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Infanticide in European History

Keith Wrightson
University of St. Andrews

[God] hath so fast fixed love in the hearts of parents, as if there be any in whom it aboundeth not, he is counted unnaturall. If love did not abound in parents many children would be neglected and lost. For if parents look not to their children who will? If none look to them, they must needs perish: for they are not able to helpe themselves.

William Gouge, *Of Domesticall Duties* (1622)

On 5 April 1578, the burial of a child of one Marie Lyttell was recorded in the parish register of Great Hallingbury, Essex. Having borne an illegitimate child on 30 March 1578, the entry informs us, the mother “most unnaturalye by all cyrcystances murthered it, cast it in to a privie having before nyped it by the throte and sculle most lamentable.”¹ This rare example of the parochial registration of a case of infanticide encapsulates the predominant attitude towards the crime of infanticide in early modern Europe: the deed was unnatural. The English moralist William Gouge, whose views on the nature of parental love are quoted at the head of this essay, described infanticidal mothers as “lewd and unnatural.” The clergyman and gentleman who reported another Essex case to the authorities in 1645 wrote of it as “an unnatural and barbarous murther.”² Elsewhere in early modern Europe infanticide took its place among those crimes which were regarded with peculiar horror—witchcraft and heresy, parricide, incest, sodomy, arson, and murder (including infanticide); the *cas énormes*, *heinous crimes*, or *delictos atroces* which were “taken to constitute, *ipso facto*, a challenge to the established political, religious or social order.”³ So horrid did the crime of infanticide appear in the eyes of European jurists that it was frequently singled out as meriting especially appalling punishment. In late medieval France burning or burial alive, sometimes accompanied by additional torments, was the fate of convicted murderers of infants. In the

Holy Roman Empire the criminal code published by the Emperor Charles V in 1532 followed medieval German precedents in prescribing death by burial alive, drowning in a sack, or impaling, punishments which were replaced by decapitation after torture in the seventeenth century.⁴

Such punishments reflect both horror at a crime deemed odious in the sight of God and a perceived need for exemplary retribution which would dissociate the Christian community from such wickedness and cleanse it of guilt. That a crime so unnatural might be the result of an unbalanced mind was also recognised, but it was long before this alternative explanation of infanticide prevailed over punitive severity in the courts of Europe. In fifteenth century France, mental disturbance was one of the grounds on which mercy might be granted to women convicted of infanticide, if only after long imprisonment. In the later sixteenth and seventeenth centuries, however, such clemency was actually more difficult to obtain for infanticide than for witchcraft. Similarly, in England, the law allowed that a person *non compos mentis* should not be charged with felony for homicide, and cases survive in which such a defence was successful. Yet there are equally clear cases of the condemnation and execution of women who were almost certainly victims of severe psychological disturbance.⁵

Explanations of infanticide in terms of either human iniquity or psychiatric disorder turn upon the connected ideas of infanticide as an unnatural and irrational act. Within the cultural tradition of Christian Europe both responses may appear to have been appropriate. Yet they are not wholly adequate to the understanding of infanticide in European history, for there are situations in which social circumstances, coupled with the absence or relative weakness of cultural and legal restraints, may render infanticide both a natural and a rational response to the problem of the unwanted child. It is well established that infanticide has been extensively practiced in human societies as a form of population control or demographic selection. Among the Tikopia of Polynesia population was carefully "measured according to the food" by the smothering of unwanted children at birth. In eighteenth century Japan, infanticide was employed not only "to thin out" populations pressing too heavily upon inadequate resources, but also as an element in what has been termed "household building strategy": a means of achieving the optimum size and sex composition of a family, a desired number of heirs, higher living standards and social prestige.⁶ Whether motivated by physical need and the pressures of a marginal existence or by social aspirations, infanticide has appeared a sensible and responsible solution to difficulties threatening the welfare of the larger group.

