

University of Alberta

**‘All in the Family’: Households and Petty Crime in Early Modern Scottish
Burghs**

by

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A thesis submitted to the Faculty of Graduate Studies and Research
in partial fulfillment of the requirements for the degree of

Master of Arts

in

History

Department of History & Classics

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Spring 2013

Edmonton, Alberta

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For Mum

ABSTRACT

This purpose of this thesis is to examine the nature of the 'household-family' in early modern Scotland with particular focus on the dynamics between all members residing within the familial home. By looking at petty criminal activities in specific urban locales, this thesis will explore how families maintained bonds, achieved goals, protected reputations and resolved conflict through seemingly dysfunctional behaviour. The intention is not to focus on a particular location at a particular time in order to find a particular model that resided there. Rather, by examining the criminal actions of multiple members of a household, a unique insight into the goals, desires, aspirations and concerns of both these individuals and of the broader 'household-family' will be arrived at.

ACKNOWLEDGMENTS

I am thankful to my supervisor, Professor Andrew Gow, who provided sound guidance throughout the entire project. The research for, and therefore the project itself, would not have been possible without the financial assistance granted by the Dianne Samson Graduate Student Travel Award or the University of Alberta's Graduate Students' Association Professional Development Grants.

A work on families and households would not be complete if I did not acknowledge my own. I am thankful that I have grandparents who opened their home to me when I set out on my academic path as their support, breakfasts, chats and love were precisely what was needed for a first-year undergraduate. My sisters, Brianna and Sarah, not only for injecting humor but for asking 'What are you doing?' almost as often as 'Are you done it yet?' To my mum, Louise, for whom this thesis is dedicated, thank you for showing me what determination and perseverance looks like, I hope that I possess even a quarter of your strength. Last, but certainly not least, to new families. I would not have

been able to labour through this project if it were not for the help, support and endless love from my partner. Rob gave me a shoulder to cry on, the other one to lean on and reminded me of my love for the subject, thus persuading me to carry on. For his unfailing support, his love and his expertise in all matters Scottish, I am forever thankful.

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CONVENTIONS AND ABBREVIATIONS

All sums are given in pounds Scots (£s) unless otherwise stated. A merk was $\frac{2}{3}$ of a £ Scots. One pound Scot was worth approximately $\frac{1}{6}$ of an English pound in 1565 and $\frac{1}{12}$ of an English pound by 1601.

Spelling in the documents cited has been left in its original form and transcriptions provided where deemed necessary. The letter thorn is represented by 'th'.

The following abbreviations have been used for frequently cited works or archives, full citations are given in the Bibliography:

ACR	Aberdeen Council Register
ECR	<i>Extracts from the Records of the Burgh of Edinburgh, 13 vols.</i> ed. J. D. Marwick <i>et al.</i> (SBRS and Edinburgh 1869-1967)
DCA	Dundee City Archives

CHAPTER ONE

Introduction

This thesis examines the nature of the ‘household-family’¹ in early modern Scotland with particular focus on the dynamics between all members residing within the familial home. By looking at criminal activities in the Canongate, Dundee, Edinburgh and Aberdeen, we arrive at a better understanding of how families maintained bonds, achieved goals, protected reputations and resolved conflict through seemingly dysfunctional behaviour. The purpose of this study is not to focus on a particular location at a particular time in order to find a particular model that resided there. Rather, it examines a variety of court cases from a few urban centers in Scotland to try to determine whether the ‘household-family’ as found in these cases was fairly typical for early modern Scotland. According to Garthine Walker:

While historians repeated the maxim that the household was conceptually a microcosm of the

¹ This term is borrowed from the work of Naomi Tadmor. I discuss the importance of the term in Chapter Two.
N. Tadmor, “The Concept of the Household-Family in Eighteenth-Century England,” *Past & Present* 151 (May 1996): 111-40.

state, and that order in it was therefore of critical importance, and while they acknowledged that criminal acts and their prosecution involved households and families as much as they did individuals, communities, or classes, they rarely explored in detail what this meant for the family in practical terms.²

Examining criminality within and between households is a relatively new area of study. Walker's work has been concerned primarily with female offenders in England.³ However, in a recently published article she has argued that historians have focused more on domestic violence and sexual exploitation, underestimating the relationship between family and crime. Domestic violence was obviously a crime that affected the household. However, the extant court records are relatively silent on this subject for sixteenth-century Scotland. What is more, such studies as Walker have shown focus more on the destructive nature of criminal actions. Indeed, Walker has argued that 'unlawful acts could reinforce familial bonds in what were perceived to be constructive ways.'⁴ Still, most scholars continue to concentrate on intrafamilial violence or the negative impact individual wrongdoing had on the 'household family'. Susan Amussen, Frances Dolan and Laura Gowing have all acknowledged that the household was the cornerstone of early modern society.⁵ However, their work privileges the role

² G. Walker, "Keeping it in the family: Crime and the early modern household," in H. Berry and E. Foyster (eds.) *The Family in Early Modern England* (Cambridge: Cambridge University Press, 2007): 69.

³ G. Walker, *Crime, Gender and Social Order in Early Modern England* (Cambridge: Cambridge University Press, 2003).

⁴ Walker, "Keeping it in the Family": 71.

⁵ S. Amussen, *An Ordered Society: Gender and Class in Early Modern England* (New York: Columbia University Press, 1988); F.E. Dolan, *Dangerous Familiars: Representations of Domestic Crime in England, 1500-1700* (Ithaca: Cornell University

of women in the household as individual criminals or victims, seeking to highlight the agency that women possessed during this period. Elizabeth Ewan has looked at the role of female criminality in Scotland, particularly at slanderers, identifying that female offenders had a negative impact on the household.⁶ In their separate studies on the impact the Reformation had on behaviour and its regulation, Margo Todd and Michael Graham concluded that women, for the most part, engaged in particular offenses as gossips, adulterers and fornicators.⁷ Their research focused primarily on the activities of the kirk sessions [church courts], excluding the secular courts and the activities that brought individuals before them. While shedding considerable light on the chief concerns of reform-minded Scots, their work does not speak to the broader range of crimes which individuals and multiple members of households committed that were tried by the secular magistrates. In one of the only collection of essays on the pre-modern family in Scotland, JRD Falconer's essay is a singular example of research into crime and the family.⁸

In particular, Falconer's work showed that almost 20% of the cases brought

Press, 1994); L. Gowing, *Domestic Dangers: Women, Words and Sex in Early Modern London* (Oxford: Oxford University Press, 1996).

⁶ E. Ewan, "Scottish Portias: Women in the Courts in Mediaeval Scottish Towns," *Journal of the Canadian Historical Association* 3 (1992): 27-43; E. Ewan and M. Meikle (eds.), *Women in Scotland: 1100-1750* (East Linton: Tuckwell Press, 1999); E. Ewan, "Many Injurious Words': Defamation and Gender in Late Medieval Scotland" in R. Andrew McDonald (ed.) *History, Literature, and Music in Scotland, 700-1560* (Toronto: University of Toronto Press, 2002): 163-186.

⁷ M. Todd, *Culture of Protestantism in Early Modern Scotland* (New Haven: Yale University Press, 2002).

M. Graham, "Equality before the Kirk? Church Discipline and the Elite in Reformation-era Scotland," *Archiv für Reformationsgeschichte* 84 (1993): 289-310; M. Graham, *The Uses of Reform: Godly Discipline and Popular Behaviour in Scotland and Beyond, 1560-1610* (Leiden: E. J. Brill, 1996); M. Graham, "The Civil Sword and the Scottish Kirk in the Late Sixteenth Century" in W. Fred Graham (ed.) *Later Calvinism: International Perspectives* (Kirksville: Sixteenth Century Publishers, 1994): 237-248.

⁸ JRD Falconer, "A Family Affair: Households, Misbehaving and Community" in E. Ewan and J. Nugent (eds.) *Finding the Family in Medieval and Early Modern Scotland* (Hampshire: Ashgate Publishing Ltd., 2008): 139-158.

before the burgh court of Aberdeen between 1540 and 1600 involved multiple members of the same household suggesting that many of the illicit activities in Aberdeen were ‘family affairs’. However, in nearly 2 000 cases brought before the burgh court, the magistrates tried only 13 cases of intrafamilial violence. Falconer concluded that the reason for so low a number of cases of intrafamilial violence was that members recognized that public trials would lead to fractures within the household.

The literature on the early modern family often accepts as normal and natural the fact that families would work together, striving to provide basic necessities. Working, living and praying together, these families formed the bonds necessary to provide both the economic and, more importantly, perhaps the social closeness that provided both security and comfort in often-turbulent times. This thesis seeks to highlight the fact that these bonds that held families together could be counted upon being maintained even in the face of violent conflict with their neighbours and the magistrates who were determined to remove all ‘dangerous elements’ from the burgh. Criminal activities often tested these bonds. Yet as many of the cases I examine in this thesis illustrate, the willingness to participate in crimes alongside husband, wife, mother, father, brother, sister, master and mistress was not tempered by an individual’s self-interest. Rather, the household’s interest far outweighed personal concern and strengthened the bonds between all household members.

Sixteenth-century Scotland experienced widespread famine and plague, occupation by both French and English soldiers, and long minority

reigns characterized by factionalism and religious reform, which many Scots saw as portents of God's wrath being unleashed upon a sinful nation. As a result, magistrates, both civil and spiritual, were obsessed with maintaining order as a means of appeasing their God and combating the forces that threatened the wellbeing of the community of the realm and the community of the burghs. Throughout the entire period, the prescriptive literature, statutes and court decisions highlight the importance of a well-ordered household. While magistrates were concerned with looking after the wellbeing of their wider community, householders were concerned primarily with the wellbeing of their own immediate community: their household. The involvement of family members in criminal activities often reflects the desire to enhance and maintain the economic and social standing of the household within the broader burgh community. The following chapters explore this idea more fully. However, before proceeding to examine the cases brought before burgh courts, it is necessary to discuss briefly life in early modern Scottish burghs.

Context: Life in a Scottish Burgh

This thesis is concerned with the urban, rather than the rural, family. Both Ann Kussmaul and Barbara Hanawalt have shown that there are

significant differences between urban and rural life.⁹ Scottish burghs were legal entities with specific rights and privileges granted to all native born or those who lived within the burgh for at least a year plus one day. In purchasing their freedom of the burgh the freemen, or burgesses, of the town gained the right to trade, over which many burghs maintained a monopoly until the nineteenth century. Royal burghs in particular, like Aberdeen, Edinburgh and Dundee, had received their charters directly from the king, enabling them to possess local government, hold their own burgh courts, try all crimes save the four pleas of the crown (murder, arson, rape and treason), raise and pay taxes directly to the crown, pass statutes and send representatives to parliament.¹⁰ One of the most important privileges was economic: the burgh gained the right to hold markets and the more lucrative ability to charge tolls or ‘customs’ on all who attended. It was King David I (1124–1153) who established the first burghs, their charters and the laws governing them, known as the *Leges Burgorum*.¹¹ The earliest burghs, founded in 1124, were Berwick and Roxburgh. However, by 1130, David had chartered the burghs of Stirling, Dunfermline, Perth, Scone and Edinburgh.¹² The conquest of Moray in the twelfth century led to the establishment of

⁹ A. Kussmaul, *Servants in Husbandry in Early Modern England* (Cambridge: Cambridge University Press, 1981); B. Hanawalt, *The Ties that Bound: Peasant Families in Medieval England* (Oxford: Oxford University Press, 1986).

¹⁰ M. Lynch, M. Spearman and G. Stell, ‘Introduction’ in *The Scottish Medieval Town* (Edinburgh: John Donald Publishers, 1988): 4; E.P. Dennison, “Power to the People? The Myth of the Medieval Burgh Community” in S. Foster, A. Macinnes and R. Macinnes (eds.), *Scottish Power Centres: From the Early Middle Ages to the Twentieth Century* (Glasgow: Cruithne Press, 1998): 100.

¹¹ The *Leges Burgorum* were modelled on the mid-twelfth century customs of Newcastle upon Tyne during a period when all of Northumberland was under the control of the Scottish crown.

¹² I.D. Whyte, *Scotland Before the Industrial Revolution: an Economic and Social History, 1050-1750* (London: Longman, 1995): 38-71.

burghs at Elgin and Forres and before the end of his reign, David granted to St Andrews, Montrose and Aberdeen their royal charters. David's successors followed his lead in terms of the creation of burghs and by 1210 there were fifty-six burghs in the Scottish kingdom.¹³

Typically Scottish burghs were formally laid out as a single street with burgage plots running along the sides. This main or 'High' street was known from the medieval period as the 'King's High Way' and as such, the High Street was protected from encroachment by strict legislation. For example, the burgh records of Haddington in 1497 stipulated that "gif any persown biggis [erects] any housis or tenementis upon the common street, within any of the king's burghis" it would be deemed an illegal structure and pulled down.¹⁴ One way around this was to build up rather than out and by the sixteenth century, soaring tenements became a reality on either side of Edinburgh's High street. Edinburgh was not alone in this particular type of construction. In 1618, Taylor, the Water poet, described the Canongate in this way: "From the port, the street which they call Kennygate is one quarter of a mile more down to the King's Palace, called Holyroodhous, the buildings on each side of the way being all squared stones five or six stories high."¹⁵ The burgage plots, being long and narrow, featured the burgesses' shops and homes at the front with some empty land at the back. The 'backlands,' as they were known, featured not only gardens but also small industry and animal

¹³ Whyte, *Scotland Before the Industrial Revolution*: 65.

¹⁴ J.M. Houston, "The Scottish Burgh," *The Town Planning Review* 25: 2 (July 1954): 120.

¹⁵ Mackay, *The Burgh of Canongate*: 13.

rearing.¹⁶ The limits of medieval and early modern burghs were usually indicated by walls or dykes, thus creating a rectangle around the central herringbone pattern made by the High street and the burgage plots. The size of the burgh's regality or *terra burgalis* varied, for example, from two acres in Glasgow to forty acres in Perth in the sixteenth century.¹⁷ Scottish burghs were in many ways laid out to form a neat and tidy space designated for Scotland's early modern economic, political and social activities.

In many Scottish burghs, the High street widened at some point allowing for room for a market cross, the kirk and a townhouse or tollbooth. The tollbooth was an important aspect of any burgh, since all goods imported into the town had to be declared in front of the town's magistrates at the building. By the sixteenth century, it was also the site of the burgh court and the location of the town council meeting rooms. The market cross was equally important as it had not only an economic function but also a social function as the site of proclamations and public punishment. To control the trading privileges of the burgh and regulate taxation, municipal laws located markets at fixed points within the burgh.¹⁸ It is possible from the records to locate these various markets. For example, in Edinburgh markets for more than fourteen different types of commodities were located in designated areas of the burgh in the sixteenth century. The hay, straw, grass and meat markets were located in the Canongate, the fish market near the Netherbow, the poultry market around the Market Cross, and the unfreemen's market in the

¹⁶ E.P. Dennison & M. Lynch, "Crown, Capital, and Metropolis, Edinburgh and Canongate: The Rise of a Capital and an Urban Court," *Journal of Urban History* 32:1 (2005): 35.

¹⁷ Houston, "The Scottish Burgh": 121.

¹⁸ Houston, "The Scottish Burgh": 123.

Cowgate.¹⁹ The burgesses of Canongate had the right to attend the market of Edinburgh, and in time they held their own markets in their burgh. Due to the strict regulation regarding the locations of markets, quarters developed within the town that became associated with distinct trade and craft guilds. In Edinburgh the goldsmiths and skimmers had their shops around St. Giles Cathedral while the shoemakers had booths in the Cowgate. Additionally, weavers were situated in the centre of the town while tanners and glovers had their yards outside the walls. The royal burgh of Aberdeen, also known as the New Town, was divided into four quarters: Even, Green, Fuddy and Crooked. One peculiar aspect of Scottish settlements, both rural and urban, was that until the late sixteenth century every centre was serviced by a single parish kirk.²⁰ This stands in contrast to England where multiple parishes delimited the communities within both urban and rural centres.

Burghs were more than the physical structures and legal and constitutional charters that defined their boundaries. As E.P. Torrie has argued, an early modern Scottish town dweller would have viewed the burgh as “his home, the source of his earning power, of his freedom and obligations, of his sense of oneness and community both with his God and his neighbour.”²¹ So, where did the early modern urban Scot live? With burgage plots shaped the way they were, long and narrow, it left little room for structures to take up vast amounts of ground floor space. A feature of many of the larger urban centers in the mid-sixteenth century was the prevalence of

¹⁹ Houston, “The Scottish Burgh”: 122.

²⁰ M. Lynch, G. DesBrisay & M. Pittoch, “The Faith of the People” in E.P. Dennison, et al. (eds.) *Aberdeen Before 1800*: 293.

²¹ E.P. Torrie *Medieval Dundee: a Town and its People* (Abertay: Abertay Historical Society, 1990): 34-35.

apartment style housing. Economy in the use of building materials combined with the lack of space in burghs like Edinburgh, Aberdeen and Perth necessitated buildings up to five stories in height. In Edinburgh from 1540 to 1640, the population residing on a mere 140 acres doubled to produce one of the densest populations of urban dwellers in Europe.²² In the 1500s, most homes were timber framed with thatched roofs. Over the course of the century this changed with a growing emphasis placed on stone structures to help prevent the spread of fire. As early as the sixteenth century, a typical tenement style building could be as narrow as seven meters with the ground floor housing one or more shops; additionally, upwards of five families could be housed in a four or five-story dwelling. The social stratification that occurred throughout early modern Scotland in such structures was vertical: the well-off merchant burghers or successful craftsmen families lived on the ground and first floors, while the upper levels were reserved for poorer tenants. However, the Canongate possessed its own intricacies due to its proximity to Holyrood Palace. Its population comprised nobility, their retinue and the more elite crafts and merchants who could serve such a population. Here the social stratification was vertical, with the merchants and craftsmen setting up shop near the High street and the nobles and courtiers inhabiting the areas beyond the hustle and bustle of the main artery connecting Canongate and Edinburgh.²³

Our knowledge of early modern Scottish homes is limited. Recent archeological activity indicates that dwellings were small, most no more than

²² Whyte, *Scotland Before the Industrial Revolution*: 187.

