never made it into this world but she existed. (WP3-05/2017)

Dividing oneself and compartmentalising one’s emotions can become an important mechanism for coping with loss. Some of our participants reported that mentally they were not really ‘there’ throughout the process, as we can see in this comment from a woman who had opted for a termination following a diagnosis of fetal abnormality:

It was almost like at the time *we were on autopilot* ... and if I was to say to someone in retrospect, I don’t think we, I certainly didn’t, deal with it properly at the time ... and I think that’s why I sort of struggled with it last year, because I think *it all just sort of slapped me with it sort of out of the blue*. (WP4-T1-FA-1, our emphasis)

These metaphors evidence varying degrees of agency and show how our participants distanced themselves from the situation they were in.

Pregnancy loss disrupts social scripts and leaves bereaved parents at a loss as to what they are expected to do. When establishing her identity after pregnancy loss, a woman

has to negotiate a set of interacting clines: from a state in which she sees herself as one, to a state in which she sees herself as two; from a state in which her pregnancy is something that she is experiencing, to a state in which she *is* her pregnancy (Cornell, 1995; Karpin, 1992); from a state in which she claims identity as a mother, to a state in which she does not. Such clines are not binary states; people move along them in both directions and can find themselves at different points depending on where they are in the process. These clines interact with one another, and, as we will see in the following section, with the different ways in which the mother perceives the pregnancy. The liminality of this experience gives rise to a number of potentially conflicting identities which are not easily reconciled. These identities are temporary fixed states that we naturally gravitate towards within a complex system. -Within a Western European tradition of thinking about ontology, the desire to fix our identity is understandable since the notion of a coherent self informs not only lawmaking and healthcare provision, but also cultural ideas about what it means to be well and thriving as a 'whole' person. Following a pregnancy loss, however, achieving a sense of fixed identity becomes very difficult.

4.2: *Maternal/foetal bodily relations*

Much attention has been paid to the social life of the living fetus (Lupton, 2013). Technologies allowing visualisation of the inside of the womb have increased the likelihood that the fetus be considered a person (Taylor, 2008). In the social and cultural imagination the fetus is accelerated through the liminal phase to the position of child (see Layne, 2003). On the other hand, less attention has been paid to dead fetuses (although see Hardarce, 1997; Morgan, 2009). Analyses of dead fetuses to date have tended to treat them as an object of analysis and regulation, often overlooking what our social relation to dead fetuses can tell us about legal and kinship relations. The living fetus exists on a cline betwixt and between legal personhood and non-personhood (Petchesky, 1987). This has implications for how the dead fetus is perceived; as it had the potential to move between these two states when it was viable, so too it can ~~it~~ have the potential to move between these different states in the minds of the people grieving it after its death. Our study revealed this in a wide variety of reactions to the loss and consequential attitudes towards the remains, all of which will have a bearing on the decisions that are ultimately made regarding disposal (Fuller et al., 2018).

In 2014, following a number of 'scandals' and in particular the airing of a [Dispatches Documentary](#) documentary on incineration of fetal material, the [Human Tissue Authority](#) ~~were was~~ tasked with creating guidance for disposal of pregnancy remains (Browne, 2017). Prior to 24 weeks' gestation the remains are treated as the person's tissue, or, in the language of the Human Tissue Act 2004, 'relevant material' (Human Tissue Act 2004, s. 53). Disposal of 'relevant material' does not normally fall within the remit of the Human Tissue Authority that, instead, has the statutory authority to regulate its removal, storage, or use (Human Tissue Act 2004). Notwithstanding this, the Human Tissue Authority Code of Practice did recognise that fetal material could be considered more sensitive than other tissue in the new 'Guidance on the disposal of pregnancy remains following pregnancy loss or termination' published in 2015 (HTA, 2015). It included the following options for disposal: cremation (shared or individual), burial (shared or individual), sensitive incineration (incineration separate to other clinical waste), burial at home or at some other site subject to certain limitations and

Comment [KK7]: On the HTA website, it reads: "The HTA is a regulator"

as such endorsed existing approaches that existed in professional codes of practice (HTA, 2015; ICCM, 2015; RCN, 2018; see also Sands, 2016). One of the key points of tension in the development of the Guidance was the question of whether ‘sensitive incineration’ should continue to be seen as permissible. Ultimately, it was decided that it should.

