THE CONSTRUCTION AND REGULATION OF GENDERED CRIME IN SCOTTISH WITCHCRAFT CASES, 1560-1661

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ABSTRACT

The topic of this thesis addresses an understudied piece in the history of the Scottish witch-hunts, how the prosecution of witchcraft constructed and regulated gender. This paper looks at how the prosecution of witchcraft through the Scottish *Witchcraft Act* of 1563, reflected the regulation of ideal gender expression through the developing legal system, centralizing state, Reformation and modernizing economy. Paramount to this discussion is the way that women accused of witchcraft challenged the early modern patriarchal order, expectations of piety, and ultimately the expectations of their gender. Witchcraft accusations targeted women who were seen as unruly, transgressive and argumentative. The political, religious and economic processes required the witch-hunts to assert and reinforce the authority of church and state in the lives of early modern women. These systems intersected to structure early modern women's ideal behaviour, and therefore also their deviance, casting them as witches.

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INTRODUCTION

> "…thou shall go home to thy house, and shall bleed at thy nose one quart of blood but shall not die until thou send for me and ask me for forgiveness."[1]

Margaret Wallace was accused of having threatened Robert Mure, the merchant burgess of Glasgow in her trial for witchcraft in 1622. This quote from Margaret captures some of the ways that women disrupted the gender hierarchy of early modern Scottish society. The *Survey of Scottish Witchcraft*, a comprehensive database, identifies that of the 3,837 people accused of witchcraft, 84 per cent of these were women.[2] Many of these women, like Margaret Wallace, were deemed a threat to society and societal formations, such as the centralizing state, the Reformation and the modernizing economy. These women were specifically targeted by the state for their behaviour and were vulnerable to accusations of witchcraft as a means of enforcing gender conformity. The increased prosecution of witchcraft reflects a period of heightened anxiety over ideal gender expression.

While not all witches were women, the fact that the archetypal witch was recognizably female suggests that gender influenced accusations of witchcraft. While historians of women have moved gender into the forefront of the explanations for the prosecution of witchcraft, there remains dispute over the exact role of gender in the accusations and trials of this crime. While most Scottish historians acknowledge the association of women with the crime of witchcraft, there has been little investigation into *how* the prosecution of these crimes constructed and affected gender identity. This study contributes to the understanding of how the prosecution of women's crimes reflected the regulation of gender expression, and how the monitoring of

[1] Robert Pitcairn, *Ancient Criminal Trials in Scotland*, Vol. III Part II, 508.
[2] "The Survey of Scottish Witchcraft," Julian Goodare, Lauren Martin, Joyce Miller and Louise Yeoman, archived January 2003, accessed 01.12.19, http://www.shca.ed.ac.uk/witches/.

behaviours that were deemed "unfeminine" are reflected in the crime of witchcraft in the early modern period.

This thesis represents the culmination of independent studies, an Honour's thesis, and graduate research, that seeks to understand the complicated processes which constructed early modern Scottish women's gender. My research question is, in what ways did law and criminality in early modern Scottish witchcraft trials produce and reinforce gender expectations and characteristics? This is a question that has yet to be satisfactorily answered by the current historiography. My emphasis on the Reformation, the centralizing state/legal system, and the modernizing economy reflects the intellectual journey I have taken in my attempt to answer this question. I examine witchcraft from the period 1560 to 1661 to ascertain how law and criminality produced and reinforced gender expectations and characteristics.

The forty-seven witchcraft criminal trials that I have examined provide historical insight into the legal codification of gender identity in Scotland. As law is a central basis of societal formation, criminal behaviour and perceptions of crime inform ideas about gender.[3] In turn, ideas about gender inform the perception of these crimes. Criminal law also helps to shape the way early modern Scottish society perceived women's proper social roles and behaviour.[4] My research seeks to expand the concept of gender as it is understood within the historiography of Scottish witchcraft by deconstructing how "woman" acquires meaning in relation to patriarchal power, as seen through contextually relevant laws and the criminalization of women. Although the research on early modern Scottish women is advanced, analysis into criminology and early modern gender is relatively recent. There is even less exploration into where these subjects

[3] Garthine Walker, *Crime, Gender and Social Order in Early Modern England* (Cambridge: Cambridge University Press, 2003), 3.
[4] Margaret Davies, "Exclusion and the Identity of Law." *MqLawJl, Maquarie Law Journal* (2005) Issue 5, 5.

intersect. The value of gender history is that it questions commonly held assumptions about gender, highlighting historical construction, and views these assumptions as historical concepts that require analysis. As historian Joan Wallach Scott argues, "including the category 'gender' in the historical account transforms the understanding of the past to develop a richer understanding of the lives of women throughout time."[5]

Methodology and Theory

This project focusses primarily between 1560 to 1661. I chose this time period because it represents the first one hundred years following the Scottish Reformation, and includes the three major witch-hunts in Scotland.[6] I have chosen to focus on Scotland because of the unique historical circumstances which occurred at this time including the Reformation beginning in 1560 and the creation of a unified legal code, both contributing to the rise of witch-hunting in Scotland. The Reformation resulted in a heightened concern over the behaviour of early modern Scots to conform to the new religion and reflect the behavioural expectations of a Reformed godly society. It also encapsulates a period of state centralization which began in earnest with James VI and made criminal trials easier to try. Due to the accessibility of criminal trials, more women were seen before the courts than ever before. Moreover, this time period encompasses the 1563 Scottish *Witchcraft Act*. The economy was in a time of flux, when prices of all commodities rose at an unprecedented pace, towns grew in size and number and there were periodical outbreaks of plague. Society as a whole experienced inflation and a decline in the standard of living.[7] The historical shifts of the Reformation, state centralization and the modernizing economy reveal concern over gender conformity as central to these processes. The

[5] Joan Wallach Scott, *Gender and the Politics of History* (New York: Columbia University Press, 1988), 3.
[6] "The Survey of Scottish Witchcraft," http://www.shca.ed.ac.uk/witches/.
[7] Brian P. Levack, *The Witch-Hunt in Early Modern Europe*, Fourth Edition (London: Routledge, 2016), 127.

witch-hunts were the result of building tension and anxiety, and a feeling of unrest for the Scottish state and citizens in this period of great change.

This thesis analyzes these three intersecting historical processes and the ways that they influenced laws and the prosecution of the crime of witchcraft. Focusing on the ways that the Reformation, state centralization and a modernizing economy intersected can help us understand how shifts in power structures led to anxieties among the common people. [8] The political, religious and economic processes of the early modern period can be analyzed as separate, but also must be analyzed as deeply entangled. In locating the complex ways in which these processes helped to support and uphold one another, it is possible to glean insight into how and why women became objects of surveillance through the *Witchcraft Act*. I examine these as specific processes which intersected to structure early modern women's ideal behaviour separately and together, and therefore also their deviance.

The primary sources used in this study come from a compressive database collected and transcribed (into early modern Scots) by Robert Pitcairn.[9] Pitcairn's work, the *Ancient Criminal Trials in Scotland,* is a record of the crimes tried in the High Court of Justiciary in Edinburgh from 1388-1855. I also use trials from the translated collection of George F. Black, and the Register of the Privy Council of Scotland.[10] I chose these trials because they represent the processes of a unified law code and state centralization which is principal to this thesis. These collections of records were both chosen for their accessibility, as well as the detailed nature of the sources. The forty-seven specific trials chosen for this study include all witchcraft cases tried

[8] Levack, *The Witch-Hunt in Early Modern Europe*, 127.
[9] Pitcairn, *Ancient Criminal Trials in Scotland,* Vol. I, 1388-1626, Vol. II Part I, 1596-1600, Vol. II Part II, 1600-1609, Vol. III Part I, 1609-1615, Vol. III Part II, 1615-1624.
[10] George F. Black, ed., trans. *Some Unpublished Scottish Witchcraft Trials.* (New York: New York Public Library, 1941).

within the period 1560-1661 that are present in the collections. Those trials which do not describe in detail the nature of the crime of the accused are not used.

This is a qualitative study, as it is looking at the representation of behaviour and actions of the accused women in order to determine which actions were deemed undesirable, unruly and unfeminine enough to result in the prosecution of witchcraft. In approaching these trials, I am using the method of "asking the other question," utilized by Mari J. Matsuda. This method looks for "obvious and non-obvious relationships of domination, helping to demonstrate that no form of subordination ever stands alone."[11] I am focusing on three distinct, yet related historical processes, the centralizing state/ legal system, the Reformation and the modernizing economy, and so I read each trial for evidence of the influence these processes had on the trial's outcome. Within each trial the accusations carry elements of the processes of politics, religion and the economy and so I analyzed each trial for the ways that the women accused of witchcraft were important as active agents within, such as in the role of pious mothers teaching Reformed values. I also read for the ways that they challenged and threatened the success of these processes, such as acting in a disorderly manner in the home and community. I then asked the "other question" of how gender could be seen in the evidence of the processes within each trial.

I examined each trial for patterns of disobedience, disorderly behaviour such as swearing and cursing, and deviations from proper gender expression. Within the trials the influence of each process was evident, but the importance of women's gender conformity required me to "read the silences."[12] As gender was not obviously discussed, it was essential for me to ask what

[11] Mari J. Matsuda, "Beside my Sister, Facing the Enemy: Legal Theory Out of Coalition," *Stanford Law Review* Vol. 43, No. 6 (Jul., 1991), pp. 1183-1192.

[12] Reading the silences is a method of qualitative research which focusses on trying to understand the importance of the things not said. Though gender is not explicitly discussed in the witchcraft trials, women's proper gender performance was a concern for the political, religious and economic processes.

threat these women could pose through their speech and actions that would result in an accusation of witchcraft. Gender norms were the foundation of an orderly society that supported and upheld the political, religious and economic processes of the early modern period. Accusations of witchcraft utilized the law to encourage stability and conformity in women by disciplining the deviants.

The chapter organization reflects the methodology of "asking the other question," by focusing each chapter on one of the political, religious and economic processes of the early modern period. This focus presents the ways that the processes overlap and intersect, while allowing them to be analyzed as distinct. Chapter One focusses on the centralizing state, arguing that developments in the legal system made the prosecution of women as witches possible. Women's gender conformity was essential to the centralizing state as they had the ability to challenge the state's patriarchal system of men in power through acting as disobedient wives and mothers. Chapter Two focusses on the Protestant Reformation, arguing that women's piety and proper gender performance became linked as essential for the success of the Reformation. Women's misbehavior challenged the Reformed family and personal piety which was relied upon for stability in the Reforming process. Chapter Three focusses on the modernizing economy, arguing that the move towards Capitalism and a global economy required women to stay in the household and support their male counterparts with unpaid labour, allowing men to work for wage labour. All three processes utilized the *Witchcraft Act* to produce and reinforce gender expectations and characteristics in the women accused of witchcraft in early modern Scotland.

As this thesis examines women's history, gender and law, feminist legal theory informs my analysis, allowing this research to utilize an interdisciplinary approach. Feminist legal

scholars such as Elizabeth Comack, Margaret Davies, Vanessa Munro, Carole Pateman, and Catharine Mackinnon have paved the way for historians of women's criminality, such as Carol Smart and Garthine Walker to engage in feminist legal analysis.[13] My work is situated within this scholarship. This thesis seeks to expand the concept of gender within Scottish and early modern European historiography, and feminist legal theory allows me to deconstruct how gender acquired meaning in relation to power.

There are many feminist approaches to theorizing the power of law. For this study, law will be analyzed as a field of knowledge which produces "truths."[14] Law has the ability to be self-fulfilling and what the law says to be true, it produces as true. This concept is at the crux of my thesis. An example of this concept is the early modern *Witchcraft Act*, a piece of law which constructed women as disruptive and in need of surveillance, resulting in their actions being interpreted as disruptive. Laws are a reflection of the norms of the context in which they are produced and the early modern *Witchcraft Act* is a reflection of societal concerns. Women therefore were produced and understood as criminals because their actions of being bad mothers or community disruptions were seen as witch-like.

Law, when deconstructed, can be analyzed to reveal the context in which it has been created. This is especially true of a historical study where laws against witchcraft reflect and give insight into the historical period being studied. Cases of witchcraft require a deep analysis of the importance of the representations of women who were criminalized in the context of the early

[13] Elizabeth Comack, *Locating Law: Race, Class, Gender, Sexuality Connections* (Halifax & Winnipeg: Fernwood Publishing, 2014); Margaret Davies, "Exclusion and the Identity of Law," *MqLawJl, Maquarie Law Journal* (2005) Issue; Margaret Davies, Vanessa E. Munro, eds., *The Ashgate Research Companion to Feminist Legal Theory* (Surrey: Ashgate, 2013); Carole Pateman, *The Sexual Contract* (Stanford: Stanford University Press, 1988); MacKinnon, Catharine. "Feminism, Marxism, Method, and the State: Toward Feminist Jurisprudence," *Signs* 8(4), 1983; Garthine Walker, *Crime, Gender and Social Order in Early Modern England* (Cambridge: Cambridge University Press, 2003); Carol Smart, *Feminism and the Power of Law, (*New York: Routledge, 1989).
[14] Comack, *Locating Law,* 23-24.

modern period. Laws expose anxiety over women's place in society, and especially reflect the concerns of the centralizing state and Reformers, as well as the pressure to survive in the context of a subsistence society. As laws were altered, rewritten, or no longer used, they reflect societal changes, but also reveal the changing nature of truth. Laws therefore both reflect the periods in which they are constructed, and reproduce the current norms of historical context(s). Changing laws respond to new ideas and norms, especially about women and other marginalized groups.

My own research stresses that at different historical points "legal decisions and representations have produced particular constructions of women."[15] This thesis builds upon Carol Smart's argument that the "truth claims about law" in the Victorian era which produced women as problematic and disruptive, and argues that the crime of witchcraft does something similar in the early modern era.[16] The laws in both of these periods constructed women as fundamentally in need of constant surveillance because they could threaten the moral and social order of their society. Women's behaviour and actions were seen as possible threats of destabilization during the period of the Reformation, state centralization and the modernizing economy in Scotland, leading to heightened surveillance of women to conform to ideal gender expectations that strengthened the patriarchal state and Reformed Kirk.

One aspect of this process of producing women as disruptive is that of "othering." In legal discourse the figures of "good women" and "bad women" are produced as a binary, where women are either a criminal and therefore a witch, or a law-abiding woman. The imagined binary of figures as "good" or "bad" is produced through the law, as well as social norms and religious beliefs. The "good woman" is the ideal as she follows the law, does not challenge

[15] Gillian Balfour and Elizabeth Comack, eds., *Criminalizing Women: Gender and (In)justice in Neo-Liberal Times* (Halifax & Winnipeg: Fernwood Press, 2014), 32.
[16] Smart, *Feminism and the Power of Law*, 4.

authority in her community or state and is not a disruption. Increased attention to crime worked to encourage women to behave according to the ideal through the prosecution of the criminal "other." In reality, women could be interpreted as one of these imagined "good" or "bad" figures throughout their lives depending on the evolving contexts, actions and social norms. It is unrealistic to believe that all women could live consistently within the constraints of the ideal. The process of "othering" explains the construction of the binary between the criminal woman and the law abiding and allows us to ask, "who these women were, the social contexts in which they moved, and the processes by which they were regulated and controlled."[17] The pervasiveness of "othering" results in the social exile or criminalization of those women who do not fit into the narrow concepts of ideal gender behavior. Criminalization produces a legal category of women whose effect is then to regulate and discipline. This concept is most relevant to my own research and can be seen clearly in the crime of witchcraft. The intersecting processes of the early modern period worked together to establish ideals for women's behaviour, and therefore also the conditions for surveillance, discipline and regulation of women as "other."

Historians, Balfour and Comack discuss the offences of women which are deemed criminal, including the "lengthy process of detection, apprehension, accusation, judgement, and conviction, one in which women were relied on to give testimony against other women."[18] The process of "othering" required women to act as a surveillance force, monitoring the other women around them. In social situations women were constructed in different and unequal relations to one another. It was not that some women were considered to be worth more than others, but that the status of one woman depended on the subordinate status of another woman in many complex

[17] Balfour, Comack, *Criminalizing Women,* 46.
[18] Balfour, Comack, *Criminalizing Women,* 34.

ways.[19] This process can be seen in the witchcraft trials, where law-abiding women gained their respectability and social status by reaffirming their own behaviour through active participation in the process of detection and accusation of women who deviated from social norms. In witchcraft trials, women were more likely than men to testify that they had witnessed an act of witchcraft.[20] Crimes that regulate and discipline women are a form of state/religious/economic gender construction that aim to create ideal women within the population to uphold the patriarchal orders of such systems.

Historiography

This work engages primarily with gender history, as well as a number of historical fields including Scottish women's history, legal history and the history of women's crimes. As a theoretical approach, gender history attempts to challenge assumptions about gender, while deconstructing the meaning of gender over time. Gender history considers the ways that behaviours and beliefs which are assumed as natural, were in reality constructed in particular places and times.[21] As Barclay explains, "the value and novelty of gender history also rests in its consideration of institutions, social formations and sources that were not previously included in the study of history."[22] This theoretical approach highlights historical constructions, as gender expectations, performances and behaviours are socially constructed and therefore subject to change over time. "By including the category of 'gender' in the historical account, gender

[19] Razack, *Looking White People in the Eye*, 5
[20] Julian Goodare, "The Framework for Scottish Witch-Hunting in the 1590's," *The Scottish Historical Review*. Vol. 81, No. 212, Part 2 (Oct., 2002), pp. 240.
[21] Gender history is not limited to understanding women or feminine gender. Sarah Dunnigan, in '"Be wise in thy governing': managing emotion and controlling masculinity," in Lynn Abrams and Elizabeth Ewan eds., *Nine Centuries of Man: manhood and masculinity in Scottish history* (Edinburgh: EUP, 2017), 2, interrogates masculinity. She focusses on the ways in which poetry illuminates the fragilities of the masculine identities that are seen as both normative and ideal.
[22] Barclay, "The State of Scottish History," 85.

historians seek to explore the fundamental nature of the process of historical change and transform our understanding of the past."[23] Gender analysis has occasionally been used in the investigation into Scottish women's crime of witchcraft, though the true value of gender theory has not yet been wholly realized.[24]

The study of gender history was one of many intellectual fields which evolved from the study of Scottish women's history more broadly in Scottish history. Elizabeth Ewan and Maureen Meikle were some of the first scholars to begin the investigation into Scottish women's history, laying the foundations for the later explorations into gender history. *Women in Scotland: c.1100-c.1750* is a seminal volume that laid the foundation for investigation into Scottish women's historical experience. In their introduction, "A Monstrous Regiment of Women?" they laid out the emerging history of the discipline.[25] Combined with new questions and issues arising from the women's movement of the 1960s and 1970s, this led to new interest in women's history.[26] However, in their work they acknowledge that women's history had developed fairly late in Scotland compared to other countries. They emphasize the need to understand women from all social levels and not simply study Mary Stuart as the representative stereotypical Scotswoman.[27] Ewan and Meikle work to demonstrate the value of studying women in Scotland

[23] Katie Barclay, Tanya Cheadle and Eleanor Gordan, "The State of Scottish History: Gender," *Scottish Historical Review* 92, Apr. 2013, 84.
[24] Barclay, "The State of Scottish History." 84; Elizabeth Ewan and Maureen Meikle, "Introduction: A Monstrous Regiment of Women?" in *Women in Scotland, c.1110-c.1750* (East Linton: Tuckwell Press, 1999); Goodare, "The Framework for Scottish Witch-Hunting in the 1590's," *The Scottish Historical Review*. Vol. 81, No. 212, Part 2 (Oct. 2002); Harriet Connolly, "Gender, Sex and Social Control: East Lothian, 1610-1640 (PhD Dissertation, Edinburgh: University of Edinburgh, 2012).
[25] Elizabeth Ewan and Maureen Meikle, "Introduction: A Monstrous Regiment of Women?" in *Women in Scotland, c.1110-c.1750* (East Linton: Tuckwell Press, 1999), ixx-xxx.
[26] Ewan and Meikle, "Introduction," xx.
[27] Carole Levin, "Review of Elizabeth Ewan and Maureen M. Meikle, eds., Women in Scotland c. 1100-c. 1750," *Faculty Publications University of Nebraska,* Spring 2001, 172.

against much opposition that viewed Scotland as predominantly male, and the national history as highly masculine.[28]

Much of women's history that evolved out of the work of Ewan and Meikle sought to identify women's experiences in the past, especially women's involvement in movements that had previously been identified as dominated by men in many social, economic and political contexts. As the foundations of women's history, Ewan and Meikle's research only marginally explored gender in this seminal work. Eleanor Gordon and Lynn Abrams joined Ewan and Meikle fairly early on in the endeavor to understand women in Scottish history. Their work, *Gender in Scottish History Since 1700*, was created following Scottish devolution and the opening of the new Scottish parliament.[29] They say that the recognition of women in the Scottish political scene led to "a similar recognition of women's place in Scotland's past."[30] The aim of their book was to increase the Scottish historical narrative through the addition of women's experiences and voices.[31] They aimed to include gender theory as a lens of analysis and overall they argue that the story of Scotland's past has been told with "virtually no acknowledgement of the notion of gendered identities."[32]

The beginnings of women's history aimed for increasing the visibility of women, but today the goal has evolved to include the recognition of women as historical agents who have

[28] Ewan and Meikle's work also demonstrated the value of an interdisciplinary approach. Interdisciplinary research has fuelled creative methods for understanding marginal history. One of the greatest contributions of their work was the recognition that most historical sources have been written or constructed by men. As women are largely invisible in the historical narrative, creative approaches are necessary to find and understand women of the past. Gender history includes the consideration of institutions, social formations and sources that were not previously included in the study of history.
[29] Eleanor Gordon and Lynn Abrams. *Gender in Scottish History Since 1700* (Edinburgh: Edinburgh University Press, 2006), 73.
[30] Gordon, *Gender in Scottish History Since 1700,* 1.
[31] Gordon, *Gender in Scottish History Since 1700,* 2; Lynn Abrams, "Introduction: Gendering the Agenda," in *Gender in Scottish History Since 1700*, Lynn Abrams, et al. (Edinburgh: Edinburgh University Press, 2006), 2.
[32] Gordon, *Gender in Scottish History Since 1700,* 1.

meaningful stories for historical study.[33] Women's history has laid the intellectual foundation to open the doors of investigation into other marginalized histories and more in-depth analysis. It is now possible to attain a richer picture of the reality of early modern Scottish women's lives as new questions are being asked and answered in creative and innovative ways. Thanks to historians such as Ewan, Meikle, Gordon and Abrams, research can address intersections of marginal history, such as my own research into gender and crime. These innovative historical studies are foundational works that have allowed for the exploration into politics, culture, religion, education, work, the family, identity and gender.[34]

Though social history in Scotland is expanding, the study of gender history is still at a comparatively developing stage in contrast to the advanced nature of gender studies elsewhere, such as in England. When gender theory is applied to historical research in Scotland it lacks the sophistication seen in English research.[35] Even after more than two decades of research into Scottish women's history, and the existence of theories of gender, this research is still marginal in the general Scottish historical narrative.[36] Katie Barclay has argued that gender history, "as the conceptual leap that underpins historical understandings of culture, society, identity and experience in scholarship elsewhere in the world, has failed to penetrate the foundations of

[33] Gordon, *Gender in Scottish History Since 1700,* 2.
[34] The development of social history in many countries since the 1960s and the 1970s did not expand as broadly in Scotland, in spite of the pioneering work by Ewan and Meikle. The growth of family history, a branch of social history like gender history, has also been hampered by the relatively late development in Scotland in contrast to England, especially for the early modern period. Despite the publication of Smout's pioneering work in 1972, *A History of the Scottish People 1560-1969,* Scottish social history in the following decade remained primarily concerned with issues of national identity and politics. The study of family history often is at the heart of much pioneering research into the importance of gender studies. One place such interdisciplinary work of women's history and social history can be seen is in Elizabeth Ewan and Janay Nugent's book. *Finding the Family in Medieval and Early Modern Scotland* (Burlington: Ashgate Publishing, 2008); T.C. Smout, *A History of the Scottish People, 1560-1830* (San Francisco: Collins Publishers, 1972).
[35] T. M. Devine and Jenny Wormald, *The Oxford Handbook of Modern Scottish History* (Edinburgh: Edinburgh University, 2006), 603.
[36] Gordon, *Gender in Scottish History Since 1700,* 3.

