I. Gardens of Angels

On March 6, 2000, The New York Times ran a front-page story describing Debi Faris's 'Garden of Angels,' a cemetery for infants whose bodies had been found abandoned. Faris began the garden in 1997, when she heard about an infant's body found in a duffel bag along the side of a road in Los Angeles. She sought the coroner's permission to bury the infant, and the coroner asked her to bury two others, one found in a trash bin, one washed up on Malibu beach. Faris bought plots in a cemetery in Calimesa, California, and, as of The New York Times article's writing, had buried 38 infants, naming them, and marking their graves with white crosses and pinwheels. "It's really very overwhelming," Faris is quoted as saying. "It's like, 'Oh, God, what can we do to make this stop?'"
Infant abandonment and infanticide (including 'neonaticide,' or the killing of an infant in the first 24 hours of life)\(^3\) have seen dramatic increases in the U.S. since 1980. The U.S. Department of Health and Human Services found news reports of 65 infants left in public places in 1991; in 1998, it found 105 (an increase of 60%).\(^4\) Hospital records from 1991 indicate 22,000 infants left 'unclaimed' after birth; in 1998, the number rose to 31,000 (an increase of 40%).\(^5\) In 1998, there were fewer births overall than in 1991, so the rise is not an artifact.\(^6\) Data from the National Institute of Child Health and Human Development (NICHD) indicate that infanticide rose 51.2% from 1983 to 1991.\(^7\) U.S. Department of Justice statistics confirm the rise, and over a longer period: there were 47% more infanticides per year in the late 1980s and '90s than in the late '70s.\(^8\)

How many infanticides are we talking about? NICHD researchers found about 271 per year from 1983-87, which increased to about 356 per year for 1988-91.\(^9\) Most agree that true numbers are at least twice these (so 700 or more per year at current rates), due to 'underascertainment.'\(^10\)

Now, compared to rates in, say, rates in eighteenth-century Europe, when some estimate a third of all pregnancies ended in infanticide, this is nothing.\(^11\) In fact, I came across this information on contemporary U.S. infanticide while researching late eighteenth-century European infanticide for an article on an argument about infanticide in Kant's 1797 *Metaphysics of Morals*. Infanticide was also just in the air in the late 1990s.\(^12\) There were the highly-publicized cases of Amy Grossberg and Brian Peterson, the 'Delaware dumpster' case;\(^13\) Melissa Drexler, who gave birth in the toilet at her prom;\(^14\) the infant found in a toilet at Walt Disney World;\(^15\) Tabitha Walrond, whose two-month old starved to death;\(^16\) Caroline Beale, who was arrested at JFK airport while
trying to leave for the U.K. with her dead infant in her backpack;\textsuperscript{17} and Marie Noe, a 69-year-old Philadelphia woman, who confessed to having suffocated eight of the ten infants to whom she gave birth between 1949 and 1968.\textsuperscript{18} It all raised for me two questions. One was, why are so many reactions, my own included, to abandonment and infanticide ambivalent? The other was, what is causing this dramatic increase in abandonment and infanticide? In fact, I think the answers to these two questions are related – we'll come to that in a bit. First, let's turn to ambivalence.

II. Why Ambivalence?

Ambivalence about abandonment and infanticide – that is, a combination of anger at and sympathy towards the women (and some men) who abandon or kill their infants – was evident in editorials,\textsuperscript{19} letters to the editor, feature-length news-analyses,\textsuperscript{20} television special reports,\textsuperscript{21} law review and medical journal articles,\textsuperscript{22} and in casual conversations. I found myself wondering what conscious or subconscious commitments, expectations, and understandings about mothers and children, particularly mothers and infants, could explain this otherwise strange collective emotional ambivalence. I thought perhaps there was something here that might help clarify the ways we do, and perhaps the ways we should, conceive the moral terrain – the rights, responsibilities, and so on – involved in mother/infant relationships.

What I ended up believing is that ambivalence makes perfect sense, given, first, the expectation that parents, particularly mothers, will care for children, and, second, common understandings of just how important, and just how involving, caring for children is. Related to these understandings, and key to motivating our ambivalence, are
two quite ordinary, and I think sound, moral demands, namely that vulnerable dependents (such as infants) be cared for well, and that self-determination in matters of reproduction and the 'shape' of one's family be protected.

