Introduction

Safe Haven Laws Are Not Only about Saving Babies

A candlelight ceremony was held in downtown Los Angeles’ Grand Park on a November evening in 2012 to celebrate the 100th and 101st newborns relinquished at Los Angeles County safe haven sites. The event gathered community members, firefighters, hospital workers, parents who adopted infants relinquished at local safe havens, and even young children who were safe haven babies. Absent from the event—though thanked for giving their newborns a second chance—were the mothers who relinquished them and are guaranteed anonymity by safe haven laws (Mather 2012). We are left to imagine the stories that the “safe haven moms” could tell about their experiences, emotions, and lives.

Baby safe haven laws, which allow a parent to relinquish a newborn legally and anonymously at a specified institutional location such as a hospital or fire station, were established with varying stipulations in every US state between 1999 and 2009. Promoted during a time of heated public debate over policies on abortion, sex education, teen pregnancy, adoption, welfare, immigrant reproduction, and child abuse, safe haven laws were passed by the majority of states with little contest. Legislators argued for safe haven laws by citing specific cases of newborns left in unsafe public places, including dumpster bins, church steps, and school restrooms. The images of a newborn left cold, crying, and unprotected by her or his mother and the preventable deaths of such abandoned of newborns are distressing. Elevating these numerically limited but alarming cases of abandoned infants to the status of a social problem, state and nonprofit advocates presented safe haven laws as a “confidential, and safe alternative to newborn abandonment,” and depicted drop-off sites as providing “safe shelter for the youngest and
most vulnerable members of our society” (Baby Moses Project 1996). This heartfelt, simple description of the intent behind safe haven laws, however, does not disclose the cultural work enacted by these laws and their advocates.

This book provides a feminist analysis of the social politics of legal infant abandonment in advocacy and media discourses surrounding safe haven laws. Safe haven laws attempt to remedy the problem of abandoned infants by intending to save them, but inadequately address the problem of motherhood for the very small number of women and girls who abandon their newborns: the social injustices that compel abandonment. Indeed, the legal anonymity ensured by safe haven laws severely limits public acknowledgment of the social and political forces that influence the actual experiences and feelings of girls and women who opt to use safe havens. Safe haven discourses make visible images of “good” and “bad” mothers, and promote narrow ideas about the nature of maternal love and who deserves to be a mother. Advocates attempt to save babies from potentially bad mothers who could risk their lives by “dumping” them. Some particularly marginalized women are perceived as unlikely to be good mothers and targeted by safe haven campaigns. Thus, some babies are saved from their own mothers through placement in loving, adoptive families after being surrendered at safe haven sites. In so doing, the so-called safe haven mom, unlike other birth mothers, surrenders the ability to select an adoptive family for her newborn—due to safe haven anonymity guarantees—and may not reunify with her child in the future. Paradoxically, safe haven laws and advocacy urge women to anonymously and permanently relinquish their motherhood status as a way to demonstrate maternal responsibility.

Far from being only about saving babies, safe haven laws and the discourses surrounding them reinforce social assumptions about what a good mother should be and how US society should treat women experiencing unplanned pregnancy. The targeting of specific types of future mothers with safe haven information is based on the “stratification of reproduction,” a concept coined by feminist anthropologist Shellee Colen “to describe the power relations by which some categories of people are empowered to nurture and reproduce, while others are disempowered” (Ginsburg and Rapp 1995, 3; citing Colen 1995). Some forms of women’s childbearing and parenting are valued and supported by legal, social,
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and medical institutions, while others are denigrated on the basis of age, class, race, sexual identity, nationality, immigrant status, disability, and other identity categories and life experiences. Providing a shorthand for this idea, feminist historian Rickie Solinger (2001) argues that “motherhood is a class privilege in America,” and emphasizes the close associations between race and class in the United States (see also Fernández Kelly 1992).

While it is laudable to save a newborn’s life, safe haven laws ignore the real problem, which is that some women lack key social and economic supports enjoyed by most people in our society. Campaigns supporting safe haven laws target women who face disadvantages as likely bad mothers may encourage marginalized women and girls to relinquish custody of their babies. Healthy, “motherless” safe haven newborns are particularly valuable in the US adoption system, and adoptive parents praise women who use safe havens for selflessly allowing their child to join a deserving adoptive family. Issues surrounding baby safe haven laws and the targeting of certain kinds of women as potential bad mothers who should consider anonymously giving up their newborns are thus best understood as issues of reproductive justice. We should not view cases of relinquishment at safe havens or baby abandonment in less safe locations as individual choices made by individual women. Instead, we need to place newborn surrender within the context of the unequal support available to women and girls in this country and how we come to think about good mothers versus potentially bad mothers (see Biehl 2002/2003, Sanger 2006).

This book expands on interdisciplinary scholarship that examines women’s reproductive lives and the cultural and historical construction of good/bad mother discourses. The feminist framework I use provides insight into the contested nature of what defines good and bad motherhood, and advances a reproductive justice approach to responding to the issues that surround unsafe infant abandonment. Feminist literature on motherhood does not deny that some mothers endanger, harm, or even kill their children. While knowing this, scholars call attention to the constricted nature of the good mother label that circulates in the US media and political, medical, and legal realms. As historians Molly Ladd-Taylor and Lauri Umansky write in “Bad Mothers”: The Politics of Blame in Twentieth-Century America, “the label of ‘bad’ mother has been
applied to far more women than those whose actions would warrant the name. By virtue of race, class, age, marital status, sexual orientation, dis/ability, and numerous other factors, millions of American mothers have been deemed substandard” (1998, 2).^5

Further, women’s reproductive decisions are under relentless public scrutiny and judged as symbols of social order or disorder by policymakers, government agencies, medical experts, and health care providers. Feminist scholars demonstrate how medical policies and experts insist that good mothers in the global North only give birth in hospitals and are attended by Western-trained doctors (Rothman 1991; Murphy-Lawless 1999; Martin 2001; Davis-Floyd 2003; Block 2008; Craven 2010; Bridges 2011; Gálvez 2011). In debates involving reproductive health policies, the charge of child abuse is a powerful moral discourse that has been applied to a range of women, including homebirthing women (Craven 2010); women who give birth unassisted (Tsing 1990); pregnant women who smoke, drink, or use drugs (Daniels 1996; Murphy and Rosenbaum 1998; Roberts 1999; Oaks 2001; Roth 2003; Golden 2006); and women who have abortions (Luker 1985; Simonds 1996; Ginsburg 1998). The bad mother label socially stigmatizes many mothers, and it is used to support legal charges that have serious consequences for some women.

This volume contributes to interdisciplinary scholarship on social definitions of motherhood in the United States by analyzing public discourses around baby safe haven laws to highlight how the concept of the good mother functions to maintain visibility of the specter that some women and girls—teenagers, low-income women, women of color, single women, immigrants, and others—are at high risk of unsafe newborn abandonment or infanticide. At the same time, ideals of motherhood as framed by discussions of safe havens influence all women, not only women who bear and raise children. In media representations of mothers, cautionary tales about bad mothers compete with images promoting what feminist scholars Susan Douglas and Meredith Michaels term “the new momism”: “a set of ideals, norms, and practices, most frequently and powerfully represented in the media, that seem on the surface to celebrate motherhood, but which in reality promulgate standards of perfection that are beyond . . . reach” (2004, 5; see also Tsing 1990; Barnett 2006). Excessive standards for good mothers are connected to
the way in which all mothers are positioned in our late capitalist system as single-handedly responsible for producing high quality babies (see Rothman 1993, 2005; Layne 1999, 2002; Rapp 1999; Solinger 2001; Taylor, Layne, and Wozniak 2004; Taylor 2008; Generations Ahead 2009, 2010; Gálvez 2011). For example, anthropologist Gail Landsman’s research on mothers raising children with disabilities demonstrates the expectations and blame that circulate within this logic: upon learning of their child’s disability, most mothers reflect on what they ate and did during pregnancy that caused the condition, internalizing the notion that pregnancy practices produced “damaged goods” (2000, 173; see also Landsman 1999; Rapp 1999; Generations Ahead 2009, 2010). A focus on women’s actions downplays both that genetic conditions are not controllable by individuals and establishes a narrow definition of what a high quality baby is.

Caution about the pervasive judgment of individual women’s mothering practices, grounded in the argument that women can and should conform to model pregnancy and mothering ideals, is issued by Ladd-Taylor and Umanski: “In many ways, ‘bad’ mothers are not so very different from ‘good’ ones. We all struggle under mountains of conflicting advice that cannot possibly be followed in real life. We all must find our way in a society that devalues mothering, sees childrearing as a private family responsibility, and pays little heed to what actually happens to kids” (1998, 22). Although indeed all women are subject to messages about bad mothering, we need to carefully attend to how some women are viewed with greater scrutiny due to their race, age, class, marital status, nationality, or other socially marginalized identities. This book provides evidence for feminist legal scholar Carol Sanger’s contention that “Safe Haven laws work to encourage particular views about mothers. While the laws themselves are a standing reminder that some women kill newborns, their structure casts suspicion even on women who do not” (2006, 812).

Building on critiques of the concept of individual choice and the social justice perspectives promoted by reproductive justice scholars and advocates, I emphasize that to frame women as individuals making good or bad choices by using safe havens or dumpsters fails to acknowledge the complexities of pregnancy and motherhood experiences and the unequal social support available to women and girls within our society.
The reproductive justice movement’s attention to a broad constellation of intersecting reproductive and social issues draws on activism by black and Chicana feminists starting in the 1960s that focused on social, medical, and economic constraints on the pregnancy and parenting decisions available to women of color (see Roberts 1999; Nelson 2003; Silliman et al. 2004; Price 2010; Luna 2011; Luna and Luker 2013). For example, they brought to visibility the systematic tubal ligation procedures performed on women of color and poor women without consent or with coerced consent (Gutiérrez 2008).

The term reproductive justice was first put forward in 1994 during a black women’s caucus meeting held at a pro-choice conference in Illinois with the aim of connecting US and global women of color activism (see Price 2010, 47; Luna 2011, 227). In 1997 and 1998, with Ford Foundation funding, members of sixteen women of color organizations met to conduct the SisterSong Women of Color Reproductive Health Project (Ross et al. 2001, 81). SisterSong designed a research, education, and leadership program on reproductive tract infections, which are linked with infertility, using a human rights movement framework to improve the well-being of women of color by “addressing the human rights violations of poverty, homelessness, and inadequate health care” (Ross et al. 2001, 87). The collaboration shaped the SisterSong Women of Color Reproductive Justice Collective. Women of color studies scholar Kimala Price captures how the reproductive justice movement’s focus explicitly is broader than that of mainstream pro-choice activism: “The movement’s three core values are: the right to have an abortion, the right to have children, and the right to parent those children” (2010, 43).