Scotland's community of historians."[37] In the introduction to *Gendering the Agenda*, Lynn Abrams' responds to the failure of Scotland's community of historians.[38] Abrams believes that historians should be open to new developments, arguing, "we have endeavored to stretch concepts, to question, reassess and reinterpret… we suggest new ways of looking at the story of Scotland's past from different angles and through different lenses."[39] Although Abrams expresses a hope for the innovation available in gender history, in practice, there have been continuing limitations. In Scottish historiography, applying gender theory to history has largely been the addition of women to existing categories and topics, not necessarily an examination of gender itself.

However, as Joan Wallach Scott argues, "writing about women as, say, workers did not effectively change established definitions of those categories."[40] Barclay writes that gender historians have been at the forefront in exploring the interrelationship between gender and other forms of social relationships. "Gender studies in Scottish history have not focused solely on gender, but rather other elements of identity formation, particularly class."[41] Barclay's observation seems correct when considering recent work, such as Harriet Connolly's PhD dissertation. Though endeavoring to contribute to gender history in her work, "Gender, Sex and Social Control: East Lothian, 1610-1640," Connolly does not interrogate gender construction itself, but rather she uses gender as a means to understand how "Scotland's ecclesiastical authorities were not acting in isolation but as a part of an integrated justice system."[42] Instead,

[37] Barclay, "The State of Scottish History." 84.
[38] Abrams, "Introduction: Gendering the Agenda," 2.
[39] Abrams, "Introduction: Gendering the Agenda," 2.
[40] Scott, *Gender and the Politics of History*, 3.
[41] Barclay, "The State of Scottish History," 86.
[42] Harriet Connolly, "Gender, Sex and Social Control: East Lothian, 1610-1640 (PhD Dissertation, Edinburgh: University of Edinburgh, 2012), "Introduction," 1-40.

gender theory should be used to interrogate the pervasive way in which things that are taken as natural are actually the results of social construction.[43] It is important to understand how gender is expressed but also to question why it is produced in a specific and accepted expression. It is this question of "why" and "how" gendered characteristics are specifically expressed that is central to my own research.

In Scotland, the study of witchcraft has embraced gender history most thoroughly. However, research is still not as comprehensive as English witchcraft studies. Garthine Walker, for example, has begun the deconstruction of gender formation through English court cases.[44] As Walker argued, "surely one of the most essential requirements to a reconstitution of early modern social history is a greater understanding of the role of gender in the construction of ideas and the structures of life."[45] Other researchers of England such as Edward Bever have linked the persecution of women as witches to the "general strengthening of the patriarchy," which occurred concurrently during this period.[46] Diane Purkiss has presented the idea of the English witch as an anti-wife in the home and in the domestic space. She argues that women who did not meet the gender expectations of wives and mother would be susceptible to witchcraft accusations.[47] Purkiss' research concerning the anti-wife is central to my research, which my thesis expands to include all aspects of the witch being interpreted as the anti-woman in Scottish expectations for women's gender behaviour. A major part of the witchcraft trials was a failure to

[43] Barclay, "The State of Scottish History," 85.
[44] Walker, *Crime, Gender and Social Order,* 2.
[45] Walker, *Crime, Gender and Social Order,* 6.
[46] Edward Bever, "Witchcraft, Female Aggression, and Power in the Early Modern Community," *Journal of Social History,* Vol. 35, No.4 (summer, 2002), 956.
[47] Diane Purkiss, *The Witch in History: Early Modern and Twentieth-Century Representations,* (New York: Routledge, 1996).

conform to appropriate gender behaviour.[48] In Scottish history, Lauren Martin has expanded on Purkiss' work and adapted it to a Scottish context. She argues that witch belief in Scotland revolved heavily around ideas of women's work and the domestic sphere. She argues that most witchcraft accusations grew out of decades of quarrels between neighbors. These quarrels usually concerned "women's work, household boundaries and community tensions."[49] Witchcraft research allows historians to identify specific gendered norms of the period and the impact of these norms on women's daily lives.

Christina Larner was one of the first scholars to begin the investigation into gender and witches in Scotland, using a feminist framework to understand the witch-hunts. Her monograph *Enemies of God* contains breakthrough research using statistical surveys and a sociological framework. She was one of the first people to argue that the witch-hunts were a process of women hunting.[50] Her work has dominated the field of the witch-hunts in Scotland with many researchers building their own studies on her work. Larner approached the question of gender by looking at the social environment, economy, religion, politics and superstitions of the time. In many ways, my work in this study is in direct conversation with her research, especially as my thesis considers three intersecting social process of economics, religion and politics as central to the witch-hunts. Her strongest contribution to the historiography was her application of a gender framework which has encouraged other historians of witchcraft to utilize a similar approach to understanding the connection between gender and the accusations of witchcraft.

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[48] Lauren Martin, "Witchcraft and Family: What can Witchcraft Documents Tell us About Early Modern Scottish Family Life?" *Scottish Tradition Vol. 27* 2002, 9.
[49] Martin, "Witchcraft and Family," 9.
[50] Larner, *Enemies of God: The Witch-hunt in Scotland*, (London: Chatto &Windus Ltd, 1981), 92. Larner states, "it is argued here that the relationship between women and the stereotype of witchcraft is quite direct: witches are women; all women are potential witches." Larner was one of the first to specifically address this relationship, articulating many of the links between negative characteristics of femininity and witches.

As Julian Goodare pointed out, however, Larner does not explain why witches were women, instead saying that the witch hunts "were sex- related rather than sex-specific."[51] Goodare's research begins to answer the question of why witches were women by arguing that women were associated with witchcraft as a result of the state and Reformed church's emphasis on moral conformity, which often focused on women by demonizing their sexuality.[52] Beginning with Larner, a growing trend in the historiography of witchcraft was a connection between language, aspects of speech and witchcraft. Sierra Dye, Michelle Brock, Andrea Knox and Alice Glaze all have studied speech and witchcraft, making the connection to the crime of slander.[53] Larner states, "social control in seventeenth-century Scotland was demonstrated continuously by competitive performative utterances," representing the social nature of crime of witchcraft.[54] It is the social nature and the societal concern over the threat of witchcraft where my research expands from Larner's and Goodare's by arguing that both speech and the Reformed emphasis on morality contributed to accusation of women as witches.

As Larner's work exemplifies, witchcraft studies in Scotland quickly began focusing on the ways that the crime of witchcraft was similar to other women's crimes. As Elizabeth Ewan has noted, studies of women and crime have tended to focus mainly on actions which have been portrayed by historians as particularly feminine such as infanticide, scolding/slander and

[51] Dye, "To Converse with the Devil?" 11.
[52] Dye, "To Converse with the Devil?" 11-12.
[53] Sierra Dye, "To Converse with the Devil? Speech, Sexuality, and Witchcraft in Early Modern Scotland," *International Review of Scottish Studies* 37 (2012), 9-40; Michelle Brock, *Satan and the Scots: The Devil in Post-Reformation Scotland, c. 1560-1700* (New York: Routledge, 2016); Michelle Brock, "Internalizing the Demonic: Satan and the Self in Early Modern Scottish Piety" *Journal of British Studies 54* (January 2015), 23-43; Andrea Knox, "'Barbarous and Pestiferous Women:' Female Criminality, Violence and Aggression in Sixteenth- and Seventeenth- Century Scotland and Ireland," in Yvonne Brown and Roma Ferguson eds., *Twisted Sisters: Women, Crime and Deviance in Scotland Since 1400* (East Linton: Tuckwell Press, 2002); Alice Glaze, "Women and Kirk Discipline: Prosecution, Negotiation, and the Limits of Control*," Journal of Scottish Historical Studies*, Volume 36 Issue 2, 125-142.
[54] Larner, *Enemies of God*, 92.

witchcraft.[55] Larner, Yvonne Galloway Brown and Rona Ferguson have investigated women's crimes saying that, "women do not appear in court records in comparable numbers to men."[56] When women do appear in court records it was usually for crimes which were later labeled by historians as women's crimes.[57] Many women's historians have sought to challenge the assumptions about women that are perpetuated by the continued study of witchcraft, slander and infanticide as the only crimes that women committed.

One such work which aims to expand the categories of women's crime and misbehavior is the *Twisted Sisters* collection edited by Brown and Ferguson. This collection proposes to go beyond the dominant topics of previous histories which examined women as submissive subjects by challenging the view of women as entirely controlled by patriarchal society.[58] Many of the chapters in *Twisted Sisters* focusses on the history of women's crimes by using a gender analysis. Many of these essays examine how the actions of criminal women could be regarded as forms and expressions of agency. They offer a new perspective on accepted norms of female behaviour, outside of the view of women's crimes being only witchcraft, infanticide and slander. Within *Twisted Sisters* Andrea Knox investigated female crime and concluded that most female crimes came to be defined as "verbal, disruptive and rebellious."[59]

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[55] Elizabeth Ewan, "Impatient Griseldas: Women and the Perpetration of Violence in Sixteenth-Century Glasgow," *Florilegium* 28 (2013 for 2011), 150.

[56] Larner, *Enemies of God*, 51. Walker has stated that women in the early modern period were persecuted rather than prosecuted. Early modern notions of female aggression and criminal and disorderly behaviour were explained by contemporaries through biological and cultural ideas. The biological explanations centered on women's inherent weakness, as "women were imperfect creatures, more prone to temptation than men." Walker argues that a cultural explanation acknowledges women's active involvement in criminality and their disorderly behaviour.

[57] Yvonne Galloway Brown and Rona Ferguson eds., *Twisted Sisters: Women, Crime and Deviance in Scotland since 1400* (East Linton: Tuckwell Press, 2002), 4.

[58] Brown, *Twisted Sisters*, 1. While the editors acknowledge that within early modern Scottish society women were constrained by the church, the legal system, social standing and ideology, the various essays in this book "seek to offer a new perspective on accepted norms of female behaviour." The overall theme of the collection is that the criminal and deviant actions of women can be seen as actions of female agency.

[59] Andrea Knox, "'Barbarous and Pestiferous Women:' Female Criminality, Violence and Aggression in Sixteenth- and Seventeenth- Century Scotland and Ireland," in Yvonne Brown and Roma Ferguson eds., *Twisted Sisters: Women, Crime and Deviance in Scotland Since 1400* (East Linton: Tuckwell Press, 2002), 13.

Anne-Marie Kilday's *Women and Violent Crime in Enlightenment Scotland* grew out of the work done in *Twisted Sisters* and aims to correct a gap in the historiography of women's crime. She sought to disprove the belief that the only role women played in criminal activity was as the "victims of male criminals."[60] In both the early modern period, and in the historiography of women's crimes, women's actions were often regarded as unnatural rather than criminal. Due to this assumption, much of the research on women's crimes focused on "offences which were considered abnormal or deviant and therefore stereotypically female."[61] Ewan's later research also combats the assumptions of women's crimes, expanding beyond witchcraft, slander and infanticide. In both "Impatient Griseldas" and, *Twisted Sisters*, she criticises the fact that most of the work done by historians has focused on the crimes which are categorized as dominantly feminine, when in fact women were perpetrators in a large variety of crimes.[62]

Much of the recent research of women's crimes shows that women were engaged in a range of violent and criminal activities and should not be restricted to the assumption that they only committed one of three crimes.[63] Yet, my research argues that there is still much examination to be done concerning the crime of witchcraft, as well as slander and infanticide. Although both Kilday and Ewan research women's crimes, neither fully deconstruct gender formation, nor utilize gender analysis or legal analysis. While research has expanded the

[60] Anne-Marie Kilday, "Maternal Monsters: Murdering Mothers in South-West Scotland 1750-1815," in Yvonne Brown and Roma Ferguson eds., *Twisted Sisters: Women, Crime and Deviance in Scotland Since 1400* (East Linton: Tuckwell Press, 2002), 23.
[61] Kilday, *Women and Violent Crime*, 19. Kilday has researched how female criminality was profoundly influenced by the dominant gender ideologies of the day.
[62] Elizabeth Ewan, "Impatient Griseldas: Women and the Perpetration of Violence in Sixteenth-Century Glasgow," *Florilegium* 28 (2013 for 2011).
[63] Ewan, "Impatient Griseldas," 150. Ewan argues that women's active involvement in violence was more common than is often assumed. As "women appear relatively frequently, these cases shed light not only on crime but also, more broadly, on the gendered nature of men's and women's lives in a late sixteenth-century community." The study of early modern women's 'disorderly speech,' has advanced the understanding of gender relations and dynamics of the household and community.

understanding of women's deviation, not enough attention has been payed to how these three crimes were gendered, nor how these crimes gendered women in return. There is still much investigation needed for understanding the gendered assumptions about witchcraft within the early modern period, which my research addresses, as well as room for more research to be conducted with the crimes of infanticide and slander.

This thesis differs from earlier research by combining two fields that previously have not been merged in the history of witchcraft, i.e. gender deconstruction and legal analysis. As far as Scottish legal history has been concerned, the emphasis has predominantly focussed on men and has assumed that women played little to no role in politics, the law or crime. Ewan and Meikle, in *Women in Scotland*, attempted to render this assumption as outdated by researching women's interactions and experiences with law. This research was done under the assumption that women still were not particularly active as subjects of law. John Finlay, lawyer and historian at the University of Glasgow, has furthered this research by looking into women and legal representation in early modern Scotland. Finlay's research shows the presence of women in the legal system and within the courts, further disproving many assumptions about Scottish women and the law.[64] His work reveals that a large number of cases involved women, showing them in a number of roles and proving that "the courts in the late fifteenth and early sixteenth centuries were not solely the sphere of men."[65]

[64] Winifred Coutts and Michael Graham also wrote essays for *Women in Scotland* concerning women and the law. Winifred Coutts, "The Evidence of Testaments and Marriage Contracts *c. 1600,"* in Elizabeth Ewan and Maureen Meikle eds., *Women in Scotland, c.1100-c.1750* (East Linton: Tuckwell, 1999), 173. Michael F. Graham, *The Uses of Reform: 'Godly Discipline' and Popular Behaviour in Scotland and Beyond, 1560-1610* (New York: Brill, 1996); Michael Graham, "Women and the Church Courts in Reformation-Era Scotland," in Elizabeth Ewan and Maureen Meikle eds., *Women in Scotland, c.1100-c.1750* (East Linton: Tuckwell Press, 1999), 187-198.
[65] John Finlay, "Women and Legal Representation," in *Women in Scotland, c.1100-c.1750*, Elizabeth Ewan and Maureen Meikle eds., (East Linton: Tuckwell, 1999.),173. Finlay argues that infanticide, witchcraft, and slander were prominently believed to be women's crimes during the early modern period.

Like Finlay, Julian Goodare found a diversity of women's roles in the legal system.[66] His research grew out of, and alongside Finlay's. Both advanced the study of women and the understandings of how law affected early modern women's lives. Goodare has written many comprehensive histories of the women who were accused of being witches. However, he does not go beyond the characteristics or circumstances that placed women in danger of being accused of witchcraft. Nevertheless, he establishes that the period of the witch-hunts was a "period of state-building and of intense concern for order among the European elites."[67] The witch-hunts were a response to the increased need for conformity to the regulations of the state. His research popularized the understanding that witch-hunting in Scotland was a centralized government process, and preoccupied the attention of the highest authority in the land, King James VI.[68] Chapter One is in conversation with Goodare's research, building on his assertions considering the state's role in witch-hunting and filling the gaps where he does not consider the importance of gender in his analysis.

Witch-hunting and connections with the Reformation have also been studied as a process of the centralizing state, which Chapter Two of this study addresses. Larner herself recognized that the witch-hunts were deeply linked to the Reforming process. Goodare argues that witch hunting in Scotland was "a Protestant business aimed towards encouraging Reformed morality."[69] Research done by Margo Todd, Michelle Brock, Alice Glaze and Stuart Macdonald

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[66] Goodare, "The framework for Scottish witch-hunting,", pp. 240-250; Julian Goodare, "The Scottish Witchcraft Act." *Church History*, Vol. 74. No. 1 (2005), 39-67; Julian Goodare, ed., *The Scottish Witch-hunt in Context* (Manchester: Manchester University Press, 2002); Julian Goodare, ed., *Scottish Witches and Witch-hunters* (New York: Palgrave, 2013); Julian Goodare, Lauren Martin, and Joyce Miller, eds. *Witchcraft and Belief in Early Modern Scotland* (New York: Palgrave Macmillan, 2008); Julian Goodare, "Witch-hunting and the Scottish State," in *The Scottish Witch-hunt in Context* (Manchester: Manchester University Press, 2002).
[67] Goodare, "Witch-Hunting and the Scottish State," 293.
[68] Goodare, "Witch-Hunting and the Scottish State," 123. Goodare argues that mainly the governmental institutions and the criminal system at the time were responsible for witch-hunting.
[69] Goodare, *The Scottish Witch-hunt in Context*, 5.

have all examined the connections of witch-hunting and the Reformation, especially focusing on the effect on women's lives and experiences in the changing religious environment.[70] Brock and Todd looked at the "godly community of Scots," exemplifying the social nature of the concern over witchcraft. Historians such as Rosalind Mitchison, Leah Leneman, Sierra Dye and Gordan Desbrisay examined the Reforming process and the creation of new controls and expectations of women's sexuality.[71] In Chapter Two, my own research builds upon these authors by examining how the new controls of the Reformation also included women's behaviors beyond their deviations of sexuality. Though early modern women's lives have been at the forefront of much of this research, the Reformation's influence over gender expression and the witch-hunts has not yet been fully explored. Chapter Two will argue that women's expression of piety was linked to their proper gender performance and was disciplined through the *Witchcraft Act*.

The economy is another factor of witch-hunting on which my thesis centers, addressed in Chapter Three. There has been very little research into the intersection of the modernizing Scottish economy and the impact of the witchcraft trials. Historians have recognized that the strained economy was an influencing factor in the witch-hunts, as it left many women in vulnerable economic situations. Rosalind Mitchison has done pioneering work on *The Old Poor Laws in Scotland*, focusing on how the centralizing state responded to the increasing poverty and

[70] Margo Todd, *The Culture of Protestantism in Early Modern Scotland* (New Haven: Yale University Press, 2002); Michelle Brock, *Satan and the Scots: The Devil in Post-Reformation Scotland, c. 1560-1700* (New York: Routledge, 2016); Michelle Brock, "Internalizing the Demonic: Satan and the Self in Early Modern Scottish Piety," *Journal of British Studies 54* (January 2015); Alice Glaze, "Women and Kirk Discipline: Prosecution, Negotiation, and the Limits of Control*," Journal of Scottish Historical Studies*, Volume 36 Issue 2; Stuart Macdonald, *The Witches of Fife: Witch-hunting in a Scottish Shire, 1560-1710* (Glasgow: Tuckwell Press, 2002).
[71] Leah Leneman and Rosalind Mitchison, *Girls in Trouble: Sexuality and Social Control in Rural Scotland, 1660–1780* (Edinburgh: Scottish Cultural Press, 1998); Leah Leneman and Rosalind Mitchison, *Sin in the City: Sexuality and Social Control in Urban Scotland 1660-1780* (Edinburgh: Scottish Cultural Press, 2001); Sierra Dye, "To Converse with the Devil? Speech, Sexuality, and Witchcraft in Early Modern Scotland," *International Review of Scottish Studies* 37 (2012); Gordon DesBrisay, "City Limits: Female Philanthropists and Wet Nurses in Seventeenth-Century Scottish Towns," *Journal of the Canadian Historical Association*, New Series 8 (1998): 39-60.

decline in the standard of living with the creation of poor laws.[72] Other research into the early modern economy has included A.J. Gibson and T.C. Smout's work, *Prices, Food and Wages in Scotland 1550-1780,* which looked at the price regulation and adulteration in areas such as wheat and ale, and R. A. Houston and I.D. Whyte's, *Scottish Society 1500-1800* which examined the expectations of family to take care of the poor.[73] Historical studies of the early modern economy have focused very little on women, and almost none examine the witch-hunts in the context of the economy, which Chapter Three aims to address.

It is apparent that within women's history, gender history and legal history, there are still many avenues of interrogation and exploration left to study to understand the ways in which gender was constructed in the early modern period. One of the main limitations in women's history is that it tends to look for women in historical movements but does not interrogate what the category of woman means or how it was constructed. Historians understand that gender is a socially related construction, but most do not consider the processes through which gender is actually formed. It is exactly this gap, using law as an institutional and social framework, that my research attempts to address and contribute to the field. As Harriet Connolly has argued, "gender is not intended as a description of fact shown through the data collected, but as a form of analysis."[74] Gender and its expression is an ever-changing concept which needs to be more fully considered in Scottish historiography.

[72] The Old Poor Law is another example of the centralizing process, and the reliance on laws to create an orderly society. Rosalind Mitchison, *The Old Poor Law in Scotland: The Experience of Poverty 1574-1845* (Edinburgh: Edinburgh University Press, 2000).
[73] A.J. Gibson and T.C. Smout, *Prices, Food and Wages in Scotland 1550-1780* (Cambridge: Cambridge University Press, 1995); R. A. Houston and I.D. Whyte, *Scottish Society 1500-1800* (Cambridge: Cambridge University Press, 1989).
[74] Connolly, "Gender, Sex and Social Control," 27.

Contributions to the Field

The intention of this master's thesis is to fill historiographical gaps by providing an in-depth analysis into the ways that the crime of witchcraft functioned to control and regulate gender in the early modern period. By engaging in a legal feminist analysis this thesis expands upon our understanding of the women's crime of witchcraft. Research in Scottish history has failed to address how gender was constructed and regulated, especially through the lens of the law. There is a need in Scottish historiography to fill the gap between theory and research. A feminist legal approach applied to early modern Scottish history reveals how women's ideal gender performance was constructed through the prosecution of witchcraft.

An aspect of this thesis is dedicated to developing a method applicable to historical contexts utilizing an analysis of intersecting historical processes. My research focusses primarily on how the processes of state centralization, the Reformation, and the modernizing economy, required early modern Scottish citizens to conform to gender expectations in order to further their own political, religious and socio-economic agendas. This method is meant to consider law and criminal processes as the central site of gender construction.

This thesis expands upon all of these themes by focusing on *how* early modern Scottish women's behaviour, religious conformity and economic conditions combined in historically specific ways to produce gendered behaviour, and women's responses to their expected gender expression. This analytical framework of the prosecuted witch demonstrates the active involvement of historical processes in the construction, regulation and enforcement of gender boundaries and ideals.