²³ E.P. Dennison & M. Lynch, "Crown, Capital, and Metropolis, Edinburgh and Canongate: The Rise of a Capital and an Urban Court": 31-36.

a single room. Basic wood furniture and eating implements provided families with the necessities. By the late fifteenth and early sixteenth centuries, pewter and silver accoutrements could be found in the homes of the more established families, both merchant and craft.²⁴ In the sixteenth century, there was a steady increase in the number of homes employing apprentices and servants who lived within the household. Despite this increase in ‘family’ size, dwellings remained small, forcing individuals to live in very close proximity to one another. As I argue in Chapter Three, servants and apprentices entered a household as employees but quickly became part of the larger ‘household-family’. It seems likely that living, working, playing and praying in such close proximity to other household members helped to form bonds that exceeded contractual obligations. This is most obvious in the criminal activities undertaken by the ‘household-family’.

Burghs were populated by both unfree- and freemen, with the population of burgesses split amongst those that were merchants or craftsmen by trade. Most Scottish urban centers consisted of merchants, tradesmen, burgesses, craftsmen, market vendors, indwellers and the poor. Each of these individuals found a sense of place in multiple communities: the burgh, their guild, their company, their kirk, and their family. Although there was always some overlap in terms of membership within these communities, their sense of belonging was differentiated by the variety of functions that delineated each community. While craftsmen and merchants may have been the dominant forces in Scotland’s urban centres, they did not constitute the

²⁴ E.P. Dennison, “Recreating the Urban Past” in D. Ditchburn and T. Brotherstone (eds.), *Freedom and Authority: Scotland 1050–1650: Historical and Historiographical Essays Presented to Grant G. Simpson* (East Linton: Tuckwell Press, 2000): 279.

largest group in any burgh community. Scholars estimate that approximately sixty percent of the burgh population in the early modern period was made up of the unfree members of society.²⁵ These unfree members ranged from apprentices, waged labourers, women, children, the poor and the indigent. The burgh afforded all of its inhabitants with the right to receive poor relief, protection from outside forces and to be tried by the burgh court. All non-native residents of the burgh could gain such rights through long-term residency.

Craftsmen were usually organised into guilds. Merchants also had a guild, but the category of ‘merchant’ included all traders, from stallholders to shopkeepers to traders of considerable wealth. The first burghs established under David I’s reign were populated largely by foreign residents.²⁶ An influx of merchants and craftsmen from England, Normandy and Flanders in the twelfth century provided an overwhelmingly cosmopolitan population oriented toward northern Europe. These immigrants combined with the local population to settle the burghs, using a system of landholding called ‘kirseth’ in which settlers were offered a piece of land rent free for a year while they established their roots.²⁷ From the twelfth century onward, owning and residing on a piece of land within a burgh became a marker of inclusion and power. By the end of the fifteenth century, burgesses were acquiring additional burgage plots as investments as they provided a steady stream of

²⁵ JRD Falconer, *Crime and Community in Reformation Scotland* (London: Pickering & Chatto, 2012): 58; R. Tyson “People in the Town” in E.P. Dennison, D. Ditchburn and M. Lynch (eds.) *Aberdeen Before 1800*: 121-122; Whyte, *Scotland Before the Industrial Revolution*: 201.

²⁶ Whyte, *Scotland Before the Industrial Revolution*: 59.

²⁷ E.P. Dennison and M. Lynch, “Crown, Capital and Metropolis: Edinburgh and Canongate, the Rise of a Capital and an Urban Court”: 23.

rental income and could be sold to raise capital at a moment's notice. This land, along with the status and privilege of being a burgher, could be inherited or purchased and formed one of the fundamental groups in any urban Scottish centre. Burghers also possessed a number of privileges beyond that of land ownership. Foreign traders were only allowed to conduct their business with burghers and in some instances they were given monopolies over the export of wool, hides and animal skins.²⁸ By becoming burghers, merchants and craftsmen also gained access to a network that could increase their prospects at gaining municipal power through participation on the burgh council or in its courts. This group also enjoyed freedom from tolls throughout Scotland although they, as tenants of the king, were required to make substantial contributions toward royal taxation.

Given the rather cosmopolitan nature of early burgh society, Scottish settlements had close ties with northern European trading networks. Ian Whyte argues that the closeness of these ties with Bruges craftsmen is part of the reason why urban industry remained restricted.²⁹ Additionally, burghs were given a monopoly over their rural hinterlands and as a result many of these centres focused solely on the exportation of raw materials. This made it necessary to then import the finished products offered by their Northern European contacts. That is not to say that small industry was non-existent in Scottish centres. There were craft guilds, though far fewer than what was found in England, and many were composite organizations. Basic trades such as tailors, bakers, tanners and smiths existed in virtually every Scottish

²⁸ Whyte, *Scotland Before the Industrial Revolution*: 60.

²⁹ Whyte, *Scotland Before the Industrial Revolution*: 65-66.

settlement. In larger English towns the goldsmiths, hammersmiths, blacksmiths and bladesmiths often formed separate craft guilds whereas in Scotland it was commonplace for the smiths to form a single incorporated guild. In the late medieval period it was the local craftsmen who dealt with overseas trade. However by the late fourteenth century, an increasingly powerful group of merchants had developed. These merchants were encouraged by the crown due largely to the amount of royal revenue generated by the day-to-day business of a burgh's merchant class. As a result, by the start of the sixteenth century the merchant elites had become the dominant force in burgh politics overseeing the passing of burgh statutes, regulating the burgh market and connecting local to national concerns.³⁰

Early modern burgh politics were the realm of a number of elected officials: the provost, two to four bailies, treasurer, deans of guild³¹ and between twelve and twenty four councilors taken from the merchant class.³² This last point became a major area of contention in the sixteenth century as a number of craft riots led to greater enfranchisement for craftsmen in Perth, Aberdeen and Edinburgh. The *Leges Burgorum* indicate that provosts, the chief magistrates or conveners of the burgh, were to “kepe the customys of the toune and [that] thais sal nocht halde lauch on ony man or woman for wroth na for haterent na for drede or for lufe of ony man, bot thruch ordinans consaile and dome of gude men of the toune.”³³ As this statute indicates, only

³⁰ A.R. MacDonald, *The Burghs and Parliament in Scotland, c. 1550-1651* (Aldershot: Ashgate, 2007): 16-30.

³¹ This was a title held by one of the bailies of the burgh who presided over a Dean of Guild Court which was given the specific duty of building control.

³² MacDonald, *The Burghs and Parliament in Scotland*: 34.

³³ *Leges Burgorum*, c. 70.

the most substantial or the ‘gude men of the toune’ were in a position to regulate burgh society. As the works of Alan White and JRD Falconer for Aberdeen, Michael Lynch for Edinburgh, and Mary Verschuur for Perth have shown, this resulted in a virtual closed shop in which oligarchies made up of very few merchant families dominated burgh politics.³⁴ Burgh councils, in conjunction with the provost and bailies, framed laws in conformity with the statutes of the kingdom that would enable them to conduct the affairs of the community, hold courts (civil and criminal), and elect burgesses, craftsmen and freemen.³⁵ Within the burghs the task of policing and enforcing burgh statutes fell to the bailies. The bailies or magistrates were also charged with the tasks of inspecting wine, or ale or other products sold at market. Collectively, the ‘gude men of the toune’ were empowered to take an active role in regulating society and prescribed their vision of an orderly, well-maintained burgh.

The right to hold burgh courts was a key privilege achieved from the charters granted to the ‘community’ that made burghs semi-autonomous corporations. These courts played a crucial role in regulating burgh society by issuing statutes, establishing prices for ale, meat and bread and hearing the civil and criminal suits that emerged within the burgh. By the end of the

³⁴ A. White, “The Menzies Era: Sixteenth-century Politics” in E.P. Dennison et al. *Aberdeen Before 1800* (East Linton: Tuckwell, 2002): 224-237; JRD Falconer *Crime and Community*; M. Lynch, *Edinburgh and the Reformation* (Boston: Humanities Press, 1981); M. Verschuur, “Merchants and Craftsmen in Sixteenth-Century Perth” in M. Lynch (ed.) *The Early Modern Town in Scotland* (London: Croom Helm, 1987): 36-54.

³⁵ Mackay, 24.

fifteenth century, burgh courts were customarily held in the burgh tollbooth.³⁶ Since the tollbooth functioned as the council house, courthouse and prison it tended to be located in one of the most central parts of the burgh. In this way the tollbooth, like the market cross, was a key symbol of civic authority. The procedure of the burgh court included the attendance of suitors, summons of the defender, selection of the assize, and decision announced by the dempster.³⁷ The court records suggest that once a plaintiff brought suit against the defendant, each would have their turn to prove their case. Often this included bringing witnesses to court to support the evidence provided by each of the parties involved. Unfortunately, the court clerks did not record the testimonies. For the most part we are left to infer the offender's motivations as well as the strength of the evidence provided based upon the court's decision in how the matter was to be resolved. Moreover, no contemporary treatise on the functioning of the burgh courts or the prosecution of non-capital offenses exists.

There is also some ambiguity in the types of crimes heard before the burgh courts and the punishments burgh magistrates were empowered to implement. There is some record that burgh magistrates had been granted the power to impose the death penalty. However, the crown clung to its right to hear, try and punish capital offenses. In large part this was because the property of those convicted of capital offenses escheated to the crown. What this means is that only infrequently did burgh courts try the more heinous

³⁶ Prior to the fifteenth century, courts were held in the open air in either the local castles or its ruins. J. Finlay, *Men of Law in Pre-Reformation Scotland* (East Linton: Tuckwell Press, 2000): 90.

³⁷ Walker, *Legal History of Scotland*: 337; E. Ewan, *Townlife in Fourteenth-Century Scotland* (Edinburgh: Edinburgh University Press, 1990): 56-57.

crimes of murder, theft, arson and rape. More frequently burgh courts tried cases of statute breaking, forestalling, regrating, petty theft, assault, nightwalking, reset, vagabondage, drunkenness, gaming and breach of peace. While most scholars view such crimes as ‘banal and mundane’³⁸ it has become increasingly clear that based on the sheer volume of these types of offenses being committed that their impact on burgh life was anything but trivial.³⁹

The court records make clear that early modern Scots had a wide variety of ways to wrong their neighbours and the broader burgh community. Most interpersonal disputes had a tendency to turn violent. Violence, either in physical or verbal form, regularly was a means of defending one’s reputation, protecting one’s material wellbeing or prosecuting an ongoing conflict. As such, criminality that involved multiple members of the household involved some form of violent act. For example, in September of 1571 in the royal burgh of Aberdeen, Robert Troup and John Jaseyn were convicted by the burgh court for a violent exchange. The magistrates charged Troup with the ‘strubling, striking and blud drawing’ of Jaseyn while Jaseyn was convicted for his retaliation in ‘casting ane stane at the said Robert’s wyf and breaking of her heid.’⁴⁰ Because most crimes that involved multiple members of the household tended to be violent, this thesis examines instances of intrafamilial and interfamilial violence as a way of exploring the

³⁸ A.J. Finch, ‘The Nature of Violence in the Middle Ages: An Alternative Perspective.’ *Historical Research*, LXX (1997): 249-268.

³⁹ Falconer, ‘Introduction’ in *Crime and Community*; R. Shoemaker, *Prosecution and punishment: petty crime and the law in London and rural Middlesex, c. 1660-1725* (Cambridge: Cambridge University Press, 1991); Griffiths P., “Bodies and Souls in Norwich: Punishing Petty Crime, 1540-1700” in S. Devereaux and P. Griffiths (eds.) *Penal Practice and Culture, 1500-1900* (London: Palgrave, 2004): 85-120; Jones, K. *Gender and Petty Crime in Late Medieval England* (Woodbridge: The Boydell Press Ltd, 2006).

⁴⁰ A[berdeen] C[ouncil] R[egister], xxvii, 577 (17 September 1571).

dynamics within the household family. That is not to suggest that households as a whole were not involved in other forms of wrongdoing. Family members could be involved with breaking statutes, forestalling, regrating and theft and reset. These crimes enabled the perpetrators to increase their wealth, which benefited the household as a whole, but also provided individuals with personal gain. Violent crimes, perpetrated for the purpose of rehabilitating impugned reputations or prosecuting ongoing conflicts achieved less immediately tangible results. Rather than providing each individual involved in the committing of the offence with some material gain, violent crimes had the potential to serve some higher purpose.

Amerciaments or fines were the typical punishments for petty crimes. However, burgh magistrates also utilized ritual humiliation, public confessions, corporal punishments and incarceration to punish more violent crimes. The ultimate tool in an early modern magistrate's toolbox for punishing criminals considered unredeemable was banishment from the burgh. Stripped of their social and economic networks and the protection offered by the burgh, these individuals were ejected from their community. In a period in which reputation was gained through long term standing in a community and in which reputation equaled credit, being forced out of a community limited one's ability to begin anew unhindered. Yet as Julian Goodare has argued, by punishing petty criminals in such a way the burgh magistrates actually 'added to the problem of vagrancy.'⁴¹ Ultimately, for burgh magistrates maintaining an orderly society was their primary objective.

⁴¹ J. Goodare, *Parliament and Society in Scotland: 1560-1603*, unpublished PhD dissertation, University of Edinburgh, Edinburgh, Scotland, 1989: 413.

Thus, removing 'dangerous elements' from the burghs and rendering them someone else's problem did not, it would seem, pose any difficulty for the magistrates. The removal of these 'dangerous elements' was not the responsibility of the magistrates alone. Indeed, maintaining the burgh's wellbeing was expected of all households within the burgh. Punishments were for the most part public to ensure that every member of burgh society was aware of what had taken place. Utilizing the market cross and tollbooth, magistrates made clear the impact crimes had on burgh life and their resolve to eradicate criminality in order to protect the welfare of the burgh.

Sources

An introduction and explanation of the sources used in this thesis is necessary. The choice of Aberdeen, Edinburgh, Dundee and the Canongate as geographical locations on which to focus the study of early modern Scottish households and crime stems from the availability of court records for this period. Aberdeen's council register is extant from 1398 and offers the most complete set of records for a Scottish burgh before the eighteenth century. While the court records for Edinburgh, Dundee and the Canongate are strong, they contain gaps that prevent any comprehensive study of criminality over time. That said, the records are full enough to provide clear insights into the

types of crimes committed in those burghs, the groups of people committing those crimes and how those burgh governments dealt with criminal activities.

While the content of the burgh court records varies, the structure generally stays the same. Included are the names of both defendant and plaintiff, the offense as well as the date the case was tried. Sometimes, but not always, included in the record will be the date that the event was alleged to have occurred. The records often also include some description of the nature of the offense and the impact it had on the victim(s) and the victim's household and the burgh. An inclusion of the punishment also gives insight into how the magistrates viewed the severity of the crime. At times, a record contains the social context, testimony and even motivations. However, more frequently the records omit the transgressor's own words, leaving us to extrapolate possible reasons behind their actions. Such actions, however, communicated loudly and clearly the basic intentions, desires and goals of those who were behind them.⁴² Regardless of the fullness of the account, the information burgh court records provide is sufficient to help reconstruct and arrive at an understanding of the use of criminal acts to achieve a goal or arrive at a resolution of some ongoing dispute.

The questions I put to these records center on the interplay between crime and the 'household-family'. In particular, to what extent did criminality involving multiple members of a household help strengthen familial bonds? Moreover, to what extent can the study of interfamilial and intrafamilial violence shed light on the nature of early modern Scottish households? As

⁴² J. Scott, *The Moral Economy of the Peasant: Rebellion and Subsistence in Southeast Asia* (New Haven: Yale University Press, 1976).

Walker suggested, historians need to explore what the ‘household as a microcosm of the state’ actually meant to the family in practical terms.⁴³ By contrasting the prescriptive perspective on how households ought to behave with how they actually behaved, this thesis aims to draw out the realities of family life in early modern Scottish burghs.

⁴³ G. Walker, “Keeping it in the Family”: 68-69.

CHAPTER TWO

Coping with Crime: Households and Misbehaving

In early 1530 the town of Edinburgh was threatened by perhaps the deadliest of early modern foes: the plague. By May, the plague had taken hold and regulations were promulgated which sought to ensure that the effects of the sickness on the burgh's population were mitigated. Of particular concern to the Edinburgh town council was the expulsion of beggars and vagabonds, the foul state of the closes [side streets], servants washing clothes other than those of their master and mistress, and most importantly the concealment of infected persons within a home. The records make clear that the priority of the burgh magistrates was to prevent the disruption of the order and stability of the burgh, particularly in the face of crisis. As such, magistrates expected householders to maintain the order and stability of their own households by living according to burgh law and customs. Because of the potentially devastating consequences of plague outbreaks the magistrates demanded that householders present all infected members of the household to officers of the burgh in order to determine proper care and potential quarantine.⁴⁴ However

⁴⁴ JD Marwick (ed), *Extracts from the Burgh of Edinburgh [ECR], 1528-1557* (Colston &

familial bonds, economic concerns and household preservation often meant that individuals chose to ignore the prescriptive measures put in place by the town. When such individuals were discovered, the town tended to deal with the offenders swiftly and severely.