Through a reproductive justice approach to making sense of the issues surrounding safe haven laws, the chapters that follow examine whether, how, and what sort of motherhood is celebrated and disparaged in baby safe haven media coverage and advocacy discourses, with particular attention to both abortion and adoption politics. In essence, this book argues that issues surrounding baby safe haven laws—and the laws themselves—are best understood as problems of reproductive justice, problems that call direct attention to the complexities of pregnancy and motherhood experiences and the vast and persistent unequal social support available to women and girls within our society.
Safe haven advocates have framed newborn abandonment—and the subsequent risk of death of innocent newborns—as a social problem demanding legitimation and remedy through government intervention. Unsafe infant abandonment also occurs in other countries, but the state-based safe haven legal approach in the United States stands alone. Since the mid-1990s, nonprofit and church-based organizations in eleven European countries, Canada, Japan, Malaysia, China, and South Africa set up what are called “baby boxes,” “baby hatches,” or “baby flaps,” incubators that are embedded in the wall of a hospital and connected to an alarm system (Bricker 2005; Japan Times 2007; Fong 2010; Gunaratnam 2010; Ramesh 2012; Szoboszlay 2012; McKirdy 2014). These efforts trace back to historical systems allowing the legal abandonment of infants. Although baby saving efforts are not limited to the United States, this book focuses on the US context to explore how discussions around the decriminalization of newborn relinquishment through safe haven laws reveal overlapping, highly emotive discourses about reproductive politics that circulate specifically in the United States.

These complex discourses are not always visible in safe haven advocacy messages. What advocates have emphasized are specific cases of newborns found in public places, dead or alive, and the moral offensiveness of abandonment as a feature of US society. We do not know how many infants were abandoned prior to the institution of safe haven laws, nor do we know how many are abandoned now, because some are never found. There is no national system for tracking the number of infants surrendered at safe havens, although some counties and states compile data. Advocates and scholars repeatedly refer to estimates based on a review of media reports. A US Department of Health and Human Services (2001) study estimated that in 1998, one year before the first safe haven law, 105 infants were discarded in public locations across the United States; to put this in context, 3.94 million babies were born that year (Ventura et al. 2000). An unpublished follow-up report found that in 2006 there were 83 discarded infants (US Department of Health and Human Services 2010).

Safe haven law proponents have argued with hyperbole that incidents of babies abandoned unsafely were far more numerous than this number, and at the same time have emphasized that the safe haven solution is appropriate even if it does not save all abandoned babies. A Missis-
sippi county sheriff, for example, celebrated when a woman relinquished her newborn at a hospital emergency room safe haven, arguing, “there’s a story every other day of infants being left in trash cans . . . This one case has justified the law for the state of Mississippi” (Associated Press, 2001a). With this same message, an advocate of the first state safe haven law contended, “to me, it is a success whether we’ve saved 100 or one [baby]” (Austin 2004 in Iancu 2010, 94) and California’s spokeswoman for the Department of Social Services concluded, “if there is even one child that is not left in a trash can or bin, then we have accomplished our goal” (quoted in Clemings 2000). Safe haven advocates join other activists who have claimed that the magnitude of the social problem should not be measured by numbers. Sociologist Joel Best’s analysis of the 1980s missing-children movement in the United States points out that advocates of that social problem used the argument that “one missing child is too many” (1990, 50), which resonates with safe haven advocates’ strategy of legitimating laws with the claim that saving one infant is enough.

To make clear both the explicit and underlying messages about responsible reproduction and motherhood connected to safe haven laws and to see directly how a reproductive justice framework provides a better approach to the issue of unplanned pregnancy, this book analyzes the dialogues, discourses, and debates that have framed safe havens and their use. Its focus is particularly on how these discourses make visible conceptions of good and bad mothers, what decisions they might make, and what the legal and social consequences should be for their actions. It examines how media, legislators, and safe haven advocates draw on social, religious, ethical, and political discourses to frame the meaning of a woman’s decision to relinquish her newborn as well as any responsibility for intervention by a state or other institution.

The legal anonymity ensured by safe haven laws severely limits public acknowledgment of the social and political forces that influence the actual experiences and decision-making of girls and women who opt to use safe havens. Safe haven babies receive state resources through medical and foster/adoption care, whereas their mothers are freed from criminal scrutiny but also not supported with resources, such as postpartum medical care or family welfare support. There are few public narratives by women who have relinquished newborns at safe havens, revealing both stigma around safe haven relinquishment and a gap in
our knowledge of exactly why some women see safe havens as their most feasible option. This invisibility is not surprising given the public silence around other reproductive decisions—most pointedly, the legal practice of abortion. Jeannie Ludlow, a feminist scholar and abortion care advocate who has assisted over 700 women, analyzes what women tell her in the clinic:

Each of these women has shared a decision-making narrative during our screening process, and many retell those narratives to me while waiting to see the doctor or during their surgeries. Most of these narratives center around women’s struggles with the ordinary—and, simultaneously, monumental—details of life: managing family economics, negotiating work and child care, setting priorities, and planning for the future. (2008a, 29)

It is likely that the decision-making narratives of women and girls who relinquish newborns at safe haven sites feature some of these simultaneously ordinary and monumental life struggles. They also may include stories about abortion and adoption decision-making, concealed pregnancy, unattended birth, handling a newborn, and the act of using a safe haven site. Keeping these complexities in mind, throughout the book I use the terms “relinquish” and “surrender” to describe the act of leaving a baby at a safe haven site because both are used in public discourses. They are also terms common in adoption discourses. Historian and adoptive mother Barbara Melosh analyzes the language used to discuss adoption and argues that she prefers the term relinquishment because “it is a compelling expression of both the intentionality and the pain that attend this act” (2002, viii). Melosh notes that surrender is also a term “in disuse” in adoption circles that “poignantly expresses the loss of relinquishment, but I am uneasy with its connotations of war and defeat” (2002, viii), and I share that reservation. However, anthropologist Judith Modell’s interviews with birth mothers who had planned adoptions reveals that they spoke of “surrender,” and that the term “conveyed the coercion, the force of social pressure that made it impossible to decide anything else” (1994, 64). In line with a reproductive justice perspective, we need to be alert to whether this sense of coercive pressure is shared by women and girls who relinquish newborns at safe havens.
In the absence of many women's safe haven narratives, I draw on a range of sources that both reflect and shape public discourses about women's reproductive lives: news stories about safe haven policy debates and the use of safe havens, advocacy organizations' campaigns, and outreach programs educating people about safe haven laws. I have investigated advocacy organizations' websites; media reports on safe haven policies and their use in local newspapers and the national press; and other media coverage, including Oprah's talk show and YouTube videos, promoting safe havens. I direct particular attention to representations of motherhood based on women's age, race, ethnicity, class, immigration status, and levels of mental health and social support. How are teenage girls and women framed in these sources as responsible or irresponsible reproductive decision-makers? How do these discourses account for the motherhood status of those women and girls who relinquish a baby at a safe haven and already have children? What are the consequences for safe haven advocates' labeling some women and girls as at high risk for unsafe infant abandonment? What are the consequences of redefining the "good" mother as the mother who will surrender her status as a mother of a particular infant?

Discourses surrounding safe haven laws are particularly instructive, because they demonstrate the intertwining of important political and social issues. These discourses figure the surrendering of an infant as linked to an unplanned or unwanted pregnancy, which, in turn, links to policy controversies over infanticide, sexuality education, and access to contraception as well as to abortion rights and access to abortion services. Arguments for safe haven policies have routinely characterized women who have abandoned babies in public places as young, unmarried teenagers who concealed their pregnancies and gave birth alone and outside of a hospital. This stereotype raises the topics of sex outside of marriage, teenagers' sexual activity, and young women's abilities to give birth at-home or in public without support. Discussions about safe haven laws bring into view the possibility for a pregnancy to develop invisibly to a young woman's family and community, thus opening discussion of the safety of unassisted births outside of hospitals. Access to legal, anonymous newborn relinquishment raises the possibility that a woman might be forced by family members or partners to take this action, which is connected to problems of violence against women in
intimate relationships and a lack of family and community support. Safe haven discourses touch on how surrendering a newborn connects to problems of women’s mental and physical health during pregnancy, including postpartum depression or psychosis. Safe haven policies open up questions about the potential role of the surrendered baby’s father and the political issue of paternal rights. They necessarily connect with foster care and adoption policies and practices. These debates also intersect with overarching concerns about the role of government in support for pregnant and parenting women and their families; with the status of welfare systems and public health programs; and with how these programs can be and have been adapted for pregnant and parenting women, including those with particular needs, for example as teenagers, single, women or children with disabilities, women of color, and rural or urban residents.

Arguments for safe haven laws entered a discursive gap that was created by the failure of reproductive and family policies to understand or adequately meet the needs of diverse women and girls. Safe haven advocates took action, garnered media attention, and pressed for state laws, simultaneously sideling attention to the broad erosion of government support for diverse women’s reproductive decision-making.

Why Do We Need Safe Haven Laws? Advocacy for US Safe Haven Policies

According to print media news accounts and advocacy group websites, journalists and grassroots activists were the first to suggest solutions to the incidence of abandoned newborns, and, in fact, advocacy in the United States aimed at reducing the number of abandoned babies preceded the 1999 Texas law. These organizations relied on a nonprofit set-up, with private funds supporting their activities. In San Antonio, Texas, Donna DeSoto, a Catholic woman and mother of three adopted children “driven by God’s will” and seen as having “an eccentric bent and unconventional ways,” appears to have founded the first organization specifically addressing newborn abandonment. DeSoto set up Sav Baby in 1991, providing a hotline and resources to “mothers in crisis,” and her work was inspired by dramatic experiences: adopting an abandoned baby, a near-death stroke and recovery during which God directed her to help single mothers and
their babies, and a single tear running down the cheek of her four-year-old adopted son that dropped on a tiny casket while at the grave of an abandoned baby (Lewis 1998; Dorsett 2000; Stoeltje 2001; see also Danini 1998). Debbe Magnusen, mother of two who fostered over 30 drug-exposed babies and adopted five of them, established Project Cuddle in Costa Mesa, California. Her work started in 1994 with a hotline, the organization’s website explains in the “About” section, “with the hope of ending baby abandonment”; the group continues to provide resources to pregnant women and facilitates adoptions (see also Magnusen 2001/2002). In 1996 another California mother, Debi Faris, was distressed by local cases of abandoned babies and aimed to educate people about how to prevent newborn deaths; she went on to become a strong advocate for California’s safe haven law (Whitaker 2000). Faris provides burials for abandoned infants in southern California and runs the nonprofit Garden of Angels Inc.-Safe Surrender for Newborns. On the other coast, New York-based Children of Hope in Long Island, established by Timothy Jaccard in 1998, also sponsors burials for abandoned infants and works to increase the visibility and use of safe haven laws, including coordinating New York state’s safe haven campaigns (Domash et al. 2010).