Here, I'll skip giving evidence that we expect parental care, that we understand both how important and how involving caring for an infant is, and that we make the moral demands I've named above. I'll take them all for granted (I think none are terribly controversial), and instead sketch how they explain ambivalence.

The classic infanticide is a young, unmarried woman, financially dependent, who doesn't think she is in a position to raise a child and who feels alone and unable to ask for help. Historically, she is Goethe's Gretchen or the 'maid' in countless ballads. Today, the 'riskiest' mothers, according to National Institute of Child Health and Human Development researchers, are those who are young (19 or under) and already have at least one child, who received no prenatal care, who have less education than their age counterparts, and those who are very young (under 15). (Note that being unmarried by itself makes less of a difference than any of these factors.) (Unfortunately, corresponding data on fathers who commit infanticide are not available.) The sympathy many feel recognizes, first, that there are some women, who through a conspiracy of silences, misinformation, moral injunction and sexual dis-empowerment do not know about or cannot access birth control or abortion and carry children to term without really wanting to. Second, it recognizes that the chief burden of caring for a child falls, in the ordinary course of things, to the mother. We understand infanticide as a desperate and belated attempt to avoid motherhood, and all the life-changing responsibilities it normally entails. Sympathy – feeling sorry for, understanding of, and in some sense on the side of
those who commit infanticide – is a result of attending to these desperation-making circumstances and feeling the full weight of our moral commitment to self-determination.

What about anger – casting as depraved, blaming, and setting oneself against the person who commits infanticide? We count on parents to do the big job of raising children, of providing food, clothing, shelter, medical care, education, and love. Because this is not only a big job, but also a very important one, we require that parents do it reasonably well. We take children away from parents who neglect them, and we do this in the name both of a child's right to a decent home and of the overall social interest in having children 'brought up well.' Nearly all of us have counted on parental care ourselves, and we have certainly all been vulnerable and dependent. Because care for dependents is so important and so inevitably needed, we all have an interest in good sources of care. When a parent kills a child, a system on which we count and in which we have a heavy investment fails. Anger is a result of attending to the vulnerability and total dependence of an infant, which makes infanticide a particularly grotesque violation of the norm of care. A New York Times Magazine article on infanticide begins: "Killing your baby. What could be more depraved?"26

This at least is the source of what I would consider 'just' anger. There are also those specifically angry at women who, in failing to nurture their children, violate an ideal. According to this ideal, women are not ambivalent about becoming mothers, but instead happily and uncomplainingly devote themselves to their children's lives. This ideal justifies the disproportionate child-care and domestic work assigned to women, and is used to explain as natural our relative absence from the public sphere. When women
kill their children, they rupture the surface of this illusory ideal, throwing too much about
traditional family gender roles into question and occasioning vehement anger in many.

But let us leave aside this 'unjust' anger. Even without it, an ambivalent reaction
to infanticide and abandonment makes perfect sense, given our understandings and
expectations of mother/child relations, and given our moral commitments to self-
determination and adequate dependent care both.

III. Why have abandonment and infanticide risen?

So much for ambivalence. Let us turn now to my second question. In an editorial
for the Denver Post, Cal Thomas asks,

Why be shocked when another young woman leaves her school prom to deliver a
baby in the restroom, sees it drown in the toilet, and returns for the next dance as
if emptying her womb and emptying her bladder are morally equivalent?27

The rise in abandonment and infanticide, he suggests, is the result of hearts hardened
'against life' by more than 25 years of legal abortion. This explanation, however, doesn't
hold much water: an abortion is still a lot easier than delivering, suffocating, and secretly
disposing of a child, and those with hard or callused hearts would surely take the easy
way. Moreover, the number of abortions per 1,000 per year has declined steadily since
1980,28 and pro-life attitudes have become more widespread.29 The suggestion that an
'anti-life' attitude accounts for the rise in abandonment and infanticide fails.30

