Infanticide is the killing of an infant, a child under the age of one year. Although the perception of infanticide holds some cultural variation throughout the world, the English Infanticide Act (1938) is clear; infanticide is defined as the killing of a child within 12 months of birth by the mother of the child.

This perspective of English law is also found in the legislation of some of the states of Australia, such as New South Wales, Western Australia, Tasmania, and Victoria. In Canada, under the Criminal Code of Canada, Part VIII: Offences Against the Person and Reputation Section 233, “A female person commits infanticide when she causes the death of her newly born child.” In Asian countries, infanticide is not always the result of action by the mother. Rather, the decision for the killing may well be communal, such as a decision of the village, extended family, or the husband. Very few Asian countries, such as China, have clearly stated legislation prohibiting infanticide and even those that do, such as India, have practical difficulties implementing the law. The United States has no specific infanticide legislation; rather, the killing of children is dealt within the wider context of homicide law. Offending mothers face potential execution, although in most instances convicted mothers are granted suspended sentences.

Many cultural and religious factors contribute to the practice of infanticide, and much has been written about the practice of infant killing within a cross-cultural context. Although the belief persists that some cultures, such as the Chinese, are more accepting of infanticide, it is much more likely that such perceptual differences and tolerant practice toward infanticide are attributed to the prevailing stressors of the time, including those due to traditional cultural mores, religious orientation, sexual inequality, economics, and differing or changing standards of individual rights. With improved education and a modern worldview, the modern Chinese are just as abhorrent of infanticide as any other culture. In the following discussion the reasons for infanticide are presented within a historical context and within the changing contemporary experience.

**Infanticide in Historical Context**

The practice of killing children can be traced to prehistoric times and religious literature, including the Bible, which provides many examples of infanticide. In ancient Babylonian and Chaldean civilizations, abnormal infants were thought to be the offspring of witches and animals and were left to die by the
In what is perhaps the earliest practice of eugenics recorded, during the dominant period of the Greeks and Romans, and particularly among the Spartans, deformed or weak infants were readily killed. In the Biblical story, the child Moses may have been abandoned in the river as an act of attempted infanticide. Indeed the abandonment of Romulus and Remus at the fabled origin of Rome may also have been attempted infanticide. In ancient China, folklore describes the deadly struggles among the Emperor’s concubines for his favor. Such struggles often were intricate conspiracies involving court officials and eunuchs plotting to kill the Emperor’s offspring in an effort to manipulate the succession to the throne. Other stories tell of the kidnapping and killing of young infants in a quest for the elixir of immortality.

History reveals periods where child killing appears to be related to “religious” practice. Such sacrifices were offered to appease angry gods in exchange for a good harvest or in gratitude for victory in armed conflict. The Aztecs offered children in sacrifice to the Rain God Tlaloc. The Incas sacrificed the young in return for fertility. East African tribes sacrificed their firstborn for a bountiful harvest. The Bible, in 2 Kings 6:28, tells of the King of Israel agreeing to boil his son to provide food to relieve a famine resulting from a siege in Samaria by the King of Syria. This act is in many ways intertwined with the notion that children are the property of their “household head,” as found in the Roman doctrine of patria potestas. Taken to its extreme, a child's right to life lies in the hands of the household head, and in many ancient societies this paternal right is absolute. This paternal right is manifested in the decree of the king or emperor, the local chieftain, the village elder, the clan’s elder, and, of course, the biological father. Even in modern times, this notion continues to dominate in some Asian and African communities where the child is expected to fulfill the wishes of their parents. In China, the ancient concept of “filial piety” proposed by Confucius embraces this concept, and children are expected to bow to the wishes of their parents. This Chinese version of patria potestas extends to modern times, where neighbors stand by watching a child be beaten to death by his or her parent for some perceived wrong the child committed.

With the development of the large urban communities and industrial economies, children and women ironically became even more dependent on the male provider and protector, and the practice of infanticide increased in the early phases of industrialization.

