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Illegitimate Children in Early Modern England and Scotland

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Part 1: Introduction

The factors of law, religion, and society can help determine the treatment of bastard children in Early Modern England and Scotland.

Although these factors are sometimes intertwined, they often have different focuses. Law focuses more on keeping order while religion focuses on the beliefs of a particular group with an emphasis on the spiritual. Society and social constructs give a greater idea about the thought process in the public mind, which is not necessarily always in line with the religion and the law.

Government influence is visible through the nobility and the actions of law.

The English had a constitutional monarchy that placed limits on the sovereign leader, but during the beginning of the Early Modern period, the Scottish monarchy did not have the same limits as the constitutional monarchy of England. Even though it was not a constitutional monarchy, Scotland had a succession of early sovereign deaths and young monarchs consequently were subject to Regencies and the influence of their nobility until they came of age.

The monarchies of England and Scotland were joined under James VI of Scotland and I of England in 1603 although their laws and governing remained separate until the Treaty of Union in 1707 where England and Scotland became one state. Nevertheless, the royal head of state held power over the nobles at court and by analysing their behaviour the opinion of the most influential power of the state can be known. During the Early Modern period, the concepts of law and religion were more intertwined. They had

been in Scotland long before England's attempt during the English Civil Wars, and the influence of the Scottish Kirk was impressive. Religion became more influential in legal matters because both Scotland and England had predominant state religions. Even when religious and state matters become intertwined, people were still capable of making decisions for themselves. Society was not necessarily prone to follow all religious teachings with fervour. People judge others even when they are told not to, and bastard children are born for a multitude of reasons.

This will be a study of illegitimacy in Early Modern England and Scotland. Including reasons for illegitimacy and how illegitimate children were treated. These children could come from two legal definitions of sexual misbehaviour. Fornication was defined as sex between an unmarried man and an unmarried woman. Adultery was defined as sex between a married man and an unmarried woman, or if a married woman was a participant no matter the status of her male partner. While married women did commit adulterous acts during this time period, their husbands were still legally considered the fathers of their bastard children and therefore will not be considered in this paper. Religious leadership and the state were more interconnected at this time, particularly in family law. The Scots Kirk or the Scottish Kirk refers to the body of ruling elders found throughout Scotland during the Early Modern time period. The Justice of the Peace refers to the governing body that grew to cover a majority of family law matters in

England. Infanticide as a crime was greatly tied to illegitimacy in Early Modern Britain and therefore becomes a considerable factor when looking at attitudes towards illegitimacy.¹ Women, especially children's mothers, were predominantly accused of this crime and a high majority of them were unmarried.

Historians have studied bastardy and illegitimacy ratios in both England and Scotland separately, but not together. In Scottish history, Leneman and Mitchison conducted an extensive study compiling Early Modern illegitimacy ratios, but English illegitimacy sources remain focused more on the law and preventing instances of illegitimacy.² England and Scotland may occupy the same island, but during the Early Modern time period, they were drastically different. When the Scottish found someone guilty of witchcraft, that person was burned. The English, however, only sentenced witchcraft that had harmed another person, and the perpetrator was hanged. The Scottish burning meant that witchcraft was a religious crime, heresy, while the English hanging exemplified a secular crime. In England, witches and even witchcraft were not illegal as long as they caused no harm, where in Scotland, witches were illegal by the nature of existing.

¹ The comprehensive book on infanticide in Britain by Anne-Marie Kilday, *A History of Infanticide in Britain, c. 1600 to the Present*, is useful for comparing infanticide ratios and understanding the role of infanticide in Early Modern Scotland and England.

² For more information see: Leah Leneman and Rosalind Mitchison, "Scottish Illegitimacy Ratios in the Early Modern Period," *The Economic History Review* 40, no. 1, Wiley, 1987, 41-63. Also Garthine Walker, *Crime, Gender, and Social Order in Early Modern England*, Cambridge: Cambridge University Press, 2003.

England was a more secular State, and Scotland more religious.³ Illegitimate children in Scotland were protected by their Presbyterian community, while English illegitimate children had to rely on secular law as their sole protections.

Part 2: Women's Position and the Nature of Illegitimacy

In their study of illegitimacy in Early Modern Scotland, Leneman and Mitchison found that lower class women made up the most predominant demographic for bastard mothers.⁴ At that time, a majority of the young men and women in Scotland were working as apprentices or as servants, and did not have the economic stability to support a family. This delayed marriage until young people could afford their own space. Even though they were unable to marry, young people still had children, brought about by the opportunities provided through the nature of Early Modern work. A lack of space and privacy placed men and women in close quarters. Many jobs involved outdoor work and the relative privacy of a haystack or wooded areas. These situations were available because of the minimal effort made to chaperone unmarried women, a practice emphasized more in later centuries. Fraternizing between fellow servants produced bastard children. Young servants also bore the bastard children of their masters and their masters'

³ For more information on the secularization of religion, see: Philip S. Gorski, "Historicizing the Secularization Debate: Church, State, and Society in Late Medieval and Early Modern Europe, ca. 1300 to 1700," *American Sociological Review* 65, no. 1, American Sociological Association, 2000, 138-167.

⁴ Leah Leneman and Rosalind Mitchison, "Girls in Trouble: The Social and Geographical Setting of Illegitimacy in Early Modern Scotland," *Journal of Social History* 21, no. 3, Spring 1988.

sons. It was not difficult for these men to use an imbalance of power to their advantage. While these situations may have been true for a portion of illegitimate births, Anne-Marie Kilday argued that the more typical case involved “fractured courtships...rather than widespread sexual exploitation.”⁵ These women were often acting on the promise of marriage, which was somehow not resolved. Margaret White and James Wilson had three illegitimate children together before they were finally married because his father disapproved of the match. The couple declared that they were “under the promise of marriage” when Margaret was pregnant with the second child and did eventually marry despite his father’s disapproval.⁶ Margaret and James acted under the impulses of a committed relationship and only waited for marriage because of his father. The children were both an act of love and a persuasive foothold towards their ultimate desire: marriage.

Part 3: Presbyterianism and the Child

An element of society beneficial to the bastards of Early Modern Scotland was the development of Presbyterianism as a majority religion. One of the main tenants of Presbyterianism is the concept of predestination. This meant the people believed that each person existed as its own soul already bound for heaven or hell. The Presbyterian faith considered adultery a punishable sin, but the children created from sin were not sin themselves.

⁵ Anne-Marie Kilday, *A History of Infanticide in Britain, c. 1600 to the Present*, Hampshire: Palgrave Macmillan, 2013, 33.

⁶ Leneman and Mitchison, 485.

