

Infanticide in Early Modern Germany: the experience of Augsburg,  
Memmingen, Ulm, and Nördlingen, 1500-1800

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### Abstract

Between 1500 and 1800, over 100 women and men were arrested for infanticide or abortion in the city of Augsburg in southern Germany. At least 100 more were arrested for the same crime in the three smaller cities of Ulm, Memmingen, and Nördlingen. Faced with harsh punishments as well as social stigma if found pregnant out of wedlock, many women in early modern Europe often saw abortion or infanticide as their only option. At the same time, town councils in these southern German cities increasingly considered it their responsibility to stop this threat to the godly community and to prosecute cases of infanticide or abortion and to punish (with death) those responsible.

The story of young, unmarried serving maids committing infanticide to hide their shame is well-known, but does not fully encompass the entirety of how infanticide was perceived in the early modern world. This work argues that these cases must be understood in a larger cultural context in which violence toward children was a prevalent anxiety, apparent in popular printed literature and educated legal, medical, and religious discourse alike. In the sixteenth and seventeenth centuries, this anxiety was expressed in and reinforced by woodcuts featuring mass murders of families, deformed babies, and cannibalism of infants by witches and other dark creatures. By the end of the eighteenth century, infanticide was at the center of enlightened debates about sexual crimes, torture, and the death penalty. Infanticide became a *cause célèbre* in spite of the relatively low, and declining, numbers of occurrence.

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## Introduction

On the 20<sup>th</sup> of December, 1710, twenty-year-old Samuel Keck was executed in the city of Augsburg. His head was severed from his body and the body then strung up on a wheel, and left on display for a month. On the 7<sup>th</sup> of that month, Samuel had gotten into an argument with his pregnant lover, Jacobina Bäurin. She informed Samuel that he was the father and that she was going to publicly name him as such—presumably so he would marry her. At this news, Samuel flew into a rage and stabbed Jacobina multiple times, killing her and the fetus in her womb. Samuel then took the body to the water—probably the Lech river—and threw her in. He then fled to a friend's house. Upon discovery of Jacobina's body, a call went around the city to find the murderer. Samuel told his friend what he had done and his friend refused to hide Samuel for fear that he, too, would be held culpable.

At this friend's house, Samuel had a change of heart. He returned to the city, where, as it was now night, he found the gates closed. After begging the guard to be let back in, explaining that he was the murderer for whom everyone was searching, he confessed to the council all of his misdeeds. He told the councilmen how upset he was to hear of Jacobina's pregnancy. He said he knew he had done wrong by having sex with her, and was ashamed of his actions. He had not wanted anyone to find out what they had done. When Jacobina threatened to expose him as the father, Samuel had felt overcome by this fear, and killed her before he could even think about his actions.<sup>1</sup>

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<sup>1</sup> StadtAA, *Urgichten*, Samuel Keck, 20 December 1710.

That Samuel Keck killed Jacobina Bäurin was bad enough. But the murder of his own unborn child was particularly unforgivable in the eyes of his contemporaries. Samuel had sinned by fornicating with Jacobina. When this sin resulted in a pregnancy and threatened to turn his life upside-down through shame and the burden of responsibility for another, his selfish nature took over and he committed the murder. His poor son or daughter, the town councilors thought, had never had the chance to breathe, or, more importantly, to be baptized. Samuel had placed his own honor and well-being before the life of his child. Only by facing execution with a proper dose of guilt and remorse could Samuel begin to atone for what he had done and the rightful order of the community be restored.

Samuel Keck was executed with a great deal of fanfare and public attention. Behind this sensation lay not just the brutal murder of a young woman, but also that of Samuel's unborn child. Samuel Keck was a child-killer, unnatural and monstrous. The labeling of Samuel Keck as a child-killer—a designation seen in the court records and in the print media which recounted his story—connected him to a much larger discourse in the early modern world. This discourse on infanticide rose to a feverish pitch again and again throughout the early modern period. Infanticide was a *cause célèbre*, a crime exceeded only by witchcraft in the sway it had over the early modern imagination. Infanticide was fascinating because of the many titillating ideas it encompassed: sex, seduction, secrecy, and the spilling of innocent blood.

But Samuel Keck's case differed from the most common narrative of infanticide, a narrative which shaped early modern understandings and treatments of the crime as

well as later historical definitions of the crime. Infanticide was most often understood as a crime committed by a poor, young, unmarried woman, who had been seduced by some scoundrel who refused to marry her, who kept her pregnancy hidden from the judgment of others, who gave birth to her child in secret, and who finally killed her child, all to avoid the shame and other repercussions of bearing an illegitimate child. Indeed, many women, faced with dire circumstances, sought to hide their misdeeds and avoid the consequences and responsibilities of an illegitimate child through just such actions. An illegitimate child could mean the loss of employment, social status, income, support, and even domicile.

Infanticide was, for many, a brutal reminder that the godly communities that Protestant reformers sought to build were constantly under threat from immorality. It was seen as the direct result of the foolish and selfish choices of fornication and deception. Women pregnant out of wedlock who committed infanticide were the polar opposite of what women were supposed to be. They defied God, their local government, and their own families. By killing their own children, they even defied what were held to be their natural motherly instincts and feelings.

Between 1500 and 1800, over 100 women and men were arrested for infanticide or abortion in the city of Augsburg. At least as many people were also arrested during those years in the smaller imperial cities of Memmingen, Nördlingen, and Ulm altogether. The court records and various popular publications labeled all of these cases child-murder, but a closer examination reveals that this crime actually was understood on a variety of levels, with many personal, political, social, cultural, and religious



motivations and interpretations to untangle. Infanticide has taken on many forms in different cultures throughout history. It has not always been a crime, and it has been ascribed a wide variety of cultural meanings, from a method of limiting family size, to ritual sacrifice, to gender selection. The purposeful killing of newborns and the very young could be considered a crime or an honorable act, depending on the intentions of the killers and the meaning of the deaths to a particular society.<sup>2</sup> The discussion of infanticide in the context of early modern European history, however, usually operates under the assumption of a very particular definition: the murder of a newborn, illegitimate child by its mother.

When an unwed mother committed infanticide, it was appalling, although not particularly surprising to her contemporaries. The available literature makes it clear that society knew that story very well. However, Samuel Keck's story reveals that there is more to the story of early modern infanticide. It was clear to the town council of Augsburg in 1710 that Samuel Keck was not all that different from women who committed infanticide. But his case, or that of Matthes Erhart, who drowned his own one-year-old son in 1621, or the multiple married women who committed infanticide complicate the heretofore neatly-packaged story. A closer examination of the murder of children in early modern Germany reveals that infanticide was actually quite a varied and complex crime, and encompassed a range of actions, motivations, and cultural associations and meanings. I intend to challenge the easy assumption that it was simply a crime of unmarried women and to expand the scope not only of what might be labeled as

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<sup>2</sup> For examples of this diversity, see *Infanticide: Historical Perspectives on Child Murder and Concealment, 1550-2000*, edited by Mark Jackson (Burlington: Ashgate, 2002).

infanticide in the early modern period but also of the materials and sources that can contribute to an understanding of this historical problem.

Several studies from the past several decades have addressed infanticide in early modern Germany, but the majority of these studies have centered on the late eighteenth century, when infanticide was a popular topic of debate. Wilhelm Wächtershäuser's 1973 *Das Verbrechen des Kindesmordes im Zeitalter der Aufklärung* was one of the first modern historical works to treat infanticide within the early modern period as a unique and distinct crime. He places infanticide within the legal developments of the Enlightenment—in criminal law, practice, and legal philosophy—in a societal and cultural context.<sup>3</sup>

Otto Ulbricht wrote the seminal work in this vein with his 1990 *Kindsmord und Aufklärung in Deutschland*. In it he explores infanticide in the northern German territories of Schleswig and Holstein. Ulbricht examines individual cases of infanticide in this area but also places the local struggles within the context of the Enlightenment. He carefully analyzes the various reform initiatives and how these reforms were implemented. Ulbricht argues that there was a fundamental and significant shift around the middle of the eighteenth century toward a more sympathetic view of women who committed infanticide; this shift resulted in efforts to prevent and not just punish the crime.<sup>4</sup> Kerstin Michalik has also written a comprehensive study of infanticide:

*Kindsmord: Sozial- und Rechtsgeschichte der Kindstötung im 18. und beginnenden 19.*

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<sup>3</sup> Wilhelm Wächtershäuser, *Das Verbrechen des Kindesmordes im Zeitalter der Aufklärung: Eine rechtsgeschichtliche Untersuchung der dogmatischen, prozessualen und rechtssoziologischen Aspekte* (Berlin: Erich Schmidt Verlag, 1973).

<sup>4</sup> Otto Ulbricht, *Kindsmord und Aufklärung in Deutschland* (Munich: R. Oldenbourg Verlag, 1990).

*Jahrhundert am Beispiel Preussen* (1997). Her work is set in Prussia and takes the discussion about the legal changes involving infanticide, which started with the Enlightenment, into the nineteenth century. Michalik provides a thorough discussion of how infanticide laws evolved, especially in the context of the changing concepts of gender around the turn of the century.<sup>5</sup>

Scholarly work has also focused occasionally on other regions and time periods. In his concise but influential book, *Frauen vor Gericht: Kindsmord in der Frühen Neuzeit*, Richard van Dülmen explores an earlier period—the fifteenth through the seventeenth centuries—in three regions across Germany, Danzig, Nuremberg, and Würzburg. Van Dülmen illustrates one of the key puzzles in the history of early modern infanticide: that the imagine incidence of the crime far outstripped the actual rate. Van Dülmen also analyzes the inherent problems with the sources—that we can never know the true number of infanticides, and that this is further skewed by the increased reporting and prosecution of the crime beginning in the mid-sixteenth century.<sup>6</sup>

Many other studies of infanticide are short individual case studies, such as Franz Irsigler's essay, "Eva Zeihen aus Kenn, verbrannt am 19. August 1572: Kindsmörderin oder Hexe?"<sup>7</sup> Another full volume on infanticide in early modern Germany is *Vorehelich, Ausserehelich, Unehelich...wegen der großen Schande: Kindstötung im 17. und 18. Jahrhundert in den Hildesheimer Ämtern Marienberg, Ruthe, Steinbrück und Steuerwald*.

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<sup>5</sup> Kerstin Michalik, *Kindsmord: Sozial- und Rechtsgeschichte der Kindstötung im 18. und beginnenden 19. Jahrhundert* (Pfaffenweiler: Centaurus, 1997).

<sup>6</sup> Richard van Dülmen, *Frauen vor Gericht: Kindsmord in der Frühen Neuzeit* (Frankfurt: Fischer Taschenbuch Verlag, 1991).

<sup>7</sup> Franz Irsigler, "Eva Zeihen aus Kenn, verbrannt am 19. August 1572: Kindsmörderin oder Hexe?" in *Porträt einer europäischen Kernregion: Der Rhein-Maas-Raum in historischen Lebensbildern*, edited by Franz Irsigler and Gisela Minn (Trier: Kliomedia, 2005): 147-155.

This is a collection of essays by four authors: Katharina Schrader, Gerda Mayer, Helga Fredebold, and Irene Fründt. The book comprises case studies of twelve women accused of infanticide.<sup>8</sup> Such short case studies provide intriguing details, adding individual personalities to the hundreds of cases swept together in the broader studies; but the collection does not allow us to reach any wider conclusions about the entirety of the early modern period.

David Myers's *Death and a Maiden: Infanticide and the Tragical History of Grethe Schmidt* is the most recent example of a case study of infanticide. This book is a fascinating examination of how one case of infanticide in 1659 drew the attention of one of the most prominent lawyers in Brunswick, who came to the defense of the accused mother. Myers delves deeply into the story of Grethe Schmidt—who likely was never even pregnant, much less guilty of infanticide—in order to expose the complex relationships and competing jurisdictions of town, village, and duchy.<sup>9</sup>

Infanticide has also been studied elsewhere in early modern Europe, but the varying definitions and incidence of such crimes, and societal reactions to them, have suggested differing approaches in these other regions. For example, historians have focused far more on abandonment than abortion in places like Italy, where the practices of foundling houses meant that abandonment was a much more frequent occurrence and a

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<sup>8</sup> Katharina Schrader, Gerda Mayer, Helga Fredebold, and Irene Fründt, *Vorehelich, Ausserehelich, Unehelich—wegen der großen Schande: Kindstötung im 17. und 18. Jahrhundert in den Hildesheimer Ämtern Marienberg, Ruthe, Steinbrück und Steuerwald* (Hildesheim: Gerstenberg, 2006).

<sup>9</sup> William David Myers, *Death and a Maiden: Infanticide and the Tragical History of Grethe Schmidt* (Dekalb, IL: Northern Illinois University Press, 2011).

more pressing issue.<sup>10</sup> Across different European examples, small case studies remain a popular and effective means for entering the discussion.<sup>11</sup> Essay collections have proven to be particularly fruitful in the study of infanticide, allowing comparisons in methodology—especially between historians and anthropologists—and across vastly different geographical and chronological scopes.<sup>12</sup> In the end, we can identify certain similarities across early modern Europe; illegitimate children were an overwhelming burden for their parents, and options for unwed parents, while varied, were severely limited and often impractical.

The study of abandonment and neglect of children is closely related to that of infanticide, and several historians have addressed this issue in Germany and elsewhere. John Boswell's *The Kindness of Strangers* is one of the defining works on child abandonment, and his study covers much of Europe from antiquity through the early modern period. Boswell finds a rich and varied world in which children were abandoned, fostered, adopted, and sent to monasteries and convents.<sup>13</sup> Markus Meumann looks at abandonment and infanticide in Germany in his book *Findelkinder, Waisenhäuser, Kindsmord*, and Joel Harrington explores abandonment in Nuremberg, in particular, in

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<sup>10</sup> For an excellent survey of child abandonment, see John Boswell, *The Kindness of Strangers: the Abandonment of Children in Western Europe from Late Antiquity to the Renaissance* (New York: Pantheon Books, 1988). See also David Kertzer, *Sacrificed for Honor: Italian Infant Abandonment and the Politics of Reproductive Control* (Boston: Beacon Press, 1993).

<sup>11</sup> See René Leboutte's article, "Offense against Family Order: Infanticide in Belgium from the Fifteenth through the Early Twentieth Centuries," *Journal of the History of Sexuality* 2, no. 2 (October 1991): 159-185.

<sup>12</sup> See *Infanticide: Historical Perspectives on Child Murder and Concealment, 1550-2000*, edited by Mark Jackson.

<sup>13</sup> Boswell, *The Kindness of Strangers*.

*The Unwanted Child*.<sup>14</sup> What these historians have found is a complex web of relationships within early modern society in which unwanted children could find protection and nurturing or slip through the cracks. There were a variety of institutions designed both to care for these children and to find other arrangements for them as quickly as possible. Noble efforts at charity constantly butted against financial constraints and paternalistic notions of discouraging wantonness, selfishness, and irresponsibility.

Infanticide in early modern England has been particularly intensively studied. Certain similarities in the historical trends of infanticide lend themselves to helpful comparisons between England and the German-speaking lands: a very strong belief beginning in the sixteenth century that morals were on the decline and infanticide was on the rise, and the attribution of such ideas to the religious turmoil of the early sixteenth century. But scholars of early modern English infanticide also provide an important methodological counterweight to the many of studies in Germany because of their tendency toward a more literary approach. Historians studying infanticide in early modern England have frequently included published material from the earlier part of the period in their research, whereas in studies of Germany, such literary approaches have been limited to the eighteenth century. The reason for this lies partially in the late emergence of “higher” German literature, but both English and German historians have also ignored the more popular, cheaper literature of the earlier period. Laura Gowing, for example, has taken on the relationship between the popular literature of seventeenth-

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<sup>14</sup> Markus Meumann, *Findelkinder, Waisenhäuser, Kindsmord: Unversorgte Kinder in der frühneuzeitlichen Gesellschaft* (Munich: R. Oldenbourg Verlag, 1995). Joel Harrington, *The Unwanted Child: The Fate of Foundlings, Orphans, and Juvenile Criminals in Early Modern Germany* (Chicago: University of Chicago Press, 2009).

century England and actual reported cases of infanticide.<sup>15</sup> This discussion has also been taken up in a collection of essays edited by Jennifer Thorn, *Writing British Infanticide: Child-Murder, Gender, and Print, 1722-1859*,<sup>16</sup> and by Susan Staub in *Nature's Cruel Stepdames: Murderous Women in the Street Literature of Seventeenth Century England*.<sup>17</sup> Joy Wiltenburg has bridged this gap between the English and the German historiography with her book, *Disorderly Women and Female Power in the Street Literature of Early Modern England and Germany*, in which she explores more broadly the violent behavior of women, including infanticide, in the popular literature of both countries.<sup>18</sup> These historians have found that street literature did not provide accurate depictions of the crimes themselves, but illustrated certain popular themes, such as the murderous woman and the bad, unmaternal, mother. In turn, what the popular literature did depict reflected certain characteristics of that society: concern about the patriarchal hierarchy and anxiety over threats to one's honor, for example.

What has been lacking from the historiography, however, is a sustained and long-term study of infanticide in Germany. I have limited the geographical scope of this dissertation so that I can explore a far longer period of time than most studies of infanticide—extending from roughly 1500 to 1800—while also including the widest range of source material possible. Instead of focusing entirely on court records like other studies of infanticide in early modern Germany, I also examine printed popular

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<sup>15</sup> Laura Gowing, "Secret Births and Infanticide in Seventeenth-Century England," *Past and Present*, no. 156 (August 1997): 87-115.

<sup>16</sup> Jennifer Thorn, ed., *Writing British Infanticide: Child-Murder, Gender, and Print, 1722-1859* (Newark: University of Delaware Press, 2003).

<sup>17</sup> Susan C. Staub, *Nature's Cruel Stepdames: Murderous Women in the Street Literature of Seventeenth Century England* (Pittsburgh: Duquesne University Press, 2005).

<sup>18</sup> Joy Wiltenburg, *Disorderly Women and Female Power in the Street Literature of Early Modern England and Germany* (Charlottesville: University of Virginia Press, 1992).

literature—woodcuts of violent scenes, gallows speeches, conversion stories, sensationalized crime reports, and official execution announcements—as well as the more educated published discourse on infanticide, which included medical, legal, and theological treatises and reform-oriented philosophical debates. This allows for a far more comprehensive perspective on the crime of infanticide and sets it within its cultural context. I will address questions about what infanticide meant to the various members of early modern society and why, how they reacted to such crimes, and how both popular and educated discourses evolved over time.

#### *Hätt' ich Augsburger Pracht*

This study focuses primarily on the city of Augsburg, which lies in Southern Germany, a short distance from the current Bavarian capital of Munich. Augsburg was one of the most populous, richest, and politically significant cities in the Holy Roman Empire during the late medieval and early modern periods. As a free imperial city since the thirteenth century, Augsburg was not subject to any higher authority other than the emperor himself. This political freedom makes Augsburg an ideal subject for a close study, as its ruling council was not required to consult any higher authority for complicated court cases. At the beginning of the sixteenth century, Augsburg's population exceeded thirty thousand, quite large compared to other early modern German cities. The population would increase by another ten thousand by the early seventeenth century.



Augsburg was also one of the wealthiest cities in early modern Germany as well. It stood at the intersection of important trade routes that ran from Italy throughout the empire, allowing for local merchant families, such as the Fuggers and the Welsers to grow immensely wealthy and powerful. These merchants were closely linked with imperial politics, sponsoring financially those candidates for the elected imperial throne who would in turn support their interests. The emperor himself made frequent official visits to the city, parading through the city's main square as Augsburg hosted imperial diets. In addition to its strength as a center of trade, Augsburg also flourished thanks to its weaving, printing, and gold- and silversmithing industries. The surrounding region and, for that matter, much of Germany looked to Augsburg for political and cultural leadership in the early modern period and especially in the sixteenth and seventeenth centuries. With the dawning of the Protestant reformations, Augsburg was drawn even more to the fore of German political developments.<sup>19</sup>

Augsburg's wealth and size resulted in the city's world famous grandeur, both of its inhabitants and of its physical presence. Elegant baroque facades still line the main streets, which are accentuated with a series of fountains featuring Caesar Augustus, Hercules, and Mercury. These statues testified to the city's Roman roots, imperial stature, as well as its physical and commercial strength. A popular poem from the late-fifteenth or early-sixteenth century ranked Augsburg among the most important cities in southern Germany, comparable to even the mighty Venice:

Had I the power of Venice,  
The splendor of Augsburg,

Hätt' ich Venedigs Macht,  
Augsburger Pracht,

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<sup>19</sup> Zorn, *Augsburg*, 152-198. Ann Tlusty, *Bacchus and Civic Order: the Culture of Drink in Early Modern Germany* (Charlottesville: University Press of Virginia, 2001), 17-18.

The wit of Nuremberg,  
The defenses of Strasbourg  
And the money of Ulm,  
I would be the richest in the world.

Nürnberg's Witz,  
Straßburger Geschütz  
und Ulmer Geld,  
so wär' ich der Reichste von der Welt.<sup>20</sup>

Because of Augsburg's importance in the early modern world, it is of supreme interest to the early modern historian. However, the main reason this city has been the subject of so many historical studies is the unmatched state of its archives. While many other cities' archives have been, to varying degrees, lost or damaged over the intervening centuries, Augsburg's have remained remarkably intact, and remain an early modernist's dream. The city's court records, which are the basis of this study, are voluminous and thorough. Those records from the sixteenth and seventeenth century are especially extensive. Combined with the city's large population (which meant there were more people to commit crimes), this resulted in the production of a high number of criminal case records: over one hundred cases involving infanticide or abortion came before the Augsburg town council between 1500 and 1800.

I have also explored the nearby smaller Swabian free imperial cities of Nördlingen, Memmingen, and Ulm to expand my research and identify and confirm trends. They represent a range of urban population sizes: Ulm had a population of 17,000 around 1500,<sup>21</sup> Nördlingen had roughly 8,800 inhabitants in 1600,<sup>22</sup> and Memmingen was recorded as having 4,100 in 1450.<sup>23</sup> These three cities were all, along

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<sup>20</sup> Wolfgang Zorn, *Augsburg: Geschichte einer deutschen Stadt* (Augsburg: Hieronymus Muhlberger Verlag, 1972), 159.

<sup>21</sup> Gudrun Litz, *Die Reformatorische Bilderfrage in den Schwäbischen Reichsstädten* (Tübingen: Mohr Siebeck, 2007), 91.

<sup>22</sup> Terence McIntosh, *Urban Decline in Early Modern Germany: Schwäbisch Hall and its Region, 1650-1750* (Chapel Hill: University of North Carolina Press, 1997), 2.

<sup>23</sup> Merry E. Wiesner, "Political, Economic, and Legal Structures," in *Early Modern Europe: Issues and Interpretations*, ed. James B. Collins and Karen L. Taylor (Malden, MA: Blackwell Publishing, 2006), 224.

with Augsburg, members of the Swabian Circle, an intermediate political organization between the independent cities and the Holy Roman Empire. Politically less important than grand Augsburg, they were nonetheless proudly independent. Free imperial cities make for comparatively neatly restricted areas of study. Cases did not usually progress beyond their fortified walls or above the heads of their town councils; everything from the initial crime to the final sentencing happened within their bounds.

These cities also have valuable surviving court records, but theirs are not nearly as extensive as those of Augsburg. Because of their fragmentary survival, the records of these three additional cities thus do not function well to demonstrate patterns over time, or allow for deep analysis of interrogation records, witness statements, or the use of torture, but they do provide an opportunity for comparison to the records of Augsburg itself. All of these cities were organized similarly, ruled by a town council that was also responsible for prosecuting crimes. The practices and patterns of prosecution that I have found for these three cities support my findings for Augsburg. While Augsburg was outstanding in its economic prosperity and political importance, it was not unusual in its prosecution and treatment of crime. Though some small variations complicate the matter—Memmingen, for example, seems to have used drowning (a common method of executing women) as a means of execution for child-murderers far more frequently than did the other cities—in large part, all four cities prosecuted and punished the crime of infanticide in similar manners. Individuals who committed infanticide in these cities did so for similar reasons, and this had much to do with the laws and social expectations of the cities and their citizens. The central focus of this dissertation will be, therefore, the

records of Augsburg, and where possible, records from the other three cities will be examined to demonstrate both peculiarities and, more often, the consistency of practice across the region.

Instead of comparing urban and rural patterns of infanticide, I have chosen to focus entirely on the urban context of the crime. I have done so for several reasons. Infanticide was a crime that, while it did occur in rural areas, occurred much more frequently in urban areas. The most basic explanation for this trend is that a denser population meant a more frequent occurrence of most crimes. But infanticide was also a crime that was exacerbated by uniquely urban circumstances. Illegitimacy, while not acceptable, was perhaps less of a handicap in small villages, where an unwed mother had family who could take care of the child; certainly the guilds, the source of much of an unwed mother's difficulties, exercised less influence in villages and countryside.<sup>24</sup> In cities, this pressure was tremendous. Illegitimate children were frequently banned from guild membership or from marrying into a guild. Though illegitimate children were still considered dishonorable in the countryside, the physical pressures resulting from dishonor were lessened outside of the cities.

Furthermore, many of the women accused of infanticide were not native to the towns in which they were arrested. Such women did not have the familial ties and support of women who had stayed in their home villages. In a town like Augsburg, a young woman's survival depended on her ability to keep her job, which in turn depended on her remaining honorable and without the burden of a child. And if she had a child, she alone

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<sup>24</sup> Regina Schulte, *The Village in Court: Arson, Infanticide, and Poaching in the Court Records of Upper Bavaria, 1848-1910*, trans. Barrie Selman (Cambridge: Cambridge University Press, 1994), 99-101.

would have been responsible for it. A woman with an illegitimate child in a small village could potentially leave the child there to be raised by relatives while she moved to a bigger town to work. Indeed, such an arrangement seems to have been relatively common, as many women in the court records admitted to having illegitimate children who lived in other places. In fact, several women who committed infanticide in a city admitted to having previous illegitimate children in their home villages. Such women would not have been overcome by their shame, as much of the early modern literature dictated, but rather were motivated by other pressures, concerns unique to their life in the city.

Other comparisons, such as between Catholic and Protestant regions, between regions with contrasting forms of governance, or between geographically distant regions would also likely result in interesting conclusions, but would make such a long chronological scope much more difficult. In this study, I have instead opted to explore change over time in one area rather than a comparison between very different types of territories. Augsburg was, for much of its history, officially biconfessional. So while there is no strict comparison between Lutheran and Catholic regions, an analysis of Augsburg allows for an exploration of the crime in regards to both confessions—and reveals that the differences were not always that great.

The chronological scope of this dissertation is also defined by the crime. The nearly 300 cases of infanticide in this study fit neatly within many definitions of the early modern period. Exploring sources within these bounds might then seem artificial. But the sources for this study also confirm the usefulness of examining cases from 1500 to 1800.

The sources themselves, particularly the specific type of court records of Augsburg, begin and end close to these boundaries, indicating major shifts in how, when, and where the crime was prosecuted. The crime of infanticide was not a constant in these years.

Infanticide rates and prosecution rates varied greatly. Periods of intense prosecution were followed by entire decades with no recorded infanticides. Infanticide sometimes featured in popular publications, but at other times infanticide was also a topic of discussion amongst the educated elite of Germany. Yet infanticide in the early modern era was unique and distinct as both a crime and a social phenomenon. The reasons why women and men committed infanticide were peculiarly early modern—Christian morality enforced by a strict desire on the part of various authorities to maintain and protect their godly communities and a lack of viable alternatives for unwed mothers, for instance—as were the ways in which authorities and citizens of early modern towns reacted to the crime. The proliferation of studies on infanticide in Germany during the Enlightenment era draws attention away from an equally fascinating story to be told about the centuries before, when the crime of infanticide was beginning to take on its unique early modern shape. It was in the sixteenth century that the social conditions and laws were generated that eventually led to the impassioned debate over how to stop infanticide at the end of the eighteenth century.

Frustrated with what seemed like artificial, or at least insufficient, definitions of the crime of infanticide, I decided to open my search to any sort of violent act committed against children. While I found many sorts of violence against babies and children of all ages, in this study I will, for the most part, explore the violent death of the very young, up

until the age of two or three years. However, I have not limited myself only to cases of newborn illegitimate child murder by the mother. Because abortion was considered a crime closely related to infanticide in the early modern period, I also explore this issue. In addition, I examine infanticide or abortion cases in which fathers—or others, even strangers—were involved directly or indirectly, cases for which the prosecuting council could not reach a satisfactory conclusion as to whether or not a crime had even been committed, and even the occasional story of serial or multiple murders that included young children.

Several difficulties confront the historian of infanticide and abortion. Perhaps the most critical is the problem of the inherently secretive nature of these crimes. The historical record only reveals those crimes that were discovered, not those that were successfully kept hidden. Many historians have speculated on this unknown quantity. It seems likely, however, that for urban areas this quantity was fairly low. The close quarters of city life meant that hiding a pregnancy, a childbirth, and/or a dead child was very difficult. Most of the women who committed infanticide were serving maids who might not even have had a whole bed to themselves, never mind a whole room. The places that women chose to hide their dead infants—in trunks, in barrels, under mattresses, or in a privy—testify to the limitations of physical space in cities. Additionally, the other people with whom serving maids shared their space were likely to notice something along the way—the sexual act, the pregnancy, the childbirth, or the cries of the newborn infant, if not the actual baby itself.

Yet for such a secretive crime, and although anything resembling an accurate count of incidence must always elude us, infanticide in early modern Swabia produced an abundance of evidence and resources. Early modern authorities and reformers were alarmed by the continued occurrence of such a horrifying crime, and their concern resulted in the array of sources available to us today.

Although the crime of infanticide had a distinct shape in early modern Germany, it also entailed a great amount of variety. One might envision this in a series of interrelated layers which each experienced changes throughout the period. First was the actual crime of infanticide and its motivations. Occurrence of infanticide, to the best that can be determined, did not remain constant in this period. Second, and even more fascinating, however, was the public's reaction to infanticide. Third was the reaction of a class of educated elites who sought to understand the crime better and to bring the crime to an end. Last, was the official protocol for handling infanticide; the city councils consistently approached the crime in the same manner determined by the law code of 1532, only becoming more and more intense and rigorous in their prosecutions as the crime seemed to increase.

Despite the changing patterns and variety of the crime, some factors remained constant. First and foremost is the simple fact that the crime was most often committed by women. While this fact is irrefutable, it does not mean that *only* women committed infanticide. The contemporary crime of witchcraft, in many areas, was similarly attributed far more frequently, but not exclusively, to women. Yet both crimes were defined and perceived as female crimes in the early modern period and have been



understood as female crimes by modern scholars. But this assumption has led to a faulty understanding of what the crime entailed and what it meant to society at the time. It is crucial—and far more interesting—to examine the origins of the tendency to associate infanticide exclusively with female criminality despite the extensive evidence of significant male involvement in the crime.

In the eyes of early modern Germans, a woman who committed infanticide uprooted all that was natural, sacred, and stable. In many cases, she had fornicated, and in so doing, flippantly dismissed the laws of her faith, her father, and her secular rulers. She had then eschewed her chance to restore honor and social stability by failing to marry the father. She had acted counter to the best interests of her child and her community and denied her natural maternal duty by keeping her pregnancy a secret. And she had finally committed the most grievous sin of murder, ending the life of her own flesh and blood, but also denying the child the opportunity for salvation—according to many Christian confessions—by killing this child before it could be baptized. A father, if he had actually committed infanticide, was thought to have similarly flouted his inherent paternal instincts and responsibilities. Yet fathers were more often involved indirectly, by supplying abortifacients to a mother or by pressuring her to get rid of a pregnancy or child; these actions were not often considered to be as criminal as the actual consumption of the abortifacients or the committing of other direct harm to the child. In the end, the simple biological facts of pregnancy were still on the side of men. Men could abandon their pregnant lovers or could deny paternity; the mother was the one to physically carry

the signs of her crimes and to be in physical possession of the child immediately after its birth.

Women accused of infanticide found themselves in a very dangerous situation. A conviction would lead to almost certain execution. Once a woman found herself pregnant out of wedlock, her options were limited, and each step on the path that led to infanticide limited her options even more: the hidden pregnancy, attempts at abortion, a secret childbirth. It is possible to see, in some ways, what one reformer meant when he described infanticide as inevitable for a woman who wanted to preserve her honor. Once accused of infanticide, women were often doomed to a quick descent into interrogation, torture, and execution.<sup>25</sup>

Yet the individual stories detailed in the case files that I have examined often come across much differently. In their interrogations, women accused of infanticide sometimes proved quite savvy and assertive throughout the process, a stark contrast to the helpless maidens so often seen in contemporary popular and reform literature. While they were in an almost impossible situation, they demonstrated that their understanding of their predicament was quite deep. They knew what the examining council expected and wanted to hear from them, and they employed every imaginable evasion and deception. They sometimes withstood torture and hundreds of questions in front of what must have been an intimidating panel of powerful men. Even at their most successful, the council of Augsburg never convicted more than one-half of those prosecuted for infanticide. This meant that many of the defendants were “successful” in constructing a defense—though

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<sup>25</sup> Susanne Kord, *Murderesses in German Writing, 1720-1869: Heroines of Horror* (Cambridge: Cambridge University Press, 2009), 135-141.

“success” meant not acquittal, but often simply avoiding execution and nevertheless still facing the ruinous punishment of banishment, frequently combined with other physical and financial punishments.

In addition to rethinking how gender and crime shaped each other, I also aim to address the controversial idea that the concept of childhood as a distinct and special phase in life developed sometime in the eighteenth century. Precisely because I do not frame infanticide as a distinctly female crime, in searching for cases, I looked for victims rather than killers. I have attempted to define my own research in terms of the violent death of children rather than mothers killing illegitimate children. The study of childhood is, therefore, central to my research. At the dawn of the study of the history of childhood in the 1960s, scholars pointed toward infanticide as evidence of the detachment parents felt toward their children in the pre-modern era. Infanticide, along with rampant abuse and neglect of children, appeared to be evidence that childhood was not valued as a distinct phase in which immature people needed special protection, affection, or care. The discussion of the concept of childhood began with two sweeping works, Philippe Ariès’s *Centuries of Childhood* and Lawrence Stone’s *The Family, Sex and Marriage*.<sup>26</sup> The concept of childhood has been intensely debated since then, and although the most controversial of Ariès’s and Stone’s claims are now considered far too simplistic, they

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<sup>26</sup> Philippe Ariès, *Centuries of Childhood*, trans. By Robert Baldick (New York: Vintage, 1962). Lawrence Stone, *The Family, Sex and Marriage in England, 1500-1800* (London: Weidenfeld & Nicolson, 1977).

have sparked a great discussion about the historicity of the concept of child and childhood.<sup>27</sup>

A great irony, however, lies in the fact that the sources in this study, while they all deal with infanticide and the death of children, actually, in the end, demonstrate that *most* parents did love their children and that society was especially moved by various dangers that children faced. Officials, experts, and writers saw and portrayed infanticide as so very terrible precisely because it involved children and was the exact opposite of what parents were expected to do. The victims were innocent and helpless, and parents, while they surely did not expect all of their children to survive to adulthood, were supposed to do all they could to help them. Parents who killed their unbaptized children were especially terrible for denying salvation to those whom they were supposed to educate and usher into the Christian community. It seems that if parents and society were not emotionally invested in their children, then the outrage expressed in this period over infanticide and other crimes of violence against children—committed by parents and strangers alike—would have been entirely incongruous.

By the end of the eighteenth century, precisely when a concept of childhood was supposedly developing, the treatment of infanticide also profoundly shifted. Yet this had little to do with a changed understanding or treatment of children. Rather it concerned new attitudes toward their murderous mothers. Throughout the early modern period, the young innocent victims of infanticide were mourned and reformers made sincere efforts to stop the crime. But with the dawning of the “modern era,” what resulted, instead of a

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<sup>27</sup> For a discussion of this historiographical debate and the current state of the field, see Margaret King, “Concepts of Childhood: What We Know and Where We Might Go,” *Renaissance Quarterly* 60 (2007): 371-407.

new concern for children, was an infantilizing of women. Gone was the talk of evil, selfish mothers who cruelly murdered their children to preserve their own honor (which they no longer deserved). Now the discussion focused on women who had no control over their lives or their bodies. A virtuous woman might have good intentions, but was too weak to stave off seduction. Seduction led inexorably to unwanted pregnancy, and it could appear that the only option left for such a virtuous woman who found herself pregnant was to kill the child. Women were no longer seen to have had a choice in the matter. While the concept of childhood might very well have been undergoing a significant change, it seems that this evolution in the legal and social roles of women had a greater impact on the crime of infanticide. People did not suddenly “discover” their children or their love for their children and stop committing infanticide. Child-murderesses were portrayed as horrible mothers throughout the early modern period, and were only redeemed by becoming victims at the end of the period, just when greater emotional attachment to children was supposedly developing.

The sensationalism of the late-eighteenth century was not new; infanticide had long held the early modern imagination captive. Exaggerated and exciting stories of infanticide took different forms throughout the early modern centuries, and the crime was certainly a more popular theme in publications in some decades than in others. Patterns of interest in the media did not always reflect any patterns in actual occurrence or prosecution, either. But by studying the printed media that explored the theme of violence toward children, we can see that the sensationalism at the end of the period was not unique, but was preceded by a flurry of publication in the late-sixteenth and early-

seventeenth centuries. These pamphlets, broadsides, woodcuts, songs, poems, and narratives reflected a culture in which violence toward children and depictions thereof took many forms. But such violence was a preeminent concern and a continual fascination throughout the early modern period.

This dissertation consists of five chapters; each chapter addresses a particular time period—roughly defined and overlapping—and a particular thematic focus. The first chapter spans the sixteenth century, exploring the legal and social developments that made infanticide a more common occurrence and that allowed for more thorough, frequent, and harsher prosecution. The second chapter explores the height of early modern prosecution of infanticide. The years between 1580 and 1630 witnessed a distinct swell in infanticide prosecutions and executions, which likely—but not definitely—reflected an increase in the occurrence of infanticide. The third chapter discusses the popular literature of roughly the same decades around the turn of the century; simultaneous to the upswing in prosecutions came a dramatic increase in publications that featured various forms of violence toward children. The fourth chapter is set across the seventeenth century, as infanticide prosecutions settled into a steady pattern after the peak of the first decades of the century. This chapter focuses on the expert testimony in infanticide cases and the educated debates in the fields of medicine, law, and theology that revolved around the crime of infanticide. Such discussions tied local cases of infanticide to a much wider intellectual world. The final chapter explores the sensationalism of the eighteenth century, both as infanticide became a popular topic for poets, dramatists, and enlightened reformers, and as it gained anew the attention of local

Swabian printers. Through these five chapters I will show how infanticide changed as a crime, how the treatment and definitions of this crime evolved, and how people reacted to it. The focus of the chapters shifts, as concerns related to the crime of infanticide also shifted throughout time. This does not make for a neat chronological division between the chapters, but highlights certain patterns across the early modern period.

### *The Myth of infanticide*

The definition of infanticide in the early modern era meant that unmarried women were more likely to be suspected of the crime. While it is clear that unmarried women did commit infanticide more frequently, the limitations of the legal definition resulted in early modern authorities being more likely to see the death of an illegitimate child as a potential crime. Conversely, this also meant that married women (or men) who committed infanticide were not nearly as likely to be suspected. Babies frequently died during or shortly after childbirth, so not every infant death was, in fact, suspicious. A married mother might easily smother a child and the incident might well be interpreted as an accident.<sup>28</sup> But women and men committed infanticide not only to cover up their shame resulting from fornication, but also because of the financial, physical, and emotional pressures related to raising children, especially illegitimate children. These were strains that fathers and mothers felt, whether married or unmarried. Infanticide was a unique crime in that when a dead child was found, whether or not authorities decided a crime had been committed was dependent upon the social status of the child's parents.

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<sup>28</sup> Simone Winkler, *"Kindserdrücken." Vom Kirchenrecht zum Landesrecht des Herzogtums Preußen* (Cologne: Böhlau, 2007).

Only as the expectations placed on mothers shifted at the end of the early modern period did the crime and prosecution of infanticide change as well.

Instead of starting with the criminals or potential criminals, I started this investigation with the victims, seeking records of the deaths of children rather than the specific label of infanticide. This has resulted in a much more interesting picture, in which both women and men, married or not, might be moved to terminate pregnancy or kill a child; in which legal definitions were strict in theory but flexible in practice, and changes occurred over time but certain ideas held firm; and in which infanticide could be both exemplary of all that was ill in society but also become a highly popular motif of several genres of literature, from common crime reporting to highly-regarded poetry and drama. The mystery, tragedy, and passion involved in the intentional death of a child captures our imagination today—one only need tune into any 24-hour news station on any day to see that this is so—and this was not any less true two hundred to five hundred years ago.



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**The Baby in the Pig Sty:  
Defining the Crime**

In December 1568, a young maidservant of Augsburg was sent to muck out a pig sty and instead discovered the remains of a dead baby, including a bit of its skull and a fragment of a leg. Although the remains were scarcely identifiable, presumably having been consumed by the pigs, it was soon apparent to the household what had happened. On the 18<sup>th</sup> of that month, another maidservant from the same household, Walpurga Seitz, found herself before the Augsburg city council answering accusations that she had murdered her illegitimate newborn child. By the end of January, the council had sentenced Walpurga to execution by drowning. The executioner most likely bound her by her hands and feet, or perhaps tied her into a large sack, and threw her into the Lech, the river just to the east of town.<sup>1</sup>

All aspects of this gruesome account, from a woman's morbid attempt to hide her indiscretion to her own terrifying demise, create a cruel and disturbing picture of life in an early modern German city. But this story, while shocking, was not all that unusual. Across the sixteenth century, anxiety over illegitimacy spread and deepened, as did the corresponding concern that infanticide was occurring more frequently. By the end of the century, a pattern of infanticide and prosecution had been established in the city of Augsburg, with an average of roughly four cases per decade. What was it about early modern German society that forced women to resort to infanticide, and what does this increase in occurrence and prosecution in turn reveal about this society?

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<sup>1</sup> Stadtarchiv Augsburg (StadtAA), *Urgichten*, Walpurga Seitz, 22 December 1568.

Augsburg was a large city in comparison with the rest of early modern Germany, but smaller than the major cities of Italy, and small enough for news and gossip to spread quickly. By 1600, Augsburg had a population of about 45,000, up from 35,000 a century earlier. The four cases per decade at the height of infanticide prosecutions thus represented a very small percentage of the population. But four cases of such a horrible crime would certainly have been memorable and a source of concern. It is easy to imagine how infanticide came to be seen as a plague on society, a pervasive problem that revealed the continuing immorality and irresponsibility of the city's young women, despite the council's best efforts to cultivate a Godly community. The town council relied on capital punishment both to strike fear into the heart of any other young woman who might be following a similar path and to purge the city of the sin associated with the crime.

It was the town council's obligation to ensure the physical and spiritual well-being of those who lived within the town walls. A case of infanticide was a clear indication that something was wrong and called for serious action. The councilmen knew what led to infanticide: the irresponsible and wanton behavior of a young ignorant woman. In fact, infanticide came to be almost expected if the woman had any sense of shame. An examination of this social and cultural environment reveals that Walpurga fell victim to larger historical forces; in this era, infanticide might have seemed the only option for an unmarried pregnant woman. The council was likewise limited in its options when presented with a suspected infanticide. But by the mid- to late sixteenth century, early modern civic authorities were beginning to see infanticide as a rapidly growing

problem, an unsettling trend that they needed to bring to a halt. It was no longer an isolated and rare crime, but a pandemic of sorts that was spreading along with the loose morals of the women in the city.

During the sixteenth century, there was a widespread perception that crime was on the rise, and infanticide was one of many criminal activities which seemed to be happening more and more frequently. While it is difficult to determine the actual occurrence of crimes, it appears from the historical records that prosecution of many offenses did increase.<sup>2</sup> The reasons behind this trend are many and complex, and exploring them reveals much about the sixteenth century and early modern society as a whole. Infanticide in particular can be seen as a marker for both political and criminological changes, but also social and religious developments. The motivations for committing infanticide and its prosecution indicate an intriguing confluence of religious, social, cultural, legal, and political developments in the first decades of the sixteenth century. The shift to a stricter defense of morality did not occur immediately with the dawn of the sixteenth century. Instead, it depended upon development of a new, legal code for the Holy Roman Empire, the spread of social discipline resulting from religious reform and confessionalization, economic pressures leading to guild and civic reforms, and the greater ability of town magistrates to enact and enforce stricter behavioral standards, all trends which were seen throughout the empire.

This chapter focuses on the initial decades of this transition away from medieval legal, religious, social, and cultural institutions. The combination of all of these major

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<sup>2</sup> Richard van Dülmen, *Theatre of Horror: Crime and Punishment in Early Modern Germany* (Oxford: Polity Press, 1990).

shifts and developments created an environment in which some women felt that committing infanticide was the only way to escape the consequence of having an unwanted, illegitimate pregnancy. At the same time, developments in the German legal system allowed for greater prosecution, harsher punishments, and more extensive record-keeping. These various strands influenced and built upon each other to produce an environment in which infanticide both occurred with some regularity and was vigorously prosecuted. An examination of a wide range of court cases involving the deaths of children will demonstrate how legal definitions affected actual practice and how practice reflected certain cultural assumptions.

The reformations of the early sixteenth century, Lutheran, Reformed, and Catholic alike, led civic authorities to focus more intently on the enforcement of morality. The Protestant churches sought to spread their ideas through strict and demonstrative morality and to distance themselves from Catholic degeneracy and corruption. The Catholics, in turn, imposed similar regulations to reaffirm their spiritual authority and reclaim souls lost to the Protestants. Territorial authorities throughout the Holy Roman Empire desired to build and defend Godly communities, and to purify them of sin. These ideas led to a kind of “social disciplining,” a close policing of morality that entailed more severe punishments for crimes and an expansion of what constituted criminal behavior. The expansion of the concept of criminality combined with a pre-existing trend toward conservative sexual mores in the late medieval period and resulted in courts now ruling on a wide range of sexual behaviors and punishing them more frequently and severely.

Now included among criminal behaviors—and no longer labeled as sins only—were prostitution, marital infidelity, and all manner of fornication.<sup>3</sup>

A closer look at the city politics of Augsburg shows how this process played out at the local level. Augsburg was rather unique in that, for most of the early modern period, its town council was bi-confessional, and Protestants and Catholics sat on the council with rough parity; this bi-confessionalism could be seen throughout the town, and led to a redundancy of many institutions, such as separate Catholic and Protestant orphanages. The Protestant Reformation had caught on quickly in Augsburg, spreading especially among the guilds. A Protestant council took control in the 1530s, followed by Protestant defeat in the Schmalkadic War, resulting in a temporary return to Catholic authority. The Peace of Augsburg of 1555 asserted a bi-confessional balance, which was to survive until religious warfare again brought back Catholic rule in 1628. Until the end of the Thirty Years War, the balance swung back and forth, but parity was restored once again with the 1648 Peace of Westphalia.<sup>4</sup>

During the late fifteenth and early sixteenth centuries, the city council took over legal powers formerly held by imperial officials, guilds, and lower courts, and the council expanded to include representatives from the guilds in addition to representatives from

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<sup>3</sup> R. Po-Chia Hsia, *Social Discipline in the Reformation, Central Europe 1550-1750* (New York: Routledge, 1989), 122-145.

Merry E. Wiesner, "Disembodied Theory? Discourses of Sex in Early Modern Germany," in *Gender in Early Modern German History* (Cambridge: Cambridge University Press, 2002), 157-161.

Joel F. Harrington, *Reordering Marriage and Society in Reformation Germany* (Cambridge: Cambridge University Press, 1995), 215-273.

<sup>4</sup> Hsia, 82-83.

the patriciate. The council also served as the criminal court and final court of appeal for all significant criminal matters, which included the cases in this study.<sup>5</sup>

In her book *The Holy Household*, Lyndal Roper explains that the institutionalization of the Reformation in Augsburg solidified in 1537 with the election of two Protestant mayors and the establishment of the Discipline Lords; this development “enabled the Council to wrest authority over marriage and sexuality from the Church, and to exercise a far closer control over the household and the sexual comportment of those within it than had ever existed before.” The Discipline Ordinance of that year reflected the influence of the guild leadership and the growing influence in Augsburg of the Reformed theology. The ordinance thus propagated guild values: the ideal of marriage and the “hierarchy of discipline within the household—subordination of children to parents, servants to masters, and women to men.” These values also included strict definitions of appropriate sexual behavior.<sup>6</sup>

The relationship between sin and crime enforced the association between illegal behavior and a deep sense of personal shame. Shame could be a powerful tool for enforcement, especially when dealing with sexuality. The shame associated with fornication became public knowledge when an unwed woman was obviously pregnant. Early modern authorities regularly claimed that a woman committed infanticide “out of shame” for her behavior; an illegitimate child was a sure sign that a woman was no longer honorable or virtuous. The avoidance of shame was a strong motivation in the

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<sup>5</sup> J. Jeffery Tyler, “Refugees and Reform: Banishment and Exile in Early Modern Augsburg,” in *Continuity and Change: the Harvest of Late Medieval and Reformation History*, ed. Robert J. Bast and Andrew C. Gow (Leiden: Brill, 2000), 77-97.

<sup>6</sup> Lyndal Roper, *The Holy Household: Women and Morals in Reformation Augsburg* (Oxford: Clarendon Press, 1989), 22.

early modern world, one which was not just personal, but also a group emotion, experienced by guilds and entire communities. But shame on the personal and communal level cannot be separated entirely from the more tangible consequences of shameful behavior, such as loss of employment or penal action. Shame, in and of itself, therefore, was often not the only motivation behind infanticide. People feared both shame and physical and material punishment. A woman usually committed infanticide not solely out of personal shame because these other consequences were inevitably also the direct result of her actions.

The frequency with which fornication appears in the court records—in cases where people were accused of fornication specifically, or where fornication was discovered in an unrelated investigation—shows that it was quite common even in this era of close social control. Fornication was prevalent enough to suppose that the concept of shame associated with it was not as strong among individuals as civic and religious authorities would have liked, or at least not strong enough to overcome sexual urges. Fornicators expressed shame for their actions when under interrogation, but it seems this was done primarily in an effort to engage the sympathy of the council. While the town council was eager to punish fornication—with fines or corporal punishments—new laws and systems of enforcement in the era of social control did little to prevent it. To the chagrin of those authorities trying to stop fornication and related and resultant crimes like infanticide, shame was not the preventative force that they hoped. In cases of infanticide, the concept of shame had actually backfired.

If a woman did not find a way out of her situation and gave birth to an illegitimate child, she faced disastrous consequences. While it was considered shameful for a woman to have an illegitimate child, her problems actually arose more from the fact that it was also shameful for others to be associated with her. In the early modern world, honor and shame were not just emotions to be experienced, but were also concepts that could be transferred. Much as a craftsman might have lost his honor and his place in a guild for shameful behavior and the dishonor that this behavior would bring to the guild, an unmarried woman with an illegitimate child could have brought shame and dishonor to those in close contact with her.<sup>7</sup>

These women were also very well aware of the fact that their children, being illegitimate, would have had a difficult task in finding a position in one of the town's guilds. Yet the issue of legitimacy was not a concern just for the mother and child. The employers who would have dismissed a poor mother and child faced economic and social threats to their own families. If her employer were a master in a guild, he might have felt particularly threatened. Guilds in sixteenth-century Germany were connected by and dependent upon a complex system of honor. The guilds of Augsburg, as in the rest of the Holy Roman Empire, faced tremendous pressure to maintain their honor. This system of honor, as explained by Kathy Stuart, was a means for the guilds to ensure their reputations, and those of their journeymen, as they traveled from town to town. Certain behaviors and associations were considered dishonorable and could result in dismissal from a guild. The honor system developed partially as a response to difficult economic

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<sup>7</sup> Kathy Stuart, *Defiled Trades and Social Outcasts: Honor and Ritual Pollution in Early Modern Germany* (Oxford: Cambridge University Press, 1999). Roper, *The Holy Household*.



times toward the end of the medieval period, as a means for restricting membership in guilds. A related effect of these more severe restrictions was the exclusion of women from membership in the guilds, limiting their options for earning money and increasing their dependence on men. Guilds also found it expedient to exclude illegitimate persons from membership. The city of Augsburg, noted chronicler Paul von Stetten, decreed in 1541 that guilds would no longer be forced to allow illegitimate members.<sup>8</sup> By insisting on the legitimacy of all its members, a guild not only limited the pool of possible members, but it also maintained its honor—and, therefore, respect among the other branches of their guild—and upheld a Reformed vision of what the family should be and of the guild as a reflection of that familial structure, with the father/master at the head, over the wife and children/journeymen and apprentices.<sup>9</sup>

The guild structure also dictated the major life stages of the men within it. To become a productive member of society, a young man needed to complete the required years of service as an apprentice and a journeyman, become engaged to an honorable woman, pass the requirements for masterhood, marry, and set up his own workshop. These requirements meant that marriage occurred relatively late, especially for men. Their wives tended to be younger, but mostly well out of their teenage years. For both men and women, this meant that the time between sexual maturity and marriage was much longer in early modern Europe than in other times, resulting in an extended period in which they were expected to be abstinent. Additionally, sixteenth-century Germany

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<sup>8</sup> Staats- und Stadtbibliothek Augsburg (SStBA), LS Aug 10-1, Paul von Stetten, *Geschichte der Heil. Röm. Reichs Freyen Stadt Augspurg* (Frankfurt: Merz und Meyer, 1743), 185.

<sup>9</sup> Stuart, *Defiled Trades and Social Outcasts*, 33-45.  
 Roper, *The Holy Household*, 37-39.

also experienced an increasing population and a declining economy. This combination meant that more men were vying for fewer positions, resulting for many in an even longer delay until marriage and the start of a sexually active adulthood. Eventually, the restrictions on master positions came to mean that many journeymen would never find positions, and they began to push for regulatory reforms that would allow journeymen to marry.<sup>10</sup>

Roper finds a contradiction between this economic and social constraint and the insistence of many Protestant reformers that young adults marry soon after sexual maturity in order to divert urges to sin. This contradiction, she suggests, reflects divergent understandings of the role of marriage. In the guild system, marriage demonstrated financial maturity and security, while religious reformers emphasized the role of marriage in preventing fornication. For reformers, sexual impulses were too strong to ignore, and any sort of sexual activity outside of marriage was increasingly unacceptable. In earlier decades and centuries, young, single men between the ages of sexual maturity and eligibility for marriage could satisfy their natural desires in city-run brothels. These brothels were seen as a necessary evil that protected the honor of honorable women, saving them from the advances of young men. But Augsburg closed its brothel in 1532, in the midst of many sweeping reforms, and officials also cracked down on all forms of prostitution. These new laws also meant that the half of society, which had enjoyed a legal outlet for its sexual energies, now had none, a strain that was intensified by the lengthening wait for marriage. As if only to compound these difficulties, the city council of Augsburg restricted marriage and citizenship rights based on the ability of a man to

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<sup>10</sup> Roper, *The Holy Household*, 15.

provide for himself and his family; if a couple could not support themselves, they might be refused permission to marry and forced to leave the town.<sup>11</sup>

The best efforts of reformers did little to bring a halt to premarital sex, and the expectations only became more difficult to meet. Yet the consequences of fornication became much more severe. The conflict between expectations and a practical reality led to an impossible situation for many young people. Premarital sex was now a crime that could be punished by two or three weeks' imprisonment or time in the pillory, exposed to the whole town. Women also faced the scorn and derision of their neighbors, who were quick with gossip and accusations of sexual impropriety.<sup>12</sup>

The consequences of fornication or premarital sex weighed more heavily on young women than on young men: both men and women could be prosecuted for fornication or an illegitimate pregnancy, but only women physically showed the signs of such actions so clearly. A woman did have the option to denounce the father of her child in the hopes of persuading him to marry her or to obtain some sort of financial support from him. However, young men faced with such an accusation often chose simply to leave town, especially if they lacked citizenship or any other social attachments to the town. Many women who attempted to rid themselves of an illegitimate child testified they had tried to find the father of the child, but that he was no longer in town. Some of these women even traveled to other towns, near and far, to confront the father, following rumors of his location and movements. One woman, whose story is explored later in this

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<sup>11</sup> Ibid., 16-20, 57-58.

<sup>12</sup> Ulinka Rublack, *The Crimes of Women in Early Modern Germany* (Oxford: Oxford University Press, 1999), 134-138.

chapter, traveled from Augsburg to Strasbourg (a distance of around 270 kilometers) and back again in the (unsuccessful) search of the father of her illegitimate child.

Most women in the early modern period needed a husband to ensure their simple survival, never mind economic comfort. A woman on her own, even if she were childless and had a source of income, would have faced a struggle making ends meet. A young, single woman, probably working as a serving maid, would very likely lose her position, and with it her home, if she were found to be with child. Furthermore, a young woman with an illegitimate child would have had an extremely difficult time finding a new position. If a pregnant woman were dismissed from her job, she also faced the possibility of being brought before the town council and punished for fornication and for becoming pregnant out of wedlock. Unwed mothers were seen as a drain on the community, both economically and morally, and thus were often banished from the town. Expulsion was thought to purify the Godly community of the town, and became a favorite tool of the Protestant city councils.<sup>13</sup> Those banished from town faced the bitter prospects of a life on the road or as a stranger in another town. The difficulties would have been much worse for a single woman with an illegitimate child to support; the chances that she would find work again were very slim.

Whether such a woman was banished or remained in her hometown, she often had to resort to begging to survive. Some women could rely on familial support, but many were already far from home, having moved in order to find work in the first place. Throughout the early modern era, town officials struggled to enforce restrictions on public begging; if a woman were found begging without the proper permissions too often,

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<sup>13</sup> Rublack, *The Crimes of Women*, 141.

she again faced the possibility of banishment, especially if she was not a citizen of the town. For some, this led to a life of vagrancy, traveling from town to town in search of work or merely something to eat, with little opportunity to return to acceptable society.

Such hapless people might be able to expect some poor relief from the town council or charity from their church. However, much of the poor relief and charity in early modern Europe was intended only for the so-called “deserving poor,” those who were otherwise respectable citizens and happened to fall upon hard times. As Robert Jütte has demonstrated, the deserving and undeserving were the basic categories into which early modern administrators of poor relief, from religious clergy to civic leaders, sorted the poor; these categories depended upon “whether or not they were regarded as victims of circumstances or were held responsible for their present miserable condition.” Jütte also finds that the able-bodied poor were often considered to be willfully lazy and, therefore, undeserving of aid.<sup>14</sup> Those who were not both deserving and physically incapable of work were frequently denied access to most forms of relief. Anyone even suspected of criminal or otherwise unrespectable behavior could have very little hope of any help from the city council or other charitable institutions. A woman with an illegitimate child carried with her the evidence of her crime, her bad reputation, and her previous moral lapses; no way did she fit into the category of “deserving.” As the reason for her poverty was the direct result of her own uncontrolled lust and folly, few had any pity for such a woman. Her behavior was seen as a reflection of her moral character,

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<sup>14</sup> Robert Jütte, *Poverty and Deviance in Early Modern Europe* (Cambridge, Cambridge University Press, 1994).

which was clearly degraded. Her situation was entirely a result of her own doing, and she deserved whatever consequences might result.

A woman who discovered she was pregnant thus had very limited options. If she could not persuade the father of her child to marry her, no choices remained that did not hold the possibility of legal, social, economic, or physical repercussions. If she carried the child to term, she could be punished for fornication—which she could not have denied—and for the illegitimate pregnancy. She would likely have lost her job, and both she and her child would face a bleak future. If she attempted to abort the child and was found out, she faced banishment or even execution. During the process of abortion, she risked her own health, as methods for abortion were highly dangerous and of unpredictable effectiveness. If she tried to give birth in secret and then abandon the child, either in front of the foundling house or elsewhere, the town council would try to track her down. Her child would be returned to her, and she would likely be banished with her child “in her hand.” Her only other option if she carried the unwanted child to full term was to give birth in secret, kill the child, and try to hide the evidence. Once she was pregnant, then, a single woman in early modern Germany had no safe options.

Despite all these challenges, not every woman with an illegitimate child was destined to wretchedness. While the law had little tolerance for misbehavior and communal retribution could be severe, the reality of enforcement by the courts and by the community was at times much more flexible. Evidence of this flexibility can be found in court records of criminal cases, which often included, among other personal information, the suspect’s occupation and employer, age, marital status, and sometimes even whether

or not they had children. This information demonstrates that unwed mothers did occasionally find work, though exactly what percentage cannot be determined. It is also uncertain how often single mothers were dismissed from their positions upon discovery of their pregnancy or birth of a child.

Maria Weisschoferin, one of the first women to be prosecuted for infanticide in Augsburg, had already borne illegitimate children after the death of her husband. While it is not known if she faced punishment for these illegitimate children, she survived and found work after the children were born. Maria is not entirely atypical, either. The women in this study were often those living on the margins of society, constantly in and out of legal trouble and employment and respectability. Nevertheless, it was sometimes possible for women with illegitimate children to find work, revealing a discrepancy between the stated beliefs, behavioral codes, and laws of this society and actual practice. Women were often dismissed from their jobs for causing trouble; while one family might dismiss a woman upon discovery of an illegitimate pregnancy, another, perhaps in another village or town where the woman's reputation was less well known, might well be willing to take her on. In reality, illegitimacy was much more common than many wished, and unwed mothers were not always completely ostracized.

Most of the women accused of infanticide at this time had been employed as domestic servants, the most common employment for women in Europe until the twentieth century. The life of a domestic servant was unstable; a woman had little choice in employer and type of service, relying on whatever family connections could find. In a town like Augsburg, she might get a position in a guild workshop, doing whatever menial

tasks were assigned to her, from laundry to cooking to cleaning. Serving maids often had multiple employers over the course of their working years, which could last from their early teens to their mid-to-late twenties. Some lucky women might have the chance to save up a small dowry during their service. These women would most likely marry into a guild, serving perhaps as the master's wife. For others, who never married, servitude was a more permanent condition. Most unmarried women working in domestic service had no other means of support than their room and board and whatever additional small wages their masters agreed to.<sup>15</sup> Maids were subject to the whims of their employers, with limited avenues for assistance. Court records reveal the difficult nature of their existence; they often complained about unpaid wages and slander, as well as far more serious mistreatment such as beating, starvation, and rape. Although women could bring their employers to court over such abuses, many women opted to stay in horrible situations rather than go through the trouble of finding another position.<sup>16</sup>

A woman might have half a dozen or more different employers throughout her working life. Sometimes these changes in employment required moving from one city to another. Women often moved to larger cities like Augsburg from surrounding villages looking for work, moving on to other cities when work ran out, or when they had run-ins with authorities. The women in this study were often born in small villages from a wide region around Augsburg; a few examples of hometowns cited in the court records were

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<sup>15</sup> Olwen Hufton, *The Prospect Before Her: A History of Women in Western Europe, 1500-1800* (New York: Alfred A. Knopf, 1996), 78-89.

<sup>16</sup> Merry E. Wiesner, *Working Women in Renaissance Germany* (New Brunswick, NJ: Rutgers University Press, 1986), 90.



the tiny villages of Ettringen, 35 kilometers to the southwest; Hüttlingen, 100 kilometers northwest; Lechbruck, 80 kilometers south; or Vierkirchen, 45 kilometers east.

Single women living alone, especially those not born in the town, were considered a threat to the stability of society. Opinion held that women needed to live under the authority of a father, husband, or employer. Women living on their own were thought to be more likely to cause trouble, as they had no male responsible for their actions and welfare. Single women, with no one to answer for them, threatened the stability of the patriarchy. City councils, in an effort to promote stability, tried various means to limit when and how servants, especially female servants, changed positions. In many places, servants could only change employers on special days, once or twice a year, or not at all; they were sometimes bound to a position for a set period, often six months or a year. Violating these regulations could result in fines or banishment.<sup>17</sup> Serving maids, already the target of mistrust and careful regulation, came under even more intense suspicion if they changed positions and moved frequently. The definition of a “good servant,” according to Roper, was one who had served for ten years in no more than two or three positions.<sup>18</sup>

Yet frequent changes of employment were not unheard of or uncommon. For example, Catharina Feslerin of Augsburg, 26 years old and suspected of having given herself an abortion in 1592, named four employers over ten-and-a-half years, the first of which accounted for six of those years; the second and third were two years apiece, and the last only half a year. Barbara Höflerin, a woman of uncertain age accused of

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<sup>17</sup> Wiesner, *Working Women*, 83-92.

<sup>18</sup> Roper, *The Holy Household*, 55.

infanticide in 1592, gave the names of three employers for lengths of time adding up to only three years: one-and-a-half years with one, one year with the next, and half a year with the last. Appolonia Heringin, 22 years old, was also accused of infanticide in 1601, reported four employers over nine years: four years with the first, then two years each for the second and third, and one year with her final employer.<sup>19</sup> Catharina's, Barbara's, and Appolonia's employment histories reveal the transitory and uncertain nature of the lives of serving maids. Some women had served under even more employers, each position lasting only two or three months. The council inevitably found such a transitory employment history to be highly suspect, and such behavior became one of several characteristics, such as sexual promiscuity or disorderly drunkenness, associated with criminals and disreputable people. In the eyes of the council, a woman who moved from job to job and town to town had no roots in the town, no one responsible for her, and no reputation to maintain. As such, she was likely to have other disreputable characteristics, and was more likely to fall into criminal behavior.

Life was already terribly difficult for a single woman in a big city like Augsburg. But a single woman who became pregnant in such a place was suddenly in a much worse position. The social and economic consequences were severe for women who kept their illegitimate children and for women who instead chose to commit infanticide, abort, or abandon their children. Yet for many of these women, social consequences made little difference if they were discovered and reported to the town council; the council's ruling regarding their fate could alter their lives entirely, or even end them.

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<sup>19</sup> StadtAA, *Urgichten*, Catharina Feslerin, 14 March 1592.  
 StadtAA, *Urgichten*, Barbara Höflerin, 1 August 1592.  
 StadtAA, *Urgichten*, Appolonia Heringin, 1 March 1601.

The legal changes of the early decades of the sixteenth century allowed for more methodical and consistent prosecution of infanticide, leading to a consistent pattern of crime and punishment by the end of the century. These developments included the reception and growing influence of Roman law, the systematization and codification of laws across the Holy Roman Empire, and a new system of interrogation and record-keeping by the local town councils. The reception of Roman law in late medieval and early modern Europe refers to the gradual yet purposeful replacement of local, traditional Germanic law codes by the dual influences of antique Roman and Catholic Canon law. These changing legal attitudes and practices meant that some medieval Germanic traditions—such as compensation for injury—were superseded by a system of trials in front of judges, stricter standards for convictions and the corresponding use of torture during investigations, and standardized, systematized, and harsher guidelines for punishments.<sup>20</sup> Much like the political structure of the Holy Roman Empire in the late Middle Ages, the empire's legal systems and structures were fragmented and diverse. The empire was composed of over three hundred political entities, from duchies to bishoprics to free imperial cities directly under the authority of the emperor. The four cities in question here, Augsburg, Memmingen, Nördlingen, and Ulm, fall into this last category. These new requirements did not coalesce into a uniform judicial process until the sixteenth century, and even then, great variety existed across the empire, as old systems

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<sup>20</sup> Gerald Strauss, *Law, Resistance, and the State: The Opposition to Roman Law in Reformation Germany* (Princeton, NJ: Princeton University Press, 1986), 56-65.

still held sway.<sup>21</sup> Even under the new law codes, individual territories, such as the four cities in this study, retained considerable discretion regarding criminal procedure.<sup>22</sup>

Yet during the fifteenth and early sixteenth centuries, developments in criminal procedure changed the methods of criminal prosecution considerably. The first of these reforms was a change in how criminal trials were instigated. The prosecution of a criminal had until this time largely depended on a complainant lodging an accusation against a defendant. In the case of a murder, the accusation might be made by a family member on behalf of the deceased. Crimes such as infanticide would have been more difficult to prosecute because the victim likely had no family willing to press charges; a family who did not want the child in the first place would not bring any attention to its illegal disposal. By contrast, beginning in the late Middle Ages, civic authorities had begun to initiate investigations themselves based on reports of crimes from a network of informers composed of residents in the town.

The procedures for interrogating criminals in custody and determining guilt also began to undergo major transformations beginning in the late Middle Ages. In earlier centuries, torture was generally reserved for special cases, such as heresy and treason.<sup>23</sup> The use of torture spiked in parallel with the spread of the *Inquisitionprozess*, a common set of Roman law-influenced criminal procedures that had been expanding across the

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<sup>21</sup> John Langbein, *Prosecuting Crime in the Renaissance: England, Germany, France* (Cambridge, Massachusetts: Harvard University Press, 1974), 140-141.

<sup>22</sup> Gerd Kleinheyer, "Tradition und Reform in der Constitutio Criminalis Carolina," in *Strafrecht, Strafprozess und Rezeption: Grundlagen, Entwicklung und Wirkung der Constitutio Criminalis Carolina*, ed. Peter Landau and Friedrich-Christian Schroeder (Frankfurt: Vittorio Klostermann, 1984), 9.

<sup>23</sup> Winfried Trusen, "Strafprozeß und Rezeption. Zu den Entwicklung im Spätmittelalter und den Grundlagen der Carolina," in *Strafrecht, Strafprozess und Rezeption: Grundlagen, Entwicklung und Wirkung der Constitutio Criminalis Carolina*, ed. Peter Landau and Friedrich-Christian Schroeder (Frankfurt: Vittorio Klostermann, 1984), 42.

continent of Europe in the fifteenth and sixteenth centuries. The *Inquisitionsprozess* included the new idea of state-prosecuted crime as well as new procedures for establishing facts in a criminal investigation.<sup>24</sup> This new system required two eyewitnesses or a confession of guilt to warrant a conviction in the *Inquisitionsprozess*. Torture was a vital part of an investigation and its use increased as a means to obtain these necessary confessions.<sup>25</sup> Eyewitnesses to the actual crime were extremely rare in cases of infanticide, so investigations generally centered on obtaining a confession.

These changes were embodied by and enacted through a series of new law codes throughout the Holy Roman Empire. They culminated in the empire-wide *Constitutio Criminalis Carolina*, known more simply as the *Carolina*, of 1532. The *Carolina* was based heavily upon the 1507 law code for the bishopric of Bamberg, the *Bambergische Halsgerichtsordnung* (the Bamberg capital crimes procedure), most frequently referred to by modern scholars by the shortened version of its Latin name, *Bambergensis*. Drafted in 1507 by Baron Johann von Schwarzenberg, one of the preeminent jurists of late medieval/early modern Germany, it drew on Italian and Germanic legal traditions and furthered the standardization of the *Inquisitionsprozess*.