This is evident in a case that appeared before the burgh court on 4 June 1530 when Issobell Cattail concealed from the town magistrates that one of her children was infected with the plague. According to the record, Cattail had ‘brokin the statutis of the toune, haldand hir dochtir seik within hir hous thir iij dayes bygane, and wald nocht reveile the samyn to the officiaris of the toune.’⁴⁵ For her crime Cattail was branded on the cheek and then she and her surviving children were banished from the town for ‘all the dayes of thar lyffis under the pane of deid.’ Furthermore, until the court proceedings were complete, and Cattail was finally forced to leave the burgh, she and her family were to remain in isolation until they were deemed healthy enough to travel. During this time the council made it explicit that they were under no circumstances to ‘scatter in the cuntre’ for fear of spreading the sickness. It is

Son: Edinburgh, 1871): 38 (3 August 1530): “The quhilk day, the prouest ballies and consall hes deuisit statut and ordanit, forsamelke as thar is divers personis within this toune quhilkis has had infectioun within thar housis, and thar selffis unremovit of the toune to the mure, bot clengit and dividit thameself amangis other housis, quharthrow gude provisiouu suld be maid for the clengyng of thar geir reparyng and using of thar housis and buthis, quharfor it is divisit and ordanit, that all syk personis that will tak on thame and thar lyffis that thar geir is cleyne, that thai sail bring all thar haill houshold wyf barnis and seruandis till thar duelling hous, and thar handill all thar gudis and remane with thar geir xv dayis; and safer as possible is that the officiaris of the tovne be sekyr, that thai handill thar said geir in this maner, that is to say, that thai stand befor thar durris and se the saidis personis and thar barnis bring thar said geir in thar armys and handill the samyn, and at the saidis personis mak faith that thai haif na vther geir na thai schaw to the saidis officiaris; and als that thai handill syklyke all the geir being in thar buthis with thar houshold and barnis, and outhere remane with thar geir a certane tyme in thar buthis or els to bring thar said geir to thar duelling hous and thar intromett and handill the samyn as is aboue wryttin.”

⁴⁵ ECR, 1528-1557: 30.

interesting to note that Cattail is listed as the 'spouse of William Tod' and yet he is not listed among those to be banished. While it is possible that Cattail had been widowed, it is unusual that the clerk would not note this.⁴⁶ In a period in which the husband and father was the unquestioned head of the household it would appear that the magistrates in this instance sought to punish Cattail for her actions within the household rather than Tod for the actions of the household. If this is the case then it is quite exceptional for a period in which householders bore the legal responsibility for all dependents.

Cattail was not alone in her endeavour to save her child and protect her home and its goods from the scrutiny of the council. On 25 June 1530, George McTurk and his wife Male Mudy along with Marione Suddirland and Alisone Bird were convicted of breaking the plague statutes relating to the concealment of an infected person.⁴⁷ McTurk, Mudy and Bird were all to be burned on the cheek for not revealing that there was a sick child in their home until after the child was dead. However, Suddirland was to be burned on the cheek and banished for the rest of her life for not revealing to the other members of her household and the town that she was the one that 'brocht the said seiknes in the hous.' Unfortunately the records do not make explicit the relationship of the four adults but it can be inferred from the last names within the home that Suddirland and Bird were servants employed by McTurk and Mudy. As I demonstrate in Chapter Three, it was not unusual for servants to participate in illegal activities with their employer and family.⁴⁸

⁴⁶ In Scottish court records widows are usually referred to as the 'relict of their deceased husband, while the deceased person is referred to as 'umquhill'.

⁴⁷ ECR, 1528-1557: 35.

⁴⁸ See Chapter Three.

This is evident in the July 1530 case in which Patrick Gowanlok, a flesher who was on pilgrimage to the Abbey of Melrose concealed a sick woman for ten days with the assistance of his servant Jonet Cowane.⁴⁹ The record notes that Gowanlok was a known receiver of ‘strangearis in his luying [lodging]’ and had previously been ‘inclusit’ [imprisoned] for the activity. The council convicted Gowanlok and he was sentenced to lose all of his freedoms and privileges of the burgh, he and his succession were banished from the town and half of his moveable goods were to be given to the common works. His servant, who was infected at the time of the court proceedings, was to be burned on both cheeks and banished from the town for ‘conceling the said seiknes and passand in pilgrimage [while] sche haffand the pestilens apone hir.’ Gowanlok’s sentence may seem severe: he was stripped of his right to earn a living, he had half of everything he owned escheated and finally not only was he banished from the town but so were any and all of his future children were. In early modern Scotland the intent of removing all members of the household from the burghs for wrongdoing reflected the belief that households were inclusive units and if that unit was infected (literally or metaphorically), then it needed to be excised in its entirety. Not only was this a contemporary legal and prescriptive belief but there is evidence in the records to suggest that such notions were commonly held by the broader community. For example in October of 1578, Elizabeth Liddell was convicted of the defamation and slander of Margaret Johnson for, among other slurs, invoking the fate of Johnson’s father who had been executed for

⁴⁹ ECR, 1528-1557: 35-6.

wrongdoing.⁵⁰ This type of slander is not an isolated incident, nor is it location specific. In the summer of 1581, a Dundonian man, Thomas Link, was convicted for physically assaulting John Goldsmith and slandering him by stating that two of Goldsmith's brothers had been hanged.⁵¹ Such slights were fairly commonplace throughout Scotland during this period.

The manner in which burgh magistrates dealt with plague in early modern Scotland was but only a single example of how local officials regulated households for the purpose of maintaining order in society. Officials in sixteenth- and seventeenth-century Scotland preached the centrality of the family while magistrates tried to promote the ideal of the well-ordered household. It was argued that marriage and the family were the essential forces, depended upon by the church and state alike, in forging social relations and a well-ordered and 'godly community.'⁵² This can be discerned from a 1641 publication, which stated that family exercise was '...a great help to the Kirk [church] and Commonwealth... Without it, neither good laws in the city, not the word of God in the Kirk [church] are duely regarded.'⁵³ Clearly, a properly governed household equated to a well-ordered society; thus, it was crucial for local officials to regulate behaviour within and between households. Throughout both secular and ecclesiastical proceedings there exists a wealth of sources that document contemporaries' violations of both types of law. For example, in Aberdeen in 1573, William Leith and his

⁵⁰ GB 236/SL 150/1/3/230 (29 October 1578).

⁵¹ D[undee] C[ity] A[rchives] Burgh and Head Court Records, Vol 15 (28 August 1581).

⁵² J. Nugent, "Married Women, Their Husbands and the Establishment of a 'Godly Community' of Scots" (forthcoming in Kimm Curran (ed), *Medieval Scottish Women*).

⁵³ *Familie Exercise, or, The Service of God in Families* (Edinburgh: Robert Bryson, 1641): 10.

‘wyf’ stood convicted by the burgh court for the ‘strublens [causing harm], striking and mispersoning [slandering]’ of Alexander Reid, his servant, and his ‘wyf.’ To add to his predicament, Leith and his spouse were also found guilty of ‘mispersoning of the bailies behind their bakis.’⁵⁴ Throughout sixteenth and seventeenth-century Scotland, court cases involving spouses, parents and children, siblings or servants were not an anomaly. This chapter lays out contemporary prescriptions of a well-ordered household during this period and contrasts such ideals with the reality of sixteenth-century Scottish life. Investigating how misbehaving threatened to disrupt communities made up of households of various sizes and functions enables us to understand better how early modern Scottish society functioned.⁵⁵

Until the middle of the twentieth century, the study of the social history of the family was virtually non-existent. While ‘the family’ has been seen by historians as the microcosm in which the ‘evolution of Western Civilization’ can be traced, understanding its actual function and composition had been somewhat neglected.⁵⁶ Beginning with Max Weber and Joseph Burckhardt in the nineteenth century, historians have sought to utilize this basic unit of social organization to chart cultural changes in religion, social structure, politics and economics. Historically, the family has been broken down into two main areas of study: its function or purpose and its composition. Within these two very general areas of inquiry a range of questions regarding emotional attachments, marriages, offspring, support, protection and familial duties have arisen. The Cambridge Group for the

⁵⁴ ACR Vol 26, 459 (14 October 1573).

⁵⁵ JRD Falconer, ‘A Family Affair’: 139-150

⁵⁶ Stone, 4.

History of Population and Social Structure was founded in 1964 by Tony Wrigley and Peter Laslett and was largely responsible for pioneering the work on English demographic history, the history of the family and the exploration of household structures. While Laslett and Wrigley were working in the archives with their army of volunteers scattered throughout England, Lawrence Stone was working on his formidable monograph, *The Family, Sex and Marriage in England, 1500-1800*. Stone and the Cambridge group represent two very different camps: Stone was interested in the change of the family dynamic over time whereas Laslett and Wrigley were primarily interested in investigating what the family looked like during a particular period and what that could reveal about wider society. Stone's work, no matter how much it can be castigated for its whiggish approach and weak methodology, cannot be disregarded. It was responsible for synthesizing previously overlooked data, probing into the private lives of early modern families and raising important questions regarding issues which continue to be relevant and hotly debated. His preoccupation with the composition, function and emotionalism of the household highlight three major contemporary areas of historiographical debate which have been repeated and expanded upon over the nearly forty years since its publication. Additionally, the monograph initiated what was soon to be a flood of other work all contributing to the demythologizing of the 'old master narrative.'

Prior to the 1980s, scholars argued that the medieval family was the originator of today's highly evolved and very modern family. In order to adhere to the modern concept of 'family,' the family of old underwent

significant changes in three specific areas: an ever increasing nuclearization, the relationships of authority were transformed by the growth of individualism and finally, the development of an increasingly intense emotionalism in familial bonds. Stone, rather than question the transition from old to new simply relocated it into the early modern rather than medieval period.⁵⁷ His pronouncement of a shift from medieval ‘open lineage’ family, to the early modern ‘patriarchal nuclear’ family, and to the affective domestic unit of the eighteenth century had been variously contested.⁵⁸ Some historians have postulated that no change occurred at all, while others have pointed to the onset of modernity coming with the eighteenth century which would imply more, rather than less, patriarchal authority and less emotional attachment. Criticism of Stone’s work came fast and furious, particularly by those who, according to Alan MacFarlane, actually studied the period in question.⁵⁹ Regardless of the amount of criticism Stone’s work generated, the period after its release saw a steady increase in the number of publications on the early modern family in England and the continent. Since the 1980s, the field has truly ballooned into one of the most dynamic and well-researched areas of early modern life, showing that even five centuries on, the family is

⁵⁷ K. Wrightson, “The Family in Early Modern England: Continuity and Change” in S. Taylor, R. Connors & C. Jones (eds) *Hanoverian Britain and Empire: Essays in Memory of Philip Lawson* (Woodbridge: Boydell Press, 1998): 6.

⁵⁸ R. Houlbrooke, *The English Family 1450–1700* (1984) and “Alternatives: the early modern English family”, *Early Modern History*, I (1992), pp. 30–1.

⁵⁹ A. MacFarlane, “Review of L. Stone’s *The Family, Sex and Marriage in England: 1500–1800*,” *History and Theory, Studies in the Philosophy of History*, 18, 1979: 103–26:

“While Stone manages, on the whole, to make the past fit into his scheme, putting forward a theory of the various stages through which England’s inhabitants passed, his description of life in the Early Modern Period bears little resemblance to the society which is revealed to a number of us who have studied the period. For example, I have been working for fifteen years on court records, village documents, diaries and autobiographies, pamphlets and tracts, sources which Stone uses and also others which he has failed to investigate. None of these supports his general evolutionary framework.”

once again acknowledged as the most important unit of social organization and the cornerstone of society.

What then do scholars make of this fundamental unit of society? In terms of its function, there are those who stress the economic aspect and those that stress the social. Craig Muldrew and Alexandra Shepard stress the importance of households in maintaining credit and reputation as well as their importance in creating and maintaining a division of labour between the sexes.⁶⁰ Frequently, both contemporaries and modern historians have seen the household as the place of production and the site of economic contributions to wider early modern society. Discussions regarding the role of men and women within the household are prominent, with special attention given to the importance of men or widows working outwith the home, negotiating webs of credit and women working within the home.⁶¹ Shepard cites the oft used John Dod and Robert Cleaver *A Godlie Forme of Householde Government: For the Ordering of Private Families, According to the Direction of Gods Word* to illustrate this point:

The dutie of the Husband is to get goods: and of the Wife to gather them together, and saue them. The dutie of the Husband is to travell abroad, to seeke [a] living: and the Wives dutie is to keepe the house. The dutie of the Husband is to get money and provision: and of the Wives, not vainely to spend it. The dutie of the Husband is to deal with many men: and of the Wives to talke with few. The dutie of the Husband is, to be

⁶⁰ C. Muldrew, *The Economy of Obligation: the Culture of Credit and social relations in early modern England* (Basingstoke, 1998); A. Shepard, "Manhood, Credit and Patriarchy in Early Modern England, c. 1580-1640," *Past & Present*, 167 (May 2000): 75-106.

⁶¹ Shepard, "Manhood, Credit and Patriarchy": 75-6.

entermedling: and of the wife, to be solitary and withdrawne. The dutie of the man is, to be skilful in talke: and of the wife, to boast of silence... It is to be noted, and noted againe, that as the provision of [the] houshold dependeth onely on the Husband: even so the honour of all dependeth onely on the woman: in such sort, that there is no honour within the house, longer than a mans wife is honorable.⁶²

Of course, the prescriptive nature of the text is not overlooked; in reality the relationships between husband and wife in early modern society were not as easily characterized. According to Muldrew, ‘The household and family were of paramount importance in both the way society was organized and conceptualized, especially in economic terms.’⁶³ Wealth was an attribute of the household, not just of the husband or wife, and the extent to which all parties (husband, wife, children, servants and apprentices) were successful at producing and selling as well as maintaining credit helped determine the fate of the household. Muldrew has argued that early modern societies were markets where things were bought and sold and where trust was given and taken back. More importantly, it was where ‘the social was defined as the need for, and the extent of, such trust.’ Thus, the more reliable households were perceived to be, the greater their chain of credit. In such a way reputation became synonymous with credit.⁶⁴ However, to look at the household and family only as a site of economic interaction is to overlook its other equally important purpose.

⁶² Shepard, “Manhood, Credit and Patriarchy”: 75.

⁶³ Muldrew, *The Economy of Obligation*: 157.

⁶⁴ Muldrew, *The Economy of Obligation*: 148-151.

Scholars also see the early modern household first and foremost as *the* critical social unit.⁶⁵ A home was where individuals learned acceptable behaviours, were shown how to develop relationships as well as the emotional acumen with which to participate in the outside world. Households were responsible for the earliest and most important periods of socialization in an individual's life. In essence, they created members of a community. According to Susan Broomhall, 'the concomitant emotional interactions which underpinned and shaped [daily] negotiations need to be foregrounded and historicized if we are to capture a broad picture of human motivations, and moreover of meanings of the household as a 'conceptual unit' that in turn informed behaviour in past times.'⁶⁶ This sentiment is crucial for a complete understanding of the early modern household. Wrightson also acknowledges the crucial role that the family played in fulfilling the emotional needs of its members; during this period there were no other institutions that existed to do so.⁶⁷ He notes that it was through the family that individuals found 'security and identity and the satisfaction of both physical and emotional needs.'⁶⁸ Through the relationships that were forged between husband and wife, society reproduced itself. Children were born and raised, they then left their homes and entered other households in service. During this time, while employed by a family other than their birth one, they developed skills and careers. Property and wealth were also transferred through generations of a family and eventually these children would then one day begin a family of

⁶⁵ S. Broomhall, "Emotions in the Household" in Susan Broomhall (ed.) *Emotions in the Household, 1200-1900*, (Basingstoke: Palgrave Macmillan, 2008): 1-3.

⁶⁶ Broomhall, 4.

⁶⁷ Wrightson, *English Society*: 66.

⁶⁸ Wrightson, *English Society*: 66.

their own.⁶⁹ It is now generally understood by historians that the affectiveness of the family has not changed overwhelmingly throughout the years. It would appear that amongst historians of the family, Stone's hypothesis of a broad change from impersonal relationships within the family to the later growth of 'affective individualism' is a dead letter. Indeed, the opposing view of an early modern family characterized by relationships similar to those common today is supported by both historians and historical evidence.

In the preface to his 1980 publication, *Household and Family in Past Time*, Laslett asked the question: 'is it possible to wonder whether our ancestors did always care about the form of the families in which they lived, whether they were large or small, simple or complicated, and even whether they contained kin or servants or strangers?'⁷⁰ He goes on to answer his question in a rather indifferent manner: they did not. This is largely because 'this determining influence may have been in fact of restricted significance.'⁷¹ However, employing Naomi Tadmor's 'household-family' concept frees scholars from the confines of previous assessments of what constituted a household or a family during the sixteenth and seventeenth centuries.⁷² Tadmor uses what she terms an 'archaic concept of the family', that is, the household which would include all of its possible dependants, as her central concept for analysis. She argues that this concept can be seen as fundamental

⁶⁹ Wrightson, *English Society*: 66.

⁷⁰ P. Laslett and R. Wall (eds.), *Household and Family in Past Time* (Cambridge: Cambridge University Press, 1972): ix.

⁷¹ P. Laslett and R. Wall (eds.), *Household and Family in Past Time*: ix.

⁷² N. Tadmor, "The Concept of the Household-Family in Eighteenth-Century England," *Past & Present*, 151 (May 1996): 111-40; N. Tadmor, *Family and Friends*.

in two senses. The first is that it was vital in contemporaries' own understanding, and secondly it now 'illuminates a wide canvas of social action; for example, when people left households or joined them, as servants, apprentices, wards or even as long-term guests, their actions were very often understood as familial actions.'⁷³ Largely linguistic in her analysis of sources, she notes that while there was most definitely an understanding of 'family' in seventeenth- and eighteenth-century England that emanated from relationships of blood and marriage, we should not consider co-residence and authority as lesser factors. Tadmor's work provides a highly useful and workable term for historians of the early modern family. It is not only sensitive to contemporary conceptions of family and household but is also a functional tool for historians to wield when dealing with the family in the sixteenth and seventeenth centuries.