They could not be held accountable for the crimes of their parents and were forgiven. Presbyterians also strongly believed in the importance of individual bible study as essential to faith. This alongside the democratic structure of Presbyterian governance made learning to read important for all children, even bastards. Most children learned to read by age six and write by age eight. Children learned to read for the sake of their souls in any way they could. It was in the community's best interest for bastard children to learn to read so they could become fully integrated members. Schooling, particularly reading, was emphasised so strongly that parents themselves would often make sure their children had ample opportunities to learn, even outside the traditional school environment. Oliver Sansom recalled how he was "put to school to a woman, to learn to read, who finding me not unapt to learn, forwarded me so well, that in about four months' time, I could read a chapter in the bible pretty readily." The focus and importance of Oliver's education was the Bible, and he learned well at an accelerated speed. Not all children were as diligent as Oliver Sansom. When James Fretwell was sent away to another woman's care for schooling, he misbehaved and did not focus on his learning. As a solution, his mother took charge of his reading lessons and tutored him until he was able to read his Bible and did the same with his brothers and sisters when it was time for their schooling.⁷ Parents found time

⁷ Cited in Hugh Cunningham, *The Invention of Childhood*, London: BBC Books, 2006, 79.

for their children's learning, at least to the point where the children could continue their religious studies on their own time. Learning to read was essential, but learning to write was simply a bonus. Many children learned to read, but did not stay in school long enough to learn how to write. While children generally learned to read properly by age six and write by age eight, in farming families they became useful at home at age seven. Many families felt that as long as children could read, they could read the bible and that was enough. If children continued their schooling they often finished between the ages of twelve and fourteen, worked for a few years in the fields or the family business, and then found an apprenticeship.

Early Modern parents believed that securing future jobs for their children was their duty.⁸ Families were larger and jobs for higher society members were limited. In noble families, acquiring appropriate societal positions for many legitimate children as well as any bastard children could become a stressor, but this did not stop some nobles from attempting to care for their illegitimate offspring. For example, Sir Duncan Campbell of Glenorchy had eighteen legitimate children and legitimised two other sons in 1616. The first earl of Buccleuch did not legitimise his five bastard sons, but "all were treated generously by their father."⁹ These Scots nobles did not care that they already had legitimate children to support. They took responsibility

⁸ Hugh Cunningham, *The Invention of Childhood*, London: BBC Books, 2006.

⁹ Keith M. Brown, *Noble Society in Scotland: Wealth, Family, and Culture from the Reformation to the Revolution*, Edinburgh: Edinburgh University Press, 2000, 163.

for their offspring, even if it could be more difficult to help them find jobs. Illegitimate children had less access to apprenticeships and the child's continuing bastard status (if the father was unable to marry its mother) made clerical jobs usually provided for non-inheriting nobles a near impossibility. Although the Kirk did provide support for bastard children, they preferred that the parents repent and correct their mistakes when in some cases this was not possible because of a previous marriage.

Faith created a method for the Scottish church to regulate the care of bastard children. Melissa Hollander analysed the importance of baptism and its role in the social construction of fatherhood in Early Modern Edinburgh. Baptism was particularly important in Early Modern Scotland because it not only got rid of Original Sin and allowed the child to have a fresh start in faith, but it also confirmed the child's identity and solidified it as a member of that particular parish under the protection of the Kirk. This was equally important to parents of bastard children because it "affirmed that children were under the protection of God and the parish, and were purged of original sin."¹⁰ Baptism took care of the child's spiritual well-being, but membership in the parish addressed the child's physical well-being. The Scots Kirk particularly looked after the poor and the young, the more marginalized members of society. When a bastard child was baptised, it became a part of the faith

¹⁰ Hollander, 68.

community and became ingratiated under the care of the Scots Kirk.

Sometimes baptism was a difficult process to obtain, but even those who understood that they themselves were sinners wanted their children to have the religious opportunities baptism gave them. Duncane Menzeis and Jonet Barron had three children together over eight years and he refused to marry her. In this case, the Kirk allowed the third child to be baptised as long as Duncane and Jonet atoned for their sins and had a faithful man “hold up the child.”¹¹ The couple refused to marry, but their child was still able to be baptised under the provisional care of someone else.

Baptism brought about questions concerning fatherhood, particularly whether a man was spiritually fit to care for the child’s religious upbringing. The Early Modern Scots used baptism as a way to cement the parents in the faith lives of their children or find a new person if the parents were unfit either financially or spiritually. Duncane and Jonet’s choice to pick a new father figure for their child rather than forgo baptism meant baptism was important enough for them that they would let someone else stand in the father’s place so the child could become an official member of the community. Baptism and parenthood were interlinked because “the Scots Kirk considered it to be the primary duty of parents to instruct their children in the faith, by so doing preserving them from evil through a relationship with the work of

¹¹ Hollander, 67, 70.

Christ." In Scotland, parents were the first teachers children had in their faith and the Kirk took that responsibility seriously. In England however, "the religious and moral education of the child was assigned to the godparents."¹² The baptism ceremony in England did not even involve the child's biological parents so much so that fathers were not involved in their new-born child's life until after the baptism. Eventually, the father was added into the ceremony but baptism in England did not play as heavy a role in the immediate family as it did in Scotland. Baptism in England was more focused on creating social ties and the Godparents than the duties and responsibilities of the biological parents to their children's faithful upbringing. English baptism was more about establishing or re-enforcing social ties than it was ensuring the religious upbringing of the child.

One major difference between Scottish and English baptisms was who should perform the sacrament. In Scotland it was important to return to church roots and allow laymen to baptize, where in England it was more important for a cleric to perform the baptism. English baptism also limited the time when babies should be baptised to the most public time possible; baptisms were supposed to be reserved for Sundays and high feast days if the child was born within 8 days of the feast. A similarity between English and Scottish baptism was that they both signified a way to represent the child's

¹² Hollander, first quote 68, second quote 71.

new membership in the Church.¹³ The conventional timing and the emphasis on who should conduct the baptism showed that Scottish baptism focused on connecting the child to its family, where English baptism focused on connecting the child to the church community.¹⁴

Scottish baptism was the beginning of a child's relationship with God. It washed away original sin, but for children to grow in faith, they needed to build their own "relationship with the word of Christ."¹⁵ Because Presbyterianism emphasises the ability to read and interact with scripture, it was more important for children to learn how to read. Gathering to study the bible together and discuss the nature of Protestantism itself was essential to the development of Scottish Presbyterianism and remained important.¹⁶ Because of this, once bastard children were baptized, reading became the next important step on their spiritual journey. Even though reading was only emphasised for its importance in religious growth, it provided illegitimate children with opportunities for personal betterment. Lawyer James Nasmyth claimed he "was conceived in sine and brought forth in iniquitie."¹⁷ He also said that his choice of profession caused him to sin more each day. The

¹³ P.M. Kitson, "Religious Change and the Timing of Baptism in England, 1538-1750," *The Historical Journal* 52, no. 2, Jun. 2009, 269, 272. Also Ryrie, 51.

