



Mary Thorpe was executed at York Tyburn on 17 March 1800 for the murder of her newborn child in December 1799.

Mary was born in 1779 in the Parish of Ecclesfield and, by the age of 14, had become a respected servant: “Her amiable temper and her good nature gained her the esteem of those whose services she lived.”¹ While this is all we know about her early years, we can infer that she lived an ordinary and lawful life up until 1799.

T. Rowlandson, “Hung at York, 1799,” (Photograph, York Art Gallery, York, 1799).

However, in 1799, Mary’s unremarkable story was to change when she was charged

with the “wilful murder of a bastard child”.² Mary’s downfall is a consequence of an unnamed man abandoning her after she became pregnant, leading her into a desperate situation as a single mother. In December 1799, Mary took her child to a pond and threw the child into the water with a stone tied around his neck. However, the body was quickly discovered, and Mary was arrested and taken to York Castle Prison as “several female friends were convinced of her pregnancy and knew of her delivery”.³ During her trial, Mary claimed she murdered her child not because of a dark desire to conceal the birth, but because she was suffering from milk fever which affected her sanity - therefore her actions were the result of illness. The court had some sympathy with this argument and with her status as an abandoned mother. However, this did not prevent her sentence of execution as it was determined that while she was ill, milk fever did not destroy her mental capacity to the extent that she would be unaware of her actions.

¹ Leman Thomas Rede, *York Castle in the Nineteenth Century: Being an Account of All the Principled Offences Committed in Yorkshire from the Year 1800 to the Present Period* (Leeds: John Saunders, 1831), 196.

² *Leeds Intelligencer*, 23 December 1799.

³ *Star and Evening Advertiser*, 20 March 1800.

Mary was executed at York Tyburn on 17 March 1800 in front of a large crowd, with newspaper accounts describing Mary as “prepared to meet her fate”.⁴

Discussion

It was not until 1634 that the crime of infanticide was officially recognised and focused on as a form of homicide. Despite its sensitive nature, there has been a clear neglect of the circumstances that surround these crimes. Moreover, present attention to the topic in historical literature has been sparse. Mary Thorpe's story, then, is clearly one with ample need to be presented. Her defence focused on her suffering from milk fever, claiming she was ill and delirious when she committed the crime. However, while infanticide has long been assumed to be the product of exceptional mental conditions, there has been little acknowledgement of the degree to which women are not wholly responsible for the crime in this mental state.⁵ This is clear in their treatment in courts throughout history: not only was it punishable by death, but English and Scottish law deemed that women who stood accused of murdering their infant babies in court were responsible for proving their own innocence, highlighting the lack of sympathy society seemed to have for these women.⁶ Despite the obvious sympathy from the jury in Mary's case and the acceptance that she was suffering from milk fever, she was still executed; this was common in infanticide cases, which were often focused less on punishing the woman for her crime and more on discouraging other women from becoming pregnant outside the confines of marriage.⁷ This is a crucial reason why we think Mary's story needs to be heard in public history: to allow the stories of women and mothers who have committed the crime of infanticide to be heard and presented in a new light that assesses their crimes in a bigger picture of the circumstances they faced rather than allowing our historical understanding of female criminals to come from outdated notions of women's role and expectations in society.

A point of interest that comes across in this case is how Mary Thorpe was regarded during her trial. Newspaper reports from the trial detailed her as a “very neat and respectable looking young woman”, with most people absorbing the case with their “warmest sympathy”. It raises our interest in how her physical condition, in having struggled with milk fever, a cause of delirium, affected perceptions of her as a criminal. From the mid-nineteenth century,

⁴ Ibid.

⁵ Laura Gowing, “Secret Births and Infanticide in Seventeenth-Century England,” *Oxford University Press*, no. 156 (August 1997): pp.87–115.

⁶ R. Sauer, “Infanticide and Abortion in Nineteenth-Century Britain,” *Population Studies* 32, no. 1 (March 1978): pp.81–93, doi:<https://doi.org/10.1080/00324728.1978.10412793>.

⁷ Dr Emma Milane, “100 Years of the Infanticide Act,” *Counsel Magazine*, December 2022, accessed Dec 20, 2023, <https://www.counselmagazine.co.uk/articles/100-years-of-the-infanticide-act>.

religious ignorance surrounding infanticide became much less prominent in determining the outcomes of these crimes; such infanticidal women were now being understood with medical explanations for their actions ‘rather than dismissed as... essentially evil’.⁸ Otherwise, if acting simply as a deranged, young, single mother who was aware of her actions, she would be regarded as “the greatest monster that ever disgraced her sex”.

Writing three decades after her execution, Thomas Rede states in his works that ‘though the law might condemn, society may pity such a criminal’ future juries should take into consideration both the men who abandon their children as well as the circumstances such as Mary’s mental state leading to the outcome of the case - providing an insight into the complex question of the extent of Mary’s liability for her actions. Fundamentally it is the question of Mary’s liability that acts as the foundation of her contemporary perception as a tragic story rather than a cold-blooded murderer. Despite how she had been perceived during her trial, as an amicable young woman plagued by the abandonment of the father of her child, she was still punished for her crime. This is all linked to the changing perception of infanticide legally; Mary had still taken pre-meditative steps in the murder of her child, and there was no other medical evidence to prove his death otherwise. As Dixon put it, ‘as many women had delivered alone, the injuries could be explained due to a difficult unassisted birth’, and this was not the case for Mary Thorpe.⁹ Ultimately, then, one can observe here that the legal reasoning behind Mary’s execution, whilst justified under contemporary law, conflicts with the societal perception of Mary’s circumstances. This fundamental Juxtaposition forms the foundational moral dilemma the Mary Thorpe case presented.

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⁸Kilday and Watson, ‘Infanticide, Religion And Community in the British Isles, 1720-1920: Introduction,’ 91.

⁹Rachel Dixon, “Infanticide Cases, Expert Evidence, and the Sympathetic Jury, in Eighteenth - and Early Nineteenth-Century England”, in *The Routledge Handbook of Women’s Experience of Criminal Justice*, ed. Isla Masson and Natalie Booth (London: Routledge, 2022), 19.

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Web summary:

Disclaimer: This article touches upon sensitive topics and child murder.

Born in 1779, Mary Thorpe was like any common woman. She became a servant at age 14 and lived a simple life as a respectable young lady. This was until around the age of 20 when she fell pregnant and was abandoned by the father of her child. 11 weeks prior to her due date, Mary left her service and went to Sheffield to stay with a widow by the name of Mrs Hartley who assisted with the birth of her child. In

December 1799, after some days of caring for the child, she fell ill with 'milk fever', a sickness which made a woman delirious. She took her child to a pond and threw the child into the water, where he drowned. Mary's defence centred on her suffering from milk fever, claiming that though she was guilty of the crime, she was ill and delirious when committing it. Despite this being a proven fact, Mary was sentenced to death as it was believed her milk fever did not make her unaware of her actions as she had taken premeditated actions such as lying about taking the child to be baptised with her sister when he was killed and supposedly lying about her son's existence to Sheffield Constable Hill. However, during the trial, she showed much guilt, and for lots of women who committed infanticide, they often did it for many reasons, most times not in cold blood.

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