Our findings endorse this approach and we found that each option was important to different parents for different reasons (see Austin & McGuinness, 2019). Some parents wanted to dispose of the remains without ceremony, whereas others wanted to organise some kind of funeral in order to help them come to terms with the loss and honour their baby. In some cases, differing attitudes towards the status of the fetus can be seen in the language that is used to talk about it. Consider the following narrative by a woman who, after having experienced a miscarriage, was really upset that she had not been informed about what the miscarriage would be like and how she might preserve the remains:

And I didn’t know what to do. I didn’t know how to cope with what was happening. I was in pain. So – it sounds awful but – the baby ended up falling into the toilet. And I couldn’t stay in the bathroom so I went back into the bedroom and my husband, who was in the bathroom with me the whole time and helping me to pass the baby, he had a look at the baby and tried to get it out of the toilet so that we could do something with the body. But [when] he came back in the bedroom a couple of minutes later, [he] just said the baby had sort of disintegrated. The body’d split apart and there was nothing much he could do about getting it out of the toilet.

[A]nd then we had a terribly awful practical talk about what did we do next, so we ended up flushing the toilet. (WP4-T24-M-11)

In her commentary, the interviewee shifts back and forth between ‘baby’ and ‘body’ twice, and then moves away from referring to the remains at all by talking about ‘what did we do next’: a sentence in which the plural ‘we’ clearly signifies the woman and her partner but does not include the ‘baby’ (‘so we ended up flushing the toilet’).

In the following example, the woman is surprised at being offered cremation as a form of disposal following a miscarriage:

So [my pregnancy] stopped growing at six weeks but I was twelve to thirteen weeks pregnant ’cos my body hadn’t realised that nothing was happening. So [the doctor] said your only option is a cremation and that has to be on site and it’s up to you whether you want to be there or not ... but the remains have to remain on site. And I was like: right, okay, that makes no sense bothering to... I just thought: oh, why wouldn’t it just go in with general clinical waste – if they’re not deeming it as a thing? So it sort of made no sense. I was like: is it a thing? ’Cos one minute it is a thing and the next it’s not a thing? (WP4-T9-M-8)

These accounts, both from women bereaved through miscarriage, evidence different relationships with fetal remains. The latter example also highlights the symbolic significance attached to particular disposal options, and the fact that this makes those options feel inappropriate for some women. The final sentence uttered by this participant emphasises the ambiguity that is often experienced and the liminal nature of the fetus: ‘one minute it is a thing and the next it’s not a thing’.

In addition to heterogeneous perceptions of the remains, it is also the case that attitudes towards the baby may change dramatically over the course of the loss, as is shown in the next two extracts from our interviews with a woman who had experienced a stillbirth. This woman's commentary show that even when a baby is lost at term, there is some ambiguity surrounding their status. In the first extract, the woman had been asked if she would want to hold her baby when it was born. The second excerpt talks more generally about her attitude towards her stillborn child:

I don't think it should be a pre-asked question ... I think that's the biggest thing [because] they asked me this question on the Thursday, the day before I actually had him. And at the time, he was a problem. He was a dead baby inside of me ... he was a problem ... But because they'd asked me the question I had that doubt in my head of: do I want to hold him? Would I want to hold him? Will I look at that baby and want to hold that baby? It's a dead baby. And it was only [because] me and my husband spoke and said we can't not hold him. We've got to hold him. But I think that if I was asked after I had him and a midwife had been holding him and said here's your baby. Do you want to hold your son? That, to me, would be really different thing. (WP4-T28-S-7)

It's okay to have these experiences with your child because that is your son ... it's not a dead baby. It's your son. It's your daughter. And that's the way you will view them going forward. You won't view them as being *this problem, this stillbirth, this death that's happened, this process...* That's how it's dealt with at the time but you will view them in the future as being your son. Your daughter. And then you'll look back and regret not treating them that way. (WP4-T28-S-7, our emphasis)

These examples from our interviews show that during the loss, and in its aftermath, a baby can change from being a (biomedical) problem to be solved, to a baby to be mourned. We can identify another cline at work here between the idea of the fetus as a baby and, more broadly speaking, as not a baby. This underscores the importance of giving parents time to consider the options around disposal carefully and to make the choice that is best for them. They also evidence the strange space that the fetus occupies in the social and legal imaginary (Kuberska & Turner, 2019). By describing the baby metonymically as a 'problem', a 'stillbirth', a 'death', or a 'process', the woman is focussing attention away from the baby itself and drawing attention to different aspects of its existence, all reported from the perspective of the adults involved, thus putting a certain amount of distance between her and the baby. Perhaps even more than metaphor, metonymy provides the opportunity to frame a particular situation, to focus on some aspects of an experience whilst downplaying others and to represent it from different angles (Littlemore, 2015). All of this may help people to cope with different aspects of the situation at a time. Once the 'problem' acquires personhood, attention can be paid to how it is mourned. The current legal framework attempts to attach significance to fetal remains within frameworks underpinned by binary understandings of property/person or person/thing (Deckha, 2012). Pregnancy remains/fetal remains exist as both subject and object depending on the situation and, in doing so, they contain the dual capacity of being both person and thing.

Comment [KK8]: Should it still be "it" if it becomes a person?