¹⁴ For more information on Presbyterian Baptism, see Karen E. Spierling, *Infant Baptism in Reformation Geneva: The Shaping of Community, 1536-1564*, Routledge, 2017, google e-book.

¹⁵ Hollander, 68.

¹⁶ Ryrie, 53.

¹⁷ David G. Mullan, "Parents and Children in Early Modern Scotland," 80. In *Finding the Family in Medieval and Early Modern Scotland*, ed. Elizabeth Ewan and Janay Nugent, Hampshire: Ashgate Publishing Limited, 2008.

original intention of Nasmyth's education to bring him closer to God may have failed, but it allowed him to benefit financially and make something of himself instead. In Early Modern England the position of a lawyer was a prominent and comfortable position. It was considered part of a class of positions known as the "pseudo-gentry" described by Everitt as "leisured and predominantly urban families who, by their manner of life, were commonly regarded as gentry, though they were not supported by a landed estate."¹⁸ Lawyers like Nasmyth proved that it was possible for illegitimate children to climb the social ladder and make themselves financially secure.

Part 4: Religion and Ruling Elderships

Religion's role in the lives of bastard children was greater in Scotland than it was in England. This was due to their very different dominant religions: Presbyterianism and Anglicanism. Presbyterians believed in a greater connection between the values of religion and the governing of the state. One of the founders of Scottish Presbyterianism, John Knox, was quite clear about what the church he wanted would look like. It involved "a congregation in which 'open crymes' were 'punished without respect of persone' by elected elders, 'to whome the hole brethren promised obedience'".¹⁹ Ruling elders and the Scottish Kirk were essential to the religious order of Early Modern Scotland. The Kirk was a religious body

¹⁸ Alan Everitt, "Social Mobility in Early Modern England," *Past and Present*, no. 33, Oxford University Press, Apr. 1966, 70, 71.

¹⁹ Ryrie, 46.

made up of community elders who worked with the law to create punishments for social and religious infractions. Their main power was religious, but some family law such as laws concerning adultery fell under the Kirk's jurisdiction. Believers were meant to watch and report on each other's activities to help maintain a structure that lacked centrality and was based on the community itself.²⁰ This helped support the ruling elders by giving them evidence and the support of the community.

The English attempted a form of ruling eldership during the Interregnum period in the 1600s, but had less success. The English Church asked male community leaders to step up and volunteer as elders and guide the enforcement of religious law. The concept was supposed to give a religious voice to court proceedings, but oftentimes ruling elders were also members of the magistrate. Any older male community members might fill the position, but because of the nature of the job, elders were often well-off members of society. The ideal position would be voluntary and not connected to the civil courts at all, as well as occupied by a devoutly religious man. It was expected that these elders would have the same qualifications as ministers outlined in the Bible. They were to be:

blameless, the husband of one wife, vigilant, sober, of good behaviour, given to hospitality, apt to teach; not given to wine, no striker, not greedy of filthy lucre, but patient, not a brawler, not covetous; One that ruleth well his own house, having his children in subjection with all gravity...not accused of riot or unruly...not selfwilled, not soon angry...

²⁰ Ryrie, 52.

a lover of good men...just, holy, temperate....Holding fast the faithful word as he hath been taught.²¹

These religious qualifications were paired with a desire to keep the official magistrate and the religious leadership separate, neither of which was a complete reality. The religious qualifications did not set up the more logistical needs like how much they should resemble a minister in life, religious power, salary, social status and so on.²² Without a clear definition and expectations, different aspects of the leading eldership to change over time. In reality, they fell somewhere between the minister and the common laypeople.

Another difference between the English and the Scottish eldership was their definition over which crimes count as secular and which count as religious. The Scots Kirk presided over cases of blasphemy and Sabbath-breaking, but they also presided over accusations of adultery and fornication. In England during the Long Parliament, officials argued over which crimes could and should be considered civil versus spiritual and included adulteries in that discussion.²³ The ideal doctrine for a ruling elder was the same in both England and Scotland, but when it came time to enact leadership in England, leadership struggled over who should control what. Abbott notes, "In Scotland over the later sixteenth and early seventeenth centuries the parish

²¹ 1 Timothy 3:1-4; Titus 1:6-9 (King James Version) as quoted in William M. Abbot, 'Ruling Eldership in Civil War England, the Scottish Kirk, and Early New England: A Comparative Study of Secular and Spiritual Aspects,' *Church History* 75, no. 1, Cambridge University Press, Mar. 2006, 43.

²² William M. Abbott, 'Ruling Eldership in Civil War England, the Scottish Kirk, and Early New England: A Comparative Study of Secular and Spiritual Aspects,' *Church History* 75, no. 1, Cambridge University Press, 2006, 43. <http://www.jstor.org/stable/27644711>.

²³ Abbott, 57.

kirk sessions had assumed cognizance of many secular concerns that had in England come under the purview of the justice of the peace.”²⁴ This difference between England and Scotland, based on the legal differences that had developed over time, considering the Scottish Kirk, had already been around for a century when the English decided to attempt elder leadership. Oftentimes leadership overlapped between the Kirk and the magistrate as well as becoming an unofficial oligarchy. Power could stay in the same family for generations. For instance, the Menzies family held Kirk power for several decades in Aberdeen even though there were laws created to prevent hereditary power.²⁵ Council members in London served as ruling elders even though they were not legally supposed to serve as both, and the same council “in December 1646 issued a printed order barring Councilmen from being chosen lay elders.” The greatest difference between ruling eldership in England and Scotland was the English’s greater emphasis on a separation between the religious and secular. The reason for Scottish success was that “ruling eldership only functioned effectively when it was violated.” The English placed too many constraints on the few ruling elders they persuaded into positions and made them ineffective. Parliamentary debates in 1641 placed the ruling elder as “little more than a minister himself, confined, as a

²⁴ Abbott, 56.