The *Carolina* set forth a uniform criminal procedure for the empire, regulating everything from the use of torture to the dispensing of punishments. It also addressed specific crimes, outlining what constituted sufficient evidence for arrest and for torture, as well as the prescribed punishments for each crime. Both the *Bambergensis* and the *Carolina* address, in very similar ways, the crimes of infanticide, abandonment, and

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<sup>24</sup> Langbein, *Prosecuting Crime*, 129-139.

<sup>25</sup> John Langbein, *Torture and the Law of Proof: Europe and England in the Ancien Régime*. (Chicago: University of Chicago Press, 1977), 4.

abortion. The definition of infanticide that they provide became the standard for identifying the crime, determining proof, and deciding on the proper punishment (usually the proper form of execution).<sup>26</sup>

The *Carolina* has a complicated historical and historiographical relationship with the supposed rise in incidence and actual rise in prosecution of infanticide, abortion, and abandonment. Infanticide had occurred and had been punished throughout history, long before the first of these law codes, and long before the sixteenth-century concern with state control over morality. Yet historians have long noted that the number of cases prosecuted increased in the decades after the propagation of the *Carolina*.<sup>27</sup> What is the relationship between the *Carolina* and the perceived rise in occurrence of infanticide? The *Carolina*, written in 1532, was certainly influenced by the greater desire of early modern authorities to police morality in the decades following the reformations; however, the *Carolina*'s most significant influence was in criminal procedure. Crimes such as infanticide had been illegal previously, handled on an ad hoc basis, sometimes by the church, with relatively minor punishments. But now they were subject to a more rigorous and thorough accusatorial and investigative procedure and recorded more regularly and consistently.

Additionally, the *Carolina*'s precise definitions of crimes, from indications of the crime to its appropriate punishment, had a significant effect not just on criminal procedure but also on how courts identified and understood particular offenses.

Infanticide was defined as when "a woman who secretly, maliciously, and willfully kills

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<sup>26</sup> Kleinheyder, "Tradition und Reform," 7-12.

<sup>27</sup> Richard van Dülmen, *Frauen vor Gericht*.

her child, which had both life and body,” and more specifically as when she does so after carrying a child secretly and “willfully alone, and gives birth without the help of other women.” Further, such a woman’s motivation is made clear:

So there is, therefore, no more believable reason, than that the same mother through malicious forethought, intended, through the killing her innocent child, of which she is guilty either during or after the birth, in order to keep hidden her practiced depravity.<sup>28</sup>

The definitions of the causes, motivations, and methods of infanticide put forward in the *Carolina* influenced how the town councils of early modern German cities understood and, therefore, treated cases of infanticide; these definitions were also similar to the popular conception of infanticide as observed in later printed broadsides and leaflets. It is this definition that was used throughout the early modern period and in modern scholarship on infanticide in the early modern era. And all of these sources defined infanticide as a crime committed by unwed women against their newborn children.

Courts followed the *Carolina*’s definition of the crime, as well as its prescriptions for investigations and punishment, throughout the early modern period, shaping the sorts of evidence prosecutors looked for, the types of questions they asked, and how they came to decide on the proper punishment. The *Carolina*’s definition of infanticide was based closely on the *Bambergensis*. The *Bambergensis* laid down strict guidelines for what constituted infanticide. In a section entitled “Von heimlichem kinderhaben und todten durch ir mutter/ gnugsam anzeigung” (Of secret childbirth and killing by the mother/ sufficient indication), are definitions and guidelines that would be used for the next three

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<sup>28</sup> Gustav Radbruch, ed., *Die Peinliche Gerichtsordnung Kaisers Karls V. von 1532 (Carolina)* (Stuttgart: Philipp Reclam, 1962), 84-86.

centuries. The text outlines when a suspect should be questioned under torture for the crime of infanticide:

If a girl (who claims to be a virgin) is held in suspicion/ that she has given birth to a child in secret/ and has killed it/ one should investigate/ if she was seen with an abnormally large body/ further if her body became smaller and she was pale and weak/ if such is found/ and the same girl is a person/ who is suspected of the deed/ she should be inspected in a secret place by the experienced women.../ if she is then found suspicious/ and will not confess to the deed/ she should be questioned painfully [i.e., torture].<sup>29</sup>

The next paragraph states that the “experienced women,” or municipally-registered midwives, should milk the breasts of a suspect to determine if she had been pregnant recently. If she produces milk, she must have recently given birth, and must be questioned under torture.

After this set of instructions, there follow regulations on how to punish the various crimes. The punishment prescribed for women who killed their children is severe: they should be buried alive and impaled. This was a very rare form of execution in reality, and was considered especially harsh. The *Bambergensis* provides for another option: in order to prevent despair in the condemned, execution could, on the discretion of the judges, be reduced to drowning. However, it suggests that in those localities where infanticide is found to be a frequent occurrence, the harsher penalty should be enforced, or at least drowning should be preceded by tearing with hot pincers, a gruesome and

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<sup>29</sup> Johann von Schwarzenberg, *Bambergische Peinliche Halsgerichtsordnung*, ed. Josef Kohler and Willy Scheel, accessed January 4, 2011, <http://www.uni-mannheim.de/mateo/desbillons/bambi.html>, 16r-16v. So man ein dirn (die fur ein junckfraw get) jn argkwon hat/ das sie Heimlich ein kindt gehabt/ und ertödt habe/ sol man sunderlich erkunden/ Ob sie mit einem grossen ungewonlichem leib gesehen worden sey/ me rob ir der leib kleiner worden und dar nach bleich und schwach gewest sey/ so sölchs und der gleichen erfunden wurdet/ wo dann die selbig dirn ein person ist/ Darzu man sich der verdachten tat versehen/ mag sol sie durch verstendig Frawen an heymlichen steten...besichtigt werden/ wirdet sie dann doselbst auch argkwenig erfunden/ und wil der tat dannocht nit bekennen/man sol sie peynlich fragen.



painful act that would instill fear in others who might feel tempted to commit a similar crime. It is unclear, however, what constituted infanticide being a frequent occurrence.

The next paragraph expands on these ideas. A woman committed infanticide “um jr geübte leichtfertigkeit verborgen zu halten:” in order to keep hidden her practiced depravity. It was presumed that the woman must also have hidden the pregnancy all along, lied when questioned about it, and given birth in secret, all of which added to her guilt. From this early date, what would become the major factors in infanticide investigations were apparent: the hidden pregnancy, the secret birth, and the desire on the part of the murderess to cover up her shameful behavior. This was an early codification of a specific, narrow definition of infanticide, limited to mothers killing illegitimate newborns; presumably anything else would fall under ordinary murder.<sup>30</sup>

The *Carolina* also addresses infanticide and related crimes in three articles, staying close to the language of the *Bambergensis*: infanticide in article 131, abandonment in article 132, and abortion in 133. Infanticide is described as the murder, “secretly, wickedly, and willingly” of a newborn by its mother. As in the *Bambergensis*, the punishment prescribed was burial while alive followed by impalement, with the proviso that when water is nearby, drowning could be used as an alternative. Again, it is noted that the harsher punishment should be adopted in places where the crime is prevalent. Article 131 then outlines methods to use in uncertain cases to determine a woman’s guilt. A main concern of the *Carolina*, and thus of later investigations, was determining whether or not the woman had kept her pregnancy secret and then also given birth in secret. Having hidden a pregnancy or childbirth was a certain indication of also

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<sup>30</sup> Von Schwarzenberg, *Bambergische Peinliche Halsgerichtsordnung*, 16r-16v.

having committed infanticide, and was punishable on its own even if a corpse was never discovered or a confession never extracted from the mother.

Giving birth in secret was construed as a certain indication of infanticidal intent and, therefore, a crime unto itself, because it was so antithetical to what was expected of a mother. When giving birth, a woman was supposed to seek help from other women among her family, friends, and neighbors. Perhaps more importantly, she was also supposed to enlist the help of one of the city's midwives. Midwives were appointed as officials of the city, and were obligated to help the women of the town in their deliveries, regardless of economic or social status.<sup>31</sup> Thus, many women were present at every socially accepted delivery. A woman who gave birth in secret instead of making use of these communal resources, would have appeared highly suspicious. What legitimate reason could a woman have for not wanting any help in one of the most difficult and dangerous experiences of her life?

Women believed to be hiding a pregnancy were similarly mistrusted. Typically only single women were suspected of hiding pregnancies, for married women would have had no reason for secrecy. Hiding and/or denying a pregnancy was considered the first indication of intended infanticide or abortion. If a woman were not planning to terminate her pregnancy or to dispatch the child shortly after birth, she would not have hidden her pregnancy and instead would have sought help. A pregnant woman might see things very differently, of course. She might be hoping that she was not pregnant despite the signs, or that she might miscarry, the chances of which were high. Yet hiding a pregnancy was

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<sup>31</sup> Wiesner, *Working Women*, 55-57.

risky, because if her child died, even of natural causes, it would be seen as proof of long-standing intention to kill the child.

Article 131 introduces particular phrases that became familiar in investigations into and discussions about infanticide, phrases which emphasized the perceived gruesomeness and unnaturalness of the crime and the revulsion felt by both those who wrote the laws and those who enforced them. The victim is described as an “innocent little child” (“unschuldig kindtlein”), and as the very flesh of its mother. The mother is always a “depraved woman” (“leichtfertige weib”), often also described as selfish. These words would be repeated throughout the legal literature and by the council in the course of their investigations, always setting the innocent child and guilty mother in opposition to each other, contrasting their character and highlighting the evil of the crime: a fallen woman who killed her own innocent little child, her very own flesh, to protect her own selfish interests.

This article sets the tone for the following articles. Article 132 addresses the abandonment of infant children by their mothers. This short section makes a single distinction among cases of abandonment: if the child lived, then the punishment was left to the discretion of the local authorities, but if the child died, then the mother was to be punished “am leib oder leben,” (corporally or with death). As in article 131, this article only considered the possibility of the mother as the malefactor, making no provision, for example, for fathers who abandoned children. This definition would shape the way cases of abandonment were prosecuted, as evidenced by the kinds of questions asked by the town council and patterns of punishment. Men were hardly ever accused of abandoning

their children; rather, they were accused of abandoning their whole families or of not taking care of their families. Fathers were responsible for the family as a whole, but mothers alone were responsible for their young children. The abandonment of a newborn by a man was usually framed in terms of an irresponsible mother who allowed him to do so and was thus guilty herself as well. As with infanticide, it was presumed that married women did not have the same need to abandon their children. The principle motivation remained the concealment of immoral behavior. However, unlike cases infanticide, the town councils did occasionally acknowledge other motivations for abandonment, including financial distress.

Article 133 deals with the complicated issue of abortion. Abortion, while considered to be a crime roughly equivalent to infanticide, was much more difficult to prove. The *Carolina* defines abortion as the act of the mother, or some other person, killing a “living” fetus. “Living” here meant that the child had either reached quickening, as defined by tangible movement in the uterus, or had a soul. Thinkers in early modern Europe generally held that the soul did not enter the fetus until some point after conception. Whether or not a fetus already had its soul distinguished the killing of a living being from the ending of a potential life. This distinction determined the severity of the crime and the punishment. It was also an important marker for the viability of a fetus. When doctors inspected corpses believed to be victims of infanticide, they estimated the length of time the fetus had been “living” in the womb in order to determine if the child had been stillborn, as many accused mothers claimed.

A woman who aborted a fetus that was not yet living would still face punishment, but usually this punishment was not as severe. Determining whether or not the fetus was living proved difficult. Suspected women knew they would face less trouble if the fetus were not yet living, and so insisted that they had not yet felt it move. Abortion was also grouped with purposefully making oneself or another infertile (“unfruchtbar”), both of which were crimes punishable by death (drowning for a woman and decapitation for a man). It is important to note that, unlike the earlier sections on infanticide and abandonment, this article of the *Carolina* allows for the possibility that someone other than the mother might be responsible for the death of the unborn child. Men, not wanting to be trapped in an undesired marriage or with an unwanted child, were sometimes accused of having forced or tricked their pregnant lovers into consuming an abortifacient. As a result, men could be, and were, prosecuted for abortion in the same way that women were. The town council was willing to prosecute a husband, lover, or even employer when the woman involved implicated him.<sup>32</sup>

Neither the *Bambergensis* nor the *Carolina* originated the era’s conception of infanticide or abortion. The phrasing in the *Bambergensis* and the *Carolina* presumes the general acknowledgement that this was already a crime frequently committed. Indeed, the kind of infanticide seen in early modern Europe was not unknown in the Middle Ages. The law codes of the late fifteenth and early sixteenth century reflected a reality that was already well established. In turn, the precise legal definition of infanticide influenced the early modern understanding of the crime. Because infanticide was defined in this particular way, prosecution of the crime was often limited to this narrow concept. When

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<sup>32</sup> *Carolina*, 84-86.

lawyers and doctors discussed infanticide, it was with this definition of the crime in mind. The *Carolina* did not invent a new crime, but rather clearly defined an existing crime and the proper methods of handling crimes.

What had changed was how authorities understood their role in relation to the crime and how they went about its prosecution. Accusations no longer relied solely on the complainant or his or her family. Especially in cases of infanticides, accusations were unlikely to have been made by the victims' families, as most often it was a family member who had committed the crime. Neither did early modern cities have the equivalent of a police force patrolling the streets. The town guard, however, could report crimes, and they were often in the best position to find abandoned infants, who were frequently left near places where the guard was stationed, such as the city gates. For the most part, though, the reporting of crimes was left to neighbors. Jason Coy claims that citizens proved eager to denounce other locals for transgressions, instituting a communal system of social control, not one simply imposed from above. Women with illegitimate children, and especially women who had committed infanticide were trouble-makers whom the community was often only too glad to be rid of; they might have already had a reputation for causing trouble, as the source of gossip and unwanted negative attention to their household, family, or neighborhood. Illegitimate children were only proof that this reputation had been deserved. To avoid further problems, the community often felt it was best to denounce such women, just as it would denounce vagrants and thieves, and to purge all such people from its society.<sup>33</sup>

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<sup>33</sup> Jason Coy, *Strangers and Misfits: Banishment, Social Control, and Authority in Early Modern Germany* (Leiden: Brill, 2008), 88.

Neighboring social control was aided by the closeness of living quarters in an early modern city. Maidservants would not have had their own room, and even a bit of space to be alone would have been difficult to find. In such conditions, it was difficult to hide something as physically telling as pregnancy and childbirth, never mind a murder. A maidservant might be denounced as pregnant if a coworker noticed that she had not had her monthly period for too long—sharing a bed with a fellow maidservant left nothing private—or if she had been getting a bit thicker around the middle. She might be suspected by employers or neighbors if she had been gaining weight and then became suddenly much thinner. Immediately after giving birth, many women were discovered unconscious or asleep, perhaps even in the same bed in which they had given birth, with blood and/or afterbirth as telltale signs of what had taken place; such markers would have instigated an immediate search for the body of the baby. The searchers would check the mattress of the suspected young woman, and often enough found the body underneath it or in a basket or other container nearby.

Occasionally a dead infant would be found by chance instead, and then the search for a mother would ensue. Surprise discoveries happened in privies and trash heaps, when wild animals uncovered a poorly buried corpse, or when a shocked fisherman pulled a body out of a river or canal. The search for the mother focused on already suspicious women, such as those who had been rumored to be pregnant or had been acting strangely. When such a connection was made, the woman in question was taken into custody, as the presumed mother and child-killer. At this point in the investigation, the goal of the council was to determine if the suspected woman was indeed the mother of the child. The

easiest way to do this was to discover whether the woman in question had recently been pregnant. The council generally requested the aid of midwives, who would examine the woman's body for signs of recent pregnancy, including pressing the breasts to see if they produced milk, a procedure outlined in the *Bambergensis* and the *Carolina*. The council also questioned the woman's family, friends, and neighbors, asking if she had been acting strangely, if she had recently gained weight only to lose it quickly and then appear sickly. Bloody clothes or bedclothes were regarded as sure signs of a hidden childbirth. Once a woman had been identified as a potential child-killer, she was brought before the council and questioned.

#### *Earliest cases*

The *Bambergensis* and the *Carolina* predate almost all of the cases of infanticide recorded in the four Swabian cities, a fact which raises questions about the relationship between crime and legislation. Augsburg, fortunately, has extensive surviving court records from the early modern period, but the timing of those records skews the appearance of the numbers. At least part of the apparent increase can be explained by the imperial legal reforms of the early sixteenth century. The new procedure outlined in the *Carolina* and the changes in the governance of Augsburg in the early sixteenth century led to major changes along these lines. New to Augsburg in the sixteenth was the method of recording cases in *Urgichten*, case files which include records of questions and answers from the interrogation and witness statements. The first case of recorded infanticide under this new system does not appear until 1555. Again, this does not mean



that this was the first instance of infanticide within the town; but this was the first case recorded in this relatively new manner.

The other cities in this study were not so lucky with their court records. Ulm, with a population of 17,000 around 1500,<sup>34</sup> was much larger than Memmingen and Nördlingen, but still nowhere near Augsburg's thirty to thirty-five thousand of the same year. Ulm also had records called *Urgichten*, but these were mostly summaries of court cases, not the complete trial documents. At some point these were bound together into books, but, unfortunately, only one volume of the *Urgichten* has survived, that containing the years 1594 to 1636. It is, obviously, impossible to determine long-term patterns from such limited sources. Memmingen also has limited and spotty *Urgichten*. Memmingen was a much smaller town than Augsburg, with a population of only around 4,100 in 1450 (compared to 35,000 in Augsburg in 1500).<sup>35</sup> Memmingen had far fewer cases of infanticide than Augsburg, and while a few thorough case files survive, the criminal records in general are not nearly as comprehensive.

The city of Nördlingen, with a population of 8,800 in 1600,<sup>36</sup> also had far fewer cases of infanticide overall. Nördlingen had a slightly different system of record keeping, which took several forms between the late fifteenth century and the end of the eighteenth century. Several cases from much earlier in the sixteenth century have survived. Nördlingen's archive contains a thorough collection of early modern court records,

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<sup>34</sup> Gudrun Litz, *Die Reformatorische Bilderfrage in den Schwäbischen Reichsstädten* (Tübingen: Mohr Siebeck, 2007), 91.

<sup>35</sup> Merry E. Wiesner, "Political, Economic, and Legal Structures," in *Early Modern Europe: Issues and Interpretations*, ed. James B. Collins and Karen L. Taylor (Malden, MA: Blackwell Publishing, 2006), 224.

<sup>36</sup> Terence McIntosh, *Urban Decline in Early Modern Germany: Schwäbisch Hall and its Region, 1650-1750* (Chapel Hill: University of North Carolina Press, 1997), 2.

mostly from the years 1450 to 1650. The earliest infanticide cases are to be found in the *plutbuch*, or “Blood book,” covering the years 1415 to 1515, and containing a broad range of criminal cases and their resolutions.<sup>37</sup> Beginning in 1492, court records were collected in the *Kriminalakten*, which included interrogation records and witness statements. The earliest case of infanticide in these records is the 1495 case of Margarete Höllin, which was recorded in both the *plutbuch* and the *Kriminalakten*. Margarete was impregnated by her cousin Hans Holl; she gave birth in secret, threw a shirt and a blanket over the baby, and finally set a container of barley on top of the baby in order to kill him. Margarete was made to stand in the pillory and then banished.<sup>38</sup> These case files are not as extensive as some of those from later in the sixteenth century in Augsburg, but they reveal that the crime was well-known in Nördlingen long before the advent of the *Carolina*, and the example of Margarete Höllin indicates that the main goal of the council members was to maintain the peace in their town by simply ridding themselves of troublemakers instead of pushing for more extreme punishments.

These early cases rarely resulted in punishments as severe as execution. Indeed, that the *Carolina* prescribed the death penalty for women who committed infanticide or abortion is of particular note because prior to the mid-sixteenth century, the execution of women was very rare. No more than a handful of women were ever executed in Augsburg before the proliferation of infanticide investigations.<sup>39</sup> Only the most horrific and unusual crimes—witchcraft or poisoning—were considered capital offenses.

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<sup>37</sup> Alfons Felber, *Unzucht und Kindsmord in der Rechtsprechung der freien Reichsstadt Nördlingen vom 15. bis 19. Jahrhundert* (Dissertation, University of Bonn, 1961), 15-17.

<sup>38</sup> Stadtarchiv Nördlingen, *Kriminalakten* 1495, Margarete Höllin; *Plutbuch* fol. 89. Felber, *Unzucht und Kindsmord*, 98.

<sup>39</sup> StadtAA, *Strafamt, Verzeichnis der Maleficanten*.

Executions thus naturally rose dramatically with the advent of the *Carolina*, according to which more offenses were categorized as capital crimes. Many of the earliest cases, therefore, were resolved more simply than the full-blown trials that would come later in the century. Swearing oaths to keep the peace and other, seemingly milder punishments were much more common.

A comparison with other regions across Germany to confirm this pattern in practice is made difficult by the common lack of sources from this early period and the related underdevelopment of historical research on infanticide in the late Medieval period. But the evidence from these four cities points toward the propagation of the *Carolina* leading to the spread of a stricter method of identification, investigation, and punishment. A significant factor that changed, then, was the degree of leeway that the town council possessed in arbitrating cases of abortion, abandonment, and infanticide. Although the *Carolina* allowed local autonomy through its severability clause, it provided a standardized procedure to deal with what was widely understood to be a growing problem.

### *Infanticide in Augsburg*

The earliest case of a typical suspected infanticide recorded in Augsburg's records was that of Maria Weisschoferin in 1555. Her entry in the *Strafbuch*, a chronological record of all crimes and their punishments in the city of Augsburg, reads:

Maria Weisschoferin was pregnant with a little child, which she strongly denied...she is also under suspicion of not only intending to do away with this little child, but earlier also doing away with two other little children, which she did not want. For this she was brought into the jail; because she confessed neither

under benevolent [without torture] nor painful [with torture] questioning, she is banished from the city and surrounding area.<sup>40</sup>

Weisschoferin was brought before the council on the fifteenth of February, 1555. Her case file consists of no more than one round of questions and answers and the summary of her interrogation under torture. During the first round, Maria named George Jacob, a house servant, as the father of her child. However, she also denied that she even knew she was pregnant. The rest of her answers reveal much about the council's expectations and how a suspect's previous reputation made her more suspect. Maria explained that although she did not realize this time that she was pregnant (which was a realistic possibility), she had been pregnant four times before. When she explained these four pregnancies, she claimed the first two were legitimate, fathered by her husband. It is unclear whether or not she was still married by the time of her trial, although it seems likely that her husband had died or left by the time of her third pregnancy. She had no reason to admit to a different father for her other pregnancies if her husband had still been living. The third and fourth children, she claimed, were fathered by men named Hans and Peter, respectively. One of the "ehelich," or legitimate children was still living, as was her child by Peter. The other two had died, which clarifies why the council believed that she might have committed infanticide twice before. She claimed that she had done nothing of the sort, but she admitted to being unhappy about her first pregnancy. It seems she aborted this child. The other three she carried to full term, but the third child had died

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<sup>40</sup> StadtAA, *Strafbücher*, Maria Weisschoferin, 16 February 1555.

Maria Weisschoferin ist ains kindlins schwanger gewest, darfur sie zum hochsten geleugnet...daher nit geringer arkhwan entstanden, als hab sie nit allain dis kindlin verthun wollen, sond das sie hivor auch zway kindlin, deren sie nit erfreut worden, verthan, darumb sie venkhlich eingetzoget aber dieweil sie solchs weder gutlich noch peinlich gesteen wollen ist sie der stat unnd Etter verwisen worden.

at five weeks of age. She then insisted that she did not take “anything more” to abort her children her whole life long. The council pressed her on this issue, and again she denied killing a child or aborting a fetus. Finally, the council inquired whether or not she had ever told the father of her latest child, presumably George Jacob, that she was pregnant; she said she had not told him, that she was afraid of what he would do. It might also be that she really was unsure about her pregnancy, as she had claimed. Maria was then questioned again, this time under torture. She was threatened with and subjected to the thumbscrews, generally considered the mildest form of torture. It seems that this torture did not draw out any new information from Maria.<sup>41</sup>

Because she did not confess to infanticide or abortion regarding her last child, even under torture, Maria was not executed. Instead, she was exiled; as discussed above, exile was the default punishment for cases when guilt was uncertain, but the reputation of the suspect was indisputably negative. Maria admitted to having five pregnancies by four men, only two of which were legitimate. One of the legitimate pregnancies she admitted to aborting and one of her illegitimate children was dead. Maria had run afoul of the law and of societal expectations and conventions multiple times. While they could not pin infanticide on Maria, for the members of the council, her previous behavior implied a certain level of guilt and a likelihood that she would have had little hesitation about having another abortion or doing away with yet another child. The councilmen still suspected her of being responsible for the second dead child, and possibly a third about which they could not get a satisfactory answer. From their point of view, one dead child more would have been insignificant to a woman whom they believed to have already had

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<sup>41</sup> StadtAA, *Urgichten*, Maria Weisschoferin, 16 February, 1555.

killed two. Past behavior was a reflection on current inclinations, morals, and also predicted future behavior. Whether or not she committed the latest infanticide of which she was accused, Maria was still an unwanted member of society, having proved to be trouble multiple times in the past and not likely to stop her pattern of sinful sexual relations, illegitimate pregnancies, abortions and/or infanticides.

It is also apparent from this case that women who had had illegitimate children were not always completely destitute. Maria had already had two illegitimate pregnancies previously, and she openly admitted to sexual relations with two men other than her husband, but had managed to remain within the community. It was only when she was suspected of an infanticide that the council decided to take more permanent action; the investigation brought to light all of her previous infractions as well as her most recent offense, and together they were enough to warrant exile.

### *Abandonment*

Not every woman with an unwanted pregnancy resorted to abortion or infanticide. Abandonment was, in some ways, an alternative to these crimes. Abandoning children was also illegal, but perceived to be less despicable than abortion or infanticide. When possible, the town council tracked down abandoning mothers, returned their children to them, and punished them with time in the tower or pillory, generally in addition to exile. Sometimes town councils recognized a distinction between abandonment with the intention that the child be found and abandonment with the intention that the child die.

Most cases of abandonment were dealt with relatively quickly, banishing the culprit and her child from the town.

Despite their efforts to punish those who abandoned children, the councilmen still recognized the need for an institution to house foundlings. Augsburg city chronicler Paul von Stetten records that in 1471, the “council ordered that henceforth fines should be reserved for the purchase of a house for orphans and foundlings.”<sup>42</sup> It seems that the actual establishment of the foundling house took some time, but records indicate that it had come into being at least by 1533.<sup>43</sup> This institution was designed to replace the old system of farming out foundlings and orphans to foster mothers all over the city. The town council thought that the more centralized institution would be more cost-effective and safer for children. The survival rate of children who were placed in foster care was very low. Very young children were still sent out to wet nurses where their chances of survival were even worse. Those who lived in the foundling house did not fare much better: five percent of girls and just under seven percent of boys survived until adulthood.<sup>44</sup> Foundling houses were a source of controversy throughout the early modern period and across the continent because of their squalid conditions and the well-known low survival rates. They would also come under attack by those who believed that having the option of depositing a child at a foundling house actually encouraged immoral behavior by giving women an opportunity to avoid responsibility.<sup>45</sup>

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<sup>42</sup> Von Stetten, *Geschichte*, 208.

<sup>43</sup> Anita Obermaier, “Findel- und Waisenkinder. Zur Geschichte der Sozialfürsorge in der Reichsstadt Augsburg,” *Zeitschrift des Historischen Vereins für Schwaben* 83 (1990): 142.

<sup>44</sup> *Ibid.*, 160.

<sup>45</sup> Otto Ulbricht, “The Debate about Foundling Hospitals in Enlightenment Germany: Infanticide, Illegitimacy, and Infant Mortality Rates,” *Central European History* 18, no. 3/4 (Sep.-Dec., 1985): 211-256. Boswell, *The Kindness of Strangers*.

Following concerns over the welfare of the children of the city's more upstanding citizens, the Augsburg city orphanage was founded in 1572. The orphanage only accepted true orphans (those children who had lost both parents), and only legitimate children whose parents were citizens, while the foundling house accepted a wider array of children.<sup>46</sup> The orphanage, therefore, was not a place where infants were abandoned in secret, but rather where orphaned children were taken in.

The foundling house was, in fact, just one of many places where infants were abandoned in the early modern period. Abandoning parents often chose other locations where they would not be caught in the act. If their intent was that the child should be found, then they would have left him or her in a high-traffic location, such as in front of neighbors' houses, on the steps of a church, near the city gates, or, in at least one Augsburg case, in a tavern.<sup>47</sup> Often the parents left a note with the child, indicating the child's name, religious confession, and occasionally that he or she had been baptized and its baptismal name. If the abandoning parents simply wanted to be rid of the child, and did not want to risk being tracked down by the council, they might leave the child in a field or in the woods, far outside the city's gates, where he or she would likely die from exposure. Occasionally even these children were found, often too late, sometimes frozen in the snow or mauled by wild animals.

When abandoned children were found, the council immediately tried to find the parents. The foundling house was forever running short of money, help, space, and

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<sup>46</sup> Thomas Safley, *Children of the Laboring Poor: Expectation and Experience Among the Orphans of Early Modern Augsburg* (Leiden: Brill, 2005), 17.

<sup>47</sup> Ann Tlusty, *Bacchus and Civic Order: the Culture of Drink in Early Modern Germany* (Charlottesville: University Press of Virginia, 2001), 162.



supplies and, therefore, sought to limit the number of children it took in. Thus, when the parents could be found, they were often sent away again with their child. Most often this was the mother; only rarely was the father found and held responsible. Usually the parent or parents were banished, along with the child. The intention of the council was to protect the interests of the city, rather than those of the child. To accept a foundling would add to the strain on the resources of the foundling house, and would encourage immorality among the city's young, single women. City leaders considered banishing the troublemakers to be a more efficient and effective way of dealing with abandoning parents.

To the parents that abandoned their children there, the foundling house must have seemed like their only option. Yet the conditions in the foundling house were so atrocious that one might wonder how parents who wanted their children to survive could relegate their children to such a place. Disease ran rampant; the children suffered from a wide range of afflictions, such as smallpox and tuberculosis. Despite efforts both to educate the children and to find them employment once they were old enough, the future for most of these children, even if they survived, was still bleak. The Augsburg foundling house was not unusual either; most foundling houses in early modern Germany were similarly plagued. The foundling houses seemed to serve more as a temporary stay against death rather than an effective means to produce thriving adults.<sup>48</sup> For many abandoning parents, the foundling house must have been a last resort, not a decision they would have come to lightly. Even among these parents, many believed that they would return for their

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<sup>48</sup> Joel Harrington, *The Unwanted Child: the Fate of Foundlings, Orphans, and Juvenile Criminals in Early Modern Germany* (Chicago: University of Chicago Press, 2009), 257-264.

children when their fortune changed. It is also possible that a few parents knew the risks of abandoning their children and saw the foundling house as a more indirect way of accomplishing what they did not wish to do themselves.

On July 18, 1541, Barbara Ganserin was arrested in Augsburg, brought before the council, and asked about the child she had supposedly abandoned as she left town. Ganserin admitted that the child was hers, born out of wedlock. The father was the tailor Friedrich Leupolt, whom she claimed was separated from his wife, and with whom she had been living for a year. When asked why she had moved away in secret, without providing for the care of her child, she replied that she had neither done it secretly nor failed to provide for care. She had left the child with a neighbor, who presumably then passed the child on to the foundling house. Barbara claimed that the father of her child had moved to Strasbourg in the meantime, and she had gone to find him. Perhaps she was gone for too long, causing the neighbor to believe she had no plans to return. Barbara failed to find Leupolt, and claimed she had returned only to find her child in the foundling home. The court then asked if she had intended, by abandoning her child, that the child should die. This question did not logically follow her response to the previous question, perhaps because the questions had been drawn up in advance, leaving little room for changing courses in the middle of interrogation, or perhaps because the council did not believe her story. Barbara, sticking to her explanation, denied that that was her intention.<sup>49</sup>

Like so many other abandoners, Barbara Ganserin was banished from the town along with her child. In cases like this, the interrogation was rather perfunctory. The

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<sup>49</sup> StadtAA, *Urgichten*, Barbara Ganserin, 18 July 1541.

council sentenced suspects to banishment in almost every case. Barbara's lack of citizenship in Augsburg also worked against her; non-citizens were more easily dismissed. For these reasons, it was not necessarily important to establish the true course of events and the intentions behind the supposed abandonment; it was easier to simply banish her.<sup>50</sup>

Banishment was the prescribed punishment for convictions of certain crimes, such as begging, but it was also a common solution for troublesome people suspected of a more serious crime that could not be proven. For example, multiple cases of suspected infanticide in Augsburg resulted in banishment when a definitive conclusion about guilt could not be reached—perhaps the child could not be found, or the mother would not confess even under torture. Even though the council had no proof of guilt, the suspicion alone was enough to warrant banishment along with other unwanted people, such as beggars and prostitutes. Judges had significant leeway in convicting and punishing criminals for non-capital offenses, so banishment was an appealing alternative when a conviction for infanticide could not be reached.<sup>51</sup>

The town council of Augsburg generally employed three forms of banishment: short-term, long-term (meaning several years to a decade), or life-long. Those who abandoned their children were most often banished for life. Often expulsion was combined with some sort of corporal or shaming punishment, such as being whipped out of the city with switches, or being made to stand in the pillory for a certain period of time

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<sup>50</sup> Coy, *Strangers and Misfits*, 88-87.

<sup>51</sup> Langbein, *Torture and the Law of Proof*, 46.

and face public ridicule.<sup>52</sup> In fact, banishment was hardly ever permanent; many Augsburgers were found guilty of breaking their oath to stay away and returning to the city; others appealed to the council after a time away to be let back in. Many had to be banished multiple times, having returned again and again despite the threats of the council.

### *Other crimes against children*

Abandonment, abortion and infanticide were not the only dangers facing children in early modern society. Children kept by their parents and raised in a more stable household also faced many forms of violence, both accidental and otherwise. Illegitimate children were not the only unwanted, neglected, or abused children; parents were not the only ones who committed acts of violence against children. Over the course of the three centuries, the Augsburg council heard cases of accidental stabbings, shootings, and drownings of children, as well as the purposeful injury of older children by other relatives or even strangers. These injuries included sexual molestations, beatings, premeditated murders, and supposed acts of witchcraft against young adults, children, babies, or even pregnant women. While these cases were much rarer in the court records than cases of typical infanticide, often the result of a chance encounter or bad luck, they nevertheless provide an important contrast to the typical cases of infanticide. In the early modern imagination, these accidents or incidents were linked to infanticide in that they demonstrated the dangers and helplessness of infancy and childhood.

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<sup>52</sup> Tyler, "Refugees and Reform," 80-81.

Certain variations of infanticide, such as a father or other relative seeking to cause an abortion or dispose of an unwanted newborn, also challenged the narrow definition of infanticide seen in the *Carolina*. Yet the attempts of the council to make sense of the crimes and its approach to investigating and sentencing these crimes reveal striking commonalities. Even these crimes, which were so different from infanticide, were seen in a similar light, based largely on the age (and innocence) of the victims. Among the salient facts present in these kinds of cases was that the victims were all children, and, therefore, generally thought incapable of defending themselves. Nor could the victims share in the blame for what happened to them. Children were spiritually and legally innocent and helpless, garnering pity; this was especially so when they had suffered at the hands of adults who should have been protecting them.

In unusual cases, such as accidental killing of children, including accidental stabbings, shootings, and drownings, it was most important for the council to determine intention. This proved difficult, as the killer often had no obvious, familiar motive. For example, Mathies Heckel drunkenly pushed his neighbor's child into the Lech, one of the two major rivers running on either side of Augsburg, whereupon the child drowned. Because Mathies did push the child, he held some blame for the death of the child; it could not properly be called an accident. However, because Mathies was drunk when he did so, the council concluded that he did not intend to harm the child in any way, and would not have done so had he been sober. Mathies was banished from Augsburg and told that he could come back only if he made atonement to the child's parents; the specifics of this requirement were not stated, but probably entailed some sort of cash

payment, a practice that referred to an older tradition of reconciliation.<sup>53</sup> Drunkenness did not always provide a sufficient excuse for committing a crime; in many cases it at best provided an explanation for otherwise inexplicable behavior, such as harming an innocent child with whom the drunk had no previous relationship. As Ann Tlusty has shown, intoxication provided council members with a means and an explanation to dismiss a case if they thought it was in the city's best interest.<sup>54</sup> The council decided that even though Mathies would not have committed such a crime while sober, he could not go unpunished because the victim was a helpless child and Mathies had acted irresponsibly. But the council left an opportunity open for Mathies to return. This example not only shows how the council dealt with an unusual case of violence toward children, but also the flexibility of legal systems in the sixteenth century, as early modern cities transitioned from older Germanic traditions to newer Roman-influenced standards.

Accidental suffocation or crushing of an infant by a parent sleeping in the same bed was another common concern of this period. These cases were often ruled to be accidents rather than infanticide. However, historians such as Simone Winkler have theorized that parents may sometimes have used suffocation in bed as an intentional means of controlling the size of a family. In a time when other means of birth control and abortion were not reliable or effective, "*Kindserdrücken*," a term meaning the crushing or suffocation of a child while asleep, might have been a means to curtail the number of children in a family and lessen the strains another child would bring without attracting suspicion. Infants who died in this manner were often born legitimately to a married

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<sup>53</sup> StadtAA, Strafbücher, Mathies Heckel, 14 April 1537.

<sup>54</sup> Tlusty, *Bacchus and Civic Order*, 87-91.

couple, and the mother generally had not made any attempt to hide her pregnancy or keep the child a secret. Married women were not thought to have any motivation for killing their own children, so an accidental suffocation might draw little attention.

*Kindserdrücken*, according to Winkler, gained more attention from secular authorities (as opposed to the earlier interest in the crime by religious authorities) over the course of the eighteenth century and was more frequently punished.<sup>55</sup> This phenomenon is still thinly researched, leaving much work to be done on how *Kindserdrücken* fits into the early modern legal framework. Winkler has based her research largely in the Duchy of Prussia; no records of cases of this type of child murder exist for the four cities in this study, which is possibly a reflection on the problematic nature of this kind of crime and the reluctance and/or inability of civic authorities to prosecute it. Authorities took so long to recognize the possibility of intention behind *Kindserdrücken* because of firmly held early modern conceptions about infanticide and familial structure.

When investigating any sort of violence against children, including cases such as the ones discussed above, the council had to establish intent before it could determine the nature of the crime and its ruling. When intent was unclear or when the crime did not fit the framework laid out by the legal codes and the mental framework of past experience, the council negotiated on a case-by-case basis. In November 1560, Susanna Keppelerin of Augsburg “willfully” (“*mutwilliger weis*”) let a two-year-old child fall from her lap onto the floor and then stepped on its chest, eventually causing the child to die. The record of this incident states that although the council believed she had earned a severe

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<sup>55</sup> Simone Winkler, “*Kindserdrücken*” *Vom Kirchenrecht zum Landesrecht des Herzogtums Preußen* (Cologne: Böhlau Verlag, 2007), 1-10.

punishment and that her life should have been forfeit, it decided out of mercy to sentence her to prison. The council granted her this mercy because of her young age (which is not stated, but likely in her younger teenage years) and because of pleas made by others on her behalf. Susanna was most likely a maidservant of some sort, charged with the task of looking after the young child. It remained uncertain why she would have wanted to harm the child; the council members also did not see any reason for why she would have and in the pronouncement of her sentence they emphasized the fact that she was simply young, careless, and negligent.<sup>56</sup>

Such accidents and uncertain cases formed part of a vast grey area of violence toward children, a space that also included what is now labeled child abuse. Excepting abandonment or death, what entailed lawful behavior of parents toward their children was ambiguous, with significant leeway for physical discipline. A certain amount of violence toward children was expected and a part of everyday practice as a method of discipline and of enforcing parental authority. Yet occasionally the council investigated a parent for his or her severe treatment of a child. The most common offenders were fathers who were failing in their role as head of household and provider for their family. Men who had abandoned their families with no provision were a common complaint; others drank too heavily; others were too violent with their wives and children. But it was only when the natural hierarchy broke down or the violence was too severe or frequent that the council got involved. However, in very few cases were men accused solely of the physical abuse of children. The accusation of abuse toward their children usually appeared along with a specific set of other accusations: beating wives too severely, drinking too heavily,

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<sup>56</sup> StadtAA, Strafbücher, Susanna Keppelerin, 23 November 1560.



wasting money, and “evil living” in general. It was always a man’s role as head of household that was questioned, and when he ignored that role, or abused the concept, he faced consequences. Thus, on October 12<sup>th</sup>, 1538 Hans Drechsel was brought in before the council, accused of “handling his wife and his children completely evilly and dishonestly, hitting, kicking.” Drechsel was sentenced to time in the tower.<sup>57</sup>

The council felt pity for the youngest targets of violence in its society, as innocent victims of violent, misguided, and immoral adults. This pity was one reason why infanticide was considered such a horrific crime. Non-infanticide crimes against children highlight important complexities in the social and legal thought of the era. The council wanted, to a certain extent, to protect its community’s innocents from their elders. But of greater significance was the desire of the city authorities to protect the moral character and stability of their city. An examination of the records reveals case after case of abandoning and abusive parents forcibly reunited with their children and banished together; genuine concern for the welfare of children is hard to find.

The ambiguity of such cases of violence against children, absent from cases of typical infanticide, posed problems for the councilmen and led them to prescribe milder punishments. Even in cases of infanticide from this early period, there was a degree of uncertainty. Case files show hesitation on the part of the council to dole out the most severe punishments, a reluctance that would not be present later. The focus of the council in this early period was maintaining the stability of the traditional hierarchy of council over city and father over household.

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<sup>57</sup> StadtAA, Strafbücher, Hans Drechsel, 12 October 1538.

By the last quarter of the sixteenth century, however, a new pattern was forming. Interrogations grew longer and more frequently involved torture; execution became much more commonplace in cases of infanticide. As mentioned above, the first case of infanticide recorded in the Augsburg *Urgichten* occurred in 1555. The first execution was not until 1568, however, and it marked a new era in treatment of the crime. It is with this execution, that of Walpurga Seitz, that this first era of definition, adjustment, and compromise ended and the new period began, in which trials for infanticide became more frequent, averaging around six per decade between 1580 and 1630, and investigations and punishments became more regularized.

#### *Walpurga Seitz*

Walpurga's story was one of the most shocking among all the early modern infanticide cases. Walpurga was only eighteen years old when she appeared before the town council in December 1568. Originally from Pfaffenhausen, a village roughly 50 kilometers southwest of Augsburg, Walpurga had been working as a maidservant in Altmannshofen, another small village about 100 kilometers southwest of Augsburg. It seems that it was in Altmannshofen that she became pregnant, gave birth, and killed her newborn child; she then fled with another woman to Augsburg, where she was arrested. Within the first weeks of 1569, the council had decided to execute Walpurga by drowning.

Drowning, although the prescribed punishment for infanticide and certain other crimes, was thought to be one of the more severe methods of execution (although not as

severe as live burial and especially burning), and only a handful of women in Augsburg ever faced this punishment. Drowning was used more frequently in other locations, especially in Memmingen, but remained very rare in Augsburg. Walpurga was the only woman in the surviving records to face execution by drowning for infanticide in the city of Augsburg.<sup>58</sup> Many other women were executed for the same crime over the next two centuries, but they were all beheaded, which was considered a much milder punishment.<sup>59</sup> Walpurga was also among the first few women arrested for infanticide in the city of Augsburg in the sixteenth century, and it seems she was the first woman in the city to be executed for this crime. This evidence suggests that the council may have chosen the more severe punishment initially in order to set an example, but that it later backed away from this severe choice.

Walpurga's *Urgicht*, or case file, contains six witness statements, a report from the city's official medical doctors, transcripts of questions and answers from two rounds of interrogation (the second under torture), and the official declaration of her crime and sentence. These documents, dated 18 December 1568 to 27 January 1569, shed light on Walpurga's crime and the processes of the town council, providing a glimpse into newly-evolving court procedures, the reasoning of the interrogators, and the attempts of Walpurga to claim some sort of control over her fate.

The first set of questions for interrogation in this, as in all cases, was prepared ahead of time. The questions progress from investigative, confirming information about

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<sup>58</sup> This excludes Rosina Bantz, who was drowned in 1580 for the crimes of incest, adultery, and abortion, after she was impregnated by her stepfather Stephan Hort. As drowning was a common punishment for incest and not for abortion, Rosina cannot be counted as having been drowned for aborting her child. StadtAA, *Urgichten*, Rosina Bantz, 11 July 1580.

<sup>59</sup> Van Dülmen, *Theatre of Horror*.

her background, to accusatory, seeking specific details about the crime. The council asked thirteen questions in the first round. The first three established her name, birthplace, for whom she had worked (and thus, where she had lived), and if anybody accompanied her when she came to Augsburg. The next two questions asked if and why Walpurga had lied about being pregnant, to which she responded that she had been unsure if she were pregnant or not. Due to the *Carolina's* equation of hidden pregnancy and intent to commit infanticide, this question was asked of every woman accused of infanticide or abortion. If she had not intended to kill or otherwise free herself from the child, then she would have sought out help from friends, family, and neighbors throughout the pregnancy and especially during the birth of the child. Every woman, therefore, denied that she had lied about it.

Next the council asked Walpurga who the father of her child was, if he knew that she had been pregnant, and if they had discussed what would happen after the child was born. Walpurga named Michael Falckhen of Altmannshofen as the father, that he “knew well” that she was pregnant—presumably he learned of this after Walpurga had figured it out for herself—but that they had not discussed what they would do with the child. The questions then turn to the details of the crime itself, asking Walpurga when and where she went into labor, and what she had done immediately after the birth. Walpurga responded that it had been almost three weeks before in Altmannshofen. She claimed that she could not have been pregnant for more than thirteen weeks and that the child had “no life” when it came from her. She added that she had given birth over a bucket, which she then put in the pigsty the next day. She explained further that the next day another maid went

into the pigsty and there she found the remains, a “little eye and a little leg.” The rest had been devoured by the pigs. These gruesome details were confirmed by various witness statements.

The last few questions and answers reveal that Walpurga put the pail with the newborn into the pigs’ stall because she was unsure of where else to put it or what to do with it. In this answer as well as others, Walpurga attempted to distance herself from the child as well as the crime. It seems that she had hoped to be able to dispose of the child and the evidence of her deed like any other sort of waste. Further, Walpurga denied she had even looked at the child when she gave birth to it. Such a denial might also have been motivated by a desire to show her own ignorance of the whole situation, to persuade the council that it could not have been otherwise.

In the second round of interrogation, the council members focused on extracting a fuller confession and more detailed information about the crime. They wanted Walpurga to admit that she had long planned to commit infanticide and that she had directly caused the child to die, rather than either having a stillbirth or passively letting it die before taking it to the pigsty the next day. In this round, Walpurga was questioned “painfully and in all seriousness,” meaning that torture was applied. The record indicates that the thumbscrews were used. Thumbscrews were a vise designed to apply severe crushing pressure to the thumbs or fingers. They were also considered one of the mildest forms of torture, used as a first step in a process of increasingly painful methods. Women in Walpurga’s situation usually faced these “lighter” methods of torture, at least at first. Women who had also recently given birth were recognized as physically weaker, which

was often grounds for a milder torture process. Many suspects confessed before more severe methods were needed.<sup>60</sup>

Perhaps at first the councilmen only showed Walpurga the thumbscrews and how they would be implemented while questioning her, a stage of torture called *territio*. This round had eight questions. The first two pried into the nature of Walpurga's pregnancy, trying to determine how long she had been pregnant before the birth of her child.

Walpurga responded that she first noticed she was pregnant about seven weeks before St. James's day (July 25th). She added that she did not know for certain how long she had been pregnant before that, although the child had been "living"—meaning that she had felt the child moving—for at least three weeks. In cases when the child died immediately after birth or was stillborn, suspicion was raised that an attempted abortion had led to the fetus's death and stillbirth or death immediately after birth. Walpurga's admission that the child was already "living" meant that she faced more serious consequences if convicted of an abortion. If the council members believed her story that the child was stillborn, they might still find her guilty of an abortion. Thus, the pivotal question became whether the child had survived the birth.

The interrogators thus needed to determine whether the child was so premature that it might not have been able to live after birth; Walpurga had claimed that she did not "feel any life" in the child after the birth—in other words, a stillbirth. The excuse of a stillbirth was very common among suspected child murderesses. Such claims required the official inspection of doctors and midwives to determine if the child had lived after birth. During the sixteenth century, doctors and midwives based this diagnosis largely on

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<sup>60</sup> Van Dülmen, *Theatre of Horror*, 14-18.

external observation of the corpse. Walpurga's interrogators were unsatisfied with Walpurga's excuse of stillbirth, and would not get the official statement from the city doctors until later. Regardless of the doctors' report, they needed a confession in order to convict her of infanticide. They therefore subjected her to further torture and questioning about whether or not the child was born alive.

Under this torture, Walpurga claimed that the child had lived for six weeks in her womb and that after the birth, she had felt the child and found it was alive; she admitted that she had placed the child, still living, into the pail. Yet the interrogators were still not satisfied, perhaps because she still had not confessed to any direct violent action. The council also needed to know if the child had even had any chance of survival. If it had, then Walpurga could still be held accountable. But her excuse of passivity—of not harming the child directly—was also quite common. Many women in such circumstances tried to claim that although the child was born alive and later died, its death was not the result of any direct action on their part, and that it had no chance of survival. Their guilt would be lessened in some cases if the child had died on its own. Although it was a difficult defense, and usually required defendants to uphold their story under torture, it did account for milder sentences in some cases.

This sort of claim also indicates that these women often distanced themselves from the child and the act of childbirth. Much like the pregnancy, the birthing process was something that had happened to them, rather than something in which they had played an active role. Many claimed they had blacked out after the birth and that the child was dead when they woke up, as if a dead child had suddenly just appeared beside them.

Many also claimed, usually after giving birth over a privy, not to know what happened and that they had not looked more closely to see what had come out of them. They had simply felt tired and then gone to sleep or lost consciousness afterward, only to find out later what had happened when someone else told them. This excuse also recalls those women who claimed that they had not known they were pregnant, out of denial or real or feigned ignorance. This was the distinction Walpurga attempted to draw: instead of strangling or suffocating the child, she had simply allowed him or her to die. Most women accused of infanticide displayed a strong desire to deny any direct knowledge or action throughout the process. This was done out of self-defense in an attempt to stave off the harshest of punishments by directing guilt away from themselves, but perhaps also a sincere feeling of distance between themselves and their children. The that was not wanted in the first place, and the mother had never planned to keep it.

In most cases, more details arose during torture. In Walpurga's case, the interrogators were still not satisfied with her description of placing the living child into a pail. The executioner was then instructed to increase the severity of the torture. At this point, Walpurga gave in: she admitted that immediately after the child "came from her," she took it by the neck, and threw it in the pail, upon which the child gave a small cry. Despite threats of further torture and warnings to tell the truth, Walpurga stuck to this final version of her story. She insisted that this is what had happened and that she could add nothing else, and she begged the council for mercy. Again, she did not admit to killing the child directly, but her description of grasping the child by the neck and the cry of the child as she threw it in the pail (note that she threw the child into the pail in this



version rather than placing it in the pail), indicate a much greater level of involvement and direct violence toward the child than had her previous story. The scream also reinforced the idea that the child had been alive after the birth and that Walpurga's actions had directly resulted in the death of the child.

With this, the council ended the interrogation. The "painful" round of questioning had succeeded; in such cases, torture almost always extracted the desired information—regardless of the accuracy or truth of what that was. On rare occasions, a woman did withstand multiple rounds of torture without confessing. In these cases the women could not be executed because confession was a requirement for execution. Most women, however, did not show such fortitude, admitting to the full range of accusations. The council obtained from Walpurga the confession of a direct connection between an action she performed and the death of the child, and could now proceed with the rest of the investigation, pursuing the testimony of several witnesses and seeking the input of medical examiners. Even without the input of witnesses and experts, the council now had enough to convict Walpurga, as her confession allowed for a conviction of infanticide. Yet the witnesses and physicians were nevertheless consulted in order to verify the details that Walpurga had provided. Such verification was needed to confirm that Walpurga's confession was both true and complete.<sup>61</sup>

At least six witnesses submitted statements about the case, including the maidservant who had found the remains of the child in the pig sty and other female servants from the same household. Of most importance was the statement from the town's registered doctors, members of the *collegium medicum*. Their task was to testify

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<sup>61</sup> Langbein, *Torture and the Law of Proof*, 5.

regarding the age and health of the child before it died, including how long Walpurga had been pregnant before he or she was born, and whether the child had been fully formed and could have lived after birth. They reported that the bones that were found in the pigsty were indeed those of an infant and included part of the skull. They determined that they belonged to a fetus that had been living in the mother's womb for thirteen weeks, a fact that they were able to determine based on the fragility and thinness of the bones. The physicians themselves did not make any pronouncement on the actions of the mother or what they believed the outcome of the trial should be. Their task was limited to what they could observe as trained medical doctors; however, the information they provided in this case, as in many other cases, was central to the investigation. This medical information provided vital insight into some of the key questions: in this case, the intention of the mother during her pregnancy—if they found any signs of an attempted abortion—and the intention of the mother during and immediately after childbirth—whether the child stillborn or born living.

The age of the fetus in this case was of the utmost importance. The doctors declared that the fetus had lived in the womb for thirteen weeks, much longer than Walpurga had claimed. Walpurga claimed to have been pregnant for thirteen weeks total, not to have had a “living” child in her womb for thirteen weeks. She later said under torture that the child had been living in her womb for only six weeks. These two conflicting testimonies left a wide window for the total length of the pregnancy, with a one or two month difference in the estimations. Presumably Walpurga calculated the life of the fetus from the time she first felt it move within her womb. However, the examining

physicians had no way to know when this moment was; thus, they likely calculated using another standard. If the standard used tended toward the longer end of the range of possibilities, then the fetus could perhaps have had a small chance at living after childbirth, at perhaps nearly eight months along. Premature babies, unsurprisingly, would have had very little chance at survival in the sixteenth century, when survival rates for all newborns were quite dismal. The shorter the duration of the pregnancy, the more believable was Walpurga's claim of a stillbirth; even if the premature child had survived the birthing process, it was surely not long for this world, regardless of Walpurga's actions. But Walpurga's confession had already sealed her fate. She was declared guilty of infanticide and drowned. The final document in her file reads:

Waldpuga Seyzin of Pfaffenhausen, presently bound and imprisoned, wretchedly strangled and killed her own child, flesh and blood, which she birthed living into the world; after which she threw it into a pail and dumped it in a stall for the pigs to feed on; for this reason the council decrees, that she should be executed, out of mercy, with the water, from life to death in order to discourage others.<sup>62</sup>

Walpurga's case is important not only because she was perhaps the first recorded child murderess to be executed in Augsburg, but also because she was the only one ever to be executed by drowning. Although drowning was the prescribed method of execution, all other child murderers and murderesses in Augsburg were executed by decapitation with the sword. Not much about Walpurga's case seems to indicate that she deserved a

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<sup>62</sup> StadtAA, *Urgichten*, Walpurga Seitz, 22 December 1568.

Gegenwurtig Waldburg Seyzin von Pfaffenhowsen, so under dem Erckher gebunden und gefangen steet, hat jr selbs aigen kynnd, fleisch unnd bluet, als sie das lebendig auff die welt geborn, jamerlich erwürgt und umgebracht, hernach jn ainen kübel geworffen, und den schweinen jn ain stall, zu fressen furgeschütt, derwegen ain Ersamer Rat, mit urtl zu recht erkannt, das sie aus gnaden mit dem wasser, vom leben zum todt gericht werden soll, darvor wis sich menigelig zuhueten.

harsher punishment than the later cases. Rather, it is precisely because she was the first that she received a harsher punishment.

In the early modern period, execution carried many layers of meaning. To an extent, execution, like any public punishment, was intended to be a deterrence to all who witnessed it. But this was not the only purpose: execution also purified both the criminal and his or her society of the sin of the crime. Finally, executions were a powerful means by which the state could demonstrate its sovereignty. The state could use an execution to showcase its right to judge in capital cases, and, therefore, its authority over life and death.

The meaning of an execution depended heavily upon the method chosen, as the announcements often read, “to bring [the criminal] from life into death.” Walpurga was drowned, a method used almost exclusively with women. Burial alive, the *Carolina*’s prescribed primary method of execution for women convicted of infanticide, was also almost exclusively reserved for women; men more often faced hanging or breaking on the wheel. Burial alive, drowning, and burning (reserved mostly for heretics and witches) were designed specifically to destroy any trace of the sinner/criminal, but, according to Richard van Dülmen’s study of crime and punishment in early modern Germany, also became much less frequent following the sixteenth-century legal reforms. These forms of execution began to be considered antiquated and were reserved only for the most horrific crimes. The milder form of execution by decapitation with a sword became much more popular, allowing the executing authorities to appear more merciful at the same time that

the emphasis on the meaning of execution shifted from purification to deterrence.<sup>63</sup> The council could claim to have acted “out of mercy” by decreasing a sentence from drowning to decapitation.

Walpurga found herself at the edge of these many transitions as they played out in Augsburg. As one of the first child murderesses under the newly increased efforts at social control and prosecution, Walpurga fell victim to the desire of the magistrates’ efforts to stem infanticide, perhaps by making a memorable example with her execution. In Walpurga’s case, the council followed the *Carolina*’s suggestion for a milder sentence, but also did not choose the even milder method of decapitation. Walpurga was the first in Augsburg to be convicted fully of the crime of infanticide as defined in the *Carolina*; by ordering her to be drowned, the council showed that they followed carefully the dictates of that law code.<sup>64</sup> However, after Walpurga, all child murderers who were executed in Augsburg were decapitated, as the council chose to exercise mercy.

Walpurga’s case marks the beginning of a new era in several ways. Following Walpurga, many other women and a few men were brought before the council with very similar stories: an unwanted pregnancy, perhaps an attempt at an abortion, a more or less hidden pregnancy, and secret, private birth. Walpurga’s trial contains all of the elements that would come to make up a typical case of infanticide. Additionally, the council closely followed the regulations of the *Carolina* in pushing for a full confession and thorough details of the crime. For all those who came after Walpurga, the council showed

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<sup>63</sup> Van Dülmen, *Theatre of Horror*, 85-89.

<sup>64</sup> StadtAA, *Urgichten*, Walpurga Seitz, 22 December 1568.

a degree of greater flexibility, but only within certain static constraints. Variations on the crime would stretch these bounds and test the council.

Walpurga was certainly not the first woman to commit infanticide in Augsburg. But she did so in an era in which infanticide was, more than ever before, the only option for some women, yet, paradoxically, also in which infanticide was increasingly dangerous to attempt. But it would be a mistake to call this a paradox. The very same developments—legal, social, religious—that led to a woman finding herself in this situation also made that situation potentially fatal. Walpurga was only one of many such women in Augsburg; she was merely the unfortunate first in a long succession of sad stories.

### *Conclusions*

It is certain that women had illegitimate children and committed infanticide before the sixteenth century's early decades of reformation: infanticide has been a part of human society for various reasons in all cultures throughout history, and various necessities have always made some births and pregnancies unwanted burdens. The rise in concern over infanticide, abortion, and abandonment in this chapter reflects a continuation of this need for both women and men to have control over reproduction and simultaneous societal concern for its youngest, most innocent, and most helpless members. But it also reflects the unique social, religious, and legal culture of sixteenth-century Germany. This culture led to the belief that infanticide was on the rise and needed to be met with severe punishment.

It is unclear whether the occurrence of infanticide actually increased at the time; however, the records of these Swabian cities demonstrate a sharp rise in prosecution across the sixteenth century. This increase can be accounted for from two directions: changing legal systems allowed for easier and more thorough prosecution of infanticide, and a changing social and religious climate made illegitimate children a much greater burden. While it remains unknown how the individual women in these case files felt about their pregnancies and the children they killed, new societal pressures meant that more women felt a need to dispose of an unwanted child than previously. A greater percentage of pregnancies and births were now seen as unwanted because of the economic and social hardships faced by parents and their illegitimate children. The new societal pressures made the idea of abortion or infanticide much more appealing and the consequences much more severe. However, just as it is uncertain how many women (and men) committed such acts before the sixteenth century, it also remains unknown how many during and after this time committed abortions and infanticides or abandoned their children and got away with it.

In the records that do exist, a major shift is apparent: from occasional cases of abandonment, infanticide, and abortion in the early decades of the sixteenth century to a fairly regular prosecution rate by the last quarter of the century. From 1580 to 1630 Augsburg alone witnessed at least four cases of infanticide per decade, with the 1580s reaching seven and the first decade of the seventeenth century eight cases, a peak for the entire early modern period; the rest of the seventeenth century averaged three cases per decade. 1590 to 1610 was also a period in which half of all the women accused of

infanticide were executed, a proportion not matched until the unusually sensational cases of the mid-eighteenth century. This pattern of more frequent and consistent prosecution of infanticide in the late sixteenth and early seventeenth centuries had its origins in the negotiations in the early sixteenth century between the city council and the spreading influence of the *Carolina*, as well as with the new reformed religion and greater social pressures on the individual and community to uphold honor and avoid shame. By the seventeenth century, the initial stages of negotiation were over and the new phase of prosecution had begun.



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**“Such barbarous mothers there are these days:”  
A Growing Problem**

In 1590 Augsburg city chronicler Georg Kölderer noted the following in his record of the major events of his day:

Around this time, and for a while now, very many children died, and very few old people. It was found that the young women, because of lasciviousness, wanting neither to marry nor have an honorable household, neglected many children out of carelessness, so that here and there children were found suffocated and dead. Such barbarous mothers there are these days.<sup>1</sup>

Four pages later he added to this report that

In the last few weeks...have been found here a remarkable loss of children. And very few old people....This year so far 853 children and only 326 old people have died. What God means with this is unknown to us humans. Presumably they have been rescued away from the future unhappiness of this evil world.<sup>2</sup>

Was the chronicler referring to the heretofore unmatched number of infanticides in the city? It seems from his description of careless mothers that this is indeed what he intended. By 1590 the Augsburg city council had begun to focus more and more on cases of infanticide, abortion, and abandonment, as they perceived these crimes to be on the rise. Although Kölderer associates the high number of infant deaths with “barbarous mothers” who killed and abandoned their own children, the actual number of such infanticide cases was, in fact, a small fraction of the number of dead children he

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<sup>1</sup> Staats- und Stadtbibliothek Augsburg (SStBA), 2° Cod. S. 39-44, Georg Kölderer, *Chronik*, f. 141. Umb dise Zeitt (Wie auch Jezt langhero) Starben alhier seer vill khinder, und gar wenig Allter Leüth. Und befandt man, ds die Jungen weibsbilder, so mehr umb der Geilhait willen heüraten weder das Ehrlich haushalltens willen, vill khinder aus unfleiß vorwarlossten, das man da und dortt kinder erstickht, und sonnst auch Todt gefunden. Solche Unmenschliche mUettern gabs Jazt.

<sup>2</sup> Kölderer, *Chronik*, f. 145.

Jezunder bey willen wochen (Ja dises Jar über) .hero. wirdt befunden ein Merckhlicher Abgang der Kinder Alhie. Dann seer wenig allte Leüth. Aber der Kinder ein grosse zal dargegen, mit Todt Abgehn, darob sych meinigklichen seer verwundert dann von Anfang des Jars bis hero allerart 853 kinder und nun 326 Allte Personen gestorben seindt. Was Gott darmit maindt, Jst uns Mensch unbewusst. Aber vermuetlich sy willeicht vor dem künfftig unglückh aus diser bösen welt hinweckh raumbt.

reported.<sup>3</sup> At first sight, the numbers are not staggering: Augsburg in the first decade of the seventeenth century witnessed eight cases, an all-time high for the city. Economic, social, and political strains drove more women to infanticide or abortion while the growing efficiency and capability of the court systems toward the end of the sixteenth century contributed to the increased number of prosecutions.

However, the story lies not just in causes of the increase in occurrence and prosecution of infanticide and abortion cases, but also in what happened during those investigations. Numbers alone are faceless and nameless, but the prolific records produced by infanticide and abortion investigations during this period provide a rich and varied picture of these crimes. The more the town councils tried to root out infanticide and abortion, to punish the offenders, and to prevent further occurrences, the more difficult these objectives became. Defendants threw out an impressive array of excuses, desperate to find a strategy that satisfied their interrogators. The court records carefully preserve the testimony of defendants, and their individual voices come through. They told tales of poverty, of ignorance, and of despair. They proved slippery, hardly ever admitting without torture to causing the death of their children. Sometimes the stories seem repetitive, as if the defendants knew what to expect or what reasoning might sway sympathetic council members. A close reading of their defenses reveals individuals in a desperate struggle to survive and prosecutors who struggled themselves to structure the case according to their own definitions.

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<sup>3</sup> Bernd Roeck, *Eine Stadt in Krieg und Frieden: Studien zur Geschichte der Reichsstadt Augsburg Zwischen Kalenderstreit und Parität* (Göttingen: Vandenhoeck & Ruprecht, 1989), 312.

The council repeatedly found itself investigating crimes that did not fit their preconceived notions of infanticide or abortion—fathers causing abortions, married women committing infanticide—posing challenges to their carefully developed methodology. Men as well as women faced consequences for having illegitimate children. Potential fathers often fled town, wanting to avoid fulfilling promises of marriage or payments of child support. If they stayed, they sought out abortifacients for their lovers, and encouraged their use. Parents committed abortion or infanticide not simply out of shame, but sometimes out of pure economic need. Married woman or women with previous illegitimate children were just as capable of such crimes. In such unusual cases, the town council did its best to understand the unexpected motivations and intentions. In practice, infanticide and abortion became much more diverse than the law codes allowed for.

This chapter will both explore the possible reasons behind the increase and closely examine the cases themselves, in an effort to find individual voices and motivations amongst greater historical trends. The case files show both the uniqueness of each individual situation and their tragic similarities as men and women fell victim to sometimes impossible societal expectations. Likewise, the town council demonstrated an interesting mix of flexibility and rigidity, as it tried to shape each case to fit its expectations, but were also forced to adapt these specific expectations to unusual circumstances.

The period from end of the sixteenth century through the early seventeenth century was one of religious turmoil, and eventually outright religious war, in addition to

economic and social stress. By the end of the sixteenth century, the cost of living was far higher in Augsburg than it was in most of the Holy Roman Empire. The citizens of Augsburg were well aware of this problem and complained that their income was not keeping up with the cost of living. Attempting to counteract rising prices, guilds restricted access to membership even further (having already banned women and those of illegitimate birth) by lengthening apprenticeships and increasing entrance fees. Food prices rose dramatically in the 1580s, and the people of Augsburg suffered under the pressure. The number of children per marriage sank, and the death rate of infants and young children rose dramatically, even apart from any increase in infanticide: by 1585 this number reached 3000 deaths, twice that of average years.<sup>4</sup> A growing population in the sixteenth century contributed to these problems—Augsburg, for example, grew from 35,000 to 45,000 between 1500 and 1600, a jump of nearly thirty percent—increasing competition for jobs and driving down real wages. Women suffered more than men. Given the guilds' restrictive policies, the few available jobs more frequently went to men, as guilds shut out women. Women had to work harder, when they could, to earn less. Wages for all did not begin to catch up to prices until the 1630s.<sup>5</sup>

The 1580s also witnessed the outbreak of hostilities between Catholics and Protestants in the Holy Roman Empire over the Gregorian calendar reform. The new calendar adjusted for an eleven minute deficit in the calculation of the length of years under the ancient Julian calendar. The accumulation of this discrepancy over the

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<sup>4</sup> Bernd Roeck, *Als wollt die Welt schier brechen: Eine Stadt im Zeitalter des Dreißigjährigen Krieges* (München: Verlag C.H. Beck, 1991), 64-71.

<sup>5</sup> Joy Wiltenburg, *Disorderly Women and Female Power in the Street Literature of Early Modern England and Germany* (Charlottesville, VA: University of Virginia Press, 1992), 10, 36.

centuries meant that by the sixteenth century, the calendar was around ten days off. This inaccuracy posed major problems for the ritual calendar of the Church, such as the timing of Easter. Augsburg, as a biconfessional city, struggled particularly with these reforms: Catholics adopted the new calendar while Protestants saw it as Catholic oppression. The *Kalenderstreit*—the Calendar Conflict—brought disorder which lasted until 1584, when the new calendar was finally pushed through.<sup>6</sup> This conflict brewed in the streets of Augsburg, with attempted kidnappings of opposing leaders, and threats of force from nearby Catholic powers. Protestants perceived threats from within and without, and the whole debacle left the community ill at ease, with confessional tensions permeating daily life within the walls of the city.<sup>7</sup>

An examination of the numbers shows that the dramatic increase in infanticide cases began around 1580, reaching a peak in the first decade of the seventeenth century. Augsburg witnessed between two and five trials for abortion or infanticide per decade between 1550 and 1590. Between 1590 and 1600, however, there were six cases, half of which ended in execution, an unprecedented rate. These numbers hardly seem to indicate an epidemic, but in an early modern city of any size news of even a handful of cases would have been shocking and spread quickly. These numbers also do not include the dozens of children per decade whose parents abandoned them (with varying degrees of success) in front of the cities' gates, on church steps, at the door of the foundling houses, or even in the fields or woods.

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<sup>6</sup> Wolfgang Zorn, *Augsburg: Geschichte einer deutschen Stadt* (Augsburg: Hieronymus Mühlberger Verlag, 1972), 203-204.

<sup>7</sup> C. Scott Dixon, "Urban Order and Religious Coexistence in the German Imperial City: Augsburg and Donauwörth, 1548-1698," *Central European History* 40, no.1 (March 2007): 1-33.

This increase in prosecution during these decades was not unique to Augsburg, for the same pattern occurred in the other major Swabian cities of this study, and even in other regions of Germany.<sup>8</sup> But the availability of sources shapes these patterns as well. Augsburg's records are much more thorough and extensive than those of the other cities, with surviving case files from the early sixteenth century through the end of the eighteenth century (although these records petered out toward the end of that century). Ulm is perhaps the most unfortunate in that only one book of *Urgichten* survives, covering the years 1594 to 1636.<sup>9</sup> This volume corresponds to the same years in which infanticide was most common in Augsburg; during these years in Ulm there were ten cases of infanticide. Ulm's one book of *Urgichten* includes only capital cases—all ten of the women were executed—and very little record of the women who faced trial but were not executed remains. One book of crimes and punishments, similar to Augsburg's *Strafbücher* survives, covering the years 1588 to 1592.<sup>10</sup> The evidence that does exist shows that the Ulm council used banishment in the same way Augsburg's did, as a means to rid the city of criminals they could not convict as well as individuals simply deemed undesirable.<sup>11</sup> If rates of execution were similar to those in Augsburg in this same period, then Ulm had roughly twenty cases of infanticide prosecuted between 1594 and 1636. Nördlingen also had a concentration of infanticide cases between 1580 and 1630. Of the eighteen cases between 1492 and 1696—the years in which criminal cases were recorded

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<sup>8</sup> Richard van Dülmen, *Theater of Horror: Crime and Punishment in Early Modern Germany* (Oxford: Polity Press, 1990).