CHAPTER ONE

State and Social Regulation: Processes of Centralization

In 1622, Margaret Wallace was accused of plotting to cause the destruction of men, women, and children "through witchcraft, charming, incantation, and using devilish and unlawful means to do so, expressly prohibited and forbidden by the laws of god and the laws of the kingdom."[75] Margaret Wallace's trial is representative of the processes and concerns of state centralization in early modern Scotland. Margaret was known in Glasgow as a notorious witch, a woman who burned with hatred, was said to have consistent discord with her neighbors and desired their destruction. Her devilry was expressly forbidden by the laws of almighty god, and municipal laws and acts of parliament of the realm of Scotland.[76]

Margaret's unlawful and godless deeds were very publicly known as she had transgressed the laws and Acts of Parliament through conflict and discord with her community members.[77] Conflict disrupted the community, and her specific actions of swearing and uttering threats were a direct challenge to male authority in her community. Her holding of grudges and uttering malicious words were seen as a threat to the security of the state structure as she defied the patriarchal hierarchy of the state system. When looking at the evidence drawn from witchcraft trials, it becomes apparent that women's behaviour, such as Margaret's was feared as having the ability to destabilize the state and threaten state structure. The witch was, in many ways, a deviation and inversion of women's desired conformity to state and social regulation. Through the accusation of witchcraft and the use of law to discipline, Margaret served as an example to

[75] Pitcairn, *Ancient Criminal Trials in Scotland*, Vol. III Part II, Page 508.
[76] Pitcairn, *Ancient Criminal Trials in Scotland*, Vol. III Part II, Page 508.
[77] Pitcairn, *Ancient Criminal Trials in Scotland*, Vol. III Part II, Page 508.

encourage women to act in a manner which reflected support of the patriarchal system of the state.

At the time of Margaret's trial, the power of the Scottish state was substantially increasing, yet was still vulnerable to disorder. The early modern period was one of state building throughout much of Europe and law was used as a tool to enforce conformity and stabilize the state. In Scotland the witch-hunts coincided with James VI's rule who was struggling for stability and security. James VI wished to rule through a centralized state, meaning the enforcement of royal authority on communities and the local elites.[78] The ideal system was one where the power to control a country was dictated solely by its centre, directly from the King and into the communities.

The period of state centralization increased the need for conformity to the regulations of the state from the population as a whole, especially in the area of male authority where women could pose a challenge. A centralized state functioned with a hierarchy of men in power, flowing from the King to his nobles, who then exerted control over the localities. In this vision the need for order and conformity relied on other men in the communities to uphold the hierarchy and regulate conformity on an individual basis. Disorder and discord were a concern to processes of state centralization as women had the potential to disrupt the patriarchal structure in their family and community. Patriarchal, here, refers to an intersecting set of beliefs, assumptions and practices where male domination is fundamental in constructing society.[79] The household was likened to a "little commonwealth" secured by the hierarchies of monarch/subject, husband/wife,

[78] Michael Wasser, "The Privy Council and the Witches: The Curtailment of Witchcraft Prosecutions in Scotland, 1597-1628," *The Scottish Historical Review*, Vol. 82, No. 213, Part 1 (Apr. 2003), 26.
[79] Bernard Capp, *When Gossips Meet: Women, Family and Neighborhood in Early Modern England* (Oxford: Oxford University Press, 2004), 1.

father/child, and master/servant.[80] These hierarchies reflected the power structures and dynamics of the state and Reformed church. Women who challenged gender hierarchies were prosecuted through the legal system as witches as they sowed discord in the localities at a time when order was crucial. Law was a central tool used to regulate women's gendered behavior to the standard of the ideal and to institutionalize the oppression of women.

In this chapter I examine the context of state centralizing, and King James VI's personal role in encouraging the Scottish witch-hunts. Developments in legal processes aided in the prosecution of women as witches by making courts and legal procedures more accessible to the localities with court systems such as circuit courts and the Kirk Sessions. This process also aided in the use of law as a disciplinary tool. Women's gender conformity was of central importance to the centralizing state as women posed the greatest threat to the state system of males in power in the household and their communities. Women challenged male authority in a multitude of ways as wives, mothers and through the disruption of lines of inheritance.

Context of State Centralization

The period of the witch-hunts (1560-1661) was a period in which state-building and law were a central focus for James VI, who was struggling for stability in order to assert and establish his authority. Scotland was mainly decentralized when James VI came to the throne as a minor.[81] As he struggled to take the reins of Kingship, he needed to assert control over his magnates who had garnered considerable authority during his minority rule and the previously

[80] Theresa D. Kemp, "The Family is a Little Commonwealth," *Shakespeare Quarterly Vol. 47, No. 4,* 454.
[81] Lesley M. Smith, "Sackcloth for the Sinner or Punishment for the Crime? Church and Secular Courts in Cromwellian Scotland," in *New Perspectives on the Politics and Culture of Early Modern Scotland,* ed., John Dwyer, Roger Mason, and Alexander Murdoch (Edinburgh: John Donald, 1980), 117. Upheaval and disorder continued to be threats to James's early rule with a civil war between the King's and Queen's parties.

tumultuous rule of his mother, Mary Queen of Scots.[82] James VI sought to assert order through state centralization, relying on the extension of law through a multitude of processes.

James VI focused on increasing the power and reach of the authority of his government. Much of the focus was on preventing any weakness of the state that would threaten his rule**.** There was an increase in bureaucratic procedures from the political centre of Edinburgh, that were intended to influence Scotland entirely.[83] New forms of administration which flowed from the crown included the creation of taxes so that the state no longer drew its main revenue from land, and seizing power from magnates who previously had autonomous power over localities.[84] Centralizing procedures also included modernizing the military to create an army detached from feudal local power, as well as increased monopoly over territory including the Highlands. In Scotland this was a difficult feat because order and control were diffused through a series of channels that often allowed lords and communities to operate outside of the standard of the central state.[85]

Through the extension of law, James VI attempted to ensure that order radiated from the crown. The measures used to impose stability was also a struggle to manage with what was often seen as what Julian Goodare has called, "a rising tide of disorder which threatened the state."[86] James VI made persistent efforts to instill a respect for law and the legal system to create order

[82]James's minority reign refers to the period of his rule when he was still legally a minor and therefor did not have full control over his throne or country. Because he was a minor from 1567 until the 1580's Scotland was ruled by regents who sought to keep power from James when he came of age.
[83] Wasser, "The Privy Council," 26.
[84] Julian Goodare, *The Government of Scotland, 1560-1625* (Oxford: Oxford University Press, 2004); Julian Goodare, "Witch-hunting and the Scottish State," in *The Scottish Witch-hunt in Context* (Manchester: University Press Manchester, 2002); Allan Macinnes, *Clanship, Commerce and the House of Stuart, 1603-1788* (East Linton: Tuckwell Press, 1996); Christopher Whatley, "Order and Disorder," in *A History of Everyday Life in Scotland, 1600-1800*, Elizabeth Foyster and Christopher Whatley (Edinburgh: EUP, 2010).
[85] Smith, "Sackcloth for the sinner," 117.
[86] Julian Goodare, "Women and the Witch-Hunt in Scotland," *Social History*, Vol. 23, No. 3 (Oct. 1998), 293.

after he took control of the government.[87] "Developments in the criminal law and procedure during the period must be set against the background of the extreme lawlessness of the country."[88] The legal system supported and upheld the state patriarchal structure through the prosecution of those who threatened its stability, such as women who deviated from gender norms. During this period, legal authority played a central role in shaping gender norms and societal understandings of "correct" behaviour and conduct for women.

It became necessary to develop a legal system that could utilize law as a disciplinary tool to encourage conformity. Conformity brought disorderly citizens into line and asserted centralized control throughout the realm. In order to begin implementing the standard of criminal law throughout all of Scotland, the process of state centralization had to be solidified. James VI himself exercised his authority as the only sovereign by changing laws, ordinances and issuing legal commissions.[89] In 1603 James VI was even able to boast to the English Parliament that he governed Scotland "with my pen."[90] The Privy Council received his written instructions and executed his will. He attempted to build a formidable legal procedure in order to assert his will throughout all of Scotland, especially since he was ruling from England after 1603.

Early modern Scot's law manifested in real and tangible ways; notably in the limitations and restrictions on women's actions, words and sexuality. The integral changes of a unified law code and new court system created the system of law and framework that allowed for women's prosecution as witches. As gender deviance could take many forms, the law ensured that witchcraft became a catch-all crime for disciplining women's misbehavior. The courts provided

[87] *The Stair Society, An Introduction to Scottish Legal History*, 25.
[88] Various Authors, *The Stair Society: An Introduction to Scottish Legal History, Vol 20* (Edinburgh: Robert Cunningham & Sons LTD., 1958), 37.
[89] Smith, "Sackcloth for the sinner," 116.
[90] The King's Harangue in the Kirk of Edinburgh, the Lord's Day, the 3rd of Aprile 1603," in David Calderwood, *The History of the Kirk of Scotland* vol. 6 (Edinburgh: Woodrow Society, 1845), 215-216.

an effective solution for the prosecution of the individuals who did not conform to state regulation.

The use of witch-hunting as a tool to encourage the stability of the centralizing state came from the core of the government. James VI had personally contributed to the panic about witches, and his legal reforms created the subsequent witch-hunts. Without his personal enthusiasm to seek out witches, and the legal procedures he implemented, the Scottish witch-hunts would not have occurred on such a massive scope.[91] In Scotland's first major witch-hunt, the North Berwick trials in 1590-1, James VI encouraged the trials that implicated around seventy people within his own country.[92]

During the North Berwick trials, James VI conducted some of the interrogations of the accused witches himself. One of the accused was Agnes Sampsoune in Nether Keythe. Though Agnes was said to be a "grace matron-like woman of a rank and comprehension above the vulgar, a woman not of the base and ignorant sort of witches, but grave and settled in her answers," yet she was still found guilty of witchcraft.[93] Agnes's retellings of the magical attack launched against James VI and his new wife are remarkable for the incantations and images of the devil. Agnes also told the King that at the North Berwick Kirk about a hundred witches gathered to bring about their evil will. Agnes told James VI that of the hundred witches, six were men and all the rest women, solidifying to him that the image of the witch was a woman.[94]

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[91] *Daemonolgie* and *Newes from Scotland in* Pitcairn, *Ancient Criminal Trials in Scotland*, Vol. III Part II.
[92] The trials were triggered by the threat of the sinking of two royal ships in an unforeseen storm. The first royal ship was that of Queen Anne's on her way to England, and the second was James' own ship after he went to get Anne in Denmark. James sought to find the culprits who he believed had caused the storms that almost sank his ships. He was influenced and inspired by the reaction to the storm in Denmark which immediately blamed witches.
[93] Pitcairn, *Ancient Criminal Trials in Scotland,* (1590-1), 230.
[94] Pitcairn, *Ancient Criminal Trials in Scotland,* (1590-1), 230.

Historian Garthine Walker discusses the importance of the trials at North Berwick, saying that these trials were the introduction of continental witch-theory which had previously been unknown in Scotland, namely the demonic pact and the witch's Sabbat to worship the devil. James VI himself may have been the initial introducer of the concept of the demonic pact to Scotland.[95] He even wrote his own theological witchcraft treatise *Daemonologie*. Through continental witchcraft law and centralizing legal procedures, James VI had intended to bring Scotland and its powerful local lords out of the chaos of the past where blood feuding and other criminal activity often went unrestrained. With the witch-hunts, James VI could begin to bring order to the disorderly throughout the realm, thereby cementing the position and power of the crown and its government. He had begun an enthusiastic and systematic pursuit of witches that fueled the first wave of witch-hunting and ensured the legal mechanisms for such hunts to occur.

The Legal Process of Witch-Hunting

One form of legal authority for James VI was the Privy Council as the political and administrative head of the state. Part of the centralizing process was ensuring that "control could be exercised by the King himself, by the Privy Council, or by the various courts residing in Edinburgh."[96] The Privy Council experimented with committees like the witchcraft committee as the beginning of organized state centralization. The resulting Scottish *Witchcraft Act* of 1563 was a key piece of state centralizing legislation. The Act made the practice of witchcraft as well as the consultation of witches officially a crime punishable by death. The witchcraft committee

[95] Garthine Walker, *Crime, Gender and Social Order in Early Modern England* (Cambridge: Cambridge University Press, 2003), 428.
[96] Wasser, "The Privy Council," 26.

introduced greater centralization of the prosecution process and a new modernizing attitude towards accusations and evidence in courts.[97]

There was a shift in the process of law from accusatorial to inquisitorial. This shift is significant because it emphasized a departure from a system where the community who accused criminals took the lead in prosecution, to a system where the courts led the investigating process. The inquisitorial system worked from the premise of guilty until proven innocent and remorselessly interrogated defendants and witnesses until satisfied that it had reached the truth.[98] Though there was a shift to inquisitorial, the witch-hunts were a decidedly accusatorial process, as communities retained a central role in witch-hunting. However, a part of the inquisitorial process was torture, which was believed necessary to extract the truth of a confession and was used frequently in the witchcraft trials. As described by Robert Pitcairn, "solitary confinement, cold and famine, extreme thirst, the want of sleep and the privation of all the comforts, even the commonest necessaries of life, the desertion of the affrighted relations and friends, added to the cruelest tortures, generally induced them at length, weary of life to make their 'confession.'"[99]

The witchcraft trials could never have occurred in the extensive ways they did without the support of and belief by educated men who created the laws and controlled the judicial system. These men created multiple judicial processes that allowed for women to be tried as witches. They could be tried before the High Court of Justiciary in Edinburgh or "by judicial commissions granted by the King or Privy Council to local elites who then held trials in the local community."[100] The High Court of Justiciary was the supreme criminal court in Scotland where

[97] Orna Alyagon Darr, *Marks of an Absolute Witch: Evidentiary Dilemmas* (Burlington: Routledge, 2011), 3.
[98] Hector L. Macqueen, "From Darkness to Light: Some Questions about Scottish Legal History 1450-1650*" The Journal of Legal History*, Vol. 9 (1988), 248.
[99] Pitcairn, *Ancient Criminal Trials in Scotland,* Vol II Part I, 52.
[100] Wasser, "The Privy Council," 22.

serious capital crimes of treason, murder, and witchcraft were tried.[101] Through the High Court of Justiciary the government retained much control over the process and result of trials and functioned closer to the ideals of a centralizing state. Though some women accused of witchcraft were tried in Edinburgh, the vast majority could not afford to travel there nor hire a lawyer and so they were tried in their communities by local courts.

The High Court of Justiciary and the Privy Council believed that it would retain control over the local courts through the process of granting commissions to try crimes such as witchcraft, and establishing the local judges, sheriffs, burgh magistrates, and the local advocate.[102] Yet, the large number of witch accusations meant that often commissions were led by lairds and elites in a community. These men did not have the same legal training as the lawyers at the High Court of Justiciary, if any legal training at all.[103]

When the Privy Council granted a commission to a locality it would be in response to local demand. The real stimulus for mass witch-hunting did not come from the centre, but from the localities.[104] The many petitions from the localities to get commissions represented the state of anxiety about witches. A delegation from a community would complain of witches in the area and ask for a commission, which when granted, provided the community with the authority to try witches.[105] Historian Brian Levack argues that when the Privy Council granted commissions of Justiciary to local authorities the central government "lost all control over the trial."[106]

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[101] Wasser, "The Privy Council," 31.
[102] Julian Goodare, "Witch-hunting and the Scottish State," in *The Scottish Witch-hunt in Context* (Manchester: University Press Manchester, 2002), 134.
[103] Goodare, "Witch-hunting and the Scottish State,"134. The Justice Depute was expected to travel to the localities to ensure the centralized judicial standards were being met, however he often did not travel into communities.
[104] Brian P. Levack, *The Witch-Hunt in Early Modern Europe*, Fourth Edition (London: Routledge, 2016), 25.
[105] Wasser, "The Privy Council," 22. The commission could be special or general. A special commission was limited to the people named therein. A general commission was limited in geographical area. Special commissions were often succeeded by a wider general commission.
[106] Levack, *The Witch-Hunt in Early Modern Europe*, 26.

The High Court of Justiciary and the local courts had vastly different outcomes of witchcraft trials. In the localities, the conviction rate was as high as 96 per cent and the execution rate 91 per cent. In contrast the conviction rate in the High Court of Justiciary was 57 per cent and the execution rate 55 per cent.[107] The vastly different outcomes in the High Court of Justiciary and the local courts was due to the fact the judges and lawyers presiding over a local court were often members of the Kirk Sessions. They knew the histories of the accused and personal relationships tainted their judgement.[108] They prosecuted their own neighbors with full awareness of local gossip. Longstanding antagonistic social relationships explain some of the large numbers of accusations and convictions of witches within the localities.[109]

Elizabeth Bathgate utilized her wealth to escape the typical outcome of an accusation of witchcraft by moving her trial to the High Court of Justiciary in Edinburgh. Her wealth ensured she had legal representation when she went to the High Court of Justiciary and she was ultimately found not guilty and acquitted.[110] If Elizabeth had been tried by the local commission, the likelihood of her acquittal would have dropped significantly because those trying her case would have known her and could have even been her accusers. She would likely have been seen by her community as a nuisance and an argumentative woman, all hallmarks of being a witch. Some localities in Scotland utilized the opportunity of the witchcraft trials to rid themselves of deviants and enforce conformity in their community.

The Privy Council's witchcraft committee made a special command to Kirk Sessions to seek out witches, as Scotland did not lack local institutions to arrest, interrogate and prosecute

[107] "The Survey of Scottish Witchcraft," Julian Goodare, Lauren Martin, Joyce Miller and Louise Yeoman, archived January 2003, accessed 01.12.19, http://www.shca.ed.ac.uk/witches/.
[108] Smith, "Sackcloth for the sinner," 125.
[109] Walker, *Crime, Gender and Social Order*, 477.
[110] Translated and Annotated by Dr. George F. Black. *Some Unpublished Scottish Witchcraft Trials* (New York: New York Public Library, 1941), 16.

witches.[111] The Kirk Sessions were parish-level consistories and were essential for centralizing the Scottish government. They were made up of the minister and elders of the parish.[112] There was overlap of crimes tried between the Kirk Sessions and the secular judiciary.[113] The Kirk Session Courts were often operated as the moral police of the local community and had been utilized by the secular judiciaries to control infractions of the social code. Lauren Martin says that the "frequency of punishment, fines, and penance suggests that people's everyday behaviour usually fell short of those rules."[114] The Kirk Session records reveal a struggle for control over women's bodies, behaviour, gender and sexuality.[115] The witch-hunt's provided an opportunity for communities to legally prosecute and scapegoat the women who the Kirk Session's struggled to control.

The accusation of being a witch was deadly, especially to quarrelsome women like Isobel Griersoune who had brought trouble to her community for years. She consistently fell out with her neighbours, taking offense and vowing vengeance. Robert Peddan and William Burnet had complained about Isobel's actions, such as swearing and yelling blasphemous words in public spaces. Actions such as these were a challenge to the Reformed church and the centralized state who supported the Kirk. When her neighbors had called her a witch, Isobel flew into a fury and cursed violently at Margaret Donaldson in front of her house. Isobel had shouted, "'The faggot of hell light on the, and the hell's cauldron may throw sieth (the person cooking) in!' and with

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[111] Ronald Seth, *In the Name of the Devil* (London: Jarrolds Publishers LTD, 1969), 15; Goodare, "Women and the Witch-Hunt in Scotland," 246.
[112] Natalie Zemon Davis, *Women on the Margins: Three Seventeenth-Century Lives* (Cambridge: Belknap Press, 1997), 123. Sessions were responsible for administering the Kirk's affairs, handling poor relief, and for trying and punishing certain types of moral offences.
[113] Smith, "Sackcloth for the Sinner," 123.
[114] Lauren Martin, "Witchcraft and Family: What can Witchcraft Documents Tell us About Early Modern Scottish Family Life?" *Scottish Tradition* Vol. 27 2002, 7-8.
[115] Alice Glaze, "Women and Kirk Discipline: Prosecution, Negotiation, and the Limits of Control*," Journal of Scottish Historical Studies*, Volume 36 Issue 2, 125. The Kirk Session investigated 'disciplinary' infractions including adultery, fornication, speech crimes, marital issues, the celebration of popular festivals and rituals.

this and other like devilish speeches she left."[116] Isobel's actions brought discord to the community, threatening instability and the gendered order.

Another such woman was Isobel Haldane who was witnessed hitting Stephan Ray on the shoulder after he followed her from the Hall of Balhoussye. He followed her and she clapped him on the shoulder saying "Go thy way! Thow fall nocht win thyself one bannok of bread for year and day!"[117] Both Isobel Griersoune and Isobel Haldane not only verbally assaulted and threatened the men in their community, but they were also seen yelling and swearing in manners that went against the aims of the Reforming process and threatened the authority of the patriarchal state structure. The newly centralized courts and unified law code created a legal system where women's misbehavior could be seen as a legal offence, rather than a long-standing nuisance. Misbehavior and gender deviance were signs of witchcraft, and all were unacceptable to a patriarchal state.

Women Versus Witches

The concern for gender conformity can be seen in the language used in the witchcraft trials to discuss the accusers versus the accused. The dichotomy of witch as deviant versus the law-abiding/gender conforming woman is evident in the language the trials used to describe women. Agnes Sampsoun was remarked as being a "grace matron-like woman of a rank."[118] As a woman of rank she would be expected to be particularly pious, obedient and quiet. The expectations of her gender do not differ greatly for a woman of any rank. The accusation of witchcraft shows that Agnes failed the expectations of her gender. One of the accusers of Geillis Johnson was reported in the her trial to be "an honest woman, who has lived there thirty years in

[116] Pitcairn, *Ancient Criminal Trials in Scotland*, Vol. II, 525.
[117] Pitcairn, *Ancient Criminal Trials in Scotland*, **1623.**
[118] Pitcairn, *Ancient Criminal Trials in Scotland*, Vol. III Part II, Page 230.

the town of Mussilburgh, in good fame, credit, and reputation, and was never suspected nor reported with any such devilry and detestable doings."[119] Whereas Geillis is described as a "malicious person."[120] The comparison between the women is clear, the complainant was described in ideal terms to contrast with the morally compromised Geillis. Language such as this creates a dichotomy between the social categories of the women accused of witchcraft, the women who conformed to gender regulations, and the "other" whose actions did not conform. This construction of a dichotomy served to create a distinction between the accused witch and the women that often appeared as the accusers or victims in court, not representing a true reality. The use of specific language in these trials constructs a distinction between the social categories of good women and presents them as the victims of malicious attacks, while the women who deviated were the ones accused of witchcraft.

Evidenced by the cases of Agnes Sampsoun and Geillis Johnson, witchcraft accusations by women were quite common. Within society, women were responsible for monitoring the behavior of other women and reported those who deviated from state regulations to the Kirk or magistrates. Even if women were not the accusers, they were often the witnesses in trials.[121] The state relied on women's testimonies to seek out other non-conformist women. "The accusers may have been conformists who felt order and stability were threatened by nonconformist witches."[122] Another explanation for the prevalence of women among the witnesses may be due to the prosecutors, accusers and witnesses perceptions of what characteristics a witch might possess.[123] The testimony against women accused of witchcraft often focused on their

[119] Pitcairn, *Ancient Criminal Trials in Scotland,* Vol. III Part II, Page 600.
[120] Pitcairn, *Ancient Criminal Trials in Scotland,* Vol. III Part II, Page 600.
[121] Diane Purkiss, *The Witch in History: Early Modern and Twentieth-Century Representations* (New York: Routledge, 1996), 8.
[122] Goodare, *Women and the Witch-Hunt,* 289.
[123] Jonathan B. Durrant, *Witchcraft, Gender and Society in Early Modern Germany* (Leiden: Brill, 2007,) 45.

quarrelsome nature, their tendency to curse, fight and have disagreements with those in their community.[124] Agnes Finnie had many conflicts with other women and told Janet Grinton after a dispute to, "go thy ways home, thou shalt never eat more in this world."[125] As well, law-abiding women gained their respectability and social status by reaffirming their own gender behaviour through active participation in the process of detection and accusation of women who deviated from social norms. By accusing women who deviated from gender norms of witchcraft those who did not deviate produced the witch as "other," and confirmed their own conforming gender expression as proper.