Safe haven laws are built on a criminal justice framework that sets guidelines for how law enforcement officials will respond to individuals’ actions. This framing of how to address the problem elevated the significance and visibility of newborn abandonment from being an issue private citizens should address as a moral and social problem to one that state officials also should take legal action on. Promotion of the criminal justice approach is attributed to Jodi Brooks, an Alabama television reporter who covered local stories about women who abandoned or killed newborns. Mobile, Alabama District Attorney John Tyson established the program A Secret Safe Place for Babies in 1998 to connect hospitals, law enforcement, and state social services in order to offer legal immunity and confidentiality to women who safely surrendered newborns (see Sanger 2006, 774). Mobile’s program gained national attention, including coverage on the ABC show Good Morning America, a Harvard Innovations Award by the Kennedy School of Government, and discussion by state governments (see Sanger 2006, 775).

Everyday citizens and institutional actors, including people representing the media, churches, and hospitals, saw the criminal justice ap-
proach as the best model. In 2000, after a Cathedral of St. Paul member learned about the Mobile program from her husband, Minnesota advocates created A Safe Place for Newborns to lobby for a safe haven law and facilitate anonymous infant relinquishments at local hospitals; the program had the support of the state attorney general, the Minnesota County Attorneys Association, and the Archdiocese of St. Paul and Minneapolis (Marcotty 2000). In Tennessee, one mother shared with her friend a story on Alabama’s safe haven program in McCall Magazine’s May 2000 issue (Irwin 2000). They did not act right away, and blame themselves for the death of an infant left in a shed; the two lobbied for Tennessee’s 2001 safe haven law (Irwin 2000).

As occurs with mobilization around other social problems (see Best 1990; Jacobson 1999; Nathanson 2009; Stavrianos 2015), safe haven legal discussions and media coverage increased the visibility of activists’ efforts and their claims that something must be done to fix the problem of unsafe baby abandonment. Criminal justice scholars who analyzed trends in national media coverage of infant abandonment conclude that “the problem of infant abandonment was a socially constructed perception rooted in moral panic,” and responded to by policymakers quickly and with a narrow focus on the outcome of saving vulnerable newborns without adequate attention to the circumstances leading to infant abandonment (Hammond, Miller, and Griffin 2010, 546). This moral-panic driven legislative pattern is found in other instances of child safety legislation, including the 1982 Missing Children Act (Best 1990), and, in subsequent decades, AMBER Alert laws to publicize child abductions, Megan’s Law to require sex offender registration, and Jessica’s Law to strengthen sentences for sexual abuse of minors (Hammond, Miller, and Griffin 2010, 548; see also Zgoba 2004). The question in each of these cases is whether a criminal justice approach was fitting for both defining and addressing the problem.

States passed safe haven laws more rapidly than they passed any of these child protection laws, with 2001 being the most active year for legislative debate when 20 states approved safe haven laws. Otilia Iancu’s (2010) public policy dissertation examines the reasons that safe haven legislation diffused so quickly. She identifies key political features: the laws did not require funding, local cases of abandoned babies were used in the media and by legislators to make visible the problem that needed
to be addressed, the policy solution did not “attack current laws” (public abandonment and infanticide remained illegal), legislative sponsors who were passionate about saving babies “correctly calculated” the views of their constituents, and sponsors were not afraid of political backlash or standing up to opposing arguments (Iancu 2010, 187–88; see also Appell 2002a).

When we step back from these specific components of the political process, we see that a demand for healthy, adoptable newborns in the United States and a close fit with antiabortion discourses—as well as a refusal by politicians to confront socioeconomic and reproductive injustices—laid the foundation of these laws. And we broaden even further the safe haven discussion framework when we focus on the value of individual women’s reproductive experiences and not only the value of a safe haven newborn. This shift reveals the importance of both newborns and their mothers, which clarifies that attention to women’s well-being and reproductive justice is a better response than targeting some women and girls as potentially bad mothers and promoting the message that what is best is for them to relinquish their children. Reproductive justice advocates aim to build social, medical, and financial support for women who wish to raise children.

Revealing the early safe haven-abortion politics link, the first state safe haven law was signed in 1999 by then-Texas Governor George W. Bush, a Republican who held a strong antiabortion platform and supported government funding of faith-based social services, including crisis pregnancy centers focused on dissuading women from abortion. Political and social dynamics had motivated advocates to lobby for this law, labeled the Baby Moses law. The Texas safe haven advocates’ Baby Moses Project homepage states that the group selected this faith-based name drawing on the Biblical story they saw fitting, “because, in addition to being placed in a basket, Moses was also carefully watched over by an anonymous protector until he was safely placed in the arms of a person who could provide the love and care necessary for life.” Media stories and the bill’s advocates pointed to a series of infants unsafely abandoned in public in the Houston area during 1998 as the motivation for legislative action (see Iancu 2010, 87). A pediatrician for over three decades in Fort Worth, John Richardson, characterizing himself as “Catholic, pro-choice, pro-adoption, and totally apolitical,” contacted
well-connected government officials to design a safe haven law after
hearing about a safe haven program proposal in the state of Washington. Key players included his niece, Judge Deborah Richardson, and Repub-
lican Representative Geanie Morrison, who was a member of the
House Juvenile Justice and Family Issues Committee (Richter 1999, cited in Iancu 2010, 87–88). After the Texas law was passed in 1999, 75 bill-
boards were posted in Houston stating “Don’t Abandon Your Baby,” and
radio and TV announcements further publicized the new law (Associated Press 1999).

Texas debated its safe haven law in a context of severe punishments
for crimes that caused a child death. Feminist sociologist Jeanne Flavin
(2009) writes that Texas has particularly stringent criminal justice pen-
alties for child death, revealing that a safe haven law with legal immunity
for women who relinquished unharmed babies could do double-time
work by both saving infants from harm and women from prison sen-
tences. Throughout the early 1990s states had become more punitive
in child death cases with some variation in state approaches; “Texas is
known for imposing especially harsh sentences. Texas’s statute makes
killing a child under the age of 6 a capital offence. Four of the nine
women on Texas’s death row in October 2006 were convicted of crimes
involving children” (Flavin 2009, 84). These efforts focus on punish-
ment for child death, but not on prevention of it.

Safe haven laws have focused on the well-being of newborns, yet
other government decisions simultaneously tightened constraints on or
eliminated support for mothers, particularly low-income single moth-
ers. State measures to help pregnant and parenting women and their
families were under particularly vehement attack in the period just be-
fore safe haven legislation was debated, in effect producing a population
of marginalized mothers who would then be targeted as at risk for aban-
donning or abusing their newborns. Arguably, distressed new mothers
were in greater need of stronger safety nets—for precisely the economic
and social support being diminished or eliminated, which could have
helped them to safely raise their babies, rather than safe haven laws en-
couraging them to relinquish their children. National welfare policies
that were debated by legislators during the 1990s, and then passed with
bipartisan support and public backing, specifically affected mothers and
their children. The most significant and severe was the elimination of
Aid to Families with Dependent Children in 1996 and new welfare-to-work requirements for single mothers that held them to particular parenting practices (see Harris 1996; Solinger 2001; Mink 2002; Hancock 2004; McCormack 2005; Marchevsky and Theoharis 2006; Morgen, Acker, and Weigt 2009; Edin and Kefalas 2011). Vitriolic public sentiment targeted poor mothers, framed as women of color, as “welfare queens” at the same time that expectations for poor mothers caring for their children were heightened, underscoring and exacerbating both race and class stratification (see Lubiano 1992; Hancock 2004; Bridges 2011). Child welfare policing reinforces normative and limited forms of family, as sociologist Jennifer Reich argues in her ethnographic study on families and the child welfare system in northern California: “The therapeutic state does not just demand compliance, but seeks to fix families in ways consistent with dominant beliefs about motherhood, fatherhood, and the appropriate form of family life” (2005, 26).

The “deform” of welfare, as social justice activists refer to these policy changes, worked in tandem with the intensification at the national level of what Ladd-Taylor and Umansky call “political mother-blaming,” and welfare discourses situated mothers differently according to class status: “While more affluent women are ‘bad’ mothers if they do not stay at home, poor women are ‘bad’ mothers if they do” (Ladd-Taylor and Umansky 1998, 17; see also Harris 1996; Connolly 2000; Hays 2004; McCormack 2005; Marchevsky and Theoharis 2006). Within this social and political environment, safe haven advocates appeared to be encouraging women to make good choices about relinquishing their unwanted babies to save their lives instead of having more children than they could financially support, expecting government support for their children, committing infanticide, or having abortions. Anthropologists Nancy Scheper-Hughes and Caroline Sargent state that in the late 1990s, policymakers were faced with considering “alternatives for dealing with a projected increase in child abandonment in the United States resulting from the dismantling of child welfare supports” (1998, 20). Although I have not seen this claim explicitly in my research, its logic explains well the speed with which safe haven laws passed. Safe haven laws created a socially and legally acceptable outlet for newborns whose mothers, facing increasing constraints, might opt for.

At this same time, access to legal abortion remained a bitterly contested political issue with underlying connections to safe haven ad-
vocacy. Antiabortion activists’ successful lobbying has constrained women’s access to abortion care in the United States throughout the period following the passage of Roe v. Wade in 1973 (Luker 1985; Petchesky 1990; Joffe 1995, 2010; Ginsburg 1998; Solinger 1998; Munson 2009). In many regions of the United States today women must travel long distances to find abortion care providers; undergo consent procedures that may entail ultrasound, description of fetal development, pain, and heart tones; and endure the provision of misleading information about the risks of breast cancer, infertility, and mental illness following abortion. In 26 states, women face a waiting period of 18 to 72 hours between the time of counseling and the procedure itself (Guttmacher Institute 2012). Some women have had to cross antiabortion protest lines to enter abortion care clinics (see Henshaw 1995; Joffe 1995, 2010; Ginsburg 1998). Antiabortion advocates have succeeded in lobbying for legal control over surgical procedures, most starkly seen when a late-term abortion procedure was banned under federal law in 2003 when then-President George W. Bush approved the Partial Birth Abortion Ban Act. Abortion care providers are targeted with harassment, and antiabortion extremists have murdered doctors and clinic workers; a direct-action wing of the antiabortion movement condones and promotes this violence (Mason 2002; Munson 2009; Joffe 2010). Undergirding these antiabortion strategies, since the 1980s the fetus has gained medical and legal status accompanied by the creation of criminal penalties for pregnant women who commit fetal abuse. This represents an extension of the meaning of child abuse that emphasizes antiabortion advocates’ claims that the fetus is a child who deserves legal rights (see Murphy and Rosenbaum 1998; Morgan and Michaels 1999; Roberts 1999; Oaks 2001; Roth 2003; Golden 2006; Flavin 2009).