The work of the Cambridge Group resulted in a statistical output that can also serve as a useful tool, as it too provides a framework for conceptualizing the early modern family. For instance, they estimated that the average household size in late sixteenth- and early seventeenth-century England was between four and five individuals.⁷⁴ Furthermore, they showed that the mean male age at marriage was between 27.1 and 28.1 years of age, and that the mean female age at marriage ranged from 24.8 to 27 years of age. Not only did most English men and women marry fairly late in life, but a large percentage never married at all. While the works of Stone, Laslett and

⁷³ N. Tadmor, "The Concept of the Household-Family in Eighteenth-Century England": 116.

⁷⁴ P. Laslett, D.E.C. Eversley & E.A. Wrigley, *An Introduction to English Historical Demography* (New York, 1966); P. Laslett, *The World We Have Lost* (New York, 1965); P. Laslett and R. Wall (eds.), *Household and Family in Past Time*.

MacFarlane raised the topic of family to a position worthy of study, Wrightson posits that they and others also brought with them a preoccupation with the presence, absence or emergence of nuclearity, individualism and emotionalism.⁷⁵ It is this preoccupation that has prevented scholars from asking the right questions, analyzing the data and arriving at diverse, innovative and dynamic conclusions, conclusions that do justice to the nature of the early modern household.

Increasingly, over the last two decades social historians of the early modern period have turned to legal records to shed light on the experience of early modern households. Not only do these sources reveal much in terms of the legal climate in early modern society, but they also expose the day-to-day experiences of a group of people who would ordinarily have lived undocumented lives. In fact, Muldrew has estimated that in the 1580s, the extent of litigation within urban centres in England would have amounted to one suit for every household in the country.⁷⁶ The types of litigation Muldrew refers to would have varied considerably in terms of civil suits, debts and a variety of petty crimes brought before the courts. As the study of both the family and crime in early modern Scotland is relatively new, the sort of statistical evidence presented by Muldrew has not yet been published. However, what is apparent in the records that exist and in the work that scholars have done so far is that Scotland's burgh court records provide great insight into the day-to-day experiences of early modern Scots.

⁷⁵ K. Wrightson, "The Family in Early Modern England: Continuity and Change": 21-2.

⁷⁶ C. Muldrew, *Economy of Obligation*: 236.

In order to explore the family dynamics of sixteenth and seventeenth-century Scotland, scholars are forced to reach far beyond the confines of the Scottish historiography. This is due to the fact that although the literature on the family, crime and the social order is growing, it is nowhere nearly as large as that dealing with English or continental topics. As no comprehensive body of literature on the family or crime in the early modern period exists for Scotland, it is necessary to utilize the existing English tradition for guidance while simultaneously keeping a critical eye open toward fundamental political, economic, social, legal and religious differences between the two societies. In 1986, the Scottish historian T.C. Smout commented that the 'history of the family is so neglected in Scotland as to verge on becoming a historiographical disgrace.'⁷⁷ In the years following his statement relatively little has been done to rectify the situation, hampered perhaps by the relatively late development of social history as a whole within Scotland. Regardless of the delayed growth of the family as a legitimate field of historical inquiry, inroads have been made in the past decade. A collection of essays, *Finding the Family in Medieval and Early Modern Scotland*, edited by Elizabeth Ewan and Janay Nugent, as well as new monographs on children, family life and the household in the modern period have added to the existing corpus.⁷⁸ However, as indicated by Ewan and Nugent's title, scholars are still in the process of locating the medieval and early modern

⁷⁷ T.C. Smout, *A Century of the Scottish People* (London, 1986): 292.

⁷⁸ Ewan & Nugent (eds), *Finding the Family*; L. Abrams, *The Orphan Country: children of Scotland's broken homes from 1845 to present day* (Edinburgh: Edinburgh University Press, 1998); A. Blaikie, "Unhappy after their own Fashion: infant lives and family biographies in Southwest Scotland, 1855-1939," *Scottish Economic and Social History*, 18 (1998): 95-113.

Scottish family. This is not to downplay the work of other Scottish historians, particularly those interested in crime. Michael Graham, Margo Todd, Gordon DesBrisay, JRD Falconer and Ewan all engage with community, discipline and petty crime on some level, but both the material and the questions asked vary widely.⁷⁹ While historians have examined some of the social implications of crime and misbehaviour throughout the sixteenth century, there are no full-length studies of misbehaviour or petty criminal activity in early modern Scotland or on the responses to such activities to date.⁸⁰ Furthermore, there is virtually nothing to date on the connections and relationships between crime and the family.

Surprisingly Scottish burgh court records contain very few cases of intrafamilial violence. This is all the more surprising in the context of the works done by Frances Dolan, Susan Amussen and E.A. Foyster, all of whom have drawn out how common it was for violence to occur within the home in early modern England.⁸¹ Far more commonly, Scottish burgh courts heard cases of violence, both physical and verbal, that were in essence part of an

⁷⁹ M.F. Graham, *The Uses of Reform*; M. Todd, *The Culture of Protestantism in Early Modern Scotland* (New Haven: Yale University Press, 2002); E. Ewan, "Many Injurious Words': Defamation and Gender in Late Medieval Scotland" in R. Andrew McDonald (ed.) *History, Literature, and Music in Scotland, 700-1560* (Toronto, 2002): 163-186; E. Ewan, "Disorderly Damsels? Women and Interpersonal Violence in Pre-Reformation Scotland," *Scottish Historical Review* Vol. 89:2 (October 2010): 153-71; JRD Falconer, "Community, Conflict, Control: the Burgh of Aberdeen c.1542-1603" unpublished PhD dissertation, Guelph University, Guelph, Canada; JRD Falconer, "Mony utheris divars odious crymes': Women, Petty Crime and Power in Later Sixteenth Century Aberdeen," *Crimes and Misdemeanours; Deviance and the Law in Historical Perspective*, 4:1 (2010): 7-36; G. DesBrisay, "Twisted By Definition: Women Under Godly Discipline in Seventeenth-Century Scottish Towns" in Y. Brown & R. Ferguson (eds.) *Twisted Sisters: Women, Crime and Deviance in Scotland Since 1400* (Tuckwell Press, 2002): 137-155.

⁸⁰ JRD Falconer's, *Crime and Community* is the first full-length study of petty crime in early modern Scotland.

⁸¹ S. Amussen "Being Stirred to Much Unquietness"; F. Dolan, *Dangerous Familiars*; E.A. Foyster, "Male Honour, Social Control and Wife Beating in Late Stuart England," *Transactions of the Royal Historical Society* 6 (December 1996): 215-224.

ongoing prosecution of conflict between households. Arguably, the highest incidence of family members participating in crime was between husband and wife. The cornerstone of any household was the relationship between husband and wife, the patriarch and his partner. The sixteenth-century household manual by John Dod and Robert Cleaver outlined basic roles of husband and wife:

The duty of the husband is to be lord of all; and of the wife, to give account of all. The duty of the husband is to dispatch all things without door [outside the home]; and of the wife, to oversee and give order for all things within the house. Now where the husband and wife performeth these duties in their house, we may call it a college of quietness. The house wherein these are neglected, we may term it a hell.⁸²

The emphasis on this passage and indeed most of the manual is on keeping order within the household proper. What is key for the author is the maintaining of quietness between family members, especially husband and wife. However, maintaining an orderly, quiet household meant getting along with one's neighbours. What about when conflict arose outwith the household?

In May of 1571, Andro Wallange of Leith was convicted of the wounding and striking of George Blak. Wallange had drawn a dagger against Blak and had wounded him on his forehead. Additionally, Wallange was found guilty of the striking of Blak's son, 'hurting divers partis of thair boddis'. Wallange was found in amerciament of court and was to be punished

⁸² Shepard, "Manhood, Credit and Patriarchy": 75

for his fault. The record states further that the day after Wallange attacked Blak and his son, Blak retaliated against Wallange and his wife, Issobell Stewart. The elder Blak was indicted and accused of striking and drawing a dagger on Wallange's wife, giving her many 'bludie strokis to the grit effusion of hir bluid'. Although he was accused of this crime, the court ultimately found Blak innocent. These entries raise a number of questions that may unfortunately be beyond the scope of the record. We do however have a sense of the chronology of the events. We know that the cases were tried on 28 May, 1571, and that the offenses occurred on May twenty-fifth and twenty-sixth respectively. To further complicate the situation, it would appear that Wallange and Stewart were also convicted of slandering Margaret Broun, spouse to Roger Weddell, a mariner. The offense is cited as taking place on the 26 May, 1571 – the same day that Stewart was attacked by Blak. Whether or not Blak and Broun were connected cannot be known. However, given the proximity of the two cases it is not unrealistic to consider that the criminal activity of the couple had something to do with the verdicts in favour of Blak in both instances and Broun in the slander case. Regardless, most interfamilial crimes were committed as a way of prosecuting an ongoing conflict with another party. Random acts of violence were infrequent. It is far more likely that Wallange and Stewart were operating under the perception that their household had been negatively impacted in some way by the actions of George Blak, his son and Margaret Broun. In order to correct that wrong, and thus ensure that the orderliness of their own household was not further affected, they participated in violence as a means of achieving restitution.

The attempt to protect one's household was not only the realm of husband and wife. For instance, in May of 1576 the Canongate burgh court convicted Issobell Pendis, the spouse of William Smyth, and Alysoun Pendis of the 'maisterful dinging and striking' of Katherine Portoune, the spouse of Robert Dellgat.⁸³ It is likely that the Pendis women were sisters. While it is possible that Issobell and Alysoun were mother and daughter, it was customary for a daughter to take the last name of her father while the mother/wife retained her own surname. There is also the slight possibility that the women were unrelated but shared the same last name. On occasion women who were unrelated did commit crimes together, but this was rare. Until more detailed studies of local family networks have been undertaken, it is difficult to establish for certain that there were no familial links between them.⁸⁴ Regardless, the Pendis' participation in the physical assault on Portoune is indicative of the women having a shared interest in the prosecution of an ongoing conflict on behalf of their household. It is likely that the women lived together, with Alysoun lodging with Issobell and her husband and that the conflict was a direct result of a slight on the family home. The court record goes onto note that the Pendis women verbally assaulted Portoune and physically accosted her. The women cast stones at Alysoun, knocked her cap to the ground, pulled her hair and called her a common whore and thief. It is highly unlikely that the pair had separate motivations to attack Portoune in this manner.

⁸³ GB 238/ SL 150/1/1/388 (9 May 1576).

⁸⁴ E. Ewan, "Disorderly Damsels":153-162.

For their offences, the baillies discerned and ordained the Pendis' to make 'ane sufficient amendis and satisfioun to ye said Katherine Portoune'. The women were also given an unlaw [the fine exacted from one found guilty of a crime or misdemeanour]. However, a further reading shows that Portoune was not without fault. On the same day, Katherine was convicted of the injuring and blaspheming of Issobell Pendis for calling her a 'commoun bordell huir' and that all of those residing in her household were also 'commoun huiris'.⁸⁵ Furthermore, this offense was said to have taken place in the dwelling house of the said Issobell. This helps to make sense of why both Issobell and Alysoun attacked Portoune. For her attack on the Pendis' household, Portoune was to make amends with Issobell and was also fined. The records indicate that both confrontations occurred on April 26, 1576 and appear in the records with the case involving Issobell and Alysoun Pendis versus Katherine Portoune first, and Katherine Portoune versus Issobell Pendis second. However, this does not necessarily follow the chronology of the actual events. In all likelihood the conflict began with Portoune feeling the need to confront Issobell in her home. The insults that resulted were such that Alysoun Pendis felt slighted, it is no wonder since it was implied that Issobell was a bordello keeper and that all those who lived within the home common prostitutes. In the hours following that incident it would appear that Issobell and Alysoun happened upon Portoune and sought retaliation through physical and verbal assault. Such incidents were common.

⁸⁵ GB 236/SL 150/1/388 (9 May 1576)

In March of 1577 in the burgh of the Canongate, Issobell Balzart, the spouse of indweller Henry Jamesoun, and Elizabeth Jamesoun ‘his dochter’ were involved in an altercation with Alisone Watsoun, the spouse of Thomas Balzart. This case is of interest not only for the family dynamic between Issobell and Elizabeth but also because of the possible connection between Issobell and the victim’s husband, Thomas Balzart. In sixteenth-century Scotland, Balzart or Balzert was not a common surname so the probability of Issobell and Thomas being brother and sister is higher than if their last name had been of the ‘typical’ Scottish variety.⁸⁶ If we accept this familial connection then it would appear that Issobell and Elizabeth likely attacked their sister-in-law and aunt respectively. There is no reason to believe that Elizabeth is Henry Jamesoun’s daughter by a previous marriage, although the linguistic usage may imply to modern readers that Elizabeth could be Issobell’s stepdaughter. In reality, the wording used to illustrate this family is indicative of the period and its customs regarding familial authority. In essence, Henry Jamesoun was the head of his household and all dependents, whether that be his wife, children or servants, were under his care and protection. Legally he answered for them. According to Elizabeth Ewan, most early modern law codes and customs restricted women’s rights to appear in courts of law and to defend their actions.⁸⁷ Furthermore, prescriptive literature indicates that wives were to be represented by their husbands, daughters by fathers and unmarried women or widows by a male

⁸⁶ Balzart or more commonly, Balzert, is of French or Belgian origin.

⁸⁷ E. Ewan, “Scottish Portias: Women in the Courts in Mediaeval Scottish Towns,” *Journal of the Canadian Historical Association / Revue de la Société historique du Canada*, 3 (1992): 27-43 : 29.

relative. However, it would appear that in Scotland, women were able to use the law not only to their own advantage but also without male assistance.⁸⁸ So while it may be the case that Jamesoun's name was invoked by the clerk, it cannot be known whether or not he played a significant role in the actual court proceedings. What we do know is that Issobell and Elizabeth set upon Alisone with their hands and feet, casting her to the earth and ripping her apron from body. They then cut her head and set 'yair handis in ye plaittis [braids] of hir hair'. For their crimes, Issobell and Elizabeth were to ask Alisone for her forgiveness and were fined by the court. Unfortunately this case stands as a single entry concerning this family in the court book. The motivations for turning against sister-in-law and aunt are not known, nor do we know if Alisone or Thomas ever attempted to retaliate. This case does however, provide an example from the Canongate court record book in which members of an extended family came to blows. It also reveals that this type of conflict resolution was not enlisted only to settle disputes with other households, rather violence was a means of resolving a conflict regardless of blood or marital ties. While intrafamilial violence such as this was uncommon in sixteenth-century Scottish court documents, the types of assault used and the participation by family members against another household were anything but.

In May of 1575 in the Canongate, Besse Cunnyinghame, the spouse of James Martyne and James Martyne their son, were convicted of crimes. Bessie was guilty of the 'injuring and scldandering of Jonet Cullpas calling her

⁸⁸ Ewan, "Scottish Portias": 29.

huir and thief and uthir diverse siclyk wordis,' while James was convicted of the cruel striking of the said Jonet with a batton. The mother and son were 'aduijit in ane unlaw and amerciament of court to be puneist for their faltis.' The bond between mother and child is illustrated further by revisiting the case cited earlier in the chapter of Elizabeth Liddell and Margaret Johnson. In October of 1578 Liddell was convicted of the open defamation and slandering of Johnson and, along with invoking the fate of Johnson's hanged father, Liddell called Johnson a 'scurgit thief and ane commoun huir'.⁸⁹ However, the record goes on to note that the physical attack on Johnson was at the hands of Liddell and her daughter, Elizabeth Bennit. Interestingly, Liddell's daughter is mentioned only as an attacker, working in tandem with her mother and is not actually charged or convicted with an offense. Liddell however was found guilty and was to make amends with Johnson.

Men also figured prominently in cases of violent assault in early modern Scotland. This is by no means meant to give authority to Stone's assertion that 'men brawled, women slandered; men took direct action against the law when they felt aggrieved, women only in accordance with a higher moral code.'⁹⁰ In fact, the cases cited above show that women were by no means accountable to some 'higher moral code'; rather, they were just as likely to commit physical violence as their male counterparts.⁹¹ Conversely, as the following cases illustrate, men were not above slandering and

⁸⁹ GB 236/SL 150/1/230 (29 October 1578)

⁹⁰ Stone, 201. See also C.Z. Wiener, "Sex roles and crime in late Elizabethan Hertfordshire," *Journal of Social History* 8, 4 (1975): 38-60.

⁹¹ JRD Falconer, "'Mony utheris divars odious crymes': Women, Petty Crime and Power in Later Sixteenth Century Aberdeen", in *Crimes and Misdemeanours; Deviance and the Law in Historical Perspective*, 4:1 (2010): 7-36

blaspheming their victim. In July of 1562, Aberdonian John Chalmer was convicted of injuring and slandering the town and it was decided that he 'aught not to be sufferit to pas at liberte in this town.'⁹² In September of the same year, James Fodringhame mispersoned and slandered William Cuitoun, the deacon of a craft.⁹³ Non-familial women could also become involved with men in disputes. On 1 April 1574, Andro Sorynssoun was convicted of the 'coming to the dwelling house of Marjorie Achesoun and there cruelly striking and dinging of the said marjorie with his hands and feit and taking to hir with ane [batton] upoun hir brow to the great efusion of hir bluid.'⁹⁴ While Andro was found guilty of his crime, Marjorie was also found guilty of injuring and blaspheming Andro. Both were in americiament of court and were to seek amends from each other.

Men did not always act alone or with women in a lesser, subservient position. The records indicate that on 26 June 1553, siblings Maly and Charles Lyon were convicted of the missaying and strubling of Elspett Mathew and Besse Barcar and were 'ordainit be the baillies to sett down upon their knees in judgment and ask the said besse and elspet forgiveness and to pay them tua shillings [and if] they convictit for siclyk in tym cuming to pay 40 shillings.'⁹⁵ In this instance brother and sister were working together to right a perceived wrong. One of the victims in this case, Besse Barcar, is one of the most colourful characters in the Aberdeen Council Register. Appearing alone, or with her husband Charles Davidson, Barcar is charged with five

⁹² ACR Vol. 24, 479 (24 July 1562).

⁹³ ACR Vol. 24, 505 (11 Sept 1562).