So what has led to the rise? Perhaps something as simple as a rise in total births,
giving us a greater population of possible victims? The number of births in the U.S. did
rise steadily from 1980 to 1990, when it began to drop again.31 But the infanticide per
100,000 births also rose, from 5.6 in 1981 to 8.6 in 1991.32 Perhaps, then, more infants
were born to teen mothers, who, as we have seen, are especially at risk. But the annual
number of teenage pregnancies has been dropping steadily since 1980. What about actual births to teens? The number of teen births zig-zagged from a high in 1980 to a low in 1986, spiked again in 1990, and has been declining steadily ever since – the 1990 spike is perhaps related to the 1991 infanticide high, but infanticide was quite low as the eighties began, when teen births were very high. There is no clear correlation here. So what explains the rise?

The 1980s and 1990s saw the success of efforts by right-leaning Christian groups and other conservatives to limit or eliminate sex education in public schools, free or inexpensive access to birth control, and access to abortion. Pressure and misinformation (you can't get pregnant if you are a virgin) and general mystification about sex can easily lead to unwanted pregnancies; decreased access to and increased societal disapproval of abortion can lead to unwanted births. (Indeed, the proportion of teen pregnancies ending in abortion has been falling since 1986.) For young women disconnected from information and services, the situation can easily become one of helplessness.

Social policies begun in the Reagan years have not only made pregnancy harder to prevent and harder to terminate, but have also made parenthood less attractive. Health insurance and health care have become prohibitively expensive for many; many states' welfare reform efforts have denied benefits to all but the first child of those on public assistance; adequate child care is expensive and hard to find. Women, who still earn less than men for comparable work, face further economic disadvantage when they are responsible for the daily care of dependent children. Moreover, in certain ideological communities, shame makes unmarried motherhood a particularly frightening prospect.
Those single women not cowed by social pressures may be wary of enforced entanglements with their children's fathers. Adoption law increasingly requires that biological fathers be informed of extramarital pregnancies for the adoption to be ‘valid,’ unmarried women receiving public assistance are required to submit to paternity proceedings. Some states require paternity proceedings, regardless of whether the women is or ever will be on public assistance, whenever no father is named on a birth certificate. Parenthood, particularly motherhood, has become a lot to ask of a person.

What do these trends have to do with abandonment and infanticide? When pregnancy becomes harder to prevent and harder to terminate, and when parenthood becomes increasingly costly and unattractive, abandonment and infanticide rise. This at any rate is my suggestion.

IV. Ambivalence Because We Know

I said above that ambivalence and a rise in abandonment and infanticide are related. What I had in mind was this. Conservative, ‘family-values’ values and policies have created real binds, making it harder to control fertility and terminate pregnancy and more likely that pregnancy, childbirth, and child care will interfere with women's educational, economic, and other social goals. Ambivalence reflects a recognition, however conscious, that existing policies and social pressures place some women in untenable situations.

V. Dependency and Justice

Conservatives have capitalized on the importance of care – for the very young, as well as for the elderly, ill, and handicapped – in promoting their agendas. In a recent
column, George F. Will echoed Michael Sandel's communitarian condemnation of 'unencumbered selves' who walk the earth in delusions of self-sufficiency.42

But conservatives, along with many communitarians, would sacrifice justice to care. Conservative remedies to abandonment and infanticide – restoring pre-'sexual revolution' norms against premarital sex (which would prevent 'premature' pregnancy), strengthening marriage and supporting family wage initiatives that would allow women to stay at home with children (which would protect women from performing 'double-duty') – are unacceptable as they limit important sexual freedom and restrict women to the private sphere. (Recent laws, passed in many states, permitting children under 30 days old to be left, 'no questions asked,' at fire stations hardly seem like a happy remedy to me.)

The remedies I propose are obvious and old-hat, but are what we need. We need to restore publicly-funded education about and access to birth control and abortion; we need to improve access to health-care, including obstetric and pediatric care; we need income supports, and child-care provisions, along with whatever else will generally make motherhood less taxing.43 Only thus can dependency and justice co-exist.

The further thinking we need has happily been being done by feminist theorists such as Eva Feder Kittay and Martha A. Fineman. Each has done a lot toward incorporating serious attention to needs for care into uncompromisingly feminist analysis and recommendations.