²⁵ J.R.D. Falconer, ‘A Family Affair: Households, Misbehaving and the Community in Sixteenth-Century Aberdeen,’ in *Finding the Family in Medieval and Early Modern Scotland*, ed. Elizabeth Ewan and Janay Nugent, Ashgate Publishing Limited: Hampshire, 2008, 140.

sort of chairman amongst his fellow ministers, to admonition, persuasion, rebuke, and godly example as his means of control." The English parliament reduced the effectiveness of the ruling elders they were able to convince to step up to the task. The position was often a voluntary one and convincing Englishmen to take it was much harder than it was in Scotland. English elder leadership did not have the same sense of honour that it did in Scotland. Many were worried about the judgements of their neighbours or that they were simply not good enough to take the position.²⁶

Part 5: Protection through Law and Community

No matter what the intention, sexual deviancy was considered a crime in Early Modern Britain. This was based on an increasingly religious society and a societal idea that family as a unit was worth protecting. Unlike the English attempt at a religious legal system, the Scottish Kirk had proved useful and had operated for nearly a century before the English tried the concept. They were able to create laws and affect society. One law in particular helped to protect Scottish illegitimate children. The Edinburgh Burgh Council indicted a statute in December of 1594 that declared:

greitt number of bastard bayrnis cassin upoun the tounis handis,
that...the parents...of the saids bastards borne within thes toun sall
ather be ciat before the Sessioun of the Kirk or ...magistrate for their
offence. [and shall] immediately fynd an responsibill burgess of this
toun caution...that their said bastard bairne or bayrnes sall nocht be
burdenabill...to the guid toun on any way.²⁷

²⁶ Abbott, first two quotes 67, last 52.

²⁷ *Extracts from the Records of the Burgh of Edinburgh: AD 1589 to 1603*, ed. Marguerite Wood, Edinburgh, 1927, 125.

This law provided a secondary person, other than its sinful parents, to look out for the welfare of the child. Law protected the child, despite the circumstances of its birth, and claimed the child as an official member of the community. Parents' sins were not transferrable to the child although adultery itself was punished greatly in Early Modern times. The child's parents suffered for their indiscretions, but because of the Presbyterian belief in predestination, these sins were not supposed to effect the future life of the child. The Bastardy Act of 1610 and the Infanticide Act of 1624 specifically targeted bastard mothers. The Infanticide Act placed hidden pregnancies in their own category of crime and made infanticide punishable by death. It protected the infant children, but at the cost of the mother. English legal protection attempted to use fear of the law as a reason for mothers not to kill their bastard children, where the Scots kirk provided community support to the mother and child.

While English illegitimacy cases focused on secular law, Scottish cases benefitted from the support of the community. In a majority of illegitimacy cases, bastard pregnancies and the resulting children were because the women involved expected a marriage that for some reason did not happen. When this was the case, these women could rely on the assistance of their communities in pressuring the father to marry the mother of his child. This is where women held a particular power. It was their right to name the father,

and Scottish women had two opportunities. In cases of known illegitimate pregnancy, it was the midwife's role to extract the name of the father. Scottish baptismal traditions surrounding family gave the mother a second opportunity to name the father of her child if she had not already done so at the birth. Because of Presbyterianism, these women had the particular advantage of the Scottish Kirk to help pressure the named man into accepting responsibility for the bastard child. Hollander notes that, "The Kirk authorities, in their somewhat zealous efforts to see both children and their mothers looked after, exerted pressure on reluctant men to become fathers to children considered to be theirs, and even to marry the mothers of those children."²⁸ When the English community pressured the man who impregnated Elizabeth Johnson, the situation did not end well. Elizabeth named Edward Mangall as the father and he was pressured to marry her after the babe was born. At first he refused, but then he finally told her to go to the chapel and he would follow shortly. He did follow, but only to bash her head against a cliff and kill her. The child was found dead as well. His trial record noted, "... 'tis very probable that being then constrained to Marry her, he grew weary of her; which was the Reafon he was fo willing to be rid of her sho he ventur'd Body and Soul to accomplifh his Defign."²⁹ Societal pressure pushed

²⁸ Melissa Hollander, "The Name of the Father: Baptism and the Social Construction of Fatherhood in Early Modern Edinburgh," in *Finding the Family in Medieval and Early Modern Scotland*, ed. Elizabeth Ewan and Janay Nugent, Hampshire: Ashgate Publishing Limited, 2008, 69.

²⁹ "A Full and True Relation of the Examination and Confession of W. Barwick and E. Mangall, of Two Horrid Murders, One Committed by *William Barwick* upon his Wife being with Child, near *Cawood* in

him so forcefully towards an unwanted marriage with Elizabeth Johnson that he chose to kill her and risk getting caught and put to death himself instead of marrying her. In his trial, he claimed that the devil made him do it. This is not an uncommon claim for the time. Instead of protecting the interests of the child, these public encouragements towards marriage led to the mother's and the child's death.

The child's baptism also provided an opportunity for a father-figure other than the biological father to become a part of the illegitimate child's life. Many couples, even those who had legitimate children, chose to appoint a Godfather to help take care of the child in times of need. For single mothers or couples who were not financially stable, this took on more importance. The named Godfather took on traditional parental responsibilities and became an important male role model for these children.³⁰ This was a religious answer to making sure illegitimate children remained somewhat secure in their communities, no matter how they came into existence.

Part 6: Nobility

The social problems of bastardy and illegitimate births were not entirely a lower class problem. Among the Early Modern English nobility,

Yorkshire, upon the 14th of *April* laft: As likewife a full Account how it came to be difcovered by an *Apparition* of the Perfon MURDER'D. The Second was committed by *Edward Mangall*, upon *Elizabeth Johnson* alias *Ringrose*, and her *Bastard Child*, on the 4th of *September* laft, who faid he was tempted thereto by the Devil. ALSO Their Trials and Convictions before the Honorable Sir *John Powel*, Knight, one of Their Majefties Juftices, at the Affizes holden at *York*, on the 16th of *September*, 1690,"
Published 7 Oct 1690, 1-2.

³⁰ Hollander.

sexual deviancy in its many facets was seen as problematic, mostly in cases “where they caused additional problems with property and finances or involved additional crimes.”³¹ During Elizabeth I’s reign, anyone who was socially attached to her and involved in a sexual scandal became problematic. In order for Elizabeth to retain her reputation, she had to separate herself from and punish crimes of sexual promiscuity so that the crimes would not become associated with her. Elizabeth was both a woman ruler and unmarried. Her chastity could not be questioned without questioning her ability to rule. This meant that the behaviour of Elizabeth’s female servants became crucial to maintaining Elizabeth’s reputation and values as a virgin queen. Consequently, punishments for sexual crimes were dealt swiftly and severely.³² Elizabeth’s gentlewoman of the bedchamber, Anne Vavasour, became pregnant by the earl of Oxford and hid the pregnancy until she gave birth. When Elizabeth found out, she sent her away and locked her in the Tower of London that same night. Anne’s lover, the earl of Oxford, tried to escape to the European Continent, but every port was warned of him. When he was caught, Elizabeth imprisoned him in the tower as well. Anne was under the Queen’s care and her promiscuous actions reflected poorly on the queen; therefore Elizabeth’s quick actions against Anne meant that she did not condone this behaviour and would not associate with it herself. The

³¹ Johanna Rickman, *Love, Lust, and License in Early Modern England: Illicit Sex and the Nobility*, Hampshire: Ashgate Publishing Limited, 2008, 70.