<sup>9</sup> Stadtarchiv Ulm (StadtAU), Urgichtbuch: Verkündzettel über die zum Schwert, Strang oder Rutenstreichen Verurteilten A [6589] 1594 – 1636.

<sup>10</sup> StadtAU, Urteile des Rats in Strafsachen 1588 – 1592 (A [6590]).

<sup>11</sup> Jason Coy, *Strangers and Misfits: Banishment, Social Control, and Authority in Early Modern Germany* (Boston: Brill, 2008).

most extensively in the *Kriminalakten* (which were similar to Augsburg's *Urgichten*)—eleven fell within this fifty year span.<sup>12</sup> Memmingen's somewhat scattered records have at least fourteen cases, stretching between 1567 and 1670; the cases in Memmingen are more evenly spread across the 103 years, but weigh more heavily toward the earlier decades, with half occurring before the beginning of the seventeenth century, and nine between 1567 and 1632.<sup>13</sup>

While a distinct swell in prosecution occurred sometime between 1570 and the advent of the Thirty Years War in Swabia, the numbers are skewed by the nature and survival of the sources. It would be impossible to determine, for example, if the period from 1594 to 1636 in Ulm was in any way abnormal for the early modern period. However, when taken together, the evidence suggests that these decades were the high-water mark for prosecutions of infanticide in the region. These four cities were similar in government and culture and faced similar historical pressures, pointing to shared experiences, which may have affected the prosecution patterns.

Despite the difficulties that the inconsistent court records present, it remains apparent that these decades differed markedly from the early sixteenth century and with later decades as well. A partial explanation for this pattern lies in not only how criminal cases were prosecuted and recorded, but also in which sources have survived and from which years: in Augsburg, the records from later in the sixteenth century and beyond are much more likely to have survived than those from the early decades of the century. The nature of those surviving sources also shapes the evidence: the trial records, or *Urgichten*

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<sup>12</sup> Stadtarchiv Nördlingen (StadtAN), *Kriminalakten*, 1492-1696.

<sup>13</sup> Stadtarchiv Memmingen (StadtAM), *Urgichten*.

or *Kriminalakten*, became more frequent—there are more case files each year—beginning in the mid-sixteenth century until a decline in the eighteenth century, reflecting the systemization of legal processes and of record-keeping. The standardization of practices means that the increase in infanticide cases in this era is due in part to growing thoroughness; altogether, more records were kept and organized. Thus, more cases of infanticide were recorded and these records were better preserved. The more that infanticide was seen as a plague on society, the more the town council desired to prosecute. The more that the town council sought out infanticide, the more they uncovered. Furthermore, as infanticide grew in the early modern consciousness, the more likely the people were to report suspected infanticide.

The increase in prosecutions and greater standardization of criminal procedures become apparent in rising numbers of convictions, and, therefore, executions. As seen in the previous chapter, the first execution for infanticide in Augsburg did not occur until 1568. Following this case, there were no more executions for infanticide or abortion<sup>14</sup> in Augsburg until 1592, when Barbara Höflerin was decapitated. The 1590s experienced a total of three executions, a sudden increase from zero executions in eleven cases in the 1570s and 1580s to death sentences in half of the decade's six cases. Between 1600 and 1610 there were eight cases and four executions. The execution rate fell and remained low after this, hovering at or below 25 percent for the rest of the period. The result is a distinct peak in both prosecutions and executions between 1590 and 1610. These low

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<sup>14</sup> This is excepting Rosina Bantz who was executed for primarily for incest, but her crimes also included adultery and abortion in 1580.



numbers also suggest the difficulty the town council experienced in reaching a full conviction (see table).

Decade	Prosecutions	Executions
1560-1569	4	1
1570-1579	4	0
1580-1589	7	0
1590-1599	6	3
1600-1609	8	4
1610-1619	4	0
1620-1629	4	1
1630-1639	3	1

*Infanticide prosecutions and executions in Augsburg, 1560-1639<sup>15</sup>*

But the prosecutorial practices of town councils are only one half of the equation. The actual occurrence of infanticide, as opposed to simply the prosecution of the crime, must also be considered. All that the court records can confirm is that the prosecution of infanticide was increasing, which does not mean that the occurrence also increased. The increase in executions may be traced partially to the altered procedures as well as the specifics of the individual cases, but further explanation is necessary to comprehend the overall increase in prosecutions.

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<sup>15</sup> StadtAA, *Strafamt, Strafbücher, Verzeichnis der Maleficanten, Malefitzbuch, Todesurteile*.

Given the greater societal pressures on unmarried mothers, an increase in actual incidence of abortion and infanticide is likely a major part of the explanation for the increase in prosecution. While it would be impossible to determine the actual number of infanticides, women more frequently faced punishment for fornication, adultery, and illegitimate pregnancy. These civic punishments would have been augmented by societal punishments such as shame and loss of status, often compounded by loss of economic stability. The economic downturn southern Germany experienced only added to these difficulties.

It is, therefore, possible that more women more frequently might have felt pushed toward an extreme action such as infanticide or abortion. Augsburg's considerable population growth created a situation in which more women could have found themselves in such circumstances. In all likelihood, a disproportionate amount of the city's thirty percent growth was in the lower classes—those more likely to commit infanticide—as people flocked to the city looking for work. Greater pressure on women to commit infanticide or abortion could easily have combined with a larger population to result in higher criminal numbers.

But the sources also reveal fundamental changes in legal practice, both locally and across Germany. As discussed in the previous chapter, legal procedures became much more standardized. The *Carolina* outlined specific practices and procedures for local magistrates to follow, making prosecution of crimes less subject to individual circumstances. Criminalization of certain behaviors expanded, including practices such as prostitution, which had previously been legal. In Augsburg especially, criminalization of

certain behaviors was closely related to the Lutheran reformation and the formation of a godly community.<sup>16</sup>

Tied into these developments was an increase in criminality throughout Germany at the end of the sixteenth century. Several historians have found that other forms of crime also increased during these decades. Richard van Dülmen has found, for example, that the later decades of the sixteenth century experienced higher numbers of cases of theft and violence.<sup>17</sup> A rise in overall criminality in Germany is partially explained by the economic crises of the late sixteenth century,<sup>18</sup> and would also likely have contributed to the pressures on an unmarried mother.

Finally, public perception of criminality was a significant factor in this trend. It is evident from both the period's court records and popular literature (examined in the following chapter) that infanticide was thought to be a persistent and growing problem. The more cases that were prosecuted, the more concern grew. The more concern grew, the more likely cases were to be reported and investigated. Historically popular perception of violence and crime has been greater than the actual rates,<sup>19</sup> likely resulting in the handful of infanticide cases looming disproportionately large in people's imaginations.

However, it appears that concerns over infanticide were soon overshadowed by the outbreak of the Thirty Years War. Fighting reached Swabia in 1632 with Swedish

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<sup>16</sup> Lyndal Roper, *The Holy Household: Women and Morals in Reformation Augsburg* (Oxford: Clarendon Press, 1989).

<sup>17</sup> Van Dülmen, *Theater of Horror*, 82-84.

<sup>18</sup> Robert Jütte, *Poverty and Deviance in Early Modern Europe* (Cambridge, Cambridge University Press, 1994).

<sup>19</sup> Julius Ruff, *Violence in Early Modern Europe, 1500-1800* (Cambridge: Cambridge University Press, 2001).

occupation. Catholic troops surrounded Augsburg between October 1634 and March 1635. The city suffered greatly during the conflict, and particularly during the siege: the population of the city dropped to 16,500 by 1638, less than half its population in 1600.

Contemporary sources from Augsburg reported that:

There were times, when the Augsburg gravediggers knew not where to dispose of the victims of a plague. When gravediggers started to dig a new grave in the cemetery, it was so full that half-decayed bodies surfaced....sources from the war credibly report that during a siege people turned to cannibalism, or nourished themselves with cowhide and animal carcasses.<sup>20</sup>

The other three cities in this study also suffered greatly during the Thirty Years War. In 1634 Catholic forces also besieged Nördlingen before defeating the Protestant army in the battle bearing the city's name. Around the same time, plague struck Swabia killing, over 1,500 inhabitants of Nördlingen.<sup>21</sup>

The Thirty Years War traumatized much of Germany, including these four imperial cities, but the devastation may actually have led to a decrease in infanticide prosecutions, as well as a possible decrease in occurrences. Although the economic and physical strains of the war likely meant that a greater percentage of existing pregnancies and children were unwanted for no other reason than want of resources, the dramatic decrease in population certainly limited the total number of children conceived. But the horrors described by eyewitnesses also suggest the possibility that urban governments were too preoccupied to investigate every infant's death during these years. Indeed,

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<sup>20</sup> Roeck, 19-21. "So gab es Zeiten, wo die Augsburger Totengräber nicht mehr wußten, wo sie die Opfer einer Pestepedemie verscharren sollten, kamen doch auf dem Friedhof, wo man auch den Spaten ansetzte, halbverweste Körper zum Vorschein....Quellen der Kriegszeit bericht glaubhaft, daß es während einer Belagerung zu Kannibalismus gekommen sei, wie man sich von Viehhäuten und Tierkadavern ernährte."

<sup>21</sup> Geoffrey Parker, *The Thirty Years' War* (Boston: Routledge & Kegan Paul, 1984), 211.

overall executions—even for crimes like theft—in Augsburg seem to have declined sharply, especially during the worst years of the 1630s.<sup>22</sup> The war caused great upheaval; towns were destroyed, thousands from each city were dead, and thousands more took to the roads, hoping to find better luck elsewhere.

The council pressed forward with infanticide prosecutions after the war, but the number of prosecutions and executions never again reached the levels seen in the decades leading up to it. The figures in Augsburg never again exceeded more than eight cases in ten years or more than four executions in the same time span. Given the inconsistent records of the other three cities, there is hardly enough evidence to determine any definitive patterns aside from the clear peak around the turn of the century. Much of the variation in numbers might also be accounted for by the unique circumstances of individual trials. The following sections closely examine these trials, exploring the wide variation in situations presented to the town councils and the reasons behind individual outcomes.

### *The Trials*

The *Carolina* provides no prescription for sentencing highly suspect individuals who could not be convicted according to its standards. Thus, the council had wide latitude to issue lesser penalties to those it could not convict, though it could not execute them. Fewer than half of those women prosecuted for infanticide were executed, and the council issued alternative punishments regularly. Whether or not the council achieved a

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<sup>22</sup> Stadtarchiv Augsburg (StadtAA), *Strafamt*, 164, *Todesurteile* (Handschrift), see years 1620-1640.

full confession depended heavily on how it handled the investigation and the interrogation of the defendants, but also on how the defendants conducted themselves throughout the process.

Despite the council's growing thoroughness and the impetus toward standardization of procedure, infanticide investigations reveal considerable variety. The jurists behind the *Carolina* and the council members conducting investigations had a clear idea of what the crime of infanticide entailed, but individual circumstances and the uniqueness of each defendant and crime continually thwarted this ideal. In the end, these peculiarities helped account for the difficulty the council had in reaching a full conviction. The individuality of each set of records also reveals insights into the defendants themselves, into their situations and even, to a limited extent, their motivations and actions, as well as certain underlying goals and presumptions of both parties.

From the start, questions were intensely personal and would have made the already nervous defendant even uneasy. A group of high-ranking men posed intimate questions about the sex life of a poor, single woman, who may not have ever talked about these things with anyone, and in any other circumstances would not have discussed them with such people. These questions alone would likely have made the defendant uncomfortable, and she would have felt from the start the imbalance of power in the proceedings. Did she know she had been pregnant? Who was the father of her child? If she knew who the father was, she might then be asked how many times, when, and where

she had had intercourse with that man. They also asked how many other lovers she had had, and about the details of those relationships.

After establishing the suspect's character, the council then turned to the crime itself. The council would have already had an idea of what had happened from witnesses and the physical evidence—such as a corpse found under a bed or in a privy. The council asked a series of leading questions about the crime, presuming that a crime had been committed and hoping to point the defendant's answers toward a specific confession. The Augsburg council asked Maria Blaicherin, for example, "If she had not thrown the child, while living, into the privy?" and then, "had she not intended, therewith to despicably murder and kill the child?"<sup>23</sup> Further questions inquired why she wanted to kill her child, how she could murder the own fruit of her womb, and how she intended to do such a thing but avoid punishment.

A woman who faced an accusation of infanticide had, in the minds of early modern magistrates, already proven her lack of morality and responsibility. An upstanding, contributing member of society would not have been in a position to be suspected of such a crime. With the suspicion of guilt for a crime such as infanticide came a presumption of additional infractions—fornication and hidden pregnancy—and a general will to disobey authority and rebuff society. The council often asked when, where, and why the suspect had been imprisoned before. Many would admit to having been punished for fornication. The council also generally assumed that a woman who had committed infanticide once had probably done so multiple times. Therefore, one of the last questions they often asked was how many times before this they had been pregnant,

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<sup>23</sup> StadtAA, *Urgichten*, Maria Blaicherin, 22 March 1601.

and of those children, how many they had killed. Maria was, therefore, asked, “whether she had done such a thing before?”<sup>24</sup> Some women did admit to having aborted previous pregnancies, perhaps thinking that if they were not completely honest the council would find out and treat them more harshly because of it. However, no one risked admitting that she had ever before committed infanticide. The council also occasionally interrogated suspects about unrelated crimes, most often theft. Women accused of less serious crimes were asked what other, more serious crimes they had committed.

Occasionally sloppy record-keeping reveals certain presumptions of the council and its employees. Augsburg city executions were recorded in multiple books at various times. The *Malefitz Buch*, a list of executions in the city of Augsburg that covers the years from 1512 to 1692, lists four women as having been executed for infanticide who, according to other records, never committed or at least were never actually accused of that crime.<sup>25</sup> The other execution lists and the records of the trials themselves reveal that these women were indeed executed, but for crimes other than infanticide. These women were thieves and armed robbers, but not child killers. This might be explained by a careless court recorder who confused multiple cases; because women were not executed very frequently, a hurried scribe might easily assume infanticide for most executed women. But it also reveals certain predispositions on the part of the author. It confirms the tendency to presume multiple offenses and a lifetime pattern of criminal behavior or a criminal nature among suspects. It also reveals presumptions about particularly female

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<sup>24</sup> Ibid.

<sup>25</sup> StadtAA, *Strafamt, Malefitz Buch*.



criminality. Women were suspected first in infanticide cases, and infanticide was almost expected from female criminals.

Defendants knew well that their lives depended on their performance during the investigation. Although they may not have known the laws and guidelines that the council followed, their testimonies show that quite often they knew what responses and topics to avoid and how to explain their actions without confessing to the full crime. The council made clear what they wanted to hear, and the defendants knew to deny the accusations thrown at them during the interrogations. They took what few opportunities they were given to shape the story in the way most beneficial to them, within the strict limits of the investigation. In this manner, defendants sought to exert a modicum of control over the proceedings and over their fate. A closer look at specific cases demonstrates the strategies with which women attempted to defend themselves against charges of infanticide.

Maria Blaicherin was executed for infanticide in Augsburg in March 1601. Her case illustrates exactly how the council wanted investigations to play out, in contrast to most of the other defendants, who proved much more difficult for the council. The line of questioning, her actions, her answers, and the final results were all sadly predictable. She confessed to everything that the council asked in the first round of questioning, and did so “gütlich,” meaning without torture. Her lack of resistance and her seemingly straightforward answers make her case stand out. That she faced only one round of interrogation indicates that the council was satisfied with her answers and had met the *Carolina’s* standards for conviction.

In her testimony, Maria, uncertain of her own age, stated that she had served as a maid for at least ten different weavers over the course of about seventeen years. She had known that she had been pregnant, but had never told anyone. Neither had she denied being pregnant: when asked about it, she said, she would only laugh. A weaver's apprentice named Leonhard Mair was the father of the child. Maria told how she gave birth in alone in her chamber to a living baby boy; she was in labor the entire morning, and gave birth after lunch. Her master was not in town and her mistress was not at home, so she was all alone when she gave birth. She said that she kept the child by her side for about half an hour, during which it cried out twice. Afraid that it would cry out more, Maria wrapped it in blankets and rags and then threw it, still living, into the privy. She heard it cry out one last time and then no more. Maria claimed she did not know why she did it, and that the "böses feind" (evil enemy, Satan) must have given her the idea. If anyone else had been home, she asserted, surely she would not have done it. She maintained that no one else had given her the idea that she ought to kill her child, nor had anyone helped her do so. She very much regretted what she had done and her whole life long had never done anything else bad or illegal.

Maria's responses left nothing uncertain for the council. Not only had she admitted her guilt, she had also admitted that she had told no one about the pregnancy, that she had given birth in secret, that she had borne a living child, that the child was healthy enough to cry out after birth, that she had tried to stifle its cries, that it had lived for half an hour before she killed it, and finally that she threw it directly into the privy, whereupon the child died. The council did not need to deal with the excuses adopted by

many women: Maria did not claim that the child was stillborn; nor had she claimed that the child was born too early and, therefore, was only capable of living a few moments. Moreover, she did not claim ignorance of her pregnancy or surprise at going into labor. Although Maria did not admit to strangling or smothering the child, she acknowledged that the child died as a result of her throwing it into the privy.<sup>26</sup>

Why did Maria so readily admit to everything? This is a question with no obvious answer. The actions of other women in similar situations and the tendencies of the council in other cases suggest some possibilities. Maria's age was uncertain, but given that she had been in domestic service for at least seventeen years, she must have been in her late twenties, at the very least. Thus, youthful ignorance was neither a plausible explanation nor an available excuse for her to use. Perhaps she thought the whole process would be easier if she told the truth, that the council would appreciate her honesty. And Maria did succeed in avoiding torture. She was also caught up in the period of highest frequency of infanticide prosecutions that Augsburg ever witnessed, so she had very likely heard stories of other women in her situation. In 1601, she might have heard about both women who were banished and women who were executed after an infanticide investigation, and not known what made the difference. No one wrote to the council on her behalf—no relatives, friends, or neighbors. Perhaps she had no such support system and could see no other outcome to her trial. There is, of course, no way of knowing what Maria was trying to accomplish with her responses during interrogation.

In contrast to Maria Blaicherin's clear, straightforward answers and lack of excuses, though, most defendants scrabbled for answers that would bring a halt to the

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<sup>26</sup> StadtAA, *Urgichten*, Maria Blaicherin, 22 March 1601.

investigation. Although each case involved a combination of factors, certain circumstances of the crime and responses during interrogation can be identified as being harmful or helpful to the defendant. It is these details that sometimes reveal an explanation for the final sentence. These details also bring to life the individuality of the people involved. The defendants' testimony exhibits the uniqueness of each situation and, even to some extent, their personal feelings and choices. These cases of infanticide exhibited a wide range of circumstances, demonstrating their unique situations as well as their individual attempts to negotiate the proceedings and save themselves from execution. As execution depended upon the council obtaining a full confession from the accused, how a defendant crafted her answers over multiple rounds of interrogation determined how the council ultimately ruled on her fate. In the defendants' answers, then, lay their personal story as well as their desperate attempt to survive.

Female defendants in infanticide cases were always asked about the father of the child, and their answers showed that these relationships varied. Many were like Anna Weilbächin, impregnated by an employer who was likely already married, and, therefore, could not have hoped to marry the father. More common, however, were those who were impregnated by a man from their own social class, another servant or an apprentice, who had few connections to the community and often could no longer be found by the time the child was born. If he knew of the pregnancy, he might have wanted to avoid a paternity suit and punishment for fornication. Pregnant women frequently tried to track down the fathers, sometimes chasing rumors and news of their whereabouts hundreds of kilometers, as did Barbara Ganserin (see previous chapter), who travelled the 270

kilometers from Augsburg to Strasbourg and back, with no success (and who returned to face charges of child abandonment).<sup>27</sup> If the father could be identified and found, the council might interrogate him as well, with the assumption that he had played a role in the abortion or infanticide. Fathers were frequently implicated in abortions, often with the assumption that they suggested or provided abortifacients. Men most frequently sought to defend themselves by denying paternity, despite the claims of the mother. Margaretha Fichtlin, for example, named Hans Bäumeister as the father of the child which she was accused of abandoning. Hans in turn attempted to bring Margaretha's character into question and deny personal responsibility by saying that he did not really believe that he was the father of the child: he said he knew that Margaretha was not a virgin when they were together, so the father could be anybody.<sup>28</sup>

Women accused of infanticide or abortion must have sometimes been pregnant as the result of rape, pressured either physically or mentally into unwanted sex. Yet none of the women in this study claim to have been raped when asked about their relations with the child's father. Rape was a crime for which men could be severely punished, even with death.<sup>29</sup> But rape would not have excused the defendant's actions, nor was it easy to prove. Further, actually defining rape was highly problematic. The relationship between Anna Weilbächin and Jeremias Bair, for example, was clearly unequal—he was her employer and twenty years her senior, and she was apparently simple-minded—and their sexual relations might thus be classified as rape, but it is likely that neither thought of it

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<sup>27</sup> StadtAA, *Urgichten*, Barbara Ganserin, 18 July 1541.

<sup>28</sup> StadtAA, *Urgichten*, Margaretha Fichtlin, 16 January 1592.

<sup>29</sup> Ruff, *Violence*, 98.

as such.<sup>30</sup> Early modern conceptions of rape probably only included an assault between strangers and not physically forced or otherwise coerced sexual relations between acquaintances.

Without exception every woman accused of infanticide was asked if she had informed anyone about her pregnancy. If she had not, the council asked what her intentions were in concealing the pregnancy. As seen in the previous chapter, a hidden pregnancy was taken as proof of a long-standing intent to commit infanticide; it was a crime in itself. A woman with more innocuous intentions would have wanted the help of family and friends through the pregnancy and childbirth. The responses to this question ranged widely. Most denied such purposeful concealment. They claimed they had told someone, such as the father, a female employer, friend, or family member. According to the women's testimonies, these confidants offered all manner of advice. Some advised procuring an abortion while others warned the unfortunate mother about the danger of committing an abortion or infanticide. Some women explained that although they had not told anyone about their pregnancy, a well-meaning or perhaps simply nosy acquaintance warned them not to try to harm the child, especially since they were suspected of being pregnant already. Some tried to skirt the question, claiming that they had not lied about being pregnant, but that simply no one had ever asked them. A few said they were asked if they were pregnant, but avoided the question by laughing it off. Very few said that they had denied their pregnancy outright, since most were aware of the dangerous implications of such behavior.

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<sup>30</sup> StadtAA, *Urgichten*, Jeremias Bair, 4 September 1608. Stadt AA, *Strafbücher*, Jeremias Bair, 4 September 1608.

Surprisingly common, however, was the explanation that the defendant had not known she was pregnant, or at least that she had been uncertain. This allowed her to defend a hidden pregnancy; no one in such a situation would admit to a pregnancy if she was unsure. Women could very credibly have claimed to be unaware of their pregnancy, interpreting some usual indicators, such as a lack of menstruation or weight gain, as signs of some other affliction. Especially before quickening, pregnancy was often and easily confused with some sort of illness. Even an official medical diagnosis of pregnancy was nearly impossible in the early modern period. Though concealment of a pregnancy was a crime, only time could tell if a woman had actually been pregnant.<sup>31</sup> Many women even claimed to have been caught by surprise by the onset of labor pains, unaware that they had been pregnant, or ignorant of how long it had been since conception. This line was adopted in 1610 by Agatha Rüeffin, who had been in the Pilgrim House (*Pilgerhaus*, a hospice for the ill<sup>32</sup>), suffering from dropsy and other ailments. Dropsy and pregnancy did, in fact, have similar symptoms and each was frequently misdiagnosed as the other.<sup>33</sup> Agatha was so extremely ill—swollen and feverish, as both she and a doctor explained—that she did not even realize she had given birth. Agatha maintained her story under torture, insisting she did not know what had happened, and statements from the hospital doctors supported her story. The council determined that the death of her newborn could not be attributed to any direct action on Agatha's part, and it banished her in July 1610.<sup>34</sup>

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<sup>31</sup> Ulinka Rublack, "The Public Body: Policing Abortion in Early Modern Germany," in *Gender Relations in German History: Power, Agency and Experience from the Sixteenth to the Twentieth Century*, ed. Lynn Abrams and Elizabeth Harvey (London: University College London Press, 1996), 59-61.

<sup>32</sup> Thomas Max Safley, *Charity and Economy in the Orphanages of Early Modern Augsburg* (New Jersey: Humanities Press, 1997), 5.

<sup>33</sup> Rublack, "The Public Body," 60.

<sup>34</sup> StadtAA, *Urgichten*, Agatha Rüeffin, 7 July 1610.

Excuses of ignorance or incapacitation were not usually effective unless a lack of direct action, as in Agatha's case, could also be proven. In very rare circumstances, ignorance of another sort was a mitigating factor, as with women who were considered mentally deficient or incapacitated, or the very young. Because Anna Schaidhofin, for instance, was only fourteen or fifteen, she did not face execution for committing infanticide, but was banished. It is unfortunately easy to imagine what exile could mean to a fourteen- or fifteen-year-old. Anna Weilbächin, suspected of abortion, was only banished temporarily, partially because of pleas on her behalf that she was simple-minded.

When women gave birth in secret, it was perceived as evidence of their intention to commit infanticide. Yet in some cases it was a necessary factor in their defense: if they tried to explain that they had not killed the child, but rather that it had died in childbirth or immediately thereafter, they had to account for how this might have happened. Without assistance, childbirth was extremely dangerous. Mothers giving birth alone had no one to help deliver the child or to provide care for either the newborn or themselves. Frequently this meant that the umbilical cord no one was present to tie off a torn umbilical cord, and the mother herself either did not know to do so or was unable, often having passed out from pain and blood loss. Otto Ulbricht explains that this excuse was increasingly seen as a valid because women were not taught about the birthing process until they were married and had their first child. Traditionally, the cutting and tying of the umbilical cord was the job of the midwife, so even a woman who had given birth before might not necessarily have known what she needed to do.<sup>35</sup> During childbirth, especially

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<sup>35</sup> Otto Ulbricht, "Kindsmörderinnen vor Gericht: Verteidigungsstrategien von Frauen in Norddeutschland 1680-1810" in *Mit den Waffen der Justiz: Zur Kriminalitätsgeschichte des Späten Mittelalters und der*



if it happened quickly or took the mother by surprise, the child might also be injured as it emerged from her body. Judith Pfeifferin, for example, asserted that her child had hit its head on the floor as she gave birth, and this was a deciding factor in her trial.<sup>36</sup> These excuses only worked if the woman had not had assistance with childbirth. If this was her line of argument, though, the defendant still had to explain why she had given birth alone and had not called for help.

Almost without exception, these women claimed to have gone into labor while no one else was at home—they gave birth alone because no one had been around for them to call. Others sought out isolated or private places to give birth, such as the privy, although they would have never admitted to such behavior. They claimed that childbirth had caught them by surprise and happened so quickly that they had no time to move to a better location or call for help. Barbara Beurin gave birth to stillborn twins in 1585, and was suspected of double infanticide. When asked why she had given birth in secret, she claimed that the births had happened too quickly and that “although she had cried out fiercely, no one came.”<sup>37</sup> Many claimed to have given birth at night, another possible cover for why no one was around—or at least awake—to help her.

Accounting for how the child died was the most decisive and treacherous part of an interrogation. The best result a woman could hope for was that the council believed her story that the child had been stillborn or that its death immediately after birth had been inevitable. Even this was dangerous, as it might turn an infanticide investigation

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*Frühen Neuzeit*, ed. Andreas Blauert and Gerd Schwerhoff (Frankfurt: Fischer Taschenbuch Verlag, 1993), 81.

<sup>36</sup> StadtAA, *Strafbücher*, Judith Pfeifferin, 15 March 1625.

<sup>37</sup> StadtAA, *Urgichten*, Barbara Beurin, 26 March 1585.

into an abortion investigation. Why had the child been stillborn? Had the mother done anything to cause the death of the child in utero? In 1604 Barbara Stempflerin also claimed that she had given birth to a dead child. She stood by this assertion even after enduring the *strappado*. The court recorder even noted that Barbara was especially weak, making her defiance all the more remarkable. Barbara was not executed because she never strayed from her story that the child was stillborn.<sup>38</sup> If a woman could withstand torture, and stick by her claim that the child had indeed been stillborn and that she had done nothing to harm the child during the pregnancy, the council could not easily convict her on a charge of infanticide.

The key to the claims of stillbirth or accidental death during childbirth was a refusal to admit to any direct action resulting in the death of her child. The council could not convict the woman for infanticide if her child was stillborn, and a similar principle applied to those cases in which the child died shortly after birth. The council differentiated between allowing the child to die and actually killing the child with violence—through strangulation, smothering, stomping, cutting, etc. Neglect resulting in the death of a child was a lesser crime. Catharina Linderin gave birth alone and in secret, after which she dropped the child into an empty barrel. She returned to her work, and other eventually found the child, but it nevertheless died several hours later. Although Catharina's actions were likely responsible for the death of the child, she did not "kill the child with her own hands," and she was only banished.<sup>39</sup> Similarly, the record for Judith Pfeifferin reads: "because she insisted even under torture, that she did not kill the child

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<sup>38</sup> StadtAA, *Urgichten*, Barbara Stempflerin, 6 June 1604.

<sup>39</sup> StadtAA, *Strafbücher*, Catharina Linderin, 30 April 1611.

and had not laid a hand upon it, but rather it came from her during her distress and fell on its head, and she was not guilty of the child's death."<sup>40</sup> With such cases, various medical practitioners were often brought in to determine the cause of death. They sought evidence that the child had been born prematurely, as well as for any signs of harm done to the child. They looked for indications of violence, such as bruises from strangulation or beating, or knife wounds. Anna Schmidin, like Catharina Linderin, gave birth alone and in secret. Two reports, one from a group of surgeons and the other from a group of midwives confirmed Anna Schmidin's claims that the child had been stillborn, as they had found "nothing suspicious" on the child's body.<sup>41</sup>

Such evidence was not always as clear as the above cases would make it seem and the determination of intent remained a problem. Although the trial records in certain cases declare that the defendants were not guilty of infanticide because they had not "inflicted harm with their hands," the determining factor actually proves to have been the woman's intention toward the child. By claiming they had not used direct violence to cause the death of the child, these women could also claim that they had not meant the child to die. Intention was, of course, quite difficult to prove, and was most easily demonstrated when a woman physically harmed her child. If she had not done so, she could claim ignorance or a lack of negative intentions as did the women above.

But many cases tested this distinction. In 1630 Magdalena Wickhöfin, a 33-year-old widow, gave birth to a child alone and in secret. She let the child bleed to death, after which she wrapped it in a bed sheet and hid it under her bed, intending to bury it later.

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<sup>40</sup> StadtAA, *Strafbücher*, Judith Pfeifferin, 15 March 1625.

<sup>41</sup> StadtAA, *Strafbücher*, Anna Schmidin, 17 March 1615. StadtAA, *Urgichten*, Anna Schmidin, 17 March 1615.

The child was discovered before Magdalena could bury the child. Her actions were not unlike the other women discussed earlier. Other women let their children bleed to death and were not executed. A vital difference in Magdalena's case, however, was that she had had several children from her marriage to her late husband. The council declared that she should have known how to care for the child—specifically, how to deliver and how to ensure the child did not bleed to death. Given that Magdalena could not plausibly claim ignorance, the council suspected her intentions.<sup>42</sup> Under these circumstances, Magdalena had to admit that it had been her intention to let the child die.<sup>43</sup> For Magdalena, this admission of intention made all the difference. Although she had not directly laid hands on the child, she knew very well from personal experience what the result of her lack of action would be. Her admission was enough to convict Magdalena of infanticide, and she was executed on the 23<sup>rd</sup> of February, 1630.<sup>44</sup>

Even if the defendant convinced the council that the child was stillborn, the investigation could then turn into one of abortion. Had the mother done anything to cause fetal death? More specifically, the council asked about abortifacients. The council asked Appolonia Heringin, among many others, “if she had not, through a drink, or other means aborted and killed the child? And what kind of drink did she take?” Appolonia replied that she had taken a drink, but only once, and “not for aborting the child, because afterward the child still moved,” adding that she had not even known she was pregnant.<sup>45</sup> Appolonia managed to wrap up all the common excuses for using abortifacients into one

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<sup>42</sup> StadtAA, *Urgichten*, Magdalena Wickhöfin, 23 February 1630.

<sup>43</sup> StadtAA, *Strafbücher*, Magdalena Wickhöfin, 23 February 1630.

<sup>44</sup> StadtAA, *Strafbücher*, Magdalena Wickhöfin, 23 February 1630.  
StadtAA, *Urgichten*, Magdalena Wickhöfin, 23 February 1630.

<sup>45</sup> StadtAA, *Urgichten*, Appolonia Heringin, 1 March 1601.

quick sentence. She had taken the substance for a reason other than to abort her pregnancy—often the defendant also provided details of some particular ailment. To cement this point, she said she did not even know she was pregnant at the time she had taken the drink, so she could not possibly have meant to abort. Finally, to show that the drink had not affected the pregnancy in any case, she claimed that she had felt the child move sometime after she had taken the supposed abortifacient. The pattern is familiar: throwing out multiple, sometimes contradictory, excuses, claiming ignorance, and denying direct action leading to the death of the fetus or child, despite what might be the damning admission of having taken an abortifacient.

Defendants' actions and intentions were even further complicated when the women expressed remorse or when their actions might be interpreted as such. Although it did not gain them any sympathy from the council, expressions of remorse during the course of the interrogation were common. In Ulm in 1598, Kunigunda Kelblingerin killed her living child immediately after giving birth. She attempted to bury the child, but was discovered as she did so and was executed.<sup>46</sup> In the same city in 1616, Barbara Bollingerin gave birth near a privy and threw her living child into the privy. The next morning, Barbara returned to retrieve the corpse, and buried it behind a barn. Shortly thereafter a dog dug the corpse up, revealing Barbara's crime.<sup>47</sup> In Augsburg in 1582 Agnes Breslerin, gave birth to a stillborn child and then tried to have her dead newborn properly buried in a cemetery. After keeping the dead child for fourteen days, she took it to the cemetery by St. Stephan's and asked the caretaker to bury her child. The caretaker,

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<sup>46</sup> StadtAU, *Urgichtbuch*, Kunigunda Kelblingerin, 1598.

<sup>47</sup> StadtAU, *Urgichtbuch*, Barbara Bollingerin, 1618.

recognizing the situation as a possible infanticide alerted the council, whereupon Agnes was arrested. Agnes insisted, even under torture, that the child was stillborn and she was banished from the city.<sup>48</sup> Although burial was generally a means to hide the evidence of the crime of infanticide, it might also be interpreted as a demonstration of affection and attachment to a newborn. Why Kunigunda and Barbara tried to bury their children remains a mystery. Barbara's actions—pulling the corpse out of the privy in order to bury it—could reveal either an attempt to give the child a proper burial or to better ensure that the body was not found. Yet they also seem to indicate a level of attachment not found in all cases. Consider Walpurga Seitz's child lying in a pigsty, or Appolonia Heringin's floating in the Lech, or any number of children left to die in privies.

Agnes's was a very different story, and her intentions seem clearer. After having given birth in secret, and having kept the corpse hidden in a chest for two weeks, Agnes decided to give her child a proper burial. Perhaps she kept the child in the chest until she could decide what to do with it—many women expressed worry over what to do with their dead child and chose seemingly odd places to hide it. If Agnes's child was actually stillborn, perhaps she did not foresee any danger. Even when strung up by the *strappado*, Agnes still insisted that she had not killed the child, nor had she ever intended to do so. To further demonstrate her good intentions, she explained that she had planned on taking the child to the foundling house after it was born. When the child was stillborn, she might have felt relief, but she clearly also felt some sort of attachment to and affection for the child. But as an unwed mother with a dead child, she was still highly suspect. Infanticide

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<sup>48</sup> StadtAA, *Strafbücher*, Agnes Breslerin, 28 August 1582. StadtAA, *Urgichten*, Agnes Breslerin, 28 August 1582.

was seen as such a widespread problem that every unwed mother was thought capable of infanticide and every dead illegitimate child warranted investigation.

How these women disposed of the corpses provides insight into how they felt about their children and also the difficulty they had in trying to conceal the corpses. Many tried hiding their children under their beds, under pillows and blankets. All sorts of containers—chests, barrels, jars, and boxes of various kinds—appear in the records. A few opted to put the child in a container and then drown it in a river or canal, or deposit it directly into the water. These expedients suggest a desire above all else to get rid of the evidence of the crime, but also to distance themselves from any motherly bonds. If many of these women regarded infanticide as a form of last-minute birth control, comparable to abortion, they might not regard the body as anything more than potential evidence of their crimes. Leaving it in a privy or throwing it out with the trash implies either a lack of recognition or a will not to recognize the pregnancy or the child. On the other hand, burial—which probably carried higher risks of being caught in the act, as it must have taken time—implies a recognition by the mother (or father) of the corpse as having been a person, perhaps even a recognition of it as having been her child, and a desire to help it depart the world in a more humane fashion.

After determining the actions and intentions, the council proceeded to ask why the defendant had done what she did. The council already had its own assumptions about the defendant's motivations—that she was wicked and trying to cover up her own shame—but the defendants gave other explanations. When asked why, women sometimes explained that they had committed abortion or infanticide out of poverty, as did

Margaretha Baumüllerin (see below) who explicitly stated she had tried to kill her child because of “lauten armut”—her severe poverty—and because she did not know what else to do with it. Women accused of infanticide did not often give this excuse, despite the fact that it was surely a major factor. Claiming to have acted out of poverty and because of the further stress a child would add indicated a certain amount of forethought and intention. To claim poverty might have been interpreted as selfishness, the defendant having put her own needs before the child’s. Moreover, the council expected these women to feel shame and to commit infanticide in order to hide their shame, not for her own material needs.

More often, women denied that they understood why they had done it, or they tried to claim that they had been out of their senses or even entirely unconscious while it happened. Barbara Höflerin explained that when she threw her child into the privy, “she should have called for help, but she did not have her senses with her.”<sup>49</sup> Barbara was nonetheless executed. Unless they were completely unconscious, as was the situation with Agatha Rüeffin, this excuse did not often prove effective. One can only imagine the state of mind of women who had gone through childbirth completely alone and terrified; they may well truly have been bereft of their senses. Regardless, that so many sought to adopt this approach suggests that denying intention, planning, and direct action was one of their best options.

In determining motivation, the council also asked if anyone had persuaded the defendant to commit such an act. The father of the child was under the most suspicion for having a role in an abortion or infanticide. Fathers were indeed often involved in these

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<sup>49</sup> StadtAA, *Urgichten*, Barbara Höflerin, 1 August 1592.



crimes, although any involvement—even the paternity—was difficult to prove. Men, if aware of the pregnancy and still in town, frequently tried to persuade their lovers to abort, sometimes providing them with the knowledge or the means to do so. If the father could be found, he might also be questioned. In several cases, this resulted in the punishment of the father, as will be discussed later. Also suspicious were midwives, apothecaries, mothers, and fellow serving-maids. But most defendants did not name anyone, perhaps in order to protect loved ones or because of the difficulty in proving such involvement.

Instead, defendants frequently told the council that the “böser Geist” (evil spirit) or “böse Feind” (evil enemy) had told them to commit infanticide. Under torture, Maria Zollerin confessed that the “evil enemy had given [her] the idea that she should kill the child,” and that the next day around six in the morning, “from influence of the evil enemy, she...pressed the little neck [of her newborn].”<sup>50</sup> Barbara Höflerin said that the “evil enemy persuaded her to say nothing during or after the labor, to grip the [child’s] neck in order to kill it, and so she gripped the child by the neck with her right hand and ended its life.”<sup>51</sup> Matthes Erhart’s friends wrote a letter to the council on his behalf after he had drowned his baby boy; they wrote that he was a good worker, had never done anything wrong before, and that he was under the influence of the evil spirit.<sup>52</sup> Maria Zollerin explained:

The child was quite strange, it cried and did not want to nurse. Then the evil enemy put the idea in her head that she should kill the child; so in the morning around six o’clock she put the child to her breast...and from the influence of the evil enemy put her arm around the child and squeezed and crushed, and pressed the little neck; for this she was truly sorry, because before this she had no ill

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<sup>50</sup> StadtAA, *Urgichten*, Maria Zollerin, 18 June 1586.

<sup>51</sup> StadtAA, *Urgichten*, Barbara Höflerin, 1 August 1592.

<sup>52</sup> StadtAA, *Urgichten*, Matthes Erhart, 10 March 1611.

intentions toward the child, it was only because of this evil influence. She did not attempt to flee, but allowed herself to be found beside her child and was willingly arrested.<sup>53</sup>

Although claims of satanic influence and the murder of infants are reminiscent of accusations of witchcraft in the early modern era, in such cases, such admissions did not entail a confession to witchcraft or even arouse such suspicions. Witches committed infanticide, but a child-murderess was not necessarily a witch. Criminals of all kinds—from common thieves to murderers—claimed satanic influence and persuasion, but none of these crimes were perceived as being diabolic in nature, nor legally classed with witchcraft. Satanic influence was a way for criminals to begin to account for their behavior, not only to the authorities, but to themselves. Often infanticide was the result of a sudden, desperate decision. Perhaps the women who did it felt as if they had indeed acted under some outside and evil influence. Belief in the Devil's power over their actions was a way to begin to come to terms with their actions. Most of all, it was a desperate attempt to deny intention and to express regret.

Because infanticide cases were treated as distinct from witch trials, blaming devilish influence never swayed the council. Barbara Höflerin, despite her insistence that she strangled her child under the influence of the evil enemy, was executed. All the various excuses these women used to explain why they had committed infanticide had no effect on the outcome of their trials. What the council was interested in was simply what

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<sup>53</sup> StadtAA, *Urgichten*, Maria Zollerin, 5 June 1586.

Das kind sey gar wunderlich gewesen, hab fast geschryen, ds kein abstillen an jm helfen wöllen, solches jr der böss feind eingeben, sy soll ds kind umbbringen, so hab sy amm morgen umb 6 uhren ds kind an die brust gelegt...so hab sy auss eingebung dess bösen feinds den arm umb ds kind herumb gethon, und dasselbig amm arm zertruckt und zersteckt, hab jm ds hälsle obtruckt, ds sey jr ein treulch layd, dann sy sey dem kind zuvor nie feind gewesen, sonder sey disen böse einfall jr gar gehlingen zukommen, sy hab auch selbst nit begert zufliehen, sonder hab sich bey jrem kind finden lassen und guetwillig in die fängknus gangen.

happened and how it happened. Even though a woman might have been suspected of infanticide because she had hidden her pregnancy, she was not convicted of infanticide based on this alone. The council still required a full confession, which included admitting to intention and direct action. If she did not admit to direct action resulting in the death of the child, she could not be convicted of infanticide. In such cases, the mothers were still not completely innocent, as they were still guilty of fornication, illegitimate and hidden pregnancy, and secret childbirth; they were usually banished from the city.

This summarizes the main excuses and stories that women (and a few men) employed. An examination of nearly two hundred court records of cases of infanticide from multiple cities reveals striking similarities among the responses. Women adopted the same excuses, and often progressed through these stories in a similar pattern. They knew enough to claim that they had not been sure they were pregnant, in order to account for why they had not told anyone of their pregnancy. They should say that they had been caught by surprise by labor that had set in too early. They knew that they should try to convince the council the child had been stillborn and that if it had not been, that the death was inevitable. They knew that even when all their other excuses came under question and they could not hold them up under torture, that they must still insist that they had not killed the child through direct violent action themselves.

Otto Ulbricht has studied infanticide in northern Germany during the late seventeenth and eighteenth centuries, and he argues that women accused of infanticide at this time recognized their options in defending themselves and took advantage of them. Ulbricht notes that the effectiveness of such excuses has long gone unnoticed because

historians had focused too much on those women who were executed for infanticide, not those who had faced other punishments or who had been acquitted.<sup>54</sup> This was certainly also true in seventeenth-century Swabia, as seen in the above examination. Claims of stillbirths, of early births, and of falling unconscious appear consistent across Germany and throughout the early modern period; similar stories found in regional studies from further afield confirm European-wide cultural connections in both the expectations of religious and civic authorities and the situations of the parents of unwanted children.

Why were these excuses so common? One explanation lies in the questions that the council put to the accused. These questions were often leading, despite the fact that the *Carolina* forbade leading questions. The council asked Catharina Linderin, “whether or not she had given birth in a horse’s stall, alone and without the company of any midwife or other woman?” and then “why she had not called anyone to her, and why she had given birth to the child in such a hidden place?” Catharina must have understood that these were circumstances for which she must account, and the options to do so would have been limited. She answered, “there was no one there besides her and our Lord God,” and that labor had come too quickly. She had been “among the animals because she had had to milk eight cows, and the stall was too far from people and she did not expect that she would be so quickly overcome.”<sup>55</sup> Defendants might have easily known what the council expected to hear and, therefore, what they should avoid. The explanation also lies in the fact that these women were often in very similar situations. Despite the differences

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<sup>54</sup> Ulbricht, “Kindsmörderinnen vor Gericht,” 55.

<sup>55</sup> StadtAA, *Strafbücher*, Catharina Linderin, 30 April 1611.

in the details, the basic story was often the same; they were unwed mothers who felt they could not face the repercussions of having illegitimate children.

The prosecuting council members had certain, specific expectations of child murderesses, and these expectations shaped the kinds of questions they posed, which in turn shaped the responses the women gave. The accused women worked within the framework of pre-set questions trying to tell their stories in the most effective way possible. They were limited not only by the questions posed but also by what they knew to be acceptable and effective excuses. Yet they took many chances that did not work: excuses of the “evil enemy” forcing them to do it did not have any effect. Each woman might try multiple and sometimes mutually contradictory tactics during a single interrogation. Not only had she been unaware that she was pregnant, she was also caught by surprise with the onset of labor, which came too quickly and violently while no one else was around. She fainted during childbirth and awoke to find the child had been stillborn or bled to death or had hit its head on the floor. She had not taken any abortifacients during her pregnancy, but someone else had told her to drink some unfamiliar concoction with a promise that it would help her feel better; even so she was certain she had felt the child move after this, indicating that the supposed abortifacient had not been effective. The defendants tried all combinations of these approaches, seeking the one that they could hold up under multiple rounds of interrogation and torture.

In her book on pardon tales, Natalie Zemon Davis describes the “fiction” that those asking for pardon created about their crimes. She does not mean that the tales were

necessarily false, but rather that the telling of these stories involved a creative process.<sup>56</sup>

A similar line of thinking can be applied to the stories these infanticide defendants used. They had little time and space in which to craft their stories, but they did exercise what opportunities they had to create their own version of the story, and fought to defend this version against that crafted and created by the town council.

Leading questions and carefully crafted answers recorded by third parties present further challenges in determining what actually happened and what the defendants actually believed. Court recorders recorded the defendants' answers in the third person, increasing the distance between the reader and the defendant's words.<sup>57</sup> For example, Walpurga Seitz's first response reads: "She is called Walpurga Seizin, she was born in Pfaffenhausen."<sup>58</sup>

The authors of the records also sought to put distance between themselves and the defendants' testimonies. Certain terms and phrases were preceded with the Latin phrases *Salva Venia* or *Salva Gratia*, or simply "S.V." or "S.G.," essentially asking for forgiveness for the word or words that follow. Most frequently this can be seen in reference to the privies into which so many infants were born or thrown. The council asked Maria Blaicherin, "Whether she had not thrown the child living *salva venia* into the privy?"<sup>59</sup> Nearly every reference to a privy is accompanied by this pardon. The terms used for privies also imply a desire for circumspection: variously labeled "the secret"

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<sup>56</sup> Natalie Zemon Davis, *Fiction in the Archives: Pardon Tales and Their Tellers in Sixteenth-Century France* (Stanford: Stanford University Press, 1987).

<sup>57</sup> Lyndal Roper, "Will and Honor: Sex, Words, and Power in Augsburg Criminal Trials," *Radical History Review* 43 (1989): 45-71.

<sup>58</sup> StadtAA, *Urgichten*, Walpurga Seitz, 22 December 1568.

<sup>59</sup> StadtAA, *Urgichten*, Maria Blaicherin, 22 March 1601.

(*das Heimblich* or *das Secret*), “the secret place” (*das heimlich Gemach*), the “secret chamber” (*das heimlich Ort*), or the “private” (*das Privet*). But a privy was not the only topic that apparently required a pardon. A recorder begged his readers’ pardon for question about whether a child’s excrement could be found, and, therefore, demonstrate that the child had been alive after birth.<sup>60</sup> More surprising are references to feet<sup>61</sup> and dirty laundry.<sup>62</sup> David Sabeau has studied this phenomenon in the nearby Duchy of Württemberg. He describes these words of pardon as the equivalent of physical gestures—a nod or a hand motion—that might be made when unacceptable words or phrases were spoken, or quoted, aloud. Sabeau notes that this pardoning is largely a social-distancing maneuver. He clarifies that many of these court documents were written with a receiver in mind, and the author often wished to distance himself from such language in front of the socially-superior receiver of the records. Used mostly by an educated bureaucratic class, the phrase *salva venia* was a tool with which the author could separate himself from the lower classes and behaviors of which he wrote. Sabeau has found that these writers refused association with almost anything physical, from privies and bodily functions to body parts and clothing to even farm animals.<sup>63</sup>

The extent to which court recorders took liberties with trial proceedings and the actual words of the defendants is unclear, and likely varied from trial to trial, depending on the recorder and the procedures of individual cities. For the most part, any variation in recorder is only apparent in the handwriting. Occasionally, however, a recorder’s

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<sup>60</sup> StadtAA, *Urgichten*, Anna Lercherin, 3 August 1675.

<sup>61</sup> StadtAA, *Urgichten*, Hans Pfefferlin, 10 September 1658.

<sup>62</sup> StadtAA, *Urgichten*, Magdalena Wickhöffin, 23 February 1630.

<sup>63</sup> David Warren Sabeau, “Soziale Distanzierungen: Ritualisierte Gestik in deutscher bürokratischer Prosa der Frühen Neuzeit,” *Historische Anthropologie* 4 (1996): 216-233.

personality came through in marginalia illustrations. In Memmingen, Nördlingen, and Ulm (although not in Augsburg), it was common practice for the scribe to sketch a symbol of or the actual scene of the final punishment of the defendant. Often this was simply a sketch of the instrument of punishment, such as a whip or sword, if the convict was beaten or decapitated (see image 1).

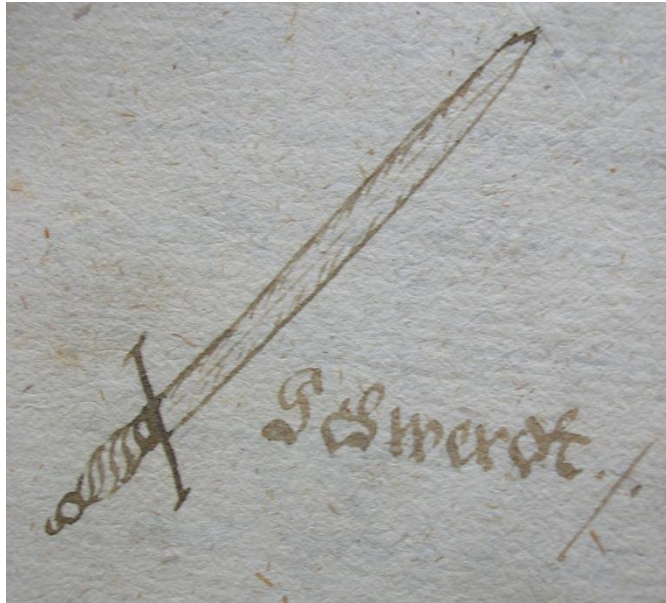


Image 1: *Marginalia from the trial of Anna Lünin, convicted child-killer, sentenced to decapitation with the sword ("Schwert"), Memmingen, 1630.*



Other examples are much more detailed, revealing a higher level of care and perhaps interest on the part of the court recorder. Even facial expressions or details of clothing are sometimes visible in these sketches, which are squeezed into a few centimeters beside or below the written text. Image 2 illustrates the fate of Judita Wiertin, who was sentenced to life imprisonment in a convent.<sup>64</sup> Image 3 shows Kunigunda Kelblingerin, decapitated with the sword in Ulm in 1598.<sup>65</sup> These marginalia sketches add further dimension to individuals involved in criminal proceedings, and reminds the reader of the subjectivity and humanity behind the records.



Image 2: *Judita Wiertin, convicted child-killer, sentenced to life imprisonment ("Bemaurt") in Memmingen, 1569*

<sup>64</sup> StadtAM, *Urgichten*, Judita Wiertin, 1569.

<sup>65</sup> StadtAU, *Urgichtbuch*, Kunigunda Kelblingerin, 1598.



*Image 3: Execution of Kunigunda Kelblingerin, convicted child-killer, Ulm, 1598*

Any understanding of the defendant's state of mind is also restricted by the framework of the questions which the council posed to them. The accused might challenge this framework by expanding her response to a particular question or changing the direction of the question to have her say beyond what was asked. When Appolonia Heringin was asked "whether she had not, through some drink, or in another way, aborted and killed the child, and where she got such a drink" she responded at length:

She only took such a drink one time, but not for aborting the child, because afterward the child still moved; she did not think she was pregnant, but that something else was wrong with her, so she complained to her sister Catharina Heringin, who was at that time a servant for Herr Marx; she advised that she drink a half measure of beer with parsley and three black seeds which she did not remember what they were called...and that she should drink it, that it would help. Her sister knew much less than she that she was pregnant. The drink she took ten weeks before she gave birth...she said her sister also used the drink many times.<sup>66</sup>

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<sup>66</sup> StadtAA, *Urgichten*, Appolonia Heringin, 3 January 1601.

The council had asked for a simple yes or no, but Appolonia seized her opportunity, knowing that she needed to account for why she took a drink that might have been an abortifacient.

The council prepared the questions for interrogation ahead of time, before the beginning of each round. These questions were written out on a *Fragstuck*, or question list, along with any further instructions, such as whether the accused was to be “severely warned” or questioned under torture. This procedure restricted both the interrogator and the accused. The interrogators could not follow up on questions until they prepared a further round of questions and the accused could only answer the questions given. If the accused gave a response that was unexpected, it might render the preset series of questions nonsensical. For example, Agatha Rüeffin, who gave birth while she was sick in the hospital, repeatedly denied knowing that she was pregnant or that she had given birth. After she was asked “why she did not tell the authorities or anyone else, that she was pregnant?” she responded again that “she herself did not know that she was pregnant.” This question was followed with “how she intended to commit such a cruelty and to get away without punishment,” to which she had to “again claim her ignorance.”<sup>67</sup>

The use of torture further complicates the trial records. The questions posed during these “painful” rounds were often the same questions posed in previous rounds,

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Sie hab nur ein mal ein tränckle eingenommen, doch nit zu abtreibung des Kinds, dann dem nach sich dis kind wie bei Jr gerüet hab sie nit vermaint das sie schwanger, sonder etwan sonst nit wol auf seie, derowegen sie solches Jrer schwester Catharina Heringen welche disen zeit bei Herrn Marx dennen diener geclagt, dieselb hab Jr gerathen, das sie ein halb mas bier nemen, darein Petenling wurtz und sonst noch 3 schwartze körnle, woll Jr nit zufallen wie mans hais...und dasselb trinckehn soll, so werd sies helfff, hab aber Jr schwester vil weniger als sie gewüst, das sie schwanger, solch trencke hab sie etwan 10 wuchen lang zuvon ehe sie das kind gebracht genommen, und meldet dabej, das Jr schwester ...diß tranckle auch etlichmal soll gebrauch haben.

<sup>67</sup> StadtAA, *Urgichten*, Agatha Rüeffin, 10 July 1610.

but were limited to those that would specifically determine guilt—indications of intentions and specific actions—of infanticide: why she had hidden her pregnancy, what were the circumstances of the childbirth, and how the child died. Torture of women accused of infanticide was often limited to thumbscrews, the lightest form of torture. The *Carolina* carefully regulated the use of torture, placing restrictions on how long a defendant could be interrogated. Women who had just given birth, as most of these women had, sometimes faced less severe torture because of their weakened physical condition. Yet use of the *strappado*, one of the more severe methods of torture in which the defendant's hands were bound together behind her back and then hoisted up behind her, was also fairly common, even with women, especially when the crime was as serious as infanticide.

How reliable were answers given under torture? Many women were able to stick to their original story during torture. This does not mean that their story was any closer to reality, however that might be defined. Sometimes the defendants seem to have followed the lead the interrogators presented them during torture. Others seemed to grasp desperately for an acceptable answer. Catharina Linderin was accused of giving birth in a horse's stall and putting the child into an empty barrel, where she left it as she went about her work. Under the torture of the *strappado*, the council asked Catharina why she put the child in the empty barrel instead of waiting for someone to come for help. Catharina responded, perhaps improvising, that she had put the child in the barrel because there were four pigs running around the stall and if she had left the child lying there, the pigs could have easily hurt it. This was a bizarre story, and she did not explain why she

supposedly went back to work after the birth and never called for help. Catharina had nothing more to say beyond this and the council stopped the torture.<sup>68</sup> It seems that Catharina did put the child in the barrel to hide it and let it die, and that she went about her work so as not to draw attention to her recent activities. When confronted with her actions, she could not admit to the intention of letting it die, so she concocted this confused story about protecting it, which she probably thought would demonstrate her good intentions by the newborn, and hoped that it would be sufficient.

Early modern torture often conjures up images of the witchcraft trials of the same era, well known for brutal, sustained, and repetitive use of torture. As witchcraft was a *crimen exceptum*, the trials were not subject to the same restrictions as those trials for other crimes. Accused witches confessed to an amazing array of activities and crimes when under torture, a powerful indication of the effects of torture. Torture or even just the threat of torture often produced whatever the defendant believed would stop it; what the council members wanted to hear to end the torture was obvious from the questions they asked.

Such rounds of relentless torture, as seen in many of the witchcraft trials, were not allowed in infanticide investigations. Even multiple rounds of torture for infanticide were rare, only occurring during the most complicated trials. Yet these restrictions did not prevent torture from being extremely painful and traumatic. These women were forced under threat of pain and actual pain to reveal the most personal details of their sexual

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<sup>68</sup> StadtAA, *Strafbücher*, Catharina Linderin, 30 April 1611.

activities and their bodies to a group of men who held the power over their fate.<sup>69</sup> Those who withstood torture without confessing must have had significant mental and physical fortitude, although the council often interpreted this as obstinacy instead of innocence.

If the defendants' own words were staged and structured so carefully, with such specific purposes, what can be said of what "really" happened? Certain facts are fairly clear from the witness statements, physical evidence, and their corroboration by the defendants' testimonies; when these accounts coincided, some level of accuracy might be assumed. In Walpurga Seitz's case, for instance, there was no question about the ultimate fate of her child—multiple witnesses confirmed Walpurga's confession that she had thrown the child in a pigsty. What is less clear is what really mattered to the council, and therefore, to the defendant: whether it was the woman's intention to kill her child and whether she directly brought about the death of her child. The council knew how to determine intention according to their own definitions: hidden pregnancy and secret childbirth, which they could confirm through witness statements. But, naturally, only the woman in question could know her actual intentions. Her reality was shaped by the council's understanding of her intention, which determined the questions it asked her and, therefore, her responses. It was her confessed intention within this framework of meaning that ultimately decided her fate. With enough witness statements, it might be determined that the defendant had never revealed her pregnancy to anyone, but it remains unknown why she did not. Did she intend to attempt abortion? Did she plan all along to carry the child to term and then kill it? Or did she intend, as some claimed they did, to give birth to the child and abandon it? Did her intentions change or did circumstances which affected

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<sup>69</sup> Ulbricht, "Kindsmörderinnen vor Gericht," 57.

her intentions change? Had the father promised to marry her, and then reneged on his promise? Perhaps he had left town to avoid his responsibilities and possible punishment. Perhaps he had refused to acknowledge the child was his.

For the cause of death, the council had the testimony of doctors and midwives, whose determinations the council accepted. This expert influence will be examined in depth in chapter four. Yet it was what the council believed to be true that became the reality for both themselves and the defendant. If the defendant's testimony did not match that of the expert witnesses, she might be questioned and tortured further so that her confessions came into line. She might even have been able to pick up cues about what exactly she needed to confess. It was more likely, however, that the woman's confession and the evidence matched. Whether or not the defendant had actually killed her child, she would have known if the child had any major visible signs of trauma for which she would have had to account.

The very nature of infanticide made it unlikely that anybody but the mother was responsible for any unnatural post-natal death. In one case, discussed below, the father actually committed the murder, and in many cases of abortion, the father was involved, such as in the case of Jeremias Bair and Anna Weilbächin. But in most cases when a woman was found with a dead child, there would have been little question about the identity of the murderer, even if there was uncertainty over the exact nature of the supposed crime. And even though many details and the thoughts of defendants before the town council remain unknown, for these people the trial and their confessions became

their reality. What they confessed to was, for the council, what actually happened. If they confessed to infanticide, then they had committed infanticide and faced execution for it.

Modern notions of ethics also color interpretations of historical actions, particularly over issues of sexuality and reproduction and make it hard to be objective. While abortion is hotly debated, infanticide is still considered a horrific crime; but the line between abortion and infanticide, as is seen from the testimonies of many women, was not always obvious in the early modern period. The way many women spoke about pregnancy and childbirth in vague, disconnected terms illustrates how to some, infanticide was simply very late-term abortion. This idea can also be seen in the blurry line between charges of abortion or infanticide. Abortion cases easily became infanticides, and vice-versa.

Seeing the crime as contemporaries did is, therefore, of the utmost importance. With infanticide in particular, this can lead to confusion, as the early modern definitions of infanticide and abortion were frequently unclear and changeable. Although narrowly defined by the *Carolina*, infanticide actually encompassed a wide variety of actions, between which the lines were often blurred. Several of the more unusual cases of infanticide and related crimes illustrate this gray area and challenged the council, stretching its definitions of infanticide and their expectations about the crime and its perpetrators. The definitions prove slippery, but surprisingly the actual procedures against such criminals show important commonalities. Although many of these defendants were in very similar situations and had to contend with the difficulties in interrogation discussed above, a detailed look shows wide variety. At heart, most infanticides were



situations in which the child was, for physical, emotional, financial, practical, or other reasons, unwanted. Yet those who were accused of committing infanticide all faced a unique combination of needs, capabilities, and backgrounds. The young, single, poor woman was not always the perpetrator. Men, too, were involved in a small percentage of these crimes, and many of the women involved were actually married, had already had children, or well past their teens and twenties. The circumstances of the crime and investigation varied as well as the actions of the individuals in response. A close reading of these records reveals a striking level of personality and individuality among defendants. This particular set of cases also directly challenges what has previously been understood as early modern infanticide.

### *Anna Schaidhofin*

Anna Schaidhofin was only fourteen or fifteen years old when she was brought before the council in 1571, accused of having hidden her pregnancy, given birth in secret, and thrown the child into a privy. Her case file is relatively short, although it does include three rounds of interrogation, the last of which was under torture. Anna confessed immediately to being pregnant by a weaver's apprentice named Hans Feissl. She further told how "on Saturday she had pains in her stomach and on Sunday the whole day...until between four and five o'clock she went to the secret chamber [the privy]...and the child fell from her." However, she claimed that before this happened she had been unsure whether she was pregnant, and did not know what the pains in her belly meant. She admitted that she had told another woman about the stomach pains she had been having

and that woman had given her a powder to treat it. Anna testified that the other woman had also not known Anna was pregnant, and gave her the powder only to ease the stomach pains.

Through three rounds of interrogation, the last of which included torture, Anna stuck to her story that she did not know that she was pregnant. She maintained that she did not throw the child into the privy after birth, but rather gave birth directly into the privy, which meant that the child died almost immediately thereafter. Anna said she did not even know what had happened after she gave birth. She continued to assert that she had not intended to consume any abortifacients, although it appears she might have done so unintentionally. Her testimony demonstrated that she had not intended to kill the child, or at least the council could not obtain sufficient proof that she had. She had not intended to hide her pregnancy, as she had not known that she was pregnant. She had also not committed direct violence against the child. Yet she had admitted to letting the child fall and to having taken what might have been an abortifacient.

In the end, Anna's age was the determining factor in this case. At fourteen or fifteen, she was at least ten years younger than most of the other women facing accusations of infanticide. Her parents submitted a letter to the council, blaming her actions on her "stupidity of youth and lack of judgment."<sup>70</sup> Youth and stupidity were common excuses for crimes of all sorts, though their effectiveness in trial was only sporadic. Records speak of criminals facing harsh punishments "despite their age," but also of acquittals "because of their age." In Anna's case, it seems that the council believed her story that she had not known she was pregnant because she was so young.

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<sup>70</sup> StadtAA, *Urgichten*, Anna Schaidhofin, 15 January 1572.

Thus, Anna was not executed, but permanently banished—which must have been particularly difficult for someone Anna’s age.

Early modern society’s aversion to executing young people—generally those under age seventeen or eighteen—must also have contributed to her sentence. Although not unheard of, such executions were rare and shocking. Banishment was much preferable, and adopted frequently. Adolescents and young adults, sometimes as young as twelve, were regularly banished for repeated theft or begging.<sup>71</sup> At the same time, it was also considered shocking if a young person did commit a crime considered unusual for his or her age. Youths were frequently thieves and beggars, but were not often murderers. The combination of serious crime and severe punishment was particularly startling.<sup>72</sup> Augsburg chronicler Paul von Stetten draws attention to a spectacular case from 1505: a young serving boy and maid, twelve and thirteen years old, strangled their master. The two children were both executed, the girl buried alive and the boy beheaded. Von Stetten notes that the council even requested permission from the emperor to circumvent a law preventing the execution of anyone under the age of fifteen.<sup>73</sup> Public horror when confronted with these children committing such a crime was almost overpowered by public horror at the execution of children.

For Anna Schaidhofin, while her youth might have made her actions all the more shocking, it also helped support her claims that she was ignorant of her pregnancy and childbirth. A fourteen-year-old was not supposed to know anything about childbirth—

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<sup>71</sup> There are countless examples to be found in Augsburg’s records in StadtAA *Strafbücher*.

<sup>72</sup> Joel Harrington, *The Unwanted Child: The Fate of Foundlings, Orphans, and Juvenile Criminals in Early Modern Germany* (Chicago: the University of Chicago Press, 2009).

<sup>73</sup> SSStBA, LS Aug 10-1, Paul von Stetten, *Geschichte der Heil. Röm. Reichs Freyen Stadt Augspurg* (Frankfurt: Merz und Meyer, 1743), 260.

knowledge reserved for older, married women—and thus could not be held entirely responsible for her ignorance. Anna’s case illustrates at the same time both the flexibility and the inflexibility of the town council. The interrogation follows a familiar formula, and the council’s reactions to her answers indicate that it had processed many similar cases and thus had certain expectations. As in other cases, the council considered an admission of having taken an abortifacient sufficient confession to convict for infanticide or abortion. However, by choosing to accept Anna’s youth and corresponding ignorance as mitigating factors, the council exercised its flexibility and even a modicum of compassion.

*Margaretha Baumüllerin*

On August 20<sup>th</sup>, 1591, Margaretha Baumüllerin, an eighteen-year-old serving maid from Todtenweis (twenty kilometers north of Augsburg), was permanently banished from the city, accused of attempting to kill her illegitimate child. Margaretha threw her fourteen-day-old child into a millstream, “with the intention (which God immediately and miraculously prevented) that she kill it.” The child was pulled out of the water by nearby fishermen. Margaretha readily confessed to having thrown her child in the water and claimed that she was very sorry for what she had done. When asked why she would do such a thing to her own child, she replied that she “had not known where she could go with the child,” and that “the poverty pushed her to it.” After the child was rescued, she took it to her aunt Barbara Vetterler in Gersthofen, a few kilometers to the north of the city. She also had the child baptized by the name Anna in the church of St. Anna.

Margaretha was banished on the 20<sup>th</sup> of August. Two days later, Margaretha was caught trying to return to the city. She claimed that she was simply trying to pick up some clothes she had left with a neighbor, but the council whipped Margaretha out of the city again that very same day.<sup>74</sup>

Margaretha was not successful in her attempt to commit infanticide, but her frank answers during her interrogation are revealing. Perhaps because she had not actually killed the child, she might have felt that she could be more open about her motivations. Only eighteen, she had already moved away from home and gotten pregnant. She claimed that she had only had sex with the child's father three times, and with no one else. The father, a servant named Hanns Fischer, had promised her marriage. But now Margaretha no longer knew where he was, and she could only guess that he might still be somewhere in the city. She was poor and had no means to provide for a child. In despair, she threw the child in the water, but claimed to be sorry for what she had done. It is likely that she said this to gain the pity of the court, but it might also have been true. Perhaps she was just a young mother who made a rash decision and felt regret almost immediately. She may have been relieved that the child had lived or distraught that she had not succeeded, but she stated clearly why she had attempted to kill it. She said nothing of shame for having fornicating with Hanns, but only of her despair over the resulting situation.

Margaretha's misfortune also shed light on the methods of the council members. In many cases of abandonment, the child was returned to the abandoning mother or parents and they were banished from the city. The *Strafbuch* entries usually indicate that

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<sup>74</sup> StadtAA, *Urgichten*, Margaretha Baumüllerin, 20 August 1591. Stadt AA, *Strafbücher*, Margaretha Baumüllerin, 20 August 1591 and note from 22 August 1591.

such a woman was “whipped out with the child in her hand.” The records do not indicate in this case what happened to the child, though it would be no surprise if the council returned the child to Margaretha to take with her. It had no interest in adding to the city’s population of unwanted children, further burdening the foundling house or adding another beggar to their own streets. Despite the council’s consistent use of language about “innocent little children,” its first priority was not to protect the children of the community but to protect the community as a whole. The council was focused on keeping the city as free as possible from people whom it considered to be a danger to the city’s morality, reputation, or finances. By banishing Margaretha, they rid themselves of a troublesome element of their society, but Margaretha now faced an even more difficult situation than before, with no home and a child in her arms.