Diane Purkiss and Lauren Martin have presented the idea of the witch as an anti-wife in the home and in the domestic space.[126] In many ways the witch was the deviant expression of early modern femininity as the anti-wife, and further the anti-woman. The women who accused other women of witchcraft may have suffered from internalized misogyny and saw the women who deviated from gender norms as an affront to their own understanding of their gender. Women were expected to behave obediently and timidly, and those who challenged societal restrictions in their behaviour also challenged the women around them. Aggressive and assertive women often trespassed the perceived social boundaries in public and were witnessed by many. The discomfort felt by some women at having their understanding of their gender challenged could be mitigated through the law and an accusation of witchcraft. Through women's accusations of witchcraft, they were implicated in the perpetuation of the patriarchal structure of the state.

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[124] Sierra Dye, "To Converse with the Devil? Speech, Sexuality, and Witchcraft in Early Modern Scotland," *International Review of Scottish Studies* 37 (2012), 9.
[125] Black. *Some Unpublished Scottish*, 20.
[126] Purkiss, *The Witch in History*; Lauren Martin, "The Devil and the Domestic: Witchcraft, Quarrels and Women's Work in Scotland," in *The Scottish Witch-hunt in Context*, ed., Julian Goodare (Manchester: Manchester University Press, 2002).

The connection of women to witchcraft was also due to the belief of women's particular vulnerability to the Devil's persuasion. The addresses from the pulpit asserted that women had "a greater despondency in tribulation and an angrier desire for revenge" which made them vulnerable to the Devil's influences.[127] Durrant says that, "Heinrich Kramer argued in the *Malleus Maleficarum,* a popular treatise on witchcraft, that women were, by nature, more susceptible to attempts by the Devil to seduce them into the heresy of witchcraft."[128] In Kramer's writings on witches he drew on the beliefs in the scriptures which said, "…examples as Eve, Delilah and Jezebel, on patristic and classical authors, and on the stories of Cleopatra and Pelagia."[129] These examples of women served to "prove" that all women were weak, deceitful and jealous and therefore vulnerable to the Devil. Women would have been inundated with messages about their own gender and may have actively accused other women to prove their own conformity and piety.

The Household and the Community

The family and household upheld patriarchal authority and the state structure. The early modern family was referred to as a little commonwealth, where the father represented the King. The authority of the household was seen as a matter of ordering and controlling all household members.[130] The family and household was the first interaction Scottish citizens had with state control and it reinforced societal hierarchies. The family was instrumental for assuring that the same patterns of obedience and hierarchy were reproduced in society.[131] "As such, magistrates considered regulating behaviour within and between households crucial for maintaining the

[127] Durrant, *Witchcraft, Gender and Society,* 47.
[128] Durrant, *Witchcraft, Gender and Society,* 46.
[129] Durrant, *Witchcraft, Gender and Society,* 47.
[130] Kemp, "The Family is a Little Commonwealth," 454.
[131] Martin, "The Devil and the Domestic,"74.

household that was idealized as the cornerstone of a well-governed, well-ordered society."[132] The state relied on the power of the husband and father in the family to enforce patriarchal family relations, and the entire state structure could be threatened internally by discord in the household.

Parents taught children the first instance of their expected societal roles. The family socialized girls to accept subservient roles in society and boys to be superior. Children recreated the hierarchy they witnessed at home and so the family was "the ground where patriarchal values were learned by individuals, which were in turn practiced in the patriarchal society."[133] Women's roles in the household were active and important, and therefore were spaces for particular concern over women's gender behaviour. Women as mothers, servants, daughters and sisters had obedient roles to play in the household, roles which were often difficult to maintain. Geillis Duncan was a maid in David Seaton's household when he became aware that Geillis would sneak out of his house every night and seek out people who were troubled with any kind of sickness.[134] Sneaking out of her master's house was not the actions of a proper servant. Geillis was under the responsibility and control of David's household and her sneaking out subverted his power as her master. Those outside the patriarchal family such as unmarried women, widows and spinsters threatened a society based on the patriarchal family as these women had no man overseeing them.[135] Women who disrupted the family and household ultimately were a challenge to the entire stately order.

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[132] J.R.D. Falconer, "A Family Affair: Households, Misbehaving and the Community in Sixteenth-Century Aberdeen," in *Finding the Family in Medieval and Early Modern Scotland*, eds., Elizabeth Ewan and Janay Nugent (Cornwall: Ashgate Publishing, 2008), 140.
[133] Karli Thompson, "Feminist Perspectives on the Family," *Revisesociology*, Feb. 10. 2014.
[134] Pitcairn Vol. 1 part 1 & 2, Newes from Scotland, 215.
[135] Glaze, "Women and Kirk Discipline," 130. Widows and spinsters are discussed in depth in the chapter on the economy.

Christian Wilson threatened the family hierarchy, not by challenging her husband, but by threatening her brother Alexander. She was often witnessed threatening him by the minister in Dalkeith, bailies and her brother's friends, earning herself a reputation for aggression. When her brother was found dead, and assumed murdered, these men accused and apprehended her for his murder.[136] Through witchcraft laws, women who were a destabilizing force in the family hierarchy could be accused and prosecuted as a form of protecting the state structure.

The household and the functioning of a family was not a private affair as it concerned the community and the state. In the household and community women were meant to act in a subordinate social role. When women deviated or wholly rejected the subservient role required of them it upset the carefully constructed patriarchal order upon which the centralized state was built. It is in the communities where women had the highest ability to disrupt. Women were in positions where they could challenge male authority on an individual basis in ways which disrupted the state. The weakness of state control was most visible in the localities where witch-hunting was the most enthusiastic.[137] Due to weaker state control, community relations often dictated the result of witchcraft trials rather than law itself. Yet it was the centralized judicial process established by the state which allowed for the prosecution of women accused of witchcraft. In both cases, that of the state and community, conformity to gender expectations was a central concern.

Though women were excluded in many aspects of public life such as business transactions, they were required to interact daily with other members of the community. Elizabeth Ewan's work concludes that the "regulation of townspeople's lives was affected by

[136] Black, *Some Unpublished Scottish*, 34.
[137] Wasser, "The Privy Council," 20.

gendered perceptions of appropriate behaviour of men and women," which often clashed with active female roles in the urban economy where "to maintain the household required assertive and independent behaviour."[138] In community relationships it was essential that "women bartered and haggled over prices, occasionally browbeating a competitor or friend into accepting a price or term of trade, and perhaps intimidating neighbors."[139] Katherene Roiss was known to have threatened Andrew Merton for not paying a certain sum of money owed to her, while Catharine Oswald had conceived a great hatred for John Nisbet and his wife for refusing to sell her a cow, and Agnes Finnie threatened Beatrix Nisbet for refusing to pay her a rent for two dollars.[140] Yet proper gender behaviour required women to be subservient to men in all instances.

Argumentative women challenged the patriarchal social order by disputing with men publicly, as well as disrupting the peace and harmony of the community. Isobel Greirsoune was also known to intervene in her husband's transactions and haggle with neighbors. Her interactions caused disputes in her community. Though women could haggle and barter prices, it was not acceptable that she, as a woman, display an aggressive nature. Isobel's husband could demand money and payment from other men, but it was threatening when Isobel challenged men herself, as she upset the patriarchal hierarchy. Isobel demanded that Robert Peddan repay her nine shillings which he refused to pay. She yelled at him saying, "he should repent it!" and he "should not have back his health and his clothes together!"[141] In a similar situation Elizabeth Bathgate demanded money be repaid that her husband had lent to Margaret Hume. Margaret had

[138] Harriet J. Cornell, "Gender, Sex and Social Control: East Lothian, 1610-1640," (Edinburgh: University of Edinburgh, 2012), 12.
[139] Martin, "The Devil and the Domestic," 76.
[140] Pitcairn, *Ancient Criminal Trials in Scotland,* Vol. II, 192; Black. *Some Unpublished Scottish, 11;* Black. *Some Unpublished Scottish,* 20.
[141] Pitcairn, *Ancient Criminal Trials in Scotland,* Vol. II, 525.

borrowed six Scots, and seventeen Scots the second time.[142] Elizabeth also had a particularly difficult relationship with a man named George Sprot who kept some cloth of hers longer than she desired and threatened him when he wouldn't return it, saying, "go home and work for work what you can your teeth shall overgang your hands and ye shall never get your Sundays meat to the fore."[143] Communities throughout Scotland utilized the opportunity of the witchcraft trials to rid themselves of deviants and disturbances and enforce conformity in their community.

When women failed to maintain their reputation because of unfeminine behaviour, they faced hostility and fear from their community members. "The frontlines in the battles over reputation were the public spaces of the community, and public episodes of insults and flyting between individuals were often the first step in publicly establishing a person's status as a well-known witch."[144] The importance of personal reputation and honor cannot be overstated within this patriarchal society. Lord Normand discusses how defamation was understood to be a judicial matter. Scots law assumed that damage could result from all defamatory words, spoken or written. "The uttering of defamatory words either by speech or writing is actionable."[145] Special damages could be claimed, for example when the pursuer complains not only of damage to his reputation but also of consequential loss of employment.[146] The rule in Scotland is that words spoken or written, casting imputations on moral character are relevant to ground an action for damages. The basis of liability was the mere uttering of injurious words. Some of the concern over verbal quarrels was because it "gave women an opportunity to meet men on an equal

[142] Black, *Some Unpublished Scottish,* 14.
[143] Black, *Some Unpublished Scottish,* 14.
[144] Scott Moir, "The Crucible: Witchcraft and the Experience of Family in Early Modern Scotland," in *Finding the Family in Medieval and Early Modern Scotland*, Elizabeth Ewan and Janay Nugent eds. (Cornwall: Ashgate Publishing, 2008), 56.
[145] Lord Normand, "The Law of Defamation in Scotland," *The Cambridge Law Journal* Vol. 6, No. 3 (1938), 832.
[146] Lord Normand, "The Law of Defamation," 832.

playing field."[147] Women could challenge men on an equal level with words and insults, making this behaviour even more threatening to a patriarchal society.

Frequent conflict ridden relationships where a woman was perceived to be hostile, argumentative, vengeful or aggressive challenged the norms of community life.[148] Isobel Greirsoune understood the weight an accusation of witchcraft carried, as when Margaret Donaldson first accused her of being a witch she desired that her neighbors get Margaret to drink with her to repair their relationship. However, after she heard that she was still being slandered as a witch, "she moved with rage and envy and again went to Margaret's house and spoke to her many devilish and horrible words shouting, 'Away thief! I shall have thy heart for spreading rumors about my safety!'"[149] Continued years of distrust and suspicion might culminate in accusations of witchcraft, first perhaps in anger in the street, but then to an inquisitor or magistrate.[150]

Agnes Finnie found herself similarly threatened by John Buchannan after his wife had many fights with Agnes. He threatened to "throw her over the stair, and vowed to have her burnt as a witch."[151] Agnes is reported to have sought amends for such speeches, but after John was sick he came to Agnes's house and called for a pint of ale, and said to her "if he were tormented so another night he should make all the town to hear tell of it."[152] Yet women did not always react with fear to the accusation of witchcraft. Agnes Finnie was later called a witch by Euphan Kincaid. When she heard this she answered, "if I be a witch you or yours shall have better cause

[147] Elizabeth Ewan, "'Divers Injurious Words': Defamation and Gender in Late Medieval Scotland," in *History, Literature and Music in Medieval Scotland*, ed. R.A. McDonald (Toronto: University of Toronto Press, 2002), 177.
[148] Alison Rowland, "Witchcraft and Old Women in Early Modern Germany," *Past & Present*, no. 173, 80.
[149] Pitcairn, *Ancient Criminal Trials in Scotland*, Vol. II, 525.
[150] Garrett Clarke, "Women and Witches: Patterns of Analysis," *Signs Vol. 3, No. 2* (Winter, 1977), 466.
[151] Black, *Some Unpublished Scottish, 20.*
[152] Black, *Some Unpublished Scottish, 20.*

to call me so."[153] Rather than fearing the accusation, Agnes used the fear inspired by witches to threaten Euphan. Elizabeth Bathgate lashed out with anger and struck William Donaldson in Eyemouth for calling her a witch. After he ran away from her, she "cried in a great rage and threatening manner after him, 'Well sir, the devil be in your feet.'"[154] Rather than reacting with fear, Elizabeth used the threat of witchcraft to warn someone she had a troublesome relationship with, possibly to get whatever she wanted from him returned, or to have him leave her alone. Diane Purkiss connects this self-fashioning as a witch to moments of agency and power where women took on the character of the witch in order to get their way and survive.[155]

Motherhood and Inheritance

In the household women had limited power, most often asserted through marriage, the household, servants, family, children and reproductive work. Marriage was the legal basis of household formation and it placed women in a subordinate social position. Yet, adult married women occupied a complex position between authority and subservience in the Reformed family. As Janay Nugent argues, "ideologically the gender hierarchy placed female heads of household in a position of subservience to their husbands," yet their age, marriage status and control over servants and children who lived under their roof empowered them with some authority.[156] Their authority was exercised through the enforcement of order and conformity, especially in areas such as gender expression.

[153] Black, *Some Unpublished Scottish,* 20.
[154] Black, *Some Unpublished Scottish, 20.*
[155] Purkiss, *The Witch in History,* 145.
[156] Janay Nugent, "The Mistresse of the Family hath a special hand": Family, Women, Mothers, and the Establishment of a "godly community of Scots" in Macdonald, Stuart and Daniel Macleod Edss, *Keeping the Kirk: Scottish Religion at Home and in the Diaspora* (Ontario: Guelph Centre for Scottish Studies, 2014), 39.

The apex of most women's power in early modern society was motherhood, yet this existed under the close scrutiny and control of the male heads of households. Despite the controlled exerted by the patriarchy, the small amount of power that mother's wielded was mistrusted. Mothers were meant to teach their children, especially their daughters, how to act in relation to other members of society. Mothers were relied upon to instill piety in their children, so much so that advice literature on how to teach children proper piety circulated at this time.[157] There was a deep concern about mothers who might abuse their position of limited power and teach their daughters witchcraft. Such an example is Janet Breadhead, who was married to John Taylor. She told in her trial of how her mother-in-law made some potions and enchanted charms from dog flesh and sheep's flesh, and "did this, to teach me, and this was my first lesson."[158] The witch then was the anti-mother and anti-housewife, as she disrupted the patriarchal authority of her son and disrupted the security and stability of society by spreading witchcraft.

Women were expected to act as the nurturers and preservers of society, a role which some women failed to uphold. Elizabeth Bathgate failed her nurturing role when in a rage against Agnes Bunkle, she pinched Agnes' baby. The pinch made a blue mark in the child's "hough which never went out so long as it lived," leading to the death of the child many months later.[159] Christian Wilson rejected a mother's nurturing role as she threatened a man she had discord with, James Clark, and wished aloud that his wife should be childless.[160] Along with being aggressive, Agnes Finnie also threatened a child, and was said to find humor in the child's pain, falling "over in a great laughter" when something fell upon the child's leg "and crushed it to pieces."[161] Those

[157] Janay Nugent and Elizabeth Ewan eds., *Children and Youth in Premodern Scotland* (Woodbridge: Boydell Press, 2015), 10. David Mullen has written further on biographies of godly children.
[158] Pitcairn, *Ancient Criminal Trials in Scotland*, Vol. II, 616.
[159] Black, *Some Unpublished Scottish*, 14. "hough" here means hamstring or back of the leg.
[160] Black. *Some Unpublished Scottish*, 14.
[161] Black. *Some Unpublished Scottish*, 20.

accused of witchcraft often failed to conform to motherly expectations and emerged instead as an anti-mother and an anti-wife.[162]

Concerns about anti-mothers began as soon as childbirth.[163] Meg Dow was accused of both witchcraft and child-murder, exemplifying the correlation of failure of expectations of motherhood, womanhood and witchcraft. Though she is accused of witchcraft and sorcery, her trial does not contain any mention of magical accusations, only the "casting of her own child into a coal bank with the purpose of drowning her."[164] All of these examples of women failing to nurture children demonstrate a failed gender expression as they deviated from the expectation that women were to be kind and caring nurturers in society. The legal prosecution of women as witches provided a means to "correct" the misbehavior of bad mothers by punishing them and discouraging similar behaviour in other women. The witch-hunt's then encouraged women to model proper subordinate, nurturing social roles for their children.

Women who had children out of wedlock or illegitimate children could be accused of being a witch. Another issue of a societal stability can be seen in the ways that women could disrupt households and lines of inheritance through the birth of illegitimate children. Legitimate children conceived under a legal marriage were essential for families to ensure family lineage and blood heirs.[165] Families and households also organized inheritance such as access to land and work.[166] Inheritance included the passing on of property, titles, and debts. Inheritance was a concern for a patriarchal society where goods and land would be passed to the nearest male kin. By controlling women's sexuality, the state also controlled the reproduction of its citizens.

[162] Capp, *When Gossips Meet*, 15.
[163] Julian Goodare, *The Scottish Witch-Hunt in Context* (Manchester: Manchester University Press, 2002), 76.
[164] Pitcairn, *Ancient Criminal Trials in Scotland*, Vol. I Part II, 186.
[165] Nugent and Ewan, *Children and Youth in Premodern Scotland*, 9.
[166] Martin, "Witchcraft and Family," 10.

Controlling women's reproduction was born out of the fear of caring for and passing on property to another man's child. In this way, inheritance was also implicated in accusations of witchcraft.

One such case was that of Robert Erskine and his three sisters, Helen, Isobel, and Anna who were accused of witchcraft after "being blinded with the godless and insatiable desire to be of land in Dun."[167] They were accused of trying to murder two of their nephews with poison, where one died and the other survived. As the lands were owned by their other brother, they would be passed down to his sons. Their trial sees the blame only in the sisters, despite Robert being an accomplice to the murder of their nephew. "His sisters, who with desperate wickedness goaded him to consent to the act. These wretched females were said to be the prime movers and actors and their brother a passive instrument in their hands."[168] It is clear that the court believed the sisters were more capable of murder due to their inherent wickedness of being female. Before his death the oldest boy said, "Wo is me, that I ever had right to my lands! For had I not been treated this way for if I had not been born this way, nor wicked practices had been plotted against me for my lands!"[169] This trial shows the concern over the inheritance of land, as well as concern over women's ability to disrupt lines of inheritance. Though Robert would have likely held the lands, his sisters were seen as more greedy and guilty. The idea that women would want land and power challenged the expectations for their gender at the time. Women proven to have such ambitions were constructed as masculine. Ensuring that the sisters were seen as culpable preserved the social order where women could not attempt to inherit power or land.

Women accused of witchcraft could be feared for having the ability to disrupt the inheritance lines of their neighbors or community members. Often the accused were recorded as

[167] Pitcairn, *Ancient Criminal Trials in Scotland*, Vol. III Part II.
[168] Pitcairn, *Ancient Criminal Trials in Scotland*, Vol. III Part II.
[169] Pitcairn, *Ancient Criminal Trials in Scotland*, Vol. III Part II.

ill-wishing and plotting to end family lines and to kill heirs. Janet Breadhead was feared to be plotting to kill and destroy the Lairds of Park and Lochloy, as well as their "male-children and posterity."[170] By doing so she would have made the Laird's house heirless. Similarly Janet Clark was accused of desiring to bring about the destruction of the Laird of Craigevar and his son.[171] Katherene Rois was accused of making two pictures of clay filled with poison intended for the destruction of the young Laird of Fowlis, and the young Ladie Balnagoune.[172] Not only was being heirless a concern for the passing on of economic goods to legitimate children, the insult of having no male-heirs disrupted the patriarchal structure. Male children were important in a patriarchal society as they economically supported a male headed household, while continuing on a family name and line.

Conclusion

The women accused of witchcraft posed a threat to the patriarchal structure of the centralizing state. It is clear that the localities took to witch-hunting enthusiastically. The standards of gender were created by broader themes of state building that the localities latched on to and enforced. The community members were eager to hunt down and persecute those who had infringed upon societal norms. The communities were actively engaged in regulating and enforcing the state constructed ideologies of gender that were deeply influenced by state centralization and the Reformation. The witch was widely regarded as ill-tempered, power-hungry, vengeful and argumentative.[173] Assertive and aggressive women challenged the accepted patriarchal order which placed them as subordinate to their male counterparts.

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[170] Pitcairn, *Ancient Criminal Trials in Scotland*, Vol. III Part II, 616.
[171] Pitcairn, *Ancient Criminal Trials in Scotland*, Vol. III Part II, 206.
[172] Pitcairn, *Ancient Criminal Trials in Scotland*, Vol. II, 192.
[173] Goodare, *Scottish Witches and Witch-hunters* (New York: Palgrave, 2013), 67; Stuart Macdonald, *The Witches of Fife: Witch-hunting in a Scottish Shire, 1560-1710* (Glasgow: Tuckwell Press, 2002),173.

Though Isobel Young's lawyers tried to defend her actions of threats and swearing by saying that her "menacing speeches are but ordinary blasts of anger which people vent when dispossessed of their possessions," her actions were unacceptable for a woman.[174] Through yelling, cursing, and arguing, women could upset men's authority, especially if done publicly. The women who challenged men, yelled at them, demanded payment or haggled prices could be accused of witchcraft for disturbing the patriarchal hierarchal order. The witch-hunts and the laws that supported them, offered a means to discipline women who did not conform and posed challenges to the patriarchal family structure and therefore the structure of the centralizing state.

These women were accused of witchcraft after building up a reputation for non-conformity and misbehavior. The centralized state both created and relied upon a unified legal system to monitor and discipline gender conformity which in turn supported the state structure of men in power. The behaviours associated with witchcraft were ways that women were seen as threats to the men around them, the patriarchy and the state structure. The Scottish state used the legal system to assert authority and reaffirm its power over women through the witch-hunts. The legal system was also informed and utilized by the Reformation to actively enforce the parameters of women's acceptable behaviour. The intersecting processes of centralizing state and the Reformation both were threatened by women's gender deviance in a multitude of ways, yet both were similarly concerned over women's behaviour in the household, and as mothers. The state and religious processes intersected to establish women's deviance utilized the law to discipline those women who deviated as witches.

[174] Black. *Some Unpublished Scottish,* 4.

CHAPTER TWO

Piety and "The Godly Community of Scots": Witchcraft and the Reformation

Robert Pitcairn, the editor of the *Ancient Criminal Trials in Scotland,* noted in the trial of Bessie Dunlop, 1576, that the clergy and Kirk Sessions appeared to have been "unwearied instruments of purging the land of witchcraft."[175] Bessie's trial is one of the earliest, and may be one the most extraordinary cases on record as she is one of the few women accused of witchcraft whose recounting of her crime is steeped in the prevailing superstitions of fairies. Bessie was accused of having an unnatural ability to heal, "tell different persons of things that they lost," or were stolen, and to see into the future. For this she was known as a "notorious witch" and was accused of dealing with charms and abusing the people with the devilish craft of sorcery. She claimed that these powers were not her own, but rather she was taught how to heal and divine the location of things by a "good witch," named Tom Reid.[176]

Bessie claimed Tom was the ghost of a man who died at the fatal field of Pinkie in Inveresk 1547 and now lived in the court of the Fairy Queen. It is through her relationship with Tom that Bessie was able to help those in her community of Lyne before her accusation of witchcraft. Much of her trial contains questions from her interrogators about how exactly she met Tom, what he asked of her, and how she healed people. A remarkable point in Bessie's trial is that her interrogators asked her what she thought of the "new law," or the Reformed Religion. Bessie answered that she had spoken to Tom about that matter, and Tom answered, "that this

[175] Pitcairn, *Ancient Criminal Trials in Scotland*, Vol I Part II, 49.
[176] Pitcairn, *Ancient Criminal Trials in Scotland*, Vol I Part II, 49; Lizanne Henderson and Edward J. Cowan, *Scottish Fairy Belief* (East Linton: Tuckwell, 2001); Joyce Miller, *Magic and Witchcraft in Scotland.* (Musselburgh: Goblinshead, 2004); Alaric Hall, "Getting Shot if Elves: Healing, Witchcraft and Fairies in the Scottish Witchcraft Trials," *Folklore Vol. 116, No. 1 (Apr. 2005).*

new law was not good, and that the old faith would come home again, but not such as it was before."[177]

The Protestant Reformation was still evolving during the years of 1560-1661. Bessie Dunlop's trial, as remarkable as it is for what it contains pertaining to folk belief, also reveals the uncertainty and instability of the process of the Reformation in Scotland. It is rare in a witchcraft trial that the interrogators concern themselves with the opinion of the accused witch on the new religion; in fact, it may be the only trial containing this curious question. As well, it is even more rare that an accused witch expresses identifiable disdain for the developing Protestant Religion. Bessie's trial, likewise, reveals the deep connection between the religious crisis brought by the Protestant Reformation and subsequent evolution of witchcraft law.