Over time and with the rise of Christianity and industrialization, a social climate emerged that caused unwed mothers to face both religious and social sanctions. The “Enlightenment” had not improved the plight of the unwed mother, but had added an extra layer of sanctions. Unwanted newborns were disposed of regularly. Abandonment, overlaying, and drowning became common methods used to kill infants. Overlaying is a situation where the young child dies of suffocation by the clothing and body of its mother while sharing the same bed. Such events were often reported as “accidents and tragic,” but were suspected to be intentional suffocation by many doctors. Eventually the Catholic Church reacted, becoming the first institution to institute penalties by calling overlaying a sin. States reacted with the introduction of stiff penalties, and ideas relating to child advocacy spread; neighbors intervened thereby saving infants and children from death.

**Legislating Against Infanticide**

Early legislation introduced to punish infanticide was harsh; women found guilty of killing their newborn were often put to death. Sacking, a form of execution, was particularly barbaric. In sacking, the woman was placed into a sack that was tied and thrown into a river or sea. This practice spread everywhere.
and is frequently re-enacted in Chinese films and television dramas, although it appears to be used more as a punishment for adultery.

Russia was the first country to adopt a more humane attitude toward the problem of unwed mothers and infanticide. By 1888, all European countries except England had made legal distinctions between murder and infanticide by making infanticide punishable with more lenient penalties. Finally, in 1922 and later in 1938, England passed the Infanticide Act, which remains to this day. The 1938 law was improved and was the first time that the age of the child was extended to 12 months, which was an improvement on the 1922 act, which merely stated the "newborn." The introduction of the English law was perhaps a result of the frustration of the legal authorities of the day. Because of the frequency of unwed motherhood and the strong social taboos of the time, the reasons for the killing of an illegitimate child were not lost on the juries of the day. Frequently, juries refused to convict the mother despite the evidence of such an act of killing. Juries formed a view that the postnatal woman could not have formed the legally required mens rea (criminal intent). The authorities in England realized that the existing homicide laws were out of synch with the lay public, as it made no distinction between such "tragic" deaths and the other "heinous" crime of intentional killing. In a sense, infanticide legislation was a product of societal sympathy for women who were deemed to have been exploited and then abandoned by the child's father.

Another reason for the empathetic approach taken by juries was the nature of the evidence. In the 19th century, medical and forensic knowledge was in its infancy. The determination of live birth was by way of the "flotation test" method, which involved the removal of a lung or lung tissue from the dead infant and dropping this into a jar of water. If the tissue floated, it was deemed that the infant was born alive because there is air in the lungs that allowed the lung to remain afloat. This test was subsequently totally discredited but was nevertheless employed, and the results used as evidence upon which countless numbers of mothers were sentenced to death.

**Actus Reus and Mens Rea**

The actus reus (guilty act) of killing of a child is clear and rarely a source of confusion. It is in the mens rea of the offender, namely the mother of the child, where many variations can be found. The English Infanticide Act (1938) provides the basis for discussion of the mens rea concept. The central premise of this piece of legislation is that "... the mind of the woman (mother), at the time of the act of killing, was imbalanced due to the effects of not having fully recovered from birth or by reason of the effects of lactation." In effect, the law provides a case for the offender (the mother) by deeming her to be mentally unsound and, therefore, incapable of forming criminal intent to kill. Thus, the perpetrator cannot be prosecuted to the fullest rigors of the law on homicide. In effect, the law on infanticide effectively limits the legal charge to manslaughter as opposed to murder. Furthermore, this legislation removes the need for the courts to deliberate the presence or absence of the mother's intent by presuming that she was mentally incapable of forming intent to kill. Supporters of the Infanticide Act argue that this is a sympathetic and humane piece of legislation that shows empathy for the many social and cultural taboos that may affect women, particularly those faced with an unwanted pregnancy. Opponents state that this legislation represents a death sentence for children who had the misfortune of being unwanted.