In her 1999 book, Love's Labor: Essays on Women, Equality, and Dependency,44 Eva Kittay pushes for recognition of both dependency and care-taking, which she calls 'dependency work,' in human life. She explores the social, moral, and emotional terms of
care that works for dependents and is rewarding for care-takers. Expanding and
deepening insights such as those in Susan Moller Okin's 1989 *Justice, Gender, and the Family*,<sup>45</sup> she argues for the fundamental inadequacy of any political theory that fails to recognize and address the systematic disadvantages and devaluations faced by dependency workers, both paid and unpaid. She proposes policy revisions based on a concept of *doulia,* a recognition of interdependence and shifting but ever-present need for dependent care and support for care-givers themselves.

Martha Fineman, in her 1995 *The Neutered Mother, the Sexual Family, and Other Twentieth-Century Tragedies*,<sup>46</sup> proposes that we re-orient family, as well as entitlement, tax, and other law affecting family resources, away from heterosexual marriage and toward mother (or primary-care taker)/child relationships. She would make care, and not sexual intimacy, the basis of familial right. Like Kittay, she argues that we need to structure work and other social institutions so that primary care-takers are not themselves forced into debilitating dependencies on husbands or on public assistance.

This work of theorists like Kittay and Fineman is invaluable as we think about abandonment and infanticide – and hence about the understandings, expectations, and moral demands we bring to bear on mother-infant relationships. They help to show why ambivalence must resolve into the old but still fundamental feminist demand that 'women's work' be both valued and made compatible with the full human lives women want to lead.

---

<sup>1</sup> This paper is an abridged version of a longer manuscript currently under review.

I understand 'infanticide' as the killing of a child up to one-year-old. (Some law enforcement agencies, including the FBI, use 'infanticide' to refer to the murder of children up to the age of five years.) The term 'neonaticide,' coined by Phillip Resnick in 1969, is reserved for the killing of an infant in the first 24 hours of its life. I include neonaticide in 'infanticide' here unless otherwise specified. (Phillip Resnick, "Child Murder by Parents: A Psychiatric Review of Filicide," American Journal of Psychiatry, 126:3, September 1969, 325-34, p. 325.)


From January 1997 to September 1998, The New York Times ran 112 articles on cases of infanticide, more than 6 per month. (In addition to the cases mentioned below, this was the era of the Louise Woodward case, the English au pair accused of shaking Massachusetts 9-month-old Matthew Eappen to death. See e.g. New York Times, November 1, 1997, A1:3.) Infanticide was in the news for other reasons as well: anthropologist Sarah Hrdy's work on primate infanticide received considerable attention; anti-abortion activists bandied the term, seeking to cast second- and third-trimester abortions as infanticide; Peter Singer's views on euthanasia by parents of infants with severe birth defects were debated; discussion continued about female infanticide in China and India. Toni Morrison's 1987 novel Beloved raised interest and debate about the fact of and motivations for infanticide by enslaved women in the U.S. (Steven Weisenburger's Modern Medea (Hill and Lang, 1998) recounts the 1856 case of Margaret Garner, on which he suggests Morrison's Beloved was based. For discussion of infanticide among enslaved women, see


15 See e.g., *New York Times*, February 7, A13:5.


19 E.g., Olya Thompson, "What We Sacrifice in the Name of Justice," *The Philadelphia Inquirer*, April 6, 1998, A15:1;


21 For instance, a March 5, 1998, broadcast of the CBS television news magazine "48 Hours" featured a report on infanticide, called "Fatal Mistake."

22 See e.g., Michelle Oberman, "Mothers Who Kill: Coming to Terms with Modern American Infanticide," *American Criminal Law Review*, vol. 34, (Fall 1996) 1-110.