#### *Anna and Appolonia Zottin*

Another unusual case was that of the Zottin sisters. In 1578 they accused Anna Geigerin of becoming pregnant out of wedlock and aborting the child with some sort of drink. The council quickly discovered that the sisters did not have any evidence for this claim, and further that Appolonia Zottin had an illegitimate child herself. Anna Zottin was ordered to apologize to Anna Geigerin, while Appolonia was banished from the city.<sup>75</sup> This particular case illustrates several points. The council took accusations of abortion very seriously, but it did adhere to a minimum requirement of evidence before pursuing a full-out interrogation. A woman’s reputation was everything. Appolonia’s credibility in her accusation of Anna Geigerin was weaker because of her illegitimate

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<sup>75</sup> StadtAA, *Strafbücher*, Anna und Appolonia Zottin, 3 July 1578.

child. In turn, accusing someone of fornication and abortion could ruin her reputation, and thus an unjust accusation was itself a punishable crime. Finally, this case hints at the inherent difficulty the council faced in cases of abortion. Abortion left little evidence, and many cases that were pursued further started just as this one, with pointing fingers and reported rumors.<sup>76</sup>

Further complicating cases of infanticide or abortion were cases that involved the father of the child. Because women physically carried the evidence of an extra-marital relationship in their bodies and paternity was impossible to prove, men were much less frequently involved in such crimes. Fathers, much more capable of escaping responsibility than mothers, nevertheless faced the possibility of a paternity suit that, if successful, required of them financial support for mother and child, or pressure to marry the mother. If it came to infanticide, men were very rarely involved; however, cases of suspected abortion quite frequently involved the father. The town councils were, in fact, quick to assume that someone other than the mother might be involved in an abortion. Nearly every woman suspected of such was asked who had talked her into it or who had told her how to procure one. The underlying assumptions were that a father of an illegitimate child who did not want to get married would want to terminate the pregnancy, and that the mother would lack the means and wherewithal to do so herself. However, fathers were occasionally also involved in infanticide, and as discussed, the distinction between infanticide and abortion was often obscure. Additionally, while a woman might be tried for infanticide or abortion without an investigation into the father,

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<sup>76</sup> See, for example, David Myers's *Death and a Maiden*, in which a woman was accused of infanticide or abortion with no corpus delicti.

a father was never tried without also questioning the mother. This leads to several questions. What role did fathers play in infanticides and abortions? When were fathers brought into investigations? How did the city councils rule on cases involving fathers? How were the investigations conducted? And what fate awaited fathers who were found guilty?

*Matthes Erhart*

The case of Matthes Erhart surprised the town council of Augsburg. In 1621, Matthes was found guilty of pushing his one-year-old son Ulrich into the Lech near the Friedberger bridge, whereupon the boy died. Ulrich was the illegitimate child of twenty-one-year-old Matthes and 26-year-old Maria Hirschlerin. The uniqueness of this case, though, extends beyond the fact that the father was the murderer: the child was illegitimate, but he was not a newborn; Maria and Matthes's families and neighbors knew about the child; there is no evidence that Maria had concealed her pregnancy or had given birth in secret; they were not trying to avoid punishment for having non-marital sex—they had already been incarcerated for fornication (Maria for fornication and illegitimate pregnancy with another man as well as with Matthes); the father of the child had not disappeared. In fact, he was helping to raise the child. Why, then, did Matthes kill his child?

Indeed, the council first suspected Maria in the child's death. Maria insisted that she had not known anything about it: she had not helped plan to kill the child, she had not done it harm in any way, she was not involved in the actual murder, and she did not know



that Matthes would do it. She explained how Matthes was ordered by the consistory to help Maria support the child (it is unclear why the two were not married in the first place). Maria was released by the council in September of 1620 after convincing its members that she had had no role in the crime.

Matthes was then brought in for questioning and he readily confessed to the murder, even without being tortured. Matthes insisted that he had done nothing to harm the child previously, despite a head injury that was found on the child. This wound was determined to have occurred as he threw the child in the water. Matthes explained in his two interrogations that Maria had brought him the child while he was working at a mill. It seems he was not sure what to do with the child, and even when Matthes left the house with him, he had not yet planned to kill him. When he got to the bridge, he said, he simply set his son down on the bank of the river and pushed him in with his foot. Matthes declared that he immediately regretted what he had done. The council did not believe that he had not in some way harmed the child before throwing him into the river, and tortured Matthes with the *strappado*. Matthes confessed to nothing further—no premeditated intent to kill his child or any other injury. He insisted with “moaning, shouting, and wailing” that the story he had given was true.

The case against Matthes carried on until January of 1621. In October, Matthes’s father wrote a letter to the council asking for mercy; the council received two other letters on his behalf from his friends. The final letter in Matthes’s *Urgicht* was from Maria, who had written to the council on Matthes’s behalf. She claimed in her interrogation that she was naturally upset about the death of her child and that she had had no part in Matthes’s

actions. Yet in this letter she showed a certain level of forgiveness: she not only begged for leniency for Matthes, but also offered to marry him if the council would spare his life. Maria's offer was not entirely unusual. By offering to marry Matthes, she showed she was willing to conform to the stable structure of married life and pledged to reform their demonstrated poor behavior.<sup>77</sup> Despite this offer and all the pleas on Matthes's behalf, the council showed no mercy. After a four-month-long process, the council finally decided to execute Matthes. On January 23<sup>rd</sup>, 1621, the miller's apprentice from Füssen was decapitated.

Matthes's motivations remain mysterious. According to his testimony, Matthes had not given the act any forethought, and he immediately regretted what he had done. There seems to have been some sort of misunderstanding or disagreement between Matthes and Maria about what to do with the child, and it is possible that this drove him to his sudden action. It is possible, since it seems Maria had to sue Matthes in the consistory for child support, that Matthes never wanted the child and saw little Ulrich as a burden. But the council gave no indication of why it thought Matthes killed his own child, especially since the expected motivation of hiding shame did not seem to apply. Yet the records still emphasize Matthes's and Maria's single status, and the fact that the child was a bastard. A certain level of guilt was thus already presumed. Matthes had already shown himself to be irresponsible and of low morals in the eyes of the city council. Did Matthes suffer under the same pressures as single mothers, or was there another reason behind his actions? Did the burden of helping to care for Ulrich become too great? The records are simply too sparse in this case. What is apparent, however, is

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<sup>77</sup> Van Dülmen, *Theater of Horror*, 1-5.

that the burden of raising an illegitimate child did not always fall solely on the mother. Ulrich was proof that not every poor unwed mother was driven to abortion or infanticide. Maria had served her punishment for fornication and pregnancy out of wedlock, she had successfully sued for paternal support and had apparently done what she could to raise the child and function in society. Matthes had to be sued, and, therefore, had not offered to marry her, and had not wanted the child.<sup>78</sup> Cases in which the fathers were involved demonstrate that these fathers also felt the societal pressures to avoid illegitimate children, and despite the fact that it was easier for fathers to be rid of such a problem than mothers, it could not be avoided entirely. They also show that the crime of infanticide, although simplistic in its legal definitions, could be much more complex, and city councils had to adjust its actions accordingly.

Matthes's actions were nonetheless rather unusual. Many men like Matthes tried to avoid unwanted fatherhood and marriages, but for most this meant running away or denying paternity. For many more, this meant procuring or causing abortions for their pregnant lovers.

#### *Anna Weilbächin and Jeremias Bair*

In August 1608 Anna Weilbächin and Jeremias Bair found themselves before the council, charged with adultery and abortion. Jeremias was a 64-year-old married goldsmith and Anna was his 44-year-old servant. Both readily admitted to having had an affair and to her pregnancy. They both also acknowledged that Anna had taken laurel

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<sup>78</sup> StadtAA, *Strafbücher*, Maria Hirschlerin, 12 September 1620.  
 StadtAA, *Strafbücher*, Matthes Erhart, 23 January 1621.  
 StadtAA, *Urgichten*, Maria Hirschlerin and Matthes Erhart, 2 September 1620.

berries in order to induce an abortion, and that this had proven successful. Beyond this, the former lovers disagreed on every account, even on the paternity of the fetus. Anna claimed that Jeremias was most certainly the father, as she had had sex with no one else. Jeremias claimed that he did not believe he was the father: “he committed adultery with Weilbächin...and he supposedly impregnated her, but because of his age it did not seem possible.”

Anna said further that Jeremias had given her the laurel berries and told her what dosage to take and how. She said that he had even told her to let him know if the laurel berries did not work, he would find something else. He said he had done no such thing; he said that he had only told her that if she were pregnant then she should try laurel berries, but that he had not provided them to her himself. He eventually admitted to loaning her the one Kreuzer<sup>79</sup> which she used to buy the berries, but that he did not know what she had intended to do with it. Anna claimed, like many others had, that she had not been sure that she was pregnant. She had not had “her time”—her menstrual period—for a while and Jeremias had noticed that she had gotten bigger, so she thought that she might be pregnant. Upon Jeremias’s instructions, she took the berries every morning for eight days, five or six berries at a time, in order to promote her menstrual flow. According to Anna, Jeremias had told her that she should take the berries even if she was not certain that she was pregnant, because they would not harm her; he even claimed that he would take them himself, in order to show her that they were harmless. About the

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<sup>79</sup> One Kreuzer equaled 3.5 Pfennig, and 60 Kreuzer equaled one Gulden. See Thomas Safley, *Charity and Economy in the Orphanages of Early Modern Augsburg* (New Jersey: Humanities Press, 1997), viii.

other remedies that he said he would offer if that did not work, she knew nothing; they had not been necessary.

Anna was asked to estimate when she would have given birth had she not aborted. She replied that she calculated the birth would have been around Michaelmas, at the end of September. As seen in the last chapter, the point in the pregnancy when the abortion was committed was of utmost importance. If her estimation of a Michaelmas birth was correct and assuming that the trial happened fairly quickly after the abortion (as no date for the supposed abortion was provided), this would mean that Anna was seven to eight months pregnant at the time of the abortion. This would have put the abortion well past quickening, however it was defined. If the council could have determined guilt more clearly, Anna (or, technically, but not likely, Jeremias) could have faced execution. But Anna and Jeremias continued to exchange contradictory accusations.

The council questioned both Anna and Jeremias twice; after Anna's second interrogation, Jeremias was brought in to face Anna. Jeremias was asked if he had told her to take the laurel berries; he replied that he had given her money to go shopping, but that he did not know what she bought with it—she would know more than he. Anna replied that he had instructed her to do so. He denied it again. Anna stuck to her story, restating that Jeremias was the father because she had been with no one else. He replied that he was not the father, that he could not have been the father. After this exchange, both Anna and Jeremias were led away. Jeremias was then also questioned a second time. He still denied that he had told her to take the berries. He even claimed that he had not been sure she was pregnant. If he had known she was pregnant he would have dismissed

her, he asserted, and she could not have been pregnant by him. He denied trying to induce the abortion in order to cover up his adultery, because he had already admitted to the adultery, and, therefore, had no reason to try to terminate the pregnancy.

As with many abortion cases, physicians provided their expert opinions, weighing in on the question of whether laurel berries could cause an abortion. Laurel berries were a very common abortifacient. In this case, they declared that small doses of laurel berries by themselves would not cause an abortion, but in bigger doses and in certain concoctions, they could. They added that it was commonly used by women to cause abortions. The value of this report lay in the confirmation of the laurel berries as a plausible, oft-used means of abortion. It also confirmed that whichever of the two made the decision to use the berries must have known and intended that an abortion would result.

Jeremias's family and fellow goldsmiths wrote two letters to the council on his behalf. They claimed that he was very sorry for committing adultery, but that it was very unlikely he had fathered the child, due to his age. The other goldsmiths were defending their friend, but also defending their guild's honor; as discussed in the first chapter, an illegitimate pregnancy and/or a conviction of abortion would not have reflected well on the goldsmith guild of Augsburg, and could have tainted the honor of the whole group. Anna's friends also wrote a letter on her behalf. They begged for leniency for Anna based on her simple-mindedness. Letters such as these were very common, as families and friends tried to persuade the council to mitigate the sentence.

After two rounds of interrogation each, the confrontation with each other, the report from the medical doctors, and three letters requesting leniency, the council was ready to pronounce on the case. Neither Anna nor Jeremias had confessed to full responsibility for the abortion. Because the council persisted in its interrogation of Jeremias, they must have found credibility in Anna's claim that he had some role in the abortion as well. This confidence is also evident in their sentences. On the fourth and fifth of September, respectively, Anna and Jeremias were both banished from Augsburg. Anna was banished only temporarily, but Jeremias was banished indefinitely. Perhaps the council believed Anna's friends that she was simple-minded and easily led into an affair and abortion by her master. Perhaps the council members also had some sympathy for a poor, simple maid who had been taken advantage of by her master. Jeremias had said himself that if he had known she was pregnant, he would have dismissed her, from home and employment. If she was not as simple-minded as her friends claimed, Anna somewhat successfully negotiated the proceedings. Neither was subjected to torture, but she stood by her story even when confronted with her former lover.

Anna's banishment proved short-lived. Banished on the fourth of September, she was pardoned and allowed back into the city by the second of December. What she did during the three months she was not allowed in the city is unknown. Jeremias, banished on the fifth of September, returned to ask permission for re-entry on the eighth of January. The city granted this and pardoned him on account of his age, but he was

sentenced “out of mercy” to another four months “ins Haus,” presumably a sort of house-arrest.<sup>80</sup>

*Martha Pfeifferin and Jeremias Dietrich*

Similar to the case of Anna Weilbächin and Jeremias Bair was that of Jeremias Dietrich, a tailor from Augsburg, and his maid, Martha Pfeifferin. They had an affair that resulted in her pregnancy. Martha told Jeremias Dietrich that she had been missing her period, and he provided her with a “drink” in order to restore it. Because both Martha and Jeremias never admitted that the drink was for anything more than returning her periods, and not for causing an abortion, they were banished, but Jeremias Dietrich was soon allowed back in (and Martha likely was as well, but the records provide no indication one way or the other).<sup>81</sup>

Many cases of abortion ended this way, with banishment instead of execution, because little physical evidence of the crime remained: accusations generally depended on rumors instead of a *corpus delicti*, the effectiveness of abortifacients was limited and uncertain and similarly lacked physical evidence, and their use was so often related to or cloaked in terms of other illnesses or restoring a woman’s cycle. It is for these reasons that fathers were much more often involved in abortion investigations than infanticide investigations. Infanticide investigations often began when a woman was caught with a dead child in her possession. The corpse often had the markings of its violent death on its body. Additionally, it was likely that the woman had reached the desperate point of

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<sup>80</sup> StadtAA, *Urgichten*, Jeremias Bair, 4 September 1608. Stadt AA, *Strafbücher*, Jeremias Bair, 4 September 1608.

<sup>81</sup> StadtAA, *Strafbücher*, Jeremias Dietrich und Martha Pfeifferin, 6 May 1604.



infanticide because the father was no longer to be found, and she had kept her pregnancy entirely secret. If the father knew of the pregnancy, he had likely already tried to help her end it, as waiting for the birth would have been riskier for him. Such was the expectation that almost every woman suspected of having an abortion was asked if the father had convinced her to do it, told her how to do it, or provided the means with which to do it. It is also apparent that fathers were more frequently involved in abortions when they could not leave town, as a journeyman or a day-worker might. Both Jeremias Dietrich and Jeremias Bair were married and ran households in Augsburg, and, upon impregnating a household maid, could not just move on to the next village or town. In comparison, women who committed infanticide often claimed that the father was no longer to be found, as Margaretha Baumüllerin (above), who claimed she did not know where the father was when she had attempted to drown her child.

*Cyprian Wiser and Maria Lucia Thomannin*

Accusations of paternity and abortion were the most complicated cases that the town councils faced. In 1693, for example, the town council of Augsburg found itself interrogating Cyprian Wiser, a thirty-one-year-old merchant from Geneva. Wiser was accused of impregnating one Maria Lucia Thomannin from Lindau, promising her marriage and then breaking that promise, borrowing money from her without paying it back, providing her with abortifacients, and kicking her in the stomach, causing her to give birth to a dead child. The records of the case against Cyprian run for hundreds of pages, and involved letters from witnesses across central Europe—his father in Geneva,

an apothecary in Salzburg, an innkeeper in Munich—as well as doctors’ and midwives’ reports, multiple rounds of interrogation, a confrontation between Maria Lucia and Cyprian, and even physical evidence provided by the defendant—the supposed abortifacients and a ring.

The highlight of this investigation was the arranged confrontation between Maria Lucia and Cyprian. The two argued in front of the city council over all the points of accusation. Of particular interest to Maria Lucia and the council was the nature of the relationship between the two. Maria Lucia testified that she would not have slept with him if he had not promised her marriage: “by giving her the ring, he promised to keep her as his love.” The ring in question is preserved in the case file, wrapped in paper. Symbolically, reflecting Cyprian’s broken promises (or perhaps merely the damages of nearly 320 years) the ring is now broken into two halves. Cyprian responded to these accusations by agreeing that they had had sex, but he had “each time treated her like a whore,” negating the possibility of a marriage promise. As for the rings, he claimed “he had 3 or 4 poor rings in a paper, which she knew, and she took one from him, and the others he gave to her.” Later on he maintained that “the ring he gave her as a whore, and not as a promise of marriage.” Maria Lucia and Cyprian argued back and forth over whether or not she was a whore or his fiancé.

In the end, the council was unable to extract a confession from Cyprian, even under torture, of causing an abortion, and it had to release him. The corpse of the child had indications of trauma, but Maria Lucia had given birth in the presence of other women, who could testify that the child had been born that way. Thus, Maria Lucia

herself was not suspected of infanticide.<sup>82</sup> In the end, most abortion cases came down to this scenario, of one person's testimony against another's, and the will of the defendant in refusing to confess to the crime.

### *Conclusions*

Once an unmarried woman knew she was pregnant, assuming she was aware of the fact herself, she had limited options. Ideally, the pregnant woman would marry the father of her child. But this could prove difficult, as it did for Maria Lucia Thomannin, whose claim that Cyprian Wiser had promised to marry her devolved into a he-said she-said battle in front of the town council. Others were at least able to successfully sue for paternal support, although this could also prove problematic, as it did for Maria Hirschlerin and Matthes Erhart. Although the number of women who committed infanticide was a small portion of those who got pregnant out of wedlock, many still felt that this was their only option.

Several factors combined in these decades to cause an increase in infanticide and abortion cases in these Swabian cities at the end of the sixteenth century. Societal conditions were such that more women were likely to look for ways out of unwanted pregnancies, and municipal judicial practices had developed so that cases of infanticide and abortion were prosecuted more readily and thoroughly.

Yet working against this systemization and confounding attempts to determine criminal patterns was the uniqueness of the individual defendants and the complexities of

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<sup>82</sup> StadtAA, *Straßbücher*, Cyprian Wiser, 26 September 1693.  
StadtAA, *Urgichten*, Cyprian Wiser, 26 September 1693.

the crime of infanticide in reality in comparison with theoretical legal definitions. The more investigations the councils conducted into infanticide and abortion, the more divergent stories it heard. Women and men gave excuse after excuse, testing the council members and working within the system as much as they could. Many found strategies to avoid admitting intention and direct violent action in the death of their children. Although defendants in these trials were caught in a terrible position, even those who might have intentionally committed the crime did not give up. They fought, and found a limited space in which to tell their story in the best possible light. Their stories sometimes defied the council's expectations by telling of actions committed out of poverty in addition to shame, of complete ignorance, of helplessness, of youth, of disease and the actions of fathers.

Again, the case of Cyprian Wiser and Maria Lucia Thomannin illustrates this point. What started out as a case of infanticide turned out to be a winding, complicated story that defied categorization. The council's investigation lasted months as it tried to sort out the circumstances of the child's death. With such complications being all too frequent, the Augsburg town council was only ever able to reach at its highest a conviction—and, thus, execution—rate of around fifty percent. Yet that leaves another fifty percent who were executed. These were the women and men who could not withstand torture, for whom the evidence was too clear or the pressure too heavy. Some approached death willingly, seemingly tired of a life full of regrettable actions and eager for the trial to reach a conclusion one way or another and at any cost. And those who did survive were banished from the city, from their homes, from their jobs, and from their

family and friends, which was not exactly a victory or an end to their troubles. The intense pressures of interrogation broke many of these men and women, who sometimes were reduced to begging, crying, and pleading for their lives. In 1629, Barbara Algin prayed for the councilors to end her torture:

She said that did not know what to say, she said she was not guilty, and that she would die willingly and obediently; she pled most fervently, because she was a poor, abandoned orphan....then she was bound, pulled up with the strappado, and spoken to, all of which she bore willingly and patiently, with many pleas and prayers...she prayed again for God's mercy...and that for her sins she would keep and bear enough regret, pain, and repentance.<sup>83</sup>

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<sup>83</sup> StadtAA, *Urgichten*, Barbara Algin.

Undest khönde und wisse sie nit zureden, und sich unschildig, wölle darübert bis in Todt willig und gehorsamb sein, Bittet höchst flehentlich, weil sie ein Armer verlassner Wais...Jst darauf gebundten, ufgestöllt, und Über beweglichs zuesprechen, mit der klainen lähren scheiben ufgezogen worden, welche sich alle geduldig und wilig, mit vilen bitten und betten darein ergeben...die bittet nachmals durch Gottes barmherzigkeit willen...sie wölle über ihre sündt genuesambe reu, layde, und bues haben und tragen.

-3-

**Beware the *Kinderfresser*:  
Violence toward Children in the Media**

I will bind you together, crossing your hands and feet  
And throw you in dung, I will set you on fire  
...then I will wind up your intestines out of your belly.<sup>1</sup>

While Georg Kölderer wrote in his city chronicle about the “barbarous mothers” who plagued Augsburg, his contemporaries were printing leaflets and broadsides depicting all manner of violence toward children with such graphic texts as the above example, taken from a woodcut in which a witch-like figure threatens a group of young children. Printers in Augsburg and all across Germany churned out an impressive body of literature featuring the death of infants at the hands of their parents, gangs of murderers, Jews, witches, and bogeymen, or caused by their own monstrous deformities. The bulk of this violent literature printed in or near Augsburg appeared in the decades around 1600, the same period in which cases of infanticide peaked in the Swabian cities. This chronological correlation is worth examining because of the complex interactions between events and accounts of events, rumor and reality, and the reasons for fear and the expression of that fear. Infanticide prompted outrage and concern not only on the part of the city councils responsible for prosecution, but also in society at large. Printers drew on these emotions by highlighting violence toward children in their broadsides and pamphlets, and they used this theme to strengthen messages of morality, innocence, and betrayal in their stories.

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<sup>1</sup> Albrecht Schmidt, “Die Butzen-Bercht,” Nuremberg, year uncertain. Reprinted in in Dorothy Alexander and Walter L. Strauss, *The German Single-Leaf Woodcut, 1600-1700* (New York: Abaris Books, Inc., 1977), vol. 2, 489.

Fears about the well-being of children in the early modern period occupied a continuum from the imaginary to the all-too-real. Yet the distinctions between the real and the imaginary as understood in the early modern period are difficult to trace. While a bogeyman might have been frightening only to children, witches were real to many from all parts of society. Witches were also often thought to commit infanticide, confusing the issue in the early modern imagination. However, women did, in fact, sometimes kill their newborn children, while Jews did not really use the blood of Christian boys in their Passover rituals. Yet all of these crimes, classic infanticide included, reflected very real fears and became a muddle of real and imagined elements, real crimes with complex motivations resting in tradition, religion, and history.

The emphasis on violence toward children in the popular literature of the period further complicated the relationship between the real and the imaginary by adding layers of representation and interpretation. Though “classic” infanticide experienced an upswing in prosecutions and convictions during this period, it did not feature in publications as frequently as other crimes or forms of violence against children which were actually far less common. Sixteenth- and seventeenth-century popular literature actually included very few examples of a mother killing her newborn illegitimate child. The theme of unwed mothers killing their children did not come to the forefront of publishing around Augsburg until the eighteenth century, when Enlightened thinkers took up the debate. Thus, the correlation between these two patterns—the increase in infanticide cases before the city councils and the increase in the popular literature that featured violent acts committed against children—presents a conundrum. If there were so many legal cases of

“classic” infanticide around 1600, why did printers choose to focus on far less common crimes and even crimes that may never have occurred? The relationship lay not in direct influence—specific crimes inspiring specific reports—but in the common cultural and social origins of both the rise in prosecutions of infanticide, as discussed earlier, and the focus of popular literature on violence against children. Printers often chose to publish the more fantastical stories and occurrences perhaps because the stories were precisely that—unusual or even sensational events which were more interesting to readers than a crime that happened every couple of years, no matter how horrific that crime was. Printers gave voice to society’s stresses through publications of wondrous events and horrifying news of the murder of children, which often conveyed messages of fear and salvation. Perhaps the more common “classic” cases of infanticide were all too familiar; in these decades every citizen of Augsburg would be able to recall several cases in recent memory. As these cases increased, it is conceivable that the crime was too frightening, or even that authorities feared copycat crimes.

But printers also sought to make money by stimulating the fear of violence and other dangers toward infants and children and by drawing on the inherent fascination of these ideas. In fact, printers seemed to relish the opportunity to indulge in the particularly gruesome and taboo while reporting the news or warning society about potential or advancing dangers. Broad­sides depicting the horrific deeds of roving bands of murderers might dwell upon the gory details of attempts to carve a living fetus out of a mother’s womb and then eat its heart. News reports told of fathers who killed their whole families, often smashing their children’s heads. Drawings and descriptions of old, gnarled witches



at their sabbath frequently featured cannibalism, sometimes even with infants roasting on spits. Angry Turkish soldiers were depicted impaling children on their long, curved scimitars.

Childhood, and particularly infancy, made the atrocity of such acts all the worse, for such victims were defenseless. These children were often shown naked, emphasizing their youth and their lack of any protection from the teeth, claws, or weapons of their captors. Accounts of murderous parents often provided lengthy descriptions of the youngest child begging for mercy, promising not to cause any trouble, not even to eat ever again, the innocence and goodness of the child a stark contrast to the evil of the murderers. Children are always in the most vulnerable position of a society, and this perception was exacerbated in an era in which life was already precarious. They were often seen to be the innocent victims of adult greed and selfishness, unable to fend for themselves, sometimes even betrayed by their very own flesh and blood.

The popular literature of the sixteenth and seventeenth centuries was printed in short, reasonably cheap, form. Works were often either single-page broadsides featuring woodcut pictures and an accompanying text (often rhymed) or multi-page pamphlets. These *Flugschriften*, ranging from a couple leaves to dozens of pages, remained highly popular until the Thirty Years War. The affordability and availability of *Flugschriften* and broadsides has been debated, but it seems likely that the cost, though low, would have been prohibitive for the lowest economic sectors of society, most of whom could not read anyway. But this sort of literature was shared, read aloud, and passed around, allowing a much larger portion of the population to learn the news or hear the story.

Historians have also found that Germany very likely had high rates of literacy, compared to other areas, for both men and women. Women, the lower urban classes, and peasants doubtless were less likely to be literate, but until the ravages of the Thirty Years War, those in Germany still compared favorably with other regions. A city as large as Augsburg probably had even higher rates of literacy than much of Germany. Augsburg was, in fact, second only to Nuremberg for all of the German-speaking regions in the production of popular literature in the sixteenth and early seventeenth centuries.<sup>2</sup> This combination of prolific production with relatively widespread literacy means that many of Augsburg's inhabitants were reading these works, and that many of the works were produced in Augsburg itself. Those living in the other towns in this study likely had access to publications from Augsburg and also a few from their own local printers.

This chapter will explore several genres of popular print, in both broadside and pamphlet form. An examination of several publications in which violence toward children is the prevalent theme will show how violence toward children was depicted and why, what particular ideas were prevalent, how the print media compared with actual recorded events, and what it means that this particular publishing boom—of broadsides and short pamphlets—coincided with the greatest concentration of infanticide prosecutions in early modern Swabia.

### *Der Kinderfresser and the Cannibalism of Children*

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<sup>2</sup> Joy Wiltenburg, *Disorderly Women and Female Power in the Street Literature of Early Modern England and Germany* (Charlottesville: University of Virginia Press, 1992), 34-38.

The *Kinderfresser*, or child-devourer was a popular image in the sixteenth and seventeenth centuries. Broad sides of the *Kinderfresser*, such as the one from about 1600 in image 4, almost always depicted a larger-than-life, hairy man carrying a bag filled with frightened children while stuffing another child whole into his mouth. The monster is often depicted in scenes similar to this, standing in front of a doorway in which more children cower, pleading with their mothers for protection. The rhyme of the *Kinderfresser* reinforces his fearsomeness, as he threatens to kidnap and eat disobedient children: "I am called the child-devourer/ well known to mothers/ who use me to quiet their children/ when they cry, scream, and whine." The *Kinderfresser's* song continues in the text below the image:

Look at the Child-devourer/	Schaw da den Kindelfresser an/
How hideous a man he is/	Wie er ist so ein scheutzlicher Mann
He has a rough, wild, and shaggy hair/	Hat ein grob/ wild/ gestroblet Haar/
His beard is coarse and bristly/	Sein Bart ist rauch/ und zottet gar
He has two giant cheeks and a huge jaw/	Hat zwen groß Backen/ ein groß Maul/
And feeds just like a horse/	Und frißt recht wie ein Ackergaul
He runs around swiftly in his boots/	Laufft mit sein Stiflen gschwind herumb/
To all houses/ both sinful and pious/	Zu allen Häussern/ loßt ob fromb/
If there are children or not/	Die Kinder seyen oder nit/
And when he then finds one/	Und wann er eines dann betrit/
That whines/ and stubbornly won't be still/	Das greint/ und schlecht nit schweigen will/
So then he creeps up very quietly/	So schleicht er dann hinzu ganz still/
And look/ as he sneaks around/	Und schawet/ ob er mit sein dappen/
Such whining children, will he snap up/	Solchs greinet Kindlein mög erschnappen
So he then snatches/	So er dann eines thut erhaschen/
And he stuffs them quickly in his sack/	Steckt ers bald in sein grosse Taschen/
How one of their heads reaches out/	Wie den Kopff eins dann ausser reckt/
Soon he takes them back to his house/	Das er bald in sein Hauß heim tregt/
And rips them apart/	Und thut es von einander reissen/
With his teeth he tears them/	Mit seinen Zänen auch zerbeissen/
If you won't be still/	So du dannnit wilt schweigen eben/
I will give you to him/	So will ich dich dem Mann auch geben/
Therefore be quiet and come inside/	Drumb schweig sein still, komb in das Hauß

So that he won't find you outside whining. Das er dich nicht find greinend drauß.<sup>3</sup>



Image 4: Lorentz Schultes, *Der Kinderfresser*, Augsburg, ca. 1600

<sup>3</sup> Lorentz Schultes, "Der Kinderfresser," Augsburg, ca. 1600. Reprinted in Alexander and Strauss, *Woodcut 1600-1700*, vol. 2, 570.

The *Kinderfresser* was a fictional folkloric character, a bogeyman, used to convey behavioral and moral lessons to children. One can imagine a parent showing his or her child this picture and reading the rhyming text, to scare the child into obedience. The basic message of the *Kinderfresser* was that children ought to be quiet and pious, and heed their parents' direction. In early modern society, these qualities were expected of children, the pillars a patriarchal system that defined the structure both of the community and the family. This moralistic message of obedience was common in the literature of the day. Children were to obey their parents just as their parents were to obey their civic and religious authorities. Prayer and repentance were especially encouraged. The *Kinderfresser* was a particularly vivid embodiment of this message.<sup>4</sup>

The *Kinderfresser*, however, was not just a simple bogeyman used to teach children a lesson. These monsters also embodied layers of both real and imagined fears about the well-being of children. His depiction reflects deeper cultural origins. The image of a bogeyman, like the *Kinderfresser*, who carries children away in a sack, can be found in many cultures dating back hundreds of years; another famous example is *el Hombre del Saco* (the man with the sack) of Spanish folklore. These child-eating men belong to the wider genre of wild men, such as the “Wilde Mändle” (Wild Man) of Oberstdorf, a small alpine town approximately 130 kilometers southwest of Augsburg. They were popular in medieval art and literature; they were usually human in form, but savage.

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<sup>4</sup> Staats- und Stadtbibliothek Augsburg (SStBA), *Einblattdrucke nach 1500*, Nr. 458, *Der Kindlein Fresser*, (Augsburg:Boas Ulrich, ca.1680).  
SStBA, *Einblattdrucke nach 1500*, Nr. 456, *Der Kinderfresser*, (Augsburg: Lorentz Schultes, ca. 1660).

Covered in hair instead of clothes and lacking normal human behavior and mentality, the wild man lived on the edge of society, part human, part animal (see image 5).<sup>5</sup>



Image 5: *The “Wilde Mändle” of Oberstdorf*

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<sup>5</sup> The literature on wild men is vast. See, for example, Richard Bernheimer, *Wild Men in the Middle Ages: a study in art, sentiment, and demonology* (New York: Octagon Books, 1970).

The idea of the wild man or *Kinderfresser* appeared repeatedly elsewhere in early modern culture. A carnivorous wild man also appeared in carnival floats, most famously in Nuremberg, as the *Narrenfresser*, or Devourer of Fools, “the fool who devoured other fools, a symbol for moralizing reformers of the all devouring and destructive characteristics and consequences of sin, and a more general symbol of the bodily excesses and violence associated with the celebration of carnival.” The *Narrenfresser*, whose depictions clearly drew on the same themes as the *Kinderfresser*—a grotesque giant who shoves screaming children or fools into his drooling mouth—demonstrates how familiar this almost comical interpretation of a cannibal would have been, turning fears upside-down in the spirit of carnival, while also carrying its own message about morality.<sup>6</sup>

But the various forms of the *Kinderfresser* in particular that appeared in early modern German texts, many of which were printed in Augsburg, carried especially dark connotations. The woodcuts are gruesome, depicting the *Kinderfresser* as a hairy ogre stuffing children whole into his salivating mouth. The *Kindlein Fresser*, printed in Augsburg by Abraham Bach, even shows a warty-faced man gnawing on the hand of a child slung over his shoulder.<sup>7</sup> Abraham Bach also printed a depiction of *Der Mann mit dem Sack* (the man with the sack), who is less grotesque but features the same scene as the others, of a man with a sack of children and a child reaching out for his mother to

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<sup>6</sup> Charles Zika, “Cannibalism and Witchcraft in Early Modern Europe: Reading the Visual Images,” *History Workshop Journal*, No. 44 (Autumn, 1997), 93.

<sup>7</sup> Abraham Bach, “Der Kindlein Fresser,” Augsburg, unknown year. Reprinted in Alexander and Strauss, *Woodcut 1600-1700*, vol. 1, 62.

save him from the monster.<sup>8</sup> Children's writhing limbs poke out in all directions and their faces are contorted with panic and tears. Hans Weiditz of Augsburg printed a particularly cartoonish version of a *Kinderfresser* as early as 1520 (see image 6). The creature in this version has distorted proportions, a wrinkled and warty face, and he drools copiously while the seven children he has within his grasp cry, writhe, and even defecate out of fear. The inability of the child to control his bowels emphasizes his youth, as does what seems to be a teething necklace around his neck.<sup>9</sup>

Albrecht Schmidt of Augsburg also printed a female version of this bogeyman, called *die Butzen-Bercht* (see image 7), who was perhaps the most grotesque depiction of all. More than her male counterparts, she echoes contemporary images of witches, with a hunchback, patchwork dress, hooked, warty, and dripping nose, wrinkled face, and rough, disheveled hair. She carries a broom, with which she "will beat you until you bleed red" and a basket on her back full of children. A crowd of girls huddles in a doorway, trying to stay out of her reach. The *Butzen-Bercht* comes for them: "Why do you hide? Why do you flee from me? I will not touch the good, but I will plague the bad." Her rhyme describes in detail the frightful things she will do with the bad children:

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<sup>8</sup> Abraham Bach, "Der Mann mit dem Sack," Augsburg, unknown year. Reprinted in Alexander and Strauss, *Woodcut 1600-1700*, vol. 1, 63.

<sup>9</sup> Hans Weiditz, untitled, probably Augsburg, c.1520. Reprinted in Max Geisberg, *The German Single-Leaf Woodcut, 1500-1550* (New York: Albaris Books, Inc., 1974), vol. 4, 1482.





Image 6: *Hans Weiditz, untitled, probably Augsburg, c.1520*





Image 7: Albrecht Schmidt, "Die Butzen-Bercht," Nuremberg

I will bind you together, crossing your hands and feet  
 And throw you in dung, I will set you on fire  
 ...then I will wind up your intestines out of your belly.

Ich will euch Händ und Füß/ Creuzweiß zusammen binden/  
 Und werffen in den Koth/ und will ich euch anzünden/  
 So will ich haspeln Die Därme aus dem Bauch<sup>10</sup>

These gruesome details hint at a darker reality. While intended to teach children lessons, these images also embodied very real fears of the parents as well. Through their displays of cannibalized children, the depictions of *Kinderfresser* portray other closely-related themes of violence toward children, namely, ritual murder and witchcraft. The *Butzen-Bercht* clearly draws on the imagery of witches, as she is hardly distinguishable from the other depictions of early modern witches (see Hans Baldung Grien's famous 1508 depiction of a witches' sabbath). The connection to blood libel via visual images has been explored by Eric Zafran and Charles Zika, who find that the *Kinderfresser* image drew upon the notion that Jews sacrificed and ate Christian boys or their blood as part of their required rituals. Thus, what seems like a scary children's story carries a much more sinister cultural connotation. Fears surrounding the ideas of Jewish murder and witchcraft were very real in the early modern world, and the cannibalism of children was a fairly widespread idea. Robber-murderers (see below) and the occasional grave digger were also said to cannibalize children or the corpses of children.<sup>11</sup>

Further connecting the *Kinderfresser* to the idea of ritual murder, Eric Zafran has similarities in images of the Roman god and planet Saturn and medieval and early

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<sup>10</sup> Albrecht Schmidt, "Die Butzen-Bercht," Nuremberg, year uncertain. Reprinted in Alexander and Strauss, *Woodcut 1600-1700*, vol. 2, 489.

<sup>11</sup> Zika, "Cannibalism and Witchcraft," 95-96. Eric Zafran, "Saturn and the Jews," *Journal of the Warburg and Courtauld Institutes*, vol. 42, 1979, 16-27.

modern images of Jews. Dating back at least to St. Augustine, who described Saturn as a god of the Jews, Jews were often described as having Saturnine characteristics, such as miserliness, stubbornness, deceitfulness, and general degradation. Zafran argues that beginning in the fifteenth century, Saturn also became associated with stereotypically Jewish features. Depictions of Saturn focused on increasingly caricatured physical features, such as a sharp nose and pointed beard, and sometimes even a kind of hat similar to those required of Jews to wear. The most powerful connection, Zafran points out, is to the depiction of Saturn as Kronos, the god who devoured his own children in order to prevent them from rising against him, linking directly to the charge against Jews of infanticide and cannibalism. Zafran also argues that the *Kinderfresser* is essentially a bogeyman that developed from this notion of Saturn as a child eater.<sup>12</sup> Charles Zika has explored early modern images of cannibalism, and finds connections among depictions of witches, “savages” of the New World, Jews, and Kronos. Supposed Amerindian cannibals and cannibalistic witches were depicted as “children of Saturn.”<sup>13</sup> As “children of Saturn,” these cannibals were further associated with Jewish rituals.

In Bern, Switzerland, a mid-sixteenth-century fountain presides over the *Kornhausplatz*, a square in the center of town (see image 8). This statue, in local dialect the *Kindlifresserbrunnen* (Child-eater fountain), depicts a large, monstrous man stuffing a naked child head-first into his mouth. He holds a bag containing several more children who reach out from the opening in desperation. He wears a Jewish hat, and the visual cultural connections between Saturn and Jews thus recall accusations of ritual murder.

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<sup>12</sup> Ibid., 16-27.

<sup>13</sup> Zika “Cannibalism and Witchcraft,” 77-105.



Image 8: *Der Kindlifresserbrunnen*, ("the Child-Eater Fountain"), 1545, Hans Gieng, Bern, Switzerland

Both Zika and Zafran note the anti-Semitic imagery of this fountain, and other *Kinderfresser* images. The Bern fountain may even be related to a specific ritual murder trial in the same city in 1294 that resulted in the expulsion of the Jews there. As the fountain was not erected until 1545, however, the connection to that much earlier incident seems tenuous. Popular feelings about Jewish infanticide had more recently been stirred by the story of the ritual murder of Simon of Trent in 1475, which spread rapidly across Europe and took on numerous forms in the retelling. Zafran argues that it is much more likely, however, that the imagery of this fountain reflects the interchangeability in the early modern imagination of Jews and Saturn as cannibals of children.<sup>14</sup>

Accusations of ritual murder were not frequent in the early modern era, but such ideas remained active in the popular imagination well into early modern Europe and stretched the entire continent. The story of Simon of Trent was by far the most famous incidence; the tale of Simon's martyrdom spread far and wide, and a cult of veneration even developed around him (see image 9). The boy's father claimed that he was kidnapped and murdered by a group of local Jews, who used his blood to bake Passover bread and perform various rituals. Many of the local Jews implicated in this crime faced execution.<sup>15</sup>

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<sup>14</sup> Zafran, "Saturn and the Jews," 27.

<sup>15</sup> R. Po-chia Hsia, *The Myth of Ritual Murder: Jews and Magic in Reformation Germany* (New Haven: Yale University Press, 1988).



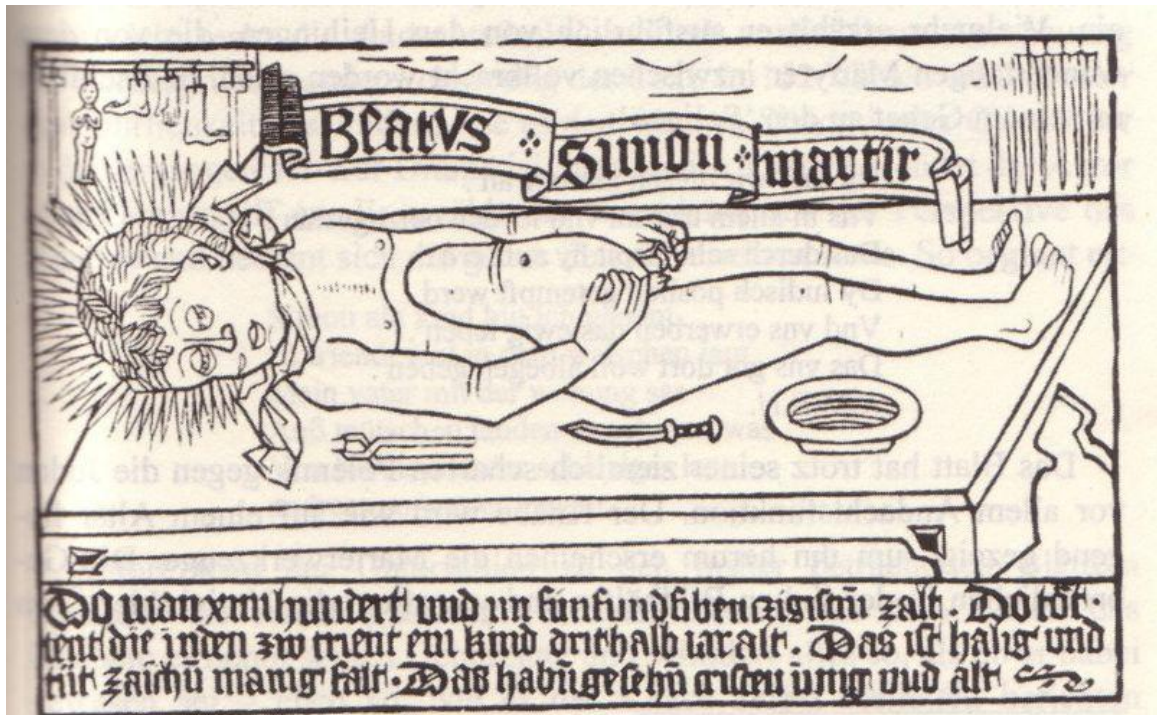


Image 9: *Simon of Trent*, Nuremberg, 1475

R. Po-Chia Hsia has shown that the early modern period witnessed a decline in cases on blood libel as compared with the late medieval period. Hsia proposes that typical charges of infanticide took over the role of ritual murder in popular imagination during the early modern period.<sup>16</sup> Yet such ideas remained active enough in the European imagination to be recalled and reused decades and even centuries later, resurfacing in the

<sup>16</sup> Ibid.

most remote of areas, as late as 1900 in Poland,<sup>17</sup> and in Nazi propaganda even later. The idea that Jews might kidnap and murder Christian children to perform their supposed ghastly rituals was alive and well in Augsburg at the time that infanticide prosecutions were growing in frequency.

In 1560 Anna Peurin, of Memmingen and serving maid to Marx Blattners in Augsburg, was brought before the Augsburg town council to answer charges that she had kidnapped Marx's four-year-old son and taken him to Oberhausen, a small village on the outskirts of Augsburg. Once they arrived, she had tried to sell him to a group of Jews living there. Luckily, Anna and the boy encountered two neighbors who recognized the boy and brought both back to Augsburg, whereupon Anna was arrested. After three rounds of interrogation, one of which was under the torture of the thumbscrews, Anna was whipped out of town and banished for life.

The council members thought they knew why Anna believed Jews would be interested in buying a Christian child—and they focused on this motivation during their interrogation. She admitted that “she brought the boy into the Jews’ house and said that the Jew should give her something for him.” The council then wanted to know: “who told her to take the little boy to the Jews,” and “how she knew that the Jews would buy such a child, and what they did with it.” To both of which she simply replied “Nein,” presumably denying that anyone had taught her such things. It seems that Anna believed that Jews would be willing to buy a Christian boy and saw an opportunity to make some money. But she denied repeatedly that she had heard such information from anyone, and

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<sup>17</sup> Helmut Walser Smith, *The Butcher's Tale: Murder and Anti-Semitism in a German Town* (New York: W.W. Norton & Co., 2002).



it is left unclear what exactly she expected the Jews to do with the boy. The Jews had refused to buy the boy, though, and Anna was soon spotted by her neighbors. The council, however, clearly believed Anna was familiar with the concept of ritual murder. The fact of the Jews' refusal is only noted in passing. In concluding its investigation, the council had determined, despite her denials and persistent pleas of ignorance, that it was Anna's intention to sell the child to the Jews for use in their rituals. Like several other cases ending in banishment, the decision to banish the criminal seems to have been reached mostly from a lack of any specific precedent and a desire to be rid of the problem. The council had sufficient evidence that she had kidnapped a child, but had greater difficulty ascertaining her intention in doing so. Thus, banishment was the proper course of action for multiple reasons. To this they added the threat of execution if she ever came back to the city.<sup>18</sup> The event was bizarre enough to draw the attention of city chronicler Paul von Stetten, who described its details. Von Stetten seems to presume that his readers would know why Anna would try to sell a child. He records this news alongside that of dramatic murders, reports about the doings of the emperor, and important official town business.<sup>19</sup> A story of even a potential ritual murder warranted a place among the major events of the period.

Over the next two hundred years, the council dealt with several other accusations of what could be called the attempted instigation of ritual murder. In 1572 Susanna Schönin, only twelve years old, apparently attempted to sell a young boy to the Jews and

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<sup>18</sup>Stadtarchiv Augsburg (StadtAA), *Straßbücher*, Anna Peurin, 23 July 1560. StadtAA, *Urgichten*, Anna Peurin, 23 July 1560.

<sup>19</sup> SSStBA, LS Aug 10-1, Paul von Stetten, *Geschichte der Heil. Röm. Reichs Freyen Stadt Augspurg* (Frankfurt: Merz und Meyer, 1743), 538.

was banished.<sup>20</sup> In 1742 Veronica Obermüllerin was arrested on similar charges.<sup>21</sup> The ideas behind the blood libel survived throughout the early modern period, still occasioning accusations of violence toward children into the eighteenth century. In the records for this study, however, no actual accusations of ritual murder from this era are to be found.

Even though these events did not result in the harm of any children, the idea of the potential murder and cannibalism of children was present. But the theme of cannibalism would have been particularly real to the citizens of Augsburg, who were rumored to have resorted to it during the Thirty Years War. Indeed, the war produced many, apparently credible, accounts of cannibalism. That various evil creatures and criminals might also be cannibals, especially of children, was horrifying, but easily imaginable. Hans Heberle of Ulm recorded cannibalism of children during the war in the town of Breisach:

Almost all the dogs and cats in the city were eaten, and some thousands of horses, cattle, oxen, calves, and sheep were also eaten....On November 24 [1638], a captured soldier died in the jail, and when the provost went to bury him, [he found that] the other prisoners had taken his body, cut it up, and eaten it....Two dead men in the burying ground were carved up, and the entrails were extracted and eaten. Three children were eaten in one day....The soldiers promised a pie-maker's son a piece of bread, if he would come into the barracks. When he entered, they butchered and ate him. On December 10 in the Fischerhalden [a neighborhood in Breisach] alone, eight prominent citizens lost children, probably eaten, because nobody knew where they'd gone to. This doesn't count the strangers and beggars' children, of whom nobody knew anything. In the square alone ten deaths occurred, not counting those found in the manure piles or in the alleys.<sup>22</sup>

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<sup>20</sup> StadtAA, *Strafbücher*, Susanna Schönin, 19 January 1572.

<sup>21</sup> StadtAA, *Strafamt, Consultanda Criminalia*, Veronica Obermüllerin, October 1742.

<sup>22</sup> Hans Heberle, *Zeytregister*, 1638, trans. Thomas A. Brady, German Historical Institute, accessed 30 October 2011, [http://germanhistorydocs.ghi-dc.org/sub\\_document.cfm?document\\_id=3709](http://germanhistorydocs.ghi-dc.org/sub_document.cfm?document_id=3709).

Other types of violent crimes against children were also publicized with great sensation, and drew on themes of violence, innocence, life, and death seen in the more fantastical accounts of cannibalism and ritual murder. These accounts formed part of a new genre of short pamphlets featuring criminal narratives, and in which violence toward children played a significant role.

*“Shocking News Reports”*

The theme of violence toward children appeared in a wide range of printed literature in this period. Among the most common prints were broadsides and pamphlets depicting supposedly real events. They purported to tell of “true crimes” and “shocking news reports.” Yet the exaggerated reports of supposed “true” crimes confuse reality and fiction further. Presented as eyewitness accounts, these pamphlets and broadsides told stories of serial and mass murders, of fathers and mothers who killed their entire families, of magic and of the devil, and of men who killed hundreds of people in a matter of weeks. As crime increased from the mid-sixteenth century, so did reports of crimes, thanks to advancing printing technologies and more efficient pursuit of criminal justice.<sup>23</sup>

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Es sind vast alle hund und katzen in der statt verspeiset worden. Es sind etliche tausendt roß, kie, ochßen, kälber und schaffsheiten verspeißet und gefreßen worden....Den 24 Novembris [1638] ist in dem stockhhauß ein gefangner soldat gestorben, und als in der profoß wol begraben laßen, haben in die andere gefangne genomen, in verschniten und gespeiße....Es sind zwen toden menschen in dem grab auffgeschniten worden, das eingeweid heraußgenomen und gefreßen worden. Es sind auff einen tag drey kinder geßen worden....Es haben die soldaten eines pastetenbeckhen knaben ein stuckh brot versprochen, er soll mit inen in das leger gehen. Als er aber dahin komen, haben sie in gemetzget und gefreßen. Den 10 Christmonet sind allein in der Fischerhalden 8 namhaffte burgers [kinder] verlohren und vermutlich gefreßen worden, weil niemand gewust, wo sie hinkomen, ohne der frümde und betlerskinder, davon niemand kein wissenschaftt hatt. Es sind auff dem platz allein zehen todte, ohne die andere so uff misthauffen und gassen gefunden worden.

<sup>23</sup> Joy Wiltenburg, “True Crime: the Origins of Modern Sensationalism,” *The American Historical Review* 109, no.5 (December 2004): 1381-1393.

But accurate reporting of the specific crimes was less important than public appeal.

Reports were presented as if the author had actually been at the scene and somehow knew both the criminals' thoughts and secret actions. Details were added to increase the horror of the crime and arouse public outrage or sympathy. Over and over the authors of these reports chose to focus on the violent acts committed upon children.

### *Robber-murderers*

Reports of gangs of murderers or robber-murderers were dramatic, filled with violence, magic, and strict justice. These accounts told stories of gangs, sometimes quite large, sometimes of only two or three men, who roamed the countryside robbing and murdering all manner of people. Some even claimed that such criminals murdered hundreds of people, listing their victims individually. One account printed in Augsburg in 1570 reported the 124 murders committed by Martin Farkas and Paul Wasansty. An excerpt from the list of crimes Paul claimed reads as follows:

Then near Solowitz, I and Lepssy [presumably a nickname for Martin] killed two farmers, and took 2p [*Pfennig*]<sup>24</sup> from them. Then a half mile from Solowitz, I and Lepssy killed two more farmers and took 10gr [*Groschen*] from them. Further in a field we killed two women and took 20gr from them and dragged them from the path. Not far from there we killed two girls and cut off their breasts and took 10gr. Further, by Rothenberg, we killed two pregnant women, cut the children out, and immediately ate the hearts of the children, we found only 3gr on them, and afterwards we dragged them into the woods.<sup>25</sup>

<sup>24</sup> The text refers to two units of currency, one with "p," presumably for *Pfennig* and the other with "gr," perhaps for *Groschen*. A *Pfennig* would have been one of the smaller units of currency; a *Groschen* would have been a larger unit, worth about 12 *Pfennig*.

<sup>25</sup> SSStBA, 4° Kult 186 Flugschriften No. 25. Michael Manger, *Erschröckliche Zeytung von zweyen Mördern mit namen Martin Farkas unnd Paul Wasansty, welche in die hundert und vier und zweintzig Mörd gethan, Unnd in disem 1570. Jar, den ersten Martii sind gerichtet worden, zu Eybetschitz im Lande zu Märhern, zwo Meil wegs von Brünn gelegen* (Augsburg: Manger, 1570).  
Darnach bey Solowitz/ Jch und Lepssy haben 2 Bawren todt geschlagen/ von ihnen 2 p genommen.  
Darnach ein halbe Meil von Solowitz/ Jch und Lepssy haben wide rumb zwen Bawren erschlagen/ ihnen 10

The account continues like this for three pages and is followed by a graphic description of Martin's and Paul's executions: Martin was broken on the wheel and Paul was burned alive.<sup>26</sup>

Among their many crimes, the focus of such stories was often the gangs' targeting of pregnant women. Writers claimed that they sought male fetuses to use in various magical practices. According to Joy Wiltenburg, the belief was that these gangs drank the blood or ate the hearts of male fetuses in a ritual used to make a contract with the Devil, who then helped them avoid confessing their crimes if they were caught, assuring that they would be freed again to continue their criminal activities.<sup>27</sup> The pact with the Devil was clearly reminiscent of witches' satanic pacts; witches similarly were thought to murder and cannibalize children. The ritualistic cannibalism also recalls the rituals that were the focus in accusations of Jewish ritual murder.

Charles Zika finds a similar theme in broadside accounts of gravediggers cannibalizing the corpses of children.<sup>28</sup> One broadside, printed in Augsburg, is entitled "New Account: never heard, abhorrent, and unnatural deeds and cruelties, in the Principality of Silesia, committed by several gravediggers, also how they were executed for their crimes on the 20<sup>th</sup> of this month September in this year, 1606." This broadside

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gr. genommen. Weiter im feld haben wir 2 Weyber todt geschlagen/ und denen 20 gr genommen/ und sie auß dem Weg geschleifft. Nit weit darvon haben wir 2 Mägdlein Todt geschlagen jnen die Brust abgeschnitten und 10 gr genommen. Weiter auff dem Rotenberg/ haben wir 2 schwangere Weyber todt geschlagen/ die Kinder außgeschnitten/ unnd die Hertz von den Kindern bald geessen/ bey ihnen nur 3 gr gefunden/ sie darnach ins Holz geschleifft.

<sup>26</sup> Ibid.

<sup>27</sup> Joy Wiltenburg, "Family Murders: Gender, Reproduction, and the Discourse of Crime in Early Modern Germany" *Colloquia Germanica* 28:3-4 (1995): 361-362.

Wiltenburg, *Disorderly Women*, 178-179.

<sup>28</sup> Zika, "Cannibalism and Witchcraft," 96.

features two panels depicting the crimes of these gravediggers (six men and two women) as they dig up corpses, cut out their hearts, and bite directly into the flesh of the corpse of an infant. Two further panels depict the fate of the gravediggers once they were apprehended, as they were tied, torn with hot pincers, and burned alive. The accompanying text describes these unnatural deeds and cruelties, including how they “cut open the pregnant women, took out the fruit from the bodies, and devoured the raw hearts of the young children.”<sup>29</sup>

These reports seem fantastical, but such stories also appear occasionally in the court records, lending the sensational accounts a note of authority and gravity. As with early modern witch trials, the cultural representations of the crime seem to have influenced the actual trials, as the council forced the accused to confess to crimes that defy belief. The case of Michael Schwarzkopf in Augsburg in 1568 is one such example. His trial confuses any clear or easy distinctions between reality and fiction.

### *Michael Schwarzkopf*

Michael Schwarzkopf from Breitenbrunn (just over 100 kilometers northeast of Augsburg), was brought before the council in February 1568; he was perhaps the most notorious and violent criminal early modern Augsburg ever witnessed. When his final sentence was read, the list of his crimes was astounding. Michael, described as a “Mordbrenner” (a murderous arsonist), was convicted of committing twenty murders in

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<sup>29</sup> Georg Kress, “Nie erhörte/ abscheuliche/ und unnatürliche Thatten/ und misshandlungen/ in dem Fürstenthumb Schlesien/ von etlichen Todten gräbern begangen/ wie sie auch/ wegen ihrer Mißhandlungen/ in disem 1606. Jar den 20. des Monats Septembris/ hingerichtet worden.” Reprinted in Alexander and Strauss, *Woodcut 1600-1700*, vol. 1, 342; and cited in Zika, “Cannibalism and Witchcraft,” 96.

addition to repeated arson and robbery. In a record of all the executions performed in Augsburg, his entry is one of the longest, and the disgust of the council and the official court recorder was quite evident. Michael, unsurprisingly, was sentenced to death. But simple execution would not suffice in such a case, and prior to his death on the wheel, already the most gruesome and harshest execution method, his flesh was torn with glowing forceps at four separate, symbolic locations throughout the city.<sup>30</sup>

The abhorrence expressed toward Michael came as a reaction not only to the number of crimes he supposedly committed, but also to the kinds of crimes. Among the twenty murders were a pregnant woman and her “living fruit” that “he cut from the womb.” A separate record of executions also specifically mentions this mother and her fetus: “he also cut the child from the womb of a pregnant woman, thus despicably murdering both mother and child.” In both of these records, the murders of mother and fetus are singled out from the list of his many crimes. A small detail from one of these records indicates what kind of criminal Michael was: after cutting the fetus from the mother’s womb, Michael supposedly amputated its right arm and used it for “horrid magic.” This detail connects him to the belief in dark magic performed by bands of murderers. Furthermore, the punishment records note how Michael “made constant denials with great effort and withstood torture several times,” and how he “denied what

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<sup>30</sup> StadtAA, *Urgichten*, Michael Schwarzkopf, 15 May 1568.  
 StadtAA, *Strafamt, Malefizbuch*, Michael Schwarzkopf, 15 May 1568.  
 StadtAA, *Strafamt, Verzeichnis der Maleficanen*, 15 May 1568.  
 StadtAA, *Strafamt, Todesurteile (Handschrift)*, 15 May 1568.

he had earlier admitted to earlier under gruesome torture,” forcing further interrogation and torture,<sup>31</sup> a sign that he had supernatural help.

In Michael Schwarzkopf’s actions and other crimes similar to his, the various forces that endangered children intersected. By cutting a fetus out of its mother’s womb, Michael not only attacked a helpless child but also recalled the fears strongly associated with reproduction. Michael, although not directly charged with witchcraft, was nonetheless associated with dark magic and satanic rituals. Murderers’ compacts with the devil were intrinsically tied to these ideas of witchcraft and dark powers bequeathed by the Devil.

Michael Schwarzkopf’s trial stretched from February through May of 1568, an almost unmatched length of time for an Augsburg criminal trial in the early modern period; his was on par with notoriously extended trials for witchcraft. His *Urgicht* was also one of the lengthiest case files to date, including many witness statements and multiple rounds of interrogation, most of which were under torture. According to the final summaries in the execution records, Michael withstood “brutal” torture “many times,” a sure sign to the council of either his collusion with demonic forces or his bull-headed stubbornness, or both. For a person with a reputation like Michael Schwarzkopf’s, being able to withstand torture was hardly an indication to the interrogators of his innocence, however, as only the most hardened and evil criminals—or those who had some extra, unnatural powers—could have endured multiple rounds of torture. Torture in cases like

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<sup>31</sup> StadtAA, *Strafamt, Malefizbuch*, Michael Schwarzkopf, 15 May 1568.  
StadtAA, *Strafamt, Verzeichnis der Maleficanten*, 15 May 1568.



this was not to determine the reality of his guilt or innocence, but to elicit a detailed confession so that the council might lawfully execute a notorious criminal.

The extremity and strangeness of the actions attributed to Michael Schwarzkopf might raise some doubts about the veracity of the records. Although the actual record of an interrogation should be examined somewhat differently than broadsides recounting fantastical stories of murder and mayhem, certain elements, like the sheer number of crimes he supposedly committed, as well as the detail fetus's severed arm are less than believable. Such stretches of credibility again evoke witchcraft trials; accused witches frequently confessed to all manner of impossible and unbelievable acts. Additionally, it was quite common that notorious people, such as Michael Schwarzkopf and many of the other child killers in this study, faced a litany of charges for additional crimes that they may or may not have committed. It was assumed that if someone had committed one horrific crime, he or she had very likely committed others as well, as happened with women who were falsely or mistakenly labeled as infanticides. If the council already believed that Michael had killed a pregnant woman, for example, it would be easy to believe that he also used that fetus in satanic rituals.

Torture also played a role in the extremity of Michael's story, as in many similar cases: the more torture the defendant was subjected to, the more his or her story grew, piling on crimes and responding to the interrogators' leading questions. Michael was subjected to multiple rounds of torture and eventually did confess. When a confession did emerge, however, Michael had to admit to all of the accusations before the interrogators were satisfied that their job was complete. So when Michael was asked if he had cut out a

living fetus from its mother's womb to use the corpse in magical ceremonies, he said yes. Alternatively, it seems that some criminals relished the chance to brag about their cruel feats; perhaps Michael was such a one. Perhaps he thought that it did not matter what more he claimed or confessed, since an admission of just one murder could result in execution.

In any case, Michael did confess to all manner of crimes which closely resembled the fantastical stories that appeared in print about robber-murderers. His case brings into question the relationship between such popular literature and the crimes that they purported to relate. Where did the idea for such crimes come from? Did Michael confess to dark magic because he had read stories such as that of Martin Farkas and Paul Wasansty, or because his interrogators had heard such stories and asked him? Or did authors of the stories hear of such confessions first? Much as with ritual murder cases, the line between reality and fiction is very difficult to draw. Certain elements can be assumed to be fictional—the 124 murders Paul and Martin were said to have committed are beyond belief—and are clearly exaggeration for the purpose of a more shocking story. The exact relationship between fiction and fact is slippery, though, both in the crime reports and in the court records—Michael's admission of dark magic could be just as fictional as Paul and Martin's deeds. But Michael's case demonstrates that such sensationalized crime reports were not written in a cultural vacuum, and that the influence likely moved in both directions between these reports and the council's criminal procedures.

### *Family Murders*

Such sensationalized reports featuring murder and mayhem were popular across Europe, but in Germany stories of brutal murders within families were especially popular. Joy Wiltenburg has found such murders were “by far the most common theme” of crime reports and that two-thirds of these familial murders included the murders of children. Accounts of familial murders were extremely grisly, usually reporting that one family member, often the father, killed his or her entire household—children, parents, siblings, servants, and all. When children were killed, the reports focused on the innocence and helplessness of these victims. The children begged for their lives, promising to behave and cause no more trouble if only they would not be harmed.<sup>32</sup> In many reports the children were killed while they were sleeping in their “little beds,” highlighting their sweetness and innocence.

Augsburg printers published numerous accounts of such family murders, several of which reportedly took place in the vicinity of Augsburg. Blasius Endres, whose story was reprinted multiple times across the German-speaking lands, allegedly murdered his whole household in Wangen (130 kilometers southwest of Augsburg, 45 kilometers southwest of Memmingen). One example from 1585 (see image 10), shows how Blasius killed his wife, three children, and one male and two female servants. The report explains how “within about an hour, he wretchedly, miserably...martyred, murdered, and killed all seven innocent people, and each at his place: namely, his wife in the kitchen...the little boy in the threshold of the chamber,” and each of the others in his or her bed. His ten-

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<sup>32</sup> Joy Wiltenburg, “True Crime,” 1387-8. Wiltenburg, *Disorderly Women*, 225.

year-old son Philipp asked, “what had he done to the Mother?” and Blasius in return struck Philipp in the head. Blasius’s final act was to murder his two-year-old son Jacob in his cradle.<sup>33</sup>



Image 10: Hanns Rampff, “A Shocking, Unheard New Report of a Gruesome Murder,” Augsburg, 1585

<sup>33</sup> Hans Rampff, “Ein Erschröckliche unerhörte Neue Zeyttung/ von einem grausamen Mörder/ der an seinem aygen fleysch und blüt...,” 1585. Reprinted in Walter Strauss, *The German Single-Leaf Woodcut, 1550-1600* (New York: Abaris Books, Inc., 1975), vol. 2, 848.

Another example printed in Augsburg reportedly took place in 1589 in “Erlingen, four miles away from Augsburg, above Schwabmünchen” (see image 11). This broadside addresses the case of a merchant named Hanns Aleweckher, who murdered his pregnant wife Christina and his four children—ten-year-old Annalein, five-year-old Thomas, three-year-old Aphra, and two-year-old Merthin. The text explains that “the Devil’s influence gave him evil thoughts,” and “in forgetting his marital vows and fatherly love and fidelity,” he committed the murders. The report emphasizes the cruelty of his actions toward his children, “including the innocent child in the womb.” Hanns then ran off and hanged himself. Upon discovery of his crime, his body was burned in a posthumous execution. The accompanying woodcut depicts a house with Hanns’s wife and four children dead in their beds, tucked in as if sleeping. Onlookers display gestures of shock and sorrow as they take in the horror of the scene. Outside can be seen Hanns hanging from a tree and his body being burned.<sup>34</sup>

The accounts of Blasius Endres and Hanns Aleweckher are typical of family murder crime reports. These accounts might have had some origin in actual incidents, but by the end of the sixteenth century, familial murders had developed into their own literary genre, and the cases of Blasius and Hanns were used as springboards for fantastical productions. The reports include many small details, which provide a sense of truthfulness and immediacy, as if the writer had witnessed the events; quoted dialogue, such as a child begging for his life, must have heightened both the sense of the author as witness and the overall drama and immediacy of the scene. It is such details that the

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<sup>34</sup> Hanns Schultes, “Ware Abcontrafectung ainer erbärmlichen/ und erschröcklichen Newen Zeytung/ so sich zu Erlingen...alda ein Inwonder und Brott Kauffer/ mit Namen Hanns Aleweckher...,” 1589. Reprinted in Strauss, *Woodcut 1550-1600*, vol.3, 948.

writers lingered over, painting a vivid image for the audience and drawing upon their pity. Much of the pathos comes from the use of multiple innocent children as victims. Indeed, the woodcuts often focus on the children, centering on one crying child begging for his life as the murderer holds some terrible weapon aloft. The sadness of the event is highlighted by the depictions of friends and neighbors discovering the dead bodies and taking in the gruesome scene.<sup>35</sup>



Image 11: Hanns Schultes, *"True depiction of a pitiful and shocking new account,"* Augsburg, 1589

<sup>35</sup> Wiltenburg, "Family Murders," 357-374.

*Turkish Atrocities*

In addition to isolated events of local importance, news reports in the sixteenth and seventeenth century also featured world events, particularly wars. War provided ample fodder for printers who found that grisly and horrific stories sold well. Again, the murder of children was a popular theme because it highlighted the inhumanity—and in this case, foreignness—of the enemy. In the German-speaking lands, depictions of “Turkish atrocities” were particularly popular. Capturing Constantinople in the fifteenth century and pressing inward into the European continent, the Ottoman Turks frightened western Europeans. The German-speaking lands particularly felt the Turkish threat, as Vienna itself was besieged in the early sixteenth and again in the late seventeenth centuries.

Depictions of Turkish attacks usually featured snarling, dark men in turbans attacking innocent European-looking victims. In many of these images, their horrific mutilation of children is the focus. One 1530 woodcut (see image 12), printed by at least two different printers in Nuremberg, was a reaction to the first siege of Vienna in 1529. In it a Turk shoves a baby, bottom first, onto a jagged spike; another impaled baby dangles next to it. A second Turk grasps a baby by one foot while holding his curved sword aloft after having sliced the child down its middle. Two women lie dead on the ground. A short song reads:

Ah, Lord God on your highest throne  
See this horrible misery  
How the Turk, angry tyrant,  
In the Viennese forest,  
Horribly murdered virgins and women,  
Hacked the children into two,

Ach Herr Gott in dem höchsten thron  
Schaw disen grossen jamer an  
So der Türckisch wüten Tyrann  
Im Wiener walde hat gethan  
Ellendt ermördt junckfraw und frawen  
Die kindt mitten entzwey gehawen



Trampled them and tore them into two,	Zertretten und entzwey gerissen
And skewered them on pointy pikes.	An spiezig Pfäl thet er sie spissen
Oh our shepherd Jesus Christ,	O unser hirt Jhesu Christ
You who are gracious and merciful,	Der du gnedig barmherzig bist
Turn away your anger at the people	Der zoren von dem volck abwende
And rescue them from the Turks' hands.	Erredt es auß der Türcken hendt. <sup>36</sup>

A broadside from 1529 (see image 13) similarly highlights violent acts committed against infants: a Turk stabbing one infant through with a sword while another lies decapitated on the ground. Other figures lie dead and tangled, jumbled into the small frame of the picture among the Turks and their swords.<sup>37</sup> The cruelty of the Turks is heightened by the innocence of their infant victims. The babies are mostly naked and completely unprotected, and their contorted bodies convey the pain they suffer; they portrayed as the diametrical opposite of their Turkish oppressors.

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<sup>36</sup> Hanns Guldenmundt, "Turkish Atrocities," Nuremberg, 1530. Reprinted in Geisberg, *Woodcut 1500-1550*, vol. 4, 1194.