4.3: *Funerals for Fetuses*

Professionals working in the funerary industry in England are guided in their practice by the law and professional Guidance.⁷ Best practice is also disseminated through official training for funerary professionals which is generally organised and delivered by these organisations (see, for example, Malt, Littlemore, & McGuinness, 2019). Funeral professionals also often perform social rituals or ceremonies alongside these disposal practices. As mentioned above, legal disposal of pre-24-week fetal remains does not require a funeral ceremony but, as the previous section demonstrated, people may experience pregnancy loss as bereavement and understand ‘the remains’ to represent not only their own hopes and dreams as a prospective parent, but also to operate metonymically as the stand-in for their child and the life that their baby might have lived. Metonymic links such as the following, made by a woman who had experienced a miscarriage, are found between the ashes and the idea of a living baby:

We were going to scatter his ashes on his due date but I don’t feel ready to let him go. I just like knowing he’s in the house. I just – I just don’t want to let him go right now. And I don’t know if I ever will, I just – we don’t have a special urn or anything. He really is just stashed away in a sideboard but I just like knowing he’s at home with us. (WP4-T20-M-10)

In this excerpt, the metonymy is found in how the ashes stand for the baby, reinforced by the use of the personal pronouns ‘his’, ‘him’, and ‘he’. There is a further metonymic relationship which shades into metaphor, in that literally scattering the ashes (metonymically standing for the baby) equates to metaphorically letting go of the baby.

With this in mind, the examples and discussion contained in this section detail how ceremonial practices that accompany disposal are informed by socio-cultural understandings of fetal personhood. We will also see how the ceremonies attached to shared cremations reproduce and normalise those notions of personhood, and we will discuss why in some cases that normalisation may be problematic,⁸ given how often they assume an objective reality and a fixed identity for the fetus that others may not share. We will identify some alternative ways in which ‘the remains’ are treated and viewed by those who experience pregnancy loss as a further illustration of their complex liminal status within English society. The anthropologist Victor Turner famously defined ceremonies as ‘confirmatory’ and rituals as ‘transformative’ (1967, p. 95). Rather than simply marking the transition from life to death, these ceremonies for fetal remains appear to confirm their complex liminal status as not-quite-babies but more than ‘the mother’s tissue.’

Most of the funeral directors and bereavement service managers we interviewed in our study agreed that all pregnancy losses, irrespective of the stage of gestation, deserve the same care and dignity as the remains of a person who has lived and died. Such an approach is influenced by the notion – explicitly articulated in e.g. the HTA (2015) Guidance – that ‘sensitivity’ towards both families and the remains should be

⁷ HTA Guidance on the Disposal of Pregnancy Remains (2015); ICCM (2015) the Federation of Burial and Cremation Authorities (FBCA); or the National Association of Funeral Directors (NAFD).

⁸ See Morgan & Michaels, *Eds.* (1999).

foregrounded. The equivalence drawn here between a life that has not been lived and one that has, illustrates the intermediary role that funerary practitioners play in the disposal of the remains of pregnancy. Not only are they operating at the interface between legal requirements and parents' choices about what should occur, but also they are mediating between different conceptualisations of life and personhood.

The funeral-like ceremonies or services that often accompany the cremation or burial of fetal remains can also be understood as part of a sensitive professional practice. However, there is another way in which fetal personhood is recognised within the funerary profession because the ceremonies have much in common with those performed for people who have lived and died (Kuberska, 2020). Several types of ceremonies were described in the documents that we collected from the NHS trusts and in the interviews we held with funerary industry professionals (see McGuinness & Kuberska, 2017). For example, pregnancy remains are placed in coffins or coffin-like containers and are transported to the cemetery or crematorium chapel either by a funeral director or a designated member of the bereavement team in an appropriate vehicle. A short service is often held and typically features elements like music, a short reading (e.g. a poem) and a few words spoken by a funeral director or perhaps a hospital chaplain. The coffin or coffins (if the cremation or burial is shared) are placed on a catafalque during the service which is followed by an act of committal (closing of the curtain around the coffin(s) or slight lowering of the coffin(s) into the catafalque). Often these services include explicitly Christian elements such as Biblical readings, blessings and prayers. Thus, not only are many ceremonies religious in tone, but they are also specifically Judeo-Christian in practice – an aspect of the ceremonies that is potentially problematic in a multi-faith society. By incorporating activities like prayers and blessings into ceremonies, funerary professionals overlay the notion of fetal personhood that is inferred in the performance of a service that is usually inspired by a life lived, with a more specifically Christian ideal of life's value and of death as a passage into an afterlife with the deity.