Abortion, as a practice and a social movement issue, played a role that has not always been evident in safe haven policymaking and promotion. Feminist legal scholar Carol Sanger, writing in 2006, astutely argued that ultimately safe haven policies back the conservative drive “to protect the culture of life.” This phrase is shorthand for the Catholic Church’s opposition to “unnatural interventions” in human life “from conception to natural death,” language used repeatedly by President George W. Bush and other Republican political candidates in the 2000 presidential campaign (Morgan 2009, 236–37). Sanger contends,
Safe Havens’ enduring achievement may not be infant rescue so much as the reinforcement of antiabortion sentiment, by connecting infanticide to abortion. Proponents claim variously that Safe Haven laws prevent abortion, that the need for the laws results from abortion, that abortion produces infanticide, and that abortion is infanticide. On this view, differences between the two practices are primarily in timing and not in kind. One may be legal and the other not, but the act—killing life—is the same. (2006, 809, emphasis in original)

Despite the divisive politics around abortion rights, the coming together of both sides—meaning both pro-/anti abortion rights and Democrat/Republican—is a part of the narrative about how many states were able to rapidly put in place safe haven policies, which discursively separate contested abortion politics from consensus on saving babies. Iancu demonstrates that the states legislating safe havens in the early phases were diverse by political leaning (Democrat/Republican), demographic characteristics, and economic status (2010, 15). Pro-choice and pro-life advocates took positions in part related to the specific legislators promoting the law and the arguments that accompanied their proposals. Support by these advocates for or against safe haven laws was also linked to emotional reactions to cases of infant abandonment in the media and the work of safe haven lobbying groups, with an overarching imperative to do something good for babies that also would feel good for a range of politicians. Even so, this promise did not hold enough appeal for all legislators, lobbyists, or abortion rights stakeholders. In Connecticut, Planned Parenthood stood against the safe haven proposal introduced by an antichoice legislator (see Dailard 2000, 2–3). The organization’s director of public affairs and communication explained, “whenever a baby is abandoned, we hear that the ‘abortion culture’ is promoting women to abandon their babies either before or after birth. . . . We felt that the bill would be ineffective, and we just didn’t want to get into the fray” (quoted in Dailard 2000, 3).

But in North Carolina, a county Planned Parenthood organization supported a safe haven bill introduced by a pro-choice legislator working to emphasize women’s health, build bridges on either side of the aisle, and keep a focus on the prevention of unintended pregnancies (Dailard 2000, 3). Echoing the collaboration theme, Michigan Republican Sena-
tor Shirley Johnson introduced safe haven legislation and recalled, “I can’t remember anybody eventually being in opposition but I do know that pro-choice organizations jumped right on board. It took a little while to get the pro-life people on board, but they eventually agreed that it was better than an abortion” (quoted in Iancu 2010, 233). Her Republican colleague Senator Patty Birkholz explained that support in Michigan was bipartisan, with contention along gender lines. She said, “I don’t mean to be sexist, but here in Michigan, the women legislators led the fight on that and it was bipartisan. Some of the males were initially quite supportive and some of them were not very supportive at all. I even had a couple say ‘well, you don’t want to promote promiscuity.’ And I was just so mad. I just let them have it” (quoted in Iancu 2010, 236). In this narrative, seemingly shared gender interests, narrowly defined, trumped female legislators’ differing political views.

Other advocates framed safe haven legislation as devoid of political content, pointing to a goal of child safety motivated by caring about individual infants (and, rarely, their mothers). Former Democratic Colorado Senator Gloria Tanner, for example, stated, “it was really a nonpartisan type issue, [and] had nothing to do with party lines. I’m not even sure that it had anything to do with being conservative. I’m not conservative. It was people who cared about the safety of children” (quoted in Iancu 2010, 219). The background to the passage of Wyoming’s safe haven law, which faced opposition in the legislative process, supports this argument, with a poignant twist about a dying girl advocating to save babies (Fashek 2003). The sponsor of the bill, Republican Representative Clarene Law, named it Regan’s Safe Haven for Abandoned Newborns to honor the memory of the 10-year-old sister of one of her interns. Reportedly, Regan Marie Clark learned about legislation for abandoned newborns in other states while confined to her bed with cancer. Clark wanted to see a similar law enacted in Wyoming and rallied her fifth-grade class at Jackson Elementary to support her. . . . Law met with Clark, who died in May 2001, and took on the issue. Law still carries around some of the letters Clark’s classmates wrote to her about the bill . . . “Before she died, she wasn’t worried about dying,” wrote one student in pencil. “She was worried about dying babies.” (Fashek 2003)
The implication is that if a young girl sees this issue as even more important than her own tragic impending death and rallies her classmates to advocate for it, opposition to the law lacks care. Reflecting this moral high ground position about the meaning of saving babies and children, “not one vote was cast against Safe Haven laws in at least ten states” (Sanger 2006, 773). Within two years, 34 states had approved safe haven laws; in the first four years of legislative activity, 90 percent of states (45) had passed them (Iancu 2010, 12).

Why We Do Not Need Safe Haven Laws: Critical Perspectives

The swift adoption of safe haven laws evokes the process of instating state child abuse laws: in 1963 nine states had such laws, but by 1967 every state mandated that physicians report cases of suspected child abuse to authorities (Best 1990, 70; Iancu 2010, 5). Decades later, the link between the prevention of child abuse, neglect, or death and safe haven laws persisted at the symbolic level of national politics when states debated safe haven laws: “In April 2000, during Child Abuse Prevention Month, the US House of Representatives passed House Resolution 465 expressing the sense of the House of Representatives that local, state, and Federal governments should collect and disseminate statistics on the number of newborn babies abandoned in public places” (Iancu 2010, 7). The voice vote was symbolic because Federal House Resolution 4222, aimed at setting up the Baby Abandonment Task Force to systematically track cases and maintain a database, was introduced shortly thereafter and did not pass, falling short of safe haven advocates’ goals (see Williams-Mbengue 2001).

A crucial aspect of this failure is explained by the fact that the vast majority of states did not appropriate any funding for generating or maintaining statistics on either illegally abandoned or legally relinquished babies. If cases cannot be tracked, it is not possible to measure the success of (or need for) safe haven laws. Emphasizing this situation, criminal justice scholars have argued that safe haven laws are a prime example of “crime control theater,” a process in which there is “a socially constructed solution to a socially constructed and rare—but nonetheless intractable—crime problem” (Hammond, Miller, and Griffin 2010). These analysts recognize that some newborns’ lives are
protected through this legislation. But also they point out flaws in the law based on questions that we cannot know the answers to, including whether “women who take advantage of SHLs [safe haven laws] are the same women who would have otherwise committed infanticide”; paternity rights are abused; or “being relinquished to the state is in the best interest of every child that is abandoned at a safe haven location” (Hammond, Miller, and Griffin 2010, 551). The design of safe haven laws, with the safe haven relinquisher’s identity kept anonymous, impedes the expansion of our attention to the consequences of safe haven laws to include these considerations.

The point for some critics of safe haven legislation is not that the goal—preventing unsafe infant abandonment—is unworthy, but rather that the laws do not acknowledge the circumstances that lead some to abandon their newborns or the ways in which safe haven legislation labels some women and girls as at risk for abandonment. For example, the Child Welfare League of America did not support safe haven legislation in 2000, a year when many states were considering it. Joyce Johnson, a spokeswoman for the league, argued that more information was needed about women’s decision-making before legal action should be taken: “What’s going on in the mind of someone who puts a baby in a Dumpster or throws their baby in the woods? . . . We don’t want to come off sounding as though we don’t care. We want to prevent it, but it leaves so many questions” (quoted in Whitaker 2000). This very problem of unanswered questions about the context of women’s decision-making echoes Hammond, Miller, and Griffin’s (2010) point about the incalculable shortcomings of safe haven laws. Safe haven laws are just one way to address the incidence of abandoned newborns. Taking women’s experiences as central, there are better ways to work toward reproductive and socioeconomic justice, and these need to be seen as the central issues to be confronted instead of focusing on potentially bad mothers, perceived to be those marginalized by social and economic injustices.

Although legislative debates about whether or not to pass safe haven laws have now subsided, they do surface in some states when the law is up for reauthorization, and there is some ongoing opposition to the laws. The most vocal challenge addresses the problematic relationship between rare safe haven relinquishment and the routine practice of planned adoption. Planned adoptions provide the adoptee with documents about her
or his family background, medical information, and birth information, and may include contact between the birth mother and child. Adoption rights advocates argue that safe haven laws promote an alternative adoption route that thwarts current practices. The main point of contention is that safe haven laws do not require from the relinquishing parent the same kind of identity information collected under planned adoption procedures. One umbrella adoption rights lobbying organization, Voice for Adoption, argued in 2000 as states debated safe haven laws, “adopted children fare better mentally if they have a sense of personal history” (quoted in Dailard 2000, 2). It claimed that safe haven laws are a setback because neither family history nor medical history is guaranteed to be reported by a person who relinquishes a baby at a safe haven.

The radical adoptee advocacy group Bastard Nation has been particularly critical of US safe haven laws, which it has opposed unequivocally, punctuating its position by statements such as “Safe Haven laws need to be legally abandoned!” (Greiner 2003, emphasis in original). Bastard Nation cofounder Marley Greiner routinely refers to safe haven laws as “baby dump” laws, and in 2007 wrote the provocatively named Baby Dump News, a weekly e-chronicle, providing commentary on media and legal safe haven coverage. Greiner identifies the impetus for safe haven legislation as coming from Dr. William Pierce, a conservative adoption advocate. According to her, support for safe haven laws in large part has come from conservative and highly influential adoption lobbyists such as retired National Council for Adoption President and CEO Dr. William Pierce, who for over 20 years has opposed identity rights and records access for adult adoptees. It came as no surprise to us, then, when Dr. Pierce, complaining about “disappearing privacy rights in adoption” wrote last year that Safe Haven laws are a direct response to the successful movement to overturn outdated sealed records laws in the US. (Greiner 2003)

For Greiner and others, safe haven laws are a primary component of fiercely fought legal contests over adoption rights that represent conservative laws and increase adoptees’ pain around a lack of self-identity knowledge. Recognizing the importance of identity, some states require the person who receives the baby at a safe haven site to hand
out a medical or family background questionnaire to the relinquishing mother; however, she is not bound legally to fill it out. In characteristic Bastard Nation language, this sums up the adoption rights criticism: “Safe Haven laws, despite their good intent, are ultimately anti-adoptee, anti-adoption, anti-child, anti-woman, and anti-family. They erase identities, deny the rights and due process of parents, and reject time-tested best practice” (Bastard Nation 2003).