Hans Wiegel the Elder, "Turkish Atrocities," Nuremberg, 1530, Reprinted in Strauss, *Woodcut 1550-1600*, vol.3, 1111.

<sup>37</sup> Jörg Darpach, "Ein Lied gemacht/ wie es im Osterlandt ergangen ist/ Als man schreybt 1529 Jar," Gotha, 1529. Reprinted in Geisberg, *Woodcut 1500-1550*, vol. 4, 1550.



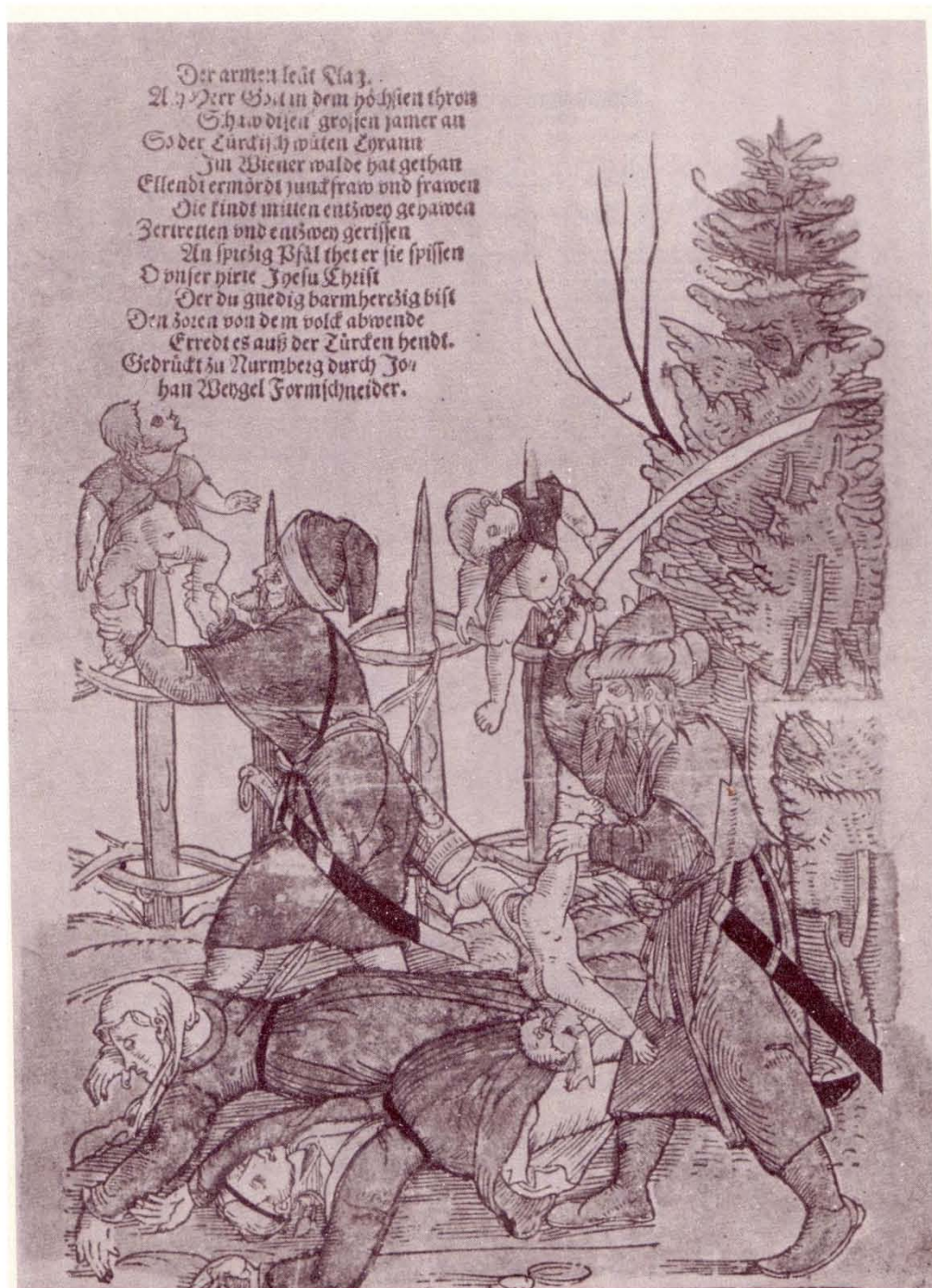


Image 12: Hans Wiesel the Elder, "Turkish Atrocities," Nuremberg, 1530



Image 13: Jörg Darpach, "A song written/ about what happened in Austria," Gotha, 1529

*Massacre of the Innocents*

Mass infanticide as depicted in illustrations of “Turkish Atrocities” appealed to audiences because of its horror, and scenes like those described above were, therefore, not unusual. The Massacre of the Innocents as told in the Gospel of Matthew was another popular theme for early modern German artists, and depictions of it were very similar to those of the “Turkish atrocities.” Although biblical stories figured prominently in the popular literature of the day, the Massacre of the Innocents was a particular favorite of various literary and artistic genres. The artists of these broadsides packed into their pictures dozens of writhing infants, usually nude like the victims of the Turks, and their mothers being attacked by Roman soldiers. As with the depictions of Turkish attacks, the infants contrasted sharply with the brutal, heavily armed and armored soldiers. The soldiers stab, bludgeon, strangle, and trample the children while roughly shoving aside or injuring the mothers who stand in their way. Every space in these depictions overflows with these violent acts. The artists seem to revel in the opportunity to show off their skills in depicting human anatomy and extreme actions and motions. In one early sixteenth-century example (see image 14), a baby impaled on a sword is held high as mothers try unsuccessfully to pull the other children to safety. The Roman soldiers commit these atrocities with expressionless faces, cruelly going about their duty.<sup>38</sup> In an example from 1550, a soldier holds the head of a newborn aloft.<sup>39</sup> This theme appeared repeatedly in the sixteenth and early seventeenth centuries, and even a few exceptional examples were printed in the eighteenth century. One spectacular and unique example dating from 1743

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<sup>38</sup> Albrecht Altdorfer, “Slaying of Children at Bethlehem,” Munich, 1511. Reprinted in Geisberg, *Woodcut 1500-1550*, vol. 1, 17.

<sup>39</sup> SSStBA, *Graphiksammlung*, 30/68, Marco Dente, *Kindermord, Bethlehemischer* (Rome: Lafrery, 1550).



consists of multiple, layered pages, in which each layer can be peeled back to reveal further details of the scene of the massacre. In the various layers, babies lie mutilated on the ground, some decapitated, women flee clutching their babies to their breasts, a woman and a soldier struggle over a child, and women plead with King Herod for their children's lives.<sup>40</sup>

The Massacre of the Innocents provided artists a medium to explore violence toward children in a context that would have been familiar to early modern audiences and gave both artists and audiences a means to interpret their own fears through a well-known historical-scriptural context. Abraham's sacrifice of Isaac was a similar, albeit less frequent, theme for printers.<sup>41</sup> Artists used the victimization of children to highlight the injustice of various crimes and historical and biblical events. The Massacre of the Innocents and various Turkish attacks were perfect opportunities to showcase their artistic abilities in drawing the human form as well as to use the popular theme of violence toward children, appealing to their audiences' natural sympathies. By using these particular stories, such artists also drew on the appeal of biblical stories in a highly religious age and the anxiety about and immediacy of relatively recent major political events.

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<sup>40</sup> SSStBA, *Graphiksammlung*, 11/61, *Kindermord bethlehemischer* (Augsburg: Martin Engelbrecht, 1743).

<sup>41</sup> SSStBA, *Einblattdrucke nach 1500*, Nr. 173, *Le Sacrifice d'Abraham* (Augsburg: Abraham Bach, 1680).



Image 14: *Albrecht Altdorfer, "Slaying of Children at Bethlehem," Munich, 1511*

*Monstrous and unusual births*

A wide range of news reports of crimes and historical atrocities chose to focus on the plight of children to highlight the horror of the act and the innocence of the victim. Yet children were also the focus of other types of news reports, the subject of fascination, fear, and anxiety. Perceiving their own time as an age of unusually dramatic change and uncertainty, people looked for signs of what the future might hold, proof that they were on the right or wrong path, and confirmation of God's presence. Early modern people frequently found these signs in wondrous natural events. *Wunderzeichen* (wondrous signs) were generally strange events that were interpreted as divine signs conveying a message, usually a demand for repentance and conversion. *Wunderzeichen* included the astrological—meteor showers, unusual stars, or eclipses; meteorological—hailstorms, floods, or rainbows; or other unusual occurrences in nature, such as unusually large vegetables. Europeans of the sixteenth and seventeenth centuries looked for these signs everywhere.<sup>42</sup>

Wondrous or monstrous births were among the most popular of these signs. Called *Missgeburt* (mis-birth) or *Wundergeburt* (wondrous birth), these events generated an astounding amount of literature in the sixteenth and seventeenth centuries. The term *Missgeburt* described conjoined twins, deformed fetuses, multiple births, and unusual animal or animal-human births—practically any sort of newborn, human or otherwise, that was considered wondrous or unusual. Rumors of especially spectacular births were reprinted repeatedly and often reached printers located far from the birthplace. Augsburg

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<sup>42</sup> Lorraine Daston and Katherine Park, *Wonders and the Order of Nature, 1150-1750* (New York: Zone Books, 1998), 173.

printers produced many such accounts, including of events as far flung as modern-day Slovakia, the Netherlands, and France. Yet accounts of monstrous births were fairly frequent, and many examples came from within a close radius to Augsburg and the other cities in this study. The town of Kempten (100 kilometers southwest of Augsburg and 35 kilometers southeast of Memmingen), for example, witnessed such births in 1619 and again in 1629.<sup>43</sup> Reports of monstrous births were common across all of Europe in the sixteenth century, but they were especially so in Germany; Jennifer Spinks argues that German reports also had a unique “political and social urgency,” which those from the rest of Europe did not.<sup>44</sup>

Local Augsburg chronicler Georg Kölderer, who recorded noteworthy events in Augsburg and elsewhere between 1576 and 1607, included in his records reports and drawings of monstrous births—such as a famous account from Italy in 1587.<sup>45</sup> Among these accounts, Kölderer records a fantastical story in 1590 of a pregnant woman from near Berlin. Around Christmastime,

The fruit in her womb began to scream and cry, so that people heard distinctly, and this continued for a quarter of an hour; the Count of Spandau investigated the matter himself and found it to be true and could himself hear the child within its mother's womb crying.<sup>46</sup>

Kölderer found these births important and fascinating enough events to include alongside the most important news of the day.

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<sup>43</sup> Christoff Krausen, “Eygentliche Abbildung unnd Contrafactur/ eines neuen Hoffart-Spiegels/ und wunderbarlich gestalten Kinds,” 1619. Reprinted in Alexander and Strauss, *Woodcut 1600-1700*, vol. 1, 336.

“Ein erschröckliche/ und doch warhafftige Neue Zeitung/ von einer erschröcklichen Mißgebut,” 1629. Reprinted in Alexander and Strauss, *Woodcut 1600-1700*, vol. 1, 338.

<sup>44</sup> Jennifer Spinks, *Monstrous Births and Visual Culture in Sixteenth-Century Germany* (London: Pickering & Chatto, 2009), 3-4.

<sup>45</sup> Roeck, *Als wollt die Welt schier brechen*, 38-39.

<sup>46</sup> Kölderer, *Chronik*, f. 233v-234.

Much like other *Wunderzeichen* from this era, monstrous births conveyed several layers of meaning. On the surface, these leaflets were intended to spread unusual and exciting news, appealing to the public's desire for the new and different. Certainly the curiosity was a major factor in printers' decision to publish such stories. These leaflets could appeal to a large audience: nearly every account featured a large woodcut depicting the monster which had recently been born. Thus, even those who had no interest in reading the text, or no reading ability, might have taken some meaning from the pamphlets. Printers generally included a short description below the picture which included details about where and when it happened, and any other additional unusual information, such as if the mother was a Jew, or if there had been other strange incidents in that location recently. Then the body of the text provides more information, often written in rhyming verse—strongly suggesting that these accounts were to be read aloud or sung—and presents further layers of meaning. The abnormal birth was inevitably taken as a sign from heaven to the people of the region in which a monster appeared. Depending on its appearance and the societal context into which it was born, it might be interpreted as a positive or negative sign. Some of these interpretations included incredibly elaborate analyses of each and every aspect and circumstance of the birth, assigning meaning to every feature, from its hair to its toes, as well as the location, timing, and circumstances of the birth. Even births that might now be considered naturally occurring, such as conjoined twins or multiple births, held deeper meaning. A 1560 report of conjoined twins born in Brandenburg and printed in Augsburg provides a rather typical message:



...as the prophet Hosea in the fourth chapter announces, there is no faith, no love, no word of God in the land, but instead blasphemy, lies, murder, theft and adultery has taken the upper-hand and incest happens, one after another: But our Lord, a merciful, good and patient God, who does not rush to punish, gives us a long time to improve, and all sorts of aids, opportunities and ways to do it, as various signs in heaven and other elements through which he provokes us to repentance...and although the barbarous world pays attention to these signs and wonderful births, there will still be other people who will continue to think only of themselves. The almighty God bestows upon us his grace, so that we can improve ourselves and repent and escape the appointed and eternal punishment. AMEN.<sup>47</sup>

Some of these babies were stillborn, and some living, but nearly all such unusual infants died within hours or days. Given the medical knowledge of the period, their deaths are not surprising, but they also highlighted for those who witnessed and read about such births the precariousness of newborn life. Yet this concern had more to do with the form that they took rather than the life of the newborn itself—no one expected such a being to live to see more than a handful of days. People exhibited significant curiosity about how such a being came to be, as demonstrated by the lengthy discussion of what its meaning and message, but a striking lack of sadness or compassion when the child inevitably died. Most of these broadsides focus on the discussion of the child as a sign, and not on the feelings of the mother or father when they gave birth to an unusual child, or how they felt when it died. Unlike other genres of popular literature involving the deaths of children, then, the broadsides about monstrous births did not focus on the

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<sup>47</sup> SStBA, *Einblattdrucke nach 1500*. Nr. 316, *Mißgeburt* (Augsburg: Michael Manger, 1569).  
Wie der Prophet Hoseas im 4. Capitel meldet/ darumb das kein trew/ kein lieb/ kein Wort Gottes im Land ist/ sondern Gotslestern/ liegen/ morden/ stelen und ehebrechen uberhand hat genommen und/ ein Blutschand nach der andern kompt: Jedoch so braucht er der Herr als ein Barmhertzige/ gutiger unnd langmutiger Gott/ der nicht zur straff eylet/ sonder lange zeyt zur besserung gibt/ zuvor allerley mittel/ gelegenheit und weg/ als mancherley zeychen am Himmel und andern Elementen/ durch welche er uns zur Buß reytzet...Und ob wol die sichere rohe Welt solche zeychen und wunderbarliche Geburt pflegt zuverachten/ werden doch fremde Leüt sein/ die weyter umb sich dencken werden. Der Allmechtig Got verleyhe sein gnad/ das wir uns bessern und Bus thun/ und also der zeitlichen und ewigen straff entgehen mögen/ AMEN.

child as the innocent victim, but on the child as a means to convey some portent or sign of divine will.

Reports of monstrous births sought to explain the birth in terms of the society as a whole: why God sent such a creature, why he sent it to a particular town or village, and what it meant. It was the community as a whole that had proved itself morally lacking and in need of a reminder to change their ways. Often writers interpreted the sign as applying to more than the community into which the creature was born; as these creatures became more and more unbelievable, they applied to greater and greater concerns. Monstrous births were particularly associated with Reformation-era apocalypticism; Protestants especially looked upon the news of such as signs of the rapidly approaching end times.<sup>48</sup> Two memorable broadsides from the early sixteenth century, known as the Papal Ass (1495) and the Monk Calf (1522) were understood as real events but were also quickly interpreted as anti-Catholic signs; Martin Luther and Philip Melanchthon wrote extensively on these two creatures in particular, analyzing the anti-papal messages they supposedly carried—the degeneracy of the papacy, monasticism, and Catholicism in general.<sup>49</sup>

In early modern Europe, monsters of all sorts were, according to Alison Rowlands, “an accepted—if aberrant—aspect of an early modern belief-system which emphasised the permeability of the boundaries between the emotional and the physical,

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<sup>48</sup> Robert Scribner, *For the Sake of Simple Folk: Popular Propaganda for the German Reformation* (Cambridge: Cambridge University Press, 1981).

<sup>49</sup> Spinks, *Monstrous Births*, 62-72.

the supernatural and the natural, the imaginary and the real.”<sup>50</sup> Spinks asserts that even the most unbelievable births “were reported and discussed as specific, real events...represented and perceived as tangible and immediate, both spatially and chronologically.”<sup>51</sup> The image that always accompanied the report of a monstrous birth added to this sense of the event as real and immediate, providing visual details which were otherwise inaccessible in (in the words of Bernd Roeck) a “picture-poor” world. In such a culture, the pictures that people most frequently encountered were in religious and other formal or authoritative contexts—in church or on the houses and heraldry of the ruling houses of the city. Association of visual support with authority and truth might have come rather easily to a mass audience in an early modern society.<sup>52</sup>

Spinks has found an increase in this religious emphasis throughout the sixteenth century, through the greater use of apocalyptic themes which conveyed warnings of punishment and repentance, such as the coming of the Antichrist and the Last Judgment; yet these religious themes co-existed with secular ones, attempts at scientific classification and natural interpretations.<sup>53</sup> Sometimes messages of repentance were combined with a more specific message about current events. The pamphlet could still convey a religious message about prayer and repentance, but it was tied into the particular situation with a uniquely relevant message. The destruction of the Thirty Years War was fertile ground for producing repeated calls to turn to God. Specific events in the

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<sup>50</sup> Alison Rowlands, “Monstrous Deception: Midwifery, Fraud and Gender in Early Modern Rothenburg ob der Tauber,” in *Gender in Early Modern History*, ed. Ulinka Rublack (Cambridge: Cambridge University Press, 2002), 75.

<sup>51</sup> Spinks, *Monstrous Births*, 4.

<sup>52</sup> Roeck, *Als wollt die Welt schier brechen*, 35-37.

<sup>53</sup> Spinks, *Monstrous Births*, 4-7.

conflict provided ample opportunity to give meaning to the many monstrous births in the early modern world.

The example in image 15, printed in 1620 by Wolfgang Kilian in Augsburg, describes a monstrous birth that was assigned two related political interpretations. The two-headed child depicted is one of the most visually memorable monstrous births from this period. The subtitle claims that the child was born in a small village of Upper Hungary on August 24<sup>th</sup>, 1620, and that the upper head was dead but the lower head was living and was baptized. However, despite these details and the fact that the birth is presented as news, the focus of the report was not on the actual child, but rather on the meaning of the birth to the rest of society. The date is the key to the printers' interpretations, as the child was thought to be a sign regarding the outbreak of the Thirty Years War. The printer provides two interpretations, the Hungarian and the Viennese, assigning a specific meaning to each head related directly to the events in the east that led to war.<sup>54</sup>

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<sup>54</sup> Bayerische Staatsbibliothek München (BSBM), *Einblattdruckdatenbank*, Einbl. VIII, 20i, Wolfgang Kilian, *Den 24. Augusti 1620. ist dise Mißgeburt/ in dem Dorff Garck...* (Augsburg: Bocatius, 1620).

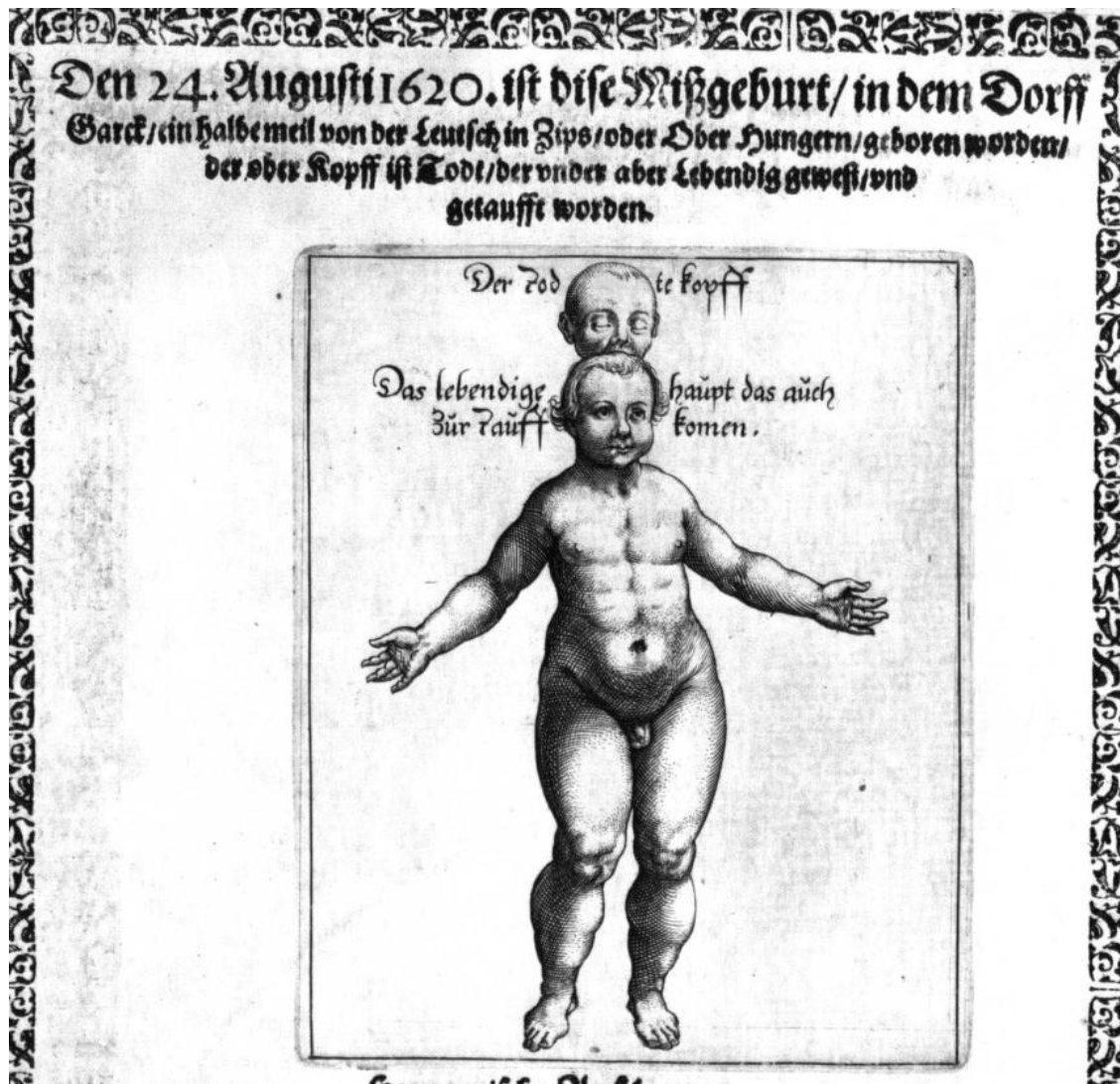


Image 15: Missgeburt, printed by Wolfgang Kilian, Augsburg, 1620

Yet by the end of the sixteenth century, reports of wondrous births came to focus on more complex stories, such as monstrous infants who could speak (and thus deliver directly their apocalyptic message), and, therefore, could have greater religious, political, and social significance.<sup>55</sup> These reports carried much more than religious messages, and held a greater connection to early modern concerns about violence toward children. As Ulinka Rublack has argued in her article “Pregnancy, Childbirth and the Female Body in Early Modern Germany,” early modern medicine recognized and emphasized the influence of the pregnant mother on the child in her uterus. What some printers described as a sign of the need for popular repentance, a doctor might have interpreted as a sign of the misdeeds of its mother. Pregnancy was, and was considered to be, a very precarious condition; any number of actions, missteps, foods, or drinks were potential causes of miscarriages or monstrous births. If a woman became too angry, “a hot flow of blood would swamp the fragile cells of the foetus, causing miscarriage; if she were shocked, blood would drain away and the foetus would starve.” Rublack cites examples of women who, after producing a deformed child, were made to account for its specific deformities.<sup>56</sup> Maternal influence, both physical and psychical, was the most important factor. The workings of the mother’s imagination and even her dreams were particularly powerful influences upon the fetus. But she was not always solely responsible. Outside natural causes and supernatural forces—divine or demonic intervention—were also believed to be behind monstrous births.<sup>57</sup>

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<sup>55</sup> Spinks, *Monstrous Births*, 12.

<sup>56</sup> Ulinka Rublack, “Pregnancy, Childbirth and the Female Body in Early Modern Germany,” *Past & Present*, no. 150 (February 1996), 84-110.

<sup>57</sup> Rowlands, “Monstrous Deception,” 75.

As discussed in previous chapters, women were expected to be surrounded by female relatives, friends, and neighbors during childbirth. They served not only as helpers during the process, but also as witnesses to it, proving important in potential infanticide or abortion investigations as well as monstrous births. Alison Rowlands cites a case in which a woman in Rothenburg claimed to have given birth to monsters that were later proven to have been fashioned by the mother and a midwife from a litter of puppies in order to gain notoriety and money.<sup>58</sup> Not all such births, however, could be blamed on an action of the mother. As Rublack has shown, it was a widespread belief that such monstrous births could be caused by the pregnant mother suffering a shock or surprise. This assumption relates to the recommendations that pregnant women try to remain calm and avoid getting too excited or agitated; yet some shocks could not be prevented by the woman herself. Rublack has found several accounts of women giving birth to deformed or monstrous children after being attacked by dogs or seeing a lame beggar. Such beliefs led early modern cities to pass ordinances that banned or forced indoors people with shocking appearances, such as those with particularly ugly diseases or malformed body parts, in order that they might not shock pregnant women and cause harm to their fetuses.<sup>59</sup>

Multiple births were also highly publicized. News of triplets, quadruplets, and even quintuplets was rare, but frequently repeated. When a woman gave birth to multiple children who lived, reports proclaimed the wondrousness of the event. Even though these children inevitably died after a few hours or (if they were lucky) a few days, the fact that

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<sup>58</sup> Rowlands, "Monstrous Deception," 71-101.

<sup>59</sup> Rublack, "Pregnancy," 96.

they had lived at all was miraculous. A more positive tone predominates in accounts of multiple births than one finds with monstrous births, emphasizing the fact that the children lived and focusing less on their eventual deaths. But they were still interpreted as a sign from God whose message, while imprecise and unclear, was usually to turn to God and to prayer, albeit with a more positive tone.

Two examples from around Augsburg in this period are especially illustrative. The first (see image 16) took place in “a village between Augsburg and Dillingen...with the name Emersacker,” in 1566. A poor farmer’s wife, Anna Risin, gave birth to “five living little children, which were totally whole and complete.” She gave birth to the first, a boy, one evening and the next evening to the others, another boy and three daughters. All five children lived for about two hours each. Because of their weakness, they had been quickly baptized in their home. Several midwives and other women were brought in to investigate the situation and found the story to be true. The account ends with a note that the woman had previously “through one birth, brought three children to the world.” The accompanying illustration shows midwives holding the still-living children and the mother lying exhausted in bed.<sup>60</sup>

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<sup>60</sup> Mattheo Francken, “Warhafftige Beschreibung einer neuen Wundergeburt,” Augsburg, 1566. Reprinted in *Deutsche Illustrierte Flugblätter des 16. und 17. Jahrhunderts*, ed. Wolfgang Harms and Michael Schilling (Tübingen: Max Niemeyer, 2005), 293.





Image 16: *Mattheo Francken, "True Depiction of a New Wondrous Birth," Augsburg, 1566*

The second, from 1683, tells a similar story, this time in Augsburg itself. The mother, Maria Thomanin, and her husband, Jacob Thoman, an artisan, lived in the Fuggerei, a fact that testified to both their poverty and their piety.<sup>61</sup> On November 30<sup>th</sup>, Maria gave birth to her first son, Andreas, in the early hours of the morning. But her birthing pains did not stop and by the following afternoon she had given birth to another

<sup>61</sup> The Fuggerei was a social settlement founded by the wealthy merchant Jakob Fugger to provide cheap housing for the deserving Catholic poor of Augsburg.

son, Niclaus, and two daughters, Barbara and Maria Anna. The four children were quickly baptized, and

although it was hoped that they would reach maturity, the Highest preferred to take them back, whereupon several days later they were seen by hundreds of people, also many strangers, of higher and lower orders, and drawn by several artists...on the 4<sup>th</sup> of December, they were buried with a full procession, in which the four children were carried by four men.

The report continues with comparisons to other supposed multiple births, which grow increasingly unbelievable: one woman who gave birth to quintuplets, another who gave birth to nine sons (all of whom survived!), and another who gave birth to twenty children over two pregnancies.

The pamphlet ends with an incredible account of a noblewoman in Holland who, in 1276, had supposedly given birth to 365 children. They were all baptized—the boys all with the name Johannes and the girls all with the name Elisabetha—but shortly thereafter all had died, along with their mother. This time, the mother's hateful actions were blamed for her fate, and the wonder was not to be admired, but regarded with amazement and dismay:

It happened because this lady mocked a poor woman who had asked her for alms and carried twins in her arms. The lady severely scolded this woman and said, "it is impossible for a woman to give birth at once to two children from the same father." Therefore, the poor woman prayed to God, in order to prove her innocence because she had been unfairly accused, to bring the lady as many children as there are days in the year.<sup>62</sup>

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<sup>62</sup> SStBA, *Einblattdrucke nach 1500*, Nr. 109, *Warhafftiger Bericht...eine Handwercks-Frau/ allhier in Augspurg/ vier lebendige Kinder zur Welt geboren* (Augsburg: Jacob Koppmayer, 1683).

Es sey dises darum geschehen, weil dise Dame ein armes Weib hatte verspottet/ welche sie um ein Allmosen ansprach/ und zwey Zwillinge auf den Armen trug. Sie schalte das arme Weib hefftig/ und sagt: Es wäre unmöglich/ daß ein Weib zwey Kinder auf einmal von einem Vatter hätte. Darüber thate das arme Bettel-Weib ein Bitte zu GOTT/ er wolte geben/ daß zum Beweiß ihrer Unschuld/ weil sie unbillig beschuldiget wurde/ die Gräfin so vil Kinder brächte/ als Tagim Jahr sind.

The author of this pamphlet acknowledged that the story was incredible and left the determination of its veracity to his “sharp-witted readers.”<sup>63</sup> A woman giving birth to 365 children at once was beyond the realm of the believable in 1683, while twenty children in two pregnancies was thought believable but rare. All these births were presented as unusual and surprising, but the author clearly drew a line at the last report, presenting it as an entertaining vignette and nothing more.

The prevalence of wondrous birth broadsides reveals the precariousness of reproduction in the early modern period. Monstrous and multiple births were often the result of some trauma to the mother during her pregnancy—a curse, a shock, or sinful or extreme behavior or thoughts on the part of the mother. Such unfortunate creatures hardly ever survived more than a few hours, yet they were not mourned as normal children were, at least not in the literature. It was miraculous and wonderful if they lived for any length of time at all, but their deaths were considered inevitable. Their births were subjected to investigation, to determine the veracity of the accounts, but their deaths were not. Yet it might be imagined that such creatures were often killed or neglected until they died—they would have had no place in society had they lived. Their only role was fulfilled in their birth, and that was to convey a heavenly message.

Pregnancy and childbirth were dangerous and mysterious. People were fascinated by such stories because they knew such dangers too well and wanted to understand them. They saw the connections between the rise in infanticide and the prevalence of wondrous births; God sent messages to be good and renounce sin just when such sins were becoming more common. These connections built on each other, as fears about the

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<sup>63</sup> Ibid.

welfare of the youngest of society and the sinfulness of the community intensified the need to learn more about monstrous births and their meaning, leading to more news accounts and even more concern. Stories of monstrous births were an expression of early modern fears about pregnancy and childbirth, and of the sense of helplessness both men and women felt about the entire process. The precariousness of pregnancy and childbirth, as expressed in these examples, also allowed a woman accused of abortion or infanticide to claim that she did not know she was pregnant, that the pregnancy had miscarried, or that the child had been stillborn.

### *Infanticide*

The majority of popular media that featured violence toward children or the precariousness of childbirth did not directly address mothers killing their own children, despite the fact that this particular crime occurred far more frequently than any of the crimes, atrocities, or unusual stories discussed above. However, a few examples illustrate the complexities and cultural understandings of violence toward children and infanticide. A pamphlet from 1591 Cologne (see image 17), for example, depicts quite a different take on the theme of infanticide. Unable to feed her family, and facing the demands and taunts of a cruel overlord, this mother hangs her three children and herself. When the lord is confronted as the cause of the family's demise, he remains unmoved until the earth suddenly trembles and swallows him up.<sup>64</sup> While the text does not defend the mother's decision to murder her children, it places the blame on the overlord and not on the

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<sup>64</sup> Nikolaus Schreiber, "*Warhafftige neue Zeittung von einer Frawen sampt dreyen Kindern wie sich selbst durch hungers noth erhangen*," Cologne, 1591. Reprinted in Strauss, *Woodcut 1550-1600*, vol.3, 936.



mother. The mother, an honorable, married woman, was to be pitied, and the evil lord to be scorned.



Image 17: Nikolaus Schreiber, "News from Louvain: Of a Starving Woman Who Hanged Herself and Her three Children," Cologne, 1591

This woman stands in stark contrast to the mother in a 1626 broadside from Frankfurt (see image 18), which is one of very few examples from this period that treated cases of newborn infanticide: Catharina, a young, unmarried baker's daughter from Limburg successively gave birth to and murdered seven illegitimate children. Separate panels illustrate the locations and methods of each murder, including throwing into a privy (panel 5) and burying in a field (panel 3). The last panel illustrates the discovery of her deeds upon the seventh murder, and her subsequent punishment, mutilation followed by burning.<sup>65</sup>



Image 18: Wolfgang Richter, “A True and Shocking New Report...of Catharina who bore seven illegitimate children and killed them,” Frankfurt, 1626

<sup>65</sup> Wolfgang Richter, “Eine Warhafftige und erschreckliche Neue Zeitung...mit eines reichen Becken Tochter/ mit Nahmen Catharina/ welche Sieben Kinder in der Unzucht getragen/ und sie alle ermordet und umgebracht hat,” 1626. Reprinted in Alexander and Strauss, *Woodcut 1600-1700*, vol. 2, 448.

While this incredible story addresses the more typical form of infanticide growing in court records across Germany, it is still far from the usual cases. For a woman to commit and get away with more than one infanticide would have been highly difficult and unusual, and seven stretches credulity. On the one hand, this particular broadside addresses directly the fears of magistrates who could never seem to stem the tide of fornication, illegitimate pregnancy, and infanticide. Such immoral and shameless women, if they could not be stopped, might very well go on repeating the same horrible crimes. On the other hand, this story also appealed to the sensationalism of the period around 1600; one infanticide was not enough to sell copies, but multiple infanticides along with a gruesome execution (and illustrations of each step) better fit the trend for over-the-top crimes and news accounts. This might also partially explain why, although the regional peak in infanticide prosecutions happened at the same time as the peak in popular literature featuring violence toward children, the two trends did not directly coincide. For the city councils and townspeople in Swabia, infanticide was, while not frequent, a well-known problem. Those who wanted something unusual to shock them perhaps needed a bit more.

### *Conclusions*

The connection between actual cases of infanticide in Swabia and the production of popular literature in the region that featured depictions of violence toward children is complex. Although these two trends corresponded chronologically, there is little direct evidence of a cause-and-effect relationship. In fact, very little of the popular literature

from this era featured the typical kind of infanticide discussed in this study and regarded as a plague on society by contemporaries. Also striking is the disparity between the number of depictions of other kinds of violence against children—robber-murderers and familial mass killings—and the actual occurrence of such crimes. These crimes occurred far less frequently than infanticide, but are found much more frequently in popular crime reports.

It is, however, no mere coincidence that the rise in violent literature involving children and the prosecution of infanticide occurred at the same. The decades around 1600 were a time when Swabian cities faced more intense political, social, and economic pressure that led to conditions in which more women and men felt that infanticide or abortion might be their only option. More people appear to have committed infanticide, and more instances of infanticide were prosecuted. Similarly, printers used the uncertainty of the era to appeal to their audiences' fears and concerns by printing news of miraculous signs and horrifying crimes. Printers of the late sixteenth and early seventeenth centuries demonstrated, and profited from, the early modern fascination with the unusual, wondrous, horrific and monstrous. While they presented messages of repentance and warned about the consequences of sin, the focus of such literature was really the horror or shock value of crimes and the awe and amazement of *Wunderzeichen*. That they often chose children to accentuate or exacerbate the shock of their reports reflects society's inclination to fear for its most vulnerable members. It is possible as well that the increase in infanticides heightened such concerns about the well-being of children. As more infanticide cases were prosecuted, the public became more aware of



and interested in the problem. This, in turn, could increase the appeal of literature featuring violence toward children.

It would not be long before this sensationalism changed direction and broadsides gave way to other media. Violence toward children would remain a common theme in the popular media throughout the early modern period, but the decades around 1600 were unmatched in the region around Augsburg in both the sheer volume of literature produced on this topic and the breadth and variety of material that drew on images of the dangers of childhood and violence toward children. That this occurred at the same time as the highest frequency of infanticide investigations in the region demonstrates that there was some connection between the prosecuted cases and the more fantastical depictions of violence toward children. Yet it also complicates perceptions about the flow of ideas among the media, the court system, and the individuals involved in infanticide.

-4-

**“The child was fresh and perfect:”  
The Influence of Experts**

In May of 1692, city physician Lucas Schröck examined Anna Barbara Hauin’s dead child. He submitted the following report to the Augsburg town council:

On the head and the shoulders it has big reddish stains...the skull on the right side appeared depressed and somewhat lower than the left...the redness came from the supposed suffocation....the stomach contained some water, the lungs were fresh, and when I had them laid in water, they floated high. Therefore I conclude that this child came into this world living and drowned in the water.<sup>1</sup>

Schröck’s conclusions that the child died at some point after its birth and that it died an unnatural death were instrumental in Anna Barbara’s conviction and subsequent execution. The role of physicians like Dr. Schröck and other medical and legal experts became increasingly important in infanticide investigations through the seventeenth and eighteenth centuries, and dramatically altered the shape of these investigations. Infanticide investigations previously involved perhaps two rounds of interrogation with less than forty questions total and one or two witness statements, but now easily stretched on for months as the council repeatedly questioned defendants, called for witnesses, requested testimony from various experts, and reexamined the defendant in light of new information. The case files themselves grew from five or six pages to hundreds by the mid-seventeenth century. Family members, friends, neighbors, co-workers, and employers had long been called upon as witnesses and often pleaded on behalf of or against the defendants in infanticide trials. Now, physicians, midwives, barber-surgeons, and lawyers were also involved.

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<sup>1</sup> Stadtarchiv Augsburg (StadtAA), *Urgichten*, Anna Barbara Hauin, 31 July 1692.

The town councils relied more and more upon information obtained from sources other than the defendants' testimony. Chapter two has presented the defendants' viewpoints on infanticide in early modern Swabia, as they tried to talk their way out of execution, and the role of the council as it fought for confessions and convictions. This chapter explores another side of the story, focusing on the growing body of expert literature that the town councils referenced and the lawyers and medical experts on whom they became increasingly dependent in their investigations into infanticide and abortion.

By providing educated and specialized testimony in court cases, these experts answered several needs. First and foremost, these medical inspections helped the town council satisfy the *Carolina's* minimum evidence requirements for investigation and the "half-proof" needed for torture.<sup>2</sup> On the local level, they brought the process a certain level of legitimacy, providing, for instance, the evidence and legal basis for proceeding with interrogation and torture. In this time of perceived increases in crime and actual increases in prosecution, expert testimony helped satisfy local authorities' growing need for thoroughness in their investigations. The result of this development was that the cases dragged on much longer, and generated much more paperwork. The defendants' testimony had to be weighed against the official reports of medical examiners; the exact cause and timing of the death had to be determined to corroborate the defendants' words.

A careful reader can trace the dates and actors involved and read the proceedings as an extended conversation between doctors, lawyers, councilors, defendants, and witnesses. This conversation now also became more connected obviously to a greater

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<sup>2</sup> Mary Nagle Wessling, "Infanticide Trials and Forensic Medicine: Württemberg, 1757-93," in *Legal Medicine in History*, eds. Michael Clark and Catherine Crawford (Cambridge: Cambridge University, 1994), 117-119.

discourse of lawyers, doctors, and theologians across Germany and Europe, who debated the causes, effects, prosecution, and means to stop infanticide and abortion. Lawyers and doctors who provided testimony in the Swabian cases now cited treatises from the leading experts in their written reports as further evidence to support their claims. This connected criminal cases in localities to the wider discourse on infanticide and abortion, ensuring that the practices and theory of infanticide and abortion prosecution in Augsburg, Nördlingen, Memmingen, and Ulm, came to share procedures and practices with each other and with further-flung regions of Germany.<sup>3</sup>

Medical experts were charged with evaluating physical evidence—the bodies of the mother and the dead child. Legal experts dealt with issues of legal procedure—about the application of torture, for instance—and legal definitions—what constituted an admission of intention or guilt. These contributions helped town councils with considerations such as the nature of the crime—was it infanticide, abortion, or simply a stillbirth—and procedural questions of what questions to ask of the defendant or other witnesses, and when to apply torture. If a doctor concluded, for example, that a child had been strangled to death, the council would continue the interrogation of the mother, pushing specifically for a confession of murder by strangulation to corroborate the report. The city government called repeatedly upon a group of local experts. Yet they were also situated within a much larger community of medical and legal practitioners that reached across German-speaking lands, and even Europe, which shared and challenged each other's ideas. In these intellectual communities, infanticide was a growing topic of

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<sup>3</sup> See, for example, the procedures examined by William David Myers in *Death and a Maiden: Infanticide and the tragical history of Grethe Schmidt* (Dekalb, IL: Northern Illinois University Press, 2011), and by Otto Ulbricht in *Kindsmord und Aufklärung*.

discussion. By the seventeenth and eighteenth centuries, medical and legal knowledge had grown in complexity and breadth. Increasingly, practitioners published their dissertations and treatises, and these grew longer, more detailed, and more technical.<sup>4</sup> A third sector of intellectual society, theologians, also concerned themselves with these offenses, weighing in with their opinions on what constituted greater or lesser sins and the fate of the soul of the unborn fetus or dead child. To illustrate the role of expert testimony in local infanticide investigations, this chapter will explore each of these three fields as they pertain to individual investigations and the wider community of scholarly activity.

### *Early modern medical practice*

Medical knowledge became fundamental to defining and prosecuting the crimes of infanticide and abortion. What physicians, midwives, apothecaries, mothers, and fathers knew about the human body, pregnancy, and childbirth determined the nature of the crime, the guilt of the defendant, and what the council thought happened. From conception through pregnancy and childbirth, however, this knowledge was limited and contested.

The medical professionals of Augsburg came under the jurisdiction of the town councils; the councils regulated all levels of medical practice, from the specific treatments and instruments they employed to the wages they received. From the late medieval period forward, Augsburg contained within its walls a variety of medical

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<sup>4</sup> See Martin Lipenius, *Bibliotheca Realis Iuridica* (Frankfurt: Friedrich, 1679) and *Bibliotheca Realis Medica* (Frankfurt: Friedrich: 1679) for a thorough list of legal and medical dissertations.

institutions, including hospitals, pilgrim houses, and plague houses to care for the sick, old, and dying.<sup>5</sup> The town council of Augsburg founded the *Collegium Medicum* in 1582 to oversee this complex web of institutions and practitioners involved with medical care for the city's citizens.<sup>6</sup> This early modern medical community was made up of physicians, barber-surgeons, midwives, and apothecaries, all part of a hierarchy and assigned specific tasks within the system of medical care. The *Collegium Medicum* was composed of physicians, who sat at the top of the medical hierarchy. It was their task to enforce the regulations that governed the practices of medical caregivers.

#### *Regulation of medical practitioners*

Midwives, as the medical practitioners with the most experience in pregnancy and childbirth, had perhaps the greatest role in infanticide and abortion investigations, but the higher rank of male physicians allowed them greater official influence on regulation and scholarship. Occasionally, barber-surgeons were also called upon to assist in an investigation, usually alongside a physician. As they were often suspected of providing abortifacients, apothecaries were also involved in investigations, but they were not typically consulted by the council. Because of their special knowledge and position, midwives and apothecaries were the mostly closely regulated regarding potential infanticides and abortions. An examination of these regulations will provide further insight into the medical community; this discussion will be followed by an examination

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<sup>5</sup> Claudia Stein, *Negotiating the French Pox in Early Modern Germany* (Burlington, VT: Ashgate, 2009).

<sup>6</sup> Gerhard Gensthaler, *Das Medizinalwesen der Freien Reichsstadt Augsburg bis zum 16. Jahrhundert* (Augsburg: Mühlberger, 1973).

of medical knowledge about pregnancy and childbirth in general and the use of this knowledge and the testimony of experts in specific criminal cases.

In infanticide and abortion cases town councils often employed the expertise of the towns' official midwives. Midwives were far more familiar with pregnancy and birthing practices than male physicians, who likely had never even observed childbirth. Yet this knowledge and their unique access to pregnant women and their bodies also made midwives potentially dangerous, and the regulation of their practices was strict. Town councils across Germany issued and reissued midwife regulations frequently and established a strict system of examination and supervision by the physicians of the *Collegium Medicum*. Midwives were required to take an oath agreeing to the regulations. They swore, among other requirements, to attend to rich and poor women alike, without delay and not charging more than the regulated fee.<sup>7</sup>

Midwives faced investigations before the town council and the *Collegium Medicum* when suspected of malpractice.<sup>8</sup> These investigations frequently stemmed from cases in which parents believed that negligence or mishandling on the part of a midwife had caused the death of their children. In July 1645, for example, a day-laborer by the name of Zachariah Zimmerman accused midwife Anna Maria Pierlerin of killing his child during delivery. The town council questioned Anna Maria and physicians investigated the body of the dead child. During her testimony, Anna Maria explained that the child's birth was extremely difficult, and she had to pull on the arm of the child to

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<sup>7</sup> StadtAA, *Collegium Medicum*, Nr.18 Hebammen und Obfrauen, Karton 15, "Deß Heiligen Röm Reichs-Stadt Ulm, Widerholt- und erneuerte Ordnung, Die Oberhändige Frauen, Heb-Ammen und Führerin betreffend."

<sup>8</sup> StadtAA, *Collegium Medicum*, Nr. 17 Hebammen und Obfrauen, Karton 13, Nr.8.

deliver it from the mother. After an examination of the child's body, the doctors concluded that the child also had other injuries and deformities that indicated that death had occurred before the birth. Because the doctors agreed with Anna Maria that the child died in the womb—by their estimate, one to two days before the delivery—she was released with a warning to be more careful in the future and to abide by the proper regulations.<sup>9</sup> The greater trust accorded to physicians supported Anna Maria Pierlerin's claims, which were considered less credible because of her lowlier position as both midwife and defendant.

Male physicians wrote a great deal on childbirth and the proper actions of midwives. Many midwife manuals were published, republished, and translated throughout Europe. Perhaps the most important and influential midwife manual in this period was also one of the earliest. Eucharius Rößlin published *The Rose Garden for Pregnant Women and Midwives* in 1513, and in turn he drew heavily on ancient sources, particularly Soranus of Ephesus. Initially a commission for Catherine, Duchess of Brunswick, *The Rose Garden* was translated into English (and renamed *The Byrth of Mankynde*), Dutch, Czech, French, and Latin. Rößlin explains proper birthing procedure, instructions for midwives for many birthing circumstances, and directions for using the appropriate birthing equipment, instruments, and the best ointments, foods, and drink for the mother.<sup>10</sup>

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<sup>9</sup> StadtAA, *Straßbücher*, Anna Maria Pierlerin 16 July 1645.

StadtAA, *Collegium Medicum*, Nr.17 Hebammen und Obfrauen, Karton 14, Anna Maria Pierlerin Urgicht.

<sup>10</sup> Michael O'Dowd and Elliot E. Philipp, *The History of Obstetrics and Gynaecology* (New York: The Parthenon Publishing Group, 1994), 349, 644. Bryan Hibbard, *The Obstetrician's Armamentarium: Historical Obstetric Instruments and Their Inventors* (San Anselmo, California: Norman Publishing, 2000), 5. Steven Ozment, *When Fathers Ruled: Family Life in Reformation Europe* (Cambridge: Harvard University Press, 1983), 101-110.



The frontispiece to Rößlin's sixteenth-century midwife's guide depicts a properly attended birth (see image 19). The midwife in this picture cleans the child while two assistants attend to the recovering mother who is reclining in bed.<sup>11</sup> Such medical texts helped not only to provide instruction, but also to define what was expected of everyone involved in the birthing process—mothers, midwives, and physicians, and as a result, they helped to construct the definition of the crime and of the law. If this scene illustrated the proper, healthy, and legal way to give birth, then mothers who gave birth in secret—such as those planning to commit infanticide—were acting improperly, unhealthily, and most of all, illegally.

The authors of midwife manuals such as Rößlin devoted the greatest portion of their efforts to the proper procedure for difficult deliveries. For example, one eighteenth-century treatise, by Augsburg physician Johannes Andreae Deisch, instructed midwives and physicians on the use of various instruments used in childbirth, particularly the forceps. Hands were to be used first, then blunt instruments. If all other methods failed, then the more dangerous implements could be used. Only as a last resort—when the mother's life was in danger if the child were not removed—could midwives use sharp instruments. But if the woman's life were at risk, it did not matter if the baby was still alive. Preference was given to saving the life of the mother over the child, a kindness that that was not necessarily followed through after delivery in the case of illegitimate children.<sup>12</sup> Such instruction manuals illustrate just how dangerous childbirth could be,

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<sup>11</sup> SStBA, Med 3745, Eucharius Rößlin, *Der Schwangeren Frawen und Hebammen Rosengarte*, Augsburg, 1529.

<sup>12</sup> StadtAA, *Collegium Medicum*, Johannes Andreae Deisch, *Dissertatio de usu cultrorum atque uncinorum scindentium eximio in partu praeternaturali nec versione foetus, nec adplicatione forcipis*, Augsburg, 1759.

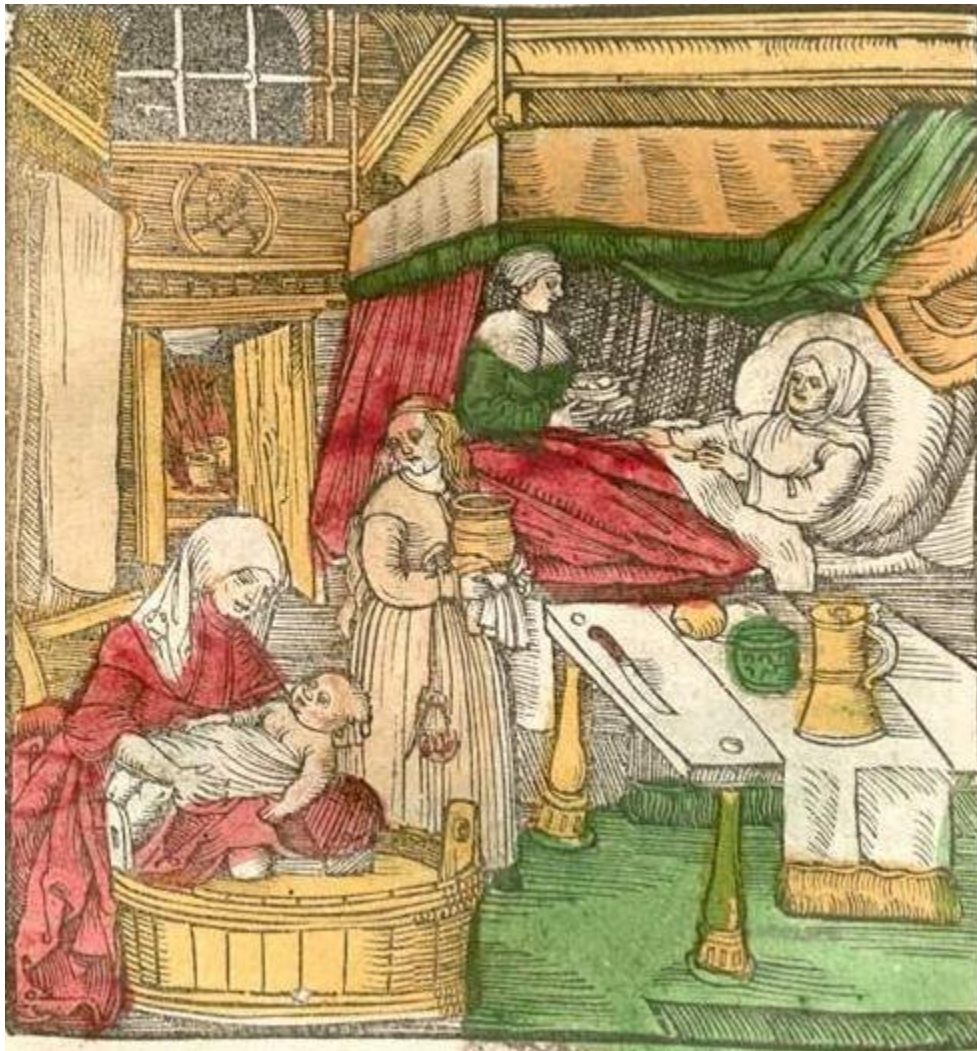


Image 19: *Frontispiece from Eucharius Rößlin, The Rose Garden for Pregnant Women and Midwives, Augsburg, 1530*

showing, for example, the various possible positions of one or multiple fetuses in the womb, along with instructions for the most effective means to free the child from the mother's body. Images 20 and 21, from Rößlin's *The Rose Garden*, show two such illustrations. The example on the left depicts a birth like that for which Anna Maria

Pierlerin was accused of malpractice. Instructions were given for manipulating the child in the womb and birth canal—manually or with tools—so as best to ensure a successful delivery.<sup>13</sup>



Images 20 and 21: *Diagram of a difficult birth and a normal birth, from Eucharius Rößlin, The Rose Garden for Pregnant Women and Midwives, Augsburg, 1529*

<sup>13</sup> Staats- und Stadtbibliothek Augsburg (SStBA), Med 3745, Eucharius Rößlin, *Der Schwangeren frawen und Hebammen Rosengarte* (Augsburg: Stayner, 1529).

Male physicians, not midwives, wrote these manuals; likewise, male physicians—in Augsburg, the physicians of the *Collegium Medicum*—authored official midwife regulations. Aside from proper medical procedure, midwives’ behavior in regard to unwed mothers was a primary concern of these regulations. Oft-repeated ordinances aimed to prevent midwives from facilitating infanticide or abortion, and placed on their shoulders the responsibility for identifying potentially pregnant maids, and then either reporting them to the proper authority or instructing them about the proper course of action. An example from Ulm in 1737 instructed midwives to watch for “signs and indications...of pregnant single women,” and they should “seek the opportunity to earnestly warn such illegitimate girls against harming their fruit through purgative medication, leeching, by tightly binding their bodies, or other methods, and against other murderous means, as their duty and conscience necessitates.”<sup>14</sup> Midwives were seen as a first line of defense against potential abortions and infanticides, yet were also highly suspect for involvement in these very crimes because of their specialized knowledge and experience.

Also suspect for their knowledge of abortifacients were apothecaries. Because of their expertise and the potential dangers thereof, apothecaries likewise fell under the strict regulation of city councils and the *Collegium Medicum*. The council required them to submit to annual visitations and inspections, among a variety of other regulations.<sup>15</sup>

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<sup>14</sup> StadtAA, *Collegium Medicum*, Nr.18 Hebammen und Obfrauen, Karton 15, “Deß Heiligen Röm Reichs-Stadt ULM, Widerholt- und erneuerte Ordnung, Die Oberhändige Frauen, Heb-Ammen und Führerin betreffend.”

<sup>15</sup> SSStBA, 2 Stw 24, *Reformation guter Policey/ Zu Augspurg/1548 aufgericht*, 403.

Apothecaries had previously exercised greater independence before the founding of the *Collegium Medicum* in 1582, but for most of the early modern period they were severely restricted. They could not prescribe medicines on their own, and were repeatedly reminded of regulations against distributing dangerous substances.<sup>16</sup> For example, they were not to deceive anyone by selling tainted goods or poisons; among banished substances were arsenic, opium, and any bug, mouse, or rat powders or poisons. More to the point, apothecaries were not to sell anything “strong, purgative, or expulsive, or things that serve the promotion of the womanly monthly cleansing or for expulsion of a fetus and afterbirth, without the orders of a Herrn Medicinae Doctoris.” Ordinances particularly forbade them from selling any such substances to “strangers or suspicious people, those traveling from long distances, vagabonds, mountebanks, surgeons, foreign doctors, Jews, old women, midwives, unmarried women, the unlearned, barbers, barber-surgeons, artisans, and others.” This warning carried the threat of physical punishment for disobedience.<sup>17</sup>

This long list of proscribed customers includes some who were regarded as suspicious at all times, such as foreigners and vagabonds, and who were, therefore, generally banned from a wide range of activities. For apothecaries, these were people who were not to be trusted with potentially dangerous substances. Several of these groups were regarded with suspicion because, among other concerns, they were thought to be likely to seek abortions. Single women were clearly the most suspicious, but midwives and old women might also seek to help single pregnant women procure abortions.

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<sup>16</sup> Gensthaler, *Das Medizinalwesen*.

<sup>17</sup> StadtAA, *Collegium Medicum*, “Eines Hochedlen und Hochweisen Raths des Heil. Röm. Reichs Stadt Augsburg Apotheker-Ordnung, erneuert im Jahr 1761.”

Foreign medical practitioners may have been untrustworthy, perhaps because they had not been sworn to the local regulations and were of unknown reputation. Others who had specific medical knowledge—barbers, barber-surgeons, and surgeons—might provide information about or means to an abortion. Artisans—as they were often young, single males—were also not to be trusted because they would likely have been seeking to acquire abortifacients for pregnant lovers and were thought to have no other, proper, use for such substances.

Certain substances, such as laurel berries (see below and chapter two), were well-known abortifacients, and apothecaries would have been well aware of a woman's intentions in asking for such items. There also seems to have been a coded, secretive manner of discussing abortifacients that apothecaries also surely knew, as they often provided the substances. In their testimony, women spoke of “promoting” their menstruation. A woman might also use language such as “starting her monthlies” or “returning her natural cycles.” Any number of afflictions might actually disrupt her cycle, but these phrases were often thinly-veiled terminology for an abortion. Women told of how they went to apothecaries asking for “something to return her monthly time,” and were given substances that subsequently caused abortions, a convenient way for defendants to pass blame based on their ignorance. Although substances used to cause abortions were also often genuinely used to treat other illnesses, their abortifacient role made them illegal and dangerous for apothecaries to own or sell. Yet despite strict regulations, some apothecaries must have willingly supplied known abortifacients, for women still managed to find them. Some natural ingredients might certainly be obtained

elsewhere, but women suspected of abortion only ever mentioned apothecaries as the source of abortifacients.

Appolonia Heringin's sister Catharina, for instance, advised her to take a concoction of "a half liter of beer with parsley and three black seeds;" Appolonia claimed at first that she did not know what the black seeds were, but eventually admitted that they were laurel berries.<sup>18</sup> She also admitted that she—or more likely, her sister—had had someone buy the laurel berries for her from an apothecary.<sup>19</sup> It is uncertain if this apothecary faced any consequences. It is possible the women used a third party to deceive the apothecary, who might have thought that the berries were for some other use. When apothecaries sold items such as laurel berries, they must have been implicitly aware of their role in an abortion. Apothecaries too adopted the coded language of "returning the menses" or "unplugging her stopped blood" instead of aborting a pregnancy. However, it is impossible to tell from the records when this language referred to abortion and when it referred to other, more legitimate, maladies.

Although it seems that certain abortifacients were commonly known among experts and lay people alike, defendants often claimed ignorance about the effects of the various concoctions they were accused of ingesting or providing to someone else and attempted to shift the blame to those who were thought to know more, such as apothecaries. For instance, Christof Stengle, implicated in Ursula Millerin's abortion, was asked about laurel berries, to which he replied, "he knows nothing to say about the use of

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<sup>18</sup> Both parsley and laurel had been prescribed for thousands of years as ingredients in many concoctions used for abortions. See John M. Riddle, *Contraception and Abortion from the Ancient World to the Renaissance* (Cambridge: Harvard University Press, 1992) and *Eve's Herbs: A History of Contraception and Abortion in the West* (Cambridge: Harvard University Press, 1997).

<sup>19</sup> StadtAA, *Urgichten*, Appolonia Heringin, 1 March 1601.

laurel berries, he is no doctor, and no apothecary, he also does not know what the women use them for.”<sup>20</sup> Yet there is no clear evidence that apothecaries were ever directly charged with providing abortifacients. It seems likely that such involvement, hidden by metaphor or deliberate misconstrual on the part of the customer, would have been hard to prove.

### *Medical investigations*

Among the tasks of the *Collegium Medicum* was the medical-forensic investigation of certain crimes. The *Collegium Medicum* submitted reports either as a body or through one or two physicians who acted on behalf of the whole. They investigated murder victims in addition to claims of malpractice of any sort of medical practitioner. The investigations were usually the assignment of one or two physicians or midwives, and occasionally surgeons, who were tasked with answering a specific question or questions regarding the cause of death or injury in potential cases murder or assault. The result of their investigations was usually a very short missive, consisting of only a few sentences. These reports are physically quite small pieces of paper, unbound and simply tucked between the other pages of an *Urgicht*, which perhaps partially explains why relatively few have survived.

Sometimes these reports took the form of a list of opinions from a group of physicians or midwives. Others were more coherent and extensive, signed by one or more people. The physicians wrote these reports in a combination of German and Latin, switching freely between the two languages and between the two scripts in which they

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<sup>20</sup> StadtAA, *Urgichten*, Ursula Millerin, 16 May 1637.



were traditionally written—interspersing with Latin to lend authority to their statements, with certain specific terminology, and when they quoted from medical texts. A report about Agatha Rüeffin reads, for example (with the Latin text in italics): “...daraus genugsame *signa* und anzaigungen haben können, das sie, *Febre continua putrida et maligna* angestockt seye,” and roughly translates as: “... and from that there are adequate *signs* and indications that she is infected with a *continuous, putrid, and malignant fever*.”<sup>21</sup>

In the rest of the individual *Urgichten*, there is little direct indication of how these medical reports affected the investigation. However, a close examination of the content of the medical reports in the context of the investigation as a whole demonstrates how they shaped the course of the investigation. Medical reports determined when and how the child died or if, indeed, the mother had ever been pregnant; such conclusions helped to define the crime—was it an abortion, miscarriage, stillbirth, or infanticide? Therefore, this medical expertise also helped the council decide what questions to ask defendants and whether the defendants’ answers were satisfactory. If not, then this contradiction might be used to justify torture in order to bring their answers into line. The outcome of the trial depended on the defendants’ own words, but these words were shaped by the council’s questions and the application of torture, which were in turn affected by the testimony of the various medical experts.

The core medical issue at stake in abortion and infanticide investigations was always whether the mother had caused the death of her child or fetus. This question involved a determination of both how and when the child died. The state of medical

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<sup>21</sup> StadtAA, *Urgichten*, Agatha Rüeffin, 10 July 1610.

knowledge in the early modern period and thus the testimony of medical professionals shaped these investigations, determining the nature of the crime, undermining or confirming testimony, and often initiating further investigation and interrogation. The evidence that these experts examined ranged from the corpse of a child to the body of the mother, to any physical signs of childbirth or abortion outside of the bodies, such as bloody sheets or afterbirth. Which medical professionals were consulted depended on the nature of the evidence, and the issues to be resolved: midwives, for example, were the proper officials for examining the mother's body. Medical investigations affected the definition of the crime, the course of the interrogation, and the final outcome of the trial. An examination of three issues—conception, abortion, and infanticide—follows, highlighting the role of medical knowledge and testimony in infanticide and abortion trials.

### *Conception and diagnosis of pregnancy*

Physicians possessed only limited anatomical knowledge, especially when it came to the female body. A woodcut printed in Nuremberg by Hans Wiegel in 1550 (image 22) demonstrates the minimal understanding of the female body in the early modern world. The uterus itself remained perhaps the biggest mystery—Wiegel's illustration shows only crude drawings of the uterus and ovaries with a vague description about their production of the female seed.<sup>22</sup> Until dissection of women became a more acceptable practice toward the end of the eighteenth century, the functioning of the uterus and female

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<sup>22</sup> Hans Wiegel, *Anatomy of a Woman*, Nuremberg, 1550. Reprinted in Walter Straus, ed., *The German Single-Leaf Woodcut, 1550-1600* (New York: Abaris Books, Inc., 1975), vol. 3, 1113.

reproduction, hidden and inaccessible as they were inside the body, would remain highly mysterious.<sup>23</sup>

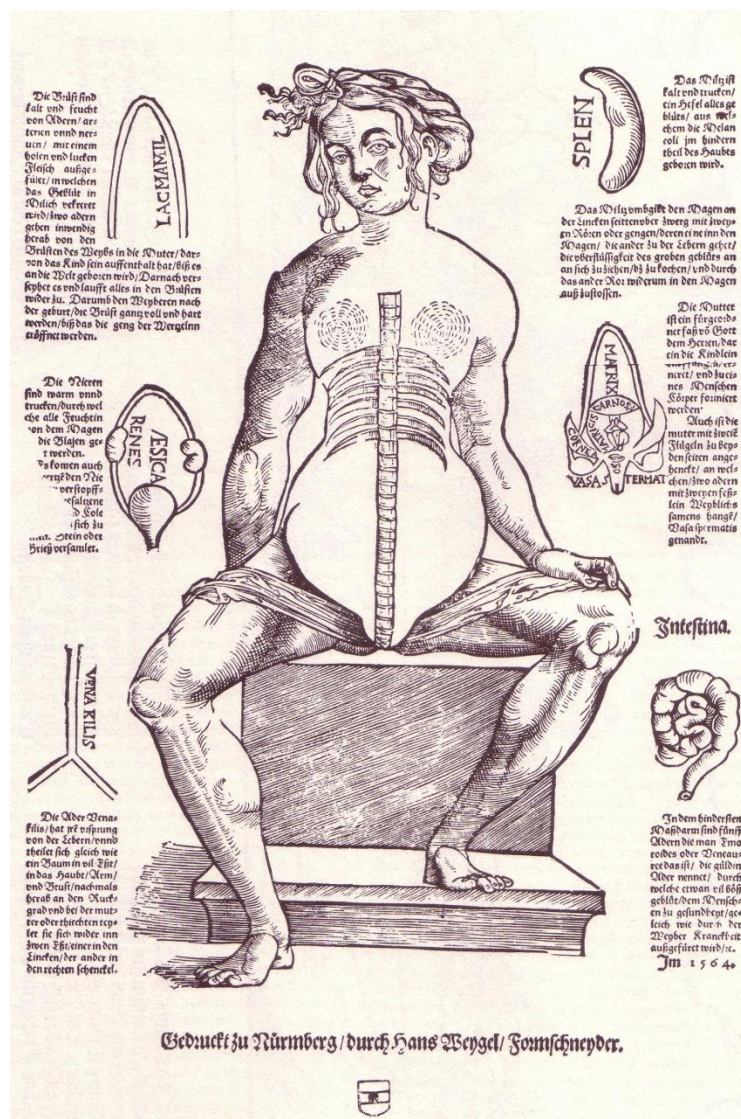


Image 22: Hans Wigel, *Anatomy of a Woman*, Nuremberg, 1550

<sup>23</sup> Katherine Park, *Secrets of Women: Gender, Generation, and the Origins of Human Dissection* (New York: Zone Books, 2006), 103-106.

Pregnancy was, therefore, difficult to definitively diagnose, especially during its first months. Because of the wide array of symptoms and the similarity of its signs to several diseases, diagnosis could be problematic even in later months. This uncertainty made it plausible for a woman to claim that she had not known she was pregnant, or that she had at least been unsure of her pregnancy. Anna Schaidhofin, for example, denied that she knew of her pregnancy, claiming, when asked how she had hidden her growing body, that she “was never of large body,” meaning that she was already a small person and had not gained much weight during her pregnancy.<sup>24</sup> Others claimed, alternatively, that they were already a bit fat and that the extra weight of pregnancy had not been noticed. Theresia Seizen, for example, explained how “she has always had a thick and fat stomach,” and that this had not changed during pregnancy. Her pregnancy, then, it was not necessarily readily apparent to others.<sup>25</sup>

Physicians and midwives alike had to rely on external observation of the potential mother. They looked for signs in the skin or in the shape of the body and the mother’s own reports of symptoms.<sup>26</sup> Because of these difficulties, early modern medical texts sought to provide as much guidance as possible for diagnosing pregnancies. One such guide was printed in Augsburg in 1735. It warned that the cessation of menstruation was not always an indicator of pregnancy, and should be corroborated by other indications, which might include a heavy or dizzy feeling in the head, the appearance of “a blue, yellow, or other color in the eyes,” “head-, eye-, and tooth-aches,” a change in the appearance of the face, a noticeable dullness in the limbs, a propensity to fainting, a

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<sup>24</sup> StadtAA, *Urgichten*, Anna Schaidhofin, 15 January 1572.

<sup>25</sup> StadtAA, *Urgichten*, Theresia Seizen, 21 April 1725.

<sup>26</sup> Park, *Secrets of Women*, 103-106.

shortness of breath, the stomach rejecting normal foods and desiring unusual ones, the breast growing larger and harder, and weight gain. These symptoms were usually confirmed by the noticeable movement of the fetus in the womb in the fourth or fifth month of pregnancy—quickening. But, the author carefully notes, the pregnancy might still go unnoticed, because miscarried fetuses and other various growths in the uterus might also feel similar to a living fetus. However, it is also possible that such movement is not felt until the last one or two months, and that a healthy woman should expect to be pregnant for 40 weeks or 280 days, until the end of the ninth or beginning of the tenth month.<sup>27</sup>

This uncertainty also made it difficult to pinpoint the time of conception, and, therefore, the duration of the pregnancy, complicating assessments of a fetus's or a newborn's time and cause of death. Women often claimed that their child was born too early, and could not have possibly lived beyond childbirth, that meant the moment of conception was crucial. Although all agreed that sexual intercourse was necessary for conception, they disagreed on how conception actually occurred. Physicians debated about the role of a woman's menstrual cycle in fertility and the role of the mother and the father in conception. Everything from the food a woman ate to the season of the year could affect conception.<sup>28</sup> Some thought that it was necessary for the woman to orgasm in

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<sup>27</sup> SSStBA, Med 4857, Barbara Widenmann, *Kurtze/ Jedoch hinlängliche und gründliche Anweisung Christlicher Hebammen* (Augsburg: Lotter, 1735), 9-11.