Nor were such circumstances unknown in the European past. It seems certain that the exposure of deformed, sickly and illegitimate children was

not uncommon in the Europe of antiquity. In addition, Athenian families of middling and upper rank were prepared, on occasion, to expose super-numerary children once the continuance of the line was assured, while the evidence of Hellenistic inscriptions suggests that some leading families were unwilling to raise more than one daughter. In Republican and early Imperial Rome, the right of life and death exercised over his children by the *pater familias* was enshrined in the ritual whereby he either recognised and raised up the newborn child laid before him or ordered its exposure. Among both wealthy families and peasant proprietors, preservation of the family patrimony from the burden of too many heirs appears to have been the principal motive governing such rites and actions.⁷

In the light of such considerations, the emergence of infanticide as one of the classical horror crimes of Christian Europe and its subsequent history and eventual reappraisal in European law become problems of considerable interest. For the history of infanticide provides examples not only of the processes by which crime is defined and redefined, but also of the complex interrelationships between law and social, moral and communal values. It is, moreover, a subject sufficiently well served by the specialized studies of recent historians of crime and of childhood to render worthwhile a new attempt to review the long term process of change, summarise existing knowledge and identify outstanding problems.

The initial identification of infanticide as a sinful and unnatural act and the proscription of the practice by law are customarily and correctly attributed to the influence of the early Christian Church. From the outset, the tradition of Judaeo-Christian thought was uncompromisingly hostile to the taking of infant life. Infanticide was repeatedly condemned by the councils and synods of the early Church, and their hostility was gradually embodied in legislation following the formal Christianisation of the Roman Empire. Between the years 315 and 451, for example, no fewer than eleven Christian emperors published edicts against infanticide, the crime being declared a capital offence in Roman Law in 374. Following the dissolution of the western empire, penalties for infant murder were also laid down in the Germanic and Hispanic law codes of the sixth and seventh centuries and in the Salic Law.⁸

The facts of the matter seem clear. Yet the persistent focus of the Church upon the problem of infanticide cannot be taken for granted, nor can it be explained solely as a clash between rabbinical traditions inherited and developed by the Church and the indigenous norms of societies in which infanticide was commonplace. Infanticide was practiced in Greek and Roman society, as we have seen; there is also evidence that it was permitted among at least some Teutonic peoples. Whether the practice was sufficiently wide-

spread to warrant the vigor of the Christian attack, however, remains uncertain. Some historians of the ancient world have questioned the extent to which infanticide was part of normal familial experience in Classical and Hellenistic Greece, while Roman society developed an independent morality hostile to the exposure of unwanted infants in the teaching of such Stoics as Musonius Rufus; and we have the testimony of Tacitus that infanticide was not common among the tribes of Germania.⁹

Given such uncertainties, we are justified in considering additional reasons for the early Church's preoccupation with infanticide in the centuries preceding and immediately following the Christianisation of the Empire. One such may have been the attribution to infanticide of a special symbolic significance in the struggle between the Church and a tenacious paganism. Christians themselves had not been immune from charges of practicing infanticidal rituals of their own, accusations which they fiercely rejected. In the course of such controversies it may be that hostility to infanticide, like the rejection of pagan sorcery, became central to differentiating Christian from pagan. This is suggested by the polemical work of Justin Martyr who, about 150 A.D., contrasted Christian morality with that of the infanticidal pagans who killed or abandoned their children.¹⁰ It was perhaps in such polemics that infanticide began to acquire the resonance of particular enormity that was later to be characteristic of its place in European law.

This long-term shift in attitudes and values remains obscure and deserves further investigation. It seems probable, however, that the gradual triumph of Christianity did much to enhance the security of infant life. Though the restraining force of the teachings of the Church may have been slow to develop its full strength, it seems unlikely that the systematic exposure of legitimate children (if it had ever been commonplace) long survived the effective Christianisation of European societies and the enshrinement of Christian values in law and custom. Nevertheless, that process left in its wake a persistent tension between the ideals taught by the Church and the needs of particular families, needs which might on occasion prove sufficiently urgent to break the restraints of morality and law.