⁹⁴ GB 236/SL 150/1/507 (1 April 1574)

⁹⁵ ACR Vol. 21, 449 (26 June 1553).

different crimes ranging from assault to regrating [cheating the market] and appears as the victim on four separate occasions between 1543 and 1559. In one of these cases, Barcar is threatened with banishment when she and her two daughters misperson and struble Maly Bird, the spouse of a baxter.⁹⁶ Barcar is even named as the recipient of stolen merchandise from a woman who very well may have been her sister-in-law, Issobell Davidson.⁹⁷ Davidson was convicted of the wrongous intromission [theft] of goods from Robert Aikin in 1557. Davidson was put in the govvis [pillory] and banished for her wrongdoing. While the evidence is lacking to declare with any certainty that Issobell Davidson and Barcar were related, it can be argued that when committing a crime such as a theft which results in the need to hide or resell the goods the thief would need a trustworthy network or at the very least an individual or family member. Who better for Davidson to trust than a sister-in-law who also has an extensive criminal past?

While burgh court records may lack detailed description, motivations and witness testimonies that can illuminate the precise reasons why violence erupted between the members of different households, the actual incidents reflect upon the dynamics and social bonds between household members. This in and of itself helps us to arrive at a deeper understanding of the early modern family. In particular, these cases speak to the collective nature of the criminal actions committed by multiple household members during this period. Regardless of whether it was an individual or the whole household being targeted in the initial offense, when the violent response came it was

⁹⁶ ACR Vol. 23, 136 (13 Apr 1559).

⁹⁷ ACR Vol. 22, 601 (26 July 1557).

often perpetrated by multiple members of the household who equally felt an affront. In terms of household criminality there was very little that was individualistic about crime during this period despite the fact that early modern commentators conceptualized all criminality as a 'flaw within the individual.'⁹⁸ According to Garthine Walker, to focus on the individual as a perpetrator of crime is to focus on a 'male-centered analysis that is blind to women's positive involvement in unlawful enterprises.'⁹⁹ By extension to focus only on the initial victim, the recipient of the blow or subject of a slur, is to ignore the wider networks in which such individuals were operating. It has been shown that the ramifications of a violent act went beyond the intended victim, affecting entire households and communities.

In April of 1570, Marioun Robeson launched a verbal attack on both Cuthbert Ferguson and Elizabeth Bradfirt. Whether the two victims were connected beyond their affiliation with Robeson is unknown, however it seems likely that they were in fact husband and wife.¹⁰⁰ Robeson had apparently gone behind Ferguson's back, telling people that he should be hanged for 'ye douncasting of [the] kirk'. Her assault on Bradfirt struck at not only one of the central relationships of the early modern family but also at notions of credit, reputation and female sexuality. Robeson slandered Bradfirt, calling her a common thief, a 'brokar of marriage' and a 'resettar [thief] of wyfis husbandis in huirdome within hir hous.' Here Robeson

⁹⁸ G. Walker, "Keeping it in the family: Crime and the early modern household," in H. Berry and E. Foyster (eds.) *The Family in Early Modern England* (Cambridge: Cambridge University Press, 2007): 68; C.B. Herrup, *The Common Peace: Participation and the Criminal Law in Seventeenth-Century England* (Cambridge: Cambridge University Press, 1987): 4.

⁹⁹ G. Walker, "Keeping it in the family: crime and the early modern family": 69.

¹⁰⁰ GB236/SL 150/1/146 (26 April 1570).

implicated not only Bradfirt but also her husband in particular and her household in general. Moreover, she impugned the wider community in her inclusion of ‘wyfis husbandis.’ Yet, in delivering its guilty verdict upon Robeson, it is interesting to note that the court clerk comments that Bradfirt, was ‘an honest woman of name and fame.’ Two entries from August fourth of the same year show that not only was Robeson unhindered by her past conviction but she also continued to carry a sense of aggrievement. Four months after the initial conviction, Robeson continued to accuse Bradfirt of sexual impropriety, in this case adultery as she had ‘put hir awin husband awt of bed.’¹⁰¹ This time the court made explicit their displeasure by fining Robeson eight pounds and sentencing her to the branks [scold’s bridle] for an hour. In addition, she was warded in the tollbooth and was threatened with banishment if she ever slandered any inhabitants of the town in word or deed. Bradfirt, however, did not remain silent. She was convicted of the injuring of Robeson, calling her a thief and a witch and saying that she had evil geir [weapons] that were for ‘cutting menis throttis’.¹⁰² Despite the charges Bradfirt became ‘actit of hir awn consent to content and pay to ye magistrate of yis burgh for ye tyme ye sowme of five pundis of unlaw to be destrubutit to ye poor’ and if she was ever to slander any person in the future she would be convicted by an assize. These punishments indicate that the burgh magistrates understood punishment to be a rehabilitative endeavour and that criminal actions could have a positive resolution which benefited an audience broader than that of the offended. Promising not to slander any other

¹⁰¹ GB236/SL 150/1/187 (4 August 1570).

¹⁰² GB236/SL 150/1/188 (4 August 1570).

community members in the future and making a donation to the poor highlight such ideas. What stands out in particular is the perception of household order and stability in ensuring the community's well-being.

Scholars of the family in the early modern period make much of the authority that patriarchs possessed. Their supposed authority extended over their wives, children, servants and apprentices, unmarried sisters and even lodgers. Conduct manuals, legislation and church sermons make explicit the relationship the head of the household was to have with his family: like that of a king and subjects. However, to subscribe wholeheartedly to this is to ignore the reality of the family unit during this period. Early modern household dynamics were not dictated by authority alone, rather, the dynamics were complex and involved, familial bonds proving to be based on more than domination and submission. Wives, children, sisters, servants and apprentices had more than patriarchal obligation to motivate them to be involved in criminal activity. Emotional bonds cannot be overlooked, and while Stone may have argued that infant mortality rates and arranged marriage made for emotionless households, it is difficult to imagine that only with the dawn of the modern era did fathers and mothers begin loving each other and their children.¹⁰³ The affront felt by family members when individuals within the household were directly targeted was significant enough to induce them to respond. Additionally, individuals sought to undermine the social standing of those they were engaged in conflict with. As such, verbal assaults often posed a significant threat to the credit and

¹⁰³ L. Stone, *The Family, Sex and Marriage*. This is firmly refuted in A. Macfarlane, *The Family Life of Ralph Josselin: A Seventeenth-Century Clergyman. An Essay in Historical Anthropology*. (Alan Macfarlane, Cambridge University Press, 1970)

reputation of the impugned household and had an immediate, tangible economic impact. This is most obvious when the words used to attack included reference to probity, honesty and, more frequently in the case of female victims, sexual impropriety. Conversely, conflicts between households frequently originated with one party seeking to enhance or increase either their economic or social standing in the community. As a number of the cases in the next chapter indicate, all household members, not just heads of the household, were keen to protect and enhance the family's well-being.

CHAPTER THREE

Master and Servant: Building Bonds in Early Modern Scottish Households

Interfamilial and intra-familial acts of violence were not uncommon in sixteenth-century Scotland. Beyond the feuds so commonly reflected upon in both academic and popular histories of Scotland, historians are increasingly recognizing that criminal activities between families help shed light on household dynamics. While clerks seldom recorded the motivations behind verbal and physical assaults perpetrated by families against families, the records often provide glimpses into the tensions at play both within a family and the broader urban community. On July seventh, 1573, Elizabeth Sorynssoun and her servant Jonet Drummond came upon the wife of a Canongate tavern keeper on one of the burgh's busy streets.¹⁰⁴ According to the court records, Elizabeth and Jonet launched a verbal attack on Issobell Kincaid, calling her a 'common bordallar' and thief. As we have seen previously, attacks on women's sexuality were fairly commonplace but the

¹⁰⁴ GB 236/SL 150/1/408 & 409 (21 July 1573).

inclusion of an assault on her probity suggests that Kincaid's attackers felt a deeper sense of aggrievement. An accusation of theft could also be taken to mean that the individual was underhanded in their business dealings. In this instance, the attack was probably on the tavern run by Kincaid's husband. If that was the belief held by Sorynssoun, then it was a serious issue between the households. This is borne out by the fact that the pair also resorted to physical violence. Not satisfied with a purely verbal assault, the women proceeded to throw Issobell to the ground where they set upon her, using their hands and feet as weapons. The record indicates that Issobell was beaten repeatedly on the head and that the attackers paid much attention to striking at and pulling at Issobell's hair and kerchief.

The violence did not end with the attack on Kincaid. Jonet Drummond, Sorynssoun's servant, then took her frustrations from the street to the tavern where she attacked Kincaid's servant, Margaret Smyth.¹⁰⁵ The court records indicate that Drummond came upon Smyth in the tavern whilst she 'wes pulland hir said maisteris wyne [lowering casks of wine into her master's cellar].' Drummond set upon Smyth with her hands and feet, pulling at her hair and clothing. The court clerk hints at a possible motive for these attacks when he notes that Sorynnsoun and Drummond made claims that Kincaid and Smyth had set upon the pair the day prior to the July seventh altercation. The clerk noted that Sorynnsoun charged Kincaid with 'cruell and masterful dinging [beating or striking hard]' and casting her to the ground where Kincaid then pulled at Sorynnsoun's hair and kerchief. The clerk also

¹⁰⁵ GB 236/SL 150/1/408 & 409 (21 July 1573).

indicates that Sorynnsoun's servant, Jonet Drummond, made claims against Kincaid and her servant.¹⁰⁶ It is recorded that Kincaid and Smyth were accused of 'the cruell and maisterful stryking of Jonet Drummond with thair handis and feit' on July sixth 1573.

The inclusion of the servants in this violent household dispute makes it clear that 'family' meant more than simple biological attachments. It is highly unlikely that these four women were operating based on independent quarrels with each other. Rather, the assaults hint at a deep-seated power relationship between members of the urban society.¹⁰⁷ The language used to describe all the assaults reflects the desire of the culprit to place the victim in a vulnerable or submissive position. Hair rugging, kerchief removing and casting to the ground were ways to highlight perceived immodesty. Calling Kincaid a common bordello keeper made this perception of immodesty explicit. More importantly, drawing Carmichael, a respected burgess and businessman, into the quarrel by using his tavern as the site of the conflict brought Kincaid's entire family into question. It is likely that the verbal assault was intended to suggest that this family's honest business transactions were in fact dubious and improper. In this way we might also see the conflict as a possible struggle between households from different social networks and status.

Whether or not the conflict between both families was about social status or power is somewhat beyond the scope of this thesis. What is important is that Sorynssoun and Drummond were acting on behalf of their

¹⁰⁶ GB 236/SL 150/1/408 & 409 (21 July 1573).

¹⁰⁷ Falconer, *Crime and Community*.

household while Kincaid and Smyth were acting on behalf of their own.¹⁰⁸ It is apparent that such conflicts underscore the bonds between members of early modern households. This is clear from the fact that in 1575 Elizabeth Sorynnsoun was brought before the magistrates on charges of once again assaulting Margaret Smyth and continuing the struggle that had brought her and her servant to the notice of the court and community two year earlier. This case, although an excellent example of the tensions in burgh community life, was not unique. This chapter explores the dynamics between some of the more ‘diverse dependents’ within the household, in particular servants and apprentices and their masters and mistresses by examining the bonds that extended beyond contractual obligations by looking at household dynamics through the lens of criminality.

As we have seen in previous chapters, historians have engaged with the social history of the family since the Cambridge Group’s pioneering work on family reconstruction in the middle of the twentieth century. Despite the tremendous contributions made to the field from MacFarlane, Stone, Wrightson and others, there have been some areas that have not received adequate attention. In terms of important social groups, servants and apprentices, for the most part, are only recently coming to the forefront of social historians’ attention. Servants, in particular, were everywhere in the early modern landscape: unmarried young people who routinely lived in their masters’ households, earning a pre-arranged wage in private homes, on farms and in taverns and shops. Tadmor recognized the important place servants

¹⁰⁸ G. Walker, “Keeping it in the family: Crime and the early modern household,” in H. Berry and E. Foyster (eds.) *The Family in Early Modern England* (Cambridge: Cambridge University Press, 2007): 79-80.

had within the household and encouraged more historians to move their studies of the family away from the sociological preoccupations synonymous with the Cambridge group and explore the broader dimensions of the 'household-family'.¹⁰⁹ As Chapter Two demonstrated, this term encapsulates a group of persons living under the same roof and under the authority of the same household head including, but not limited to, spouses, offspring, house guests, servants and apprentices. Tadmor's work reveals that in order to comprehend the early modern family it is crucial to avoid marginalizing the important place of servants, apprentices, lodgers and live-in relatives in the household.¹¹⁰ Increasingly, this definition has become key to viewing service as an area of employment that encroached on almost all aspects of economic and social organization of the household. Nonetheless, our understanding of master and servant relationship or the place of the servant within the 'household-family' continues to be hindered by a lack of focused research not only on the nature of the bonds established between these groups but also on the role of the servant within the household.

Unfortunately most monographs provide at best a few paragraphs and at worst a single sentence regarding the place of the servant or apprentice within the household. To date there have been only two monographs dedicated to servants in early modern England and no full-length study of servants in Scotland. Ann Kussmaul's *Servants in Husbandry in Early Modern England*, as the first of its kind, is concerned largely with statistics and does not delve into the cultural significance of such a large body of

¹⁰⁹ N. Tadmor, *Family and Friends*: 20-21.

¹¹⁰ N. Tadmor, *Family and Friends*: 38-9.

adolescent workers nor the social significance of the incorporation of servants into families. Her focus is rural and therefore the majority of her findings, such as typical tasks and wages, are not applicable to an urban community. Additionally, R.C. Richardson's monograph, *Household Servants in Early Modern England*, is in reality a study focused on elite, eighteenth-century households. Such a narrow focus, however, may not be due to any preconceived perception on the part of the author of what constituted 'early modern.' Underscoring the lack of an established body of literature on the subject, Bernard Capp recently commented that students interested in the social history of service would need to turn to the primary sources for any information on an earlier period or on households of a different social stratum.¹¹¹ This is true of Scotland as well. In a recently published MPhil thesis on servants in Ayrshire from the eighteenth to twentieth centuries, Jean Aitchison relied entirely on primary source material to arrive at a descriptive survey of service.¹¹² It is apparent, even after a cursory search, that much of the scholarship concerning service in the British Isles is concerned with England and the late eighteenth through twentieth centuries.¹¹³ The early stages of the early modern period, that is from approximately 1450-1600, have been largely neglected. Tim Meldrum

¹¹¹ Capp's comments were made in his reflections on Richardson's work, see: B. Capp, Review of: *Household Servants in Early Modern England*, R.C. Richardson, *English Historical Review* 520 (2011): 698-700.

¹¹² J. Aitchison, *A Study of the Servant Class in South Ayrshire, 1750-1914* (Ayrshire Archaeological and Natural History Society, 2001).

¹¹³ C. Steedman, *Labours Lost : Domestic Service and the Making of Modern England* (Cambridge: Cambridge University Press, 2009); C. Steedman, *Master and Servant: Love and Labour in the English Industrial Age. Cambridge Social and Cultural Histories* (Cambridge University Press, 2007); Kristina Straub, *Domestic Affairs: Intimacy, Eroticism and Violence between Servants and Masters in Eighteenth-Century England* (Baltimore: Johns Hopkins University Press, 2009).

presents the lives of men and women who lived and worked as domestic servants between 1660 and 1750 using the testimony of 1 500 individual servants brought up before the London consistory courts, while Carolyn Steedman looks at female domestic servants in Yorkshire in the late eighteenth century.¹¹⁴ The proliferation of works from this later period is owed largely to the substantial increase in both quality and quantity of the sources as well thematic changes: feminization of domestic labour, Enlightenment concerns with the treatment of hired help and the increasing awareness of the ‘servant problem’.¹¹⁵

The reality is that scholars have constructed a collage of incoherent snapshots gleaned from diaries, court records, surviving contracts and legal statutes spanning four hundred years. Our understanding of the relationship(s) formed within the household between servants and other household members has been muddled, to some extent, by the preoccupation of scholars with the negative consequences, or ‘darker elements’ of those relationships: sexual impropriety, theft, dishonesty and disobedience and heavy-handed governance.¹¹⁶ Richardson’s work is an example of this. In both his monograph and in a recent article he exemplifies the scholarship on the subject by focusing on the dysfunctional aspects of the master and servant relationship rather than the harmonious.¹¹⁷

¹¹⁴ T. Meldrum, *Domestic Service and Gender, 1660-1750* (London: Longman, 2001)

¹¹⁵ R.C. Richardson, *Household Servants in Early Modern England* (Manchester: Manchester University Press, 2010); K. Straub, *Domestic Affairs*.

¹¹⁶ Richardson, *Household Servants*.

¹¹⁷ E.P. Dennison, D. Ditchburn and M. Lynch (eds.) *Aberdeen Before 1800: A New History* (East Linton: Tuckwell Press, 2002): 53.

That is not to say that scholars have ignored the harmonious aspects of the master and servant relationship. From the historiography, however limited, a line can be drawn. There is a seemingly unconscious division between scholars in regards to the familial and contractual obligations placed on servants and apprentices. Most historians have implicitly highlighted the tension in early modern households between non-blood relatives developing familial bonds with other members and the observance of the contractual limitations imposed by the institution of service. It is widely held that approximately 60% of youths between the ages of fifteen and twenty-four were employed as servants throughout England in the early modern period. While there are no figures for Scotland, the institution was not new and in terms of similarities in demographics and economy it can be argued that a high proportion of Scottish youths would have been economically involved in households other than their own.¹¹⁸ Keith Wrightson and Cynthia Herrup argue that in most cases the servant acted in some ways as the surrogate for a householder's departed offspring within a household.¹¹⁹ Wrightson notes that at the very time in which a child became economically significant within their birth home is the time that they would leave to enter service. These children would leave home and enter into service and were 'replaced, if their parents could afford it, by servants working for hire.'¹²⁰ Herrup expands on the idea of replacement, hinting at outright surrogacy when she states that

¹¹⁸ Wrightson, *Earthly Necessities*: 33. I.D. Whyte, *Scotland Before the Industrial Revolution: An Economic and Social History, c.1050-c.1750* (New York: Longman, 1995): 101-118; M.H.B. Sanderson, *A Kindly Place: Living in Sixteenth-Century Scotland* (East Linton: Tuckwell Press, 2002).