<sup>28</sup> Jacques Gélis, *History of Childbirth: Fertility, Pregnancy and Birth in Early Modern Europe*, Rosemary Morris, trans. (Boston: Northeastern University Press, 1991), 5-7.

order to conceive, while other disagreed; the very existence of the female orgasm was uncertain.<sup>29</sup>

Confusion over how exactly conception occurred complicated any idea of when it happened. Early modern knowledge of conception and pregnancy was largely drawn from the thought of ancients, especially of Galen and Aristotle, who were concerned with both the physical and spiritual generation of new life. These ancient authorities disagreed on what happened at conception; their writings focused on questions of from where or whom life, soul, and the material body came. Did new life begin with physical conception? Or did it begin with quickening? In either case, how was new life formed? There was no consensus on the correct answers to these questions, but they were vital in infanticide and abortion cases, as it was necessary to determine the moment of conception and the viability of the fetus, and, therefore, what kind of crime, if any, had been committed. Abortion was, after all, only a capital crime if the fetus had been “living” in the womb, meaning the pregnancy had reached a particular point, often associated with quickening.

Quickening was a poorly-defined concept, as it was associated with the first tangible movements of the fetus on a woman’s body and/or the ensoulment of the fetus. Physicians could only rely on the mother’s own report of what she had felt and when, or else on the mother’s account of a precise date of conception, from which they could calculate quickening based on a pre-determined formula. Physicians often examined the

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<sup>29</sup> Thomas Laqueur, *Making Sex: Body and Gender from the Greeks to Freud* (Cambridge: Harvard University Press, 1990).

See also Katharine Park and Robert A. Nye, “Destiny is Anatomy,” essay review of *Making Sex: Body and Gender from the Greeks to Freud*, by Thomas Laqueur (1990), *The New Republic* (February 18, 1991): 53-57.

corpse of a fetus to determine the duration of the pregnancy, and, therefore, whether or not it might have had a soul and been “living,” but this was an imprecise practice, based only on the size and external features of the fetus. The most that physicians could report in many situations was their opinions about whether or not they thought that the fetus would have been capable of living on its own outside the womb. This, too, was necessarily imprecise.

The timing of conception also helped to determine paternity. In the sad case of Samuel Keck, who murdered his pregnant girlfriend when she threatened to name him as the father, medical reports placed the conception of the child well before he said his affair with her began. If Keck had had any idea about how long his lover had been pregnant, he might have known that the child could not be his. Fathers often tried to escape responsibility for raising children by claiming that they had not been the mother’s only lover. But in Keck’s case, ignorance on his part about when conception occurred led him to believe the child was his and to murder the pregnant Jacobina.<sup>30</sup> Other accused fathers attempted to deny paternity by arguing that they had not been with the mother during the possible period of conception, or that they knew of other potential fathers who had been with the woman around the same time. The moment of conception was thus vital not only in determining the viability of the baby, but also in determining paternity and responsibility.

### *Abortion*

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<sup>30</sup> StadtAA, *Urgichten*, Samuel Keck, 20 December 1710.

If the child was found to have been born too early to survive outside the womb, or if it was shown to have been stillborn, an infanticide investigation could easily shift to an abortion investigation. Although the line between these two crimes was unclear and shifting, there could be significant differences. Abortion often left little physical evidence, and the medical evaluation was often limited to an examination of the mother's body, centering on questions of whether the mother had been pregnant—relying on signs such as a swelling of the breasts or belly and the state of the skin of the belly—and the effectiveness of abortifacients. Infanticide investigations had corpses for doctors and midwives to examine and medical testimony focused on whether the death had unnatural causes. A case might be prosecuted as abortion if the child was stillborn, and if it was determined that a particular action or actions on the part of the mother or someone else during the pregnancy had caused the stillbirth.

Because abortion left so little physical evidence, accusations were often based on rumors instead of the discovery of a dead child. The medical experts in such cases needed to determine if the woman concerned had even been pregnant and if she had given birth. Further, they needed to determine if she had attempted or succeeded at aborting the fetus, what method she had employed, and how far into her pregnancy she had been when she had done it. The council broached this subject by asking the mother “whether or not she ingested a drink or something else in order to abort the child, also what this was and from whom she got it.”<sup>31</sup>

Women described a wide variety of substances that they consumed, always with the stated intention of returning their stopped period. More frequently, though, defendants

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<sup>31</sup> StadtAA, *Urgichten*, Barbara Beürin, 26 March 1585.



said they did not know what the substance was. Because of the uncertainties surrounding pregnancy and conditions with similar symptoms, it is likely that many women took abortifacients for certain symptoms, regardless of the actual ailment. Because of this, the extent to which abortifacients were consciously ingested with the intent to abort or with the intent to cure some other ill, such as stopped menses, cannot be determined.<sup>32</sup>

Intentionally vague, defendants told of concoctions of beer or wine mixed with some “Kreitter,” or herbs.<sup>33</sup> By far the most common abortifacient was laurel berries; as mentioned, the leaves of various plants in the laurel family were well-known abortifacients in early modern society<sup>34</sup> and had been in use since antiquity.<sup>35</sup> In the cases in this study, many women seem to have used the berries. Anna Weilbächin took “5 or 6 laurel berries in vinegar,” in the mornings.<sup>36</sup> Ursula Millerin “took three times in a glass of beer two knife-points of smashed laurel berries.”<sup>37</sup> Anna Nilgin had “no more than two spoonsful” of some sort of drink made with the berries.<sup>38</sup> Appolonia Heringin took a drink of a “a half measure of beer with parsley and three black seeds which she did not remember what they were called...she said finally that they were laurel berries.”<sup>39</sup>

The description of what happened to Ursula Millerin, after she ingested the laurel berries, reveals just how terrifying this experience of a self-induced abortion must have been:

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<sup>32</sup> Ulinka Rublack, “The Public Body: Policing Abortion in Early Modern Germany,” in *Gender Relations in German History: Power, Agency and Experience from the Sixteenth to the Twentieth Century*, ed. Lynn Abrams and Elizabeth Harvey (London: University College London Press, 1996), 66.

<sup>33</sup> See for example, StadtAA, *Strafbücher*, Jeremias Dietrich und Martha Pfeifferin, 6 May 1604.

<sup>34</sup> Rublack, “The Public Body,” 64-66.

<sup>35</sup> Riddle, *Contraception and Abortion*, 47.

<sup>36</sup> Stad StadtAA tarchiv Augsburg, *Urgichten*, Jeremias Bair, 4 September 1608.

<sup>37</sup> StadtAA, *Strafbücher*, Ursula Millerin, 16 May 1637.

<sup>38</sup> StadtAA, *Urgichten*, Anna Nilgin, 21 February 1594.

<sup>39</sup> StadtAA, *Urgichten*, Appolonia Heringin, 3 January 1601.

On the Sunday of St. George [in late April] in the evening around 8 o'clock, the pains started, and she felt how something about the size of a goose egg came from her, without any force from herself; the thing had a head...it was all mutilated, but she did not see any life in it, but it did have the look of a child, namely the little hands, little feet and the head...she wrapped it in a white cloth, and on the following Tuesday she herself threw it in the Lech by the lower slaughterhouse; following that on Thursday on St. George's eve in her rope maker's store, more stopped blood came from her, an entire pan full...the stopped blood was a round ball about the size of a fist, and she turned it back and forth and found nothing other than it was clotted blood, which had clotted together in her body because of the long-absent monthly time; she had her maidservant throw this blood in the Lech at night.<sup>40</sup>

Physicians and midwives provided their official opinion in abortion investigations as to whether the particular mixture in question was capable of causing an abortion or harming the fetus in any way, and what amount would be necessary to do so. The unusual case of Jeremias Bair and Anna Weilbächin in 1608, discussed in chapter two, demonstrates this role of the *Collegium Medicum*. In this case, the doctors declared that laurel berries, which Anna had supposedly taken on the advice of her master and the father of her child, Jeremias, would not cause abortions in small doses but might do so in larger doses.<sup>41</sup> Similarly, in the case against Ursula Millerin, the *Collegium Medicum* again weighed in on the issue, and this time eight physicians all provided their individual opinions, and all agreed that laurel berries could not induce an abortion alone, but could

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<sup>40</sup> StadtAA, *Strafbücher*, Ursula Millerin, 16 May 1637.

Wie den schmerzen darmit zulegen und demnach am Sontag von Georgy gegen abendt ungefähr umb 8 uhr, etwas schier eines Ganss ay gross, doch ohne einichen zwang, so sy ihr selbs angethon het, von ihr gangen, und sie gleich wol verspirt, das dasselbigen ding ain haut gehabt...sey aller zermottert gewesen, hab khain leben davon vermerkht, aber gleichwol die anzaig eines Kindts daran gesehen, nemblich die hendlein, fiesslein und den Köpfe...so hat sie solches in ain weiss tiechle eingewikhlet, unnd am Affermontag darnach selbs in Lech beim ndern schlachthauss geworffen, volgents ist am donnerstag an St. Georgen abendt in ihrem Sailers laden, auch gestokht blueth von ihr gangen, schier ihr gluetscherben voll...hat dasselb gestokht bluet, welliches ain runder Knipfel ungefehr ainen faust gross war hier und her Khert, aber nichts anders daran befunden, alss dass es ein gestokhtes bluet gewesen, sp sich in ihrem leib, wegen so lange auss geblibenen monatlichen Zeit zusamen gestopft und versamblert möcht haben, und solliches blueth auch gegen nachts, durch ihr dienstmegdle, in Lech schitten lassens.

<sup>41</sup> StadtAA, *Urgichten*, Jeremias Bair, 4 September 1608.

StadtAA, *Strafbücher*, Jeremias Bair, 4 September 1608.

do so in certain concoctions. In Ursula's case, the physicians' opinions were listed individually, and a separate paper addressed to the council summarized their opinions. The first part of the report was divided into two sections, in which one physician stated his opinion and the others state their agreement. First, Doctor Vicary asserted that the effects of laurel berries alone cannot be determined, but rather that it depended on the individual's interaction with the berries. Doctors Schisler, Miderer, and Kneulin all agreed. The record then shows that Doctor Besstel stated that the laurel berries alone could not have such an affect; Doctors Hochstötter, Jenisch, and Henseit all concurred. The final report submitted to the council summed up these opinions, in Latin (*italics*) and German:

We report that the laurel berries not by themselves, but in *immoderate quantities only in hot-tempered natures*, could really work to abort a fetus, in consideration of a woman of these characteristics, when taken often and in large quantities, could strongly and heavily purge the woman's regular time [menses], and could easily abort the fetus.<sup>42</sup>

This record clarifies the functioning of the *Collegium Medicum*; while the physicians sometimes served as individual investigators, they occasionally came together to write a group opinion on a particular issue.

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<sup>42</sup> StadtAA, *Urgichten*, Ursula Millerin, 16 May 1637.

Wir in underthenigkeit zu berichten, das die lorbeer zu vertreibung der frucht nicht für sich selbst sonder *accidentaliter ratione quantitatis per rebeorem immodertum osum* allein in den hizigen und etlichen massen temperrirten naturen würcklich sein mögen, in bedenckung weib die lorbeer diser aigenschafft sein ds sie auch beneben offft und vilgebraucht der weiber ordenliche zeit starck und hefftig treiben, auch die leibsfrüchten leichtlich vertreiben können.

In two extraordinary cases, one from Nördlingen and the other from Augsburg, the city council actually obtained the substance that it believed the defendant had used to cause an abortion and preserved it with the case records.<sup>43</sup> The bundles of dried herbs are now visually unidentifiable, but they appear to be some sort of dried plant matter (see images 23 and 24). In the Augsburg record, the herbs survive along with a ring that the father of the aborted child supposedly gave to the mother, a rarity among such court records.



Image 23: *Abortifacients supposedly used by Margarete Leonhartin, Nördlingen, 1621*

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<sup>43</sup> Stadtarchiv Nördlingen, Kriminalakten, Margarete Leonhartin, 1621. StadtAA, Urigichten, Cyprian Wiser, 26 September 1693.



Image 24: *Second bundle of abortifacients supposedly used by Margarete Leonhartin, tied and sealed with wax*

Margarete Leonhartin was twenty-one years old when she was arrested in Nördlingen and charged with the murder of her child. Margarete claimed that her child, a son, was stillborn, so the council suspected her of attempting an abortion. Margarete admitted to drinking a concoction made with brandy and of “a yellow thing...a powder” which a neighbor bought for her, and which she had taken twice three weeks earlier. Margarete added that “she had not given it a thought, that with it she could hurt the child.” The court recorder noted in the margins that the powder could be umber or turmeric. This substance is likely the contents of the second bundle of abortifacients, which contains a reddish-yellowish powdery substance, while the first bundle contains what appears to be dried herbs. Nearly three months after her arrest, Margarete was found

guilty of infanticide and was executed. The discussion of abortifacients during her trial not only proved vital to her conviction, but also prolonged the investigation, which involved several rounds of questioning and over a hundred questions, many of which focused on whether or not she ingested anything to cause the death of her child in her womb.<sup>44</sup>

The case against Cyprian Wiser involved all manner of accusations exchanged between Cyprian and the mother of his child, Maria Lucia Thomannin. Maria Lucia claimed that not only did Cyprian promise to marry her, he also beat her in her stomach and provided her with and ordered her to take various herbs in order to abort their child. In the end, Cyprian abandoned pregnant Maria Lucia. At one point during the trial, Maria Lucia produced the bundle of herbs pictured below (see image 25). The council could not reach a full conviction of abortion for Cyprian despite the evidence provided, demonstrating the difficulty of abortion convictions. Cyprian was let out of custody with no further punishment.<sup>45</sup>

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<sup>44</sup> StadtAN, *Kriminalakten*, Margarete Leonhartin, 1621.

<sup>45</sup> StadtAA, *Urgichten*, Cyprian Wiser, 26 September 1693.



Image 25: *Abortifacients from the case against Cyprian Wiser, Augsburg, 1693*

Although defendants spoke of trying many different abortifacients and abortion methods, no one method or substance was completely effective. As might be expected, many were not effective at all. Women often experienced side effects; many described stomach pains—which must have been on the mild end of potential disorders—and many discovered that they were still pregnant after the abortion attempt. Women in such a situation then had to decide if they would attempt an abortion again, continue to carry the pregnancy and then commit infanticide, abandon their newborn, or to keep their child. A thorough interrogation (and the use of torture and leading questions) sometimes, therefore, led some women to admit to both attempted abortion and infanticide. Maria Grueberin, for example, admitted to eating laurel berries in an attempt to abort her child. When she gave birth anyway, in April 1674, she killed it. Maria admitted that “in the night she bore her illegitimately conceived child living into the world, and [after the

birth] the child moved several times in her lap; about a quarter of an hour after the birth, she pressed with her hands on the child's neck or throat, and thus maliciously murdered and killed it.”<sup>46</sup>

Investigating physicians were limited in what they could determine about abortion. While they could try to determine the age of the fetus and, thus, if an abortion had perhaps taken place, they could not with any certainty determine if the fetus had yet had a soul and, as a result, the severity of the potential crime. Yet for certain cases, it must have been apparent that the point of quickening had already been reached. Most experts defined quickening as having happened at least by the halfway point of the pregnancy. If the fetus was clearly in the last one or two months of a pregnancy, then, most experts would have considered it to have been “living.”

Physicians also could not definitively determine what had caused an abortion. They could and did make declarations about whether or not a particular abortifacient was effective, but they could not know, aside from the information the defendant provided herself, if she had actually ingested it. This left much up to the defendants' statements during interrogation. What medical examination could do effectively in abortion cases, was provide reason to interrogate further; the above cases demonstrate that this was frequently their most significant contribution.

### *Infanticide*

In infanticide trials, medical experts focused primarily on the body of the dead child, if one could be found. To define the crime as infanticide, the examining physicians

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<sup>46</sup> StadtAA, *Urgichten*, Maria Grueberin, 16 June 1674.



had to determine if the child had been killed during or after parturition. Various methods were used to determine if the child had been born alive or if it had died in the womb. First, the examiner would determine how long the child had been growing in the womb from its physical appearance. If the baby appeared to be premature—determined generally by size—then the investigation often shifted to determining what had caused the death of the fetus. An inspection of the external appearance of the child was important, and could reveal if the fetus had experienced any growth defect during the pregnancy, indicating that the fetus had never been in full health and had likely died from natural causes. Additionally, medical practitioners looked for external signs of violent trauma, such as bruising, that would indicate violence suffered during or after birth.

The physicians' report focused on the size and development of the child in the case against Walpurga Seitz. The doctors examined the bones of her child to determine its age at birth in order to test her claims that the child was stillborn. The bones were found to be somewhat thin, but the physicians still put the age of the fetus in a viable range. This had two consequences for Walpurga's case: first, it discredited her testimony about the duration of the pregnancy, and second, it meant that her claims of stillbirth also lacked credulity. The inaccuracy of Walpurga's testimony was not enough to convict, but enough to continue interrogation. The result was further interrogation and torture for Walpurga, until she confessed to the murder.<sup>47</sup> Yet such uncertainty over the duration of pregnancy was not unusual; most women who were questioned about the length of their pregnancy could only give rough estimates.<sup>48</sup>

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<sup>47</sup> StadtAA, *Urgichten*, Walpurga Seitz, 22 December 1568.

<sup>48</sup> Gélis, *History of Childbirth*, 222-224.

In the case of Margareth Tröstin, surgeons and midwives testified about the newborn found under Margareth's mattress. The two surgeons declared that the child's neck had been pressed, and that it had two cuts or tears on its head and armpit. More importantly, they decided that the child had been "vollkommen und zeittig," or "perfect [whole] and timely," meaning that it was neither born too early, nor with any apparent pre-existing defects. Two midwives supported this conclusion, also stating that the child was "frisch, vollkommen," meaning "fresh, perfect," and that the neck had indeed been pressed. Thus, the child should have been healthy and viable, and Margaretha was responsible for its death. When the council confronted Margaretha with this evidence during her interrogation, Margaretha admitted to pressing the child with her left foot, and thus to killing it.<sup>49</sup>

Medical inspections also considered internal factors. In rare occasions the insides of a child were readily accessible without dissection—the remains of Walpurga Seitz's child had been eaten by pigs, for example, revealing to physicians the child's bones, which they determined were thin and frail, indicative of a premature birth.<sup>50</sup> But the main focus of medical inspections of the internal body became the lung-test (*Lungenprobe*), which was a popular method for determining when the child died—before or after birth. The idea behind the *Lungenprobe* dated back to Galen, but came into more widespread usage in the sixteenth century.<sup>51</sup> The results of this test determined the difference between an infanticide and a stillbirth. The test involved an examination of the child's lungs: the lungs of a child who had been born alive, and thus had taken in air, were supposedly

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<sup>49</sup> StadtAA, *Urgichten*, Margareth Tröstin, 16 July 1609.

<sup>50</sup> StadtAA, *Urgichten*, Walpurga Seitz, 22 December 1568.

<sup>51</sup> Johann Krünitz, "Kinder-Mord," *Oekonomische Encyclopädie*, vol. 37, 1786.

whitish, thin, and light, while those of a child who had died before birth were reddish, dense, and heavy. The examination was then followed by a test: if the lungs floated in water, the child had lived after birth; if not, then the child was stillborn.<sup>52</sup>

In May 1692 the physician Lucas Schröck, quoted at the opening of this chapter, examined the corpse of Anna Barbara Hauin's dead child. Although Anna Barbara would later admit to having giving birth over a privy and ripping out the umbilical cord, the doctor still inspected the body in order to confirm the cause of death. He found indications of a fall and suffocation, consistent with Anna Barbara's story. He also performed the lung-test: "the lungs were fresh, and when I had them laid in water, they floated high. Therefore, I conclude that this child came into this world living and drowned in the water." Anna Barbara was soon executed.<sup>53</sup>

Anna Barbara Hauin's lengthy case file is also a prime example of one of the effects of the enhanced use of expert testimony: her file stretches to dozens of pages, whereas earlier, similar cases produced only a fraction of the paperwork. The expert testimony prolonged the case, especially if this testimony conflicted with the testimony of the defendant. For example, Dr. Lucas Schröck testified that the child had died after birth before Anna Barbara was questioned. Schröck gave his initial report of his investigation of the corpse on the 29<sup>th</sup> of May, the day after the supposed murder, and before Anna Barbara was questioned. Anna Barbara was first questioned on the 18<sup>th</sup> of June, and despite the doctor's testimony, they still asked her, "whether or not the child had come from her living, and whether or not she then heard it cry?" Anna Barbara replied, "she

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<sup>52</sup> Ibid.

<sup>53</sup> StadtAA, *Urgichten*, Anna Barbara Hauin, 31 July 1692.  
StadtAA, *Strafbücher*, Anna Barbara Hauin, 31 July 1692.

might believe that it was living, but she did not hear it cry, and could not say.” Because of the physician’s testimony, what Anna Barbara knew about whether or not her child was living was of the utmost importance.

The council quickly returned to this question. They asked her “Whether she brought the child into the world living, and then threw it into the privy?” Anna Barbara responded to this, “Ah protect me God, ah no...she knows that she should not have sat on the privy, but would not acknowledge that she did the child any harm.” To confirm her answers yet again, this question was followed immediately with, “Whether after the birth she could not hear the child crying, or could see it moving?” She replied that “she neither heard it crying nor saw it moving.”

The council drew up a second round of questioning on the 21<sup>st</sup> of June, which focused on the cause of death of the child, operating under the idea that the child had been born alive and that Anna Barbara had caused its death. While most interrogations progressed on such an assumption, in Anna Barbara’s case, the council had the physician’s testimony from the very beginning of the investigation. Despite Anna Barbara’s repeated denials in the first round of questioning, the council plunged forward with the goal of pushing Anna Barbara to a confession that the child had lived, or at least an inadvertent indication of such. This second round took place eight days after the first interrogation and five days after the second set of questions was written, on the 26<sup>th</sup> of June. The council asked her “whether she had not in the last months felt the child move in her body?” But this was the only question that touched on whether the child had been born alive; instead, in this round the council worked with the assumption that the child had

indeed lived, as if Anna Barbara had already admitted that it had. In response to these questions, Anna Barbara denied any responsibility for the death of her child, but did not have an opportunity to repeat her claim that the child had never lived. Dr. Schröck's testimony thus determined the progression of the eventual 92 total questions that comprised Anna Barbara's interrogation; he prolonged her interrogation despite her repeated and consistent testimony.

Additionally, on the 28<sup>th</sup> of June the city council requested testimony from several midwives about one particular answer from Anna Barbara's testimony of the 26<sup>th</sup>. The midwives' testimony centered on determining the cause of death of the child and the role Anna Barbara had played in it, not on whether the child was born living. Anna Barbara denied knowing that she needed to tie off the umbilical cord and said that the cord had been torn from the child naturally during parturition, rather than by any action of hers. The midwives replied on the 30<sup>th</sup> and the 1<sup>st</sup> of July that it was possible that Anna Barbara was telling the truth, that the umbilical cord could be torn from a baby during the birthing process.<sup>54</sup>

Anna Barbara Hauin's case also demonstrates how the bureaucracy within the city council functioned. Several days passed, for example, between the drafting of questions for interrogation and the actual interrogation of the defendant. The first round of questions in Anna Barbara's case had been drafted on the 7<sup>th</sup> of June, already a week after she was arrested, and after Dr. Schröck had given his report and several witness statements had been collected. But Anna Barbara was actually interrogated first on the 18<sup>th</sup> of June. The second round of her interrogation followed on the 26<sup>th</sup> of June, five days

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<sup>54</sup> StadtAA, *Urgichten*, Anna Barbara Hauin, 31 July 1692.

after the new round was ordered. Between these rounds, further witness statements and expert testimonies were gathered. Altogether, Schröck submitted two reports, Johann Marci (a lawyer, see below) submitted one, and three midwives (Jacobina Burcherin, Ursula Amanen, and Anna Maria Endressin) submitted individual reports; Anna Barbara was interrogated on at least four separate occasions. Just over two months passed between the discovery of the corpse and Anna Barbara's execution. It was a tedious and complex process, and all the while Anna Barbara sat alone in the jail. Anna Barbara's trial was not unique; when possible, the town council spent a great deal of time and effort in prosecuting criminals, especially suspected child-killers.

As in Anna Barbara Hauin's trial, during infanticide trials, the council focused sharply on how the child was handled immediately after birth. What was done with the umbilical cord—whether the mother had tied off the umbilical cord, ripped it out, or let the child bleed to death—was a question in almost every trial. What the mother did with the umbilical cord frequently made the difference for the council as to whether she had killed her child or simply let it die. Ignorance about what to do with the cord was, as discussed, a common and sometimes effective excuse, but improper handling of it could also indicate violent intentions.

For instance, Magdalena Wickhöfin was executed in February of 1630 after she admitted to letting her child bleed to death. Already a mother to several children, Magdalena could not claim ignorance about the proper handling of a newborn. A pair of midwives, Susanna Kempterin and Ursula Hafnerin examined the child and reported: “they found the child lying in the bed...they examined the child well, but found no marks

nor detected anything anywhere on the child that would have taken its life; they found that the cords had not been tied, and that, therefore, it must have bled to death.”<sup>55</sup> The midwives’ testimony directly linked this negligence on Magdalena’s part with the death of the child. No other cause of death could be found, and Magdalena’s hidden pregnancy and previous knowledge of childbirth combined to provide both intention and action to kill the child.

Medical testimony did not always work against the defendant, however. In fact, it sometimes even corroborated a defendant’s testimony. Such was likely the situation with Judith Pfeifferin in 1625. She asserted that during the birth her child came from her prematurely and fell on its head, which she had been helpless to stop. While her full records do not survive, it is likely that a medical examination confirmed Judith’s story, as she escaped execution.<sup>56</sup>

Anna Schmidin, an eighteen-year-old serving maid, gave birth in secret, but the child was stillborn or died shortly after birth. Naturally Anna was suspected of having killed it herself. Anna denied murdering the child, or having done it any harm at all. She insisted that it was stillborn, having been premature, “nit recht zeittig,” and that labor had set in quickly and taken her by surprise. The Augsburg city council ordered an official medical inspection. Two midwives, Anna Maria Martinin and Anna Maria Walltein inspected the child and found no indication that the child had been strangled or smothered. Four surgeons—Hanns Hundersing, David Speisser, Melchior Landtmann,

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<sup>55</sup> StadtAA, *Urgichten*, Magdalena Wickhöfin, 23 February 1630.

<sup>56</sup> StadtAA, *Urgichten*, Judith Pfeifferin, 15 March 1625.

and Sebastian Brudler—also examined the baby and found it to be “without any injury on its head and whole body.”<sup>57</sup>

In most cases, the defendant’s ultimate fate still rested on her own testimony, and Anna stood by her claim that the child was stillborn. In fact, the town council actually held Anna for over a month after receiving the expert medical testimony, because they still could not achieve a confession. They first interrogated Anna on the 6<sup>th</sup> of February, 1615, and on the same day both the midwives and the surgeons submitted their reports. But the council questioned Anna again on the 13<sup>th</sup> of March, and her final sentence was not handed down until the 17<sup>th</sup>. On the 13<sup>th</sup>, Anna was also tortured: “because she would tell nothing further,” she was pulled up with the *strappado* for a “rather long” time, and “suffered so much (because she was still somewhat weak from childbirth).” She continued to insist that the child had been stillborn, and that she did not kill it. In the end, Anna was banished instead of executed because she refused to confess, not because of medical testimony. Had the midwives’ and physicians’ testimony indicated that the child had died a violent death, Anna might have been tortured further, but their testimony in and of itself would not have resulted in conviction.<sup>58</sup>

Yet medical testimony was, in certain cases, the determining factor in infanticide investigations. Anna Klainin gave birth alone and in secret and put the newborn child under her mattress. The child was found and retrieved out from under the mattress before it died, but eventually it did die. At first Anna claimed that she only put the child under the straw sack “out of fear and horror,” but not with the intention that it suffocate. Under

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<sup>57</sup> StadtAA, *Urgichten*, Anna Schmidin, 17 March 1615.

<sup>58</sup> StadtAA, *Strafbücher*, Anna Schmidin, 17 March 1615. StadtAA, *Urgichten*, Anna Schmidin, 17 March 1615.



torture Anna confessed wrapping the child in a shirt and setting it under the straw, but insisted still that she did not do so “to kill the child, but because of her horror, pain, and cowardice, she did not know what she was doing.” Anna was questioned once more, and she admitted that “unfortunately, it was her intention when she pushed the child under the straw sack that the child should die.” The council ruled that Anna be whipped out of the city and exiled. The record of her punishment explains, “because she inflicted no harm on the child with her hands.” Anna had admitted to wanting to kill the child and taking action to do so. Why, then was she not convicted of infanticide?

It was not just that Anna’s child did not die immediately. Rather, the medical testimony revealed that it was not Anna’s actions that caused the death. Midwives investigated the corpse and reported:

The child of Anna Klainin, a girl and a small, weak<sup>59</sup> child, was quickly pulled out from under the straw sack...and she had not suffered any injury, such a weak child often lives barely two or three hours, but she managed to live 24 hours. We could not say, then, that it died because it was pushed under the straw sack.... Midwife Maria Schwerdtfirmin, who was the first to arrive to Klainin, reported the same, and had found no harm done to the child that the mother had inflicted.<sup>60</sup>

In this case, medical testimony actually saved a woman who had intended to kill her child and admitted that she was responsible for its death. Without the midwives’ examination,

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<sup>59</sup> The midwife used the term “verzöhrt,” which I have translated as “weak,” but which might more accurately describe muscle-wasting.

<sup>60</sup> StadtAA, Strabücher, Anna Klainin, 13 November 1612.  
StadtAA, *Urgichten*, Anna Klainin, 13 November 1612.

Es sy der Anna Klainin kind, so ein Medlin und ain khlain verzört kind gewesen, bald under dem strosakh wider herfür gezogen worden...halben khain schaden begegnet, ein solch verzört kindle lebe oft khaum 2 oder 3 stund, sye doch zum lauff khomen, unnd 24 stund gelebt, könden nit sagen, das es von dessenwegen, das es unnder den strosakh geschoben worden...man seyen bald darzue khomen, und zu de kind gesehen, desgleichen zaigt Maria Schwerdtfirmin hebammen auch an, welche zum erst bey der klainen gewesen, unnd haben sy an dem kindlin durch aus nichts befunden, das die muetter demselben ainigen scheden zuegefüegt habe.

Anna would have likely been executed. Medical testimony weighed more heavily than a confession when the testimony disproved the confession.

Doctors and midwives also testified about other aspects of the health of the mother when it was relevant to cases of abortion or infanticide. Agatha Rüeffin, seen in the chapter two, was so severely ill when she gave birth in the hospital that she was not aware of what had happened. Jeremias Kneulin, a doctor from the hospital, gave the following testimony:

I visited the above reported Agatha, suffering from typhus, who was brought from the Pilgrim house [which served as a hospital] for investigation into the prison, believed to have committed infanticide. Because she was so strongly deaf and fantasizing, the wife of the jailer spoke to me...about all the circumstances of the birth, as much as she knew and could report...a burning fever of the whole body, fast and strong pulse, horrible fantasies and delusional talk, a great infection...with diarrhea...and from that there are adequate signs and indications that she is infected with a continuous, putrid, and malignant fever, which fever...became mild and altogether improved on the 9<sup>th</sup> day after my first visit.<sup>61</sup>

Physicians and midwives also examined Maria Dottweiler in 1665. A dead infant was found in a small canal “next to the herb garden in Oberhausen,” just to the north of Augsburg. Maria was soon suspected of being the mother, and having either aborted the child or killed it after giving birth near the canal. Maria explained that labor had taken her by surprise while she was traveling from Kriegshaber to Oberhausen, villages near Augsburg about two kilometers apart from each other. According to her testimony, labor

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<sup>61</sup> StadtAA, *Urgichten*, Agatha Rüeffin, 10 July 1610.

Ich eben auch, ain weibs person...und ann hiziger kranckheitt gelegen, visitirt gemelte Agatham angetroffen welche den tag zuvor, aus dem Pilgerhaus dahin geführt, umb bezüchtigung, sie jhr kindt verthun haben sollte. Weyln sie nun aber so hefftig getobet und phantasirt, hatt mich die Eysenmuetter angesprochen...alle umbständ der gebürt, so vil sie gewust, und sagen könden erkundiget...als brennende gleiche hiz des ganzen leibs, schnellen und stark puls, graulich phantasirn und wan reden, grosse enzundung...mit einem hefftigen durchbruch...und daraus genugsame signa und anzaigungen haben können, das sie, Febre continua putrida et maligna angestockt seye, welches fieber...uff den 9ten tag nach meiner ersten visitation, sich heimlich remiltirt und sich allgemach gebessert.

had come on so quickly that the baby fell into the canal. Both the corpse of the child and Maria were inspected by doctors and midwives in their attempt to determine how the child died. The city midwives examined Maria's body for signs that she had been pregnant before, inspecting closely the "wrinkly skin" of her stomach. It seems that the midwives were told to look for signs of multiple pregnancies because the council suspected Maria of aborting her pregnancy and of having done so on previous occasions as well. The midwives, perhaps not surprisingly, reported that they could not determine by their examination if she had been pregnant more than this once. They also inspected the corpse of Maria's child for signs of abortion. The report stated, "on the part of the child there was marked suspicion that it had been aborted from the woman from Oberhausen; the child was found all white, perfect, and had all its members, and unharmed. Therefore, it is determined, that it suffered no harm in the womb." The council could find no crime in Maria's actions toward the child, and simply banished her for her illegitimate pregnancy.<sup>62</sup>

Although many women claimed to have been bereft of their senses at the time of childbirth or when the infanticide happened, the physicians in Augsburg did not make rulings on defendants' mental states in these cases. In at least one case, the co-defendant (her impregnator was investigated as well) was said by family and friends to have been simple-minded. For Anna Weilbächin, this resulted in a lessened sentence. But she was

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<sup>62</sup> StadtAA, *Strafbücher*, Maria Dottweiler, 17 September 1665.  
StadtAA, *Urgichten*, Maria Dottweiler, 17 September 1665.

not examined by the physicians—the word of those who wrote on her behalf and the council’s own observations presumably sufficed.<sup>63</sup>

Medical examinations were central to infanticide and abortion investigations, and they grew in prominence and frequency throughout the seventeenth century. Although physical evidence and the reports of medical experts alone could not convict a defendant of a crime, they could be used to put further pressure on the defendant and to justify further rounds of interrogation and torture. If the defendant’s description of events did not match the conclusions of the physicians and midwives, further questioning was necessary, for the goal of the investigation was not only to extract a confession, but to extract the truth.

Despite this, medical examinations sometimes had little real effect on the course and outcome of the trial. Such was the case of Matthes Erhart, who was executed in 1620 for pushing his two-and-a-half-year-old son into the river. On the 31<sup>st</sup> of August, two surgeons examined the child’s corpse. They reported that the child was “a boy, about 2 ½ years old, quite white and fresh, and otherwise they found no injury or sign of strangulation or anything like that.” Further, they examined the child’s intestines, but found nothing suspicious. Matthes was questioned on the 2<sup>nd</sup> and the 9<sup>th</sup> of September. He immediately admitted to pushing his son into the water, but the court pressed on, wanting to know if Matthes had killed his child and if he had harmed his child beforehand in any way. Despite the surgeons’ report, the council asked him about these questions in both rounds of torture. Perhaps not surprisingly, the interrogation revealed

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<sup>63</sup> StadtAA, *Urgichten*, Jeremias Bair, 4 September 1608. Stadt AA, *Strafbuecher*, Jeremias Bair, 4 September 1608.

nothing new. Yet it was still important for the council to follow through with the proper procedure.

Even before the founding of the *Collegium Medicum* in 1582, Augsburg made use of the testimony of physicians and midwives.<sup>64</sup> By the first decades of the seventeenth century, medical inspections of the dead child's body became more regular, if not altogether standard practice. In the fight against what at least seemed like the rising tide of infanticide, the councils perhaps felt pressure to convict, and may have seen expert testimony as increasing the likelihood of conviction. The holes in the records from the mid-to-late eighteenth century do not allow for a helpful comparison in practices across the time period. However, from the sources that are available, it is apparent that medical investigations remained focused on whether the suspect had given birth, the age and health of the fetus or infant, and whether the fetus's or infant's death had any unnatural causes.

The reports of physicians, midwives, and surgeons involved complex medical and legal issues. That the rulings of medical experts helped make legal decisions and affected the outcome of juridical procedures complicates any clear distinction between medical and legal expert testimony. Yet the town councils occasionally found need of expert advice from sources other than the medical community. When the council had clearly juridical questions, it sought the input of local lawyers and further away law professors and legal faculties.

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<sup>64</sup> See the case of Walpurga Seitz, for example. StadtAA, *Urgichten*, Walpurga Seitz, 22 December 1568.

### *Lawyers and legal questions*

The reports of medical experts provided the information necessary for the investigation to proceed within the legal framework of the *Carolina* and local legal practice. Yet sticky legal questions could remain despite adherence to proper procedures. How should the council proceed, for instance, if the defendant refused to confess to what the evidence clearly showed? What should it do if the testimonies of co-defendants or witnesses were contradictory? Or if the defendant recanted a confession? Individual investigations were often much more complicated and messy than the council anticipated or hoped for. Official legal definitions did not always fit the crime. Local authorities sometimes needed further guidance in unusual circumstances.

Lawyers across Europe also busied themselves with these issues, producing a stunning number of treatises and dissertations dealing with the crimes of infanticide and abortion. Especially prolific were the legal faculties of the major universities, such as Wittenberg and Tübingen. Some of these dissertations dealt with abortion or infanticide as a whole, while other took on a particular legal issue or a legalistic comparison, such as Johann Karl Naeve in his *De Parricidio & Infanticidio* (“On Parricide and Infanticide”).<sup>65</sup> The arguments of many of these works wrestled with medical issues, especially when legal determinations depended on medical inspections. This resulted in works such as Heinrich Friedrich Delius’s *Sugillatio quatenus infanticidii indicium* (“Bruising as an indication of infanticide”)<sup>66</sup> and Michael Alberti’s *Dissertatio de Abortus violenti modis*

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<sup>65</sup> SStBA, Diss Jur 1329, Johann Karl Naeve, *Tractatio Iuridica, De Parricidio & Infanticidio* (1683) (Halle: Hendelius, 1731).

<sup>66</sup> SStBA, Diss Med 862, Heinrich Friedrich Delius, *Sugillatio quatenus infanticidii indicium* (Erlangen: Heinrich Friedrich, 1751).

& *signis* (“Disputation on methods and signs of violent abortion”),<sup>67</sup> which were classified as both medical and legal dissertations.<sup>68</sup>

In fact, many of the medical dissertations on the subject of infanticide or abortion also addressed legal topics. These were often labeled “medical-forensic” studies, and discussed medical concerns specifically related to criminal investigations. Michael Alberti’s work was titled an “Inaugural medical-forensic dissertation,” as was an 1805 dissertation on fetal death and infanticide from Joseph Christian Nölting.<sup>69</sup> These studies explored medical issues within a legal framework. Nölting, for example, addressed issues such as when a caesarean section became necessary, how to treat various uterine maladies, and the known causes of fetal death. For investigations into the crimes of infanticide and abortion, anatomical and medical knowledge was vital to an accurate determination of the nature of the crime.

The era’s most influential and prolific legal experts expended great effort on infanticide. Benedict Carpzov, perhaps the most prominent German jurist of the seventeenth century, is a prime example. In his 1635 *Practica Nova Imperialis Saxonicae Rerum Criminalium*, an examination of the proper treatment of a host of criminal offenses,<sup>70</sup> Carpzov devotes three chapters to the crimes of infanticide, abortion, and abandonment. In his work can be seen the same ideas that propelled local investigations into infanticide in Augsburg. Like individual investigations seen in this study, much of

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<sup>67</sup> SStBA, Diss Med 195, Michael Alberti, *Dissertatio Inauguralis Medico-Forensis, De Abortus violenti modis & signis*, Halle, 1730.

<sup>68</sup> Martin Lipenius, *Bibliotheca Realis Iuridica* (Frankfurt: Friedrich, 1679); *Bibliotheca Realis Medica* (Frankfurt: Friedrich, 1679).

<sup>69</sup> BSBM, 4 Diss 3898, 7, Joseph Christian Nölting, *Dissertatio Inauguralis Medico-Forensis de embryotonia et infanticidio* (Göttingen: Grape, 1805).

<sup>70</sup> Dietrich Oehler, foreword to *Practica Nova Imperialis Saxonica Rerum Criminalium* by Benedict Carpzov, trans. Dietrich Oehler (Goldbach: Keip Verlag, 2000), iii-iv.

the broader legal discussion of the period centered on intention. The *Carolina's* definitions incorporated intent into the question of whether any type of killing constituted murder. The Augsburg town council habitually sought to prove that child-killers had acted on a long-standing intention, and to determine that the child's death had not been an accident.

Carpzov's two chapters on abortion and abandonment demonstrate further how important but complicated intention could be. In cases of abortion, Carpzov clearly states that courts needed to determine if the defendant had knowingly caused the abortion. He explained that a woman was fully guilty only if she had knowingly drunk a concoction mixed with the intent of inducing an abortion or if she had otherwise acted explicitly to force an abortion. If someone else had given her something to drink to induce an abortion and it could be determined that this was done without the mother's knowledge, that person and not the mother should be executed. Although no Augsburg cases ended in persons other than the mother being executed, there were examples in which the other person was punished more harshly than the mother. Likewise, if a child was abandoned with the intention that it be found and taken in by someone, then the punishment was milder than if a child was left to die somewhere less visible, such as a privy or a trash heap.<sup>71</sup>

Of course, Carpzov's were not the only legal opinions that influenced infanticide investigations. For example, a conflict between one of his disciples, Johannes Strauch, and another jurist, Justus Oldekop, enflamed seventeenth-century Brunswick. This conflict is central to William David Myers's book, *Death and a Maiden*, about the

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<sup>71</sup> Carpzov, *Practica Nova*, 63-85.



infanticide trial of a young woman named Grethe Schmidt. Strauch and Oldekop exchanged heated words over Grethe Schmidt's rights during her trial and the validity of her confession. More importantly, through this trial, Oldekop challenged Carpzov's opinions about the appeals process.<sup>72</sup> Nevertheless, Carpzov's elaborations and clarifications significantly influenced the entire legal process, from the use of torture through punishments.

Indeed, properly fitting the punishment to the crime was a major concern of most jurists. Infanticide featured prominently in this discussion. For example, Johann Karl Naeve still advocated for the use of the punishment of the sack as late as 1683; in his treatise he spends a great deal of effort discussing the Roman origins of and specifics of implementing this peculiar punishment. For him, the argument that the Romans used the punishment of the sack legitimized the practice.<sup>73</sup> Both Naeve and Carpzov extensively detail the symbolism behind the various animals that were supposed to be sewn up into the sack with the convicted child-murderer. The dog, for example, symbolized the unfaithfulness of the crime—the dog is the most faithful animal toward man, but will turn on the convict when deprived of food and forced into the sack.<sup>74</sup> The detailed discussion of this terribly impractical punishment—both Naeve and Carpzov discuss the acceptable alternatives—highlights the central role that assigning the proper punishment had in the juridical process.

The relationship between the killer and the victim in infanticide cases was of high concern to jurists as well. The narrow definition of infanticide in the *Carolina* presented

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<sup>72</sup> Myers, *Death and a Maiden*, 199-201.

<sup>73</sup> SStBA, Naeve, *Tractatio Iuridica*.

<sup>74</sup> Carpzov, *Practica Nova*, 5-6.

courts with difficulties when someone other than an unwed mother was suspected of killing a child. Though Carpzov addressed this question in 1635, it remained enough of a problem that jurist Wolfgang Adam Schoepf took it up in 1737. Both Carpzov and Schoepf framed infanticide differently than the *Carolina*. They considered the crime to be most severe when committed by either parent, regardless of the child's legitimacy—Schoepf further declares that the murder of adopted children or monstrous births (such as those discussed in chapter three) is just as serious a crime.<sup>75</sup>

Local legal experts would have kept abreast of this vast body of literature on infanticide. The practice of *Aktenversendung* also aided the circulation of ideas. *Aktenversendung* was the forwarding of cases to legal faculties at universities. This practice was laid out in the *Carolina*, which instructed localities to seek advice in certain cases.<sup>76</sup> Jurists who served on these faculties thus had the opportunity to put their legal theories into practice. Some localities would consult university experts on most capital cases, while others would only consult on the most complicated cases. Infanticide and abortion investigations often gave rise to complex legal issues and were punishable with death; therefore, these were frequent topics of concern for legal faculties. Faculties responded to these requests with responses called *Consilia* in which they ruled on both procedural questions, especially regarding the use of torture, and on sentencing and assignment of punishments. The legal faculty at the University of Tübingen, for example, produced 20,000 *Consilia* between 1602 and 1879, when the practice was ended throughout the newly-formed German empire. Civic authorities wrote to the Tübingen

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<sup>75</sup> Bayerische Staatsbibliothek Munich (BSBM), 2 Diss. 1670, Wolfgang Adam Schoepf, *Dissertationem Inauguralem de Infanticidio Praesumpto* (Tübingen: Schammianis, 1737).

<sup>76</sup> Sönke Lorenz, *Aktenversendung und Hexenprozeß* (Frankfurt: Lang, 1982), 27-28.

faculty from as far away as the duchy of Mecklenburg in northern Germany.<sup>77</sup> These jurists provided their expert input on over two hundred cases of infanticide or abortion between 1600 and 1800, mostly cases from small towns and villages around the Duchy of Württemberg.

The imperial cities in this study, however, did not often request the aid of university legal faculties; more frequently they exercised their right as free imperial cities and sovereign entities to decide on difficult cases themselves. These cities were not ultimately responsible to any overlord other than the emperor himself, and thus were not required to seek counsel. The council, therefore, rarely felt that cases exceeded its grasp, as magistrates in other regions frequently did.<sup>78</sup> However, even the free imperial cities occasionally encountered cases that baffled them. Augsburg did sometimes consult the legal faculty at the University of Tübingen, but never for cases of infanticide. Suits involving money, property, or complicated marital issues, especially those that involved other jurisdictions and disputes between towns and other territories were common causes for consultation. For local issues, Augsburg had its own legal consultants, who provided direction in particularly complex cases. These consultants provided reports similar to those of the consulting physicians. In these brief reports, they addressed one or two questions and made recommendations about how to proceed further, either with the interrogation or with a specific punishment.

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<sup>77</sup> Marianne Sauter, "Juristische Konsilien," in *Serielle Quellen in südwestdeutschen Archiven. Eine Handreichung für die Benutzerinnen und Benutzer südwestdeutscher Archive*, ed. Christian Keitel and Regina Keyler (2005), accessed December 11, 2011, <http://www.uni-tuebingen.de/IfGL/veroeff/digital/serquell/seriellequellen.htm>.

<sup>78</sup> See, for example, Myers' *Death and a Maiden*, in which a case of infanticide fed into an ongoing battle over jurisdiction between the city of Brunswick and the Duchy of Brunswick-Lüneburg. In this case the city council of Brunswick also consulted the legal faculty at the University of Helmstedt more than once.

In addition to the medical testimony discussed above, Anna Barbara Hauin's case also forced the council to seek legal advice. Between the 25<sup>th</sup> of May, 1692, when her dead child was discovered in a privy, and the 31<sup>st</sup> of July, Anna Barbara answered nearly one hundred questions from the council. Despite the full confession that the lung test helped ensure, the council needed the further expertise of legal consultants on the final day of Anna Barbara's trial, the day before she was executed. A few days earlier, a journeyman weaver named Johann Ludwig Michler had written to the council, offering to marry Anna Barbara and save her from execution. Johann Ludwig was drawing on the old tradition in which a condemned criminal could be pardoned following an offer of marriage. In practice, officials rarely allowed this tradition to alter rulings.<sup>79</sup> In 1621 Maria Hirschlerin offered to marry the father and murderer of her child, Matthes Erhart. Maria's offer proved unsuccessful, and so did Johann Ludwig's. However, in the 1692 case, the council seems to have deliberated further on the matter. Despite the rarity of this method of pardoning, the council gave it serious consideration. They consulted lawyer Johann Marci, who argued Anna Barbara had earned the death penalty and that he could find no legal basis for adhering to this marriage tradition; Anna Barbara was decapitated.<sup>80</sup>

The town council also needed outside legal advice in the case of Magdalena Wickhöfin, the woman who let her child bleed to death. Wickhöfin was executed because, even though she had not performed any violent act on her child, she was found responsible for letting it die. Having already borne and raised several children, she was

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<sup>79</sup> Richard van Dülmen, *Theater of Horror*, 110-111.

<sup>80</sup> StadtAA, *Urgichten*, Anna Barbara Hauin, 31 July 1692.

expected to know how to handle a child after birth; instead she had chosen not to do so. In addition to the testimony of medical experts (see above), a short report was also given on the legal question this unusual situation posed. Nowhere is there an indication of who authored the report—it is simply a small slip of loose paper filed with the rest of the case’s documents—but it is written in Latin, generally only used in these trials by trained jurists and physicians. The unnamed jurist argued that Magdalena “be submitted for the ordinary punishment,” because she had given birth in secret, a certain indication of evil intentions. Together with the fact that she had already given birth on multiple occasions, this indicated that the act was not an accident, and Magdalena deserved the prescribed punishment for infanticide. Accordingly, Magdalena was executed.<sup>81</sup>

Like Augsburg, the other three cities in this study also frequently consulted Tübingen on complicated court cases, such as convoluted jurisdictional issues or confused inheritance disputes. But, as with Augsburg, they also did not consult the Tübingen faculty on infanticide or abortion cases, with the exception of a single case from Nördlingen. This 1738 case of infanticide involved four suspects, including a young woman named Anna Magdalena Schröpplin, the mother of the supposedly aborted child, and her parents. All of the defendants contradicted each other in their individual testimonies, so it was unclear to the Nördlingen council members exactly whom they should investigate and charge with the crime. The Tübingen faculty did not offer advice about the final verdict, but gave instructions about how to proceed with the investigation. They suggested further interrogation of each suspect on certain central questions—the method of abortion, and who was considered responsible. They especially encouraged

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<sup>81</sup> StadtAA, *Urgichten*, Magdalena Wickhöfin, 23 February 1630.

further interrogation of the dead child's mother and grandmother. The jurists stated that they could not provide any further insight because the defendants' testimony was "so very contradictory."<sup>82</sup>

When seeking to establish guilt in infanticide cases from other localities, the Tübingen faculty used very similar criteria to the four cities in this study. As in the case of Anna Schaidhofin, they argued that extreme youth in a defendant could allow for a mitigated punishment.<sup>83</sup> The youth of a witness also brought into question the legitimacy and acceptability of that witness's testimony.<sup>84</sup> The loss of one's senses could, in certain circumstances, allow for a mitigated sentence.<sup>85</sup> Intention was central, and the faculty especially emphasized the importance of obtaining a confession of intention in addition to action.<sup>86</sup> They addressed complicated cases from other localities that involved multiple crimes, such as infanticide or abortion combined with witchcraft,<sup>87</sup> infanticide and repeated adultery,<sup>88</sup> and even dealt with one man accused of adultery with multiple women, incest with his sister-in-law, and procuring an abortion.<sup>89</sup> Suicide by proxy<sup>90</sup> or indirect suicide cases were frequently sent for consultation, as they dealt with multiple crimes—attempted suicide and infanticide—as well as complex motivations and questionable intentions and states of mind. The Tübingen faculty most frequently

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<sup>82</sup> Universitätsarchiv Tübingen (UAT), *Konsilien der Juristischen Fakultät*, 84/75 #397, 10 June 1738. StadtAN, Ratsprotokolle, 1738.

<sup>83</sup> UAT, *Konsilien der Juristischen Fakultät*, 84/3 #54, 29 September 1611.

<sup>84</sup> UAT, *Konsilien der Juristischen Fakultät*, 84/5 #113, 31 March 1619.

<sup>85</sup> UAT, *Konsilien der Juristischen Fakultät*, 84/3 #98, 29 April 1611.

<sup>86</sup> See for example, UAT, *Konsilien der Juristischen Fakultät*, 84/3 #191, 14 March 1613.

<sup>87</sup> UAT, *Konsilien der Juristischen Fakultät*, 84/7 #81, 22 August 1630.

<sup>88</sup> UAT, *Konsilien der Juristischen Fakultät*, 84/7 #35, 22 April 1630.

<sup>89</sup> UAT, *Konsilien der Juristischen Fakultät*, 84/76 I #109, October 1745.

<sup>90</sup> Kathy Stuart, "Suicide by Proxy: the Unintended Consequences of Public Executions in Eighteenth-Century Germany," *Central European History* 41 (2008), 413-445.

Tyge Krogh, *A Lutheran Plague: Murdering to Die in the Eighteenth Century* (Leiden: Brill, 2012).

weighed in on the use of torture—when it should be used, for what ends, and with what level of severity.

It is also possible that the Augsburg or other town councils consulted the legal faculty at the University of Altdorf, near Nuremberg, instead of Tübingen, but the case files of the four cities would have recorded such a consultation, and there is no trace in the records that this happened for these crimes. It seems, rather, that infanticide and abortion cases, despite the difficulties some occasional unusual circumstances presented, were common enough fare that these four free imperial cities did not feel the need to consult outside legal faculties. The cases that these cities did consult legal faculties on were highly unusual and often involved complex jurisdictional disputes. A woman who committed infanticide within the walls of a free imperial city could be prosecuted and sentenced simply enough within that same city without any need to go beyond those walls.

Legal consultations, in addition to propelling investigations forward through difficult junctures, were also an arena in which localities could affirm their independence. The free cities in this study asserted their sovereignty when they did not consult an outside legal faculty for crimes like infanticide: while such crimes occurred frequently enough, they were still serious, capital offenses. When Augsburg ruled on infanticide and other serious crimes, like witchcraft, the town council asserted a sovereignty that the small towns and villages (which did consult Tübingen) could not claim. Similarly, medical experts battled over jurisdiction. These experts worked within a hierarchy, with physicians at the top, who were able to overrule their underlings, especially midwives.

Despite their experience and expertise in all matters of pregnancy and childbirth, midwives were not considered as reliable as physicians. This was part of a wider trend near the end of the early modern period toward “professionalization” of the medical field, and the replacement of midwives with formally-trained male midwives and physicians.<sup>91</sup> By showing a preference for the testimony of physicians over midwives, the town councils contributed to this professionalization. Physicians’ opinions were held in higher esteem, and helped to buttress the council’s claims to sovereignty over certain legal affairs.

It is apparent that attempting to separate specifically legal issues from medical issues in criminal investigations for crimes like abortion and infanticide is a difficult task. The medical experts provided answers to essentially legal questions, and their testimony was often responsible for the ultimate fate of defendants. Physicians and midwives also clarified the evidence so that jurists could then reach the appropriate decisions. Although medical experts and legal experts were products of separate professional education and training systems, they both helped to assess the key concerns of intention and action, proving vital to the proceedings of infanticide and abortion cases.

Legal experts debated the finer points of infanticide in published treatises and through consultations. Yet between the *Carolina* in 1532 and legal reforms at the end of the eighteenth century, the legal discussion about infanticide did not undergo major developments. It was not until then that infanticide came to be seen as a privileged or

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<sup>91</sup> Mary Lindemann, *Medicine and Society in Early Modern Europe* (Cambridge: Cambridge University Press, 1999), 220-224.

Monica H. Green, *Making Women’s Medicine Masculine: The Rise of Male Authority in Pre-Modern Gynaecology* (Oxford: Oxford University Press, 2008), 246-287.



qualified form of homicide, one that was seen as more understandable, if still terrible.<sup>92</sup>

The Enlightenment brought about new ideas concerning the definition of crime.

Increasingly, crime was defined as something that was harmful to society; many argued that fornication was not, and should not, therefore, be considered a crime. Additionally, and as will be seen in the following chapter, the focus of concern for authorities began to shift from the crime itself to the offender. In practice this led to efforts to prevent infanticide in the first place rather than harshly punishing those who committed infanticide.<sup>93</sup>

#### *Theological debates and the unbaptized infant*

Theology constituted a third intellectual arena that was highly involved in the educated debate about infanticide and abortion, but that was not involved directly in criminal cases. Despite the lack of an immediate role in infanticide or abortion investigations, theologians' influence was felt strongly in educated and popular beliefs concerning sin, redemption, and, above all, the status of the soul. They passionately discussed the growing problem of infanticide and abortion as a crime that reflected, in their minds, the moral degradation of society. They debated how to prevent the sins that led to infanticide as well as how to punish the guilty. But it was the fate of the soul of the victim that was a unique difficulty in infanticide cases and that affected medical and legal definitions of the crime. Much of the horror associated with infanticide and abortion

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<sup>92</sup> Wilhelm Wächtershäuser, *Das Verbrechen des Kindesmordes im Zeitalter der Aufklärung: Eine rechtsgeschichtliche Untersuchung der dogmatischen, prozessualen und rechtssoziologischen Aspekte* (Berlin: Erich Schmidt Verlag, 1973).

<sup>93</sup> Otto Ulbricht, "The Debate about Foundling Hospitals in Enlightenment Germany: Infanticide, Illegitimacy, and Infant Mortality Rates," *Central European History* 18, no. 3/4 (Sep.-Dec. 1985): 221-222.

came from the fact that mothers who killed their unborn fetus or their newborn baby denied their innocent children the sacrament of baptism, denying them any chance at eternal salvation.

Central to the prosecution of abortion was the question of whether the aborted fetus had a soul yet. As discussed in previous chapters, the common belief among jurists and theologians was that a fetus did not receive a soul immediately upon conception, but rather that it gained its soul sometime around the quickening. The moment of quickening was up for debate, placed by various experts at several different points during pregnancy. Carpzov cited two popular ideas in his work: one that placed ensoulment at around the halfway point of pregnancy; another idea that he claims comes from Pliny “and numerous others,” is that male fetuses are ensouled at the 40<sup>th</sup> day after conception and females after 90 days.<sup>94</sup>

This idea actually traces back at least to Aristotle, who in his *History of Animals* states, “in the case of male children the first movement usually occurs on the right-hand side of the womb and about the fortieth day, but if the child be a female then on the left-hand side and about the ninetieth day.”<sup>95</sup> Ensoulment was an important factor in determining when and how life began, fundamental to studies of anatomy and philosophy long before the advent of Christianity. This debate entailed several questions. What exactly happened at conception? Did the soul exist in the seed of the father, waiting to be imparted unto the material substance in the womb of the mother? Or was Aristotle more

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<sup>94</sup> Carpzov, *Practica Nova*, 78-79.

<sup>95</sup> Aristotle, *The History of Animals*, Book VII, Chapter 3, 583b; from Jonathan Barnes, ed., *The Complete Works of Aristotle The Revised Oxford Translation*, Volume One Bollingen Series LXXI-2 (Princeton: Princeton University Press, 1984).

accurate, with his idea that the soul came from another source, several weeks or months into the pregnancy? What was the soul, after all? Was the movement of the fetus a sign of ensoulment? Was the soul synonymous with life? When did life begin?

These distinctions were especially significant in the treatment of abortion. Legal and philosophical definitions of abortion have, since antiquity, depended on when the fetus was considered living and whether or not the aborted fetus had a soul. The criminalization of abortion throughout European history has varied widely according to these definitions. But the notion that ensoulment happened sometime after, instead of at, conception seems to have been fairly widely accepted by the early modern period.<sup>96</sup> And this notion was enforced in Germany by the *Carolina*, which distinguished between the abortion of a fetus that was living—a crime that deserved execution—and a fetus that was not yet living—that did not.

Due to this crucial distinction, investigations focused intently on the duration of the pregnancy. Thus, the council pressed women on if and when they had felt the child move in their bodies. Such questions were fraught with peril for defendants, as both positive and negative answers could potentially reveal a crime. If a woman was suspected of abortion, but insisted that she felt the child continue to move after the supposed abortion, she was claiming that she had not attempted to abort, or that the abortion had not been successful, and she had not harmed the child. But if she had felt the fetus move, and it later died, then she still had to account for its death. However, if she had not felt the fetus move, then she might be able to argue that the child had never lived, that it had

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<sup>96</sup> Riddle, *Eve's Herbs*, 95-95.

never reached quickening. In this manner, a defendant might also be able to excuse ignorance of her pregnancy.

In 1569 the infanticide investigation into Walpurga Seitz turned into a possible case of abortion upon her claim that her child had been stillborn. The council asked her “how long she had been pregnant and been carrying a living child.” The physicians asserted and Walpurga even admitted that the child had indeed been living, meaning that she had committed a capital crime if she had caused the death of the child either before or after its birth.<sup>97</sup> The physicians’ determination of a living child cannot be disentangled from the theological understanding of quickening as the ensoulment of the fetus, for this is what distinguished the degrees of the crime. The legal distinction stems from article 133 of the *Carolina* that defined abortion as the killing of a “living fetus,” and as a capital crime, while the killing of a fetus that is not living was punishable, although not with death. With abortion especially, the legal, medical, and theological definitions were highly interwoven and dependent upon each other.

Uncertainty about the salvation of unbaptized souls only served to worsen the crime of infanticide. The death of young children was very common, and so was expected to a certain extent, but parents could ensure eternal life for their ill-fated offspring through proper baptism. The intense debate about unbaptized souls demonstrates that while many parents may have accepted the reality and nearness of death, they were still highly concerned about their children’s souls. In contrast to these parents, those who chose not only to murder their children but also to deny them salvation were considered all the more monstrous.

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<sup>97</sup> StadtAA, *Urgichten*, Walpurga Seitz, 22 December 1568.

Theologians struggled with the idea that unbaptized infants might face eternal suffering. Newborns needed to be cleansed of original sin, but many thinkers were still uncomfortable at the thought of what awaited those deprived of this single sacrament. The concept of Limbo, a special spiritual status for those who died in original sin, was prevalent in Catholic thought, but never official doctrine. Luther wavered on the salvation of unbaptized infants, on the one hand promoting separate burial for unbaptized newborns, but on the other also occasionally expressing hope for their salvation. For Calvinists, baptism was not essential to salvation; the quick death of a newborn was a non-issue as far as the salvation of its soul was concerned.<sup>98</sup> Among some Protestants, a new idea also developed—as long as the parents were among the faithful, the fate of their unbaptized children were included in God’s grace, which did much to set parents’ minds at ease. All of the confessions shied from the idea of unbaptized children suffering descending to hell.<sup>99</sup>

This concern about the fate of the unbaptized pervaded all levels of society, resulting in a variety of common practices and popular beliefs. Susan Karant-Nunn, for example, has explored how this uncertainty tied in with beliefs in ghosts. Infants who died unbaptized were sometimes thought to roam the earth as ghosts, trapped in a sort of in-between spiritual and physical existence. Sometimes these ghosts haunted their families and sometimes they just caused mischief. Karant-Nunn reports one ghost story

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<sup>98</sup> Susan Karant-Nunn, “Babies, Baptism, Bodies, Burials, and Bliss: Ghost Stories and Their Rejection in the Late Sixteenth Century,” in *Tod und Jenseits in der Schriftkultur der Frühen Neuzeit*, ed. Marion Kobelt-Groch and Cornelia Niekus Moore (Wiesbaden: Harrassowitz Verlag, 2008), 16-21.

<sup>99</sup> Susan Karant-Nunn, “‘Suffer the little children to come unto me, and forbid them not.’ The Social Location of Baptism in Early Modern Germany,” in *Continuity and Change: The Harvest of Late-Medieval and Reformation History*, ed. Robert J. Bast and Andrew C. Gow (Leiden: Brill, 2000), 359-378.

from 1583 about an infant whose own mother had killed it; he blamed her for the sorry state of his soul: “I am an unbaptized infant. My mother didn’t let me come to baptism but killed me and buried me in the cellar, under the floor. She was still unmarried...and she is burning in hellfire.”<sup>100</sup> Such stories demonstrate the persistence of popular beliefs and fear about the unknown despite theologians’ best efforts to make a firm decision on the subject and to educate the general populace.

Well before the reformations of the sixteenth-century, worry over infants’ souls led to into the practice of emergency baptism. Emergency baptism was an impromptu ceremony, performed by midwives or whoever else might be present to ensure the salvation of a child who was not expected to survive until a proper ceremony could take place. Emergency baptism by midwives was widely practiced and accepted, as they might be the only ones present in such situations. But because midwives were not and could not be ordained, theologians debated their role as baptizers. Emergency baptism became such an important question that magistrates began issuing specific laws to regulate the practice, which was, after all, a holy sacrament. Special midwife ordinances provided strict instructions for such situations. A 1737 Ulm city ordinance, for example, required midwives to use a simple statement in emergency baptisms: “I baptize you in the name of God the Father, and the Son, and the Holy Ghost, amen.” This formula did not differ much from the traditional ceremony, except that midwives were strictly limited to these exact words. Midwives wanted to baptize children as soon as possible if they had doubt about how long they would survive, but according to some ordinances, they were not to do so until the children were completely birthed, even if the child died before this

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<sup>100</sup> Quoted in Karant-Nunn, “Babies, Baptism, Bodies, Burials, and Bliss,” 12.

happened. The 1737 Ulm ordinance provided midwives with a text for use when the child could not be fully delivered before it died, a small consolation for never receiving baptism:

Oh loving GOD, heavenly Father, let this child be commended to you through Christ your Son, our Lord and Savior, and take it to you and not deliver it to our hands, because it is your divine will. Or with these words: Lord Jesus Christ, you have pleasure for the children, which are taken to you, and take them well into the eternal life, because you have said: let the children come to me, because this is the Kingdom of God; therefore we give over this child, commended for ever, not with our arms, but through our prayers, to you, the one who blesses us, take it, and let it receive your salvation on the cross, Amen.<sup>101</sup>

This passage highlights the uncertainty over the ultimate fate of the soul of unborn children. There was no orthodox solution for those who died before birth, and all the parents and midwives could do was pray.

Yet records show that midwives did sometimes baptize children while they were still in the womb regardless of regulations to the contrary. A 1735 midwives' handbook, printed in Augsburg, includes a diagram of an instrument that consisted of a pipe or tube made of ivory, labeled a "Spritzlein," or a little syringe, "which a midwife uses...during difficult births to baptize the child early in the mother's womb."<sup>102</sup> Presumably, this was done by inserting the syringe into the vaginal canal and spraying holy water onto the fetus. The very existence of a special instrument for this purpose demonstrates that

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<sup>101</sup> StadtAA, *Collegium Medicum*, Nr.18 Hebammen und Obfrauen, Karton 15, "Deß Heiligen Röm Reichs-Stadt ULM, Widerholt- und erneuerte Ordnung, Die Oberhändige Frauen, Heb-Ammen und Führerin betreffend," 1737.

Ach lieber GOTT, himmlischer Vatter, lasse die dieses Kindlein durch Christum deinen Sohn, unsern Herren und Erlöser, befohlen seyn, und nehme es zu dir, dieweil dein Göttlicher Will es und nicht in die Hände geben will. Oder mit diesen Worten: HErR JESu Christe, due has ein Wohlgefallen an den Kindlein, die dir werden zugebracht, und nimmst sie gern an zu dem ewigen Leben, dann du hast gesagt: Lasset die Kindlein zu mir kommen, dann solcher ist das Reich Gottes; hierauf uEbergeben wir dir dieses Kindlein, nicht auf unsern Armen, sondern durch unser Gebett, dir unserem Seeligmacher, nehme es an, und lasse es deiner Erlösung am Creutz erworben, wig befohlen seyn, Amen.

<sup>102</sup> SStBA, Widenmann, *Kurtze/ Jedoch hinlängliche und gründliche Anweisung Christlicher Hebammen*.

baptizing fetuses was a real concern. Again, this practice varied by confession, and while it was banned in Lutheran circles by the late sixteenth century, it continued amongst Catholics.<sup>103</sup>

Starting in the fifteenth century, this desire to save the souls of dying or dead infants led to the practice of reviving dead newborns just long enough to perform a quick baptism. Desperate parents searched for any sign of life to justify going forward with baptism. Historians Eva Labouvie and Arthur Imhof have found that this folk practice was particularly common in French- and German-speaking Catholic territories. Given the ambiguity in Protestant theology regarding baptism, the pressure to baptize children was diminished in Protestant areas. Relatives of a baby who was thought likely to die shortly after birth prayed, not for the child to live—this was thought to be beyond the reach of their hopes and prayers—but to live just long enough to be baptized. Babies who had already died were frequently taken to pilgrimage sites in the hopes that a miracle would restore life for a brief moment, so that the accompanying priest might perform the necessary sacrament. The relatives of the child would look for the faintest flush of red in the child's cheeks, the slightest twitch of its limbs, the smallest drop of sweat or blood, or the shallowest compression or extension of its chest as an indication of life. Priests and parishioners haggled over whether or not the baby had shown sufficient indication of life. Once it was determined that the child was beyond any help and would certainly not live,

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<sup>103</sup> Karant-Nunn, "Suffer the little children" 364.



relatives' hopes and prayers centered on the child's eternal life, rather than its earthly one.<sup>104</sup>

Labouvie also examines stories of child-murderers in France and Germany who baptized their children before they killed them, seemingly contradictorily ensuring their souls' salvation while destroying their earthly life.<sup>105</sup> While these women might have testified to the baptism in an attempt to lessen their crime, it is also possible that a quick baptism assuaged a conscience plagued by the thought of the crime they were about to commit. Such acts also demonstrated the mixed motivations of child-murderers and an intriguing state of mind on the brink of such a crime. Overwhelmed by the prospect of being discovered as the mother of an illegitimate child or raising a child out of wedlock or with limited resources, they were not always the godless, selfish, sexual deviants that early modern texts made them appear.

Although none of the child-murderers in the four cities of this study were thought to have baptized their children before killing them, there are several cases from Augsburg in which baptism of the child was discussed during the investigation. The council did not ask whether a defendant had baptized her child before killing it, but in a few unusual instances defendants offered, unprompted, the baptism of their child as proof of good intentions. Despite this attempt to ameliorate their circumstances, defendants did not win any extra pity from the council for having baptized their children. Perhaps, however, they

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<sup>104</sup> Eva Labouvie, "Sanctuaires a repit.' Zur Wiedererweckung toter Neugeborener, zur Erinnerungskultur und zur Jenseitsvorstellung im katholischen Milieu," in *Tod und Jenseits in der Schriftkultur der Frühen Neuzeit*, ed. Marion Kobelt-Groch and Cornelia Niekus Moore (Wiesbaden: Harrassowitz in Kommission, 2008), 82.