Witch-hunting was a legal concern, and state centralization and secular courts were influenced by Reformation ideology. Law was a means to enforce morality throughout the population and encourage the development of the Reformed religion. The Reformation required conformity, stability, peace and harmony as much as the processes of state centralization discussed in the previous chapter. The two processes officially intersected when Scottish Parliament officially adopted the Reformed agenda outlined in the *Scots Confession* of 1560. One aspect of the Reforming process occurred through the active monitoring and prosecution of citizens who did not conform to societal regulations of gender expectations. The development of a legal system which could construct gender expression helped to further the Reformation as much as it helped stabilize the state. The Reformation placed an emphasis on specific gendered behaviour for women and provided the ideological framework to guide the accusations of women as witches as a means of producing a stable godly society, and conforming pious

[177] Pitcairn, *Ancient Criminal Trials in Scotland,* Vol I Part II, 49.

citizens. The intended result of the witch-hunts was that of a wholly godly society in which all members actively participated in the construction of a Reformed Scotland.

In this chapter I examine the context of the Reformation and the development of church courts which were an integral part of community surveillance. Scotland was understood as favoured by God and the "godly community of Scots" made the Devil and his minion witches tangible threats. This chapter looks at the influences of the Reformation on the *Witchcraft Act* of 1563 and the ways that the Reforming process was encouraged through the Reformed family, women's personal piety and the expectation that mother's teach Reformed ideals. Women challenged the Reforming process in a multitude of ways, as mother's who did not teach piety and healers who practiced folk beliefs. The accusation of witchcraft was a form of legal discipline which punished those who deviated and encouraged women to perform their gender in ways which aided the Reforming process.

Context of the Reformation and Church Courts

The Reformation in Scotland occurred under Mary Queen of Scots and her son James VI. Starting in the reign of the Catholic Mary, the Scottish Reformation Parliament of 1560 rejected papal jurisdiction and the mass.[178] Before 1560 Scotland had been influenced by English Protestantism and Martin Luther's teachings through the distribution of literature and Bibles. A group of lairds had declared that they were Protestant and created the Lords of the Congregation in 1557, encouraging other influential Protestants to declare their faith.[179] The Scottish parliament had adopted the *Scots Confession* in 1560, making Calvinism the official religion. The *Scots Confession* became the standard of the Kirk and saw a complete transformation of

[178] Julian Goodare, "The Scottish Witchcraft Act," *Church History, Vol. 74. No. 1(2005),* 40.
[179] T.C. Smout, *A History of the Scottish People, 1560-1830* (New York: Harper Collins, 1969), 53.

religious observance.[180] Reforming was an uneven process and far from wholly thorough during the first hundred years following 1560. During this period there was great anxiety over any disruptions and threats to the process of Reforming. Over several generations the Scottish parliament tried to implement a "godly community of Scots" to spread the Reformation.[181]

The changes brought in by the Reformation included abolishment of Christmas and Easter, Sabbaths turned to fasting days, and the Kirk discouraged most plays and poetry.[182] The single surviving holy day was Sunday, and regular attendance and participation was required of the laity. Latin was abandoned in favor of the vernacular. The use of the vernacular was instrumental for the success of the Reformation. Though much of the laity was illiterate, those that could read were active in Reforming.[183] Protestants also encouraged education and expanded the number of the laity who could read the Bible. The Kirk waged an, "unremitting campaign to provide an educated clergy and to establish a literate and theologically informed laity through catechism, examinations, sermons, enforced family 'exercises' and the founding of schools."[184] Literacy encouraged Scots to develop a personal relationship with God through reading the Bible, a significant theological shift from the intermediary priests of Roman Catholicism.

The Reformed Kirk Session's services were no longer about Christ and his sacrifice, but rather were long sermons interspersed by catechism. Protestant pastors wanted their congregation to be aware of the moral implications of magic and the Devil. The Kirk services created frequent

[180] The Kirk is the official name for the church of Scotland.
[181] Church of Scotland. 1560. *Confession of faith: the larger catechism; The shorter catechism; The directory for public worship; The form of Prebyterial Church government : with references to the proofs from the Scripture*, Edinburgh: Published for Presbyterian Publications, 1957.
[182] Elizabeth Ewan, "A Century of Disorder and Transformation- Scotland 1550-1560," *Renaissance and Reformation* Fall 2006/2007, 12.
[183] Margo Todd, *The Culture of Protestantism in Early Modern Scotland* (New Haven: Yale University Press, 2002), 23.
[184] Todd, *The Culture of Protestantism*, 22.

anxieties about daily activities which could no longer be placated with the use of holy water or praying to saints.[185] The frequent discussions of Satan from the pulpit and in the courtroom solidified the Devil an immediate threat in early modern Scotland.[186] The mandatory attendance of minimum twice weekly, if not daily sermons meant that the Scots were "highly aware of their new orientation in the world."[187] Church attendance increased with the Reformation and Sessions would meet anywhere from weekly to upwards of four times a week. [188] As a nation understood to be favoured by God as one of his chosen communities, it was mandatory that the "elect" ensure that all Scots behaved in a way which reflected this privileged position of the Scots.[189]

The battle with the Devil for the Scottish laity was internal and external. "For many, the Reformed emphasis on the relationship between sin and Satan caused them to suspect that their own depravity made them vulnerable to the Devil's persuasions."[190] Ultimately Satan could be seen in daily interactions as he was real and tangible and touched people's daily lives. Notions of predestination and sin, as well as the belief in the total depravity of all men and women, led to anxiety which increased social tensions in the communities.[191] There was a profound shift in the Scots understanding of their hopes and fears, and there was unease that one was not in control of their salvation.[192]

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[185] Todd, *The Culture of Protestantism*, 10.
[186] Michelle Brock, *Satan and the Scots: The Devil in Post-Reformation Scotland, c. 1560-1700* (New York: Routledge, 2016), 26.
[187] Todd, *The Culture of Protestantism,* 1.
[188]Alice Glaze, "Women and Kirk Discipline: Prosecution, Negotiation, and the Limits of Control*," Journal of Scottish Historical Studies*, Volume 36 Issue 2. 132.
[189] Brock, "Experiencing Satan in Early Modern Scotland," 29.
[190] Michelle Brock, "Internalizing the Demonic: Satan and the Self in Early Modern Scottish Piety," *Journal of British Studies 54* (January 2015): 32.
[191] Todd, *The Culture of Protestantism,* 1.
[192] Todd, *The Culture of Protestantism,* 169.

The constant discussion of Satan within witch-hunting produced a unifying effect by providing a proximate enemy for communities to rally around.[193] The witch hunts required the support from the anxious and observant members of the Reformed Kirk, including the elders, minsters and laity. Often when a community rallied together it was in reaction to the outing and discovery of a witch. Catharine Oswald had been implicated by her community members because she had associated with a known witch, Elizabeth Steven.[194] The two had been accused of causing a great storm in 1625. As women were more vulnerable to the Devil's persuasions and they were often blamed for unexplainable events. Many communities came together in the North Berwick trials to prosecute Agnes Sampson, Jonet Campbell, Gelies Duncan, Beigis Todd, Meg Dun, Bessie Robson, Jokkie Gray-meill, Jonet Gaw, Erisch, the wobsters wife of Seton, the goodwife of Spilmorford-mylne called Meg Betone, and Kaie Wallace, following the massive storm that almost prevented King James VI's wife Anne of Denmark from coming to Scotland.[195] The actions of the Devil and his minions were seen in disastrous events which could affect an entire community, or the nation.

Community disputes were often now seen as a religious offense as they had implications for the purity of all Scots and could be resolved through the law and an accusation of witchcraft. Isobel Grierson, when quarrelling with Robert Peddan had, "utter(ed) of different blasphemous speeches to the said Robert."[196] Her cursing and swearing, as well as aggressive nature made her stand out in her community and brought disorder to those around her. She deviated from the pious, respectful nature of a Reformed woman. Christian Wilson had been delated for cursing on

[193] Brock, *Satan and the Scots*. 30.
[194] Translated and Annotated by Dr. George F. Black. Some Unpublished Scottish Witchcraft Trials (New York Public Library: New York, 1941), 10.
[195] Pitcairn, *Ancient Criminal Trials in Scotland*, Vol. III Part II, Page 230.
[196] Pitcairn, *Ancient Criminal Trials in Scotland*, Vol. II, 524.

the Sabbath in 1658.[197] Agnes Finnie found herself in a similar situation when, out of anger against Bessie Currie, she threatened that she should "gar the Devil take a bite of the said Bessie Currie."[198] Much of the accusations against Agnes centre around her use of blasphemous speeches such as saying in a great rage at Christian Dickson, "the devil ride about the town with you and all yours."[199] Indeed, her actions were considered "blasphemous," and threatened the ideal of a godly community as a whole, by upsetting the patriarchal church and state structure with her unfeminine anti-piety.

To address concerns about the Devil's persuasions amongst Reformed Scots, moral courts investigated suspicious behaviour. The Reformation relied on the hierarchy of Church courts, including the Kirk Session's moral courts all the way up to the General Assembly of the national Church.[200] The Church courts were supported and reinforced by the secular court system and they often overlapped and intersected. The secular magistrates often sat on the Kirk Session.[201] "Scotland's ecclesiastical authorities were not acting in isolation but as a part of an integrated justice system that was operational at local levels."[202] Stuart Macdonald discusses that Church courts often began the investigations into witchcraft, then called for witnesses from the community, and then sought a secular commission to try the accused witches.[203]

The Kirk Sessions operated as the religious and social authorities of Scotland. The procedures of witch-hunting, such as the commissions granted by the Privy Council, ensured the

[197] Sierra Dye, "To Converse with the Devil? Speech, Sexuality, and Witchcraft in Early Modern Scotland," *International Review of Scottish Studies* 37 (2012), 62. Delated means accused or charged.
[198] Pitcairn, *Ancient Criminal Trials in Scotland*, Vol. III Part II, pg. 20.
[199] Pitcairn, *Ancient Criminal Trials in Scotland*, Vol. III Part II, pg. 20.
[200] Cornell, "Gender, Sex and Social Control," 20.
[201] Stuart Macdonald, *The Witches of Fife: Witch-hunting in a Scottish Shire, 1560-1710* (Glasgow: Tuckwell Press, 2002), 173.
[202] Cornell, "Gender, Sex and Social Control," 11.
[203] Macdonald, *The Witches of Fife*,173.

proper functioning of the Kirk in communities, which then supported the state structure.[204] Elders performed a, "quasi-clerical role where they ensured the attendance of members of the community" at Sunday sermons.[205] Church going and external evidence of piety, played an important part in the lives of many of the Scots, especially women. Elders were an integral part of community surveillance and worked to ensure that the laity was actively participating in all of their godly obligations, including behaving in a way that reflected positively on the godly community.

It was understood that at some point in their lives most members of a community would appear before the Kirk Session.[206] The Kirk Sessions intervened in the lives of early modern Scots and investigated and rendered judicial decisions in cases of sexual offence, drunkenness, quarrelling, swearing and Sabbath breach.[207] The Kirk Sessions reveal intense community surveillance of normative gender relations and it was those who did not conform that received the attention of the Kirk. Kirk Sessions ensured members of a community had vested interest in the regulation of personal behaviour of neighbours.[208] Those who deviated from the prescribed standards threatened the piety and harmony of the entire community. Both the Church courts and the secular courts were utilized as tools to regulate proper gender behaviour and control deviance.

Following the Reformation, there was massive criminalization of women. Women were disciplined in Kirk Sessions and civil courts for offences such as scolding, fornication and

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[204] John McCallum, *Reforming the Scottish Parish: The Reformation in Fife, 1560-1640* (Burlington: Ashgate, 2010), 38.
[205] Todd, *The Culture of Protestantism,* 23.
[206] Todd, *The Culture of Protestantism,* 11.
[207] Stephan J. Davies, "The Courts and the Scottish Legal System 1600-1747: The Case of Stirlingshire," in *Crime and the Law: The Social History of Crime in Western Europe Since 1500,* eds., Gatrell, Bruce Lenman and Geoffrey Parker (London: Europa Publications Limited, 1980), 124.
[208] Todd, *The Culture of Protestantism,* 23.

prostitution. These are characteristics and behaviors that rendered women impious, dangerous to the Reformation, and in need of surveillance from the Kirk. These characteristics were also interpreted as witch-like. The Kirk Sessions monitored women and enforced ideal gender behaviour by accessing commissions to prosecute women who deviated from norms as witches. "Witchcraft was part of a broader pattern of moral offences for which women were given increased criminal responsibility during the Reformation."[209] Women needed to be monitored more closely than men because they were more likely to be in league with the devil due to their natural susceptibility as highly sexual and weak willed.[210] All women had the potential to become witches and so they warranted greater observation to protect the godly community of Scots.

The Scottish *Witchcraft Act*

The Reformation created a new reality for early modern life in Scotland and resulted in major religious, political, and social changes. Those that were most visibly affected were women.[211] As the Protestant Reformation progressed in Scotland, there was also a direct rise in the number of witchcraft cases. Prior to 1560 women were often tried as heretics before they were tried as witches.[212] The *Witchcraft Act* was passed in 1563, just three years after the Reformation. Both the law, utilized by the centralizing state under James VI who came to the throne in 1567, and the Protestant Reformation, intersected to lead to the rise in witchcraft cases.

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[209] Julian Goodare, "Women and the Witch-Hunt in Scotland." *Social History*, Vol. 23, No. 3 (Oct. 1998), 295.
[210] King James VI/I, *Daemonlogy*, 43.

[211] Historians such as Rosalind Mitchison, Leah Leneman and Gordan Besbrisay examine new controls over women's sexuality. Leah Leneman and Rosalind Mitchison *Girls in Trouble: Sexuality and Social Control in Rural Scotland, 1660–1780* (Edinburgh: Scottish Press, 1998); Leah Leneman and Rosalind Mitchison. *Sin in the City: Sexuality and Social Control in Urban Scotland 1660-1780* (Edinburgh: Scottish Cultural Press, 2001); Gordon DesBrisay, "City Limits: Female Philanthropists and Wet Nurses in Seventeenth-Century Scottish Towns." *Journal of the Canadian Historical Association*, New Series 8 (1998): 39-60.
[212] Harriet J. Cornell, "Gender, Sex and Social Control: East Lothian, 1610-1640," PhD Dissertation (Edinburgh: University of Edinburgh, 2012), 10.

The *Witchcraft Act* was created as a result of religious Reform, new court systems, community strains, and newly enforced expectations of gender relations.

The Act was made during Scotland's second Protestant parliament, and was the result of a culmination of political and religious leaders who believed that all of the nation's current troubles were caused by an attack by the Devil and his servants who threatened the godly nation.[213] In this sense, as Julian Goodare has argued, witch hunting in Scotland was "a Protestant business aimed towards encouraging Reformed morality."[214] The General Assembly included witchcraft in the list of horrible crimes to be suppressed submitted to Mary Queen of Scots.[215] The *Witchcraft Act* was the piece of legislation that supported and upheld the Reformation through the prosecution of those who threatened its stability.

The *Witchcraft Act* begins, "Parliament being informit that the hauy and abominabill superstition vsit be divers of the liegis of this Realme be vsing of Witchcraftis Sorsarie and Necromancie and credence geuin thairto in tymes bygane aganis the Law of God and for avoiding and away putting of all sic vane superstitioun."[216] The references to "superstitioun," allude to a connection with folk superstitions and prevailing Catholic beliefs and practices. Women who worked as healers were often associated with folklore, connecting them to unorthodox religious beliefs where their power was believed to come from worshiping of the Devil.[217] There is no denying the gendered nature of the *Witchcraft Act* and witch lore. The

[213] Paula Hughes, "Witch-Hunting in Scotland, 1648-1650," in Julian Goodare ed., *The Scottish Witch-hunt in Context* (Manchester: Manchester University Press, 2002), 5.
[214] Goodare, *The Scottish Witch-hunt in Context* (Manchester: Manchester University Press, 2002), 5.
[215] David M. Walker, *A Legal History of Scotland: Volume III The Sixteenth Century* (Edinburgh: T. & T. Clark LTD, 1995), 479.
[216] Office for National Statistics; National Records of Scotland; Northern Ireland Statistics and Research Agency (2016): 2011 Census aggregate data. UK Data Service (Edition: June 2016). DOI: http://dx.doi.org/10.5257/census/aggregate-2011-1.
[217] Cornell, "Sex, Gender, and Social Control*,"* 10.

assumption that women were more susceptible to become servants of the Devil was thoroughly understood by the public.

The Records of the Parliament of Scotland the legislation in 1567 regarding witches states, "how witchecraft salbe puneist and inquisitioune takin thairof, and that the executioune of death may be usit alsweill aganis thame that consultis with the witche, seikis hir support, mantenis or defendis hir as aganis hir self."[218] The act uses the gendered language of "hir" and "hir self, "that thereby constitutes the witch as a woman. Christina Larner argues that the relationship between women and the stereotype of witchcraft is quite direct: witches were women and all women were potential witches.[219] James VI adapted continental demonology to the Scottish context in *Daemonology,* "For the female sex is frailer than the male, so it is easier for them to be entrapped in these gross snares of the devil. The serpent having seduced Eve in the beginning, has been the homlier with that sex ever since."[220] The beliefs of women's weakness and susceptibility to the Devil ensured that women were perceived in positions that required surveillance and rectification through the legal system as they were seen as more likely to be witches. As discussed in the introduction this is an example how the law is self-fulfilling. As the *Witchcraft Act* assumed women were witches, all of women's gender deviance could be interpreted as acts of witchcraft.

[218] Queen Mary, 16 c. 73 from Acta Parliamentorum Mariae, A.D. 1563 from A.P.S. Vol. II, p. 539.
[219] Christina Larner, *Enemies of God: The Witch-hunt in Scotland* (London: Chatto &Windus Ltd, 1981), 92.
[220] King James VI/I, *Daemonology*, 47-48.

Women's Piety and the Reformation

Women were part of a larger campaign by the Kirk to Reform in the communities.[221] The gender roles for women were altered with new Reformed expectations.[222] Early modern femininity was shaped by the Reformed agenda and women were expected to embrace their Reformed religious duties which had a direct effect on what constituted women's normative gender expression. The state interested itself in moral regulation over women by placing pressure on them to be pious. [223] As Christine Peters explains for England, "Protestant women were an emblem of piety, faith and devotion, these characteristics were congruent with all female virtues."[224] Women were expected to attended church regularly, know doctrine, and not breach Sabbath. The ideal Protestant woman was pious and worked to further the Reformed agenda with her own behaviour, as well as through monitoring other women in their communities. Reformed women were to be pious, faithful, devoted, and encourage personal piety and morality. These women were greatly respected and valued as agents of Reforming in the eyes of the Kirk and its leaders.[225] The witch was in many ways the ideal Protestant woman's counterpart, challenging church and patriarchal authority through her non-conformity and immoral actions.

Women's relationship to the Reformation was ambiguous. "They were not passive recipients of the process, but could instead embrace, accept, or resist discipline, while often

[221] Janay Nugent, "'The Mistresse of the Family hath a special hand': Family, Women, Mothers, and the Establishment of a "godly community of Scots," in *Keeping the Kirk: Scottish Religion at Home and in the Diaspora*, eds., Macdonald, Stuart and Daniel Macleod (Ontario: Guelph Centre for Scottish Studies, 2014).
[222] Janay Nugent, "Reformed Masculinity: Ministers, Fathers and Male Heads of Houeholds, 1560-1660," in *Nine Centuries of Man: Manhood and Masculinies in Scottish History,* eds., Lynn Abrams and Elizabeth Ewan (Edinburgh: Edinburgh University Press, 2017).
[223] Goodare, "Women and the Witch-Hunt in Scotland," 294.
[224] Christine Peters, *Patterns of Piety: Women, Gender, and Religion in Late Medieval and Reformation England* (Cambridge: Cambridge University Press, 2003), 5; Nugent, "The Mistresse of the Family," 59.
[225] Nugent, "The Mistresse of the Family," 60.

making efforts to retain their dignity and agency in their interactions with the Kirk."[226] Women who did conform to Reformation ideologies monitored other women's behaviour within their communities. The women who accused others of witchcraft often invoked their own faith in the new religion to bolster their accusations and reinforce their positions in society as pious women. Susanna Baillie spoke directly to Christian Wilson in her trial saying that Christian had come her house at midnight when the doors and windows were shut and attacked her when she was asleep in bed with her husband and child. Susanna said that Christian put her hands on her throat and tried to strangle her but said she could not because "her faith is so strong."[227] The trial also notes the importance that the William Scot, Baillie in Dalkeith, and Master William Calderwood, a minister, agreed that Susanna's faith was strong enough to fight off an attack from an evil woman like Christian, thoroughly establishing Susanna's position as an ideal Protestant woman in comparison to the evil Christian.

Similarly, Elizabeth Pringill declared in a trial that Jenot Cock visited her with a black man who she took to be the devil and together they tried to take her child from her. She said that she wrestled them away and "she being earnest with god they could get no power of her and went away."[228] The language choice in these trials makes a distinction between good Protestant women who have strong faith and devotion, which protects them from evil and presents them as the victims of malicious attacks, while the women who deviate and acted impious were the ones accused of witchcraft. As Michelle Brock's research reveals, women presented their lives, and the times they believed they encountered Satan, "in a very self-conscious way, trying to fashion themselves as the deserving godly they hoped to be."[229]

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[226] Glaze, "Women and Kirk Discipline,". 125.
[227] Pitcairn, *Ancient Criminal Trials in Scotland*, Vol. III Part II.
[228] Pitcairn, *Ancient Criminal Trials in Scotland*, Vol. II Part II, 42.
[229] Brock, "Experiencing Satan in Early Modern Scotland," 28.

There were clear standards that were accepted to identify a woman of good standing in society, and witches exhibited characteristics that were in conflict with accepted norms. Certain behaviors which may not have previously warranted suspicion were now suddenly linked to witchcraft. In 1634 Elizabeth Bathgate challenged the ideals of piety by being seen by two persons "coming by at the dead hour of the night, when all were in their beds at rest, conferring at the foot of her own yard in her sark frock and bare legged."[230] One of the men, seeing her in a state of undress at a strange time of night, is recorded in her trial to have said, "god save us, what does this woman here at this time of the night?"[231] Similarly, Geillis Duncan, maid to David Seaton, would sneak out of David's house every night and seek out people who were troubled with any kind of sickness.[232] Sneaking out of her master's house was not the action of a respected and pious woman, and like Elizabeth, being alone late at night came with the suspicion of witchcraft as it was not the behaviour of a good Protestant woman. Geillis's sexual purity also could be questioned as she snuck out at night without the supervision of her master.