Arguments against safe haven laws on the basis that they deny adoptees’ access to their backgrounds highlight children’s rights issues both in the United States and internationally. A mainstream organization, the American Adoption Congress, states its opposition to safe haven laws on its website’s Abandoned Baby Statement page as stemming, in part, because, “all relinquished or abandoned children are entitled to the truth about themselves, including their birth histories, family medical histories, and social, ethnic and religious histories.” In Europe, programs in a number of countries face strong opposition based on the same rationale as well as the fact that anonymous newborn relinquishment runs counter to components of the 1989 United Nations (UN) Convention on the Rights of the Child. Article 7 of the UN Convention on the Rights of the Child mandates “registration of a child after birth, and rights to name, nationality, and ‘as far as possible, the right to know and be cared for by his parents’” (O’Donovan 2002, 351). Therefore, the UN Committee on the Rights of the Child opposes so-called baby boxes, the heated incubators located at an exterior wall of a hospital where a baby can be left anonymously and an alarm sounded (Day 2012; Evans 2012; Meyer 2012; Paramaguru 2012; Ramesh 2012). In June 2012, news stories covered a study that found that 11 countries in Europe have baby boxes or hatches sponsored by nongovernmental organizations or religiously affiliated hospitals—Austria, Belgium, the Czech Republic, Germany, Hungary, Italy, Latvia, Lithuania, Poland, Portugal, and Slovakia—totaling nearly 200 sites (Ramesh 2012; University of Nottingham 2012). Over 10 years, 400 babies were reportedly relinquished in these boxes (Meyer 2012). Szilvia Gyurkó, a UNICEF Hungary children’s rights legal expert, elaborates the UN’s opposition in broad terms, stating that a child’s rights are severely harmed in the case of baby box relinquishments, explaining: “He or she will never have a chance to know her/his birth mother, her/ his health history, or siblings” (quoted in Szoboszlay 2012).
Despite the UN children’s rights policy, some UN member countries defend their practices. The Czech Republic, for example, has argued against the “request from the UN Committee on the Rights of the Child to close their boxes, pointing out that a special ministerial commission concluded that the system was in accordance with Czech law and saved lives” (Day 2012). Over 50 boxes are located in the Czech Republic, run by a nonstate organization. The founder asserts that the controversy “has been priceless media—I could never have afforded the advertising and have received a lot of support from people” (Meyer 2012). In Hungary, incubators attached to some hospitals were established beginning in 1996, but use of them was illegal until 2005 (Szoboszlay 2012). In fact, although the Committee on the Rights of the Child reviews countries’ compliance with the Convention, it does not have the power to enforce it; enforcement is only enacted through pressure on a country through international public opinion or through diplomatic channels (Kilbourne 2006).

Feminist legal scholar Katherine O’Donovan (2002) analyzes how cultural, historical, and legal discourses in England, France, and Germany—all signatories to the UN Convention on the Rights of the Child—support different newborn abandonment laws. Of these countries, only Germany has baby flaps (babyklappen), the first of which were set up in Hamburg in 1999 in response to the abandonment of four babies (O’Donovan 2002, 365). German law supports baby flaps, interpreting the UN Convention on the Rights of the Child language “as far as possible” in article 7 as permitting anonymous baby relinquishment (O’Donovan 2002, 366). Demonstrating that drop-off programs are not the only approach to unwanted newborns, French and English laws offer alternative models. France allows a woman to give birth in a hospital anonymously, her name not appearing on the baby’s birth certificate; in place of her name, an X is recorded. Under English law secret abandonment is a crime, though in practice the system focuses on attempting to find and treat a woman who anonymously abandons her baby—the underlying assumption being that “a sane woman will not abandon her child” (O’Donovan 2002, 359). This diversity demonstrates that there is no one European approach to abandoned baby prevention efforts.

The United States is one of three UN member states (along with Somalia and South Sudan) that has not ratified the Convention on the
Rights of the Child, and thus does not need to defend state safe haven policies to the UN Committee. However, this does not mean that US laws are immune from the charge that they are in conflict with children’s rights laws. Safe haven laws do not follow the requirements of the 1978 Indian Child Welfare Act (ICWA), formulated against the historical backdrop of many Native American children having been removed from their homes and placed by missionaries in boarding schools or placed by child welfare workers in non-Indian families. These practices had significant practical and symbolic consequences for children, families, and tribes: “By 1968 more than one tribe had all of its children in out-of-home placement, living with non-Indians” (Briggs 2012, 73, emphasis in original).

The ICWA mandates that the first custody rights for Indian babies who are members of federally recognized tribes are with Native American families (National Indian Child Welfare Association 2012; Briggs 2012); there are over 500 such tribes (Stenzel 2009, 7). A Wisconsin lawyer who represents Indian tribes, Paul Stenzel, argues that “Safe Haven laws’ anonymity provisions strike at the heart of the ICWA” (2009, 4). Because family ethnic history does not need to be documented when a newborn is relinquished at a safe haven site, it is possible that Native American babies are placed in non-Indian homes. Safe haven laws also clash with the ICWA because that law stipulates that Indian parental rights cannot be terminated before a newborn is 10 days old and tribes have the right to participate in custody proceedings involving a Native American baby (Stenzel 2009, 1). Language recognizing the ICWA mandate is included in the safe haven laws of four states (Montana, New Mexico, South Dakota, and Wisconsin). In practice, however, individuals who relinquish babies remain anonymous and are not required to disclose any aspects of their identity, including tribal affiliation (Stenzel 2009, 3).

The arguments of safe haven critics in the United States also center on the issue of rights of the relinquished newborn’s father. Lawyer and father’s rights advocate Jeffrey Leving (2011) sums up the arguments:

The irony in the “safe haven” laws lies with continued gender bias that surrounds the rights of fathers. When a father chooses to opt out of parenthood and just walk away from his paternal responsibilities, he be-
comes a “deadbeat dad” or worse, he goes to jail for failing to live up to his financial responsibilities. Yet, when a mother decides that she will not take care of her child, she is given anywhere from 78 hours to 18 years, in some states [these timeframes have changed], to “safely” abandon her child. Unlike a traditional adoption, the father does not have to be notified, does not have to legally relinquish his parental rights, and the child is denied a chance to grow up with dad or members of his biological family.

State laws vary regarding whether and how the relinquished newborn’s father will be sought after or given the opportunity to come forward, and some states mandate a search of putative father lists or the posting of public notices that could alert a father who suspects his newborn was relinquished. Adoption law specialist Joan Hollinger addresses further the symbolic side of safe haven laws’ focus on mothers’ rights to relinquish a newborn without adequate protection for fathers’ rights, stating that “it is inappropriate . . . to fuel the stereotype that fathers—particularly unmarried fathers—are going to be absent and want nothing to do with their baby” (quoted in Dailard 2000, 2; see Edin and Nelson 2013). Thus fathers’ rights in relation to safe haven laws pertain both to individual men’s rights and to legal and social representations of fatherhood in general.

Taking a different approach, women’s health advocates have voiced specific criticisms of safe haven laws that positioned the laws as a stopgap measure as not going far enough, and as treating a small part of the problem of abandoned newborns to avoid addressing the whole problem of support for pregnant women and new mothers. Some argued that the laws’ efforts to protect women’s legal rights to anonymity would work to prevent women from obtaining counseling and health care that they may need. Mary Lee Allen, director of the child welfare and mental health division of the Children’s Defense Fund, stated, “these laws help women to drop their babies off but do nothing to provide supports to women and children before this happens. We need to use the interest and new alliances that have formed around these laws to build those supports” (quoted in Dailard 2000, 11; see also Biehl 2002/2003). A related argument notes the failure to account for women’s lives and health and places fault at the feet of legal authorities: “Increasingly, the
state acts as if it has the obligation to intervene in women's reproductive lives, while absolving itself of any responsibility for ensuring that the basic needs for health care (including drug treatment), education, housing, and financial support are met” (Flavin 2009, 186). For example, the strong imperative to make use of a safe haven site is made clear in one district attorney’s announcement that “on the one hand we promise confidentiality and no prosecution . . . On the other hand, if you injure your child, if you throw it into a Dumpster, we're going to prosecute you every way we can” (Mobile County Alabama district attorney John Tyson, Jr., quoted in Whitaker 2000, A2). No one would argue that child abuse or tossing a newborn in a dumpster is an acceptable act; however, these comments express a certain vindictiveness and do not pay attention to the distress or needs of a woman who is coping with a crisis about raising a newborn.

Critical concerns about women's well-being in the contexts of their lives and communities are advanced by reproductive justice advocates, providing an analytic and practical framework for understanding and working for broad scale social change. As defined on the Asian Communities for Reproductive Justice website, the reproductive justice approach holds “that all individuals are part of families and communities and that our strategies must lift up entire communities in order to support individuals” (see also Silliman et al. 2004; Ehrenreich 2008; Price 2010; Luna 2011; Chrisler 2012; Luna and Luker 2013).22 The reproductive justice framework recognizes women as decision-makers and equally addresses the social inequalities that influence women's decisions. Asian Communities for Reproductive Justice (2005) argues,

Women's ability to exercise self-determination—including in their reproductive lives—is impacted by power inequities inherent in our society's institutions, environment, economics, and culture. The analysis of the problems, strategies and envisioned solutions must be comprehensive and focus on a host of interconnecting social justice and human rights issues that affect women's bodies, sexuality, and reproduction. (2005, 2)

In line with this book's arguments, this perspective emphasizes that the focus on saving babies does not confront the circumstances that lead girls and women to relinquish infants at safe havens. Safe haven
proponents also fail to challenge, and indeed underwrite, the power inequities involved in women’s and girls’ consent to sex, their access to nonjudgmental sexuality and reproductive health services—including contraception, abortion, and adoption—and social support and parenting resources. As Sanger (2006) points out, abstinence-only sex education and stigma around teen pregnancy itself may contribute to girls feeling that they must conceal their pregnancies and subsequently drive their need to use safe haven laws. Further, the saving babies measurement of state safe haven laws’ success is too limited. The work that safe haven advocacy does is interconnected with symbolic and practical abortion and adoption politics, sidelines calls for the provision of medical care and social support for pregnant and postpartum women, and creates a dumpster/bad versus safe haven/good binary that simplifies the options women have for unwanted pregnancies.