In modern society it is difficult to understand why a mother would kill her child; it is easier to conclude that she must be suffering from some kind of mental illness. The remedy for such an act is often the
rendering of psychiatric care and rehabilitation. In contrast, fathers (or anyone other than the mother) involved with killing an infant will be charged with murder, with severe punishments if convicted.

In practice, the police, public prosecutors, and social workers effectively employ any evidence to support the assumption that the mother must have been mentally affected. One example is shaken baby syndrome, where a young baby is killed or suffers severe neurological damage as a result of violent shaking by an adult. One explanation for this act is attributed to the chronic stress and fatigue associated with child care, leading the caregiver to lose control and, during a period of intense frustration possibly triggered by incessant cries of the infant, violently shake the baby. Where this involves the mother, those sympathetic to her argue that the reason was her immaturity, emotional instability, and lack of support for a young, inexperienced mother. Others less sympathetic argue that it is a blatant act of violence intended to cause death or serious injury to a defenseless child.

Even in modern times, the crime of infanticide carries a certain amount of empathy if not social sympathy. Men thought to be irresponsible lovers are blamed for placing the vulnerable woman in such a desperate predicament. This applies equally in matrimony, where the husband may be blamed of his inadequate financial support and absent emotional assistance to his wife and children, such inadequacies being accepted as a “probable” cause of the mother's poor mental well-being, rendering her incapable of caring for her own child or killing her own child. When a dead child is found, an inquest is often held, but no formal charges, not even infanticide, are laid. The authorities prefer to use any possible suggestive evidence to label the child as a stillbirth.

Female Infanticide
A recent report by the United Nations highlights the epidemic of female infanticide. This epidemic is particularly prevalent in countries such as India, China, and Korea, but is found in many of the other Asian countries as well. In these countries, infanticide is a part of the cultural heritage of the past, in which a strong traditional view of male dominance continues to hold sway. Infanticide also is thought to be a product of a rapid improvement in economic status. The cultural ethos is that males are rightful heirs of not only family fortune, but also of the family's name. Females are looked upon as a burden upon the family's resources, as she will eventually be married and will then be expected to carry the name of her husband.

Many of the historically identified reasons for infanticides still prevail in the contemporary experience. In rural areas, where many of the people live in poverty, the “unwanted” female addition to the family is resolved by killing the child. Scarce resources are saved for a male child. In countries such as China, where strict population control is exercised, the often stated “one child policy” (which began in 1979 and remains today) means that, for many families, the limited opportunity to have a child should not be “wasted” on a girl. The female child is deemed incapable of carrying on the family name and also not allowed to inherit the family land, for example. Hence, it is believed that many female newborns continue to be abandoned or killed shortly after birth.

Technology also indirectly plays a role in female infanticide. Given the nature of modern medical technologies, acts of female infanticides may be decreasing, but only because of options such as the early abortion of the female fetus. In urban India, for example, even without strict population control policies like those in China, the knowledge that the unborn fetus is female triggers anticipation and anxieties of required large dowries accompanying the marriage of a daughter, leading to the aborting of the female fetus or the killing of the newborn female if an abortion had not succeeded before the birth.
of the female child.

But nature has an innate way of dealing with the excesses of the human species. Female infanticide cannot be sustained or the human race will die. As it is, economists, politicians, and national leaders are beginning to highlight the potential biological and social consequences that sex selection, preference for a male child, and the subsequent imbalanced sex ratio that the strong desire for a male child can create. Indeed, this imbalance is already being witnessed in large Asian urban areas with a concomitant rise in deviant behaviors.

With education and an increased awareness of human rights and sexual equality, there is hope that infanticide will decrease in the future. Some evidence is available to support this contention and can be found in the increasing numbers of families that chose to have only one child regardless of the sex of the child. Other evidence points to existing monarchies around the world that appear willing to facilitate changes in ancient cultural rules and mores to allow for a female heir to continue the royal line.

See also
Abortion, Angel Makers, Causes of Death, Contemporary, Causes of Death, Historical Perspectives, Homicide, Infanticide

Further Readings


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