¹¹⁹ Dennison *et al.*, *Aberdeen Before 1800*: 56.

¹²⁰ Wrightson, *English Society*: 113.

'relationships between masters or mistresses and servants, albeit temporary, could be more continuous, more dependent, and more intimate than those between parents and offspring.'¹²¹ While this sort of understanding of the nature of the master and servant relationship is gaining currency with historians of the family, the behaviours and activities of the servants themselves must also be taken into account.

Early modern servants are increasingly being introduced as 'cultural amphibians', and rather than highlighting their perceived vulnerability, works are now showcasing their agency.¹²² In an oft quoted sixteenth-century poem, a servant does just that:

I can sowe
I can mowe
an I can stacke
And I can doe
My master too
When my master turns his back ¹²³

This short verse captures one potential dynamic between master and servant. This example of contemporary sentiment, and others like it, combined with court cases and prescriptive literature have done much to colour how historians perceive the bond between master and servant. This dysfunction, the servant waiting until the master's back is turned to inflict harm on the master's person, goods or reputation, is highlighted in the work of

¹²¹ C. Herrup, *A House in Gross Disorder: Sex, Law, And the 2nd Earl of Castlehaven* (Oxford: Oxford University Press, 1999): 14.

¹²² Richardson, *Household Servants*: 103.

¹²³ Quoted in A. Kussmaul, *Servants in Husbandry in Early Modern England* (Cambridge: Cambridge University Press, 1981): 45.

Richardson, Gordon DesBrisay and others.¹²⁴ However, this black and white interpretation removes the human aspect from the relationship. The focus shifts to the contract, the business arrangement between two parties who are both looking to exact as much labour, cash or opportunity from one another devoid of any emotional attachment or moral obligation. DesBrisay's work on unwed mothers in seventeenth-century Aberdeen underscores both the transitory nature and the dangers inherent in such contractual relationships by illustrating that the environment in which female domestic servants worked frequently led to pregnancy out of wedlock.¹²⁵ Furthermore, DesBrisay points out that living in crowded conditions and in mixed company put women at risk of coercive sex or led to an increase in consensual unions. According to Desbrisay, should they become pregnant these women could then expect to be released from their contract.¹²⁶

Wrightson, in his *English Society*, makes mention of the social relations between master and servant using the alehouse rather than the household as the field of play.¹²⁷ On one hand, alehouses furnished early modern individuals with the 'ubiquitous lubricant of popular sociability' by allowing for an environment in which a master could buy his apprentice a pint and lend him a word or two of advice and opinion.¹²⁸ On the other, they also afforded the servant an area free from the 'controlling supervision' of their

¹²⁴ Richardson, *Household Servants*; Straub, *Domestic Affairs*; G. DesBrisay, "Wet Nurses and Unwed Mothers in Seventeenth-Century Aberdeen," in E. Ewan & M. Meikle (eds.) *Women in Scotland, c. 1100-c. 1750* (East Linton: Tuckwell Press, 1999): 210-220.

¹²⁵ DesBrisay, "Wet Nurses and Unwed Mothers": 213.

¹²⁶ Dennison et al., *Aberdeen before 1800*: 56-7; See also A. Kussmaul, *Servants in Husbandry*.

¹²⁷ Wrightson, *English Society*: 63-4.

¹²⁸ Wrightson, *English Society*: 168.

master or mistress -- an opportunity where the servant could exhort to his or her peers that they could 'doe my master too/When my master turns his backe.'¹²⁹ What is missing from the literature on the subject is a reflection of what the dysfunction is the product of: contractual obligations or a natural human reaction. What needs to be investigated is whether or not the rebellious child seeking independence is any different than the servant looking to carve out his or her own social space beyond the authority of the house. It is apparent that there are two areas of exploration in the limited historiography. One area highlights the aspects of surrogacy seemingly inherent within the institution of service, the enveloping of them by the employer's family and the establishment of Tadmor's 'household-family'. The other area reveals the tensions inherent in a relationship that hinges on a power dynamic between patriarch and dependent.

Paul Seaver's article on the falling out of a master and apprentice in Bristol in the 1620s provides insight into this issue.¹³⁰ This case shows just how complex was the relationship between servant and master. Seaver draws out a disagreement between a master and his senior apprentice which resulted in years of protracted litigation while problematizing the institution of service and apprenticeship in three ways: it was an institution which involved a series of very intimate social relationships; conversely it was an institution which involved a series of contracts which were subject to interpretation and legal dispute; finally, once soured, the relationship involved very high stakes. In the disintegration of the relationship and

¹²⁹ Wrightson, *English Society*: 64.

¹³⁰ P. Seaver, "A Social Contract? Master Against Servant in the Court of Request," *History Today* 39 (September 1989):50-6.

contract held between master William Yeamans and his apprentice Thomas Alford, the Younger, we realize the gravity of the problems identified by Seaver. Apprentices in and around London and Bristol in the early seventeenth century had an attrition rate of approximately 45-50%, and as this does not include the 15% mortality rate, we must assume that Yeamans' and Alford's broken social and business relationship was not out of the ordinary.¹³¹ Furthermore, based on extant court records it can be said that the fundamentals of the breakdown in their relationship were not unique either: the apprentice turned out of the house after being exposed as dishonest, the master comes under attack for not living up to his end of the contract through ineptitude or laziness, the contract is broken and both parties seek recompense. At the heart of the case was the idea that Alford wanted to strike out for himself, freeing himself of the rigid confines placed upon him by virtue of the institution of apprenticeship but also, and far more tangibly, by Yeamans himself, as head of the household. The litigation that resulted from this broken relationship also revealed the deeper complexities of the servant's place within the family household. Seaver reveals that Alford younger was in many ways prompted to strike out on his own in breach of the obligations made to Yeamans by his father, who hoped that his son would be able to help him out of his own debts. Moreover, it was Alford younger's uncle, who was an established Bristol businessman, who gave testimony against his nephew in order to preserve his own reputation. What all of this suggests is that on

¹³¹ Seaver, "A Social Contract?": 50.

some level the servant was expected to uphold familial obligation and that such obligations were not clearly delimited or straightforward.

Despite the rather incongruous assessment of service in this period, it is possible to have some sense of the place of servants within the 'household-family'. Tadmor has argued that what delimits the 'household-family' is not blood and marriage but authority and co-residence.¹³² In many ways court records bear this idea out. In a study of family, misbehaving and community, Falconer argued that the reason so many cases of assault between masters and servants came before the burgh courts was not because of a lack of familial ties between the parties, but rather because such assaults reflected perceived threats to the householder's authority.¹³³ Here again scholars have illustrated that household boundaries were neither universal nor static. Wrightson and Kussmaul have argued that for the most part servants changed masters annually.¹³⁴ However, Wrightson, later in the same monograph, states that 'structurally, they [households] include members affiliated by contract. Conceptually, such persons were regarded as full members of their master's family.'¹³⁵ In most contemporary prescriptive literature the ideal household was headed by a *pater familias* who was to have 'fatherly care over his servants, as if they were his children.'¹³⁶ What seems clear is that contemporaries would not have had difficulty identifying the place of the servant within the household.

¹³² Tadmor, *Family and Friends*: 20.

¹³³ Falconer, "A Family Affair": 144-145.

¹³⁴ Wrightson, *Earthly Necessities*: 32-33; Kussmaul, *Servants in Husbandry*: 33-34.

¹³⁵ Kussmaul, *Servants in Husbandry*: 33.

¹³⁶ *A godly forme of household government for the ordering of private families, according to the direction of Gods word*, 1598: 307.

The bulk of our information on the servant comes from the eighteenth and nineteenth centuries. It is now commonly accepted among historians of the family that this period witnessed the emergence of the so-called ‘servant problem’ – a degeneration of the familial and affective bonds formerly experienced and a newfound concern with potential earning power of the servant.¹³⁷ Such a shift is significant as it has influenced how modern scholars have interpreted early modern service. This is apparent from the fact that the word ‘servant’ did not carry a functional definition before the nineteenth century. Rather, it was a designation of status that held wide symbolic meaning in a society where an employer and a servant might all perform the same tasks. Kussmaul notes that early modern English had no word to differentiate the husband, wife and children from the household that consisted of them and their servants. She refers to Gregory King’s 1688 publication on the English population in which all servants, domestic and productive, are contained within the column ‘Heads per Family’.¹³⁸ A late sixteenth-century tract on household governance highlights the inclusive place of the servant within the ‘family’:

So that hereby all godly servants, may in few words learne what dutie they owe to their maisters, mistresses, and dames: namely, to love them, and to be affectioned towards them, as a dutifull child is to his parent : to be reverent and lowly to them in their words and gestures, to suffer and forbear them: to obey with readie and willing mindes all their lawfull and reasonable commandements: to feare them, and to be loth to

¹³⁷ Straub, *Domestic Affairs*.

¹³⁸ A. Kussmaul, “The Ambiguous Mobility of Farm Servants in Early Modern England,” *The Economic History Review*, New Series, 34 (May 1981): 222.

displease them: to be faithfull and trustie to them
and theirs: in deedes and promises, to be diligent
and serviceable: to speake cheerefully: to answer
discreetly: not over boldly to dallie with their
maisters wife, daughters, or maidens: to be loyall
and dutifull to their maisters, mistresses and
dames.¹³⁹

While there may not have been a word to differentiate servant from the other members of the 'household-family,' there were societal pressures that were very visible. Status, rank and gender stand out as delimiters and were felt acutely in most public spheres. For example, church wardens had the unenviable task of creating pew orders situating individuals on the basis of their rank, but cognizant of the appropriate place of women in relation to men. In sixteenth and seventeenth-century Aberdeen, the well-to-do sat at the front while their servants, the poor and other 'meaner sorts' stood to the side and rear of the church. Sinners were separated from the godly, students from burgesses, husbands from wives and servants from their masters and mistresses.¹⁴⁰ Such social forces reveal to us the very public face of the limits to filial bonds between non-blood dependents and other household members. In some ways they echo other public representations most often noted in criminal cases between masters and servants: sexual improprieties, violence against servants, and dishonest dealings with masters. By looking at households that perpetrate crimes as a household unit, including servants, we can arrive at a more nuanced understanding of the 'household-family' unit.

¹³⁹ *A godly forme of household government*, 1598: 386-7.

¹⁴⁰ Dennison *et al. Aberdeen Before 1800*: 46-7.

Scholars usually look at crime in an overwhelmingly narrow manner.¹⁴¹ They see it as a destructive force, something which damages property, lives and relationships. However, when members of the same household perpetrate crime there are instances in which familial bonds can be reinforced in constructive ways.¹⁴² The July 1573 case mentioned in the beginning of the chapter highlights dynamics that played out both between and within two comparable households. Unfortunately the records do not give us a complete account of what transpired between these women. We do not know why some years later Sorynnsoun decided to attack Smyth again, nor do we have witness, victim or offender testimony with which to furnish a greater understanding. From the records of the initial assault and the way that it is recorded in the minute books we can, however, ascertain that the use of physical violence by Sorynssoun and Drummond perpetuated the ongoing conflict between their household and that of Kincaid and Smyth. What is more, the assault perpetrated by Drummond against Smyth in the family tavern shows that, in this instance, the servants were representatives of their respective families. Elizabeth Ewan has argued that a popular mode of attack was to assault a member of the opponent's household. Furthermore, servants often found themselves targeted in this way, standing as proxy for their master or mistress.¹⁴³ More frequently petty criminal actions were a means of forcing an existing conflict to a resolution.¹⁴⁴ While we do not know the origin

¹⁴¹ Walker, "Keeping it in the family": 67.

¹⁴² Walker, "Keeping it in the family": 71.

¹⁴³ Ewan, "Disorderly Damsels": 153-71.

¹⁴⁴ Ewan, "Scottish Portias": 27-43. JRD Falconer's work explores the connection between criminality and the exercise of power in particular the ability to achieve one's goals or be victorious in disputes between neighbours. See *Crime and Community*.

of the original dispute, it is evident that the slight was sufficient to spur both to action in order to rectify any wrong.

The records also make clear that the priority of the burgh magistrates was not to solve seemingly petty household disputes but to ensure that such disputes did not disrupt the order and stability of the burgh. To that end, they worked strenuously to prosecute the guilty and vindicate the innocent. As mentioned earlier, Kincaid and Smyth were accused by Sorynnsoun and Drummond for assaulting them the day before. This may have been the slight that led to the attacks on the street and in the tavern. However, the magistrates acquitted Kincaid and Smyth, deeming them innocent of any violent assault. There are two possible reasons for the magistrates to have reached this verdict. First, the evidence against Kincaid and Smyth might not have been sufficient to warrant a conviction. Second, it could be the case that the magistrates valued Kincaid's testimony over Sorynnsoun's due to her status as a prominent burghess' wife. Indeed, according to Seaver, the 'stories told in court are at best partial and partisan accounts of the truth. However, they reveal much about the lives and hopes and expectations of ordinary people at a time when such lives generally went unrecorded.'¹⁴⁵ What this particular case suggests is that servants were not participating in petty crime out of contractual obligation or fear of punishment but more likely due to filial obligations and out of the acknowledgement of their place within the household and the duties that that entailed.

¹⁴⁵ Seaver, "A Social Contract?": 56.

The inclusivity of the master and servant relationship, or rather the mistress and servant relationship, is highlighted further in a case from October of 1574. According to the records, Jonet Wilsoun the widow of Cuthbert Sorynssoun, Jonet Sorynssoun his daughter and his servant Margaret Smyth were convicted of the ‘maisterful striking’ of Marion Williamson.¹⁴⁶ Williamson alleged that the women of the Sorynssoun household descended upon her the month prior on a piece of land in the burgh belonging to a Duncan Gorlan. The women attacked Williamson with a baton as well as their hands and feet ‘to the effusion of hir bluid in greitt quantities’. It is tempting to link this Margaret Smyth to the Elizabeth Sorynssoun case that opened the chapter. While Margaret Smyth was a very common Scottish name during this period, the same cannot be said for the overtly Scandinavian ‘Sorynssoun’ as it appears in the records or more likely, Sorenson. It is quite likely that Elizabeth and Cuthbert were related, perhaps as closely as brother and sister. However, with Margaret Smyth it is harder to tell. Perhaps it is the case that we are dealing with a single individual, an individual that, when her contract with the Kincaid’s had come to a close, the Sorynssoun household engaged her services. Smyth then became as close to Jonet Wilsoun and Jonet Sorynssoun that when the household or its reputation was threatened, she fell in beside mother and daughter to defend her ‘household-family’. What is known is that the time frame in which the crimes were committed would indeed lend itself to there being a single Margaret Smyth. Servants’ contracts during this period ran for a year, always

¹⁴⁶ GB 236/SL 150/1/1/146 (26 April 1570).

with the option to renew at the end of it. However, it cannot be known for sure whether or not the Smyth working in conjunction with the Sorynnsoun household is the same individual who was part of the Kincaid household. What stands out is the willingness of the servant to participate in such crimes and that the connection between servant and master was deeper than the contractual obligations defined. The lack of extant contracts from this period that would give us insight into the explicit expectations of the employer makes court cases like this one invaluable. Though often verging on the inscrutable, burgh court records reveal the different way the burgh laws intersected with ordinary people's lives.

So although the records are open to, and rightly deserving of, a critical, questioning eye they do provide us with a wealth of information. The Canongate was not exceptional among Scottish burghs in terms of the experiences of households and crime. For example, in Aberdeen in July of 1550, the wife of Wille Ingram and her servant strubled Wille Roust's wife.¹⁴⁷ Ingram's wife and her servant were convicted and fined but Roust and his wife were acquitted of the strublens charged against them by Ingram's wife and servant. Similarly, but fortunately in much more detail, is the case of William Calderheid and William Mathewson, a local Aberdonian baxter. In May of 1561 Calderheid and a servant entered Mathewson's booth and began destroying his wares – in this case loaves of bread. Mathewson retaliated by throwing stones at the two intruders. On May 21 the case was brought before the burgh magistrates and Mathewson was charged with 'casting of stanis and

¹⁴⁷ ACR Vol. 20, 452 (28 July 1550).

braking of William calderheidis servandis heid' while Calderheid was convicted for 'cuming in william mathewsonis bychth [booth] and braking of his lynis [shop's boundary].'¹⁴⁸ This case would be rather straightforward if it were not for a preceding entry that reveals even more about household dynamics. Some time prior to the May incident, a William Mathews had become suretor for Mitchell Buchan who was indebted to Calderheid for three pounds and eight shillings. However, Buchan refused to pay Calderheid any more than thirty shillings. Mathews, having taken on the role of suretor and therefore bound to uphold Buchan's legal obligation to Calderheid, was now seen by Calderheid as as good a place to obtain recompense as the actual holder of the debt. Falconer points out that Mathews and Mathewson could be the same person, but it is more likely that Mathewson was in fact Mathew's son.¹⁴⁹ He goes on to conclude that if that was the case, 'then the dispute that led to the breaking of 'Calderheidis servandis heid' probably resulted from Calderheid seeking full payment for the debt incurred by Buchan.'¹⁵⁰ These two examples suggest that some households throughout Scottish burghs experienced similar pressures and attacks; they are also illustrative of servants and master or mistresses working in conjunction with one another to protect, defend or in some way improve their household. Calderheid sought to extract the sum owed to him by Buchan from the Mathews' household, a clear example of households coming into conflict over economic interests, resulting in the use of petty criminal actions as a means of forcing the conflict to a resolution. When Calderheid and his servant invaded Mathewson's shop,

¹⁴⁸ ACR Vol. 24, 199 (21 May 1561).