³² Rickman, 29.

couple was punished but the bastard child born, their son, was eventually knighted by King James. A relative of the earl of Oxford became the child's guardian and the child advanced himself in society. The parents' punishment was swift and complete, and the child grew up under the care of a guardian.³³

Once they were involved in sexual scandals, Elizabeth did not allow women back to court. Men, however, could return after some time. Anne Vavasour was never allowed back to court, but the earl of Oxford returned after a few years of banishment. The courtly women involved in pre-marital pregnancies that were able to marry their lovers were lucky. They "benefitted from class privileges and established social networks."³⁴ They were banned from court, but they were still able to continue their lives in social circles if they were able to marry their lovers. Women who were not able to marry their lovers found their prospects much lower, but did sometimes find husbands. Elizabeth was particularly hard on her maids because they represented an extension of her beliefs. She understood that marriage was important to the girls because it was expected to strengthen family alliances. She was particularly upset with Mary Shelton's secret marriage to John Scudamore, but did forgive her and allow her back into her service. Rickman suggests that Elizabeth "believed that maids who married were in essence abandoning her." This is because, even if they remained in her service, the

³³ Rickman, 29-30.

³⁴ Rickman, 30, 34-35.

maids should build a closer bond with their husbands than to her. When one of her favourite ladies wanted to marry, Elizabeth was so desperate to keep that closeness that, before thinking about the political implications, she suggested the lady became her proposed husband's paid whore instead. To Elizabeth, her maids' illicit sexual relationships were a political scandal, but their marriages were a personal affront.³⁵

Under the court of James I & VI, the punishments for sexual promiscuity changed because of the different natures of each respective ruler. When he ascended to the English throne after his cousin, James was a married man with three children. He had an heir and a spare, proving his sexual virility and providing security for the future leadership of England. James was also a married man. His marriage allowed him leeway to know and talk about sexual experiences, and his status as a male ruler meant that any possible scandal in the queen's household would not create a question of political leadership.

Although the court of James VI & I has been seen as more sexually lax, it was the close comparison between James and Elizabeth that made the court look more scandalous. Elizabeth kept a tight court and punished quickly for any offense, whereas James used legal courts to punish sexual digressions only when they were tied to more serious crimes. Elizabeth also liked to

³⁵ Rickman, 35-36, 39.

surround herself with more mature women around her own age, and when Anne arrived, she surrounded herself with younger women and younger fashions. At parties, Anne acted in ways Elizabeth would have never considered, but she was not the sovereign, and she was married. Her role as queen was the wife of the Sovereign and mother of his successor, not the head of church and state, and therefore, a difference in behaviour would be acceptable. Criticisms of the changes at court, particularly about Anne and her ladies, came from Englishmen not visiting foreigners.³⁶ Those who were held in favour under Elizabeth and did not find favour with James would be apt to criticise the new regime.

While most scandals moved away from the queen's household under James's reign and involved more of his own servants and officers, one notable scandal involved Anna's maid, Elizabeth Southwell. Elizabeth slipped off to the continent with Robert Dudley. He was the bastard son of Douglass Sheffield and Robert Dudley, earl of Leicester, and had just gone to court and failed at legitimising himself by claiming his parents were secretly married. The two left together, converted to Catholicism, visited the Pope to get a dispensation for their marriage (they were cousins once removed), and married. When they got their dispensation, they neglected to tell the Pope that Robert Dudley was already married in England with four daughters. His

³⁶ Rickman, 70, 72-73.

marriage to Elizabeth Southwell made Robert Dudley a bigamist, which had recently been made a felony under the Statute of 1604. When Anne found out about Elizabeth's betrayal, she was most upset about Elizabeth leaving court without notice when she was supposed to be waiting on the queen. Since Anne was not the sovereign leader, Elizabeth's scandal did not place any political implications on Anne or her virtue. As a married queen with a king, Anne was protected from the full effect scandal had on Elizabeth. This does not mean, however, that she lived free from personal scandal. On one occasion, James had to protect his wife's dignity against someone who claimed to be her lover.³⁷ James and Anne paid less attention to their courtiers' and servants' sexual misconduct, and punishments were only necessary when the deviances were included in a larger scandal. They were less susceptible to the dangers of rumours of promiscuity because of James's status as a male sovereign and Anne's status as a married queen with heirs. Unlike his predecessor, James did not need to protect his virtue, and that was reflected at his court.

Part 7: Women's Crimes and Illegitimacy

In some cases it was not the act of adultery that was the main source of conflict, but it was the women's outright "refusal to repent and reform" themselves.³⁸ Some women refused to give up their vices and simply could

³⁷ Rickman, 76-79.

³⁸ Laura Gowing, 189.

not be controlled by anyone. Some bastard children were born from unions without any promise of future marriage. Dorothy Lillingstone lived a precocious life that ended when she was found guilty for killing her bastard child. She wrote her story while waiting for her death sentence to warn others of the evil and danger living a life of lust could bring. She claimed herself to be full of the devil for most of her life and constantly chose the path of sin even when she had other options. Dorothy was a prostitute and her child was fathered by a married man. Up until her conviction, she lived her life unapologetically but she claimed a return to God because of a fear of death. She believed, "Had not that fentance been paft upon me, I fear my heart would never have been affected with that forrow..."³⁹ She admitted that the entire basis for her manuscript, to warn others off her past way of life, most likely would not have happened at all without her conviction. Lillingstone was an extreme example of a child born out of sin and complete disregard for religious law. Her pregnancy was an accident, but it was in fact her second illegitimate pregnancy. She claimed that the first child was alive and well. She, like Edward Mangall, claimed the influence of the devil in her action that killed her second child. She strangled the child as soon as it was born and then meant to hide it as she was instantly ashamed of what she had done. Christopher Evans returned home repeatedly either finding his wife Anne

³⁹ Dorothy Lillingstone, "Gods Mercy and Juftice Difplayed, in the Wicked Life and Penitential Death of Dorothy Lillingstone, Executed the 7 of April, 1679. at *Kennington*, for Murthering her Baftard-Childe. Publifhed at Her Earneft Requeft. With Allowance," London: Printed by *F.Bennet*, for *R.Miller*, 1679, 9.

with a Humfrey Pritchard whom he had forbidden from his house or finding out from his children that Humfrey Pritchard had been there when he was gone.⁴⁰ This continuing behaviour shows that Anne refused to change her ways. She was so unapologetic about her behaviour that, although they were both violent with each other, Anne sometimes made the first move. Once, she struck her husband on the head with a chamberpot. Anne was unapologetic for her actions, much like Dorothy Lillingstone was before she was sentenced for the murder of her bastard child.