Common beliefs about witches asserted that they had an uncontrollable sexual nature, threatening the patriarchal order of the state, and the godly ideals of the Reformed community. The constant threat of engaging in sexual relations outside of marriage cuckolded husbands and belittled the patriarchal order and stability of marriage. This fear led to increased surveillance particularly in the area of sexuality. The General Assembly which oversaw the Kirk at the national level, regularly petitioned James VI and urged stricter enforcement of laws regarding sexuality.[233] These petitions reflected the emphasis placed on conformity to the Reformed

[230] Black, *Some Unpublished Scottish*, 14.
[231] Black, *Some Unpublished Scottish*, 14.
[232] Pitcairn, *Ancient Criminal Trials in Scotland*, Vol. 1 part 1 & 2, *Newes from Scotland*, 215.
[233] Graham, *The Uses of Reform,'* 281.

ideologies pertaining to morals and sexuality.[234] Women were understood to be much more sexual in nature than men, and so were the focus for much of the Reformed surveillance. Additionally, immoral behaviour in women upset the state structure and women therefore could be a danger to the moral life of the entire community. Manie Haliburton's case represents a pattern found in many witchcraft cases where women were expected to have had sexual relations with the Devil and were asked to describe them during their trials. Manie told the court of how the Devil laid down with her in her bed and had carnal copulation with her while describing his "nature" as being cold.[235]

A reputation for sexual promiscuity could result in an accusation for witchcraft, further suggesting the connection made between female witches and uncontrollable sexuality. In reviewing the great witch hunt of 1660-62, Brian Levack states that, "a number of women accused of witchcraft had previously been suspected of, or even prosecuted for, various forms of moral deviance."[236] Helen Cass, for example, was widely known to be sexually promiscuous, while Helen Cocker had committed fornication with John Wysurd before being committed to the tollbooth for witchcraft in 1661.[237] Along with uncontrollable sexuality, witches were feared for having powers that had connotations of emasculation. The *Malleus Maleficarum* discusses at length of how witches could "Deprive Man of his Virile Member." As Sierra Dye discusses, it was a common belief in Scotland that witches had the power to cause "impotence, or conversely,

[234] Leah Leneman and Rosalind Mitchison. *Girls in Trouble: Sexuality and Social Control in Rural Scotland, 1660–1780*. (Edinburgh: Scottish Press, 1998); Leah Leneman and Rosalind Mitchison. *Sin in the City: Sexuality and Social Control in Urban Scotland 1660-1780* (Edinburgh: Scottish Cultural Press, 2001): DesBrisay, Gordon. "City Limits: Female Philanthropists and Wet Nurses in Seventeenth-Century Scottish Towns." *Journal of the Canadian Historical Association*, New Series 8 (1998): 39-60.
[235] Pitcairn, *Ancient Criminal Trials in Scotland*, Vol. III Part II.
[236] Dye, "To Converse with the Devil?" 62.
[237] Dye, "To Converse with the Devil?" 62.

give a man a permanent erection." [238] For example, Edward J. Cowan points out that, in the case of a curse laid by Helen Gray, the victim's "wand lay nevir doune" until he died.[239] In 1590, Jonett Grant was accused of, among other things, "gewing of ane secreit member to Johnne Coutis; and gewing and taking of power fra sundrie mennis memberis."[240]

The Reformed Family and Women's Roles

The roles of wives and mothers were changing and resulted in a profound unease with women's place in society. The patriarchal gender hierarchy ensured wives were in a position of subservience to their husbands.[241] However, spiritually women and men were equal.[242] As Janay Nugent explains, "married women occupied a complex position between authority and subservience in the model of a Reformed family."[243] This could lead to disputes and confrontations as family and community members had to negotiate new and complex positions of power within gender hierarchies.[244] Early modern Scotland was a society which relied upon the patriarchal gender hierarchy to continue the Reforming process. Women who were not wholly subordinate to men had no place in a society that relied on a hierarchy that substantiated men's authority, especially in a patriarchal church structure.

The godly community was threatened internally by conflict in the household as stability and harmony were enforced through gender conformity. Jonet Paitstoun reported to her minister

[238] Dye, "To Converse with the Devil?" 26.
[239] Dye, "To Converse with the Devil?" 27.
[240] Dye, "To Converse with the Devil?" 17.
[241] Nugent, "The Mistresse of the Family," 39.
[242] Mary E. Wiesner, *Women and Gender in Early Modern Europe (*Cambridge: Cambridge University Press, 1993), 21.
[243] Nugent, "The Mistresse of the Family," 39.
[244] Scott Moir, "The Crucible: Witchcraft and the Experience of Family in Early Modern Scotland," in *Finding the Family in Medieval and Early Modern Scotland,* eds., Elizabeth Ewan and Janay Nugent (Burlington: Ashgate, 2008), 50.

that she desired him to pray for her because "she was a great sinner."[245] She told him of how after her husband had "strucken" her and they slept in different beds "by reason of the strife which was between them." She thought there was a heavy spirit upon her because her heart had not been with god since he had hit her.[246] These broken relationships in the household were of great concern to neighbours, "offending against God's natural order and threatening to disrupt neighbourly harmony and good relations."[247] The Kirk and state intersected to argue that marriage and the family were the essential force in forging orderly social relations and a godly community.[248] Women acting impiously, or losing faith as Jonet did, challenged the church system and reflected poorly on the godly community.

The role of the Reformed woman within the household served to advance the Reformed agenda and it was a women's duty to promote piety.[249] The Reformed family required women to be leaders and teachers of faith within their households.[250] This had the added bonus of ensuring the security of the centralizing state as both sought order and conformity within the building blocks of society— the household. Conformity to gender roles within the household meant women would play their role in the bringing about the security of the centralized state and the establishment of the godly community. As such, secular and ecclesiastical courts supported one another as they enforced gender conformity through witchcraft legal processes.

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[245] Pitcairn, *Ancient Criminal Trials in Scotland*, 601.
[246] Pitcairn, *Ancient Criminal Trials in Scotland*, Vol. III Part II, 45-46.
[247] Laura A.M. Stewart and Janay Nugent, *Union and Revolution: Scotland and Beyond, 1625-1745* (Edinburgh: Edinburgh University Press, forthcoming).
[248] J.R.D. Falconer, "A Family Affair: Households, Misbehaving and the Community in Sixteenth-Century Aberdeen," in *Finding the Family in Medieval and Early Modern Scotland*, eds., Elizabeth Ewan and Janay Nugent (Cornwall: Ashgate Publishing, 2008), 140.
[249] Wiesner, *Women and Gender in Early Modern Europe*, 21.
[250] Nugent, "The Mistresse of the Family hath a special hand," 50.

Kirk leaders recognized these realities and reinforced the power that female heads of household held, but only so that it was contained within the limitations of the Reformed agenda.[251] The mother was most often the person who was present to enforce order and conformity within the household. Women were meant to display to children the "submissive and maternal qualities of her piety."[252] This was an added burden to women as they were responsible for the morality of the entire household. "They would be responsible for some religious teaching of everyone in their household, including the basics of reading, as a prelude to the more advanced instruction that would enable young people to comprehend the Bible for themselves and establish their personal piety."[253]

Diane Purkiss has presented the idea that witches became anti-housewives by disrupting the Reformation within the household.[254] The threat to the Reformation was that women were not modeling or instilling the Reformed ideals in their children and servants, ultimately destabilizing the Reformed agenda. Witches in the eyes of the Reformation were seen to teach the worship of the Devil rather than worship Christianity. Janet Breadhead told in her trial of how her mother-in-law made some potions and enchanted charms from dog flesh and sheep's flesh, and "did this, to teach me, and this was my first lesson."[255] The witch then was the anti-housewife, as she disrupted the Reformation by spreading witchcraft. Women had the ability to create instability by stepping outside their prescribed roles as nurturers and preservers of society, as well as agents of Reform.

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[251] Scott. "The Crucible," 50.
[252] David Mullan, *Scottish Puritanism 1590-1638* (Oxford: OUP, 2000), 143.
[253] Stewart and Nugent, *Union and Revolution*.
[254] Diane Purkiss, *The Witch in History: Early Modern and Twentieth-Century Representations* (Routledge: New York, 1996), 97.
[255] Pitcairn, *Ancient Criminal Trials in Scotland*, Vol. II, 616.

Often women cared for other women's children and if a child became ill and died unexpectedly the bereaved parents would seek to explain the death by blaming a woman who failed to act as a proper Reformed caregiver. Witches were blamed for the illness or death of children as Reformed ideals expected women to be good mothers and caregivers. In this way, women had the potential to be seen as anti-mothers as well as the anti-housewife. Meg Dow was accused of both witchcraft and child-murder, exemplifying the correlation of the failure of expectations of motherhood and witchcraft. Though she is accused of witchcraft and sorcery, her trial does not contain any mention of magical accusations, only the casting of her own child into a coal bank with the purpose of drowning her.[256] Catharine Oswald was reported to have threatened Adam Fairbairn, his wife, and their kin. Following her threat, a gentleman's bairn that was fostering with him did run wood and ramish to death.[257] Agnes Finnie threatened Christian Dickson's child. Shortly after the threat, the child fell and broke her leg. Agnes was seen as responsible and instructed the child, "look that you say not of me that I have bewitched you as the rest of the neighbours say."[258] The witch as the anti-mother did not take care of children and used them in opposition godly expectations and ideals.[259]

Women's Blasphemy and Healing

Women's roles in the community as nurturers included the role of healing. It is in this position of healer that most Scots had interactions with accused witches. Women often healed their own families and others in their community. During the early modern period access to the

[256] Pitcairn, *Ancient Criminal Trials in Scotland*, Vol. I Part II, 186.
[257] "Run wood," and "Ramished," here means that the child was dazed, stupefied and listless in a fretful peevish way. *Concise Scots Dictionary*, Second Edition (Edinburgh: Edinburgh University Press); Black, *Some Unpublished Scottish*, 12.
[258] Pitcairn, *Ancient Criminal Trials in Scotland*, Vol. III Part II, 20.
[259] Diane Purkiss, *The Witch in History*, 97; Lauren Martin, "The Devil and the Domestic: Witchcraft, Quarrels and Women's Work in Scotland," in *The Scottish Witch-hunt in Context*, ed., Julian Goodare, 23.

advice and care of professional medical practitioners was limited to the elite. For the majority of the Scottish population treatments for illness came from local people they knew.[260] "Whether prescribed by the most eminent physician in the land or a wise woman in a remote Highland village, few escaped illness or injury."[261] Throughout the whole period the population suffered from intermittent epidemics, including measles, typhus, whooping cough, leprosy, consumption, scrofula, scurvy and tuberculosis, coupled with periodical outbreaks of the plague, all together there was a high mortality rate.[262] In her trial, Christian Lewingstoune, "affirmed she could heal leprosy," a disease which plagued many, "with the cure of an ointment… something most expert men in medicine are not able to do."[263]

The early modern period marked the beginning of the medical profession and the privatization of healing.[264] However, the "expert men in medicine," were not widely available and so many people relied solely on community healers. The medical profession was exclusively male, but women played a significant role in the curing of illness and disease and their control over medicine was substantial.[265] Part of the witch hunts functioned to remove women from a powerful position that was intended to be the space of men. By accusing healers of witchcraft and using the law to rid communities of folk cures, medicine could be practiced and controlled solely by men, while also sowing doubt and distrust into people's minds about women in positions of power and knowledge.

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[260] Joyce Miller, "Devices and Directions: folk healing aspects of witchcraft practice in seventeenth- century Scotland," in Julian Goodare ed., *The Scottish Witch-Hunt in Context* (Manchester: Manchester University Press, 2002), 95.
[261] Helen M. Dingwall, "Illness, Disease, and Pain," in *A History of Everyday Life in Scotland, 1600 to 1800* (Edinburgh: Edinburgh University Press, 2010), 108.
[262] Dingwall, "Illness, Disease, and Pain," 2010, 108.
[263] Pitcairn, *Ancient Criminal Trials in Scotland,* Vol. II, 27-28.
[264] Brian P. Levack, *The Witch-Hunt in Early Modern Europe,* Fourth Edition (London: Routledge, 2016), 16.
[265] Dingwall, "Illness, Disease, and Pain," 111.

Healing was a dangerous occupation as there was limited concrete scientific evidence of what caused illness, how it progressed, and how it was spread. Healing put women in positions of power as they also had the ability to harm those who were in their care. They often operated in the privacy of home, away from the public eye of their neighbors.[266] As care givers, women could be blamed for sickness, especially when they attempted to heal someone, and death occurred. In this way women also functioned as scapegoats for bereaving relatives of family members they could not cure. Healers were also vulnerable to accusations of unnatural power if they healed someone successfully. If they failed in healing they often were seen as allowing the person to die, but successful healing meant they possessed unimaginable and ungodly power and were assumed to possess some unnatural ability over life and death. In the case of Jonet Stewart, Christiane Lewingstoun, Bessie Aiken, and Christiane Saidler, they were healers that were later blamed for the deaths of the people they failed to cure. They were feared for their power, which brought imbalance to the patriarchal gender order. Christiane Saidler, for example, was said to have "had the craft of Sorcery able to have cured disease and sickness which by no natural means of physic, or other lawful and Godly ways, they were able to perform."[267] The explicit mentioning of "no natural means" indicates that these women were accused of having abilities that were outside the imagined realm of power and knowledge for women.

The powerful position over life and death was undesirable for women as it often placed them in a position of power over men, such as the case of Andro Pennycuke when he had begged Jonet Stewart to heal him.[268] Jonet, during a disagreement, had told Andro, "he should never have a day to do well."[269] He had begged her to heal him, but she could not. Her trial says that

[266] Dingwall, "Illness, Disease, and Pain," 111.
[267] Pitcairn, *Ancient Criminal Trials in Scotland,* Vol. II, 27.
[268] Pitcairn, *Ancient Criminal Trials in Scotland,* Vol. III Part II.
[269] Pitcairn, *Ancient Criminal Trials in Scotland,* Vol. II, 26.

Andro, "begged for his health at her hand for God's sake."[270] The use of the word "begged" shows the desperation that Andro felt when he consulted Jonet, as well it shows that he believed she had the power to heal him and save his life. The tensions underpinning the accusations were women's power over life and death and power over their male counterparts. It was unacceptable that a woman such as Jonet have power over Andro to dictate whether he lived or died.

Healing was a concern to the Reforming Kirk for another reason as well, blasphemy. In her trial, Margaret Wallace is reported to have said, "she affirmed that Christiane Graham had also great knowledge as god himself and as if God, himself would come out of heaven and cure her! Albeit the death-blow was laid on she could take it off again!"[271] Margaret is accused of witchcraft for declaring that Christiane Graham had powers similar to that of God. Her lawyers argue with this verdict, saying "it is no point of witchcraft, but rather blasphemy."[272] Along with being blasphemous Margaret would have offended many with her exclamation that a woman could possibly possess such power that would rival a patriarchal understanding of god.

The Reformation sought to end folk beliefs and superstition, all which were now interpreted as further points of blasphemy. Scots no longer had a way to cope with their growing social anxiety, as Catholic comforts had been eradicated by the Reforming process. Women often relied on healing practices that had been handed down over generations, and these beliefs were deeply entrenched in Catholic practices, folk belief and superstition.[273] The *Witchcraft Act* itself makes these links between witchcraft and Catholicism, by attacking "superstitioun" which was implicitly anti-Catholic, saying "hauy and abominabill superstition… geuin thairto in tymes

[270] Pitcairn, *Ancient Criminal Trials in Scotland*, Vol. II, 26.
[271] Pitcairn, *Ancient Criminal Trials in Scotland*, Vol. III Part II, 508.
[272] Pitcairn, *Ancient Criminal Trials in Scotland*, Vol. III Part II, 508.
[273] Joyce Miller, "Devices and Directions," 95.

bygane aganis the Law of God."[274] The Reformed faith abhorred healing practices that were combined with incantations or rituals derived from pagan and Catholic times.[275]

Religion had long been at the root of medical treatment, alongside a complex array of other beliefs. Isobell Haldane confessed that she went to the Well of Ruthuen, a Holy Well, to bring water from it to wash John Gowis bairn.[276] This was a folk practice believed to help the sickness leave someone's body. Similarly, Isobel Young went to the Laird of Lee for the loan of his curing-stone, the famous Lee-Penny (a talisman). The Laird refused to lend them the stone but gave them some water in which the stone had been dipped. They gave this water to their cattle and thereby fancied the cattle cured. They were obliged to make public repentance in the Kirk of Dunbar for using such unlawful charms.[277]

Women were seen as heretics prior to the *Witchcraft Act*, and the women accused of witchcraft were often heretical as well as committing other unlawful acts. Women who integrated Reformed beliefs into their folk practices of healing became heretics as well as anti-pious women who subverted the ideal of the wholly pious Reformed woman. Most of society practiced an amalgamation of beliefs and rituals.[278] Agnes Sampsoune, the wise-wife of Keith, was convicted of witchcraft for trying to heal Partik Hepburn in Banglais by prayer. Her prayer to heal the sick was a dogged version of the Apostles Creed.

> All kinds of ills that ever may be, in christs name, I conjure thee,
> I conjure thee, both more and less, that nailed jesus and na ma,
> And right so, by the same blood, that recked over by ruthful cross,
> Forth of by flesh and by bone, and in by earth and by stone

[274] Queen Mary, 16 c. 73 from Acta Parliamentorum Mariae, A.D. 1563 from A.P.S. Vol. II, p. 539.
[275] Dingwall, "Illness, Disease, and Pain," 109.
[276] Pitcairn, *Ancient Criminal Trials in Scotland*, Vol. III Part II, 535.
[277] Pitcairn, *Ancient Criminal Trials in Scotland*, Vol. II, 535.
[278] Miller, "Devices and Directions," 104.

I conjure be in god's name.[279]

Women challenged or subverted the messages of the Reformation by integrating them into their own folk practices in a way that was deemed blasphemous. Similar to Agnes, Catharine Oswald was attempting to heal John Niddery in the Canongate who was heavily diseased with trembling fevers. She said to the neighbors that if they would follow her council, she would cure him of that disease as she had done for others. She told the sick boy to pluck up a nettle by the root and to lay it down upon the Highgate and to piss upon the crop thereof three several mornings before sunrise, who having obeyed the said devilish direction the fevers left him immediately.[280] Her lawyers defended her actions saying, "that it may well be a superstitious rite, but no witchcraft."[281] These actions were outwardly blasphemous and challenged the authority of the Kirk to conduct and control religious services, as well as giving women unnatural power.

Incantations such as the Holy Trinity, previously a religious comfort, were now a blasphemous act. The reciting of the Holy Trinity was believed to have magical powers of healing, however it was linked to witchcraft as unorthodox/ blasphemous beliefs were believed to come from the Devil.[282] Jonet Stewart would use the incantation, "The Father, The Son, and the Holy Ghost," during her healing practices.[283] Isobell Haldane also confessed to making several cakes to try to heal a sick child, every cake had handfuls of meill gotten from women that were maidens. She made one hole in the crown of each of them and put one bairne through it three times, "in the name of The Father, Son, and the Holy Ghost."[284] When the child did not

[279] Pitcairn, *Ancient Criminal Trials in Scotland,* Vol. II Part II, 230.
[280] Pitcairn, *Ancient Criminal Trials in Scotland,* Vol. II Part II, 13.
[281] Pitcairn, *Ancient Criminal Trials in Scotland,* Vol. II Part II, 13.
[282] Dingwall, "Illness, Disease, and Pain,"109.
[283] Pitcairn, *Ancient Criminal Trials in Scotland,* Vol. II, 26.
[284] Pitcairn, *Ancient Criminal Trials in Scotland,* Vol. III Part II, 535.

heal Isobell also took water, brought it to Andro Duncanes house and their upon her knees in the name of "The Father, Son, and the Holy Ghost" washed the bairne.[285]

Christiane Lewingstoune, Jonet Stewart, Christaine Saidler and Bessie Aitken also often incited the help of God in their healing and said, "This in the name of the Father, The Son, and the Holy Ghost."[286] Christiane Saidler and Bessie Aiken are both recorded in their trial as saying they were acting in God's name before instructing a cure. As healers, they used treatments that were seen as magical because they invoked a superstitious prayer as part of their ritual, as witches they were blasphemous as the Holy Trinity was no longer accepted by the Reformed faith. In clinging to the old ways, they threatened the success of the new Reformed faith. "Reformers were reluctant to accept that God might have conferred special skills to individuals and therefore, the source of the power must have been demonic."[287] By its simple demonstration of power against unorthodoxy, witch-hunting pointed people towards orthodoxy.

Conclusion

The Scottish state, as informed by Reformed ideology, used law to actively enforce the parameters of women's acceptable behaviour. The authority of the early modern state was expanding and required law to create citizens who conformed to state regulations. As the state mandated the Reformed agenda, this meant those who challenged Kirk expectations and teachings challenged the state. Gender conformity was one of the ways that the state could assert authority and was important to overall centralization, including religious Reform. The process of Reformation affected women by establishing the ideological framework of women's ideal gender expression as pious, devoted and obedient. Women were expected to follow the state hierarchy

[285] Pitcairn, *Ancient Criminal Trials in Scotland,* Vol. III Part II, 535.
[286] Pitcairn, *Ancient Criminal Trials in Scotland,* Vol. II, 28.
[287] Miller, "Devices and Directions," 100.

where their husband was the head of the household, as well as being the minister of his seminary to raise children and servants to follow Reformed ideals. These were qualities which kept women in a place of subservience and helped to further the Reformed agenda.

Therefore, the Reformation also guided the accusations of women who were disobedient, disorderly, and blasphemous, as witches. Discipline through the *Witchcraft Act* was intended to discourage sin and encourage godlier conformity from women in early modern Scotland. The women who were accused of being witches broke moral and gender expectations, posing a challenge to the entire Church and state structure. Anyone who deviated from conformity were perceived not only as a threat to the peace and stability of the community around them, but as a threat to the entire godly nation. As well as concern over the insecurity for process of Reformation, the early modern period was a time of economic uncertainty and gender conformity was used as a means of encouraging stability. The processes of the centralizing state and Reformation intersected to instill stability in a time of great instability and unrest. The modernizing economy created a context of anxiety and uncertainty which fueled the need for citizens to be monitored. Women's disorderly gender behaviour and societal disruption had the potential to threaten the ideal system of patriarchal hierarchy which supported the political, religious and economic processes.

CHAPTER THREE

Women's Work and the Modernizing Economy

Elizabeth Bathgate threatened George Sprot, a weaver, for keeping some cloth of hers longer than she desired. In her trial she was reported to have "came early on a Sunday morning to his house and (entered) saying nothing till she came to Agnes Bunkle, his wife."[288] Agnes lay in bed with her bairn and Elizabeth reached over and "nipped the bairn's hough so as it skirled to the terror of the mother."[289] After Elizabeth left the Sprot home the child became ill and eventually died. When George Sprot blamed her for his child's death, Elizabeth said to him, "go home and work, for work what you can your teeth shall overgang your hands and ye shall never get your Sundays meat to the fore," following which he fell into extreme poverty and "never won his meat of his work though he work never so diligently night and day."[290] Much of Elizabeth Bathgate's accusations of witchcraft revolved around economic issues and struggles for livelihood.