¹⁴⁹ Falconer, *Crime and Community*: 168.

¹⁵⁰ ACR Vol. 24, 199 (21 May 1561).

the notion that servants were seen as a part of the 'household-family' by virtue of their victimization was highlighted. Furthermore, Mathewson did not differentiate between Calderheid and the servant. Rather, they were jointly identified as the target of his retaliation. This is also true of the case concerning Wille Ingram's wife and servant participating in the attack on Wille Roust's wife. Rather than simply being victimized, Ingram's wife and her servant were the perpetrators of the violence and although the exact reasons behind the attack are unknown, it is not beyond the scope of the records to surmise that the women were attempting to correct a slight on their household's reputation or rectify wrongdoing by the Roust household.

Crimes perpetrated with the servant and master working in conjunction to protect the household provide excellent insight into the functioning of the early modern home. According to Garthine Walker, quarrels that 'resulted in litigation reflected and perpetuated economic and social competition between households.'¹⁵¹ However, what do we make of the litigation which resulted from competition or disturbance within the household? In November of 1570, Issobell Robertson, the spouse of Henrie Kanny, was convicted of the invasion of Margaret Barker, servant to Alexander Makmillan. Robertson invaded Makmillan's home where she proceeded to attack Barker, throwing her to the ground; she then struck and pulled Barker's hair.¹⁵² The invasion of the home with the addition of violence would have been enough to capture any burgh court's attention. This was a blatant attack on Makmillan's household and the safety and liberties

¹⁵¹ Walker, "Keeping it in the Family": 78.

¹⁵² GB 236/SL 150/1/ 205 (24 November 1570).

guaranteed to him by the burgh's laws. It is not exactly clear with whom Robertson was at conflict. Regardless of whether or not it was simply the case of a disagreement between the two women, both the courts and Barker's master would see this incident as a blatant attack on Makmillan's household – the property, the people who resided in the home, and the authority vested in the householder. Because Makmillan was the head of the household, an attack on any member of his household was an attack on Makmillan himself. It cannot be known whether Robertson deliberately targeted Barker in an attempt to resolve a problem with her as an individual or whether Barker was targeted as a surrogate for Robertson's real problem: Alexander Makmillan. As Ewan has argued, servants were often targeted, standing in as a proxy for their master or mistress.

In June 1583, Elizabeth Steill was convicted by a sworn assize for the cruel and masterful stringing and dinging of Patrik Andro, servant to James Gregoris. Steill struck Andro 'upoun his heid schuldars and bak and divers utheris pairtis of his body with hir hands and feit'¹⁵³ She was also found guilty of the injuring and slandering of James Gregoris, calling him a common thief and 'resettar' of goods [seller of stolen wares]. Furthermore, Steill's husband, Patrick Mylne was convicted of striking James Gregoris' wife Elizabeth Reus. Here multiple members of each household were involved as perpetrators and recipients of violent attacks. The conflict between the families, likely originating between individual members, became a family affair.¹⁵⁴ It is interesting to note the exact wording of the sentencing: '[they are] convict for

¹⁵³ GB 236/SL 150/1/ 99 (80) (7 June 1583). At this point in the records the pagination backtracked from 99 to 80, 81, 82...

¹⁵⁴ Falconer, "A Family Affair," 139-150.

the offences and crymes abovewritten the said Elizabeth steill and hir spous and ilkane [each] of thame was aduigit in ane unlaw and amerciament of court.’ The clerk placed emphasis on the wife, Elizabeth Steill, identifying her by name while her husband is simply referred to as the ‘spouse of.’ Many historians of the early modern period have been quick to point out that the place of women in the courts was squarely behind their husbands and fathers.¹⁵⁵ What this record suggests is that by emphasizing Steill in the sentencing proceedings it seems that the court acknowledged her as their main concern. However, it would be obvious to the courts that the sins of one member of a household are often borne by the other members.

In April, 1547, the Aberdeen magistrates banished Alex Troup, his wife, children and servants from the burgh.¹⁵⁶ The record does not elaborate on the reasons why the Troup household incurred such a punishment, but given that the burgh court used permanent banishment as a last resort for recidivists, to punish petty thieves or vagrants, it is clear that the authorities viewed the offence as serious. Although they do not make their reasons known, the magistrates clearly believed it was necessary to remove the entire household from the community, including non-blood relatives like the Troup’s servants. This is a clear contemporary reflection on the inclusive nature of the early modern Scottish household.

¹⁵⁵ M. Graham, *The Uses of Reform: “Godly Discipline” and Popular Behaviour in Scotland and Beyond, 1560-1610* (Leiden: EJ Brill, 1996); M. Todd, *The Culture of Protestantism in Early Modern Scotland* (Yale: Yale University Press, 2002); A. Knox, “‘Barbarous and Pestiferous Women’: Female Criminality, Violence and Aggression in Sixteenth- and Seventeenth-Century Scotland and Ireland” in YG Brown & R Ferguson (eds) *Twisted Sisters: Women Crime and Deviance in Scotland Since 1400* (East Linton: Tuckwell Press, 2002): 13-31.

¹⁵⁶ ACR Vol. 19, 351 (Ultimo Apr 1547).

Having looked at interfamilial violence during this period we turn now to intrafamilial violence. Violence directed at servants by members of the household, usually the master or mistress, is often the focal point of any study of the master and servant relationship. Stories of servants who were beaten, sexually assaulted or just generally treated poorly by those in a position of power are not uncommon. However, within the burgh court records in Scotland it would appear that they are not as common as other historians would like to believe. For example, in July of 1549 Cristene Maners found herself before a burgh court, along with her sister and her mother's servant.¹⁵⁷ She was convicted of strubling the servant in 'giving her a strike on the cheik with her hand.' The records also suggest, although are not explicit on this matter, that Cristene's sister, Jonat Maners, responded to this attack on her mother's servant and was convicted of physically assaulting Cristene.¹⁵⁸ From these two entries in the court records we can start to piece together what may have taken place. Cristene obviously had some issue with either her mother or the servant, who, in this instance bore the brunt of her anger. It would appear that Cristene sought resolution to this conflict by violently disturbing the peace within her own home. Jonat apparently intervened and as a result was accosted by her sister Cristene. We do not know what lay behind this violence; Scottish burgh court records are notoriously bad for leaving out 'extraneous' information, like motives. We also do not know whether Cristene was married or unmarried or whether or not she was a fulltime member of the household and resident there. However, this case is illustrative of a servant

¹⁵⁷ ACR Vol. 20, 256 (12 July 1549).

¹⁵⁸ ACR Vol. 20, 256 (12 July 1549).

coming to blows with a member of the household in which they were employed. What is most useful about this case is the fact that it would appear that another member of this family, Jonat, attempted to defend or at least alleviate the tension within the home. Despite the dynamic within the house, the magistrates determined that Jonat posed more of a serious threat to Cristene. The magistrates were persuaded to demand that Jonat provide assurances before the court that no harm would befall Cristene. The greater implications of this case are clear: the dynamics between blood and non-blood family members comes to the forefront as we see that Jonat was willing to disregard her blood ties to Cristene in favour of defending the servant. Furthermore, Cristene made very public that she fears 'dreid bodily harm' from her sister and therefore sought resolution outside the household through the public and formal assistance of the burgh court.

While we have seen an individual come to the defense of a servant, there is also record of servants coming to the defense of their master or mistress. On 28 May, 1546 Andrew Maky was convicted of the strubling and blood drawing of Malle Knowlis and Effy Schipert. Maky was sentenced to the govis [pillory] for his actions.¹⁵⁹ However, upon further reading it becomes evident that Maky's actions were in response to those by Malle Knowlis, Christen Burnatt, Effy Chene, Effy Shipert. It appears that Maky and his mistress Besse Colleson had been attacked by the four women, and although the details of the case are not made explicit, it would seem that Maky's actions were an attempt to retaliate after he and his mistress were

¹⁵⁹ ACR Vol. 19, 122 (28 May 1546). Jougs or govis were essentially the same as a pillory, there was an iron collar fastened by a short chain to a wall, often of the parish church or to a tree.

wronged. However, it is interesting to note that the four women were acquitted of their wrongdoing while Maky was ordered to spend time in the govis.

Not all master and servant relationships remained close. Sometimes tensions emerged within the home that proved to be too much and resulted in the termination of a servant's contract. On 9 October 1542 John Mill was charged with the mispersoning [abusing, insulting], strubling and menacing of his master John Bely with a knife.¹⁶⁰ In a relatively rare occurrence, Bely's own thoughts on the matter are recorded. He protested that:

If it happens him to do any scathe or hurt to said John Mill in time coming in his own defence that it turn him to no danger nor prejudice because as he alleges the said John has made divers onsettings and provocations on him and therefore he discharged him presently of his service and governing of his ship.¹⁶¹

In this instance Bely sought resolution to the conflict by simply terminating his relationship with Mill. Unlike with blood relations, it would appear that the relationship between master and servant could be terminated more easily. This is also seen in Dundee wherein an apprentice by the name of Richard Tarbat was discharged from his contract after being convicted of 'molesting, troubling and menacing' his master, his master's wife, their children and other servants.¹⁶² Alternatively, since burgh magistrates sought to maintain order and harmony between and within households, it was not uncommon for

¹⁶⁰ ACR Vol. 17, 300 (9 Oct 1542).

¹⁶¹ ACR Vol. 17, 300 (9 Oct 1542).

¹⁶² DCA Vol 3 (9 & 23 December 1550).

the parties to make amends and return to their otherwise peaceful existence. In October of 1548, Patre Foulton, the servant of William Riddell, was convicted of strubling his master.¹⁶³ This was not a case of a servant rebelling against his master, or of a petty treasonous challenge to the patriarch's authority. The next entry in the court book indicates that William Riddell was also convicted of strubling his servant. The clerk's use of the word strubance suggests that the pair got into some kind of public disagreement, violent enough that it warranted the intervention of the burgh magistrates. As restitution to the burgh and to Riddell's craft, both Riddell and Foulton were to pay one pound of wax to the altars of the Holy Blood light and of Saint Eloy.¹⁶⁴ This is an indication that the burgh magistrates were very concerned about dysfunctional households spilling out into the streets. As shown earlier, it was a contemporary belief that a well-ordered, well-governed household was the cornerstone of a well-ordered, well-governed society.

The court records demonstrate that the 'household-family' was, for the most part, a cohesive unit. Furthermore, the burgh court records indicate that servants were motivated by more than personal gain. It is not beyond the scope of the records to state that servants and apprentices were motivated to participate in criminal activities alongside other household members out of a sense of loyalty, filial piety and a desire to enhance and protect their household's well-being. Contemporaries were keenly aware that belonging to a household meant that its collective well-being was crucial for individual

¹⁶³ ACR Vol. 20, 107 (12 Oct 1548).

¹⁶⁴ Saint Eloy or Eligius was the patron saint of smiths (goldsmiths, blacksmiths and hammersmiths) so it is likely that Riddell was a member of one of these crafts. The Holy Blood light was located in the St Nicholas kirk.

success. Additionally, modern scholars make much of the unity of households in the early modern period, the cohesiveness in which these family units existed. As sites of both production and reproduction it was necessary for there to be a high level of cohesion so that the household excelled at its economic and social activity. Servants were not considered separate and distinct from this economic and social unit; rather, as members of a household, they were expected to participate in all of its activities. As such, the inducement to engage in joint criminal activities was less coercive and more for mutual benefit. As Garthine Walker has argued, there were positive aspects to household criminality.¹⁶⁵

The limited content in burgh court records does, however, raise questions about how far we can actually understand the reasons servants were willing participants in such activities. Indeed, were servants actually willing participants? When considering the penalties for violent assaults and the impact of alleged previous wrongdoing on a servant's reputation for future employment, the potential for loss was sufficient to induce servants to resist inclusion in such activities. This is even more likely concerning the potentially short-term contracts and increasing employment opportunities in the late sixteenth and early seventeenth centuries. It is easy to characterize servants' participation in criminal activities as being motivated by fear of their master or as an attempt at independent gain. However to do so is to ignore the complex and often very familiar bonds between mistress and servant or master and apprentice in a period when the hired help was more than merely

¹⁶⁵ G. Walker, "Keeping it in the Family," 67-95.

an employee. Quite clearly servants had more options available to them than is often assumed. What this chapter, and much of this thesis, has argued is that all members of the 'household-family' were both invested in the household's well-being and found a sense of inclusion as part of the family.

CONCLUSION

Historians interested in understanding the ‘family’ in the early modern period have successfully identified the functions it served – providing security, affection and the ‘satisfaction of subsistence needs.’ What is lacking from studies of the family is a recognition that such functions are not prioritized in any static manner nor is functionality the purpose behind such social organization. More importantly, for the early modern period at least, patriarchy has been taken to be the starting point of such organizations with its implicit notion of domination and submission. Recently, works by Sarah Hanley, Julie Hardwick, Linda Pollock and Alexandra Shepard have shown that the prescriptive vision of patriarchal society was often in conflict with the realities of household living.¹⁶⁶ As this thesis has argued, collusion and reciprocity were key elements in the daily life of early modern families. It is becoming increasingly clear that in order to understand the nature of early

¹⁶⁶ S. Hanley, “Engendering the State: Family Formation and State Building in Early Modern France,” *French Historical Studies* 16:1 (Spring 1989): 4-27; J. Hardwick, *The Practice of Patriarchy: Gender and the Politics of Household Authority in Early Modern France* (Pennsylvania: Pennsylvania University State Press, 1998); L.A. Pollock “Rethinking Patriarchy and the Family in Seventeenth-Century England,” *Journal of Family History* 23:1 (1998): 3-27; A. Shepard, “Manhood, Credit and Patriarchy.”

modern households it is imperative that historians look more closely at all of the activities of the household. Examining petty criminal actions offers a unique insight into the goals, desires, aspirations and concerns of the individuals who made up early modern households, and of the broader concerns of the whole 'household-family.' It is worth emphasizing that the families who showed up before the courts charged with petty offences were not 'crime families' or malcontents. Rarely do these families offend repeatedly. Rather, these cases speak to moments in time. They highlight the concerns of a particular instance and reflect upon the willingness, or the compulsion, to act beyond the limits of acceptable behavior to achieve a goal.

That is not to say that the family lacked functionality. Rather, we need to see the family as complex; it was adaptive to changing circumstances while maintaining continuity in terms of providing structure and security. Families are dynamic entities comprised of humans with individual responses, needs and desires. Accordingly, conflict did indeed occur. For households to maintain their integral foundation required reciprocity and on occasion collusion. This thesis has argued that the motivations to participate in household activities, even including criminal actions, was predicated on the recognition that the household as a unit needed to remain intact and strong in order for communal and individuals goals to be achieved. One of the most obvious concerns of the 'household-family' was maintaining a solid reputation within the burgh community. As the work of Muldrew and Shepard has shown, reputation was essential for good credit, both economic and social.¹⁶⁷

¹⁶⁷ Muldrew, *The Economy of Obligation*; Shepard, "Manhood, Credit and Patriarchy."

Cases of verbal violence, slander and mispersoning came before the courts largely because both the injured party and the magistrates recognized that 'blasphemous speech' undermined the integrity of the household. In April of 1563, Bessie Blak, wife of David Donaldson, was charged with the slandering of David Carnawow's wife.¹⁶⁸ In May of the same year, Elizabeth Ramsay, spouse of Alexander Clerk, was charged with the slandering of Thomas Crystal's wife.¹⁶⁹ Then in July 1581, Jonet Corris, the spouse of Thomas Manly, was convicted of the 'blasphemous speking' against William Hay and Jonet Aucht, his spouse.¹⁷⁰ Burgh magistrates were keenly aware of the destructive nature of slanderous language. In Dundee in 1558, the burgh magistrates were compelled to reiterate their desire to protect the integrity of households within the community:

In the first because of the great defame slander and shame of honest menis wyffis dochters and bound servands of this burgh it has been reprochit and spokin that they haif been seducit be pandries [panderers] to use thameselffis unlawfully in fornicatioun and huir dome for remede of the quilk it is statute and ordanit that gif there be any such men or women within this burgh pandreis that they deposit thameselffis of the samin within xxiiii hours.¹⁷¹

Since the nature of slanderous language against women was to suggest sexual impropriety, magistrates were keen to ensure that neither sexual impropriety was taking place nor wrongful allegations of such conduct occurred. As the language of the magistrates' warning suggests, the sexual impropriety of an

¹⁶⁸ DCA, Vol 7 (21 April 1563).

¹⁶⁹ DCA, Vol 7 (11 May 1563).

¹⁷⁰ DCA, Vol 15 (31 July 1581).

¹⁷¹ DCA, Vol 5 (10 January 1558).

individual, alleged or real, threatened the integrity of the household. Early modern Scots were well aware that there was a need to protect their own reputation; however, they were also cognizant that such slurs could be utilized as an effective tool. In May 1591, Aberdonian Elspett MacGowrie, the spouse of Alexander Craig, went to the house of Jonet Fisset and John Robertson, cast stones at their door and called Fisset ‘a common huir and a common thief.’¹⁷² These actions not only jeopardized the structural integrity of the home, they also compromised the household’s reputation.

Burgh magistrates were aware that a violent attack on a member of the household was an attack on *the household*. In March 1562, the Dundee burgh court convicted James Ingliss for ‘trubling George Andersonis hous and dinging of his servand.’¹⁷³ For his crime, Ingliss was to remain in the steeple of the tollbooth for twenty-four hours and thereafter to come to the market cross and ask Anderson for forgiveness for his offence. The fact that Ingliss was asking Anderson for forgiveness for both of his faults highlights the notion that the head of the household was perceived to be the public face of the household. This does not however indicate the complete subordination of the other members of the ‘household-family’. Rather, it highlights how early modern Scots perceived bonds and belonging. By choosing to ding Anderson’s servant, Ingliss identified that the servant was a surrogate for Anderson, because as the clerk makes clear: an attack on the servant was an attack on the household.