In Early Modern England, people used accusations of bastardy as a simple insult. This shows clearly the stigma still attached with bastardy as a social construct. Community members used bastardy accusations against misbehaving children, but also as an insult to their mothers.⁴¹ If a child was a bastard, it implicated that its mother was unchaste or even a whore. Even as an insult though, calling a child a bastard was more of an attack on its mother than it was on the child itself. Men were blamed for bastardry out loud in the streets much more convincingly than they were in courts, where women were more heavily blamed for the adulterous acts that produced illegitimate children. It was the medical belief at the time that conception could not happen without the female orgasm, and therefore this declared conception of any child proof of consent and the willingness of the woman who bore the

⁴⁰ Gowing, 212.

⁴¹ Gowing, 116.

child.⁴² This 'medical' belief paired alongside the moral double standard of women's chastity compared to men's in Early Modern society meant that public slander and its use in moral regulation did not stand effectively in the legal system at the time.⁴³ Officially, women were blamed much more heavily than men for having bastard children.

Adultery could be equally about satiating the sexual desires of dissatisfied married women and about the manly character of the husbands they were betraying. Margaret Marr wanted to go back with her husband, not her lover, after she gave birth to her lover's child. She claimed the reason she slept with her lover was because she wanted a child and her husband was incapable of giving her one. While her actions were sinful, Margaret claims her motivations were because of her husband's inability. She purposely conceived a bastard child for herself and her husband. Even though Margaret herself wanted the baby and loved her husband, English society was not ready to accept her and her sinfulness. Margaret's own sister insulted her so much that she left her house to go live in the country with their father to have the baby.⁴⁴ Margaret placed herself in a precarious position. She loved her husband, but she insulted his manhood not only by sleeping with another man but by freely admitting that it was because he was not capable of giving

⁴² Garthine Walker, "Crime, Gender, and Social Order in Early Modern England," Cambridge: Cambridge University Press, 2003, 55-60.

⁴³ Gowing, 114-115.

⁴⁴ Gowing, 194-195.

her with child. Margaret's case was complicated because, even though she was committing adultery against her husband, she was doing it to create a family unit. She wanted to return to her husband with the child, and since she was already married, the child was legally her husband's no matter its paternity. Margaret was protecting what she saw as family.

Part 8: Protecting the Family and Illegitimacy

Early Modern people considered the protection of the family unit a top priority. According to contemporary balladry, positive outcomes occurred in stories where women were doing everything they could to keep their families safe or where pregnant women were trying to marry their lovers.⁴⁵ This shows that public societal perception favoured the protection of the family unit over the romantic love of adulterous women. Pregnant women who wanted to marry their lovers had a different place in society than adulterous married women. Although both situations were considered adulterous, the pregnant woman attempting to marry her lover is trying to correct the situation where the adulterous married woman is often living unabashed and unapologetically in sin. If the mother did show contrition, Leneman and Mitchison did not find any negative social implications on either the bastards or their mothers once the mother had been punished. These punishments

⁴⁵ Katie Barclay, "'And Four Years Space, being Man and Wife, they Lovingly Agreed': Balladry and Early Modern Understandings of Marriage," in *Finding the Family in Medieval and Early Modern Scotland*, ed. Elizabeth Ewan and Janay Nugent, Hampshire: Ashgate Publishing Limited, 2008, 32.

created by Kirk sessions were described by Leneman and Mitchison as imposing

standard penalties on offenders of both sexes: a fine and 'appearances,' i.e. penance on the pillar in church on Sundays. The fine was standard, but the number of appearances depended on the nature of the offence: three for first offenders in simple fornication, 6 for a repeater, 26 for an adultery case, and many more for further repeaters.⁴⁶

These punishments enforced during the Early Modern period paled in comparison to punishments in medieval Scotland. Instead of appearing on the pillar for six times, a couple on their third fornication offence would be imprisoned for 24 days and given only bread and water. They would also be "tane to the depast and fowlest pule of wattir of the toun or parrochin, their to be thryse dwkit and thaireftir bannissit the said toun or parrochin for evir."⁴⁷ Instead of forcing community members to endanger their own health and the health of a possible child, Early Modern punishments were based more on social humiliation than physical discomfort. Still, once the social debt was paid, the legal sins could not affect the child. Atonement brought a possibility of social acceptance and protected the ideal of family, giving the bastard child a chance to be free of its parent's sins.

In England, maintaining the family unit was not always seen as the most important thing. Through the beginning of the Early Modern time period, many people justified that they could remarry after they were

⁴⁶ Leneman and Mitchison, 496.

⁴⁷ *The Register of the Privy Council of Scotland*, vol. 1, AD 1545-1569, ed. John Hill Burton, Edinburgh, 1877.

separated from their former spouse. Depending on the clerical perspective, these marriages could have been bigamy, which was made a felony in 1604.⁴⁸ If the English church considered a second marriage bigamous, it was invalid and any children of the second couple would technically be considered illegitimate. John Milton felt so powerfully about the subject of divorce that he wrote four tracts focusing on the subject. In the first, *The Doctrine and Discipline of Divorce*, he considered an uncompanionable marriage “a drooping and disconsolate household captivity, without refuge or redemption.”⁴⁹ Milton believed in a faultless divorce based on mutual incompatibility and was in this way a bit ahead of his own time. When divorce laws were created in England, they were based around assigning blame and allowed the innocent party to remarry but not the guilty party. Without the proper setting for divorce, the child of a bigamous marriage was made a bastard.

Women were considered the nurturing presence that held the family together.⁵⁰ Illegitimacy created a child without the context of family. While it was accepted in previous societies as a necessity, infanticide under this increasingly religious society was seen as “a grave sin as it all too flagrantly

⁴⁸ Gowing, 181-182.

⁴⁹ John Milton, *The Doctrine and Discipline of Divorce: Restor'd to the Good of Both Sexes, From the Bondage of Canon Law*, London, 1644, Preface, https://www.dartmouth.edu/~milton/reading_room/ddd/book_1/text.shtml.