Elizabeth had a particularly tumultuous relationship with a woman named Margaret Home. Elizabeth's husband, a maltman named Alexander Pae, was in the position of money lending to many of his neighbors and he often lent money to Margaret, though it was against Elizabeth's will. Margaret first borrowed six Scots to make up the price of a horse she had bought which contracted a grievous sickness and "sweat to death in the stall," she then borrowed seventeen Scots to help pay for two oxen.[291] Soon the oxen contracted a strange sickness, and

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[288] Dr. George F. Black, *Some Unpublished Scottish Witchcraft Trials* (New York: New York Public Library, 1941), 14.
[289] Black, *Some Unpublished Scottish Witchcraft,* 14. The child was said to have a blue mark on its leg/back until it died. Bairn means child, hough is the back or leg, skirled means to be startled or frightened, and overgang means to tread over or trample upon.
[290] Black, *Some Unpublished Scottish Witchcraft,* 14.
[291] Robert Pitcairn, *Ancient Criminal Trials in Scotland* Vol. II Part II, 15.

both died. Margaret then sold Alexander some seeds to get money to buy another horse. This horse ran mad and was found "strangely stopped."[292] Margaret had particular misfortune when it came to buying livestock and sought an explanation for the reoccurring disasters. When Elizabeth was accused of witchcraft, both Margaret Home and George Sprot had explanations for their poverty. Elizabeth's trial reveals that Margaret and George, along with many others in this period, were struggling to provide and survive. As Lauren Martin says, witchcraft trials are often a collection of records where a community talks "about how things went wrong, bad luck, animals dying, poor harvests, sick family members, quarrels and contentions and failed magical healing attempts."[293] Often the circumstances of the witch-hunts were underpinned with dire economic circumstances.

This chapter examines the context of the modernizing economy and the economic instability which affected the daily lives of early modern Scots. The Poor Laws and the *Witchcraft Act* were part of the centralizing process which aimed to control an unruly section of the population as a means of asserting authority. This chapter will look at the ways that poor women disrupted their communities and households, and how women were encouraged to stay in the household by low earning potential and support their male counterparts through unpaid labour.

Context of the Modernizing Economy

The life of the majority of early modern Scots was characterized by economic instability. They lived under the intersecting centralizing state, engaged with Reformed religious beliefs, and

[292] Pitcairn, *Ancient Criminal Trials in Scotland* Vol. II Part II, 15.
[293] Lauren Martin, "Witchcraft and Family: What can Witchcraft Documents Tell us About Early Modern Scottish Family Life?" *Scottish Tradition Vol. 27 2002*, 9.

worked within a modernizing, but a primarily subsistence-based economy.[294] As discussed in the two previous chapters, during this period Scotland's economy was transforming from a diffused feudal state to a centralized state and attempting fill gaps left by the Catholic faith, "a process which entailed an increase in bureaucratic procedures and control from the centre."[295] Procedures such as the growing privatization of land and creation of new taxes helped to increase the power of the centralizing state.[296]

The early modern economic context also included rapid population growth after a long period of stagnation which affected the scale and experience of poverty.[297] As well, with an emerging global economy, the prices of all commodities rose at an unprecedented pace as towns grew in size and number causing pressure on a limited supply of resources by a growing population.[298] Coupled by periods of famine, the cost of food went "up by six to eight times as the Scottish population grew."[299] Due to all of these factors, poverty expanded to include not just the elderly, sick and injured, but whole sections of the population who could no longer provide for themselves or their families.[300]

This period of struggle was made worse by decisions in government to tamper with the economy. Rosalind Mitchison states that the rapid inflation of the period, which has become known as the Price Revolution, was "a drastic change in the relationship between silver and the

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[294] Stewart and Nugent, *Union and Revolution*.
[295] Michael Wasser, "The Privy Council and the Witches: The Curtailment of Witchcraft Prosecutions in Scotland, 1597-1628" *The Scottish Historical Review*, Vol. 82, No. 213, Part 1 (Apr. 2003), 26.
[296] Silvia Federici, *Caliban and the Witch: Women, the Body and Primitive Accumulation* (New York: Autonomedia, 2004), 82.
[297] Brian P. Levack, *The Witch-Hunt in Early Modern Europe*, Fourth Edition (London: Routledge, 2016), 127.
[298] Levack, *The Witch-Hunt in Early Modern Europe*, 127.
[299] Rosalind Mitchison, *The Old Poor Law in Scotland: The Experience of Poverty 1574-1845* (Edinburgh: Edinburgh University Press, 2000), 6; A.J. Gibson, T.C. Smout, *Prices, Food and Wages in Scotland 1550-1780* (Cambridge: Cambridge University Press, 1995), Gibson looked at the price regulation and adulteration in areas such as wheat and ale, saying that it must have been a regular occurrence long before it came into prominence during the course of the nineteenth century.
[300] Mitchison, *The Old Poor Law in Scotland*, 3.

necessities of life… a change enhanced by some governments indulging in deliberate adulteration of their coinage."[301] Rulers and those in government had no understanding of the fluctuations in the economy, and debased coinage in an attempt to mitigate the economic downturn, resulting in exacerbation of the severe inflation. Laura Stewart and Janay Nugent describe that "increasing monetization, market integration, and capital accumulation undoubtedly benefited some but, in an economy beset by endemic under-employment, many households often struggled to achieve a basic level of subsistence."[302]

Additionally, it was a century of frequent wars resulting in more men being drawn into armies and more injured or discharged soldiers. Often these soldiers expected a military career to provide for themselves and their families but were left to find some sort of living when the campaigns ended.[303] A hungry population was weakened and there were periodic outbreaks of the plague and other illnesses. Throughout the whole period the population suffered from "intermittent epidemics, including measles, typhus, whooping cough, leprosy, consumption, scrofula, scurvy and tuberculosis."[304] Due to war and illness, mortality rates increased causing a rise in burial rates by as much as 30 to 50 percent.[305] Poverty, sickness and disaster were familiar and constant features in the social atmosphere of this period.[306]

The general mood of unceasing anxiety led to engendered conflicts within communities.[307] Scottish society was undergoing profound social changes, and women as the

[301] Mitchison, *The Old Poor Law in Scotland*, 3.
[302] Stewart and Nugent, *Union and Revolution*.
[303] Mitchison, *The Old Poor Law in Scotland*, 3.
[304] Helen M. Dingwall, "Illness, Disease, and Pain," in *A History of Everyday Life in Scotland, 1600 to 1800* (Edinburgh: Edinburgh University Press, 2010), 112.
[305] Stewart and Nugent, *Union and Revolution*.
[306] Keith Thomas, *Religion and the Decline of Magic: Studies in Popular Beliefs in Sixteenth Century England* (London: Penguin Group, 1971), 14.
[307] Levack, *The Witch-Hunt in Early Modern Europe*, 127.

most dependent members of that society were the most vulnerable to the effects of those changes. Brian Levack and Silvia Federici argue that some women may have been accused of witchcraft because they were most negatively affected by the transition into capitalism, as witch-hunting reached its peak between 1580-1660 when "feudal relations were at the height of transitioning to the economic and political institutions characteristic of capitalism."[308]

In witchcraft trials, women told of interactions with the devil which often focused on their economic concerns. Janet Breadhead told in her trial of how the Devil came to her house when her husband was at the plough, and they "had carnal copulation, which after the Devil gave her a piece of money, like a silver coin."[309] Similarly Manie Haliburton told of how the Devil visited her many times, first bringing her milk and bread, and then later a pint of ale.[310] Jonet Watson told of how the Devil appeared to her, in the likeness of a pretty boy in green clothes and asked "What ailed her? And what amends she would have, he should give her."[311] Bessie Dunlop's fairy friend Tom Reid promised her "both gear, horses, and other cows, or cart, if she would deny her Christiandome and her baptism."[312] When she refused to deny her faith, he promised to make her "meatworth, clothes-worth, and good enough like in person and he could make her far better nor ever she was."[313] Women's apparent poverty and economic hardships are prominent throughout many of the witchcraft trials. As more women were poor, poverty itself became gendered. Increased female poverty led to actions of persistent begging and theft for survival which placed women in a position that required constant surveillance. Their illegal

[308] Levack, *The Witch-Hunt in Early Modern Europe*, 148; Federici, *Caliban and the Witch,* 166.
[309] Pitcairn, *Ancient Criminal Trials in Scotland* Vol. III Part II, 616.
[310] Pitcairn, *Ancient Criminal Trials in Scotland* Vol. III Part II, 599.
[311] Pitcairn, *Ancient Criminal Trials in Scotland* Vol. III Part II, 601.
[312] Pitcairn, *Ancient Criminal Trials in Scotland* Vol. II Part I, 49.
[313] Pitcairn, *Ancient Criminal Trials in Scotland* Vol. II Part I, 49.

actions legitimized the laws intervention in correcting their behaviour, while reaffirming the systematic oppression of women which kept them in a place of subservience.

Charity and the Poor Laws

With the Reformation came a change in charity, as previously Catholic countries had to cope with the disappearance of large-scale, consistent donations of money and food.[314] The Reformers dismissed the idea of individuals earning merit by charitable gifts, a process which had long supported the poor in communities.[315] In Reformed countries the collapse of Catholic charity produced new tensions within communities and there was a clear need to create systems to deal with the growing number of poor. In many cases the poor were taken care of by family, but there was a growing population who had no immediate family with the resources to care for them.[316] The Reformed church defined Christian morality, and the obligation to be generous to the poor was part of that morality.[317] The result was an expectation of charity from community members, but no formal structure existed of large-scale charitable giving like that with Catholicism.

The First Book of Discipline, which intended to outline Kirk structures and processes declared every "Kirk must provide for the poore within itself… We are not Patrons for stubborne and idle beggars… but for the widow and fatherless, the aged, impotent or lamed… also for persons of honestie fallen into decay and poverty."[318] With the Reformation came the emphasis on the godly community which created a common identity for all Scots. Charitable giving helped to bring glory to the godly community. Along with the godly community came the belief that

[314] Mitchison, *The Old Poor Law in Scotland*, 4.
[315] Mitchison, *The Old Poor Law in Scotland*, 4.
[316] R. A. Houston and I.D. Whyte, *Scottish Society 1500-1800* (Cambridge: Cambridge University Press, 1989), 203.
[317] Chris R. Langley, *Worship, Civil War and Community, 1638-1660* (New York: Routledge, 2016), 128.
[318] Mitchison, *The Old Poor Law in Scotland*, 9.

community disturbances, such as the begging poor, had consequences for those members of communities who deviated from the prescribed standards.[319]

Reformed charity only supported the deserving poor who were the men, women, and children who were unable to work due to physical disability, illness, or old age.[320] The Kirk was involved in the gathering and distributing of donations for the deserving poor, as well as the management of local causes. The collections for the poor were part of the parish and "during normal Sunday services, and the routine nature of collection made it a central part of Reformed worship."[321] As Chris Langley discusses, by the beginning of the seventeenth century, poor relief was administered locally by the church and was the beginnings of "formative welfare."[322]

The poor were forced to ask outright for help from their neighbors, which led to regular requests for aid and resources. As requests for aid continued it was likely that the poor became a nuisance for those in their community. As Barbara Rieti explains, "for the marginally poor the line between charity and what was rightfully owed to them could become blurred."[323] In 1661 Jonet Watson confessed that she was "at the burying place of the Lady Margaret Carnegie and there was a six-dollar given to Jean Bughane, to be parted among a certain number of poor folks, whereof she was one."[324] Jonet told of how Jean Bughane ran away with the money so that she and the other poor folks got none of the money meant for them. Jonet went home, "being very grieved and angry at it, saying to have a compensation for wrong done of Jean Bughane."[325] While poverty is often a prominent factor in witch trials Jonet Watson's trial, it is exceptional

[319] Margo Todd, *The Culture of Protestantism in Early Modern Scotland* (New Haven: Yale University Press, 2002), 23.
[320] Stewart and Nugent, *Union and Revolution*.
[321] Langley, *Worship, Civil War and Community*, 129.
[322] Langley, *Worship, Civil War and Community*, 128.
[323] Barbara Rieti, *Making Witches* (Montreal: McGill-Queen's University Press, 2008), 4-5.
[324] Pitcairn, *Ancient Criminal Trials in Scotland* Vol. III Part II, 601.
[325] Pitcairn, Robert. *Ancient Criminal Trials in Scotland* Vol. III Part II, 601.

that her poverty is clearly acknowledged. Her confession also reveals a startling reality about the issues of poverty and formative welfare in early modern Scotland which left those in desperate need of aid without assistance. The most obvious feature of the poor lists made by communities is the majority of women over men.[326]

Relief of the poor was a chronic problem and setting up a poor relief system was incredibly difficult in a decentralized state. "There was a move in the later sixteenth and seventeenth century to replace the basis of charity and support of the poor," carried by the Kirk, with a wider and better organized system of control from the state.[327] The centralizing state attempted to implement social laws for managing the problem of the poor and to create stability. The result was the creation of two consecutive *Poor Acts* in the 1570s. The first parliamentary statute in Scotland was a *Temporary Act in 1574,* and largely a copy of the *English Act* of 1522 which established the English Poor Law.[328] The 1574 Act aimed to provide for the "poor, aged and impotent of the parishes or towns" who were to be supported by a local tax.[329] The creation of a nation-wide system of relief was particularly ambitious due to the limitations in the influence of government, but this was an essential part of the centralizing process which often relied on law for stability.

The 1574 Act eventually merged in the *Permanent Act* of 1579. Both failed to provide any long term or consistent relief for the poor.[330] Mitchison explains that the failure of the Acts was due to the inadequacy of their language as both Acts placed responsibility on "elders and deacons in the towns to tax inhabitants when these positions did not officially exist in the

[326] Mitchison, *The Old Poor Law in Scotland,* 92. There is very little mentioned of poor women specifically on parishes lists outside of the fact that were more women than men.
[327] Houston and Whyte, *Scottish Society 1500-1800,* 199.
[328] Mitchison, *The Old Poor Law in Scotland,* 7.
[329] Mitchison, *The Old Poor Law in Scotland,* 7.
[330] Houston and Whyte, *Scottish Society 1500-1800,* 200.

government of Scotland."[331] The country had not assumed the habit of paying taxes except in exceptional circumstances, and so had not worked out the appropriate mechanisms to make regular payments.[332] The problems included that the Kirk found it was unable to get landowners to make regular contributions, Scots disliked the idea of being expected to pay money and there was a novelty of the process.[333] Though the centralizing Scottish government was trying to fill gaps in care left by feudalism and the Catholic faith, the Poor Laws ultimately failed. Both the *Witchcraft Act* and the Poor Laws were mechanisms of increasing state power and part of the centralizing process, which aimed to create stability as well as create an orderly society. The Poor Laws and the *Witchcraft Act* of 1563 aimed to control an unruly section of the population through the rule of law and helped to shape the way early modern Scottish society perceived women's proper social roles.[334]

Witchcraft and the Community

Community members found themselves responsible for the growing poor and poverty was a particular source of tension that grew in the atmosphere of disorder and chaos. In theory the community was responsible for all its members, yet there was concern that the nuisance of persistent begging was a threat to society, as community members themselves were struggling for survival. Turning others away was an implicitly aggressive act, placing one's own needs first over their community. Refusal of aid also had religious implications as charity was a central religious value and often made the refuser feel guilty.[335] An accusation of witchcraft rid one of guilt after turning someone away, as well as got rid of a nuisance beggar in the community. As

[331] Houston and Whyte, *Scottish Society 1500-1800,* 201.
[332] Mitchison, *The Old Poor Law in Scotland,* 10.
[333] Langley, *Worship, Civil War and Community*, 128.
[334] Margaret Davies, "Exclusion and the Identity of Law." *MqLawJl, Maquarie Law Journal* (2005) Issue 5, 5.
[335] Robin Briggs, *Witches and Neighbors: The Social and Cultural Context of European Witchcraft* (New York: Viking Press, 1996), 140.

Robin Briggs argues, "guilt was projected onto the beggar, who was expected to be angry and resentful after being refused."[336]

Community members were forced to interact daily, through small exchanges of goods and services in an unrecorded system of exchange that was expected to balance out eventually.[337] However, many exchanges were conflict ridden. Economic distress aggravated the personal tensions that underlay many witchcraft accusations.[338] Elizabeth Ewan's work on late-medieval Scottish burghs shows that the regulation of townspeople's lives was affected by gendered perceptions of appropriate behaviour of men and women, which often clashed with the active female roles in the urban economy.[339]

In early modern communities the virtue of good neighborliness was hard to maintain. The standard for women was especially high, as good neighborliness had connotations for ideal femininity. Those women who failed in their good neighborly behaviour could be seen as witches as they also failed in their feminine gender expression. Isobel Greirsoune was in continual dispute with Robert Pedan who owed her nine shillings which he refused to return. She uttered devilish and blasphemous speeches to Robert, saying he "should repent it!" and "should not have back his health and his clothes together!"[340] Margaret Wallace had refused to give Christiane Graham some coloured silk and when she saw Christiane with the materials, she violently took them from her. She had a part in the "discord befallen Alexander Boig… who sold a smith's stithy (anvil) to Margaret Wallace and her husband John Dynning, to sell to William

[336] Briggs, *Witches and Neighbors*, *141*.
[337] Briggs, *Witches and Neighbors*, 139.
[338] Levack, *The Witch-Hunt in Early Modern Europe*, 148.
[339] Elizabeth Ewan, "Crime or Culture? Women and Daily Life in Late Medieval Scotland," in *Twisted Sisters: Women, Crime and Deviance in Scotland Since 1400* eds. Yvonne Brown and Rona Ferguson (East Linton: Tuckwell Press, 2002).
[340] Pitcairn, *Ancient Criminal Trials in Scotland* Vol. III Part II, 523.

Weymes, a mechant in Glasglow."[341] She also threatened Robert Mure, saying to him "though shall go home to thy house, and shall bleed at thy nose one quart of blood but shall not die until thou send for me and ask me for forgiveness."[342] The sheer range of disputes makes it clear that communal unity represented an ideal which was fairly distant from the reality of community relations.[343] By swearing, cursing and threatening their neighbours, these women acted aggressively in situations when they were expected to be caring and submissive. By verbally assaulting both men and women they rejected the ideals of feminine good neighbourliness and disrupted their community.

When hostility was already known there were no expectations of good neighborliness and no reasons for anyone to feel guilt. Communities no longer felt the need to care for neighbours who threatened or cursed others. Elizabeth Bathgate was known to disturb the community. Along with her aforementioned disputes, Bathgate also threatened Agnes Bunkle's child for buying two eggs from her maid without her knowledge.[344] Janet Breadhead was accused of making some potions and enchanted charms from dog flesh and sheep's flesh, against John Hay, which destroyed his corns and killed his horse, cattle, sheep and other farm stock, which he died of shortly after.[345] While Agnes Finnie was accused of buying two herrings from Janet Grinton which were rotten and demanding her money back.[346] Though all of these women's accusations focus on their economic interactions with their neighbours, they are aggressive and unorderly. By accusing them of witchcraft, the community rid themselves of an economic drain, a

[341] Pitcairn, *Ancient Criminal Trials in Scotland* Vol. III Part II, 508.
[342] Pitcairn, *Ancient Criminal Trials in Scotland* Vol. III Part II, 508.
[343] Briggs, *Witches and Neighbors*, 146.
[344] Black, *Some Unpublished Scottish,* 15.
[345] Pitcairn, *Ancient Criminal Trials in Scotland* Vol. III Part II, 616.
[346] Black, *Some Unpublished Scottish,* 20-21.

disorderly neighbour and corrects women's behaviour by making an example of those who did not maintain the ideal.

In the community it was essential for women to haggle and barter prices, and for some to negotiate through money lending and rent, which required assertive and independent behaviour.[347] As aggressive beggars or barterers, women rejected their feminine roles not only as caregivers, but as docile and submissive women. Agnes Finnie was in such a situation as she threatened Beatrix Nisbet for refusing to pay her rent for two dollars borrowed by Hector Nisbet, her father.[348] Janet Grinton bought from Agnes two herring and paid her eight pennies for them and "finding them not to be callour, refused to take them and sought back her money."[349] When Janet was refused her money she went into a great rage and took the herring and trampled them under her feet, saying, "go thy ways home, thou shalt never eat more in this world."[350] When women failed to maintain their reputation because of inappropriate female behaviour, such as Agnes and Janet's threatening, they faced distrust, hostility and even fear. "Years of distrust and suspicion might culminate in accusations of witchcraft, first perhaps in anger in the street, but then to an inquisitor or magistrate."[351] When accused of witchcraft, the law became the tool used to correct women's misbehaviour, ensuring that proper gender roles were clearly defined and enforced.

As women were often the witnesses in witchcraft trials they were seen as the guardians of community conformity through surveillance and gossip. Women worked together and saw each other frequently in a multitude of interactions including "gathering to collect water and wash

[347] Harriet J. Cornell, "Gender, Sex and Social Control: East Lothian, 1610-1640" (Edinburgh: University of Edinburgh, 2012), 12.
[348] Black, *Some Unpublished Scottish*, 20.
[349] Black, *Some Unpublished Scottish Witchcraft Trials*, 20. Callour means fresh.
[350] Black, *Some Unpublished Scottish Witchcraft Trials*, 20.
[351] Clarke Garrett, "Women and Witches: Patterns of Analysis," *Signs* Vol.3, No. 2 (Winter, 1977), 466.

clothing, during illnesses and childbirth and at their parish church and the market."[352] It is in this position of gossip and surveillance that women were most likely to become embroiled in community disputes. The quarrels usually concerned women's work, household boundaries and community tensions. The concerns over women's work shows the surveillance and gender expectations that women were caregivers for their own families and their neighbours. The networks of women were tense, and accusations of witchcraft often followed quarrelling and threatening words.

Interpersonal disputes frequently turned violent. Violent actions clashed with the expectations for feminine behaviour. "Modes of conflicts included gossip, insults, scolding, threats, curses, ritual magic, legal action, and various forms of physical and verbal assault."[353] Janet Cock was hit in the face with a snowball by William Mitchell which left a scar. She said to him "well sir, thou shall rew your casting for I will see thou hanged and made a thief's end."[354] Janet was also the perpetrator of violence as she hit Agnes Spindie across the cheek when the woman asked her to leave her house.[355] Agnes Finnie was attacked by Robert Was when he broke a cup upon her head for some outrageous speeches in his company.[356] As the Reformation outlined, women were meant to be quiet and harmonious in the community, ideals which these women acutely deviated from as they were not only disruptive, but also violent.

As poor women were more likely to have an accusation of witchcraft cast against them, it was often coupled with the accusation of theft as they struggled to survive. Isobel Haldane had stolen some beer from the Hall of Balhoussye owned by Stephan Ray who followed her and

[352] Stewart and Janay Nugent, *Union and Revolution*.
[353] Bever, "Witchcraft, Female Aggression, and Power," 958.
[354] Black, *Some Unpublished Scottish Witchcraft Trials*, 40.
[355] Black, *Some Unpublished Scottish Witchcraft Trials*, 39.
[356] Black, *Some Unpublished Scottish Witchcraft Trials*, 21.

brought her back again. She hit him on the shoulder saying "Go thy way! Thou fall nocht win thyself one bannok of bread for year and day!"[357] Bessie Roy along with the accusation of witchcraft was also accused of being a common thief for stealing a steel box out of a coffer which was filled with great sums of gold and gold-smith work.[358] Disputes with neighbors challenged the intersections of the harmony of the community, the patriarchal system of the state and the godly community. Those who did not uphold this order risked offending a "vengeful God, who would visit plague, storms, crop failure, and other disasters on the community."[359] Poverty was gendered as women had to resort to begging and theft to survive. Both of these actions were undesirable in women and an accusation of witchcraft allowed the legal system to enforce gender conformity.