¹⁷² ACR Vol 33-1, 1104 (17 May 1591).

¹⁷³ DCA, Vol 7 (19 March 1562).

This thesis has explored the nature of the 'household-family' in early modern Scotland by focusing on the criminal activities undertaken by or against all members residing within an urban household as a way of examining bonds that tied families together. By examining cases of petty crime brought before the burghs courts of the Canongate, Dundee, Edinburgh and Aberdeen, this thesis showed how families maintained bonds, achieved goals, protected reputations and resolved conflict through seemingly dysfunctional behaviour. Petty crimes occurred more regularly, and were likely to be committed by a wider range of individuals in the early modern period. They draw attention to the concerns and desires, and shed light on the daily interactions, of early modern Scots. The combination of prescriptive literature, statutes and court decisions from this period highlights the importance of a well-ordered household. This thesis has shown that while magistrates were concerned with looking after the welfare of their wider community, householders were ultimately concerned with the welfare of their immediate community: their household. The involvement of family members in criminal activities reflected both the strength of the bonds that tied the 'household-family' together *and* the desire to enhance and maintain the economic and social standing of that household within wider burgh society.

BIBLIOGRAPHY

Primary Manuscript

Aberdeen City Archives (ACA)

ACA, Council Register, vols. xvii-xxxiii-1

Edinburgh City Archives

Canongate Burgh Court Records
GB236/SL150/ 1-10

Dundee City Archives (DCA)

DCA, Burgh and Head Court Records, Volumes 3, 5-7, 12 and 15.

Primary Printed

Ancient Laws and Customs of the Burghs of Scotland, 1124-1424 and 1424-1707 including Leges Burgorum, ed. C. Innes (Edinburgh: Scottish Burgh Record Society, 1868).

Extracts from the Burgh of Edinburgh, 1528-1557, ed. J.D. Marwick (Edinburgh: Colston & Son, 1871).

Extracts from the Records of the Burgh of Edinburgh, 1573-1580, ed. J.D. Marwick (Edinburgh: The Scottish Burgh Record Society, 1882).

Extracts from the Records of the Burgh of Edinburgh: 1604-1626, ed. M. Wood (Edinburgh: The Scottish Burgh Record Society, 1931).

Familie Exercise, or, The Service of God in Families (Edinburgh: Robert Bryson, 1641).

Secondary Printed

Abrams, L. *The Orphan Country: children of Scotland's broken homes from 1845 to present day* (Edinburgh: Edinburgh University Press, 1998)

- Adams, I.H. *Making of Urban Scotland* (London: Croom Helm, 1978).
- Allen, A.M. "Occupational Mapping of 1635 Edinburgh: An Introduction," *Proceedings of the Society of Antiquaries of Scotland* 136 (2006): 259-296.
- Amussen, S. *An Ordered Society: Gender and Class in Early Modern England* (New York: Columbia University Press, 1988).
- Amussen, S. "'Being stirred to much unquietness': Violence and Domestic Violence in Early Modern England," *Journal of Women's History* 6 (Summer 1994): 70-89.
- Amussen, S. "Punishment, Discipline and Power: The Social Meanings of Violence in Early Modern England," *Journal of British Studies* 34 (January 1995): 1-34.
- Ben-Amos, I.K., *Adolescence and Youth in Early Modern England* (New Haven: Yale University Press, 1994).
- Berry H. and E. Foyster (eds.) *The Family in Early Modern England* (Cambridge: Cambridge University Press, 2007).
- Blaikie, A. "Unhappy after their own Fashion: infant lives and family biographies in Southwest Scotland, 1855-1939," *Scottish Economic and Social History*, 18 (1998): 95-113.
- Bonfield, L., R.M. Smith and K. Wrightson (eds.), *The World we Have Gained: Histories of Population and Social Structure* (Oxford: Oxford University Press: 1986).
- Breitenbach E., A. Brown and F. Myers. "Understanding Women in Scotland," *Feminist Review* 58 (February 1998): 44-65.
- Brooks, N.P. and G. Whittington. "Planning and Growth in the Medieval Scottish Burgh: The Example of St Andrews," *Transactions of the Institute of British Geographers* 2:2 (1977): 278-295.
- Brown, Y.G. and R. Ferguson. *Twisted Sisters: Women, Crime and Deviance in Scotland since 1400* (East Linton: Tuckwell Press, 2002).
- Capp, B. *When Gossips Meet: Women, Family and Neighbourhood in Early Modern England* (Oxford: Oxford University Press, 2003).
- Dennison, E.P., "Power to the People? The Myth of the Medieval Burgh Community" in S. Foster, A. Macinnes and R. Macinnes (eds.), *Scottish Power Centres: From the Early Middle Ages to the Twentieth Century* (Glasgow: Cruithne Press, 1998): 100-31.

- Dennison, E.P. "Recreating the Urban Past" in D. Ditchburn and T. Brotherstone (eds.), *Freedom and Authority: Scotland 1050–1650: Historical and Historiographical Essays Presented to Grant G. Simpson* (East Linton: Tuckwell Press, 2000): 275–84.
- Dennison, E.P., Ditchburn, D., and Lynch, M., (eds.), *Aberdeen before 1800: A New History* (East Linton: Tuckwell Press, 2002).
- Dennison, E.P. and M. Lynch. "Crown, Capital, and Metropolis, Edinburgh and Canongate: The Rise of a Capital and an Urban Court," *Journal of Urban History* 32:1 (2005): 22-43.
- Dingwall, H.M. *Late-Seventeenth Century Edinburgh: A Demographic Study* (Aldershot: Scholar Press, 1994).
- Ditchburn, D. "Pirate, the Policeman and the Pantomime Star: Aberdeen's Alternative Economy in the Early Fifteenth Century," *Northern Scotland: The Journal of the Centre for Scottish Studies* 12 (1992): 19-34.
- Dolan, F.E. *Dangerous Familiars: Representations of Domestic Crime in England, 1500-1700* (Ithaca: Cornell University Press, 1994).
- Earle, P. *The Making of the English Middle Class: business, society, and family life in London, 1660-1730* (Berkeley: University of California Press, 1989).
- Edwards, B. and P. Jenkins, eds. *Edinburgh: The Making of a Capital City* (Edinburgh: Edinburgh University Press, 2005).
- Elton, G.R. "Introduction: Crime and the Historian" in J. S. Cockburn (ed.) *Crime in England 1550-1800* (Princeton: Princeton University Press, 1977).
- Erikson, A. L., *Women and property in early modern England* (London: Routledge, 1993).
- Ewan, E. *Townlife in Fourteenth-Century Scotland* (Edinburgh: Edinburgh University Press, 1990).
- Ewan, E. "Scottish Portias: Women in the Courts in Mediaeval Scottish Towns," *Journal of the Canadian Historical Association* 3 (1992): 27-43.
- Ewan, E. and M. Meikle (eds.) *Women in Scotland: 1100-1750* (East Linton: Tuckwell Press, 1999).

- Ewan, E. "Many Injurious Words': Defamation and Gender in Late Medieval Scotland" in R. Andrew McDonald (ed.) *History, Literature, and Music in Scotland, 700-1560* (Toronto: University of Toronto Press, 2002): 163-186.
- Ewan, E and J. Nugent (eds.) *Finding the Family in Medieval and Early Modern Scotland* (Hampshire: Ashgate Publishing Ltd., 2008).
- Ewan, E. "Disorderly Damsels? Women and Interpersonal Violence in Pre-Reformation Scotland," *The Scottish Historical Review* LXXXIX (October 2010): 153-71.
- Falconer, JRD, "'Mony utheris divars odious crymes': Women, Petty Crime and Power in Later Sixteenth Century Aberdeen," *Crimes and Misdemeanours; Deviance and the Law in Historical Perspective* 4:1 (2010): 7-36.
- Falconer, JRD. *Crime and Community in Reformation Scotland: Negotiating Power in a Burgh Society* (London: Pickering & Chatto, 2012).
- Finch, A.J. "The Nature of Violence in the Middle Ages: An Alternative Perspective," *Historical Research*, LXX (1997).
- Finlay, J. *Men of Law in Pre-Reformation Scotland* (East Linton: Tuckwell Press, 2000).
- Finlay, J. "Pettyfoggers, Regulation, and Local Courts in Early Modern Scotland," *Scottish Historical Review* 87:223 (April 2008): 42-67.
- Foster, S., A. MacInnes and R. MacInnes (eds.). *Scottish Power Centres from the Early Middle Ages to the Twentieth Century* (Edinburgh: Cruithne Press, 1998).
- Fox, R. C. "The Burghs of Scotland: 1327, 1601, 1670," *Area* 13 (1981): 161-167.
- Fox, R. C. "Urban Development, 1100-1700" in G. Whittington and I. D. Whyte (eds.), *An Historical Geography of Scotland* (London: Academic Press, 1983): 73-92.
- Goodare, J. *Parliament and Society in Scotland: 1560-1603* unpublished PhD dissertation, University of Edinburgh, Edinburgh, Scotland, 1989.
- Goodare, J. *State and Society in Early Modern Scotland* (Oxford: Oxford University Press, 1999).
- Gowing, L. *Domestic Dangers: Women, Words and Sex in Early Modern London* (Oxford: Oxford University Press, 1996).

- Gowing, L. "Language, Power and the Law: Women's Slander Litigation in Early Modern London" in J. Kermode and G. Walker (eds.) *Women, Crime and the Courts in Early Modern England* (London: Routledge, 1994): 26-48.
- Graham, M. "Equality before the Kirk? Church Discipline and the Elite in Reformation-era Scotland," *Archiv für Reformationsgeschichte* 84 (1993): 289-310.
- Graham, M. *The Uses of Reform: Godly Discipline and Popular Behaviour in Scotland and Beyond, 1560-1610* (Leiden: E. J. Brill, 1996).
- Graham, M. "The Civil Sword and the Scottish Kirk in the Late Sixteenth Century" in W. Fred Graham (ed.) *Later Calvinism: International Perspectives* (Kirksville: Sixteenth Century Publishers, 1994): 237-248.
- Griffiths, P. *Lost Londons: Crime, Control, and Change in the Capital City, 1545-1660* (Cambridge: Cambridge University Press, 2008).
- Griffiths, P. "Bodies and Souls in Norwich: Punishing Petty Crime, 1540-1700" in S. Devereaux and P. Griffiths (eds.) *Penal Practice and Culture, 1500-1900* (Basingstoke: Palgrave, 2004): 85-120.
- Hanawalt, B. *The Ties that Bound: Peasant Families in Medieval England* (Oxford: Oxford University Press, 1986).
- Herrup, C.B. *The Common Peace: Participation and the Criminal Law in Seventeenth-Century England* (Cambridge: Cambridge University Press, 1987).
- Herrup, C. *A House in Gross Disorder: Sex, Law, And the 2nd Earl of Castlehaven* (Oxford: Oxford University Press, 1999).
- Houlbrooke, R. A. *The English Family, 1450-1700* (London: Routledge, 1984).
- Houlbrooke, R.A. (ed.) *Death, Ritual and Bereavement* (London: Routledge, 1989).
- Houston, J.M. "The Scottish Burgh," *The Town Planning Review* 25:2 (July 1954): 114-127.
- Houston, R.A. and I.D. Whyte. *Scottish Society, 1500-1800* (Cambridge: Cambridge University Press, 1989).
- Ingram, M. "'Scolding Women Cucked or Washed': a Crisis in Gender Relations in Early Modern England?" in J. Kermode and G. Walker

- (eds.) *Women, Crime, and the Courts in Early Modern England* (London: Routledge, 1994): 48-80.
- Jones, K. *Gender and Petty Crime in Late Medieval England* (Woodbridge: The Boydell Press Ltd, 2006).
- Jones, K and M. Zell, "Bad Conversation? Gender and Social Control in a Kentish Borough, c.1450-c.1570," *Continuity and Change*, XIII (1998): 11-31.
- Keith, T. "The Trading Privileges of the Royal Burghs of Scotland," *The English Historical Review* 28:111 (1913): 454-471.
- Kussmaul, A. *Servants in Husbandry in Early Modern England* (Cambridge: Cambridge University Press, 1981).
- Kussmaul, A. "The Ambiguous Mobility of Farm Servants in Early Modern England," *The Economic History Review*, New Series, 34 (May 1981): 222-35.
- Leneman, L. and R. Mitchison. *Sin in the City: Sexuality and Social Control in Urban Scotland 1160-1780* (Edinburgh: Scottish Cultural Press, 1998).
- Laslett, P., "Characteristics of the Western Family Considered Over Time" in P. Laslett (ed.) *Family Life and Illicit Love in Earlier Generations: Essays in Historical Sociology* (Cambridge: Cambridge University Press, 1977).
- Laslett, P. and R. Wall. (eds.). *Household and family in past time* (Cambridge: Cambridge University Press, 1972).
- Lenman, B. and G. Parker. "Crime and control in Scotland, 1500-1800," *History Today*, (January 1980): 13-17.
- Lenman, B. "The Limits of Godly Discipline in the Early Modern Period with particular reference to England and Scotland," in K. von Greyerz (ed.), *Religion and Society in Early Modern Europe* (Boston: Allen and Unwin, 1984): 124-145.
- Lynch, M. "Urbanisation and Urban Networks in Seventeenth-Century Scotland: Some further Thoughts," *Scottish Economic and Social History* 12 (1992): 24-41.
- Lynch, M. *Early Modern Town in Scotland* (London: Croom Helm, 1987).

- Lynch, M. "Whatever Happened to the Medieval Burgh? Some Guidelines for Sixteenth and Seventeenth-Century Historians," *Scottish Economic and Social History* 4, (1984): 5-20.
- Lynch, M. *Edinburgh and the Reformation* (Boston: Humanities Press, 1981).
- Lynch, M. "Scotland Revisited: The Scottish Early Modern Burgh," *History Today* 35 (1985): 10-15.
- Lynch, M., M. Spearman, and G. Stell (eds.). *Scottish Medieval Town* (Edinburgh: John Donald Publishers Ltd, 1988).
- MacDonald, A.R. *Burghs and Parliament in Scotland, 1500-1651* (Aldershot: Ashgate, 2007).
- Macfarlane, A., *The Family Life of Ralph Josselin: a Seventeenth-century Clergyman* (Oxford: Oxford University Press, 1970).
- Macfarlane, A. *Marriage and Love in England: Modes of Reproduction, 1300-1840* (Oxford: Oxford University Press, 1986).
- McIntosh, M. *Controlling Misbehaviour in England, 1370-1600* (Cambridge: Cambridge University Press, 1998).
- Muldrew, C. *The Economy of Obligation: the Culture of Credit and Social Relations in Early Modern England* (Basingstoke: Palgrave, 1998).
- Nunn, S.K. "Reformation Society, Women and the Family" in A. Pettegree (ed.) *The Reformation World* (London: Routledge, 2000): 433-460.
- Nugent, J. "Married Women, Their Husbands and the Establishment of a 'Godly Community' of Scots" (forthcoming in Kimm Curran (ed), *Medieval Scottish Women*).
- Pollock, L., *Forgotten Children: Parent-Child Relations from 1500 to 1900* (Cambridge: Cambridge University Press, 1983).
- Pollock, L., "Younger sons in Tudor and Stuart England," *History Today* 39 (June 1989): 23-9.
- Scott, J. *The Moral Economy of the Peasant: Rebellion and Subsistence in Southeast Asia* (New Haven: Yale University Press, 1976).
- Slack, P. *From Reformation to Improvement: Public Welfare in Early Modern England* (Wiltshire: Clarendon Press, 1999).
- Sharpe, P. "Poor Children as Apprentices in Colyton, 1598-1830," *Continuity and Change* 6 (1991): 253-69.

- Shoemaker, R. *Prosecution and Punishment: Petty Crime and the Law in London and Rural Middlesex, c. 1660-1725* (Cambridge: Cambridge University Press, 1991).
- Spufford, M. "Puritanism and Social Control?" in A. J. Fletcher and J. Stevenson (eds.) *Order and Disorder in Early Modern England* (Cambridge: Cambridge University Press, 1985): 41-57.
- Stone, L. *Family, Sex and Marriage in England 1500-1800* (London: Harpers & Row, 1977).
- Tadmor, N. "The Concept of the Household-Family in Eighteenth-Century England," *Past & Present*, 151 (May 1996): 111-40.
- Tadmor, N. *Family and Friends in Eighteenth-Century England: Household, Kinship and Patronage* (Cambridge: Cambridge University Press, 2001).
- Todd, M. *Culture of Protestantism in Early Modern Scotland* (New Haven: Yale University Press, 2002).
- Torrie, E.P. *Medieval Dundee: a Town and its People* (Abertay: Abertay Historical Society, 1990).
- Walker, G. *Crime, Gender and Social Order in Early Modern England* (Cambridge: Cambridge University Press, 2003).
- Wiener, C.Z. "Sex roles and crime in late Elizabethan Hertfordshire," *Journal of Social History* 8, 4 (1975): 38-60
- Whyte, I. D. "Urbanization in Early Modern Scotland: A Preliminary Analysis," *Scottish Economic and Social History* 9 (1989): 21-37.
- Whyte, I. D. and K. A. Whyte. "Patterns of Migration of Apprentices into Aberdeen and Inverness during the Eighteenth and Nineteenth Centuries," *Scottish Geographical Magazine* (1986): 81-92.
- Wrightson, K and J. Walter. "Dearth and the Social Order in Early Modern England," *Past and Present* 71 (May 1976): 22-42.
- Wrightson, K. and D. Levine, *Poverty and Piety in an English Village: Terling, 1525-1700* (New York: Academic Press, 1979).
- Wrightson, K. *English Society, 1580-1680* (London: Unwin Hyman, 1982).
- Wrightson, K. *Earthly Necessities: Economic Lives in Early Modern Britain* (New Haven: Yale University Press, 2000).