The Cultural Components of Wanted and Unwanted Motherhood

The range of global and historical approaches to dealing with infant abandonment offers examples of what feminist anthropologists Lynn Morgan and Elizabeth Roberts (2012) identify as “reproductive governance” practices. They argue that scholars should attend to how “state institutions, churches, donor agencies, and nongovernmental organisations (NGOs)” use a range of strategies, including “legislative controls, economic inducements, moral injunctions, direct coercion, and ethical incitement to produce, monitor and control reproductive behaviours and practices” (2012, 243). In the case of infant abandonment, these actors mobilized varied responses to the problem. However, this is not to say that women themselves were directly controlled by reproductive governance practices. Historian Rachel Fuchs reminds us that “women have always had methods of coping with unwelcome babies” (1984, 62). She and other historians, anthropologists, and demographers document the broad contexts within which women have done so, revealing variation by culture and shifts over time in the social acceptability of child relinquishment (Fuchs 1992; Kertzer 1994; Roberts 1999; Broder 2002; Kramar 2005; Sanger 2006; Flavin 2009). Scholars seek to understand what has compelled some women to abandon an infant, put a newborn
up for adoption, or even commit infanticide, practices that work against the assumption that all women naturally love their newborns and will act in their newborn’s best interest. Because safe haven discourses frame newborn relinquishment as a way to express maternal love, we must consider carefully this assumption.

**Maternal Love**

Current Western cultural expectations maintain that maternal love is a core characteristic of motherhood. As stated by feminist sociologist Judith Lorber, “the current construction of motherhood in Western cultures claims that women naturally feel unconditional love for their children and want to nurture them, especially when they are babies” (1994, 167–68). However, extensive historical and cross-cultural evidence demonstrates that maternal love and child caretaking are not, and have not always been, connected in this way (see Rich 1976; Badinter 1981; Ruddick 1989; Scheper-Hughes 1992; Lorber 1994; Zelizer 1994; DeLoache and Gottlieb 2000; Cook 2004; Gottlieb 2004). Anthropologist Nancy Scheper-Hughes emphasizes this point, stating that “mother love is anything other than natural and instead represents a matrix of images, meanings, sentiments, and practices that are everywhere socially and culturally produced” (1992, 341, emphasis in original). Elisabeth Badinter’s *Mother Love: Myth and Reality* (1981, 39–52), reveals that in the past it was preferable to French upper-class women to hire wet-nurses to care for their children, and only in the late eighteenth century did philosophers and economists campaign for these women to care for and feed their own children to uphold the idea that children were valuable as future French citizens and workers. Lorber, drawing on Badinter, notes, “it took many years before the concept of mother love as natural, spontaneous, and central to womanhood became generally accepted by French women” (1994, 146).

We should not assume that this shift represents progress that led worldwide to a universally held tie between womanhood and motherhood, and need to instead consider how ideas about maternal nature and proper mothers are socially constructed in particular historical times and cultural places. Some diverse examples illustrate this point. Lorber cites evidence that in nineteenth-century rural Bavaria ser-
vants routinely denied both pregnancy and giving birth, doing so alone in “privies” and returning to work immediately (1994, 147). Enslaved women in the United States were required to reproduce to sustain slavery and to work when pregnant. Their children legally belonged to their owners, and women’s love for their children was not acknowledged by slave owners: “Becoming a mother did not change her primary task, which was physical labor for her master” (Roberts 1999, 36; see also Briggs 2012, 49). Demonstrating one example of the relationship between enslaved women and their children under these conditions, black feminist legal scholar Dorothy Roberts argues that “infanticide was the most extreme form of slave mothers’ resistance” to this system (1999, 48). In other words, causing the death of one’s child was a most painful form of maternal protection: the child was better off dead than suffering enslavement. Nancy Scheper-Hughes’s ethnographic study of mother–child relationships in an impoverished shantytown in northeastern Brazil in the 1960s and 1980s analyzes the “customary practice of selective neglect” (1992, 357) of weak infants, those deemed born “wanting to die” (315), in an area with severely scarce resources that could not sustain all babies. Scheper-Hughes’s work makes clear that moral judgments were not made about maternal neglect, and indeed, her impulse to use Western medicine to try to save babies was looked upon by the Brazilian women as futile. She demonstrates that views of maternal love and the value of babies are shaped within specific conditions.

Indeed, starting in the 1970s in the United States and other places and inspired by the women’s liberation movement, feminist scholars and activists exposed Western assumptions about the innate connection between womanhood, motherhood, and maternal love as inadequate to women’s experiences. Lesbian feminist writer and poet Adrienne Rich’s classic *Of Woman Born* (1976) analyzes why she “was haunted by the stereotype of the mother whose love is ‘unconditional’” (23) and frames motherhood in two ways. First, motherhood is an experience between a woman, “her reproductive powers,” and her children, and second, it is an institution that supports patriarchy through social, political, and economic practices and expectations (13). The field of motherhood studies, which coalesced in the mid-1990s, examines these components of motherhood along with attention to the identity and subjectivity of motherhood (O’Reilly 2010a, 2010b). That there is a diversity of socially
acceptable ways of experiencing and theorizing motherhood may seem unremarkable from today’s standpoint. Feminist sociologist Barbara Katz Rothman’s summary of “the old definitions [that] saw motherhood as a status” helps situate how motherhood was seen in the pre-1970s era when Rich’s writing challenged it:

Women were mothers. Mothering was not something women did, it was something women were . . . Motherhood was in fact a master status, and everything women did was seen in terms of our motherhood, or our potential for motherhood. Motherhood and its demands, babies and children and their demands, defined women. We had to be what they needed. (1989, 22–23, emphasis in original)

Safe haven laws offer women and girls the opportunity to relinquish motherhood anonymously in an act that reveals some women’s acquiescence to high expectations of what a mother does and is. Symbolically, through a safe haven relinquishment a woman is admitting that someone else will be a better mother. Although it sounds contradictory, safe haven advocates praise women for relying on their maternal nature to choose not to mother. This discourse is also used in pro-adoption circles, in which birth mothers are said to demonstrate “a higher and less selfish form of love” when they follow an adoption plan (Joyce 2013, 115). In this view, a woman who relinquishes her infant goes against her maternal nature because she does not raise her baby, but also she relies on her maternal nature to care about her baby’s future.

Infant Abandonment

The meaning of “abandonment” and interventions to assist abandoned children are grounded in specific historical times with a range of cultural meanings. Anthropologist Catherine Panter-Brick argues that the “classic case of children abandoned by parents is ‘exposure’ of babies to the elements for rescue” (2000, 3). Historian John Boswell’s The Kindness of Strangers (1988) demonstrates that in Europe, previous to the thirteenth-century establishment of “foundling homes,” abandoned babies were cared for by strangers and sometimes reclaimed by their families (see Sá 2000, 28). Hospitals and churches became sites of institutional
abandonment that was legal and anonymous, and in southern Europe socially acceptable abandonment sites included “the baptismal font in the cathedral, the doorstep of a person in charge of distributing abandoned children to wet-nurses, the entrance of the hospital, or a basket placed in the neighbourhood of the hospital and hidden from general view” (Sá 2000, 30). In France acceptability of legal abandonment waxed and waned, beginning in the twelfth century, with the church and state taking responsibility in different historical time periods. During the French Revolution, the state assumed care for abandoned and foundling children, and the decree of 1811 mandated that all hospices for abandoned children have *tours*, baby boxes located in an exterior wall with a way to swivel the cradle into the hospice, allowing anonymous child surrender (Fuchs 1984, 21–23). Some babies arrived with letters or notes, for example, explaining, “necessity made me do it” (Fuchs 1984, 95). Badinter argues that this practice indicates that “it is not without emotion and probably with guilt that mothers throughout the ages have fastened notes to their babies’ swaddling clothes” (1981, 40). The emphasis on evidence showing that many mothers were forced to abandon their babies against their will and suffered emotionally even in the context of widespread, socially condoned, and economically driven abandonment practices maintains an ideal of maternal love as natural.

Demographic anthropologist David Kertzer writes that the spread of foundling institutions from Italy first to France, Spain, and Portugal grew to Ireland, Poland, Austria, and Russia by the start of the nineteenth century, with over 100,000 babies annually abandoned in Europe in the mid-nineteenth century (Kertzer 2000, 41). Historian Rachel Fuchs found that in the first half of the nineteenth century “as many as one-fourth of all newborn babies and half of all illegitimate newborn babies in Paris were abandoned each year” to be cared for at the Paris, state-run foundling home (1984, xi–xii; 77). Throughout Europe, religious institutions shaped a Catholic system and a Protestant system for treating unwed mothers and foundlings. The former focuses on forgiveness, recovering the honor of the unwed mother and saving the baby’s soul, while the latter stresses individual responsibility and “paying the price” for one’s actions (Kertzer 1994, 17). Kertzer argues that the enormous rise in abandoned babies in nineteenth-century Italy—where wild roaming dogs in urban areas and pigs in farming fields represented
major threats to abandoned babies (104)—was rooted in a simple fact: “Illegitimate babies were abandoned because society made it difficult for their mothers to raise them” (18). The Catholic Church’s drive to enforce strict teachings on sexual morality meant that “the sight of children living with their unwed mothers became an affront to public morality” (19).

Child advocates proposed institutional solutions to these moral-social problems: “If the abandonment of babies in fields, alleys, and roads—the practice for millennia in Europe—was to be stopped, some way had to be found for mothers to abandon their newborns so that the babies would immediately receive care and the women would remain anonymous” (Kertzer 1994, 104). This is not the only option, of course, and lifting social-religious prohibitions on illegitimacy also could have decreased infant abandonments. Further, we should not assume that foundling asylums were the best way to rescue abandoned infants. Mortality rates for infants in foundling homes in Europe and the United States in the nineteenth and twentieth centuries were so high that some referred to them as “highly effective agencies of infanticide” (Brettell 1998, 168; see also Fuchs 1984).