Arthur Imhof, *Lost Worlds: How Our European Ancestors Coped with Everyday Life and Why Life Is So Hard Today*, trans. Thomas Robisheaux (Charlottesville: University Press of Virginia, 1996), 127-139.

<sup>105</sup> Labouvie, "Sanctuaires," 92-94.

assuaged their own consciences. At most, such claims demonstrated that the child had lived long enough to be baptized and perhaps mitigated the perceived severity of its injuries.

Margaretha Baumüllerin, the young woman who unsuccessfully attempted to drown her newborn child, later retrieved her daughter and had her baptized. The child did not die, but Margaretha was still banished for her attempted crime. Margaretha might have immediately regretted throwing her daughter into a stream and wished to set things aright by baptizing her, but she might have also thought that her action would demonstrate to the council (and perhaps her family and neighbors) that she had good intentions toward her child, that throwing the child in the stream was a mistake and the result of only a moment's indiscretion.<sup>106</sup> The council left no indication that this made any difference.

Catharina Linderin, the woman who put her newborn into an empty barrel and went about her work, also attempted to use the baptism of her child to mitigate her actions. A daughter of Catharina's employer discovered the child soon thereafter and called other women to the scene; the women took the child out of the barrel and went inside, where they baptized the child. The child died a few hours later, as Catharina herself confirmed. To a question about whether she threw the child in the barrel and left it, Catharina replied:

She laid the child in the barrel, the afterbirth came from her after that, and she says she put those in the barrel also...Lacher's [her employer] daughter and more women came to the stall and took the child out of the barrel; the child was

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<sup>106</sup> StadtAA, *Urgichten*, Margaretha Baumüllerin, 20 August 1591.

thereafter baptized in the chamber; it had not lain in the barrel for a quarter of an hour.<sup>107</sup>

The council had not asked her at this point about what happened to the child after Catharina put it in the barrel, but she was quick to qualify her answer with further explanation. She insisted that the child was only there for a few minutes, and that she had not thrown the child in the barrel, but had placed it there. Finally, she went on to describe how the child had survived long enough to be baptized. Thus, Catharina denied any intention to kill the child, any direct violence against the child, and could claim that even if her actions had resulted in the child's death, she had not denied it baptism and the opportunity for salvation. Like many of the other excuses defendants used, Catharina's defense was an attempt to mitigate her actions and her crime. Indeed, she was not convicted of full infanticide: "although she did not kill the child with her hands, the child nevertheless died within several hours; therefore...she was publicly whipped with rods and banished from the city and territory."<sup>108</sup> Again, there is no indication that the child's baptism figured into her final sentence, except perhaps for persuading the council of the veracity of her story.

Anna Lercherin, accused of murdering her newborn boy in 1675, denied killing the child but admitted that it had died shortly after it was born. The Augsburg council then asked her "whether or not she baptized the child before this murder?" Anna responded, "no, she could not do anything for him, it was already gone by." This instance

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<sup>107</sup> StadtAA, *Urgichten*, Catharina Linderin, 30 April 1611.

Sagt hab sy das khind ins fas welches sy darzue genaigt, hinein glegt. die burden sey hernacher von ir khomen, und vermaine, sy hats gleichsfals zum khind ins fas gethon, und demnach...und des Lachers dochter in den stall und mehr weiber darzue khomen, habe sy selbs, das kind widerumb aus dem fass heraus genomen, welches hernacher in der stuben getaufft worden seie allso das khind, über ain viertl stund nit im fas gelegen.

<sup>108</sup> StadtAA, *Strafbücher*, Catharina Linderin, 30 April 1611.

is one of the few times in which the council asked about baptism; in the other examples, the defendant volunteered the information. The council was likely seeking to solidify their opinion of Anna's intention: just as Catharina Linderin and Margaretha Baumüllerin used the baptism of their children to show they had more positive intentions, the council could use the fact that Anna did not baptize her child as further evidence of her malign intentions. Anna was sentenced to death, but her sentence was reduced to banishment because of questions over her mental faculties. Although they did not order her examination by physicians, the council questioned Anna's nonsensical behaviors and explanations—she had taken the child out into the snow, but it was unclear if she had intended to abandon it, for instance—but it also questioned her spiritual-mental state. She laughed at inappropriate points during her interrogation, and toward the end of her trial Anna began to express her wish to die, stating that “she would rather die,” (“sie wolle lieber sterben”). The question of baptism was then not only a means for the council to determine intention, but also an inquiry into her mental health, and part of a larger set of questions about her spiritual knowledge.<sup>109</sup>

The crimes of infanticide and abortion thus raised important theological issues, especially concerning the state of the victims' souls. The existence or nonexistence of a soul defined the nature of the crime and could affect dramatically the outcome of the trial for the defendant. Whether or not the child had been baptized did not make any legal distinction in the crime committed or how it was prosecuted, but the fate of the child's soul was considered a far more important, lasting issue.

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<sup>109</sup> StadtAA, *Urgichten*, Anna Lercherin, 3 August 1675.

*Conclusions*

Criminal trials in free imperial cities, while they took place entirely within the independent bounds of the individual cities, were still deeply enmeshed in wider conversations about crime and justice. When it came to infanticide and abortion, this conversation expanded to the medical and theological communities. Town councils sought out expert testimony in these investigations not to contribute to these conversations, but to help with their own proceedings. Medical and legal experts helped to define the crime and the path of the investigation, to confirm testimony, to detect falsehoods, and to validate decisions.

Expert testimony became more important as infanticide cases grew in frequency, becoming a regular element in the investigations by the mid-seventeenth century. Although the number of infanticides remained fairly low, concern remained high and continued to grow. The town councils made every effort to be careful and thorough in their treatment of infanticide and abortion cases; they were eager to achieve a conviction, which would also serve the purpose of paving the way for a public execution. It was hoped that the spectacle of a public execution of a child murderer would frighten any potential child-killers, and even potential fornicators. The council's primary goal was a confession, but it wanted this confession to be as truthful and detailed as possible. Expert testimony helped the council to get at a more truthful confession by providing what it perceived as a version of events closer to the truth. Expert testimony also ensured that the council's actions during the trial, especially the use of torture, were justified.

Despite these aims, the growing use of expert testimony beginning in earnest in the seventeenth century did not produce an increase in conviction rates. One noticeable change, however, was a significant expansion in the length and thoroughness of investigations. The process had grown since one of the earliest cases of infanticide in Augsburg, that of Maria Weisschoferin in 1555, who gave her first testimony on the 15<sup>th</sup> of February and was sentenced to exile the very next day.<sup>110</sup> Anna Barbara Hauin's 1692 case was much more typical of the later decades—she sat in jail for over two months awaiting the conclusion of her trial.<sup>111</sup> But even Anna Barbara's case paled when compared with some of the more elaborate cases, such as Anna Lercherin,<sup>112</sup> whose trial stretched on for five months in 1675, or the convoluted case of Cyprian Wiser, which lasted for the greater part of 1693.<sup>113</sup>

Meanwhile, medical, legal, and theological debate over the causes and consequences of infanticide and abortion swirled across Europe, and especially Germany. This educated conversation was brought to localities and influenced individual trials through the doctors and lawyers whom the magistrates consulted. The discussion was furthered by the practice of *Aktenversendung* and the publication of countless dissertations and treatises on all the major and minor issues at stake. While the cities in this study had the rights to conduct investigations entirely independently, they did not operate in a vacuum, and they shared their practices and ideas with localities across Germany. This debate about infanticide would eventually be taken up by the *Aufklärer* at

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<sup>110</sup> StadtAA, *Urgichten*, Maria Weisschoferin, 16 February 1555.

<sup>111</sup> StadtAA, *Urgichten*, Anna Barbara Hauin, 31 July 1692.

<sup>112</sup> StadtAA, *Urgichten*, Anna Lercherin, 3 August 1675.

<sup>113</sup> StadtAA, *Urgichten*, Cyprian Wiser, 26 September 1693.

the end of the eighteenth century, and a new sort of frenzy grew. Infanticide became the *cause célèbre* of the great enlightened minds of Germany. Plans to bring an end to infanticide clashed with worries about preserving morality and with increasing debate about the use of torture and the death penalty. And in the four cities of this study, cases of infanticide reached new heights of sensation and public attention and child-murderers became household names, the subjects of prolific accounts of murder, conversion, death, and redemption.

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**“Sighs of the Poor Sinner:”  
Sensationalism and Decline**

May your spirit work for my salvation; Oh Holy Spirit you make the path, For me to go to Heaven.	Dein Geist sey um mein Heil bemüht: Ach heiliger Geist mach du die Bahn, Daß ich zum Himmel wandeln kan. <sup>1</sup>
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Thus ended a poem credited to Anna Katharina Türkin as she prepared herself for execution. Anna Katharina was convicted of infanticide in Ulm in 1783. The poem was published alongside a detailed summary of her crime, her trial, and her execution. Hers came towards the end of a series of similar eighteenth-century publications in Augsburg and Ulm. These pamphlets drew on powerful language of sin, murder, religious conversion, and death, in prose and song, to spin tales of crime and redemption. Infanticide trials in the four Swabian cities of this study were few and far between in the eighteenth century, but the cases that did occur were accompanied by great fanfare. This was a new kind of sensationalism, tied into a growing German discourse on infanticide, which engrossed many levels of society, from local printers to the greatest Enlightened thinkers and the most famous poets and dramatists of the age. Infanticide had become a *cause célèbre* of the Enlightenment, and a favorite subject for the *Sturm und Drang* literary movement.

In 1780, when an anonymous donor issued a *Preisfrage*—or essay contest—asking for the best practical solutions to the problem of infanticide, nearly 400 people submitted entries. Yet there had not been a recorded or prosecuted case of “classic”

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<sup>1</sup> Stadtarchiv Ulm (StadtAU), Stbibl. 27148 1785, Urteil über die am 25. Apr. 1785 hingerichtete Kindsmörderin Anna Katharina Türkin, 1/2 Bogen.



infanticide in Augsburg in fifteen years.<sup>2</sup> Although cases were recorded after 1780, and surely more went undiscovered and undocumented, the frequency of infanticide had clearly decreased. In fact, Barbara Gruberin's execution in 1765 was the last for the murder of an illegitimate newborn in the city of Augsburg.

This decline in prosecution was not unique to the cities of Swabia. Across eighteenth-century Germany, the frenzied discourse on infanticide far outstripped the actual occurrence (as far as can be known) and prosecution of the crime. Richard van Dülmen, for example, found similarly declining numbers for both infanticide and executions for infanticide in the late-eighteenth century in Danzig, Nuremberg, and Württemberg.<sup>3</sup> Most studies focus on too narrow a chronological period to demonstrate a clear decline through the eighteenth century,<sup>4</sup> but infanticide constituted only a small percentage of all crimes committed even at its peak; the feverish pitch of the debate likely always exceeded the severity of the problem. This chapter explores the apparent contradiction in the declining infanticide rates and the simultaneous growth of sensationalism and learned debate. The more rare infanticide became, the worse each individual case seemed.

### *Court records in the eighteenth century*

Infanticide did continue to occur, albeit less frequently, in the eighteenth century. The apparently low numbers of actual occurrence are made to seem even more so by the

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<sup>2</sup> Stadtarchiv Augsburg (StadtAA), *Strafamt, Verzeichnis der Maleficanten*, Barbara Gruberin, 20 August 1765.

<sup>3</sup> Richard van Dülmen, *Frauen vor Gericht*.

<sup>4</sup> See, for example, Otto Ulbricht, *Kindsmord und Aufklärung in Deutschland*, which focuses on the late eighteenth century.

state of the surviving records. The eighteenth century produced a wealth of popular literature on crime, but in the Swabian cities, the court records are disproportionately thin in this period. In Augsburg, the practice of thoroughly recording criminal trials in both the *Strafbücher* and *Urgichten* abated in the eighteenth century. The city of Augsburg continued to record the outcomes of trials in the *Strafbücher*, but this practice became more sporadic, as did the preservation of these records. The *Strafbücher* provide a rough idea of the number of cases and their outcomes, but hardly any details of the trials. At least four different lists of executions in Augsburg survive. These lists reveal holes in the *Strafbücher*, especially in the eighteenth century. The *Urgichten* are also incomplete, and most of the surviving files from the eighteenth century contain only the final denunciation of the criminal, known as the *Verruf*. Some of these *Verrufe* were also published, both for inclusion in the city records and for general distribution. Many case files, especially from the latter part of the century, are simply missing. The number of *Urgichten* involving infanticide or abortion, therefore, is a poor indicator by itself of the actual patterns of occurrence or even of prosecutions in this century, as other records indicate the existence of many more cases. The handful of thorough case files from century, however, indicate that trial procedures remained consistent, with multiple and lengthy witness statements and expert testimonies.

The other cities in this study are even less fortunate than Augsburg. The *Kriminalakten* of Nördlingen, which are similar in format to the *Urgichten* of Augsburg, but end in 1696. Thereafter, criminal cases were recorded in the town council minutes, but in less detail. Based on the available records, cases of infanticide declined sharply in

eighteenth-century Nördlingen. No published *Verrufe* from Nördlingen survive in that city's archive, but a pamphlet published in 1716 tells the story of a child-murderess's conversion.<sup>5</sup> No case files from Memmingen from the eighteenth century are to be found in the city's archive, perhaps due to the more haphazard systems of the town's court recorders, which left these records somewhat scattered. And in Ulm, as previously discussed, practically no records from eighteenth-century court proceedings survive. Two published *Verrufe* about infanticide do survive in the Ulm city library, however.<sup>6</sup>

An example of a child-murderess with a complete case file from the eighteenth century is Theresia Seizin, who was accused of infanticide in 1725. She was a twenty-six-year-old serving maid in Augsburg who had been impregnated by Hanns Georg Rugele, a journeyman mason. During her testimony, she asserted that she did not know she was pregnant and the onset of labor had surprised her. She went to a privy and gave birth to her dead child there. She never admitted to killing the child, and consistently insisted that the child was stillborn.

But Theresia's interrogation became more complicated when the council prodded her further on the question of her knowledge about her pregnancy. Theresia denied she knew of her pregnancy before labor began, as she "always had had such a thick and fat stomach." Further, she claimed, "if she had known of her pregnancy, she would only have had to tell Rugele, and he would have married her." She repeated this claim when

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<sup>5</sup>Eileen Dugan, "The 'Poor Sinner' of Nördlingen: A Lutheran Criminal Conversion Narrative," in *Tod und Jenseits in der Schriftkultur der Frühen Neuzeit*, ed. Marion Kobelt-Groch and Cornelia Niekus Moore (Wiesbaden: Harrassowitz in Kommission, 2008), 213-226.

<sup>6</sup>StadtAU, Stbibl. 27148 1785, Urteil über die am 25. Apr. 1785 hingerichtete Kindsmörderin Anna Katharina Türkin, 1/2 Bogen.  
U 6127 1769 Jan. 27, Todesurteil gegen die Kindsmörderin Waldburga Joosin.

asked if Hanns Georg knew of her pregnancy: “he did not know it, and further he would have been happy, if she was pregnant, for he had said to her, if she were pregnant, he would be happy, he would marry her immediately.” Although claiming ignorance about a pregnancy was a common strategy among accused child-killers, Theresia’s version was unique. If it was indeed true that Hanns Georg would have married her had he known about the pregnancy, then Theresia’s story is all the more tragic for what could have been. Had she and Hanns Georg been married and she had still given birth to a dead child, there would have been little reason to suspect infanticide and she very likely would never have been arrested. Instead, Theresia ended up unmarried, with a dead child after what was likely a traumatic childbirth, and endured a lengthy trial, torture, and permanent banishment from the city.<sup>7</sup>

Theresia’s statements during the trial raise questions about testimony and motivation. Was she telling the whole truth, a half-truth, or none at all? If she really did not know she was pregnant, then her story makes a certain amount of sense. But if she did know she was pregnant, and why had she not told the father? Did she plan to get rid of the child? Was she hoping that the problem would go away? Or was she lying about Hanns Georg’s statements as well (if Hanns Georg himself was questioned, his testimony does not survive)? Did she think he would not really marry her? Did she say that he would have married her to make their relationship appear more respectable? If her statements are truthful, it seems Hanns Georg and Theresia viewed marriage as a possibility, but perhaps not their first choice at the time. Even her complete case file

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<sup>7</sup> StadtAA, *Urgichten*, Theresia Seizin, 21 April 1725.  
StadtAA, *Strafbücher*, Theresia Seizin, 21 April 1725.

leaves many questions unanswered, but it demonstrates how the age-old assumptions and procedures of the Augsburg town council remained consistent into the eighteenth century, despite the growing sensation and declining prosecutions.

For many cases during the eighteenth century, only the final *Verruf* remains. Such is the surviving record from the 1743 trial of accused child-murderess Anna Maria Endressin. Multiple execution records quote an identical text, indicating that all worked from the same official *Verruf*. It reads:

1743, the 18<sup>th</sup> of May

Anna Maria Endressin, born in Rohrbach near Donauwörth, 20 years old, of the Catholic religion, banished from this same place for leading an unchaste life and birthing a dead child; she not only recently broke the sixth commandment [forbidding adultery], but also hid her resulting pregnancy, and threw her secretly born child in a s[alva] v[enia] privy; for these reasons she was brought into custody here [in Augsburg]. Because she then insisted amicably [without torture] and painfully [with torture] that the child that she bore into the world was without life, and that she had hidden the pregnancy because she had in mind that she would not give birth here [in Augsburg], but elsewhere; she intentionally threw the child into the s.v. privy so that her pregnancy would not be known; with just judgment, although this Endressin deserves to be publicly flogged for her evil lies and concealments, also her outrageous throwing of the child into the s.v. privy, out of mercy and in consideration of her having withstood torture, after an oath she is to be let out of prison, but as punishment and as an example for others, she must stand publicly in front of the town hall and undergo denunciation and banishment for not less than eternity from this city and the surrounding area.<sup>8</sup>

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<sup>8</sup> StadtAA, *Strafamt, End-Urthel und Verruf*, Anna Maria Endressin, 18 May 1743.

Wurde Anna Maria Endressin, von Rohrbach, bey Donauwerth gebürtig, 20 Jahr alt, Cathol. Religion, nachdeme selbige allbereits schon vormahlen in ihrer Heymath ein unkeusches Leben geführt, und ein todttes Kind gebohren, auch dessentwegen aus der Gemeine geschaffet worden; sich nicht allein jüngsthin auf ein neues wider das sechste Geboth vergangen, sondern auch ihre dahero entstandene Schwangerschafft freventlich verheelet, und das von ihr heimlich gebohrne Kind in ein s.v. Privet eworffen; mithin dessentwegen zur allhiesigen Verhafft gebracht worden. Da sie dann auf die mit ihr vorgenommene so gütlich als peinliche Frage allstets darauf beharrete, wie dass, das von ihr zur Welt gebrachte Kind ohne Leben gewesen, und sie ihre Schwangerschafft um desswillen verheelet, alldieweil sie nicht allhier, sondern anderstwo niederzukommen im Sinn gehabt; die Geburt aber in der Absicht in das s.v. Privet geworffen, damit ihre Schwangerschafft nicht offenbahr werden sollte; mit Urthel zu Recht erkannt, dass gedachte Endressin, obwohlen sie wegen ihres bosshafften Laugnens und Vertuschens, auch frevelhafftem Werffens des Kinds in das s.v. Privet far wohl mit dem öffentlichen Staupen-Schlag abgestrafft zu werden verdienet hätte, so ihr aber aus Gnaden, und in Betracht der gestandenen Tortur, nachgesehen worden, nach abgeschwohrner Urphet des Verhaffts entlassen, dargegen aber zur Straffe, und andern zum Exempel,

Although this statement provides significant detail, no record of the actual interrogation or witness and expert statements survives. A certain amount might be surmised from this statement and from comparing Endressin's to similar cases from a half century before, but such a paucity of records severely limits what can be known about Endressin's actions and experiences.<sup>9</sup>

### *Printed sources*

A variety of other sources about infanticide available from the eighteenth century provides an opportunity to compare multiple perspectives on the crimes of infanticide and abortion. Unlike the fantastical sensationalism of the previous centuries, local cases of infanticide were addressed by printers in eighteenth-century Swabia. These were often the more unusual cases, such as a father killing his pregnant girlfriend or suicides by proxy, but even fairly typical child-murderesses featured in pamphlets. Usually such pamphlets featured criminals who were executed; because executions declined in the eighteenth century, each occurrence merited particular attention.

Reports of criminal cases in the eighteenth century were very different from those of the sixteenth and seventeenth centuries. The earlier reports were usually shorter—sometimes just a broadside—and communicated primarily through images. In the eighteenth century, such pamphlets took on a more authoritative tone. Most often, these publications were reproductions of the official *Verruf*. Sometimes this denunciation was

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öffentlich vor das Rathhauss gestellt verruffen, wie nicht minder auf ewig aus allhiesiger Stadt und Dero Gebieth relegirt.

<sup>9</sup> StadtAA, *Urgichten*, Anna Maria Endressin, 18 May 1743.

accompanied by an image, and sometimes by additional written material, such as speeches, songs, and poems. This material was frequently all bound together in one pamphlet; some of these pamphlets stretched on for dozens of pages. The inclusion of the official *Verruf* lent an air of authority to the rest of the material, which was often full of more liberal accounts of the crime and supposed reports of the condemned criminal's words.

In Augsburg, *Verrufe* were published under the auspices of the city bailiff (for much of the eighteenth century, a man by the name of Samuel Valentin). Andreas Brinhaußer, a "city book printer," was responsible for much of the printing. A note at the end of one of the published *Verrufe* states:

Samuel Valentin, city court bailiff, has collected all sentences and denunciations from the year 1759 and put them together in order, and they are bound in this format by Andreas Brinhaußer, city book printer, and with a handsome copperplate (in which a depiction of the front of the town hall, the path to the place of execution and justice can be seen) and are for sale, this copy costs no more than 15 Kreutzer.<sup>10</sup>

For a collection of several pamphlets, this must have been a price that many, if not all, could afford. Some copies have been bound together with the *Urgichten*, though more were bound together with or reprinted in the various lists of executions in the city. Some surviving pamphlets have been bound together into collections of several such texts. At least nineteen such pamphlets from Valentin survive in the Augsburg city library and

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<sup>10</sup>Staats- und Stadtbibliothek Augsburg (SStBA), 4 Aug 1532a, Samuel Valentin, Augsburg, 1759. One Kreuzer equaled 3.5 Pfennig, and 60 Kreuzer equaled one Gulden. See Thomas Safley, *Charity and Economy in the Orphanages of Early Modern Augsburg* (New Jersey: Humanities Press, 1997), viii. 15 Kreutzer would have been 52.5 Pfennig.

Weilen Samuel Valentin, Stadt-Gerichts Waibel, alle Urthel und Verruf von Anno 1659 colligirt und ordentlich zusammen getragen, so sind selbe bey ihm, als auch bey Andreas Brinhaußer. Stadt-Buchdrucker, in diesem Format gebunden, und mit einem schönen Kupfferstich, (allwo die Darstellung vor das Rathhauß, Hinausführung zu der Richtstatt und Justificirung zu ersehen) zu verkauffen, das Exemplar kostet nicht mehr als 15. Kreutzer.

another can be found in the Bavarian State Library,<sup>11</sup> and it is likely that he printed many more.

*Verrufe* served to publicize the crimes of an executed criminal and, therefore, to justify the execution that the public witnessed, perhaps even as these witnesses were holding these pamphlets in their hands. These *Verrufe* were often published in the same pamphlets as looser retellings and artistic interpretations of crimes. For example, the *Verruf* denouncing Samuel Keck, who murdered his pregnant lover, was printed alongside dozens of pages of his supposed speeches and poems.<sup>12</sup> Printers of these poems, songs, and speeches reprinted the official *Verrufe* with their own pieces in order to authenticate and contextualize the information presented in their more creative accounts. The *Verrufe* are valuable sources from this period when court records are scarce, but their publication and their inclusion with other, less reliable printed materials confuses the nature of the sources. The distinction between court documents and fictionalized and sensationalized literature is not always clear.

#### *Maria Barbara Schmidin*

As in the case of Anna Maria Endressin, only a *Verruf* survives from Maria Barbara Schmidin's trial for infanticide. Maria Barbara's, however, was published in pamphlet form, on or two quarto-sized leaves, printed front and back. The front states the

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<sup>11</sup> BSBM, 4 Bavar. 3342 n, Samuel Valentin, *Ein HochEdler und Hochweiser Rath der des Heil. Röm. Reichs Freyen Stadt Augspurg hat mit Urthel zu Recht erkannt, daß Donnerstag den 28ten Junii A. 1764 zwey Juden Namens David Hirsch Levi und David Löw Levi, beede von Scheittach aus der Chur-Bayrischen Herrschafft Rothenberg gebürtig, wegen höchst-straßbahrer Aßignations-Nachmachung von 130. Carld'or ... ausgehauen werden sollen* (Augsburg: Brinhauser, 1764).

<sup>12</sup> StadtAA, *Strafamt, End-Urthel und Verruf*, Samuel Keck, 20 December 1710.



basic information:

Augsburg, the 17<sup>th</sup> of June, 1760, Maria Barbara Schmidin, a serving maid here, born in Harburg, because she mercilessly killed her illegitimately conceived child, a little girl, who was already four weeks old, out of mercy was brought from life to death with the sword and bloody hand.<sup>13</sup>

The next pages delve into the specifics of the case—Maria Barbara killed her child secretly, by hitting it on the head, and she was prosecuted according to article 131 of the *Carolina*, which addresses infanticide. The greatest attention was given to her punishment: Maria Barbara was given over to the executioner, she was publicly displayed before the town hall, her conviction read for everyone to hear, and she was decapitated for her crimes and as an example to others.<sup>14</sup>

This pamphlet is dated June 17<sup>th</sup>, 1760, the same date recorded for her execution in the city court records.<sup>15</sup> A copy is filed with the city's *Urgichten*, and its wording is terse and official without any of the common accompanying songs or poems, suggesting that this was more of an official document than one meant for entertainment. Yet the multiple printed copies instead of a handwritten note in the court records meant it was intended for wider consumption. Perhaps it was meant to be handed out at the execution so the crowd would know the crime; or perhaps it was printed on the day of the execution to further spread the warning that Maria Barbara should serve as an example to other

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<sup>13</sup> SStBA, 4 Aug 1532a, Samuel Valentin, *Augsburg, den 17. Junii Anno 1760. wurde Maria Barbara Schmidin, geweßte allhiesige Dienst-Magd, von Harburg gebürtig, weilen sie ihr in Unehren erzeugtes Kind, ein Mägdlein, da selbiges schon 4 Wochen alt gewesen, Erbarmungswürdiger Weise ums Leben gebracht, Aus Gnaden durch das Schwerdt und blutiger Hand vom Leben zum Tode gebracht* (Augsburg: Brinhauser, 1760).

Augsburg, den 17. Junii Anno 1760. Wurde Maria Barbara Schmidin, geweßte allhiesige Dienst-Magd, von Harburg gebürtig/ weilen sie ihr in Unehren erzeugtes Kind, ein Mägdlein/ da selbiges schon 4 Wochen alt gewesen/ Erbarmungs-würdiger Weise ums Leben gebracht. Aus Gnadendurch das Schwerdt und blutiger Hand vom Leben zum Tode gebracht.

<sup>14</sup> Ibid.

<sup>15</sup> StadtAA, *Verzeichnis der Maleficanten*, Maria Barbara Schmidin, 17 June 1760.

serving maids. It is also possible, and the tone of the pamphlet seems to indicate, that these were the words read out as a part of the execution ceremony. Whatever its specific purpose, it was intended to inform the public of Maria Barbara's crime and to justify the town council's actions in executing her.

The year before, Regina Ursula Schölerin was also executed for infanticide; as with Maria Barbara Schmidin, the only surviving evidence is a four-page *Verruf*. However, the details of her crime differed. After a secret birth, Regina Ursula did not tie off her baby's umbilical cord; she then wrapped the child in a blanket and kicked it to death. For helping her to conceal the crime, Regina Ursula's sister, Sabina Elisabetha Schölerin, faced the punishment of being forced to watch Regina Ursula's execution (it is unclear if she faced any additional punishment). Despite these differences, the general formula, message, and tone of the pamphlet remained the same as Maria Barbara Schmidin's.<sup>16</sup>

The four pages of the *Verruf* pamphlets and short notices in an execution list are the only surviving evidence about Maria Barbara Schmidin's and Regina Ursula Schölerin's crimes. *Verrufe* like theirs were printed frequently in the eighteenth century, in order to broadcast the council's actions and the sad fate that awaited criminals. However, many of these pamphlets took on a very different form. The *Verruf* itself almost always followed the same format, clearly stating the necessary information about the criminal, his or her crime, and the deserved punishment. But this was often elaborated upon with extensive creative material. In contrast to the starkness of Maria Barbara Schmidin's and Regina Ursula Schölerin's surviving case reports, a vast literature

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<sup>16</sup> SStBA, Valentin, *Regina Ursula Schölerin*.

survives from the reaction to the crimes of Barbara Gruberin.

*Barbara Gruberin*

In Augsburg in 1765, twenty-two-year-old Barbara suffocated her newborn daughter under her bed. Her published *Verruf* closely resembles Maria Barbara Schmidin's. However, appended to Barbara's *Verruf* is a six page long "departure-speech." The author of the pamphlet presents this speech as if Barbara had given it herself immediately before her execution, as she stood before the Augsburg town hall. Such gallows speeches purportedly came from the lips of the condemned, but were so contrived that can hardly be taken as accurate accounts. These speeches were instead intended to deliver certain lessons to the audience. In the case of convicted child-murderesses, a gallows speech presented a prime opportunity for writers to convey messages about the dangers of fornication. "Barbara" warned other "impudent youths" and "wicked women" to see her and recognize the consequences of lasciviousness and impudence; she recounts the circumstances of her crime and arrest, and she expresses her hopes for salvation. A section of the speech conveys its message and tone:

It was I, who, on the 16<sup>th</sup> of March, 1765, gave birth to a healthy and living baby, who was, unfortunately! conceived in dishonor; but I was not released from the bonds and ties of Satan, through which I was forced to do his will; then, instead of true repentance and conversion to the worthy bonds of Jesus the savior of all sinners, to earnestly seek mercy, forgiveness, salvation, and freedom, I let myself be even more tightly bound and fettered to Satan according to his and my will; so that I first concealed my shameful pregnancy from the people; then my secret parturition I godlessly hid, and finally also, oh alas! wrapped my innocent child in an apron, and stuck it under a straw sack, so that it would miserably suffocate in its blood and bleed to death.

Oh foolish deed! Oh shocking outrage! Oh inhuman murder! I let an innocent child, my own child, without mercy or compassion, without the feeling of

motherly love and devotion, be destroyed and die! But on the spot the wrath of omniscient God pursued me, then through the unexpected visit of my fellow maidservant, the hidden pregnancy and secret birth, as well as the horrid murder in one instant became apparent to my master, yes and in a few hours to the whole city; and therefore the same day I was arrested. But now I have comprehended, according to divine and man's laws, what my shameful, what my horrifying deeds are worth. OH GOD! OH JESUS! Have mercy on me.<sup>17</sup>

Barbara then repeats her warning for others to learn from her mistakes and hopes she will find freedom in a new life after death.<sup>18</sup>

The speech's true author is not recorded, but the intent is clear. Publishing the speech alongside her *Verruf* lends the speech authority, while the speech, purporting to come from the lips of Barbara herself, adds emotional impact to the *Verruf*. Together, these publications were intended to be a powerful warning to other young single people about the dangers of fornication and of disobeying their parents and the town authorities. The publication of the *Verruf* and the speech together may also have broadened the

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<sup>17</sup> SStBA, 4 Aug 1532a, Samuel Valentin, *Ein HochEdler und Hochweiser Rath des Heil. Röm. Reichs-Freyen Stadt Augspurg, hat mit Urthel zu Recht erkannt, Daß, den 20. Aug. Anno 1765. Barbara Gruberin, allhiesige Dienst-Magd, von Mauren gebürthig weilen sie ihr in Unehren erzeugtes Kind, gleich nach der Geburt Erbarmungs würdiger Weise ums Leben gebracht, durch das Schwerdt vom Leben zum Tod gebracht werden solle* (Augsburg: Brinhauser, 1765).

Ich bin es, welche, den 16. März Anno 1765 mit einem gesunden und lebendigen, leyder! in Unehren erzeugten Kinde entbunden worden; Aber nicht von den Banden und Stricken des Satans, von welchen ich gefangen war zu seinem Willen. Dann an statt durch wahre Buse und Bekehrung in den verdienstlichen Banden JESU des Heylandes aller armen Sünder, Gnade, Vergebung, Erretung und Freyheit ernstlich zu suchen, ließ ich mich vom Satan nach seinem und meinem Willen, noch fester fesseln und binden; So daß ich zuerst meine schändliche Schwangerschaft, vor denen Menschen verhehlt, so dann meine heimliche Entbindung gottloser Weiß vertuscht, endlich aber auch mein, ach leyder! unschuldiges Kind in einen Schurz eingewickelt, und unter den Strohsack gesteckt habe, mithin in seinem Blute elendiglich ersticken und es zu todt bluten ließ.

O verwegene That! O erschröckliche Schandthat! O unmenschliche Mordthat! ein unschuldiges Kind, mein eigenes Kind ohne Erbarmen und Mitleyden, ohne Gefühl einer Mütterlichen Liebe und Treue verderben und sterben lassen! Aber auf der Stelle verfolgte mich die gerechte des allwissenden Gottes, Denn durch den unvermutheten Besuch meiner Neben-Magd wurde so wohl die verborgene Schwangerschaft, und heimliche Entbindung als auch die grausame Mordthat in einem Augenblick meiner Herrschafft, ja in wenigen Stunden der ganzen Stadt offenbah; Daher ich auch noch selbigen Tag in gefänglichen Verhaft gebracht wurde. Jezo aber empfangen ich nach Göttlichen und Menschlichen Rechten was meine schändlich, was meine schröckliche Thaten werth sind. O GOTT! O JESU! erbarme Dich meiner.

<sup>18</sup> Ibid.

appeal of each; it is easy to imagine that the combination sold more copies than just a *Verruf* alone.

Barbara Gruberin turned out to be the last recorded execution for “classic” infanticide in the eighteenth century. But Barbara’s execution received significant attention, perhaps hinting at the decline in executions in general and cases of infanticide specifically. Such furor over each case of infanticide would have been unimaginable at the crime’s peak in the early-seventeenth century; but by the turn of the eighteenth century, each case stood out. And in an environment in which infanticide was a *cause célèbre*, each instance resulted in lengthy publications. In fact, the text dedicated to Barbara Gruberin was quite short compared to executions that inspired multiple songs, poems, speeches, and condemnations.

### *Samuel Keck*

Judging by the expanse of the literature about his crime and execution, Samuel Keck was one of the most notorious criminal in eighteenth-century Augsburg. On the 20th of December, 1710, the twenty-year-old merchant’s apprentice was decapitated and strung up on the wheel for the murder of his pregnant former lover, Jacobina Bäurin. Two weeks earlier, Samuel had confronted Jacobina to persuade her not to name him as the father of her child. She was unwilling, and Samuel “took a knife and gave her multiple stabs and cuts...and then hauled her to the water and threw her in...he killed Jacobina Bäurin and also the living child in her womb.”<sup>19</sup>

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<sup>19</sup> StadtAA, *Strafamt, Todesurteile*, Samuel Keck, 20 December 1710.  
StadtAA, *Strafamt, End-Urthel und Verruf*, Samuel Keck, 20 December 1710.

Another account provides even more pitiable details:

Samuel Keck, a merchant's apprentice from Ravensburg, in his 21st year, in Augsburg on Sunday the 7th of December, 1710, between 6 and 7 in the evening, after the gate was locked, outside of the city, miserably and fatally wounded a highly pregnant single woman, who intended to name him as the child's father, with intentional ferocity with his table knife and then threw her into the flowing water; then she floated into the city and was pulled out while she was still warm; immediately after the murder he immediately came into the city after it was opened, and the next day the 8th around 11 o'clock impelled by his conscience gave himself over to arrest and freely admitted everything, and only asked for a quick and merciful judgment, which took place on the 20<sup>th</sup>; his head was chopped off, and his body was placed on a wheel for four weeks.<sup>20</sup>

Samuel's crime led to the production of a striking burst of publicity, much of which came from the workshop of Caspar Brechenmacher, a prolific Augsburg printer.

His crime inspired multiple pamphlets, running to dozens of pages, which turned

Samuel's actions into a warning about the consequences of sin. In foreboding verse, the reader is told of the imminent danger:

May the heavens blacken  
because of the wicked outrage/  
done out of stubborn mind and heart/  
through the drive of murderous spirit/  
I behaved more than barbarically/  
and betrayed God and the world.

Der Himmel möchte selbst sich schwärzen  
Ob der verruchten Frevelthat/  
Die aus verstockt Sinn und Herten/  
Durch des Mord-Geistes Trib und Rath/  
Mehr als Barbarisch verübet/  
Und dardurch GOtt und Welt betrübet.

<sup>20</sup> SSStBA, 4 S 567-1, Caspar Brechenmacher, *Kurtzes Und Von dem armen Sünder in dem Gefängnuß mit eigner Hand aufgesetztes Lebens-Gedächtnuß, Aufrichtige Sünden-Bekandtnuß, Schmerzliche Bereuung, Hertzliche Ermahnung und Christlich-standhaffte Todes-Verfassung. Weil: Samuel Keck, Von Ravenspur, geweißter Handels-Jungen, Seines Alters im 21. Jahr, so Sonntag den 7. Dec. 1710 in Augspurg eine hochschwangere ledige Weibs-Persohn, welche ihn als Kindes Vatter angeben wollen ...* (Augsburg: Brechenmacher, 1710).

Samuel Keck/ Von Ravenspur/ geweßten Handels-Jungen/ Seines Alters im 21 Jahr/ so Sonntag den 7 Dec. 1710 in Augspurg eine hochschwangere ledige Weibs-Persohn/ welche ihn als Kindes Vatter angeben wollen/ Abends zwischen 6 u 7 Uhr nach gesperrtem Thor ausser der Stadt aus vorsetzlichem Grimm mit seinem Tisch-Messer jämmerlicher Weis tödtlich verwundet/ und gleich darauf in das vorbey fliessende Wasser geworffen/ auf welchem sie sobald in die Stadt geschwummen/ und noch warm tod heraus gezogen worden; Er aber ist gleich nach verrichter Mord-That durch den Einlaß in die Stadt gekommen/ und hat sich den folgenden Tag als den 8 dito Nachts um 11 Uhr aus Trib seines Gewissens selber in Arrest begeben/ und alles freywillig bestanden/ u nur um ein baldig- und gnädiges Urtheil gebetten/ welches auch den 20 dato an ihm vollzogen/ das Haupt abgeschlagen/ und dises hernach auf 4 Wochen lang samt dem Körper auf ein Rad gelegt.

Yet the overall tone of many of the songs is the comfort that Samuel supposedly found in his own repentance and his impending salvation after death:

Shame, fear and pain fall, Through the solace of God's word, I longingly count the hours, which lead me forward, and the day will soon appear, separation will unite me with God.	Schmach/ Angst und Schmerz ist überwunden Durch Trost/ den mir gab Gottes Wort/ Ich zehle sehnlichen alle Stunden/ Daß man mich bald möchte führen fort/ Und daß der Tag möchte erscheinen/ Durch Scheiden mich Gott zu vereinen.
...	...
GOD, who awakens the joy in me, He will not pull his hand away, until I have ended my final journey, He gives me the desired strength, so will He bring to perfection the allowance for his mercy. <sup>21</sup>	GOTT/ der die Freud in mir erwecket/ Der wird die Hand nicht ziehen ab/ Biß ich hab meinen Lauff vollstreckt/ Und wie zum Wollen Krafft Er gab/ So wird Er auch zu dem Vollbringen Mir lassen seine Gnad gelingen.

At the same time, he expresses regret over his actions, and hopes to instruct other young people on how to avoid his fate:

Therefore banish from your hearts, the self-love, pride and certainty; Making light of GOD with lies, understand this, you young people; because these, these are the sources of all other unhappiness. <sup>22</sup>	Drum bannet ja aus euren Hertzen/ Die Selbst-Lieb/ Stoltz und Sicherheit; Durch Heucheley mit GOTT zu schertzen/ Enthaltet euch/ ihr junge Leuth; Dann dieses/ dieses sind die Quellen Zu allen andern Unglücks-Fällen.
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Samuel Keck's entry in one execution list is followed by another "*Abschieds-Rede*," or departure speech. He warns children not to follow in his footsteps, and plays on the meaning of his last name:

But open your eyes foolish youth! See in me, as in a mirror, and observe how my beautiful given name,	Eröffne doch deine Augen tolle Jugend! schaue in mich, als in einen Spiegel, und betrachte wie ich meinen schönen Tauf-Namen
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<sup>21</sup> SSStBA, 8° Aug 344, Caspar Brechenmacher, "Ernstliche Buß-Vermahnung," (Augsburg: Brechenmacher, 1710).

<sup>22</sup> Ibid.

Samuel,  
 have I forgotten,  
 I deserve my family name  
 and  
 for it happens that I am called  
 Keck [i.e, bold or brash].  
 Oh unhappy boldness!  
 Which aggrieves my  
 loving parents until death.<sup>23</sup>

Samuel  
 vergessen,  
 meines zunahmens mich bedienet,  
 und  
 in der That erwiesen, dass ich heisse  
 Keck.  
 O unglückseelige Keckheit!  
 welche meine geliebte Eltern  
 Biss in den Tod betrübet.

Even the court records from his trial testify to the fact that Samuel's conscience plagued him severely. After he killed Jacobina, Samuel fled to the house of a friend. The friend had heard news of the murder, and knew he would himself face punishment for harboring Samuel. The friend told Samuel to leave and urged him to turn himself in. With this, Samuel experienced a change of heart. With his friend accompanying him, Samuel returned to the city gates, and demanded to be let back in. At first the guard refused, but Samuel eventually persuaded the guard that he was the man being sought and of his intent to confess immediately, which he subsequently did. Despite Samuel's free, willing, and detailed confession to the crime, the council still thoroughly interrogated and even tortured him. When asked about the strange timing of Jacobina's pregnancy—the city physicians declared she had been about eight months pregnant, but Samuel claimed to have slept with her only much more recently—Samuel admitted that when Jacobina told him he was the father, he also thought the timing was strange, but did not press her on this issue “because he knew he was guilty of having adulterous dealings with her.”<sup>24</sup>

Despite his repentance and conversion, Samuel Keck faced a gruesome and dishonorable execution: after he was decapitated with a sword, his body was then broken

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<sup>23</sup> StadtAA, *Strafamt, End-Urthel und Verruf*, Samuel Keck, 20 December 1710.

<sup>24</sup> StadtAA, *Urgichten*, Samuel Keck, 20 December 1710.



with and displayed on a wheel (an additional punishment reserved for particularly atrocious crimes) and his “head along with the murder-knife” were laid beside him. His body was displayed in this manner for an entire month. A note added to the record of his execution states that a month later, in January 1711, his body was taken down and buried. The display of his corpse after execution was intended as even further punishment. It added dishonor to his memory and shamed his family; as his corpse rotted for all to see or was eaten by birds, it was a constant reminder of Samuel’s depravity.

In the face of this horrific end, Samuel conducted himself honorably. An extra note at the end of one list of executions describes how Samuel prepared for his execution:

This Samuel Keck prepared himself for the coming of his death, until the end of his life, with greatest steadfastness, confident courage and joy. He humbly thanked the criminal court, plead for a final mercy, that he might be clothed entirely new in black and white, which was allowed to him; for this his kind and worthy lordship had sewn an all-new fine shirt, and a black kerchief, a black silk pair of socks, black silk hose, a black band with which to bind his beautiful long hair, new shoes with blue polished buckles were sent to him. On the last day of his life he took no more food, he asked for the scaffold, his hair was not cut, but bound up with the black band, and he did not let his eyes be covered, but instead awaited with open eyes the stroke [of the sword]; thus did Keck, to everyone’s wonderment, happily and heartily gave up his ghost.<sup>25</sup>

Both the popular literature and the court records emphasize how Samuel Keck died a “good death.” Dying a good death not only reconciled Samuel with earthly and heavenly

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<sup>25</sup> StadtAA, *Strafamt, End-Urthel und Verruf*, Samuel Keck, 20 December 1710.

Nota: Dieser Samuel Keck hat sich bey Unkündigung seines Todes, biss zu seinem Lebens-Ende, mit der größten Standhaftigkeit, getrosten Muths und Freudigkeit zum Sterben bereitet. Dann er bedancke sich gegen die hohe Justiz demüthigst, bathe um die letzte Gnade, dass er ganz neu und in schwarz und weiss auf seine Todes-Reise möchte gekleidet werden, welches auch erlaubet wurde; da ihme seine liebe und werthe Herrschafft ein ganz neues feines Hembd, und ein Halstuch schwarz ausgenehet, ein schwarz seidenes paar Strümpff, schwarze sammeten Hosen, ein schwarzes Band, seine schöne lange Haare zubinden, neue Schuh mit blau angelauffenen Schnallen übersandte. An dem letzten Tage seines Lebens nahm er keine Speise mehr zu sich, auf dem Chavot bate er, man möchte ihm die Haare nicht abschneiden, sondern selbige mit dem schwarzen Band hinauf binden, ingleichem liess er sich die Augen nicht zubinden, sondern erwartete mit offenen Augen den Streich; Also hat dieser Keck zu jedermanns Bewunderung freudig und beherzt seinen Geist aufgegeben.

authorities, but also set aright questions about his masculinity. He had committed a crime that at heart had the same motivations attributed to female child-killers. Further, he had, through both impregnating Jacobina out of wedlock and then brutally killing both mother and child, ignored his masculine duty to be a protector and provider for his family and a good citizen of the town. By going to his punishment willingly—and awaiting the sword’s blow with his eyes open—Samuel made legal and religious amends and reclaimed his position in society as an obedient and brave citizen and man.

Printers of these pamphlets were concerned with Samuel Keck’s case not only because he killed his child and its mother, but also because Samuel was a man committing a crime more expected of a woman. It is clear in the literature that the writers believed Samuel killed Jacobina and subsequently also her unborn child for the same reasons that many mothers committed infanticide. One song, supposedly relating Samuel’s own words, explains:

With her I lived in sin,	Mit der ich lebt’ im Unzucht-Stande/
It is her, along with her womb’s fruit,	Die must sammt ihrer Leibes-Frucht/
(so that I might escape shame)	(Daß ich abkommen möcht der Schande)
with my fist (oh so cursed!)	Durch meine Faust (o wie verflucht!)
whom I wounded, so that she must die	Zuvor verwundt/ Im Wasser sterben/
in the water and be so miserably ruined. <sup>26</sup>	Und so elendiglich verderben.

Given that court records stated Samuel killed Jacobina when she refused his request not to name him as the father of her unborn child, Samuel clearly sought to avoid the shame and responsibility of an illegitimate child. There is no indication of Samuel trying to deny paternity of the unborn child or to leave town, which might have been expected. The question with Samuel then remains: what led him to murder rather than another method

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<sup>26</sup>SStBA, Brechenmacher, “Ernstliche Buß-Vermahnung.”

of escaping his responsibility?

Cases like Samuel's challenge historical interpretations of infanticide, shame, and dishonor. Why would a man feel the need to commit such a horrendous crime in order to escape public shame? A man had, of course, practical financial reasons for avoiding his paternal responsibility. Samuel, as an apprentice, would have faced difficulties if he sought to marry, but likewise would have had troubles for fathering an illegitimate child. Doing so might have been reason enough for his master to dismiss him. Either way, if Jacobina had successfully sued Samuel for paternity, paying the required child support would have been difficult on an apprentice's pay. As in abortion cases in which men played a role, Samuel experienced pressures similar to those of women when faced with an unwanted pregnancy. These pressures were material, but also emotional. As with women who chose to abort pregnancies or commit infanticide, the financial and physical pressures cannot be separated from the pressure of shame and dishonor. Dishonor brought physical consequences of loss of income and household for both men and women. Yet literature about infanticide, whether committed by women or men, focused primarily on the motivation of potential shame and dishonor. Samuel Keck was reported to have said he was trying to avoid shame by killing Jacobina; he did not say he wanted to avoid the responsibility of caring for a child. Shame and dishonor, then, were thought to affect both women and men; even the particular shame of having illegitimate children was not limited to women.

*Sensationalism in Ulm*

At least two *Verrufe* from the eighteenth century survive in the city archive of Ulm, those from the cases of Anna Katharina Türkin (1783) and Waldburga Joosin (1769). The sensationalism seen in Augsburg was by no means limited to that city. The two surviving examples are similar in tone and message to those from Augsburg, but the distinction between official court pronouncements and printers' additions is much less clear. The surviving Ulm pamphlets provide much more detail in the description of the crime. The case of Anna Katharina Türkin in 1783 produced a pamphlet of four pages, describing the circumstances of her crime graphically, including how she smashed the baby's head on a bench, and "because after this the child still floundered a bit with its feet, she hit it a second time," and then threw the baby in the privy. This story concludes with her sentencing to death by the sword, "until her head is the smaller and her body the greater part, and until she comes from life to death." The pamphlet ends with a poem, similar to the heavy-handed moralistic efforts of Augsburg printers:

*Sighs of the Poor Sinner:*

What misery has taken place!  
 What misery, when one so dies:  
 it brings agony and suffering to the soul  
 when the body is thus lost:  
 so listen, answer my prayers, dear God  
 and grant me mercy in my death.  
 Merciful father see your child,  
 who now flees to your goodness;  
 do not forsake her for her sins,  
 Your spirit strives for my salvation;  
 oh Holy Spirit you make the way,  
 so that I can turn to Heaven.<sup>27</sup>

*Seufzer der Armen Sünderin.*

Welch Jammer ists, also abscheiden!  
 Welch Jammer, wann man also stirbt:  
 Dieß bringt der Seele Qual und Leiden  
 Wann so der Körper hin verdirbt:  
 Drum hör, erhöhr mich lieber Gott  
 Und schenk mir Gnad in meinem Tod.  
 Barmherziger Vater schau dein Kinde,  
 Daß jezt zu deiner Güte flieht;  
 Verlaß es nicht ob seiner Sünde,  
 Dein Geist sey um mein Heil bemüht:  
 Ach heiliger Geist mach du die Bahn,  
 Daß ich zum Himmel wandeln kan.

<sup>27</sup> Stadtarchiv Ulm, Stbibl. 27148 1785, "Urteil über die am 25. Apr. 1785 hingerichtete Kindsmörderin Anna Katharina Türkin," 1/2 Bogen.

The account of twenty-two-year-old Walburga Joosin did not include a song or poem, but was no less tragic or dramatic. Her crimes from 1769 were detailed in an eight-page pamphlet, which told of her “harlotry and bawdiness,” and how she “not only mingled carnally with various men, but also, without knowing it herself, became pregnant.” Despite warnings from friends not to do so, she hid her pregnancy even after she knew about it, and “stubbornly denied everything, and additionally received the Holy Communion.” When she went into labor, she did not call anybody in the room to help her, even though “it could have easily been done.” She gave birth to a healthy, full-term child, a boy, which was found the second day after its birth in her clothes trunk.

The pamphlet continues, further demonstrating a level of detail not seen in most of the Augsburg publications, by recounting a familiar story: during the investigation, Walpurga claimed she was taken by surprise by the birth pains, and all at once the child shot from her head first onto the floor and died. In later rounds of interrogation she confessed that she herself “had laid hands on her own child, and strangled it herself.” She later added:

She laid the child on her left arm and with the right hand in front on its neck, she strangled it, with the intention that if she killed it, it would remain quiet, and one would not know that she had a child, so that it gave up its spirit, and had to miserably depart its life, which it had hardly savored; but during this activity and strangling, it still defended itself with hands and little feet.<sup>28</sup>

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<sup>28</sup> Stadtarchiv Ulm, U 6127 1769 Jan. 27, Todesurteil gegen die Kindsmörderin Walburga Joosin. Das sie sich mit selbigem auf ihre sindel gesetzt, solches auf ihren linken Arm gelegt, mit der rechten Hand aber vornen am Hals und zwar in der Meynung, das, wenn sie es werde umgebracht haben, es verschwiegen bleiben, und man nicht wissen werden das sie ein kind gehabt habe, dergestalten gewürget, das es hiervon seinen Geist habe aufgeben, und sein kaum genossenes Leben elendiglich habe lassen müssen; während solch ruchlosene Unternehmen und Würgen aber sich noch mit Händen und Fusslen gleichsam gewehret habe.

The author describes Walpurga's actions as "against the motherly love which nature itself implants in not only reasoning humans, but also even the unreasoning animals," going against the "natural, Godly, and worldly laws, but especially against Kaiser Charles V's [i.e., the *Carolina*]." <sup>29</sup>

Such a level of detail and drama was not seen in the official court denunciations in Augsburg, but only in the supplemental literature. It is not entirely clear whether these two pamphlets were official court documents, but they do resemble the *Verrufe* in their purported purpose of announcing the crime and punishment within a framework of educating the public.

#### *Salome Haußmännin and Religious Conversion*

Tales of conversion were very popular in execution literature across Germany. At least one spectacular example of eighteenth-century sensationalism and conversion survives from Nördlingen. Salome Haußmännin was executed for infanticide in 1715. In an article exploring Salome's conversion, Eileen Dugan examines the conversion narrative written by Georg Matthäus Beckh, a Lutheran pastor who was Salome's confessor before her execution. In 1716, Beckh published his account in a pamphlet titled *The Poor Sinner and Child-Killer Most Blessed by a Compassionate God*. Much like the poems and songs concerning condemned criminals from Augsburg and Ulm, Beckh used this narrative to discuss the necessity of individual repentance. He blamed Salome's crime on her spiritual ignorance, and attributed her salvation to a spiritual awakening. He

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<sup>29</sup> Ibid.

assured Salome and, consequently, his audience of the salvation of her unbaptized child. Dugan argues convincingly that Beckh's work was not intended to be historical, or an exact account of Salome's words, but rather to be inspirational and instructive. Dugan emphasizes that the fact that Salome never uttered the words attributed to her is unimportant. Beckh used the story of Salome and his role as her confessor to convey a message about repentance and faith with the authority of an eye-witness and participant in a successful conversion. Dugan notes that Beckh omitted Salome's name from his account, not to protect her identity, but to make her an Everywoman, whose fate could await anyone.<sup>30</sup>

The theme of the conversion of a criminal was popular, as seen Salome's story and in the poems, songs and speeches of the publications from Augsburg and Ulm. The idea of a murderer possibly finding salvation resonated powerfully. However, it also complicated the warnings and calls to good behavior that these publications also espoused. The authors of these publications tried to find the delicate balance between frightening readers away from a life of sin, while also offering hope to those who did stray. The spiritual journey from depraved sinner through repentance and conversion to an individual facing death with the assurance of salvation must have been highly appealing. In trying to find this balance between warning and promise, authors spun dramatic and captivating stories.

Individuals' spiritual journeys featured prominently in the criminal literature of the eighteenth centuries. The published *Verrufe* of Augsburg and Ulm even took care to note the condemned criminals' religious denominations. Maria Barbara Schmidin, for

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<sup>30</sup> Dugan, "The 'Poor Sinner' of Nördlingen," 213-226.

example, belonged to the *Augsburgerischen Confession* [Lutheran], and this information appeared alongside the familiar description of her age (twenty-nine), marital status (single), occupation (serving maid), and place of birth (Harburg).<sup>31</sup> Maria Anna Mayrinn, an apparent suicide by proxy executed in 1783, was of the *Catholische Religion*, in addition to being twenty-three years old, single, and from Oberhausen.<sup>32</sup> In the 1770s religious denomination was included even in the *Strafbuch* entries, usually abbreviated “A.C.” for *Augsburger Confession* or “C” for *Catholisch*. This practice was inconsistent even during the decade of its most regular use, though, and was used only rarely outside of the 1770s. Augsburg around this time certainly witnessed confessional tension,<sup>33</sup> but there is perhaps something more behind this particular issue. The 1770s and 1780s also saw a rise in the peculiar crime of suicide by proxy (or indirect suicide), a crime that depended upon the idea of a repentant criminal and guaranteed salvation.<sup>34</sup>

### *Suicide by proxy*

The possibility of a return to God’s grace allowed for the peculiar crime of suicide by proxy. This crime involved a suicidal person committing a capital crime in order to be executed. Suicide by proxy, a label given to this particular crime by Kathy Stuart, has been studied in other regions, and is also referred to as indirect suicide. Suicide was an unforgivable sin, as a person who committed suicide had no chance to repent or confess

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<sup>31</sup> SStBA, Valentin, *Regina Ursula Schülerin*.

<sup>32</sup> SStBA, 4<sup>o</sup> Aug 624, Joachim Friedrich Hilgendorf, *Peinliches Urtheil welches über Maria Anna Mayrinn Catholischer Religion, ledigen Stands, von Oberhausen wegen einer an einem dreyjährigen Mädchen vorsätzlich verübten Mordthat den 8. Febr. 1783 ergangen ...* (Augsburg: Hueber, 1783).

<sup>33</sup> Etienne François, *Die Unsichtbare Grenze: Protestanten und Katholiken in Augsburg 1648-1806* (Sigmaringen: Jan Thorbecke Verlag, 1991).

<sup>34</sup> Tyge Krogh, *A Lutheran Plague: Murdering to Die in the Eighteenth Century* (Leiden: Brill, 2012).



his sins before his death and would thus face eternal damnation. Even after death, suicides were punished with dishonorable burial. Those who committed indirect suicide wished to die, but did not want to face the consequences of suicide. One solution was to commit a capital crime—the criminal would then have a chance to confess before being executed. Through this expedient, the suicidal person achieved his goal of dying, but he was also able to hold on to a chance at eternal salvation.<sup>35</sup>

Suicides by proxy committed various capital crimes to achieve their ends. Many tried to limit the collateral damage to others—a difficult task when one considers what sorts of crimes earned the death penalty. Some tried simply confessing to a crime that they had not committed, but this could prove difficult when no *corpus delicti* existed to confirm their story. Some chose to commit bestiality (or at least confess to it), as a crime that did not produce a *corpus delicti*. That way, at most only an animal was harmed (either through the bestiality or through a court-ordered punishment of the animal itself).<sup>36</sup> In Germany individuals often chose to commit murder. The murder of an adult, however, was troubling because it denied the victim a chance to set his or her own spiritual affairs in order before his death. A solution to this concern was to kill an innocent child. Children were too young to have committed sin, as they were not held responsible for their actions. Many victims of suicide by proxy, then, were young children or babies. They fell in a safe gap between the cleansing of original sin with baptism and the age of reason at which they started to amass sins. Both the victim and the

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<sup>35</sup> Craig Koslofsky and Dana Rabin, “The Limits of the State: Suicide, Assassination, and Execution in Early Modern Europe,” in *Sterben von eigener Hand: Selbsttötung als Kulturelle Praxis*, eds. Andreas Bähr and Hans Medick (Cologne: Böhlau, 2005), 45-64.

<sup>36</sup> Arne Jansson, “Suicidal Murders in Stockholm,” in *From Sin to Insanity: Suicide in Early Modern Europe*, ed. Jeffrey R. Watt (Ithaca: Cornell University Press, 2004), 97-98.

killer would then die with the possibility of salvation. Stuart has found that this unusual crime occurred across German-speaking lands, and she has discovered five cases from Augsburg between 1740 and 1783.<sup>37</sup> In Augsburg, this crime was confined to the eighteenth century, although Stuart has found cases in other German-speaking regions from the seventeenth and nineteenth centuries as well.

Compounding the horror of infanticide and suicide, suicide by proxy also heightened the importance of the conversion of the criminal. Such crimes provided ample fodder for printers seeking a juicy story. The publications featuring “classic” infanticide paled in comparison to the flurry of literature that involved suicide by proxy. The victims were the most pitiable, the crimes appalling, and the killers appropriately repentant. This combination made for exciting reading, all while conveying the moral message of hope for salvation. Because suicide by proxy so often involved the murder of children, and sometimes of the killers’ own children, it was closely related to the crime of infanticide; a consistent and clear distinction between the two crimes cannot be made, and they were inherently linked in early modern culture and legal thought.

Suicides by proxy generated a great deal of literature in eighteenth-century Augsburg. In addition to the taboo subjects of infanticide and suicide, the literature on suicide by proxy drew on the appeal of the confession and salvation narrative discussed above. Historian Tyge Krogh has examined this crime in northern Germany and Scandinavia and surveyed other studies of suicide by proxy. He argues that the promise of salvation after execution actually encouraged people to commit suicide by proxy. The

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<sup>37</sup> Kathy Stuart, “Suicide by Proxy: The Unintended Consequences of Public Executions in Eighteenth-Century Germany,” *Central European History* 41 (2008), 424.

practice of clerical preparation of condemned prisoners resulted in situations—as in the examples above—in which the condemned went willingly and happily to their death. Witnesses to these executions would see the happiness and certainty of the condemned, see the fulfillment of their own hopes for salvation, and perhaps attempt to come to death in the same manner.<sup>38</sup>

Krogh also argues that suicide by proxy was especially suited to the Lutheran faith and soteriology, an idea substantiated by the fact that the crime seems to have been more common in Lutheran regions than in Catholic or Reformed areas. For Lutherans, true repentance guaranteed salvation and a condemned criminal had the same chance at salvation as anyone else. For Catholics, repentance before execution did not guarantee immediate salvation, as purgatory still awaited. For the Reformed faith, the belief in predestination meant only the elect would be saved; in the first place, the elect would not commit crimes worthy of execution, and in the second place, salvation was already determined, regardless of the time of conversion.<sup>39</sup> Krogh suggests when suicide by proxy did occur in Catholic areas, it was due to Lutheran influence and proximity. The occurrence of Catholic suicides by proxy in the biconfessional Augsburg further confirms this pattern.<sup>40</sup>

### *Jeremias Bertz*

In 1740, Jeremias Bertz was found guilty of murdering his own child by the Augsburg town council. Jeremias was a 46-year-old leather tanner in Augsburg. On

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<sup>38</sup> Krogh, *A Lutheran Plague*, 41.

<sup>39</sup> *Ibid.*, 124.

<sup>40</sup> *Ibid.*, 86-87.

March 14<sup>th</sup>, he slit the throat of his fourteen-week-old daughter Magdalena. The amount of material produced about Jeremias's crime rivals that for Samuel Keck's: in addition to the print seen in image 26, some pamphlets reached nearly 60 pages of text, filled with familiar songs, poems, and speeches about the crime and the criminal's spiritual transformation.



Image 26: “The innocent Maria Magdalena Bertzin, gruesomely murdered by her own father at the tender age of 14 weeks,” Augsburg, 1740

Image 26 consists of two pictures published together. The first depicts the dead child lying on blankets with her throat open and still bleeding, although her face remains peaceful. Next to the child is a short text, written as if Magdalena had spoken it herself, following her own murder. It reads:

You, who loved this child, observe the gruesome act of my father, who paid no heed to my youth; his murderous hand killed me, an innocent little lamb, ruthless father! I, poor little lamb, must kiss my father's murderous hand, which cut my tender throat in two. He himself who raised me, made it so that I must die. Oh stone-hard heart! Rue your deed!<sup>41</sup>

The second picture depicts the actual murder weapon, with a caption that reads “the sketch of the murder-knife.” This picture of a knife brings the horrific murder closer to the readers; when contrasted with the innocence of the murder victim, the knife further highlights the cruelty of the act.<sup>42</sup>

Another piece composed about Jeremias's crime also featured his murdered and “martyred” daughter, Maria Magdalena, “only 18 [sic] weeks old,” who spoke from beyond the grave:

And you did it? Ah! It is hardly believable! That I should barely know you as my father, because next to God, I have you to thank for my life! Now I must name you, oh horror! my murderer, because your cursed hand plunged me into the grave, an astounding deed!<sup>43</sup>

Continuing, Maria Magdalena forgives her father and urges him to repent. She wishes for him a “blessed death and eternal life.”

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<sup>41</sup> “Du, der du dieses liebest, betrachte die grausame That meines Vatters, den meine Kindheit nie beleidiget, seine Mord-Hand hat mich unschuldiges Lämmlein abgewürget, O barmherziger Vatter! Ich armes Lämmlein muß des Vatters Mord-Hand küssen, So mir die zarte Keyl entzwey geschnitten hat, der mich selbst hat erzeugt, macht daß ich sterben müssen, O Felsen-Hartes Hertz! bereue diese That!”

<sup>42</sup> SSStBA, *Graphiksammlung*, 29/120, *Die alhier in Augsburg Ao 1740 den 14. Marty von seinem eigenen Vatter grausam ermordete Unschuld Maria Magdalena Bertzin*, (N.p., 1740).

<sup>43</sup> Und du hast es gethan? Ach, es ist kaum zu glauben! Da ich dich billich solt als meinen Vatre kennen, Weil ich daß Leben Dir nechst Gott zu dancken hab! So muS ich dich, O Grauß! jetzt meinen Mörder nennen, weil dein verfluchte Hand mich stUrtzt dann in daS Grab Erstaunens volle That!

One final example stands out as rather unusual and shows the variety of the material in these publications. This particular piece was designed specifically to be an acrostic of Jeremias Bertz's name (displayed in the German on the right):

Jesus accepts the sinners.	<b>Jesus nimmt die Sünder an.</b>
He is the one who can help me	<b>Er ists/ der mir helffen kan,</b>
right the murder of my child.	<b>Recht den Mord an meinem Kinde.</b>
He forgives also this sin,	<b>Er vergibt auch diese Sünde,</b>
My faith is confidently	<b>Meines Glaubens Zuversicht</b>
turned toward Him alone,	<b>Ist auf Ihn allein gericht,</b>
all sins are forgiven	<b>Alle Sünden sind vergeben</b>
now I move from death to life,	<b>So geht es vom Tod zum leben,</b>
 I am still guilty of the death	 <b>Bin ich doch deß Todes schuldig</b>
I patiently suffer	<b>Es so leid ich ihn geduldig,</b>
but Save me JESUS Amen	<b>Rettet mich doch JESUS Amen</b>
Swing the sword in Jesus' name.	<b>Zückt daß Schwerdt in Jesu Nahmen.<sup>44</sup></b>

### *Maria Elisabetha Beckensteinerin*

Maria Elisabetha Beckensteinerin was executed after killing her own child in Augsburg in 1742. Several publications from the same year tell the story of Maria Elisabetha, and these texts reveal that hers was more than a usual case of infanticide. The caption of a print by Thomas Bäck (see image 27) states:

Execution of Maria Elisabetha Beckensteinerin, who killed her own barely half-year-old little son Johann Andreas with her garter here in Augsburg in the prison, and was executed with the sword on the 20<sup>th</sup> of March 1742. She was 37 years old.<sup>45</sup>

<sup>44</sup> StadtAA, *Strafamt, Verzeichnis der Maleficanten*, Jeremias Bertz, 31 May 1740.

<sup>45</sup> Hinrichtung der Maria Elisabetha Beckensteinerin, welch emit ihrem Strumpf-Band ihr eignes noch kein halb Jahr altes Söhnlein Johann Andreas allhier in Augspurg in der Gefängnus erdroßelt, wurde 20 Marty 1742 mit dem Schwerd hingerichtet worden. Ihres Alters 37 Jahrs.



Image 27: Thomas Bäck, "Execution of Maria Elisabetha Beckensteinerin," Augsburg, 1742

The rest of this one-page print tells in rhyming verse the story of her crime. It reads, in part:

Come mothers, come hear what an insolent woman did,  
Who fiercely strangled the fruit from her own womb,  
A woman like a tiger, from whom wolves and dragons shy,  
Where else is such a sin to compare with this!

...

So follows such impudent deeds, the pain of the punishment of the sword,  
The mother has killed, so she also belongs to Death.

Kommt Mütterin kommt erschaut was thut ein freches weib,  
Die in dem Grimm erwurgt die Frucht von ihrem Leib,  
Ein Weib von Tyger Art, der Wölff und Drachen weichen,  
Wo ist ein solcher Sinn, so diesem zu vergleichen!

...

So folgt auf freche That, der Straffe schwert Peyn,  
Die Mütter hat getödt, sie mus deß Todts auch seyn.

This song does not provide any details of her crime, but the image depicts how she strangled her child, the child's soul ascended to heaven, and then in the second panel how she herself was decapitated in front of a crowd.<sup>46</sup>

An official register of executions provides more information. Maria Elisabetha Beckensteinerin was either 35 or 37 years old and married to a mapmaker named Michael. She was arrested for theft on the seventh of March, 1742. She begged the council to allow her to bring her six-month-old son into jail with her, as she had no one who could take care of him. Her "bitter poverty" had brought her close to despair, she claimed. The following morning, she tied her garter around the child's neck, strangling it. She explained during her interrogation that poverty had driven her to thievery and then to despair. Maria Elisabetha was executed on the March 20<sup>th</sup>.<sup>47</sup> Maria Elisabetha featured in several other publications. One, which includes a depiction of the murder very similar to the one above, even displays a ribbon tied in a loop which is labeled "the length and

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<sup>46</sup> SStBA, *Graphiksammlung*, 29/123, *Hinrichtung der Maria Elisabetha Beckensteinerin* (Augsburg: Thomas Bäck, 1742).

<sup>47</sup> StadtAA, *Strafamt, Verzeichnis der Maleficanten*, Maria Elisabetha Beckensteinerin, 20 March 1742.



width of the murder-band.”<sup>48</sup> Others included *Abschieds-Rede*, or departure speeches, and songs in the same vein as those written for Samuel Keck, examined above, with calls for youth to behave and sinners to repent and Maria Elisabetha’s prayers for forgiveness.

### *Maria Anna Mayrinn*

Maria Anna Mayrinn, the last infanticide-related execution of the eighteenth century, was decapitated in 1783 for the murder of a three-year-old girl. On the 7<sup>th</sup> of January Maria Anna turned herself in as a child murderer. During the investigation she confessed to planning since Christmas to murder the parentless child. She sharpened a knife from the kitchen, led the child up the house steps, loosened the child’s neckerchief and unbuttoned her cap. Justifying her action, she then asked the child “if it wanted to die?” To this, she claimed, the child answered yes. “Then she cut the child’s throat, not accidentally, but in a well-considered and intentional manner.” The *Verruf* goes on to explain that she committed the murder because her lover left her, and she no longer wanted to live. Maria Anna was executed on February 8<sup>th</sup>, just a month after the murder.<sup>49</sup>

A three-panel illustration about Maria Anna Mayrinn was left in the back of one of the execution lists from the Augsburg city archive, the *Verzeichnis der Maleficanten*, though it officially ended in 1773. The first panel depicts Maria Anna stabbing a young girl on the front steps of a building; the second shows Maria Anna standing before a large

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<sup>48</sup> SStBA, *Graphiksammlung, Grausamer und fast niemahls erhörter Kinder-Mord...M.A. Beckensteinerin*. (N.p., 1742).