⁵⁰ For more information, see Jessica C. Murphy, “Feminine Virtue’s Network of Influence in Early Modern England,” *Studies in Psychology* 109, no. 3, University of North Carolina Press, 2012, 258-278.

broke the precious bond of normal maternal instinct where a mother is supposed to act as the ultimate protector of her child."⁵¹ Infanticide was unnatural and heavily associated with illegitimacy and single mothers. For some women, the thought of having a bastard child was too much to bear. They would take matters into their own hands, hiding the shame of the pregnancy and sometimes murdering their own children. Infanticide was a quick solution to a complicated problem, unless they got caught. Garthine Walker analysed court records in Cheshire because of an abundance of criminal court records not found elsewhere, and found that of all crimes women were tried for, infanticide was the highest. It also had the highest conviction rating, and primarily, the courts found these women guilty. Walker discovered that "between 1580 and 1709, thirty-three women were executed for the offence [infanticide] in Cheshire: one every four years." In Essex there was a sixty percent acquittal rate with an average of only one prosecution per year.⁵² A woman sentenced for infanticide was more likely to hang because of the 1624 Act on Infanticide. This act meant that any mother who had concealed the birth and death of her child would automatically be considered guilty of murder unless she could prove that the child was stillborn. Under this law, any visible harm to the baby made conviction more likely. Walker argued that 'in redefining the suspected murder of newly born

⁵¹ Kilday, 3.

⁵² Walker, 150.

bastards as a special case, the 1624 Act provided opportunities for mitigation that were evidently lacking for women in standard homicide law.⁵³ She thought that the presence of the law brought bastardy to the forefront, but this attack on bastardy through law was not a new concept in England. They had previously enacted the Bastardy Act of 1610 which allowed the mother of a bastard child to be imprisoned for up to a year if she “burdened a parish with a chargeable bastard.”⁵⁴ This previous law was about the economics of illegitimacy. The English parishes did not want to be financially responsible for the poor illegitimate children and punished mothers for placing this burden on the state. The populous saw infanticide as a viable option for avoiding this punishment.

Cases where women concealed their pregnancy and the baby died did not guarantee their guilty conviction. Ann Clough was exonerated from the death of her hidden baby because the body itself did not have any physical damage. Women were not the only ones involved in infanticide cases. In a study of infanticide in Early Modern England, “men were implicated in the deaths of eleven infants in the sampled years. Not one was convicted.” These men were an almost negligible number in the sample size provided and women remained the main focus of infanticide cases in both Early Modern England and Scotland.⁵⁵

⁵³ Walker, 152.

⁵⁴ Kilday, 37.

⁵⁵ Walker, 153, 154.

In Early Modern times, the family was the most important example and the focal point of societal goodness. When a woman committed infanticide, she was destroying the family instead of protecting the family. Infanticide was often a fearful choice to solve a social problem, to cover up personal digressions. In some cases women became pregnant without their consent. When women were raped and became pregnant, it was no longer considered rape. This was because at the time "conception was legally accepted as proof of consent, according to the widely held theory that generation occurred from the mixing in the womb of a male and female seed emitted at orgasm."⁵⁶ People believed that pregnancy signalled consent and enjoyment of the act, invalidating their rape claims. It was a way that women could become pregnant with a bastard child without any choice, but simply the act of their pregnancy declared the perpetrator not guilty. In a society where women's words were taken less seriously than men's, it was hard to prove. If a woman was injured or her clothes torn, she had a chance at conviction. If her clothes were not torn or she was not physically hurt, it would be much more difficult. If a woman gave up and physically stopped fighting, if by a glance the act looked like two consenting adults, even if that were not truly the case, it was no longer a crime. Essentially, rape "worked both as a literal and figurative silencing of women."⁵⁷ It took away their

⁵⁶ Walker, 60.

⁵⁷ Walker, 55-56.

agency, and if they became pregnant, it freed the perpetrator of charges.

While the action of infanticide was still wrong, it was one way for women to take control of their own lives. They made the choice to not live every day with a constant reminder of their shame in the form of a human life.

Infanticide showed the darkness that bastardy could bring to the minds of the mother. While the child had protections, the mother's fate was more open to criticism. It was her actions that created the child, and she was the one who would suffer for it. In the streets of the community, however, women's words had more influence than in the courts. Gowing claims that socially "men could be, and were, quite severely blamed for the faults of illicit sex, rape, and especially bastardy."⁵⁸ Their names were slandered for their actions, even if they were not convicted by the courts. In the rare cases of infanticide where the court indicted men in plotting to kill babies, the court released the men accused without charge. The court indicted women for infanticide much more than men, and the court found these women guilty at a higher rate.

Early Modern society considered infanticide a women's crime. The most common archetype for a person indicted for infanticide was the suspected mother of the often illegitimate infant. These cases happened in both England and Scotland, but the amount of Scottish cases was about

⁵⁸ Gowing, 114-115.

double that in England. While Kilday found the trend in English prosecutions over the Early Modern time period was a peak of convictions and indictments at legislation and then lowering amounts from then on, Scottish prosecution was more varied. Indictments in Scotland did not have a recognizable pattern, and although they had a higher rate of prosecution, they included banishment as a possible option instead of death. Over time, banishment gradually increased and death sentences decreased in Scottish infanticide cases. The English infanticide cases studied did not give the option of banishment, only death upon conviction.⁵⁹ Scottish infanticide cases had a higher conviction rate, but they showed more leniency in their style of punishment where English infanticide cases held that guilt meant death.

Part 9: The Exceptional Power of Child Death

Parents of Early Modern children saw them as both possessing a particular innocence and as little adults. Society highly encouraged children in their religious studies, and the children were expected to interpret the bible for themselves. Children were told to “seek God and save your souls.”⁶⁰ They were considered responsible for their own salvation. Personal redemption and salvation occupied a large part of the religious Early Modern mind, along with a focus on Judgement Day. Life was more precarious and the community

⁵⁹ Kilday, 28-30.

⁶⁰ Thomas Halyburton, quoted in David G. Mullan, “Parents and Children in Early Modern Scotland,” 80. In *Finding the Family in Medieval and Early Modern Scotland*, ed. Elizabeth Ewan and Janay Nugent, Hampshire: Ashgate Publishing Limited, 2008, 77.

expected children to have charge of their own souls. This sentiment and the reality of high child death rates inspired religious self-study books for children. One of the most common was James Janeway's *A Token for Children*, which was republished several times including an American version. In the preview to his book, Janeway places the fate of children into their own hands:

And now dear children I have done, I have written to you, I have prayed for you; but what you will do, I can't tell. O children, if you love me, if you love your parents, if you love your souls, if you would escape hell fire, and if you would live in heaven when you die, do you go and do as these good children. And that you may be your parents joy, your country's honour, and live in God's fear, and die in his love, is the prayer of your dear friend,

J. Janeway⁶¹

Children were given agency in their own faith. They were treated as individuals, independent souls separate from their parents. This allowed for the further belief that bastard children would have that opportunity as well.