Awareness of this tension led the medieval Church to view with suspicion the apparently accidental deaths of children overlain by their parents during sleep. An example is provided by the case of Stephen Tyler and his wife Joan, who were cited before the court of the Bishop of Rochester in 1454 for having "smothered their daughter [who was] lying between them in bed." Such cases were regarded by the Church as the result of culpable negligence and were seriously investigated, both parents usually being called to answer before an episcopal court. The extent to which they represent deliberate infanticide, however, is open to debate. Trexler, in a study of early

sixteenth century cases heard by the Bishop of Fiesole, has concluded that “there are simply too many cases to suggest that most of them dealt with accidental, unintentional suffocations.” This interpretation, however, may appear too harsh when one considers that the bishop of this populous Tuscan diocese dealt with only four to six such cases a year on average. Similarly, the episcopal courts of the Province of Canterbury saw only a handful of cases per year in the fifteenth century, and their historian is inclined to accept the judgement of contemporary churchmen that they were accidental products of the living conditions of the day rather than instances of deliberate infanticide. The Church and later secular authorities warned against overlaying and took action against negligent parents, but did not regard them as murderers. Other apparently accidental deaths of young children are recorded in medieval English coroners’ inquests. To Kellum, many of them suggest “homicidal neglect.” Hanawalt, on the other hand, considers them genuine accidents and concludes that “concrete evidence of infanticide is still lacking.”¹¹

Where unambiguous evidence of infanticide is available, in the records of the criminal courts of late medieval and early modern Europe, it relates much more narrowly to one kind: the killing of illegitimate children. Such evidence permits, for the first time in European history, a thorough investigation of infanticide. It also raises the disturbing possibility that if Christian social morality had done much to overcome the practice of infanticide motivated by considerations of communal or familial interest, it may have exacerbated resort to it to avoid the stigma of illegitimacy.

The need to conceal illegitimate births or dispose of illegitimate offspring had its place in the history of infanticide from the earliest times, but from medieval times these motives clearly predominate in surviving historical evidence. The first asylum for exposed children, established in eighth century Milan, was intended primarily for the relief of bastard children. The records of thirteenth century exposure and abandonment cases make it clear that most of the infants concerned were illegitimate. In Germany, France, England, Scotland, Sweden, Russia and the Netherlands, women tried for murdering their children between the fifteenth and the nineteenth centuries were overwhelmingly either single women or widows, and their children illegitimate. A series of remarkably similar laws was enacted in European states between the early sixteenth and the late seventeenth centuries for the suppression of the crime. Each laid down that mothers of bastard children who had concealed their pregnancy would be assumed, should their children be found dead after birth, to have killed them. The English act of 1624 is an example. The preamble argued that “many lewd Women that have been delivered of

Bastard children. . . doe secretlie bury or conceale the Death of their Children and after if the Child be found dead the said Women do Alleadge that the said Childe was borne dead; whereas it falleth out sometymes (although hardlie is it to be proved) that the said Child or Children were murdered by the said Women their lewd Mothers or by their assent or procurement." The act, in a unique reversal of the usual presumption of innocence until guilt is proven, laid down that any mother of a bastard child who concealed its death would be presumed guilty of murder, unless she could establish by the oath of at least one witness that her child had been stillborn.¹²

Like the harsh laws intended to suppress the crime, the circumstances of the killings of bastard children by their mothers were remarkably similar across Europe and over time. The unmarried woman would conceal her pregnancy, helped by the ample nature of traditional female dress. She would give birth in secret and, having delivered the child herself, kill it and dispose of the corpse. Recorded cases generally arose from lack of success in either bearing the child secretly or concealing its body. A representative case was cited by the seventeenth century English obstetrician Percival Willughby. A young woman of Hampton Ridway, Staffordshire, attempted to conceal her pregnancy although she shared a bed with her sister. She bore her child at night in an outhouse, killed and buried it and returned to bed. She was, however, "mistrusted by her neighbours" and a woman was sent to examine her, upon which she confessed. She was hanged at Stafford in March 1670.¹³

What motivated these women? The answer is succinctly given in the English act of 1624, which speaks of their desire "to avoyd their shame and to escape Punishment." In most of Europe the consequences of bearing (as distinct from begetting) a base child were potentially, and often actually, socially disastrous. A bastard birth dishonored the individual mother and in some societies her family too. The stigma of illegitimacy in seventeenth and eighteenth century Languedoc, for example, is strikingly evidenced by the fact that, contrary to the usual custom, the kin of unmarried mothers would not act as godparents of bastard children. Godfathers had to be found among officials with whom the wretched mother had come into contact during her pregnancy and delivery. Godmothers were often other unmarried mothers met at the midwife's house or the lying-in hospital.¹⁴