<sup>49</sup> StadtAA, *Strafamt, Verbrecher-Buch*, Maria Anna Mayrinn, 8 February 1783. SStBA, Hilgendorf, *Maria Anna Mayrinn*.

door, perhaps on her way to confess; the third shows her trial, with Maria Anna standing before two men seated behind a table. One man records with an inkpot, pen, and paper, and the other speaks with Maria Anna. The caption reads “Depiction of the Gruesome Murder by Maria Anna Mayrinn, single, 23 years old from Oberhausen.”<sup>50</sup>

### *Defining the Crime*

Kathy Stuart has found two incidents in the Augsburg records of people who wanted to be executed, but the council was not convinced that they had actually committed any crime.<sup>51</sup> In 1771 Rosina Sternin, already a convicted thief, confessed to the council to throwing a little girl into water some ten years before. The council did not believe her, and for her various crimes—false confession was a crime in itself—it sent her to the workhouse indefinitely.<sup>52</sup> Twenty years after Rosina Sternin’s false confession, Peter Wechsler confessed to a murder, but the council could apparently find no evidence for his supposed crime. Peter was sent to the workhouse and given twenty blows “because of his lies.”<sup>53</sup>

Suicides by proxy in eighteenth-century Augsburg resulted in an expansive sub-genre of crime and gallows literature. These crimes were an especially appealing subject, as they encompassed all the titillating themes of infanticide—innocent victims, murderous mothers, sex, and violence—with the additional ideas of premeditated murder, madness, and a threat to children not even related to the murderers. Stuart also notes that

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<sup>50</sup> StadtAA, *Strafamt, Verzeichnis der Maleficanten*.

<sup>51</sup> Stuart, “Suicide by Proxy,” 424-425.

<sup>52</sup> StadtAA, *Strafamt, Verbrecher-Buch*, Rosina Sternin, 9 April 1771.

<sup>53</sup> StadtAA, *Strafamt, Verbrecher-Buch*, Peter Wechsler, 27 September 1791.

suicides by proxy employed greater and more dramatic violence than traditional infanticides. As seen in chapter two, most women accused of infanticide attempted to deny any direct violent action as the cause of the child's death. Traditional infanticides often involved neglect or suffocation while suicides by proxy, Stuart notes, involved much more violence, such as slitting a throat or strangling with a garter.<sup>54</sup> It is likely that this differing level of violence reflected the varying intentions in the two crimes.

"Classic" infanticides often involved mothers who had tried to distance themselves from their pregnancies and children; they did not necessarily have violent feelings toward their children, but rather wanted to ignore or evade the problem, and keep it as quiet as possible. Suicides by proxy, on the other hand, wanted to commit crimes heinous enough to earn the severest punishment, and wanted their crimes to be discovered. They also needed to commit the murder with the clearest possible intentions—simply neglecting a baby would not only take longer than slitting its throat, but it would also be unclear that the parent actually intended the baby to die.

Indirect suicides or suicides by proxy were particularly suited to the sensationalist tendencies of the eighteenth-century press. While traditional infanticides still garnered significant attention from publishers, by the end of the eighteenth century in Augsburg, suicides by proxy had become a much more frequent subject of popular pamphlets, disproportionate to the number of such crimes actually committed. It is possible that suicide by proxy earned more attention than traditional infanticide because in Augsburg, at least, it was a relatively new crime in the eighteenth century. Jeremias Bertz's 1740 execution was the first in Augsburg that Stuart labels as a suicide by proxy. While

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<sup>54</sup> Stuart, "Suicide by Proxy," 431.

traditional infanticide still incited panic, it lacked the novelty of suicide by proxy. In the popular imagination, suicide by proxy may have lacked the titillating aspects of illicit sex, but this loss was more than made up for by unmatched taboos of suicide and mental illness.

These cases of suicide by proxy highlight the complexity of infanticide in the eighteenth century. Although historians now recognize suicide by proxy as a separate crime from “classic” infanticide, the distinction was not clear in the eighteenth century. The difference between the killing of an illegitimate newborn and the murder of a child to achieve execution lay in the killer’s motivations. But personal motivations were difficult to determine, a task made even more difficult by the surviving sources. Apart from this question, however, the various versions of child murder were also highly intertwined in the public imagination and in the dealings of the town councils.

The 1760 case of Maria Barbara Schmidin clearly illustrates the issue of motivation. Maria Barbara would have had a difficult time hiding a newborn for four weeks, so her motivations could not have been to avoid the shame and directly related consequences of an illegitimate child. However, as previously mentioned, the *Verrufe* frequently note important details, such as the fact that Maria Barbara Schmidin was executed according to article 131 of the *Carolina*, dealing with narrowly-defined, “classic” infanticide.<sup>55</sup> While there had been plenty of evidence before the eighteenth century of the flexible definition and treatment of infanticide, these *Verrufe* state explicitly the legal basis and definitions that the town council used in the individual cases.

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<sup>55</sup> SStBA, Valentin, *Maria Barbara Schmidin*.

In January 1772 Leonhard Fels—whom Kathy Stuart labels as a possible suicide by proxy—killed his nineteen-year-old son.<sup>56</sup> Leonhard admitted that he had shot his son the previous December after three months’ planning. He asked his son to look into his musket “to see if it had air and to blow,” whereupon Leonhard then pressed the trigger and shot his son in the mouth. While the murder of a nineteen-year-old could hardly be called infanticide, and Leonhard was executed according to article 137 of the *Carolina*—addressing murder and manslaughter without regret—the similarities to other suicides by proxy seem evident. Leonhard “freely admitted” his crime, he claimed that he had planned it for a long time, and he did not express regret or repentance. Additionally, those writing about Leonhard’s case used language reminiscent of texts on infanticide: it was the “intentional murder of his only son,” and earlier, of his “bodily son,” terms used frequently regarding infanticide. As with infanticide, the fact that it was his “bodily son,” and not a step- or adopted son made the crime worse.<sup>57</sup> Thus, while the crime might have been a proxy suicide, the circumstances allowed the printer of Leonhard’s *Verruf* to reference infanticides of all sorts. The printer intentionally drew upon the horror of a father killing his own son, justifying his execution.

According to one record, Maria Elisabetha Beckensteinerin was executed under article 131 of the *Carolina*, not article 137.<sup>58</sup> Beckensteinerin, unlike Maria Anna Mayrinn, murdered her own child, and, unlike Leonhard Fels, the child was still very

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<sup>56</sup> Stuart, “Suicide by Proxy,” 424.

<sup>57</sup> SStBA, 4 S 567-18, Samuel Valentin, *Ein Hoch-Edel und Hochweiser Rath der des Heil. Röm. Reichs Freyen Stadt Augsburg hat hiemit Urthel zu Recht erkannt, daß Samstag den 11. Januarii 1772. Leonhard Felß, geweißter allhiesiger Burger und Bortenmacher, wegen begangener Mord-That an seinem leiblichen Sohn, zu seiner wohlverdienten Bestrafung mit dem Schwerdt und blutiger Hand vom Leben zum Tod gebracht werden solle* (Augsburg: Brinhauser, 1772).

<sup>58</sup> StadtAA, *Strafamt, Verzeichnis der Maleficanten*, Maria Elisabetha Beckensteinerin, 20 March 1742.

young, only six months old. It appears, then, that Maria Elisabetha, although clearly guilty of suicide by proxy, closely enough resembled article 131's definition that she could technically be prosecuted for infanticide instead of murder without proper regret. Maria Elisabetha was married and the child was not a secret, so no one would have suspected her of covering up an illegitimate pregnancy. Maria Elisabetha claimed that she stole because she was poor, and her poverty had driven her to desperation, and it was desperation that she claimed ultimately led her to kill her child. Several child killers claimed that financial strain directly led them to infanticide in earlier decades, and it could plausibly have been an indirect reason in all incidents of infanticide in the early modern period. Jeremias Bertz had killed his own fourteen-week-old daughter, but was sentenced under article 137,<sup>59</sup> according to one record, and both articles 131 and 137 according to another.<sup>60</sup> With Jeremias, there seems to have been some confusion over the exact classification of his crime. Multiple records state his crime as "*Kindermord*," including the one that says that Jeremias was executed under article 137.<sup>61</sup> The definitions of crime that the council used were not always consistent, but its use of these definitions remains somewhat mysterious without the complete case files.

If one can imagine other motivations for more traditional infanticides, then one must call into question the practice of defining a crime by assumed motivations. In the end, motivations are not entirely within the historian's grasp, but neither were they necessarily within the grasp of those contemporaries who defined the crimes, evidenced

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<sup>59</sup> StadtAA, *Verzeichnis der Maleficanten*, Jeremias Bertz, 31 May 1740.

<sup>60</sup> StadtAA, *Strafbücher*, Jeremias Bertz, 31 May 1740.

<sup>61</sup> StadtAA, *Verzeichnis der Maleficanten*, Jeremias Bertz, 31 May 1740.  
StadtAA, *End-Urthel und Verruf*, Jeremias Bertz, 31 May 1740.

by the sometimes loose interpretations of the *Carolina*. While this law code defined infanticide and murder without regret (under which suicide by proxy was most often categorized) as distinctly separate crimes, the distinction was sometimes much less clear in reality. Thus, Stuart points out that several cases in Augsburg from the eighteenth century, such as the case of Leonhard Fels, cannot be clearly defined as either traditional infanticide or as suicide by proxy.<sup>62</sup>

Although the eighteenth century did see significant changes in the way infanticide and related crimes were prosecuted and publicized, the basis for prosecution of infanticide and the official interpretation of motivation remained unaltered. All of the *Verrufe* of the late eighteenth century cite the *Carolina*, which was then over 200 years old. In several instances, such as that of Maria Barbara Schmidin, the articles cited did not fit the specific circumstances of the crime.<sup>63</sup> The town council desired to fit crimes such as Maria Barbara's into official and familiar categories, and, although it exercised flexibility within the system, it still had to operate within the existing legal framework.

A wide range of violence toward children was entangled with the concept of infanticide, especially in the eighteenth century. While distinct legal definitions and different articles in the *Carolina* distinguished infanticide from other crimes, these definitions could be highly ambiguous and flexible. The term *Kindermord* was used both by the Augsburg town council and by the authors of crime literature to refer to the murder of children in a wide variety of situations, not just when unwed mothers killed their newborn, illegitimate children. As seen in chapter two, a wide variety of crimes were

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<sup>62</sup> Stuart, "Suicide by Proxy," 424.

<sup>63</sup> SStBA, Valentin, *Maria Barbara Schmidin*.

closely associated with traditional infanticide; these associations lasted far longer than the flurry of broadsides from the early seventeenth century, even to the end of the eighteenth century.

### *Witchcraft and Child Witches*

One crime closely associated with infanticide was witchcraft. Witches, like the more common child-killers, were often thought to be single women. More importantly, witches were thought to kill children. Witchcraft trials, however, were clearly distinct from infanticide trials, and by the eighteenth century were in steep decline. The reasons behind this distinction are many. Although many people accused of infanticide claimed diabolical influence in killing their children, this was not the same as witchcraft. All manner of criminals claimed that the Devil had made them do it, but this did not make every crime an act of witchcraft. Witchcraft, while it frequently involved crimes other than violence towards children, also included diabolical contracts, participation in the witches' sabbath, and preternatural acts. Those accused of infanticide and witchcraft had distinct profiles: though both groups were primarily female, those accused of infanticide were often younger than those accused of witchcraft. Infanticide was generally the killing of one's own child; witchcraft was associated with harm of others' children. The two crimes were investigated and prosecuted in distinctive ways. Charges for both might be brought when a dead child or baby was discovered. A child thought to have been killed by witchcraft, however, would be more likely to have had parents who would make an accusation on its behalf while the victim of a simple infanticide would not. Infanticides



were more often discovered by chance or following suspicion about a pregnancy.

Witnesses also played a large part in the separation of the crimes. Witnesses in infanticide cases came forward with rumors about who had been suspected of fornication and who might have been pregnant and was no longer. Witnesses in witchcraft cases reported different suspicions, such as threatening or strange behavior.

By the eighteenth century, the witch hunt had passed its peak. Augsburg never witnessed large scale witch panics, although there had been individual witch trials; Nördlingen executed 35 witches in a “brief but bitter hunt;”<sup>64</sup> Ulm and Memmingen were quite restrained, not burning any witches.<sup>65</sup> The fear of witches was widespread in Augsburg, however; chronicler Georg Kölderer estimated that the city walls of Augsburg contained 8,000 witches, nearly one-fifth of the population at the end of the sixteenth century.<sup>66</sup> Lyndal Roper reports a more realistic number of seventeen witches executed in a span of seventy years.<sup>67</sup>

But something unusual did happen in Augsburg in the 1720s: suddenly dozens of parents began accusing their own children of witchcraft. Roper has studied this set of events, finding that over twenty children between the ages of six and sixteen were accused of witchcraft in this decade. Some of these children were held in jail for up to six years before eventually being released. Augsburg had experienced child witch trials previously, and elsewhere child witch trials were not unknown, particularly as the witch

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<sup>64</sup> Lyndal Roper, *Witch Craze: Terror and Fantasy in Baroque Germany* (New Haven: Yale University Press, 2004), 19.

<sup>65</sup> Wolfgang Behringer, *Hexenverfolgung in Bayern: Volksmagie, Glaubenseifer und Staatsräson in der Frühen Neuzeit* (Munich: R. Oldenbourg, 1987), 156.

<sup>66</sup> SuStBA, 2° Cod. S. 39-44, Georg Kölderer, *Chronik*, fol. 91r. Cited in Kurt Rau, *Augsburger Kinderhexenprozesse 1625-1730* (Wien: Böhlau, 2006), 1.

<sup>67</sup> Roper, *Witch Craze*, 19.

hunts were on the decline.<sup>68</sup> Child witch trials were still remarkable, however, especially when examined in the context of violence toward children. Witches were frequently accused of infanticide, child-murder, or other violent acts toward children. Witches in Augsburg had been accused of crimes against children as well. In Augsburg in September of 1625 Dorothea Braun was decapitated and burned for witchcraft. She had been accused of attending the witches' Sabbath and having relations with the devil, who called himself "Casperle Unfriden" ("Little Caspar Trouble-Maker"), leading her own young daughter into witchcraft, and accusing other, innocent women of the crime. Dorothea's case is particularly interesting because she was not accused of killing children, but of leading children into satanic pacts.<sup>69</sup>

Yet the outbreak of child witchcraft trials in Augsburg in the 1720s turned many assumptions about the crime upside-down. The witches were children accused by their own parents of harming them and of certain behaviors—particularly sexual behaviors—often associated with adult, or even elderly, witches. Roper argues that in the eighteenth century people developed a new fascination with children's fantasies and the belief that these fantasies could be evil.<sup>70</sup> These child witchcraft accusations do show a fascinating contrast with the popular stories of child murder of the eighteenth century. Instead of pitiful, nameless victims, in these cases, children were seen as the aggressors and their parents as the victims.

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<sup>68</sup> Lyndal Roper, "'Evil Imaginings and Fantasies': Child-Witches and the End of the Witch Craze," *Past & Present*, no. 167 (May, 2000): 107-139.

Rau, *Augsburger Kinderhexenprozesse*.

<sup>69</sup> StadtAA, *Strafbücher*, Dorothea Braun, 25 September 1625.

<sup>70</sup> Roper, "'Evil Imaginings,'" 109-110.

Despite how distinct infanticide and witchcraft were in practice and prosecution, they remained linked in their young victims and their female perpetrators. But, as Roper has shown, in Augsburg and elsewhere, these associations were changing by the eighteenth century. Children could be witches and could attack adults. Yet the very vulnerability of children, a vital component of what made infanticide and witches' attacks on children so horrifying, was still evident in the child witch trials. Children were even more susceptible to the "evil imaginings" of the devil than adults. Concern with the life and death of children was still prevalent, although the role of magic and witchcraft in society was changing. And even after the witchcraft trials had long since passed, infanticide remained active in the early modern imagination, in Swabia and beyond.

### *Beyond Swabia*

The eighteenth-century sensationalism of Swabian printers was by no means unique. Similar extravagant literature proliferated all across Germany. An example from the nearby Bishopric of Freising in 1772 is pictured in image 28. The image accompanies the *Verruf* of Georg Schötl, who robbed and murdered a woman and her young daughter and was executed. The engraving depicts Georg standing over the dead mother and holding the daughter, bleeding but still alive, by her hair, as he prepares to stab her a second time.<sup>71</sup> This particular story is a fascinating combination of the "shocking news reports" of the late-sixteenth and early-seventeenth century featured in chapter two and the suicide by proxy accounts discussed in this chapter. Georg killed a woman and her

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<sup>71</sup> BSBM, Res/4 Bavar. 674-13/15, *Wohlverdientes Todesurtheil nebst einer Moralrede des Georg Schötl* (n.p., 1772).

child in a manner reminiscent of the multiple murders of Blasi Endres in chapter three, but also he killed two unrelated people, behavior more akin to suicide by proxy. The image recalls the style of other eighteenth-century prints, with fine detail and high emotion. It captures a moment similar to that print featuring Maria Elisabetha Beckensteinerin's crimes, when the child, still living, is held aloft for its last breath and for the readers to see.



Image 28: *Death Sentence...of Georg Schötl...for his gruesome, deliberate murder of the Rindmüllerin...and her four-to-five-year-old daughter, Freising, 1772*

Such pamphlets were published all across Germany and were distributed widely, spreading news of faraway places and tying the Swabian cities into a Germany-wide discourse on infanticide. This discourse, however, occurred on multiple levels. The pamphlets could be shared by and among many tiers of society. A more educated, high-minded discourse on infanticide was also taking place, however, among the most respected writers of the era.

Infanticide stood at an unusual meeting point between two generally opposing fields of thought in the late-eighteenth century. On the one hand were the *philosophes*, or the *Aufklärer*, those Enlightened thinkers who believed in the possibility of perfecting society. For them, infanticide was a puzzle to untangle, a problem to solve. Infanticide touched on several of their core concerns—the role of the state in controlling personal behavior, the use of torture, and the use of the death penalty, for example. Yet at the same time infanticide was a hugely popular topic for the *Sturm und Drang* literary movement, which was in many ways a reaction to the rationalism of the Enlightenment.

Particularly for the poets and playwrights of the *Sturm und Drang*, infanticide served as an ideal topic for addressing the early Romantic themes that they found so intriguing. The attention that these movements gave to infanticide far outweighed the actual occurrence of the crime, demonstrating its peculiarity and power over the early modern imagination. For the poets of the *Sturm und Drang*, as opposed to the *Aufklärer*, infanticide demonstrated that society did not always make sense and that passions and emotions often won out in the end.

### *Encyclopedias*

Encyclopedias, Enlightenment projects to collect and record universal knowledge, can be seen as a reflection of the intellectual, social, and cultural climate in which they were written. A look at two encyclopedias published in Germany illustrates the dramatic increase in concern over and the evolving understanding of infanticide throughout the eighteenth century. The encyclopedias also capture the evolving tone of the discussion of infanticide as it grew in seriousness and intensity.

Johann Heinrich Zedler of Leipzig published his 64-volume *Universallexicon* between 1731 and 1754. Volume fifteen, covering the letter K, appeared in 1737. The complete entry for *Kindermord*, filling a quarter of a page reads:

Infanticide is when a mother despicably kills her child which she carried under her own heart. An indication of infanticide is when a body was once fat becomes thinner, also when a woman gives birth alone. And then says that she had a stillbirth, but the time was long enough that the child could have probably lived.<sup>72</sup>

Zedler's definition of infanticide differed little from that found in the *Carolina* 200 years earlier. Despite the greater complexity of the crime in reality and the evolution of its treatment, Zedler's essential understanding did not differ from the old law code.

Johann Georg Krünitz of Berlin began publishing his *Oekonomische Encyclopädie* in 1773, and the final volume—the 125<sup>th</sup>—finally appeared in 1858, 62 years after Krünitz's death. Krünitz's encyclopedia was a much grander undertaking than Zedler's. The entries not only defined each term, but summarized scholarly work on the

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<sup>72</sup> Johann Heinrich Zedler, *Universal-Lexicon aller Wissenschaften und Künste* (Halle: Zedler, 1732-1750), vol. 15, 340.

Kinder-Mord ist, wenn eine Mutter ihr unter den Hertzen getragenes Kind jämmerlich umbringet. Ein Anzeige eines Kinder-Mords ist, ein dick gewesener und wieder abgelegter Leib, ingleichen wenn eine Weibs-Person allein niedergekommen/ und spricht, sie habe ein todtes Kind zur Welt gebracht, und die Zeit so langs her ist, daß das Kind wohl hat leben können.

issue, often in far greater detail than Zedler. Entries in this encyclopedia ranged from one line to hundreds of pages in length, and covered nearly every subject imaginable. In contrast to Zedler's paragraph on infanticide, Krünitz's entry on *Kindermord*, which appeared in volume 37 (published in 1786), filled nearly 130 pages. Although Krünitz's entries were generally longer than Zedler's, the nearly fifty years between Zedler's and Krünitz's entries had broadened the discourse on infanticide. By 1786 the *Sturm und Drang* had produced many works featuring infanticide, and the greatest minds in Germany were heatedly debating the best solutions to the problem. On the local level, the towns in this study had witnessed some of the most spectacular individual cases of infanticide. Krünitz thus had abundant material to draw on for his discussion of the crime. The 130 pages included definitions of the crime and summarized the major legal and medical debates about infanticide, from whether abortion entailed infanticide to the practice and treatment of infanticide around the world.

Krünitz's basic definition of infanticide reads:

Infanticide [is] the crime of a person who murders his own child. In some locations juniper is known by this name [*Kindermord*], because conscienceless women abuse it frequently for the abortion of fetuses....Infanticide is committed against either an unborn child and a fetus still found in the mother's body, whose parts have not yet fully developed; it happens because of barrenness or through intentional miscarriage and abortion of the fetus; or it is committed against a mature, fully-formed child, either before or after the point in time at which it sees daylight, or immediately after it is born, or even against an already grown child. Infanticide is usually committed against illegitimate children, but there are also examples of legitimate children.<sup>73</sup>

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<sup>73</sup> Johann Georg Krünitz, "Kinder-Mord," *Oekonomische Encyklopaedie*, vol. 37, 1773-1858, accessed January 4, 2011, <http://www.kruenitz1.uni-trier.de/>.

Kinder-Mord, das Verbrechen einer Person, die ihr eigenes Kind ermordet. In einigen Gegenden ist auch der Sadebaum unter diesem Nahmen bekannt, weil gewissenlose Weibspersonen ihn häufig zur Abtreibung der Leibesfrucht mißbrauchen....Der Kinder-Mord wird entweder an einem noch ungeborenen Kinde, und einer noch in Mutterleibe befindlichen Frucht, deren Theile sich noch nicht alle zu vollkommener Ausbildung entwickelt haben, begangen, welches durch Bewirkung der Unfruchtbarkeit, oder durch

Krünitz's definition, while it resembled that of Zedler and the *Carolina*, is much more nuanced and inclusive. Krünitz emphasizes the relationship between abortion and infanticide, essentially equating the two crimes. That Krünitz included the colloquial use of the term *Kindermord* for a popular abortifacient further demonstrates the close cultural connections between these two crimes. Krünitz also allowed for the possibility that infanticide sometimes included the murder of legitimate children or older children. Krünitz followed this definition with a detailed discussion, citing the opinions of preeminent physicians and lawyers, of the indications and evidence of infanticide or abortion and the practices of various localities. The majority of this discussion centered on proposals for stopping infanticide, and many of these proposals were the result of the by-then famous Mannheim *Preisfrage*.

#### *1780 Mannheimer Preisfrage*

In 1780 an anonymous benefactor from Mannheim<sup>74</sup> offered a prize of 100 ducats for the best response to the question, "What are the best possible methods for stopping infanticide?" This benefactor called himself a "Menschenfreund," or friend of humanity. The nearly 400 responses his prize-question elicited, many times more than any other such challenge, came from all over Germany and Europe and testified to the popularity of the debate over infanticide. Otto Ulbricht cites as a comparison a *Preisfrage* issued by

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geflissentliches Mißgebären und Abtreibung der Leibes-Frucht, geschicht; oder er wird an einem reifen, gliedmäßigen Kinde, entweder vor, oder in dem Zeit-Puncte, worin es an das Tageslicht kommt, oder kurz darauf, nachdem es geboren worden ist, oder auch wohl an einem bereits erwachsenen Kinde, begangen. Der Kinder-Mord wird gemeiniglich nur bey unehelichen Kinder ausgeübet: doch hat man auch Beyspiele von ehelichen Kindern.

<sup>74</sup> This anonymous benefactor was later revealed to be Ferdinand Adrian von Lamezan, a Mannheim jurist and bureaucrat. Ulbricht, *Kindsmord und Aufklärung*, 219.



Frederick II of Prussia, which resulted in a comparatively paltry 42 responses. Faced with hundreds of entries, the judges of the competition bemoaned the quantity and length of the responses—as well as the lack of creativity and repetition of the suggested solutions.<sup>75</sup>

Most of the responses fell into the general categories of encouraging either behavioral or institutional reforms. The former usually meant improvements in moral education while the latter included altering regulations against the sexual activity of single people and instituting various welfare programs.<sup>76</sup> The variety of these proposals demonstrates the complexity of the crime of infanticide. The writers debated whether it was the duty of government to do anything to prevent the crime, and if so, what exactly should be done. Several layers of assumption were built into the question itself: first, that women committed infanticide in order to conceal their shameful behavior; second, that any societal or legal changes that might encourage women to allow their children to live rather than killing them, such as the ability to safely, anonymously, and legally leave children in an orphanage or foundling house, might also allow women too much sexual license by taking away the negative repercussions of fornication. These assumptions, and the inherent dilemma that many saw in this question, made a realistic solution problematic. Some sought to root out the causes of illegitimate pregnancies, while others considered how to prevent illegitimate pregnancies from turning into infanticide cases.

Foundling houses were a popular solution, despite the fact that several foundling homes were already in existence across Germany, even in Augsburg. In their existing

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<sup>75</sup> Ulbricht, *Kindsmord und Aufklärung*, 217-218.

<sup>76</sup> Ulbricht, *Kindsmord und Aufklärung*, 265.

form, these foundling houses did little to halt infanticide. The foundling home of Augsburg, for example, made every attempt to identify and find the parents of abandoned children and return the children to them. Some respondents argued that abandonment should be decriminalized and the anonymity of abandoning mothers protected as a means of making foundling houses a more viable and appealing option than abortion or infanticide. Other suggestions involved establishing homes in which single mothers could give birth safely and privately. Still others argued that decriminalizing fornication and alleviating the stigma and isolation faced by single mothers and illegitimate children would decrease the pressure that led women to commit infanticide. Many suggested the elimination of physical and shaming punishments. Writers paired this lessening of punishment with the requirement that single pregnant women report their pregnancies to various authorities, ensuring that they would not hide their pregnancies and eventually commit infanticide.<sup>77</sup>

The responses also demonstrated an important shift in thinking about the crime and the role of the state in preventing it. While some respondents encouraged simply issuing sterner warnings to young girls about the consequences of fornication, many recognized that the system of expectations and consequences was flawed. Their efforts to institute foundling homes and lessen the severity of punishments for fornication were attempts to fix the system, not just to deter the potential child-killer. Increasingly, the child-murderers were recognized as victims themselves, or at least as women in need of help, instead of as cruel, heartless killers. In seeking to deal pragmatically with the crime,

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<sup>77</sup> Ulbricht, *Kindsmord und Aufklärung*, 268-315.

these writers distanced themselves from traditional approaches that they saw as more sanctimonious than effective.

### *Enlightened reforms and the role of infanticide*

Changing ideas about criminality and the idea that the treatment of both crime and criminals needed to be reformed were not focused solely on infanticide. Enlightened reformers were eager to reform judicial systems across Europe. Infanticide, however, was one crime that touched on many of the reformers' main concerns: education, the use of torture and the death penalty, the role of the state in regulating personal, especially sexual, behavior, and the role of the state in assisting the less fortunate. Many localities tried to implement reforms similar to those suggested in response to the *Preisfrage*, such as easing the consequences of illegitimate pregnancy. A decree from Prussia in 1765, for instance, announced that women who were pregnant out of wedlock would not face punishment if they notified certain trustworthy female citizens of their pregnancy.<sup>78</sup> Such new practices sought to eliminate secret pregnancies, and, with them, infanticides. But there were greater changes underway that would affect how infanticide was prosecuted and punished.

Infanticide trials came to be seen as especially harsh not just because of the growing sympathy toward the mothers, but also because of a growing distaste for the death penalty and torture. Although these practices decreased in popularity across Europe during the eighteenth century, they did not do so out of an Enlightened, humane effort to

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<sup>78</sup> BSBM, 2 Pol. civ. 4 d, *Edikt wider den Mord neugeborhner unehelicher Kinder, Verheimlichung der Schwangerschaft und Niederkunft*, Berlin, 1765.

end barbaric practices. Rather, any eventual decline in the use of torture and execution was the result of inherent procedural problems in a legal system that came to seem less and less effective. Many have credited the decrease to pressure from *philosophes*. But John Langbein has convincingly argued that this was not the case; instead, he attributes the decline of the death penalty to the dissolution of the inquisitorial procedure, which had been in place in continental Europe since the sixteenth century.<sup>79</sup>

The death penalty was already used much less frequently across Germany by the beginning of the eighteenth century than it had been in the sixteenth century, and several historians have found a corresponding decline in criminality throughout the seventeenth century.<sup>80</sup> Increasingly in the mid-to-late eighteenth century, the use of torture to elicit truth also came under attack, largely in reaction to the witch-hunts that had been so heavily dependent upon confessions extracted under torture. As these confessions came into question, so, too, did the methods used to acquire them. And as torture came to be seen as problematic, the basis for conviction and the system of punishment necessarily also came into question. Confession itself was gradually becoming less necessary; a full confession was needed for full conviction, and a confession often required the use of torture. But by law, authorities had to meet minimum requirements of evidence or witnesses in order to use torture. Many cases, therefore, resulted in which officials strongly suspected guilt but lacked proof enough to proceed with torture. Thus, in the eighteenth century, these authorities began exercising their power to punish for suspicion of a crime instead of for the crime itself. This practice ruled out the death penalty, instead

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<sup>79</sup> John Langbein, *Torture and the Law of Proof: Europe and England in the Ancien Régime* (Chicago: University of Chicago Press, 1977).

<sup>80</sup> Evans, *Rituals of Retribution*, 42.

making use of the developing alternatives, such as prisons, workhouses, and, where possible, work on galleys.<sup>81</sup> Workhouses and prisons maintained strict daily schedules and aimed to instill a respect for authority and a stronger work ethic, and to return the rehabilitated criminals to society as productive citizens.<sup>82</sup> Poorhouses were similar institutions, designed to give the poor employment, but often with the paternalistic sensibility that the poor were poor because of their own laziness and thus also needed to be rehabilitated or at least forced to work. Such punishments all aimed, at the very least, to separate problematic elements from the rest of society.

Across Europe, reformers were seeking more effective punishments along these lines. Objections to the death penalty did not center on a discussion of the humanity or barbarity of execution, but rather on its appropriateness and effectiveness. Suicide by proxy provides a fitting example. Indeed, for this crime and others, execution was not seen as punishment enough. Historian Richard Evans explains, “Ironically, the wave of prison foundations that swept the German states in the late seventeenth and early eighteenth centuries was part of a general crackdown on crime and deviance that also included a number of draconian extensions of the death penalty.”<sup>83</sup>

Indeed, the death penalty was not by any means brought to a clean end with the coming of the Enlightenment. There were very few reformers who sought to abolish it entirely. Cesare Beccaria, a prominent Italian lawyer, published the defining treatise on crime and punishment, *Dei delitti e delle pene*, in 1764. In this work, Beccaria laid out his

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<sup>81</sup> Langbein, *Torture and the Law of Proof*.  
 Evans, *Rituals of Retribution*, 113-116.

<sup>82</sup> Joel F. Harrington, "Escape from the Great Confinement: The Genealogy of a German Workhouse," *The Journal of Modern History* 71, no.2 (June 1999): 308-345.

<sup>83</sup> Evans, *Rituals of Retribution*, 117-118.

argument against the death penalty, which he based firmly in Enlightened principles of reason. He argued for more precise gradation of punishments to better fit crimes and for more effective punishments; execution was, he said, a spectacle that was soon forgotten. Following the publication of Beccaria's groundbreaking work, some European leaders began adopting some of his suggestions. Yet this did not signal the end of the death penalty by any means. Complete abandonment of this practice remained controversial and rare; while many states eliminated the death penalty for some crimes, many still retained its use for particularly heinous crimes.<sup>84</sup>

These reforms naturally affected responses to the crime of infanticide. When it came to infanticide itself, the Enlightened discussion marked a distinct shift in thinking about the crime. Attempts to understand the crime and the criminal shifted from horror toward pity. Beccaria and Immanuel Kant both wrote about the inevitability of the crime: a woman who had become pregnant out of wedlock would naturally be driven toward infanticide. Beccaria argued: "How should she who is forced to choose between shame and the death of a being unable to feel its miseries *not* prefer the latter to the inevitable suffering to which she and the unfortunate offspring would be exposed?"<sup>85</sup> To intellectuals like him, infanticide seemed practically compulsory for women who wanted to protect their honor. While such *philosophes* still considered infanticide horrific, they believed that women had no other choice. The extent to which such ideas translated into leniency toward child-murderesses in judicial practice is uncertain. Beccaria and others tied this pity for the criminal and inevitability of the crime to their arguments for ending

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<sup>84</sup> Evans, *Rituals of Retribution*, 127-140.

<sup>85</sup> Quoted in Kord, "Murderesses," 135.

the death penalty. Additionally, it was believed that to allow a woman to live in her shame, which had been powerful enough to lead her to infanticide, was a far greater punishment than death.<sup>86</sup>

### *Sturm und Drang*

It was not only these social reformers who drew heavily on the image of the pitiable, helpless mother; this figure was also the heroine of the infanticide poems of the *Sturm und Drang*. In both, the helplessness and lack of personal choice of the murderous mother made her as much a victim as her dead child. This idea was a long way from the child-murderess described in the *Carolina*, a “depraved woman,” who had killed her child “secretly, maliciously, and willfully.” Instead, the child-murderess was now a fallen woman who had followed the only course of action left to her to preserve her reputation; her actions were understandable, though regrettable.

The *Sturm und Drang*, often translated as “Storm and Stress,” was a literary movement in Germany which grew in popularity in the 1760s through the 1780s. This group of writers reacted to the Enlightenment’s ideals of reason and empiricism and favored emotion and individuality instead. A sort of proto-Romanticism, the *Sturm und Drang* produced works that featured heightened emotions and intense drama. Johann Wolfgang von Goethe’s novel *The Sorrows of Young Werther*, in which the protagonist commits suicide, was the movement’s defining work, and a bellwether of later

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<sup>86</sup> Kord, “Murderesses,” 135-141.

Romanticism. The themes in this novel—individualism, freedom, unrequited love, violence, emotion, madness—defined the *Sturm und Drang* as a literary movement.<sup>87</sup>

Infanticide was an ideal topic for the writers of the *Sturm und Drang*. Goethe and Schiller, among many others, drove the discussion surrounding the crime with poems, plays, and novellas in which infanticide was the dramatic climax of tales of seduction and betrayal. Gustav Radbruch, the famous German legal historian, described infanticide as “the key delict of all efforts at criminal law reform in the eighteenth century. No other crime was more frequently and passionately disputed.... There was hardly a poet of the ‘Sturm und Drang’ who ignored this theme.”<sup>88</sup> J.M. Rameckers similarly stated that there were “no *Stürmer* and no *Dränger* who had not given [infanticide] a try.”<sup>89</sup>

Many of the works about infanticide that this movement produced were not based on actual cases. Instead, writers adopted the motif of infanticide as a medium for writing about high drama and emotion. Tales of infanticide began with passion and danger, in the form of seduction, illicit sex, or rape. The women, now pregnant, were abandoned, and passion gave way to shame, sorrow, and anger. Despair led to infanticide, presented as a crime against nature caused by the basest human desires. The murder scenes featured uncontrollable rage and violence. These acts were followed by regret and sorrow, and usually by the tragically tardy return of the father. Stories of infanticide thus contained sex, violence, murder, and sometimes suicide, along with the wide range of extreme

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<sup>87</sup> Vera Lind, *Selbstmod in der Frühen Neuzeit: Diskurs, Lebenswelt und Kultureller Wandel am Beispiel der Herzogtümer Schleswig und Holstein* (Göttingen: Vandenhoeck & Ruprecht, 1999), 126-134.

<sup>88</sup> Gustav Radbruch and Heinrich Gwinner, *Geschichte des Verbrechens: Versuch einer historischen Kriminologie* (Frankfurt am Main: Eichborn, 1991).

<sup>89</sup> J.M. Rameckers, *Der Kindesmord in der Literatur der Sturm-und-Drang Periode* (Rotterdam: Ditmar, 1927), 4.



emotions that accompanied these actions, an appealing combination for those writers who professed to feel constrained by the reason of the Enlightenment.

Johann Wolfgang von Goethe began work on his most famous piece, *Faust*, in the 1770s, although he did not complete the play until the first decade of the nineteenth century. *Faust* was based on medieval legends of a traveling magician called Faust or Faustus, though Goethe's version transforms him into an ambitious professor who makes a pact with the devil, Mephistopheles. This pact gives Faust everything he desires on earth in exchange for his soul in the afterlife. During the course of his travels and adventures, Faust falls in love with Margarethe, called Gretchen. Faust seduces Gretchen, who becomes pregnant. Abandoned by Faust, Gretchen kills her baby and is arrested. In prison she is driven to distraction, and seems confused about what has happened:

Only let me first nurse my baby.	Laß mich nur erst das Kind noch tränken.
I held it this whole night;	Ich herzt es diese ganze Nacht
They took it from me to give me pain,	Sie nahmen mir's, um mich zu kränken,
And now they say I killed it.	Und sagen nun, ich hätt es umgebracht.
And never again will I be happy. <sup>90</sup>	Und niemals werd ich wieder froh.

When Faust later returns to rescue her with the help of Mephistopheles, Gretchen refuses his aid, desiring to face her the punishment she has earned. Mephistopheles declares, "She is judged!" but a voice from above corrects him: "She is saved!"<sup>91</sup> Faust and Mephistopheles are presented as the ones responsible for Gretchen's fate, while Gretchen stands in contrast by willingly facing punishment for her evil deeds.

As a young jurist in the city of Frankfurt, Goethe witnessed the 1771 trial of child-murderess Susanna Margaretha Brandt. This trial was supposedly his inspiration for

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<sup>90</sup> Johann Wolfgang von Goethe, *Faust* (New York: Anchor Books, 1990), 408. My translation.

<sup>91</sup> Goethe, *Faust*, 420.

the fallen lover of Faust. Despite the sympathetic portrayal of Gretchen, and the guarantee of her salvation after execution, during his legal career, Goethe the jurist was responsible for the execution of other child-murderesses in his role as a jurist.<sup>92</sup> Goethe's 1783 vote to uphold execution as the punishment for infanticide in Saxe-Weimar has been a source of historical controversy, as scholars have sought to unite this vote with his development of Gretchen. Goethe disconnected the sympathetic literary portrayal of child-murderesses and the reality of actual infanticide trials and the duties of the court, and recognized the complexities of a potential major change to legal practice.<sup>93</sup>

Goethe's close friend, Friedrich Schiller, also took on the topic of infanticide with his 1782 poem "Die Kindsmörderin," ("the child-murderess"). It reads, in part:

And the little child—in its mother's lap  
It lays there in sweet, golden rest  
In the charm of the young morning rose  
The brave young one laughs at me  
Deathly but lovely features spring from  
His lovely impish image;  
The mother's anxious bosom cradles  
Love and—betrayal.

Woman, where is my father? babbled  
His innocent, silent thunderclap,  
Woman, where is your spouse? resonated  
In every corner of my heart  
Alas, you, orphan, seek him in vain,  
You will curse the hour of our lust  
When the name Bastard blackens you.

Und das Kindlein—in der Mutter Schoße  
Lag es da in süßer goldner Ruh,  
In dem Reiz der jungen Morgenrose  
Lachte mir der holde Kleine zu,  
Tödlichlieblich sprang aus allen Zügen  
Des geliebten Schelmen Konterfei;  
Den beklommenen Mutterbusen wiegen  
Liebe und—Verrätere.

Weib, wo ist mein Vater? lallte  
Seiner Unschuld stumme Donnersprach,  
Weib, wo ist dein Gatte? hallte  
Jeder Winkel meines Herzens nach—  
Weh, umsonst wirst Waise du ihn suchen,  
Wirst der Stunde unsrer Wollust fluchen.  
Wenn dich einst der Name Bastard  
schwärzt.

<sup>92</sup> Rebekka Habermas and Tanja Hommen, eds., *Das Frankfurter Gretchen: Der Prozess gegen die Kindsmörderin Susanna Margaretha Brandt* (Munich: C.H. Beck, 1999), 28-29.

<sup>93</sup> W. Daniel Wilson, "Goethe, His Duke and Infanticide: New Documents and Reflections on a Controversial Execution," *German Life and Letters* 61:1 (January 2008): 7-32.

Schiller ends his poem with the convicted woman addressing the executioner:

Quick, place the blindfold on my face!	Schnell die Binde um mein Angesicht!
Hangman, can you not break the lily?	Henker, kannst du keine Lilie knicken?
Pale hangman, tremble not!	Bleicher Henker, zittre nicht! <sup>94</sup>

The child-murderess humbly begs the executioner to cover her eyes and make her death quick.

Many historians have noted how the tone and message of these poets differed from the reality of infanticide cases.<sup>95</sup> These poems and plays often feature a poor, young, unmarried woman who was seduced by a much more powerful and wealthy man who refused to marry her once she became pregnant. Such was the case in Gottfried August Bürger's poem "The Pastor's Daughter of Taubenhain." The daughter, who was "innocent as a little dove...young, lovely and fine," is seduced by the Junker of Falkenstein, who woos her with his looks, pretty letters, and jewelry. After the nobleman refuses her, she gives birth and stabs her newborn son in the heart with a silver hairpin.<sup>96</sup>

As this and several other historical studies have shown, however, most infanticides occurred under rather different circumstances. The father was not a nobleman, but rather usually someone from the woman's own social class, an apprentice or day laborer. Yet the tendency of fathers to flee or deny paternity rendered them in practice as inaccessible as the fictional aristocrats. The *Sturm und Drang* poets used class discrepancy not as a reflection of actual events, but as a means to emphasize the power

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<sup>94</sup> Friedrich Schiller, "Die Kindsmörderin," 1782, accessed January 11, 2012, <http://gutenberg.spiegel.de/buch/3352/118>. My translation.

<sup>95</sup> See, for example, Otto Ulbricht, *Kindsmord und Aufklärung in Deutschland*, Helen Fronius, "Images of Infanticide in Eighteenth-Century Germany," and Susanne Kord, *Murderesses in German Writing, 1720-1860: Heroines of Horror* (Cambridge: Cambridge University Press, 2009).

<sup>96</sup> Gottfried August Bürger, "Des Pfarrers Tochter von Taubenhain," 1778, accessed January 14, 2012, <http://www.literaturwelt.com/werke/buerger/taubenhain.html>.

differentials in their stories. In these poems, the mother is usually portrayed as an innocent victim, with the true criminal being the father, even more dastardly for taking advantage of the distance between their social standings. The women are not only poor and helpless, but also very naïve, believing promises of marriage from someone who could not fulfill them—a nobleman or the master in whose house they served. Women's naivety and helplessness were actually presented as positive characteristics, excusing their actions. In several poems, the heroine even kills her child because it resembles the father too closely, further placing blame on his shoulders.<sup>97</sup>

The motivations of the women in these overwrought poems also do not entirely square with those expressed by women accused of infanticide in court records. Only rarely did a real woman attempt to shift the blame to the father, and the excuse that the child looked too much like him was entirely fanciful. However, women did plead naivety, as well as a departure from their senses. In real life these excuses rarely gained them pity or a reduced sentence. The mothers in infanticide poems were often out of their minds at the time of the murder. In Anton Matthias Sprickman's poem "Ida," the eponymous heroine, another child-murderess, narrates her entire mental breakdown before she bashes her child's head in with rocks. The women in such poems then wake up from their trance and immediately regret their actions, almost expressing surprise at the dead child in their

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<sup>97</sup> Susanne Kord, "Women as Childkillers: Poetic Images of Infanticide in Eighteenth-Century Germany," *Eighteenth-Century Studies*, vol. 26, No.3 (Spring 1993): 453-7.  
Kord, *Murderesses in German Writing*, 121-153.

arms. Unlike the claims in actual infanticide trials, a descent into madness was expected to elicit sympathy from the reader and to alleviate the mother's guilt.<sup>98</sup>

In these works, the mother is presented as the victim of unfortunate circumstances, not as a murderer. This depiction stands in contrast to the way court records and local news pamphlets portrayed the mothers. The authors of these plays and poems take practically all agency from the mothers, placing it entirely in the hands of the seducer. In the court records, while the council would ask about the father of the child and his role in the crime, the impetus behind the crime and the actual commission of the crime was fully in mothers' hands. While the council often suspected outside influence, female defendants usually accepted full responsibility for their actions.

Poems like Sprickmann's "Ida" particularly highlight themes that were popular during the *Sturm und Drang* and early Romantic movements. In Sprickmann's poem, Humfried, a nobleman, seduces and impregnates Ida. Humfried leaves Ida for Luitberga, but eventually regrets his decision. He races to find Ida and discovers her and their child in a hut on desolate cliffs, where she has descended into madness. Ida kills the child, and Humfried witnesses the act from afar, after which he kills himself. Ida also dies, as does Humfried's other woman, Luitberga, upon discovering the bloody scene.<sup>99</sup> Seduction, abandonment, madness, a bastard child, infanticide, suicide, and a final scene littered with corpses: this was the ultimate expression of the *Sturm und Drang*.

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<sup>98</sup> Helen Fronius, "Images of Infanticide in Eighteenth-Century Germany," in *Women & Death: Representations of Female Victims and Perpetrators in German Culture, 1500-2000*, ed. Helen Fronius and Anna Linton (Rochester: Camden House, 2008), 93-112.

<sup>99</sup> Fronius, "Images of Infanticide," 94-96.

*Decline in Swabia*

With these new ideas about infanticide prominent in Germany-wide educated discourse at the end of the eighteenth century, it might be assumed that significant changes took place in the local treatment and perception of the crime. The court records of the Swabian cities indicate that a significant transition was indeed underway in the eighteenth century. Of the women accused of infanticide in the eighteenth century, very few were executed. The death penalty was not entirely beyond consideration, but it became increasingly rare. The town council of Augsburg began reserving the death penalty for especially horrific cases, such as suicides by proxy. Without the full case files, it would be difficult to explain this transition fully, but there seem to have been several factors at play that altered the course of many infanticide trials in the eighteenth century. This study's other cities provide some evidence that the death penalty was implemented, as it was with Anna Katharina Türkin, who was executed in Ulm in 1785.

The 1740s in Augsburg witnessed a minor swell in infanticide cases. In 1743, the town council of Augsburg executed Marianna Kärpffin: the executioner cut off her right hand before decapitating her and burning her corpse. She had faced a bizarre collection of charges, including infanticide, arson, attempting to sell a different child to Jews, theft, and fornication. The council prosecuted her under the *Carolina* articles regarding arson (125) and murder without regret (137). Records of her trial do not exist, but various versions of the *Verruf* and songs and poems remain. The *Verruf* weaves a bizarre story: 27-year-old Marianna was from Unterthingau (80 kilometers south of Augsburg), but she must have been a drifter or vagabond at the time of her arrest, because she confessed to

having lived secretly in the hayloft of one Antoni Endres. In October, she entered Antoni's house while he and his wife were at church. They had left both of their children—a five-year-old also named Marianna and a five-week-old named Barbara—at home. The *Verruf* gives no indication of any motivation for Marianna's next actions, but simply describes how she strangled the older child with a shirt and threw her in the straw, where she was later found dead. Marianna did not stop there, but attempted to set the house on fire. She then fled with the younger child, with the intention to sell it, via another city resident, to the Jews. Presumably she thought that the Jews would be willing to buy the child for their evil rituals. Additionally, Marianna confessed to various acts of theft and fornication with single and married men.<sup>100</sup>

In the same year Marianna was executed, Anna Maria Endressin was banished for infanticide.<sup>101</sup> The previous year, Augsburg witnessed one of the most sensational cases of suicide by proxy, that of Maria Elisabetha Beckensteinerin.<sup>102</sup> Two years before that, Jeremias Bertz had murdered his own infant daughter.<sup>103</sup> Another possible suicide by proxy took place two years after, in 1745.<sup>104</sup> Finally, a broadsheet from 1747 indicates that this decade witnessed one further child murder. A man identified only as a merchant named Bogner supposedly murdered his own six-month-old child, stabbing it as it lay in the cradle. A picture shows a man holding a knife, about to stab a child in a crib, or

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<sup>100</sup> StadtAA, *Urgichten*, Marianna Kärpffin, 20 July 1743.

<sup>101</sup> StadtAA, *Urgichten*, Anna Maria Endressin, 18 May 1743.

<sup>102</sup> StadtAA, *Strafamt, Verzeichnis der Maleficanten*, Maria Elisabetha Beckensteinerin, 20 March 1742.

<sup>103</sup> StadtAA, *Strafbücher*, Jeremias Bertz, 31 May 1740.

<sup>104</sup> StadtAA, *Strafbücher*, Oriana Magdalena Schiederin, 14 September 1745.

perhaps reeling back after having already stabbed the child.<sup>105</sup> These cases made the 1740s one of the worst decades for infanticides since the early 1600s, and the worst for suicide by proxy in particular.

This apparent crime wave has several possible explanations. The massive number of publications about each crime drove printers to publicize each crime more intensely; thus, during this period, such crimes were more likely to be recorded. As with the earlier wave of sensationalism, the more people knew about a crime, the more they were likely to notice that particular crime. In cases that were secretive, like infanticide, what neighbors and friends noticed and reported was vital to discovery. Additionally, it is plausible that one suicide by proxy, once publicized, could possibly encourage others. A person who had witnessed or read about an execution might recall it during a particularly desperate moment. After this intense flurry of prosecutions and sensationalism of the 1740s, the decline was perhaps almost natural.

The court records from Augsburg demonstrate clearly that cases of infanticide petered out toward the end of the eighteenth century. The organization of the *Strafbücher* also began to change in the eighteenth century. Three volumes record brief accounts of crimes and punishments for the eighteenth century. One volume covers the years 1734 to 1741,<sup>106</sup> and another 1741 to 1747.<sup>107</sup> The third volume covers 1700 to 1806.<sup>108</sup> The first two volumes are not nearly as thorough as the third. This longer volume, however, still contains a major hole, as the entire decade of the 1750s is missing. It also introduces new

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<sup>105</sup> SStBA, *Graphiksammlung*, 29/126, *Wahrhaffter Entwurf. Einer Erstaunlichen und fast niemahls erhörten Mordthat*, (Augsburg: n.p., 1747).

<sup>106</sup> StadtAA, *Strafamt, Consultanda Criminalia (Criminal Buch)*, 1734-1741.

<sup>107</sup> StadtAA, *Strafamt, Consultanda Criminalia (Criminal Buch)*, 1741-1747.

<sup>108</sup> StadtAA, *Strafamt, Verbrecher-Buch*, 1700-1806.



recording conventions, indicative of a transition in court procedures. Latin terminology is used more frequently: women are convicted of *infanticidii* instead of *Kindermord*. Dates are frequently given in Roman numerals instead of Arabic. The script is dramatically different, written in more delicate eighteenth-century chancery hand. Although some of these changes were rather insignificant, taken together they do demonstrate that major procedural changes were underway.

Further changes are more evident in the recorded punishments. Like those of the rest of Germany, the town council of Augsburg seems to have increasingly punished suspected, as well as convicted, criminals. This practice allowed the council to avoid torture and also allowed greater flexibility in handing down punishments. Mere suspicion of having committed infanticide had always been a punishable crime, and the town council had long handed down such punishments. However, this crime was often accompanied by other nebulous accusations of “dishonorable behavior,” and the council usually punished such women with banishment. By the later decades of the eighteenth century, women were more frequently labeled as suspected infanticides rather than given the vague descriptions of earlier decades, and they were subject to a wider array of punishments. In 1773 Rosina Bayrinn received twenty lashes in addition to banishment for “suspecti infanticidii.”<sup>109</sup> Nine years later, Catharina Löwin was also found guilty of suspected infanticide, and the council sentenced her to two months in the workhouse before banishing her.<sup>110</sup>

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<sup>109</sup> StadtAA, *Strafamt, Verbrecher-Buch*, Rosina Bayrinn, 19 January 1773.

<sup>110</sup> StadtAA, *Strafamt, Verbrecher-Buch*, Catharina Löwin, 19 February 1782.

Additionally, the records indicate that several women were punished for hidden pregnancies and secret childbirths. Both of these had long been deemed criminal offenses in an attempt to stem infanticide; but they were usually only exposed when an infanticide or abortion came to light, and were thus subsumed into the more severe crime. However, the number of women punished for these crimes by themselves experienced an upswing toward the end of the eighteenth century, perhaps reflecting a stronger push to prevent infanticide by means of more thorough community policing. Magdalena Bartlin received fifteen lashes and spent three weeks in the workhouse for concealing a pregnancy.<sup>111</sup> Maria Margaretha Hirschmännin also attempted to hide her pregnancy and served four weeks in the workhouse and after her lying-in period<sup>112</sup> Marianna Boschin earned herself four weeks in the workhouse for giving birth in secret.<sup>113</sup> The records do not indicate what became of the pregnancies or the children.

Despite the efforts of some reformers, women were still punished for having illegitimate children. The cases recorded in the *Strafbuch* indicate that the council reserved harsher punishments for repeat offenders. In October 1777, Anna Barbara Schwagerin was arrested after having found herself pregnant out of wedlock for the fourth time. She was sentenced to an indefinite stay in the workhouse.<sup>114</sup> In April 1784, Katharina Meißgeyrin was arrested, also pregnant out of wedlock for the fourth time. She was sentenced to remain in the workhouse permanently.<sup>115</sup> Three illegitimate children were also enough to warrant punishment, as Johanna Ostertagin discovered when she was

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<sup>111</sup> StadtAA, *Strafamt, Verbrecher-Buch*, Magdalena Bartlin, 9 November 1776.

<sup>112</sup> StadtAA, *Strafamt, Verbrecher-Buch*, Maria Margaretha Hirschmännin, 19 January 1788.

<sup>113</sup> StadtAA, *Strafamt, Verbrecher-Buch*, Marianna Boschin, 4 March 1780.

<sup>114</sup> StadtAA, *Strafamt, Verbrecher-Buch*, Anna Barbara Schwagerin, 11 October 1777.

<sup>115</sup> StadtAA, *Strafamt, Verbrecher-Buch*, Katharina Meißgeyrin, 17 April 1784.

sentenced to six months in the workhouse. Such punishments continued into the nineteenth century, as Regina Zuchmeisterin was sentenced to an unspecified amount of time in the workhouse in November 1801.<sup>116</sup> Change came slowly, as the continued prosecution of unwed mothers demonstrated. Likewise, mothers and fathers, single and married, still faced the problem of unwanted children. In 1744, Joseph Gleich and his wife were arrested for trying to abandon their child. They were whipped twenty-five times and banished together with their daughter.<sup>117</sup> In 1790, Johann Georg Wittmann served one month in the workhouse for abandoning a child.<sup>118</sup>

Augsburg was no exception to the eighteenth-century trend of implementing different punishments. As the above examples show, the late eighteenth-century witnessed the introduction of the workhouse (*Arbeitshaus*) and the discipline-house (*Zuchthaus*). The *Urgichten* from Augsburg contain references to both the *Zuchthaus* and the *Arbeitshaus*, but these terms referred to one entity, the *Zucht- und Arbeitshaus* (the discipline and workhouse), founded in 1755.<sup>119</sup> Between 1755 and 1772, the workhouse in Augsburg was combined with the poorhouse “in a direct attempt to exploit the labor of the poor,”<sup>120</sup> an idea that ultimately failed but that demonstrated the similarities in how the city council thought of criminals and the poor. In the sentences noted here, the workhouse was used for both rehabilitation and punishment. Some condemned to the workhouse were expected to stay there for a short period of time, usually a few weeks to

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<sup>116</sup> StadtAA, *Strafamt, Verbrecher-Buch*, Regina Zuchmeisterin, 19 November 1801.

<sup>117</sup> StadtAA, *Strafamt, Verbrecher-Buch*, Joseph Gleich, 25 April 1744.

<sup>118</sup> StadtAA, *Strafamt, Verbrecher-Buch*, Johann Georg Wittmann, 5 June 1790.

<sup>119</sup> Thomas Max Safley, *Charity and Economy in the Orphanages of Early Modern Augsburg* (New Jersey: Humanities Press, 1997), 46.

<sup>120</sup> *Ibid.*, 209.

a few months, and then, presumably, return to society. Others were sent to the workhouse before they were banished. In such situations, the intent was clearly not rehabilitation, but merely to heighten the severity of the punishment of exile. Increasingly, the workhouse was used instead of banishment for non-capital crimes; criminals were sometimes sentenced to indefinite periods in the workhouse, which served the same purpose of keeping them out of society.

Women who were fully convicted of infanticide were still executed in the late eighteenth century, but the last case of classic infanticide found in the Augsburg records, at least until this set of records ended in 1806, was Barbara Gruberin in 1765. The intervening 41 years with no executions for infanticide marked a span of time unmatched since the early sixteenth century. The last execution for suicide by proxy—that of Maria Anna Mayrinn—took place in 1783, leaving a span of 23 years without an execution for infanticide of any type. One final piece of evidence is the case of Felicitas Däumlingin, who was convicted of infanticide in 1798, but was sentenced to the workhouse instead of being executed. Although other child-murderers had occasionally escaped execution throughout the early modern period, Felicitas's case exemplifies an important shift: women were still committing infanticide, but were no longer likely to be executed for it. Her case follows several decades with no executions despite at least six convictions for suspected infanticide. In Augsburg, as it was all across Germany, the use of execution was evolving.<sup>121</sup>

However, any developing trends at the end of the eighteenth century were interrupted suddenly. At the turn of the century, France's revolutionary armies swept into

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<sup>121</sup> Evans, *Rituals of Retribution*.

the Holy Roman Empire. The Napoleonic Wars brought major changes to all of Germany, and especially the imperial cities of southern Germany. In 1806, Napoleon officially dissolved the Holy Roman Empire, reorganizing the German lands into the Confederation of the Rhine. Prior to this dissolution, in 1805, Augsburg officially lost its long-held independence. In December, the city was incorporated into the Kingdom of Bavaria. Nördlingen, Memmingen, and Ulm had similarly been incorporated in 1803, and in 1810 Ulm became part of the Kingdom of Württemberg. These formerly free imperial cities were now subject to much larger authorities, and to the political changes that came with revolutionary armies.

This major political shift had direct consequences for the prosecution of crimes. Infanticide and abortion remained illegal, but the entire legal system was changing. This affected the records left behind: gone were the *Strafbücher* and the *Urgichten*. The *Kriminalakten* of Nördlingen had been phased out, and while the criminal records of Memmingen and Ulm in the eighteenth century do not survive, it would be safe to assume that procedures in these two cities underwent significant changes with incorporation into Bavaria and Württemberg.

The crimes of infanticide and abortion, as understood, committed, and prosecuted in the early modern era, were coming to an end. Women and men continued to commit such acts, and their crimes continued to be prosecuted into the nineteenth century and beyond. Infanticide and abortion remain highly controversial, and they continue to garner a great deal of attention from politicians and the popular media. But the peculiarly early

modern definitions, understandings, and treatments of infanticide were evolving by the waning decades of the eighteenth century.

### *Conclusions*

The eighteenth century witnessed many changes both in how the council prosecuted and how the media portrayed certain crimes. Among the effects of these developments was the growing belief that the crime of infanticide was on the rise, a greater problem than ever before, even though the numbers from the court records do not bear out this assumption. But infanticide was an extraordinarily popular topic of debate all over Germany, and this debate grew, especially in the late eighteenth century, feeding on itself and fueling the perception of many Enlightened reformers that the crime was out of control. This effect recalled the earlier period of broadside sensationalism in the late-sixteenth and early-seventeenth centuries, but the literature of the eighteenth century was of a fundamentally different form and function. The earlier period of sensationalism in Swabia corresponded with the peak in infanticide and abortion prosecutions in each of the four cities in this study. The later period of sensationalism, spanning the greater part of the eighteenth century, corresponded with the overall decline in infanticide in Swabia. But the printers of Swabia did not operate in a vacuum. For this new era of sensationalism in Swabia was not a reflection of any local patterns, despite the fact that they featured local crimes, but rather it was a reflection and part of a larger discourse which spread all across Germany.

The wider debate about infanticide grew so intense in this period for several reasons. Both the rational *philosophes* of the Enlightenment and the proto-Romantics of the *Sturm und Drang* were fascinated by the subject. Given that the latter at least partially defined itself in opposition to the former, this shared interest might seem unusual. An examination of the two movements' use of the theme of infanticide, however, shows that it was actually quite fitting for both groups. When Enlightened thinkers discussed the reforms society needed, they considered the role of the state in regulating personal behavior and the use of torture and the death penalty, among other issues. Crimes like infanticide were thus a natural focus for these debates. And while other crimes also touched on these issues, infanticide was particularly compelling, drawing on the popular appeal of sex, murder, and vulnerable young women. The latter elements likewise enthralled the writers of the *Sturm und Drang*. The difference was the poets did not see infanticide as a terrible problem to fix through rational reform, but rather as the basis for a titillating story that could incorporate all of their favorite themes. Both movements saw child-killers as helpless victims of terrible situations; one used this to add to the drama of their poems and the other used it as a means to achieve certain societal and political reforms.

In some ways, the high-culture writings of poets and playwrights differed little from the lower culture publications of local printers. The passion and horror of Schiller's verses on infanticide, for example, is not all that far removed from the poems written about Samuel Keck. While the verses about Samuel Keck lack the style of Schiller, the stories are very similar and they both draw upon the same emotions. In the end, both the

local publications and the most famous poems and plays of the age all told the same story of lust gone wrong, an unwanted child, and murder.

The popular literature on infanticide had also grown more sophisticated in some ways since the earlier boom. The texts grew in length, and were published as pamphlets instead of simple broadsides. The official *Verrufe* also lent more authority to the works published alongside them. These eighteenth-century pamphlets communicated old themes in new ways and served a different purpose than the earlier broadsides. The earlier pamphlets usually reported crimes and events that were particularly bizarre and often far-removed from the place of publication. The later pamphlets reported specific real crimes, providing details about the defendants and court proceedings, and were intended to deter other potential criminals. Greater than these motivations was the desire to sell copies, resulting in the most sensational news getting published in both eras. But what was sensational at the turn of the sixteenth century—such as tales of robber-murderers and horrific monstrous births—may no longer have been incredible in the late-eighteenth century. “Classic” infanticide cases had become more intriguing because they were less common and because they were the subject of such fervent debate outside city walls.

While *philosophes* debated the best methods for decreasing infanticide, individual localities adopted various reforms. More attention was paid to each case because these cases had become rare, but also because infanticide was such an appealing topic for certain intellectual and cultural movements at the end of the century. Yet it was also intriguing because it was a very real problem. It was this attention to the crime that in many ways led to its decline. Although Augsburg was no longer a great cultural or



intellectual center of Germany, and the other cities considered in this study never had been, they still participated actively in this discussion. The debate now extended from the lowliest inhabitants of these towns, who could purchase or borrow cheap pamphlets and broadsides, up through local magistrates and printers, lawyers, physicians, theologians, and high-brow poets and dramatists. Even as the occurrence and prosecution of such crimes waned, the theme of child murder was more popular and widespread than ever.

## Conclusion

In all societies, regardless of views on and practices of birth control, abortion, or infanticide, and for many reasons—poverty, gender selection, social pressures, and physical constraints, among others—people have had unwanted pregnancies and unwanted children. What makes a pregnancy or a child unwanted depends on myriad factors, including the role of the child in the particular society, the status of the child's parents, the society's attitudes toward children, women, and pregnancy, and ideas about legitimacy and social welfare. And because unwanted children exist, there are always people willing to take drastic measures to end a pregnancy or dispose of a newborn baby. What a mother or father of an unwanted child is willing to do, is capable of doing, or needs to do is dependent upon who is considered responsible for the pregnancy or unwanted child and what physical controls and legal rights a woman has over her body and her pregnancy. The answers to these questions may determine if the mother has an abortion, if one of the parents commits infanticide, or if another solution needs to be found or imposed, such as exile, social humiliation, or marriage to the father.

In early modern Germany, illegitimate children were the most common unwanted children; but not all unwanted children were illegitimate, and not all illegitimate children were unwanted. The options for a poor pregnant woman were severely limited. The best solution for a woman pregnant out of wedlock was widely considered to be marriage to the father, but this was clearly not always possible. Charitable support was rarely available, especially for unwed mothers and illegitimate children, and the consequences for having an illegitimate child were severe. Abortion was unsafe for the mother,

uncertain in efficacy, and illegal. Abandonment was potentially unsafe for the child and also illegal. Infanticide might have seemed the only option left for such mothers.

Although also illegal and difficult to hide, it might have seemed like the only feasible or definitively effective option. It was for some parents a form of birth control or family planning, at least tacitly acknowledged by many as an understandable, if regrettable action.

Yet this understanding of infanticide is insufficient to encompass the entirety of actual practices of infanticide in early modern Germany. Infanticide was most often the murder of illegitimate newborns by their mothers, but it also encompassed murder by fathers or even unrelated people, the murder of legitimate children, the murder of babies days, weeks, or even months after birth, and murder for reasons that were much more complex than the shame of fornication and resultant illegitimacy, including indirect suicide, anger, desperation, insanity, or plain ignorance. Assigning one cause to infanticide or abortion in early modern Germany has proven to be entirely insufficient, despite the simplified version of the story that was laid out in the law codes. In fact, attempts to understand individual motivations, even when they are stated explicitly in interrogation records, are highly problematic. We do know, however, that the women and men who committed infanticide claimed various motivations in their efforts to survive their trials.

Infanticide in early modern Germany thus came to mean even more than disposal of an unwanted child. Even though it had already been defined as a crime and was prosecuted before the sixteenth century, it was during and following the era of the

Protestant and then Catholic reformations that infanticide came to be associated with a direct threat to the very foundations and structure of society. Infanticide was not just the murder of an innocent child, but also a sin against God, an act in direct defiance of the patriarchal social structure and stability, and a crime against supposed natural maternal instinct. Newborn infanticide denied the victim not only life but eternal salvation. The religious causes and implications of infanticide were, in many ways, peculiar to the early modern period.

Additionally, infanticide was closely connected to a number of other threats of particular concern in the early modern period, such as witchcraft and ritual murder. These associations lay in the deeply unsettling nature of the intentional killing of young children, the most innocent and helpless members of society. Infanticide was, therefore, a popular theme for highlighting the barbarity of one's enemies, from Satan to Jews to Turks. When a woman killed her child, the early modern imagination might also conjure up these related images, making the murderess no better than a witch or a heathen.

Infanticide, as a growing concern and well-known crime, also became an arena in which physicians, lawyers, and theologians could debate some of the most pressing concerns of the period: the mysteries of pregnancy and childbirth, what caused fetal or newborn death, and legal problems such as intention and effective punishment. Of special concern was the question of conception—when it happened and what it entailed. Theologians weighed in on the relationship between conception and ensoulment, physicians were concerned with the timing in regard to fetal development and paternity, and lawyers debated the nature of a crime in relation to the length of the pregnancy.

Courts occasionally faced difficulties in prosecuting infanticide cases, especially because of the secretive nature of the crime and the reliance on rumor, and clarification was often needed from physicians, midwives, and lawyers. The debate extended well beyond individual cases, including universities' legal faculties and a mass of printed publications across Germany.

By the era of the Enlightenment, infanticide had become the *cause célèbre* not only of physicians, lawyers, and theologians, but also of Enlightened social reformers. It was an ideal focus for those looking to reform the criminal justice system, the treatment of women, and the governmental role in individual's personal behavior. Furthermore, the emotion and drama inherent in infanticide stories led the proto-Romantic poets of the *Sturm und Drang* also to find in it an especially evocative and fruitful subject. Infanticide was once again a popular theme in pamphlets in addition to the poems and plays of high culture. The subject was embraced by a wider range of society and media than ever before.

The early modern period was thus bookended by the *Carolina's* definition of infanticide—a wanton, selfish mother who mercilessly kills her illegitimate child—and the infanticidal mother of the *Sturm und Drang*—a good but flawed young woman seduced by an overbearing man who had no other way out of her horrible situation. How society in general treated infanticide can, therefore, be said to reflect what that society thought about women. But this dissertation has also shown that infanticide in the early modern period was much more than this. The crime of infanticide was shaped by early modern sexual expectations and regulations, codes of honor, investigative practices, the

use and decline of torture and execution, media and sensationalism, the perceived abilities and agency of women, and the very patriarchal foundations of society. But the various ways early modern society dealt with the crime contributed to significant legal, social, and religious changes. The helpless maid servant who killed her illegitimate child, while the beginning of and a significant aspect of the story of early modern infanticide, was not the entirety of the complex question. Infanticide as examined in this study was defined by early modern German society, but it also serves as a framework within which we can explore this society in order to gain a sharper focus on personal and societal expectations, motivations, and actions.

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*Augsburg, den 17. Junii Anno 1760. wurde Maria Barbara Schmidin, geweißte allhiesige Dienst-Magd, von Harburg gebürtig, weilen sie ihr in Unehren erzeugtes Kind, ein Mädlein, da selbiges schon 4 Wochen alt gewesen, Erbarmungswürdiger Weise ums Leben gebracht, Aus Gnaden durch das Schwerdt und blutiger Hand vom Leben zum Tode gebracht. Augsburg: Brinhauser, 1760.*

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***Stadtarchiv Ulm (StadtAU)***

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Urgichtbuch: Verkündzettel über die zum Schwert, Strang oder Rutenstreichen  
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Urteile des Rats in Strafsachen 1588 – 1592 (A [6590])  
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Kindsmörderin Anna Katharina Türkin, 1/2 Bogen.

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