25 Overpeck et al found that the women most likely to commit infanticide are, in descending order of 'relative risk,' those who are under 17 years old and have more than one child (10.9 to one), those who received no prenatal care (10.4 to one), those 17-19 who have more than one child (9.3 to one), those, over the age of 17, who had less than 12 years of education (8.4 to one), and those less than 15 years old (6.8 to one). 'Unmarriedness' by itself is not among the most important risk factors – being 19 or under is 'riskier' than being unmarried (5.6 to one vs. 4.3 to one). Overpeck et al also found that victims of neonaticide – infanticide in the first 24 hours of life – were very rarely (5%) born in hospitals, and it makes sense to suppose that in many of these cases the mothers concealed their pregnancies and delivered their children alone, following the classic pattern. (Mary D. Overpeck, et al, "Risk Factors for Infant Homicide in the United States," *The New England Journal of Medicine*, Oct. 22, 1998, vol. 339, no. 17, 1211-1216.)

26 This line is the lead-off to Steven Pinker's *New York Times Magazine* "Why They Kill Their Newborns," Nov. 2, 1997, 52-4.
"Is Infanticide Murder? Devaluing Life," Cal Thomas, Denver Post, July 15, 1998, B7. Thomas argues that not only a permissive attitude toward abortion but also our lenient treatment of murderers evidence a general devaluation of life.


See e.g., Alan Guttmacher Institute, "Adolescent Men Held Less Liberal Attitudes Toward Abortion in the 1990s Than in the 1980s," news release on findings from May/June 2000 Family Planning Perspectives. They report: "In 1988, 37% of 15-19-year-old men agreed that it was all right for a woman to have an abortion 'for any reason,' but in 1995 only 24% agreed." The drop was due to changes in attitudes among non-Hispanic white males, as attitudes among other groups remained essentially unchanged.

Moreover, as Katha Pollit reports, social concern for the well-being of children (as evidenced by wide-ranging benefits for children as well as policies to combat pre-natal drug-use and third-party violence that results in the death of a fetus) is correlated, state-by-state, with the availability of abortion, not its absence. "Anti-Choice, Anti-Child," The Nation, November 15, 1999. Pollit is reporting on a study by Jean Ruth Schroedel, Is the Fetus a Person? A Comparison of Policies in the Fifty States.


These figures compare Bureau of Justice Statistics numbers on infant homicide (<1 year old) (www.ojp.usdoj.gov/bjs/homicide/tables/kidsagetab.htm) with National Vital Statistics Report data on number of live births (vol. 48, no. 3, March 28, 2000, Table 1).


The 1996 Federal Welfare Reform Act carried an amendment that set aside $50 million per year (for 1998-2002) in federal funds to be channeled to schools offering abstinence-only sex education. (Similar spending earmarked to 'promote chastity' totaled only $3.75 million per year from 1981 to 1996.) Abstinence-only sex education teaches 'the birds and the bees,' but also that physical and emotional harm result from pre-marital sex. Information about how to prevent conception or the spread of STDs is not taught, for fear it will encourage sex. "Sexuality Education Curricula & Programs," compiled by Marina MacNamara, Advocates for Youth, September, 1997 (published on website: www.advocatesforyouth.org/publications); "Sex Education With Just One Lesson: No Sex," Diana Jean Schemo, New York Times, December 28, 2000, A1-.

Many health schools which had instituted free condom distribution in the 1980s and early '90s saw these programs phased out. A 1998-99 survey by the National Assembly on School-Based Health Care (NASBHC) found that 77% of school-based health centers did not dispense contraception: 73% of these were prohibited from doing so by the local school district; 29% by the school itself; 12% by the state; and just 4% voluntarily. (Cynthia Dailard, "School-Based Health Centers and the Birth Control Debate," abridged and printed by the Alan Guttmacher Institute, Issues in Brief, 2000 Series, No. 3.) From 1980 to 1994 total public expenditure for contraception dropped 27%. This figure compares expenditures adjusted for inflation. ("Contraceptive Services: Facts in Brief," Alan Guttmacher Institute, 2000, web document: www.alanguttmacherinstitute.org/pubs. Based on T. Sollom et al, "Public funding for contraceptive, sterilization, and abortion services," Family Planning Perspectives, 1996, 28(4): 166-173, p. 169, Table 1.) Many health plans stopped including birth control pills or contraceptive devices as covered prescription medication. According to a 1998 press release put out by the Center for Reproductive Law and Policy, 67% of medical insurance prescription drug and medical device plans do not cover oral contraceptives, 76% do
not cover Norplant, 82% do not cover IUDs and 85% do not cover diaphragms. (Center for Reproductive Law and Policy, "Equal Coverage for Equal Care: Women's Advocates Call for Universal Contraception Coverage," Press Release, October 27, 1998.) Prescription and medical device plans typically do cover Viagra, nicotine patches, diet pills, and other 'lifestyle' needs. University health centers drew fire for – and some have stopped distributing – the so-called 'morning after pill'. The April 5, 2000, "Revolutions" episode of ABC's "Felicity," a drama about the lives of college students at a university in New York City, had a sub-plot involving the university's health center's decision to discontinue the morning after pill.