In addition to the possibility of rejection by family and friends, the pregnant single woman also faced the likelihood of public humiliation by the Church and sometimes further punishment by officers of the state. Both possibilities became likelier from the sixteenth century on, when, in the aftermath of the Reformation and Counter-Reformation, both Catholic and Protestant nations witnessed an intensification of social regulation aimed at the reformation of popular manners. In France from the sixteenth century

curés were expected to report illegitimate pregnancies to the authorities, leading to a searching interrogation, then to a public *déclaration de grossesse*. In Germany unmarried mothers were automatically excommunicated and readmitted to the Christian community only after a humiliating penance. The Kirk Sessions of Presbyterian Scotland and the arch-deaconry courts of Anglican England also enforced public penance for illegitimacy, while in the latter country Justices of the Peace might in some instances order the corporal punishment of bastard-bearers or their incarceration in a House of Correction.¹⁵ If all this was not enough, the unmarried mother was likely to lose her livelihood (especially if, as was common, she was a servant), and since provision for her was at best uncertain, she faced the prospects of poverty, isolation, vagrancy and perhaps prostitution.¹⁶

These dangers, quite apart from the probability of further punishment, drove some women to kill their children, as they vividly testified. Jeanne Pion hid her pregnancy in 1450 "for fear, doubt and shame," being particularly apprehensive of the reactions of her mother, stepfather and brother. In 1473 Jeanne Hardouyn, aged 24, killed her child "fearing the shame and contempt of the world." Two centuries later an Essex servant girl hid her pregnancy and bore her child in silence in the room she shared with her mistress: "it would have been bine a griefe unto her freinds if she should have discovered it. And the other cause was that she feared she should not have bine relieved if she had made it knowne that she was with child." To another English servant girl the discovery of her pregnancy in 1737 spelt "certain ruin to her for life."¹⁷

These women cogently expressed their shame and anxiety but left unanswered the question of why only a small minority of pregnant single women chose to conceal their pregnancies and kill their children. Malcolmson has suggested that women formerly of excellent reputation, even possessed of unusual strength of will and determination, might be those most tempted to salvage what they could by concealment and infanticide. It is an intriguing possibility and may be true of those women who intended from the outset to dispose of their unwanted children. In most cases, however, a more satisfactory explanation may lie in the findings of a recent Swedish study which suggest that the infanticidal mother was more likely to be a person peculiarly isolated in society and bereft of any help or support in pregnancy or motherhood.¹⁸ For many there may have been a chain reaction set in motion by an initial concealment of pregnancy resulting more from confusion than decision. The final infanticidal impulse may have come only after an exhausting and emotionally devastating secret birth. Some may have been temporarily unbalanced by the experience, like the London girl hanged in 1688 despite her plea that at the time "she had not her Senses and

was Light-headed.”¹⁹ Others may have been forced at last to choose between abandonment of the child and infanticide and found the latter the more practical alternative.

Whatever the case, the records of this most conspicuous form of infanticide carry a significant implication. They suggest that the crime sprang not from the persistence of norms alien to the conventional morality of Christian Europe, but rather from the fact that those norms and the sanctions which upheld them made so deep an impression upon the minds of pregnant (and often servant) women, most of whom were scarcely moral delinquents. The popular culture of much of Europe allowed a degree of sexual contact during serious courtships, and bridal pregnancy was common enough. But license stopped short when mistaken trust, disappointed hopes, or foolishness turned a potential pregnant bride into an actual bastard-bearer. The known consequences were sufficiently disproportionate to the offence to terrify some who faced unmarried motherhood alone into concealment and worse.²⁰