A key difference between these funeral-like ceremonies for fetal remains and those performed for people who have lived is that families may not be in attendance. Indeed, the parents in our research sample were not always informed that there would be any type of ceremony when the remains of pregnancy loss were to form part of a shared cremation arranged by the hospital. Similarly, many of the trusts whose documentation we examined held general services of remembrance on a monthly, biannual or annual basis, yet families were often unaware of this practice. These various types of 'unwitnessed ceremonies' introduce a note of ambiguity into the ways in which fetal remains are being perceived by the professionals conducting them: rather than straightforwardly granting the personhood that is implied in the construction and enactment of a funeral-like service, the unwitnessed ceremony destabilises that process, further amplifying the liminal status of the fetus (Kuberska, 2020).

As Kuberska has demonstrated in her longer reflection on this data, such ceremonies result 'in the ~~normalisation~~ normalization of a very specific social order where funerals for pre-24-week pregnancy losses come to be expected' (2020, p. 207). In other words, when specific values, activities and attitudes become the norm or default, other ways of thinking and being may be excluded. Kuberska writes:

Normalizing unwitnessed ceremonies accompanying shared cremations as proper funerals can become a double-edged sword. On the one hand, it helps

Comment [KK9]: It's a quote ☹

to reiterate the idea that mourning a pregnancy loss can be more than justified. On the other hand, it obscures situations in which no special significance is accorded to pregnancy remains, suggesting that such stances are less 'respectful' because they are unaccompanied by ritualized disposal. (2020, p. 225)

For example, not all the women in our study who had experienced a miscarriage viewed their experience as the loss of a baby. Furthermore, not everyone we talked to wanted a funeral or funeral-like service conducted by professionals. Some women did not want any kind of service or memorialisation, as we can see in this comment from a woman who had opted for termination following diagnosis of fetal abnormality:

I don't want to go to a memorial garden, I don't want to go to a little bit of green at the hospital and remember my baby, that's not how I want to do it, so it's not something that interests me at all. And they, apparently, have sort of services at the hospital in the in the chapel in there, but again that's not something I want to go to. (WP4-T1-FA-1)

Several people preferred more personalised and private rituals like planting a tree or flower in a domestic garden. Such rituals may produce different metaphorical meanings for those who perform them, but the association of 'the remains' with nature suggests that what is being represented through the planting is an organic and cyclical notion of life that is not restricted to human experience. Here the same woman describes her engagement with a funeral professional:

He was really good. 'Cos he'd lost a baby through a miscarriage, so I'd said: the first baby that we lost [around] Easter time, so I want something that flowers sort of Easterish ... so it's the right time. And, so they had a planting programme, but they didn't have any trees available that they planted that would flower at Easter. So he changed all the planting programme for me, he got this tree that was some sort of cherry blossom. And I said: I want it near the playground, because I want to be able to take my little girl, and then say to her: *that's my tree, or that's our tree, although ... she doesn't know why we've got a tree.* (WP4-T1-FA-1, our emphasis)

In such instances, rather than taking fetal personhood for granted, the bereaved parents could be understood as articulating the liminal status of their unborn baby by substituting a tree, plant or flower for 'the remains'. This is a clear example of how metaphorical thinking can help people come to terms with the experience of pregnancy loss. The loss is understood as part of the wider life cycle and the cherry blossom tree, which is in bloom for a very short time every Easter, is a metaphor for the 'short but beautiful' life of her baby girl.

Section 5: Conclusion

In this chapter we have provided an overview of how a consideration of liminality, embodiment and metaphor can help us to develop a better grasp of the socio-legal relationship between pregnancy loss and law from the point of view of those who have experienced it. This includes both the physical and the emotional aspects of the experience, as well as the different choices they make and the feelings that motivate them.

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Our analysis has shown pregnancy to be an embodied liminal experience. This affects how the baby and the mother are conceptualised, and consequently how the loss is conceptualised, how this affects the decisions that are taken following a loss, and how we can critique conventional memorialisation practices in light of this. These practices are designed to construct a framework around something that is otherwise understood to be chaotic.

Further-more, we have shown how metaphor provides a useful lens for exploring the experience of pregnancy loss, and its status as an embodied liminal phenomenon. And We have also provided insights into the transformative nature of this lived experience, demonstrating how identities shift along distinct yet interacting clines. The interaction between the chaos of the experience and the set legal framework within which it is situated represents a site of conflict that challenges and disrupts accepted classifications and boundaries. We have demonstrated that the fetus exists in a liminal state and that when this liminality is not resolved into a live birth, neither social nor legal scripts are able to accommodate it in a satisfactory way.

Locating personhood in fetal biology is consistent with a conception of personhood as a quality that accrues quickly and is fixed at a particular point in the gestational cycle. Fetal development is considered to be a natural biological process that, once set in motion, proceeds largely of its own accord. A person can be created out of a minimal social interaction. Within a Western European context, we usually ascribe personhood to beings that have engaged in some sort of social interaction. When personhood is understood to be ascribed by nonsocial factors, it cannot be readily rescinded, attenuated, or truncated by social action. Western persons, once established, are not easily undone.

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