36 Roe v. Wade made abortion legal in the U.S. in 1973, but since then, anti-abortion activists have made consistent and dramatic headway. Medicare funds for abortion, except to save the woman's life, were cut off in 1978, and the number of federally funded abortions dropped from 300,000 in 1977 to 165 in 1991. A study by the Alan Guttmacher Institute concludes that in the 1990s, about 20% of poor women bear unwanted children. (Farai Chideya, Don't Believe the Hype: Fighting Cultural Misinformation About African-Americans (Plume, 1995), p. 23.) Chideya reports from the unwanted pregnancy study: "For example, after Michigan banned the use of state Medicaid for abortions in 1988, abortions dropped by 23 percent and the number of children registered before birth on the welfare rolls by women receiving Medicaid rose by 31 percent."

At present, 86% of all counties in the U.S. don't have an abortion provider of any kind. (Alan Guttmacher Institute, "Facts in Brief: Induced Abortion," 2000, www.alanguttmacherinstitute.org/pubs) And harassment of abortion providers continues: an abortion provider in Ocala, Florida, faces charges, brought by the city, of extortion and lying under oath due to his attempt to sue the town for protection from harassment by pro-life protesters. (Katha Pollitt, "Anti-Choice Intimidation," The Nation, December 11, 2000.) Many hospitals have given in to pressure and dropped abortion from their roster of ob-gyn services. In 1982, 1,405 hospitals in the U.S. performed abortion; by 1996, the number had dropped to 703. Alan Guttmacher Institute, 1998. RU-486 (mifepristone) was approved September 29, 2000, by the U.S. Food and Drug Administration; the current Bush administration is likely to seek its repeal, and its use in abortion has already been outlawed in at least one state. (CRLP Files First Lawsuit in the Nation Against Ban on RU-486 Abortions: Michigan Law Prohibits Use of Medical Abortion," Press Release, February 12, 2001, Center for Reproductive Law and Policy.) Attitudes toward abortion may be changing as a result of pro-life efforts. Another Alan Guttmacher study found that male adolescents, particularly if they are white, increasingly disapprove of abortion. And it is known that partner attitudes affect women's behavior. (Alan Guttmacher Institute, "Adolescent Men Held Less Liberal Attitudes Toward Abortion in the 1990s Than in the 1980s," news release on findings from May/June 2000 Family Planning Perspectives. They report: "In 1988, 37% of 15-19-year-old men agreed that it was all right for a woman to have an abortion 'for any reason,' but in 1995 only 24% agreed." The drop was due to changes in attitudes among non-Hispanic white males, as attitudes among other groups remained essentially unchanged.)


39 See Martha A. Fineman, The Neutered Mother, the Sexual Family, and Other Twentieth Century Tragedies, Routledge, 1995, pp. 87-88.


41 Martha A. Fineman, The Neutered Mother, the Sexual Family, and Other Twentieth Century Tragedies, Routledge, 1995, p. 186.
George F. Will, "Life and Death at Princeton," Newsweek, September 13, 1999, p. 80. Will writes:

[T]here is growing recoil from philosophies that misdescribe human beings as utterly autonomous individuals, unencumbered selves living in splendid self-sufficiency. There is heightened receptivity to philosophies that recognize that dependency on others is a universal and permanent fact of every life, throughout life. Dependency varies in kind and degree as people pass from birth to death, but can never of itself be a reason for denying personhood.


Martha A. Fineman, The Neutered Mother, the Sexual Family, and Other Twentieth-Century Tragedies, Routledge, 1995. See especially chapters 1, 2, 6, and 9.