European ideologies spread to the United States in the nineteenth century and were modified to address the epidemic of infant abandonment in urban centers, particularly New York City (Miller 2008, 238). Historian Julie Miller notes that poor immigrants filled New York slums, and “during the antebellum years, its streets and stoops began to fill with foundlings” (2008, 5). New York sponsored more asylums for foundlings than any other US city, spurred on, in part, by media watchdogs: “The press, too, was a factor in the creation, and the operation, of the foundling asylums, judging, prodding, shedding sentimental tears, and always watching” (5). Between 1880 and 1885, the largest asylums together received over 2,000 babies annually (226–27), and “a foundling was named for nearly every downtown corner” (227). A missionary and author, Helen Campbell, secretly observed one scene of a woman relinquishing a baby in a large wicker cradle placed at the entrance of the Catholic-run New York Foundling Asylum:

With a burst of tears she laid it in the basket and silently hurried down the steps. Crouching again in the friendly shadow she waited, her face
turned toward the door-way, till a baby’s wail followed by a sharp little cry was heard, and she half sprung up and stretched her arms toward the basket. The door opened even as the cry came. A woman with a calm gentle face stood for a moment, the flood of light from the hall bringing out every line of her face and figure, then stooped and lifted the bundle to her shoulder, pressing the little face close to her own. The baby nestled to her as she passed into the hall; the door closed, and the woman crouching in the darkness, stole away, bearing her secret with her. (quoted in Miller 2008, 137)

This narrative creates sympathy for the responsible, heartbroken mother who waits to ensure that her baby is saved, spiritually and physically. Embedded in this portrait is the assumption that maternal love is felt by the mother, yet that due to circumstances, that love could only be expressed by the mother abandoning her infant.

The asylum does not exist today, and in the United States the state, rather than religious organizations, holds control over the solution to cases of abandoned babies. However, we see in both historical moments, separated by over a century, the assumptions that some mothers opt to relinquish their newborns even though they love them and that care should be provided to babies, yet not to distressed mothers. The secrecy involved in the asylum surrender mirrors the no-questions-asked assurance in safe haven laws, leaving women to cope with the stigma of having relinquished a newborn without any trace.

**Adoption**

Infant abandonment can also be prevented through planned adoptions, and the social acceptability and politics around the promotion of adoption in the United States has changed over time. A specific practice that existed from the late 1940s through the 1960s calls attention to how the link between motherhood and maternal love has not always meant that babies are considered to be naturally best off with their biological mothers. The post-World War II time period featured strict cultural expectations around motherhood as being linked only to marriage, and young women's pregnancies out of wedlock represented a middle-class white crisis. In the decades before the 1973 passage of *Roe v. Wade*, which
legalized abortion in limited circumstances, an estimated 1.5 million middle-class, young, unwed, primarily white women who became pregnant were placed in maternity homes by their families and relinquished their newborns (see Fessler 2006; Joyce 2013, 89). These young women were told that they had absolutely no socially acceptable or financial choice but to give their newborns to a deserving adoptive couple and to live their lives as if they were not birth mothers (Solinger, 2000, 2001; Fessler 2006). Adoption became seen as a more viable option for creating a family, and nonfamily adoptions rose dramatically, from 8,000 per year in 1937 to 70,000 in 1965 (Fessler 2006, 183). Middle-class unmarried pregnant white women were expected to give birth, and then, overcoming natural maternal love, they were required to relinquish their newborns with the understanding that they would forget about them and never see them again.

These same birth mothers were expected to return to participate in middle-class culture unmarked by their unwed pregnancy and prepared to raise their own children in their married futures, enacting the social ideal of womanhood. In the post-World War II era there was a national obsession with reproduction, connected to broader politics. Historian Elaine Tyler May states that “with the onset of the cold war, the family surfaced as the ideological center of national culture, while public and community life declined” (1995, 18). Married white women were socialized to give birth and raise babies, and as couples facing infertility turned to adoption to complete their nuclear families, “adoption agencies became brokerage houses for childless couples” (May 1995, 142–43). The message that infertile white couples should become parents and adopt a baby that “looked like them” to form a “natural” family (Herman 2008) coincided with pressures on single white women to relinquish their babies. Simultaneously, concerns about a white baby shortage (Zelizer 1994; May 1995) fueled what Solinger calls the “postwar White adoption mandate” (2000).

Young single white women relinquished babies for adoption at a rate ten times higher than black women (Fessler 2006, 108), reflecting cultural-political considerations, including differential family pressures, treatment by adoption agencies, and social views on illegitimacy and race (see Kunzel 1993; Dubinsky 2010; Briggs 2012). A mother of a pregnant single black teenager remarked, “it would be immoral to place the
baby [for adoption]. That would be throwing away your own flesh and blood” (quoted in Solinger 2000, 6). White women recall the extreme pressure they faced in the 1960s, both from family members and others. One explained that when she was pregnant at age 16,

the only option that was handed to me, oh yeah, mom said, “well, we’ll get you to a home for unwed mothers far, far away.” And I said, . . . “I want to go downtown, there must be some kind of social worker that can help me keep my baby.” And mom said, “I don’t want anybody in this state to find out . . . we’ll find a nice home for unwed mothers down south somewhere.” (Modell 1994, 66)

Another woman remembered that during her time in a 1960s maternity home, “the staff were very condescending and very judgmental. They would say, ‘Your child will be better off without you. You’re doing the right thing. There’s a loving family out there.’ And I was thinking, ‘well, how come I can’t be a loving mother?’” (Fessler 2006, 118). A birth mother who surrendered her baby in the 1960s recalls being given this same message by a social worker who pointedly said, “you have to give her to two parents. If you love her, you’ll give her up. You want to do what’s best for the child. It’s selfish for you to keep her, for even thinking about keeping her, because what can you provide for her?” (Modell 1994, 81).

Parenting support for white middle-class single mothers in this period who wanted to raise their children was largely unavailable, and women’s feelings could not offset these cultural adoption pressures. This lack of support for women who are seen as potentially bad mothers due to their identities or circumstances continues today. Revealing shifts in social definitions about who is a good mother, white single middle-class mothers today are not labeled as bad mothers as a general group, but a range of other populations of women are deemed automatically unworthy of motherhood.

Just as in the previous era when saving foundlings’ bodies and souls was a concerted effort, religious-based institutions played significant roles in emphasizing adoption as the solution to white women’s unwed pregnancy problem. The network of maternity homes expanded following World War II, and between 1945 and 1965 over two-thirds of
the 200 licensed homes were run by the Florence Crittendon Association of America, Catholic Charities, and the Salvation Army (Solinger 2000, 103–04). These homes moved away from former punitive models of maternity home care, in which women were reformed and saved, to instead emphasize individual transformation and practices “conducive to changes of heart, mind, and persona” (Solinger 2000, 106). Birth mothers were supposed to erase the experience of relinquishing a newborn and instructed not to mourn the event. In the words of a woman remembering the message she received: “You’ll forget. You’ll close this chapter in your life. You’ll do all these wonderful things. This is not the end, it is the beginning” (Modell 1994, 85).

The idea that a woman can secretly experience pregnancy, birth, and the surrender of her newborn without social, emotional, or even spiritual support—which was so painful for many women in the maternity home system—is embedded in safe haven laws today. Going one step further, in fact, safe haven laws do not focus on providing even basic medical care for women who have given birth alone. The model woman who relinquishes a newborn at a safe haven is represented as silent, never expressing her own needs or desires.

From today’s vantage point it may be hard to think of adoption as coercive or as such a severe break between a birth mother and her baby’s adoptive family, involving little to no information (or incorrect information) shared between the two parties and brokered by adoption institutions that matched babies and adoptive parents (see Patton 2000; Melosh 2002; Herman 2008; Lifton 2009). Adoption records were sealed, and “having relinquished a child, the birthparent was supposed to keep that parental role hidden” (Modell 2002, 25). Open adoption—in which the birth mother and adoptive parents have some form of contact—did not become a standard practice until the 1980s (see Siegel 2006). Past decades of secrecy about unwed pregnancy and adoption promoted a narrative about all adoptive babies being unwanted by their birth mothers:

Social acceptance [of adoption] was predicated on the idea that these babies were unwanted. This belief eliminated a potential moral dilemma, especially for adoptive families: most couples, no matter how much they wanted a child, would not want to be involved in taking a child away from
a mother against her will. But given the secrecy and the social stigma of the time, adoptive parents were never exposed to the story of the pain and grief felt by so many of the mothers. (Fessler 2006, 183)

Uncovering the complexities of birth mothers’ feelings about having had to hide their pregnancies and live as if they had never given birth, starting in the 1970s, a vocal component of the adoption rights movement encouraged adoptees to search for their birth mothers and birth mothers organized together to search for their children (see Modell 1994, 2002; Carp 1998, 2004; Lifton 2009). At a time of social upheaval and movements related to identity-based rights—as seen in arguments for civil, gay and lesbian, and women’s rights—adoptees argued that they needed to have the right to knowledge of their identities (Carp 1998, 142–43). Women began to talk about their experiences of surrendering infants within a consciousness-raising model, and in 1976 a Boston collective formed to organize Concerned United Birthparents (CUB) (see Modell 1994, 2002; Carp 1998; Solinger 2001). The organization flourished, and CUB members met in locations across the country (38 in 1981). It also supported searches by birth mothers who wanted to contact their surrendered children and lobbied for open adoption records, later also advocating open adoption policies (Carp 1998, 204–07). Although the philosophy of both social movement groups—those for adoptee rights and those for birth mother rights—was that it was healthy for adoptees and birth mothers to make contact, not all reunions resulted in ongoing relationships, and some meetings were very painful (see Jones 1993; Modell 1994; Lifton 2009). At the broadest level, by making visible the experiences of birth mothers, these movements promoted a shift in social views about adoption and worked to lessen the secrecy and stigma associated with it.

**Infanticide**

Whereas adoption has become a socially acceptable option for birth mothers, infanticide as a way to cope with an unwanted or untenable birth remains highly stigmatized and, in most places, criminalized. But infanticide and newborn neglect is found throughout history and in diverse cultures (see Miller 1987; Scheper-Hughes 1992; Picone 1998;
Meyer and Oberman 2001; Drescher-Burke, Krall, and Penick, 2004; Gottlieb 2004, 223–37; Kramar 2005; Gheorghe et al. 2011; Rattigan 2012). The reasons theorized to explain neonaticide (killing of a baby under one month old) include cultural, social, health, and religious rationales—“poverty, overpopulation, laws governing inheritance, customs relating to nonmarital children, religious or superstitious beliefs regarding disability, eugenics, and maternal madness” (Meyer and Oberman 2001, 1). Considering the wide range of meanings associated with newborn death, some anthropologists question the applicability of the Western terms “neglect” and “infanticide” to all societies (see Scheper-Hughes 1992).