The best documented form of direct infanticide in Europe between the fifteenth and the nineteenth centuries can thus be attributed largely to the very strength of the social sanctions, informal and formal, which served to uphold conventional morality. How common were such cases? The records of the courts would suggest that they were surprisingly rare. Hanawalt found only two cases of infanticide among the records of over 4,000 late medieval coroners' inquests for four English counties. In sixteenth and seventeenth century Nuremburg, only 42 cases were reported to the city authorities. A study of homicide indictments in the English counties of Sussex and Hertfordshire between 1559 and 1625 produced only 50 infanticide trials. Similarly, in the populous county of Essex in the period 1601–65, there were only 60 known cases, originating in 53 different parishes, some 14% of the parishes of the county. The Parlement of Paris dealt with some 2,000 appeals in infanticide cases in the years 1565–1640, a seemingly large number. Yet when we remember that this court exercised its appeal jurisdiction over a large part of the densely populated kingdom of France, including some 500 inferior court jurisdictions, the figure is less impressive. In eighteenth century England, infanticide cases in the areas so far studied (including London) scarcely averaged one case per year. In the *présidiaux* of Brittany in the same period one or two cases a year was the norm, while in Amsterdam only some 24 to 30 cases were tried in the period 1680–1811.²¹

Given the relatively small numbers of infanticide cases recoverable from criminal records, one might wonder why such an apparently infrequent crime attracted so much attention from contemporaries, and why indeed it

was the object of such Draconian laws. There are several answers to this question. In the first place, infanticide had become established as a horror crime, akin to sodomy or witchcraft in the repulsion and loathing which it commonly evoked. It was a crime to be weighed rather than counted, and in consequence we should not expect any necessary relationship to exist between public concern with the crime and its actual incidence. Moreover, for the same reason, it was a crime which attracted publicity. The Essex clergyman Ralph Josselin was aware of the full details of a case in a nearby village in 1655 within a day of the event and was sufficiently shocked to enter in his diary a prayer that "the lord keepe mee and mine from any such wickedness." In the eighteenth century, newspapers assiduously reported the details of cases to a public torn between horror and fascination, thereby stimulating public awareness.

Even before the advent of the popular press there were more dreadful means of publicity. Infanticide cases, though infrequent in absolute terms, might form a relatively high proportion of all homicide cases (though these in turn were a small component of the business of the courts). In sixteenth and early seventeenth century Essex, Sussex and Hertfordshire, infanticide accounted for between 18.6% and 21.7% of all extant homicide indictments, while in eighteenth century Staffordshire the figure was 25%. Given the ease with which guilt could be proved under the discriminatory concealment laws, infanticidal mothers also made up a substantial proportion of all persons publicly executed. In the late sixteenth and early seventeenth centuries some 10 to 20% of all executions ordered by the Parlement of Paris were for infanticide. In eighteenth century Sweden infanticide was only one of 68 capital crimes in the laws, yet in the years 1759–78 it accounted for 217 of 617 executions (35%). Frederick the Great informed Voltaire in 1777 that in the Kingdom of Prussia infanticide was the most common single cause of executions, some 14 or 15 a year.²²

In a period such as the sixteenth and seventeenth centuries, when the legislators of many European states were preoccupied with the suppression of ungodliness, it is easy to see why such an emotionally charged and widely publicised crime as infanticide was singled out again and again for special treatment. The very nature of the concealment laws then adopted, however, also demonstrates a persistent suspicion that many cases of infanticide escaped prosecution. Of all forms of homicide, infanticide was perhaps the easiest to conceal. The image of latrines, drains and rivers echoing to the cries of infants cast into them to hide their mothers' shame was a popular one with the preachers of early modern France. Nor was it without foundation in fact. When a drain was uncovered following the fire of 1721 in Rennes, over eighty infant skeletons were recovered. In eighteenth century

Amsterdam the paucity of infanticide trials in the court records has been revealingly set against the discovery each year of the corpses of several newborn babies in the canals and public *secreten*. The numbers of such corpses increased markedly in the later decades of the century, when illegitimacy rates rose rapidly throughout western Europe. The sight of infant corpses on the dunghills of eighteenth century London was yet further disturbing evidence of the extent of infanticide (though it has been argued that at least some of these were children who had died naturally, whose parents could not afford the costs of their interment).²³ Many cases of infanticide may have escaped discovery and prosecution. Unmarried mothers could, as we have seen, bear their children in secret and with luck a well concealed corpse might remain undiscovered, or at least fail to be traced to the mother. This was perhaps more possible in great cities than in small country villages where the attentions and suspicions of neighbors were more easily aroused. How frequently this may have occurred it is simply impossible to say. Finally, in some areas sympathetic neighbors might even have turned from or condoned the dread solution.