Children in death held high amounts of adult trust and a dying child's testimony about faith was valued. When a child was near to death, it was considered closer to God. This religious allowance for children's faith and particular closeness to God was available because the simplification of sacraments into just baptism and communion and the rewriting of the Bible into English. Protestantism allowed for a greater access to all people, including children. This simplification of faith allowed the children J. Janeway

⁶¹ James Janeway, *A Token for Children, being An exact Account of the Conversion, holy and exemplary Lives and joyful Deaths, of several YOUNG CHILDREN*, London, 1709.

described in his book to truly be heard and understood by the adults around them. In 1581, William Withers woke from a coma claiming that a serving man was dressed too frivolously and that doing so offended God. Sarah Wight was blind, deaf, and motionless for 75 days before she recovered, but she was focused more on her own sin than the sins of others. Sarah remembers, "I walked continually in fire and brimstone for rebelling and murmuring against God, and against Parent."⁶² These children woke with what they believed were prophetic abilities. People believed the near death experiences of these children made them closer to God. These stories of child redemption apply more to English children than Scottish, based on their religious beliefs. The entirety of Scottish Presbyterianism relied on an absence of free will. It was a "faith which explicitly rejects the claim that human action can have any religious merit, and which—if you have imbibed one of its stronger variants—reminds you that you were not even an agent of your own conversion."⁶³

Children sometimes felt the same desperation as the mothers who committed infanticide. They were virtually powerless and often fearful of the adults around them. One of the ways children could take control of their own lives was through killing themselves. According to Murphy, at least one in five suicides was below twenty-one and one in two suicides was below age

⁶² Cunningham, 62, 64.

⁶³ Ryrie, 49-50.

thirty.⁶⁴ People generally assumed that children committed suicide because they were scared of or trying to avoid punishment from either their parents or other authority figures.⁶⁵ In 1519, a fifteen year old cobbler's apprentice named William Smith ate a leg of mutton that was not meant for him. He hanged himself rather be punished by his master. In 1565, twelve-year old Agnes Addam got her dress dirty while horseback riding. She drowned herself in a lake on their property in fear of her father's punishment. In 1605, twenty-year old John Ashley was brought before the mayor of Gloucestershire because he was suspected of stealing 30s from his master. When he escaped, he drowned himself in the river.⁶⁶ These three young people took their own lives because they could not bear to face authority. They felt like they had no power except the power to remove themselves from the world. Because of the deep hold authoritarian values had on Early Modern England, the contemporary view of suicide was one of "fear and cowardly avoidance of a just correction." This thought process, along with no common understanding on how to prosecute cases of child death from punishment, allowed Early Modern people to hide from some of the realities of child suicide. Suicide was classified as a felony in Early Modern England. Children under the age of seven could not be charged with a felony no matter

⁶⁴ Terence R. Murphy, "'Woful Childe of Parents Rage': Suicide of Children and Adolescents in Early Modern England, 1507-1710," *The Sixteenth Century Journal* 17, no. 3, 1986, 264.

⁶⁵ Murphy, 265.

⁶⁶ Murphy, 266-267.

what, and children between the ages of seven and fourteen could only be charged with a felony if the case were suicide.⁶⁷ Although contemporaries blamed the children for their own actions and even charged them with felonies for killing themselves, it was possible that the nature of society made them feel isolated and powerless. Children between the ages of seven and fifteen were often sent away from their parents to “service, apprenticeship or tutelage in other households.” Parents sent their children away from their families and everything they had known to a strange place. Around this time, when the youths left or was about to leave their families, was mentally trying and difficult. They were “estranged, isolated, powerless, and without rights” and only valued for their obedience.⁶⁸ It was easy for a youth to feel trapped with no other option. While death took away their lives, it gave them power. A child’s action of taking their own life, particularly on the property of a master’s or parent’s property, openly accused the authority figure of leading the victim to this fate. The death also caused not only guilt and remorse, but irrefutable disgrace and shame on those left behind.⁶⁹ They took the only escape available to them, out of fear and loneliness.

Part 10: Conclusion

Even though there were a great number of similarities in the circumstances that resulted in English and Scottish illegitimate children, the

⁶⁷ Murphy, quote 266, 262-263.

⁶⁸ Murphy, first quote 268, second quote 269.

⁶⁹ Murphy, 269.

Scots benefitted from the security provided by the Kirk. The English were not able to set up an effective leading eldership because of both a lack of qualified volunteers and the amount of restrictions on their leadership that made the English elders powerless except in truly religious matters. Englishwoman Dorothy Lillingstone was sentenced to death after murdering her infant. Dorothy had hidden both her pregnancy and the name of the father, as well as murdered her child. She claimed the devil had come over her in the moment and she regretted the act immediately; she hid her pregnancy and the child died. Sometimes, even when community involvement regarding the welfare of the infant child was present, the child could end up dead. When Edward Mangall refused to marry Elizabeth Johnson, the mother of his bastard son, the community pressured him to marry her. He continued to refuse, but eventually he gave in, only to murder his would-be wife, and be suspected of the murder of their bastard child. Whether the community was involved or just the state, bad things could happen.

Overall, incidents of infanticide in bastard births were less than one percent in Scotland and were not as common as the 1624 Act might make them seem in England. Acts of unnatural violence, like infanticide, occurred in a low percentage of overall bastard births. Given the legislation created to deal with the problem of illegitimate children during this time period, at first glance illegitimacy may seem a larger problem than it actually was. A majority of infant children were born to normal families and illegitimacy was

an exception to the rule. Although it was tied to illegitimacy, infanticide was still proportionately rare. The religious community and the Kirk protected the interests of Scottish illegitimate children, while English illegitimate children were protected by laws of the state. English laws, however, focused mainly on discouragement of bastardy instead of caring for the existing bastard child. They focused on the financial costs of illegitimate children and punishing the mothers that produced them. Even though they did contain some elements protecting the community as a whole from the financial costs of raising a child, Scottish religious laws concerned the welfare of the illegitimate child.

Although both States held the same values on the importance of family, Scotland's mastering of bastardy during the Early Modern time period emphasised the importance of community and forgiveness. These two different methods of dealing with illegitimate children remain part of a continuing debate concerning the separation of Church and State. Religion's influence in Early Modern Scotland helped govern communities. It provided protection for marginalized members in society, but its values and protections may have some correlation with its higher illegitimacy rates, however slight. Nevertheless, the Presbyterian community of Early Modern Scotland gave illegitimate children a greater chance in life than the secular law of Early Modern England.

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