In line with a broader framing of neonaticide, anthropologist Caroline Brettel challenges scholars to “consider seriously and critically whether women who are drawn away from tending to their newborn infants by work that is necessary to the survival of their family are indeed guilty of child neglect” (1998, 180). This perspective applies to thinking about the social structures that shape the conditions of motherhood for women and their families, and is even relevant to the United States today as seen in work requirements placed on single mothers receiving welfare that draw them out of the home and result in children being left unsupervised or with inadequate childcare (see Harris 1996; Connolly 2000; Gauthier, Chaudoir, and Forsyth 2003; Hays 2004; McCormack 2005; Marchevsky and Theoharis 2006). In this view, the decision to abandon an infant is a marker of a woman’s social and economic marginalization, not an individual failing of maternal nature. Writing about a different time and place, Fuchs provides evidence for the severe tension between work and motherhood in the context of nineteenth-century France, and she argues further that women’s own survival was at stake: “Abandonment of an infant for single, working women should not be taken as evidence for lack of maternal love . . . their wages barely covered the meager necessities for themselves, let alone the additional expense of a child . . . abandonment was the preferred alternative to keeping the babies and watching them die of starvation” (1984, 114–15). Fuchs shows that infant abandonments declined with the rise of social welfare, indicating that economic support expands a woman’s option to include raise her child with adequate means, a point that is too easily overlooked in current welfare policy debates (116).
Of course, the documented ubiquitous and complex nature of infanticide does not necessarily mean legal acceptance of it. Different philosophies guide how societies understand infanticide and how governments create legal consequences for child death. Two dominant ideas came into being in the late nineteenth century when French psychiatrists theorized that maternal mental illness was linked to infanticide. This framework supports legal policy in at least 23 countries, beginning with England’s 1922 and 1938 infanticide laws (Meyer and Oberman 2001, 11). This “mental illness” legal model contends that “mothers who can show that they suffered from a postpartum mental disorder generally are charged with manslaughter, rather than murder, and the vast majority of such defendants receive probationary sentences and healthcare interventions rather than prison sentences” (Meyer and Oberman 2001, 11). Despite the fact that Canada and England, societies arguably quite similar to the United States, have used this mental health approach to infanticide cases, the United States has framed infanticide as a crime requiring legal penalty. Further, in the absence of a national US infanticide law, “women who commit similar offenses are tried and sentenced in wildly disparate ways depending on the predilections of local prosecutors, judges, and juries” (Meyer and Oberman 2001, 172; see also Appell 2002b).

Clinical psychiatry professor Margaret Spinelli’s study of postpartum psychosis defenses in American infanticide court cases finds that the UK system of mental health treatment is a better strategy to prevent infanticide than the US incarceration system: “After 80 years of using probation and treatment in lieu of incarceration, the British legal system has demonstrated that this approach is as effective as incarceration in preventing or deterring infanticide, while being considerably more efficient and cost-effective” (2004, 1553). The criminal justice intervention offered by US safe haven laws to allow legal immunity to the biological mother emphasizes that the solution to the problem is seen as set within the legal realm, not the mental health or social services realm.

But Spinelli’s call to redesign US frameworks for infanticide runs against prevailing and powerful ideas in North America about women as responsible decision-makers and cultural trends that focus on elevating the status of the fetus as well as connecting abortion with infanticide (see Sanger 2006). For example, Canada’s infanticide laws have shifted over time away from the mental health model, and at the start of the
twenty-first century sentencing became more strict (Kramar 2005). Sociologist Kirsten Kramar demonstrates in her historical study that the law over time has reframed women from being victims of socio-economic disadvantage or of their mental health state to being aggressors against an “infant-victim” (2005, 16). She identifies this shift as a reaction to the rise of antiabortion activism that focused on gaining rights for the fetus and the elision of the issues of abortion and infanticide in order to define the acts as having equal moral weight. My analysis of the messages that underlie safe haven advocacy is closely informed by feminist legal scholar Carol Sanger’s insights on safe haven laws as connected to the cultural politics surrounding abortion debates:

While their explicit purpose is to save infants from dumpsters, their rhetorical effect encompasses lifesaving as that term is understood within the culture of life: the salvation of unborn life. Safe Havens’ more enduring and subtle achievement is therefore less criminological than cultural: the vindication and further extension into public consciousness of the view that abortion is murder. (Sanger 2006, 829)

Seeking to document what happens beyond the symbolic realm, social science, criminal justice, and medical scholars seek to determine patterns in the age of infant’s deaths, who kills infants, and with what life circumstances in the United States. Some maternal infanticide cases involve intent to end an infant’s life, and other cases involve unsafe practices that lead to an infant’s death. Scholars warn that infanticide cases go unreported, and even suggest that “maternal infanticides may be among the least well-documented deaths in the United States” (Spinelli 2004). Neonaticide in the United States is primarily committed by mothers, with cases of fathers killing newborns being very rare (Kaye, Borenstein, and Donnelly 1990; Herman-Giddens et al. 2003).

Psychologist Cheryl Meyer and criminal justice scholar Michelle Oberman’s study of over 200 cases of infanticide in the United States “dispel[s] the notion prevalent in media accounts that infanticide is an isolated crime or a freak occurrence, committed exclusively by women who are either insane or evil . . . As throughout history, infanticide in the twentieth and twenty-first centuries must be understood as a response to the societal construction of and constraints upon mothering” (2001,
These findings highlight that infant death should not be viewed as solely a woman's responsibility, but rather should signal insight into her distressed strategy of coping with severe emotional and social difficulties that are beyond her control. This level of attention to the lived experiences of women that drive them to unsafe infant abandonment or infanticide, central to reproductive justice perspectives, is lacking in safe haven legislation.

Safe haven campaigns work to identify and reach out to pregnant girls and women who are at risk of dumping their babies to offer them an alternative to abandonment without recognition that they could also be given the alternative to be mothers. Not surprisingly, the goal of figuring out which girls and women should be the target has proven elusive, as an editorial in favor of safe haven laws warns: “Safe Haven isn't the complete answer; it can't save all newborns in peril. Research has shown that it's impossible to predict which young mothers will abandon their babies under the stress of the situation” (Cape Cod Times 2005). This admission, even by safe haven advocates, suggests that a main challenge to ending unsafe newborn abandonment and infanticide is that some girls and women do not or cannot act maternal by embracing a perceived core responsibility of current Western motherhood to protect one's child. The acts of abandonment, adoption, infanticide, and safe haven relinquishment all represent solutions to what some women and girls experience as the insurmountable problem of motherhood. The safe haven solution, as this book argues, addresses the social problem of unwanted infants with the intention of saving them, but does not attempt to eliminate the reasons women find themselves in the position to regard safe haven relinquishment as their most feasible option.

Organization of This Book

This book draws out the social, economic, and political issues that surround safe haven laws and their use to identify the social constructions of motherhood perpetuated by safe haven advocates. My research suggests that reproductive justice understandings of the problem are stronger and more appropriate than those made visible by safe haven proponents, because a reproductive justice framing of how to address unplanned or unwanted pregnancy advances support for women and
girls by addressing the structural inequalities that shape their lives. Chapter 1 explores how and why infant abandonment has motivated individual, regional, and national networks in the United States in the past two decades to act to intervene to save babies’ lives. It explores why some activists gather together to honor dead abandoned infants and use the religious notion of saving their souls, and how infant abandonment prevention is linked to antiabortion philosophies and aims. These safe haven proponents focus on the universal innocence of unwanted babies and their need for protection from their own mothers, who in their view could opt for abortion or abandonment, but who should choose safe haven surrender as a demonstration of their maternal love. In this view, dumped babies represent a social breach, and pregnant women who may unsafely abandon their babies represent a threat to individual infants as well as to the meaning of motherhood.

Chapter 2 analyzes public service announcements, short videos, television and radio stories, websites, school curricula, and Facebook pages that have appeared since the first US safe haven law was passed by Texas in 1999 to understand how baby safe haven advocates have publicized the laws and educated the public about the need for them. This perspective is seen in the assumption that “no one likes to think about dead babies in dumpsters, but unless someone does, the problem will only grow” (Dreyer 2002, 190). In a number of states—led by both Republican and Democrat party administrations—advocates have successfully lobbied policymakers to mandate baby safe haven education in public school curricula. Through safe haven publicity and education, a main message promoted is that the power women and girls have to give life or cause death itself is a social problem in need of remedy. The safe haven solution is to direct all “dangerous” pregnant girls and women, often framed as young, low-income, or women of color, to relinquish their “unwanted” newborns at safe haven sites instead of choosing abortion, unsafe infant abandonment, or motherhood.

Cases of the model use, near-miss use, and misuse of safe haven laws are the focus of chapter 3. The examination is based on how media coverage represents birth mothers, birth fathers, and others when a baby or child is left at or near an official or presumed safe haven site. These stories offer the public a way to understand the practice of safe haven use and of the people who use safe haven sites. I analyze specific cases
reported in the media, including the remarkable case of the use of Nebraska’s original safe haven law by mothers, fathers, and grandparents to relinquish distressed teenagers. We often see in media stories and safe haven advocacy materials how individual women’s decision-making is linked to social politics around age, class, race/ethnicity, education, nationality, and other salient categories of experience and identification. I critically analyze the stereotype of the “safe haven mom” as a secretive, low-income teenager, who is often a woman of color, and examine, as a counterpoint, cases reported in the media of diverse women’s safe haven surrender experiences. To address the needs of any mother who feels she cannot raise her newborn, we must think clearly about diverse women’s ability to take safe haven action and consider seriously the limits of safe havens as a social-legal fix to unsafe baby abandonment.

Chapter 4 turns to explore in greater depth the social value of safe haven babies and what contributes to their value. To make sense of this, first we must understand the broader US adoption system’s treatment of infants by age, race, and class, and question the extent to which safe haven adoptions differ from planned domestic and transnational adoptions. I analyze how media accounts of successful safe haven adoptions and comments by adoptive parents illuminate the process of adopting a safe haven baby and advance strong messages about socially approved motherhood and families. Drawing on adoption discourses, the chapter ends with the suggestion that newborns relinquished when the first safe haven laws were passed are now teenagers who may attempt to contact their biological parents, similar to adoptee search and reunification stories.

The conclusion sums up the book’s argument regarding safe haven laws and the discourses that support them as best understood as reproductive justice issues, calling direct attention to the complexities of pregnancy and motherhood experiences and the unequal social support available to women and girls within our society, which is stratified by race, class, education, age and other categories. This chapter presents the voices of the few women who have expressed their experiences of relinquishing a newborn at a safe haven site. These voices emphasize that whether a newborn was wanted or not cannot be assumed to be the only or main factor driving a woman’s motherhood decision-making. Women’s narratives encourage a broader understanding of how safe
haven laws, portrayed by their advocates as offering a good choice for mothers, contribute to public policies and social attitudes that support narrow judgments about who should become mothers and who should relinquish motherhood, and why. This book’s analysis of the issues surrounding safe haven policies reveals that the stated intent of these policies—saving babies—conceals the social injustices that coerce some women and girls to relinquish their newborns. *Giving Up Baby* contributes to interdisciplinary feminist scholarship and reproductive justice activism challenging the social and legal constraints on women’s reproductive lives.