However, it is also true that some of the women tried and condemned for the crime were innocent. The harsh laws of the early modern period not only failed to distinguish between premeditated infanticide and acts of unbalanced mothers, but also permitted the condemnation of women who, having concealed their pregnancies, gave birth to stillborn children. It is an established fact that illegitimate children are born prematurely with higher frequency as a result of inadequate prenatal care, and this alone significantly increases infant mortality. How much more might this have been so among mothers who concealed their pregnancy? The phenomenon of high rates of premature stillbirths among unmarried mothers was explored by one nineteenth century German doctor. Having considered the hypothesis that infanticide was being practiced, he rejected it and concluded that poor prenatal care and childbirth procedures were to blame. Such factors were rarely considered by the courts of early modern Europe. Percival Willughby recorded the case of a "Naturall foole" who miscarried her illegitimate child while alone. Despite his evidence at her trial, the judge insisted on the letter of the statute of 1624, the jury obediently found her guilty, and "she was, afterwards, hanged for not having a woman by her at her delivery." Some juries, however, were sympathetic to a woman's plight and refused to find her guilty. As the foreman of a Derby jury which acquitted a woman in 1647 remarked, "he thought it no reason that a woman should be hanged for a mistaken harsh word or two in the statute."

In order to avoid both judicial errors and contempt for the law, increasing emphasis came to be laid in infanticide trials upon tests to determine

whether a child had been born alive, and upon evidence that its mother had intended it to live. If the lungs of the child failed to float in water, it might be concluded that it had never breathed. If its navel was tied, this was taken to be proof that there had been no murderous intention, while even the preparation of child-linen by a mother might serve to acquit her of criminal intentions. If the child's body was marked, however, this might be damning evidence that force had been used. The increasing weight given to such considerations in England and the gradual shift of public sympathy towards women accused under the concealment laws were such that whereas in early seventeenth century Essex only two-fifths of women tried for infanticide were acquitted, the acquittal rate in eighteenth century Middlesex and London had risen to approximately three-quarters of those tried.²⁴

Growing unease over the harshness of the law and concern for the plight of the infanticidal mother, from the later eighteenth century, set in motion the process of legal reform and fostered the conviction that temporary mental disturbance was the overriding cause of infanticide. From the 1770s, capital punishment for infanticide was gradually abolished in the major states of continental Europe. In Britain, where it was long retained, reprieve became virtually automatic for those convicted, the last execution for the crime taking place in 1849.²⁵ Such shifts in social and judicial attitudes, however, did not affect the stubborn persistence of infanticide in its classical form wherever the social stigma of illegitimacy and the informal social sanctions against the unmarried mother retained their traditional force.²⁶ The virtual elimination of infanticide in its classical form undoubtedly owes more to the gradual softening of attitudes towards illegitimacy, the availability of effective contraception and abortion,²⁷ and the growth of welfare and adoptive institutions to ameliorate the position of the unmarried mother, than to changes in the attitude of the law.

From the mid-nineteenth century however, the attention of legislators was less upon the killing of illegitimate children by their mothers than upon a form of indirect infanticide which had long existed, yet had been little noticed by the law: the problem of what can be termed "infanticidal nursing." As early as the end of the twelfth century Thomas of Chobham had included in his catalogue of infanticidal practices the refusal of mothers to nurse their own children. In his opinion, one frequently echoed by doctors and moralists in the early modern period, children thrive best on their own mothers' milk.²⁸ (This view has the support of modern evidence.) Children put out to nurse by their parents commonly suffered substantially higher rates of infant mortality than did children nursed by their mothers at home, partly as a result of inadequate child care, partly because "nurslings" were