Poverty, theft and begging became recognizable traits of possible witches among neighbours. As Rowland discusses, women accused of witchcraft may have tried to behave towards their neighbours in what they deemed as a "friendly and helpful way and become angry when their neighbours openly accused them of witchcraft."[360] When Isobel Greirsoune heard her name slandered as a witch by Margaret Donaldson, she went to Margaret's house shouting "Away thief! I shall have thy heart for spreading of me and safety!"[361] Elizabeth Bathgate ran after William Donaldson to strike him for calling her a witch and when he outran her she cried in a great rage, "Well sir, the devil be in your feet."[362] Janet Cock was called by a neighbour "an ill woman that makes an outcast among folks and go thou way."[363]

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[357] Pitcairn, *Ancient Criminal Trials in Scotland* Vol. III Part I, 207.
[358] Pitcairn, *Ancient Criminal Trials in Scotland* Vol. III Part I, 207.
[359] Stewart and Nugent, *Union and Revolution*.
[360] Alison Rowland, "Witchcraft and Old Women in Early Modern Germany," *Past & Present*, no. 173. 54.
[361] Pitcairn, *Ancient Criminal Trials in Scotland* Vol. III Part II, 523.
[362] Black, *Some Unpublished Scottish,* 15.
[363] Black, *Some Unpublished Scottish,* 41.

However, when some women were denied the resources they required to survive, they used a reputation for witchcraft as a way to obtain resources from reluctant or fearful community members. In 1644 Agnes Finnie was called a witch by Euphan Kincaid. When she heard this she answered, "if I be a witch you or yours shall have better cause to call me so."[364] Rather than fearing the accusation, Agnes used the fear inspired by witches to threaten Euphan. As discussed earlier, Purkiss connects this self-fashioning as a witch to elements of agency and power where women took on the title of witch in order to get their way and to survive.[365] Stephanie Spoto suggests that women may have identified with the witch because the "threat of magic was one of the only ways for women to gain respect and protection in communities."[366] Personality traits attributed to many accused of witchcraft were quarrelsome, hostile and a sharp tongue, behaviours which frequently incited hostility and accusations.

Nearly every community and neighbourly interaction which went wrong might have led to an accusation of witchcraft.[367] Witchcraft provided an explanation for community incidences which had no other explanation. Most of these had economic implications. Catharine Oswald was accused of having conceived a great hatred against John Nisbet and his wife for refusing to sell a cow, which through sorcery she made give red blood for three days instead of milk.[368] She also had discord with John Clerk for taking her yard from her. She was said to have "hoped in God that nothing should grow in that yard thereafter, which by her sorcery that yard neither bore

[364] Black, *Some Unpublished Scottish Witchcraft Trials*, 20.
[365] Diane Purkiss, *The Witch in History: Early Modern and Twentieth- Century Representations* (London: Routledge, 1996), 145.
[366] Stephanie Irene Spoto, "Jacobean Witchcraft and Feminine Power," *Pacific Coast Philiosophy* Vol. 45 (2010), 67.
[367] Edward Bever, "Witchcraft, Female Aggression, and Power in the Early Modern Community," *Journal of Social History*, Vol. 35, No.4 (summer, 2002), 958.
[368] Black, *Some Unpublished Scottish Witchcraft Trials*, 11.

kail, lint, hemp, nor other grain for the space of 4 years thereafter."[369] Catharin Harlaw returned a plack's worth of salt bought from Agnes Finnie and she threatened "it should be the dearst salt that ever she saw with her eyes."[370] William Smith, a weaver, pledged in Agnes's hands for fourteen marks borrowed from her clothes and other things worth 100 marks. When he could not redeem the pledge, she threatened him and made his "whole worldly means to decay and vanish away."[371] These conflicts were not isolated incidents but were part of a widespread pattern of community conflict that was prominent in early modern society. The economic implications of these situations meant that the legal system was invoked to assure community order. The gendered "othering" allowed the legal system to legitimize and institutionalize scapegoating while creating the witch as a legal subject.

Marriage, the Household and Women's Production

The household was the building block of the community, with each family working alongside each other in economic and social interdependence.[372] Marriage was a pillar of an economically productive household which helped to ensure a sustainable community, as well as provide stability for the state. As Stewart and Nugent explain, "marriage was an obligation and requirement for both sexes, but the unmarried woman was more of a concern to society than the spouseless man."[373] The potential threat of women was best contained by the authority and control of a husband, yet many of the female population did not marry or became spinsters.[374]

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[369] Black, *Some Unpublished Scottish Witchcraft Trials*, 11-12.
[370] Black, *Some Unpublished Scottish Witchcraft Trials*, 20. A plack's worth is a small billon coin worth four Scots marks.
[371] Black, *Some Unpublished Scottish Witchcraft Trials*, 20.
[372] Scott Moir, "The Crucible: Witchcraft and the Experience of Family in Early Modern Scotland," in *Finding the Family in Medieval and Early Modern Scotland*, eds. Elizabeth Ewan and Janay Nugent (Cornwall: Ashgate Publishing, 2008), 50.
[373] Stewart and Janay Nugent, *Union and Revolution*.
[374] Stewart and Janay Nugent, *Union and Revolution*.

Widows and spinsters were independent women who lived without a male counterpart to control and oversee them, as well as to care for them and provide economic resources. To the male-headed household the large number of widows, spinsters and unmarried women were a disruption to an orderly society based on patriarchal family units and challenged the traditional structure of the family.[375] Lone women were particularly vulnerable to witchcraft accusations as they were not controlled or protected by a male counterpart. Witchcraft accusations was a way to police the social structure through the courts and encourage women to seek a male-counterpart to both protect and control them.

The key factor in explaining the vulnerability of widows to accusations of witchcraft was the fact that they had lost the protection of their husbands.[376] "Husbands might be willing to defend their wives reputation against rumours of witchcraft verbally or physically and to help them pursue legal or quasi-legal means of forcing accusers to retract their allegations."[377] Elizabeth Bathgate was one of the few women accused of witchcraft who was acquitted following her trial. Her acquittal may have been due to her husband, Alexander Pae's ability to defend her, and help to hire a legal defence who argued her innocence.[378] As Bever discusses, a husband, father or brother would be responsible for disciplining women for their disruptive behaviour, occasionally through beatings.[379] When there was no male-counterpart, disruptive women could be disciplined through accusations of witchcraft. In this case the law could be used to discipline women for their behaviour, acting much like their male-counterpart would have. Widows threatened household stability through their lack of ability to provide for a family on

[375] Bever, "Witchcraft, Female Aggression, and Power," 956.
[376] Rowland, "Witchcraft and Old Women in Early Modern Germany," 65.
[377] Rowland, "Witchcraft and Old Women in Early Modern Germany," 67.
[378] Black, *Some Unpublished Scottish Witchcraft Trials*, 14.
[379] Bever, "Witchcraft, Female Aggression, and Power," 956.

their own, as well as threatened the patriarchal state system which relied on males to be the heads of household.

Women were not meant to be community nuisances, rather they were expected to be caregivers in the family and community. As beggars they did not care for their family, or their neighbours, instead acting as a drain of community resources. "In earlier times, a widowed or poor woman could rely on the charity of her neighbors if she suffered economic misfortune."[380] Agnes Sampsoune in her trial said that she began to serve the devil after the death of her husband. She said that the devil appeared to her in likeness of a man who commanded she acknowledge him as her master, and to "renounce Christ which she granted, as she was living in poverty and he promised that she and her bairnes would be made rich."[381] In this case the Devil was Agnes's male-counterpart, where he was her master who controlled her behaviour and economically took care of her and her children. The demonology of the Devil's pact asserts and reinforces the marital and economic gendered social order.

Most women were likely to have married at some stage in their lives as there were strong economic incentives to marry. Witchcraft documents show husband and wife lived and worked together as a social and economic team and were designated with the occupations of the husbands, rather than wives.[382] Married women worked with their husband in both rural and urban communities often in an agrarian context.[383] "The division of labor and the extent of specialization in farming were limited before the nineteenth century and women were deeply

[380] Garrett, "Women and Witches," 463. For the women whose marital status was recorded 78% were married. 19% were recorded as widowed. But marital status is unknown for the great majority of those accused. *'The Survey of Scottish Witchcraft*,' Eds. Julian Goodare, Lauren Martin, Joyce Miller and Louise Yeoman, http://www.shca.ed.ac.uk/witches/ (archived January 2003, accessed '02.02.19').
[381] Pitcairn, *Ancient Criminal Trials in Scotland* Vol. III Part II, 230.
[382] Martin, "Witchcraft and Family," 11.
[383] Martin, "Witchcraft and Family," 11-12; Garrett, "Women and Witches,"463. Women were vitally important to that economy, and their participation in the labor force was extensive.

involved in the multiple tasks which had to be performed on the farm and in the household."[384] A man's greater earning ability, which surpassed women's earnings by a ratio of around two or three to one, reflected the idea that he was also providing for all those under his roof.[385] It was difficult for women on their own to build up resources, making them reliant on family and community members. The increasing difficulty through which women could provide on their own is a process of the modernizing economy which relied on women to be economically reliant on their male-counterparts. This process reaffirmed the patriarchal structure of the centralizing state which saw a male as the head of the household.

Witchcraft trial documents cite women from eight different personal occupations including, "henwife, midwife, nurse, schoolteacher, schoolmaster, servant, shop-keeper and vagabond," all of which women could expect a lower wage than men.[386] The most common full-time female occupation of spinning was poorly paid making it near impossible for women to support themselves.[387] Women's work was not intended to allow for them to become the breadwinners. Women's roles in the domestic sphere as mothers, wives and caregivers meant that they relied on their husband to provide as they alone could not sustain themselves or a family.

Low wages made permanent spinsterhood a risky position to choose willingly, encouraging women to seek a male-counterpart to govern them.[388] Much of women's paid labour was simply an extension of their domestic tasks in the household, including cooking, cleaning, mending, childcare and making clothes for the family. Women's labour, though vitally important

[384] Houston and Whyte, *Scottish Society 1500-1800,* 120.
[385] Stewart and Nugent, *Union and Revolution.*
[386] Houston and Whyte, *Scottish Society 1500-1800,* 121-122.
[387] Mitchison, *The Old Poor Law in Scotland,* 93.
[388] Houston and Whyte, *Scottish Society 1500-1800,* 126.

and valuable, was not seen as productive work. Federici traces the sexual division of labour and women's unpaid housework to the transitional period from feudalism to capitalism. As she argues, "the separation of production from reproduction, the specifically capitalist use of the wage to command the labour of the unwaged, and the devaluation of women's social position are all necessary processes of capitalism."[389] Federici proposes that witch-hunting was a process by which women were forced into the household in order to undertake unpaid labour and make economic space for male workers to work for income.[390] Wendy Brown argues that the transition to capitalism and the centralizing state required women's subordination on two levels, "women do unpaid reproductive labour and serve as a reserve army for low wage labour."[391] With the privatization of property and land there were even fewer resources to go around, women had to be eliminated from an emerging global economy for men to retain power and control over the economy.[392] Accusations of witchcraft utilized legal frameworks to enforce proper roles for women within the household by punishing those who deviated.

Alongside women's range of unpaid household duties and reproductive labor, they were also responsible for buying and preparing food, not only for their own household but others in their community. This included brewing, the sale of eggs, cheese or milk, "the repairing of clothing, taking in laundry, and money lending."[393] In a society where subsistence was precarious, concerns and disputes around food and health were at the root of most disputes that led to witchcraft accusations.[394] The gendering of women's roles as wives, mothers, cooks,

[389] Federici, *Caliban and the Witch,* 2.
[390] Federici, *Caliban and the Witch,* 170.
[391] Wendy Brown, *States of Injury: Power and Freedom in Late Modernity* (Princeton: Princeton University Press, 1995), 185.
[392] T.M. Devine, *The Scottish Clearances: A History of the Dispossessed 1600 to 1900* (London: Allen Lane, 2018), 34.
[393] Stewart and Nugent, *Union and Revolution*.
[394] Briggs, *Witches and Neighbors*, 152.

healers and caregivers made them more likely to be accused of witchcraft than men.[395] Early modern Scots believed that witchcraft was usually passed through the consumption of food or through healing.

Women were meant to be the guardians of subsistence, and when food was poisoned, rotten or made someone ill, the woman who collected or produced the food could be seen as the anti-mother who harmed rather than protected. They had access as healers and cooks to herbs that could harm, and often had the knowledge to use them.[396] Women's work in the home was secret as it was away from the surveillance of the community, and therefore they were much more susceptible to witchcraft accusations when anything went wrong. "These women could be seen as harboring evil will and the rest of the community would only become aware once the evil will had been enacted."[397] Isobel Greirsoune was accused of cursing the vats brewing of good new ale which many of her neighbors were drinking. During the brewing the ale turned and "became rotten and black and thick like gutter-dirt, with a filthy and pestilent odor, that no man might nor feel the smell thereof."[398] Agnes Sampsoune was convicted for the charming to death of George Dikson's horse and cattle, where thirteen ky, oxen and horses died. She was also convicted of giving some cheese and butter to George's wife who died after consuming the food.[399] Witches were the scapegoats for a multitude of many different anxieties, especially illness or death.[400] As women's gendered reproductive labour was devalued with early

[395] Stewart and Nugent, *Union and Revolution*.
[396] Lizanne Henderson and Edward J. Cowan, *Scottish Fairy Belief* (East Linton: Tuckwell, 2001), 4.
[397] Joyce Miller, "Devices and directions: folk healing aspects of witchcraft practice in seventeenth- century Scotland," in *The Scottish Witch-Hunt in Context* ed. Julian Goodare (Manchester University Press: Manchester, 2002), 100.
[398] Pitcairn, *Ancient Criminal Trials in Scotland* Vol. III Part II, 523.
[399] Pitcairn, *Ancient Criminal Trials in Scotland* Vol. III Part II, 230.
[400] David M. Walker, *A Legal History of Scotland: Volume III The Sixteenth Century (*Edinburgh: T. & T. Clark LTD, 1995), 477.

capitalism, this became the vehicle upon which acts of witchcraft were linked to women. Those who were in poverty found themselves in conflict with their neighbours and it was any who did not conform to gendered norms that the legal system was most suited to prosecute.

Women's sexual reproductive power was placed under the control of the state through witch-hunting and the legal system. The witch-hunts were instrumental to the construction of a patriarchal order where women's bodies, their labour and their reproductive power was controlled.[401] Women's reproductive labour was a key process for the modernizing economy during the increasing privatization of property and labour.[402] The higher rates of mortality led to a crisis over birth and legitimacy.[403] There was a deep anxiety over the paternity and sexual conduct of women.[404] As the privatization of property increased, it became essential to ensure that property and goods were handed down to legitimate blood heirs. Women who had children outside of marriage disrupted the patriarchal hierarchy of the centralizing state by undermining men's control in the household, while also upsetting the direct lines of inheritance to blood heirs. Legitimate families within legal marriages were essential for the centralizing state and Reformation to create social stability and pious citizens. Legitimate families were pillars of the centralizing state which supported the patriarchal hierarchy where the father governed the household. Through the surveillance of women's bodies, and the ensuring of their economic reliance on their husbands, women's reproduction could be controlled.

Ensuring legitimate children decreased the likelihood that single mothers would rely on the charity of their communities to survive. "Single mothers faced unemployment, loss of salary,

[401] Federici, *Caliban and the Witch,* 170.
[402] Devine, *The Scottish Clearances,* 34.
[403] Stewart and Nugent, *Union and Revolution*.
[404] Federici, *Caliban and the Witch,* 87.

public shaming and mounting debt as they would not be hired to work as servants, as an unwed mother reflected poorly on her employer's reputation, nor would be married."[405] As well, it was believed that any immorality was thought to put the entire community in the way of God's wrath.[406] When women were sexually promiscuous, such as Helen Cass and Helen Cocker, who were both accused of sexual crimes such as fornication, they could be later charged with witchcraft as a means to control their sexuality and reproduction, and therefore also using law to ensure women's proper gender expression as required by the modernizing economy.[407]

Age and Reputation

It usually took decades for a reputation of witchcraft to develop and lead to an official accusation to the church or magistrates.[408] Older and widowed women were more likely than others to be reliant on their neighbours for material assistance. The early modern witch is often understood to be an elderly beggar woman.[409] In Scotland, "40 per cent of witchcraft suspects were aged 40 or under, 54 per cent were between the ages of 41 and 60, and only 7 per cent of the accused were over 61."[410] The average age of an accused witch was between 43 and 50. The majority were between their late thirties and very early fifties. Older women were seen as most

[405] Gordon DesBrisay, "Wet Nurses and Unwed Mothers in Seventeenth-Century Aberdeen," in *Women in Scotland c.1100-c.1750* eds. Elizabeth Ewan and Maureen Meikle (Edinburgh: Tuckwell, 1999), 211.
[406] DesBrisay, "Wet Nurses," 210-211.; Jim Sharpe, "Women, witchcraft and the legal process," in *Women, Crime and the Courts in Early Modern England* eds. Jenny Kermode and Garthine Walker (London: UCL, 2005), 113. Sharpe has acknowledged that infanticide was a gendered crime with contemporary assumptions about female involvement in crime and witchcraft. Infanticide laws which occurred during this period as well were used to control and monitor women. Attempts were made to claim single women's bodies as public property by church members and elders, especially when they were suspected of being pregnant or having given birth. Church members and elders regarded the observation and control of women's sexual comportment as a central part of their disciplinary role.
[407] Sierra Dye, "To Converse with the Devil? Speech, Sexuality, and Witchcraft in Early Modern Scotland," *International Review of Scottish Studies* 37 (2012), 62.
[408] Martin, "Witchcraft and Family," 9.
[409] Garrett, "Women and Witches: Patterns of Analysis," 463.
[410] Julian Goodare, Lauren Martin, and Joyce Miller eds., *Witchcraft and Belief in Early Modern Scotland* (New York: Palgrave Macmillan, 2008), 59.

independent from patriarchal norms such as living without a husband or widowed. They were outside of patriarchal hierarchy of the household which could control and discipline them. "These women, particularly older women who had never given birth and now were beyond giving birth, comprised the female group most difficult to assimilate, to comprehend, within the regulative late medieval social matrix, organized, as it was, around the family unit."[411]

Bever suggests that older women were most likely to display the hostility and aggression allegedly characteristic of accused witches because their "gender and age rendered them particularly subject to pressing and frustrating socio-economic problems and sociocultural restrictions."[412] These women were at the fringes of society, they were drains on their community as they lived off of charity, and therefore did not fulfil the societal expectations that they had as caregivers. They also harassed and cursed at their neighbors rejecting the ideals of women to act pious and demurely.[413] As women the expectation to act in an orderly and feminine manner did not diminish though they were poor and desperate to survive. Rather, the expectation for their proper gendered behaviour remained, though their ability to fulfill the expectations became increasingly difficult.

Conclusion

The *Witchcraft Act* was a mechanism of the centralized state as a means to enforce and reinforce the patriarchal order, as well to enforce morality and encourage the process of the Reformed religion, and lastly as a way to control those who were threatening the modernizing economy. Women greatly threatened the success of all three of these processes. With only

[411] Steven T. Katz, *The Holocaust in Historical Context, Vol. I* (Oxford: Oxford University Press, 1995), 468-69.
[412] Rowland, "Witchcraft and Old Women in Early Modern Germany," 53.
[413] In regard to the appearance of older women, the physical effects of ageing would probably have been most apparent to villagers in terms of the greying hair, wrinkled facial skin, age spots, scars or warts toothlessness, and stooped or hunched, adding to the fear of aging and elderly women.

rudimentary systems of relief, economic downturns and hardships, women existed in positions of vulnerability which made them beggars and nuisances. With the modernizing economy women's unruly behaviour upset community interrelationships which required them to be considerate and helpful to their neighbors, both of which were expectations for feminine behaviour. Due to the rise in prices of commodities, the growth of towns and population and the unprecedented decline in the standard of living, more people were poor, dying, and in desperate situations struggling to survive. Women were the most vulnerable members of society. Struggling women were often hostile, vengeful or aggressive to their community members, all actions which could be perceived as unruly and undesirable behaviour in women.

Women who threatened the modernizing economy were not contributing to the economic whole of the community which supported and upheld one another, instead draining resources by relying heavily on the charity of others. They also threatened the patriarchal system as widows or challenged male authority in the household and community, which in turn threatened the patriarchal system of the state. The accusation of witchcraft and enforcement of the *Witchcraft Act* operated as a disciplining force for those women who had no male counterpart to correct their unruly behaviour, and those women who failed in their expression of ideal feminine behaviour. The legal system was invoked to assure community order, women's proper gender expression and to correct women's misbehavior.

CONCLUSION

By looking at the specific qualities embodied by the witch, such as assertiveness and hostility, it can be better understood how the witch-hunts functioned not only to promote conformity within the population, but also as part of a larger discourse on the construction of gender. While not all witches were women, the fact that the archetypal witch was identifiably female suggests that gender influenced the accusations of witchcraft. A certain image of the witch emerges from examining the trial records in early modern Scotland, a woman who challenged male authority, cursed and swore, and failed in her duties as a mother. Ultimately the witch was the anti-woman, failing in her gender expression and requiring surveillance and correction through the legal system creating the "witch" as a legal subject.

The prosecution and persecution of women during the witch-hunts represented state, religious and legal processes of constructing normative gendered behaviour in early modern Scottish women. During the time of the witch-hunts, women's behaviour became increasingly monitored through neighbor surveillance, the Kirk Sessions and the centralized legal system. The prosecution of witchcraft reflects a period of heightened anxiety over ideal gender expression and there was a profound unease with women's place in society. Any deviation from norms in women's behaviour was perceived as unruly, undesirable and a threat to various systems of authority. Aspects of women's behaviour had the potential to destabilize the patriarchal systems of the state and church. The prosecution of transgressive women through the criminal system as witches encouraged conformity in communities and on a national level.

Most women who were criminalized as witches engaged in activities and behaviours that went outside the normative gender ideals of the time and were perceived as transgressive and deviant. Witchcraft became the catch-all crime for women's misbehavior and gender failure, and

as such, there are many facets to witchcraft, and many behaviour's which could lead to an accusation. Argumentative women challenged men directly and personally. Blasphemous women challenged church ideology. Poor women upset the expectations of a harmonious community. The ideal early modern Scottish woman was passive, obedient, quiet, pious and chaste. Scottish citizens who engaged in the performance of ideal gendered behaviors were active in the construction of church and state authority. In contrast, the witch was aggressive, weak, sexual, violent, insubordinate and un-pious. Through the witch-hunts, law was used as a tool to correct women's misbehaviour and encourage ideal gender expression.

The court systems regulated specific gender characteristics and contributed to the legal codification of gender. Witches appear as "the other" and the criminal women in opposition to gender conforming, law-abiding women. In many ways, the witch was the antithesis of the conforming women who did not challenge societal expectations with their behaviour. Legal authority played a central role in shaping gender norms and societal understandings of "correct" behaviour and conduct for women. Women's misbehavior could be seen as a legal offence. Law was used to change social characteristics to guarantee the authority of the government and the patriarchal hierarchy which supported the centralizing state, reformed church and modernizing economy. As Levack says, "construction of the concept of witchcraft and the various legal developments made the Scottish witch-hunts possible."[414] If these legal developments had not occurred, the witch-hunts would not have taken place on the mass scale in which they occurred.

As this thesis has argued, the ideals of gender expression were significant to the intersecting historical processes of state centralization, religious Reformation and the modernizing economy. These processes intersected to create a framework of governance that

[414] Brian P. Levack, *The Witch-Hunt in Early Modern Europe*, Fourth Edition (Routledge: London, 2016), 100.

allowed for the witch-hunts to occur, but also, simultaneously, required the witch-hunts to assert and reinforce the authority of church and state in the lives of women. These processes intersected to construct, surveil and discipline early modern women's ideal behaviour, and therefore also their deviance. The witch-hunts were a powerful legal force in reshaping and constructing early modern Scottish women's behaviour and gender expression. The framework of this thesis has resonance for other periods in history, including threads to society today. The processes of "othering" and utilization of law and the legal system for surveillance, regulation and discipline are still mechanisms of societal construction. Gender is one lens through which marginalized groups are targeted as "other," and this thesis contributes a framework through which processes similar to the witch-hunts can be examined.

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