

**Narrative Ambiguity, Bodily Uncertainty, and Community Involvement:
Infanticide in Seventeenth-Century Scotland**

by

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A Thesis

presented to

The University of Guelph

In partial fulfilment of requirements
for the degree of

Master of Arts

in

History

Guelph, Ontario, Canada

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ABSTRACT

NARRATIVE AMBIGUITY, BODILY UNCERTAINTY, AND COMMUNITY

INVOLVEMENT: INFANTICIDE IN SEVENTEENTH-CENTURY SCOTLAND

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This thesis uses seventeenth-century infanticide cases to examine the experience of pregnancy and childbirth in early modern Scotland. Through these cases, it is revealed that the condition of pregnancy and women's experiences of their bodies during this time were uncertain and reflected the liminality of the early modern age. Additionally, this thesis examines familial and community involvement in cases of infanticide, and argues against the commonly held notion that infanticide was a crime most often committed by women acting alone. The role of the family and the community also ties into the liminal aspects of the experience of pregnancy, as the roles played by the community in illegitimate births, infanticide, and infanticide investigations reflect the inverse of the role of the community/family in traditional, legitimate pregnancies and births. Through my examination of the seventeenth-century infanticide cases, it is revealed that there is far more nuance surrounding the act of infanticide, and the ways in which it is related to the legitimate culture of pregnancy and birth, than has previously been acknowledged in the Scottish context.

DEDICATION

For Violet and Eleanor, the best pet rats.

ACKNOWLEDGEMENTS

First, and most importantly, I would like to express my most sincere gratitude to my supervisor, Dr. Elizabeth Ewan, for her consistent guidance and encouragement. She dedicated a great deal of time to this thesis, and helped to shape and improve it in more ways than I can count. Without her, this thesis would not have been possible. Thank you so much.

I am grateful as well for the rest of my committee: Dr. Susannah Ferreira, and Dr. Peter Goddard. They have made great contributions to the development of this thesis, and for that I cannot thank them enough. In particular, I would also like to thank Dr. Ferreira for her encouragement and support beyond the scope of this project. She made this degree (and its first year in particular) much less overwhelming and much more fun.

I am grateful for the constant love and support that I receive from my family; thank you to my parents, and to my sister Renaissance. Thank you to my dearest friend Lindsay Church, whose positivity, humour, and reassurance has now helped me make it through two post-secondary degrees. I am exceedingly grateful for her. Thank you also to my friend Mitch Demelo, who has been there for me in many different ways over the past year and who I am very happy to have met. I'd also like to thank my friend Matt Midolo, who has been the only person I could turn to who understood and could commiserate about the process of writing a history thesis. Thanks as well to all of the staff at the Grad Lounge/The Fifth. The lounge has been so much more than a study space for me, and I am am thankful for it every day.

Finally, a massive thank you to my partner, Elliott Curry, who has been my biggest supporter, my greatest source of laughter, and who I love very much.

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A NOTE ON TRANSLATION

Quotations taken from the sources found in the National Records of Scotland have been transcribed and translated into modern English by my supervisor, Dr. Elizabeth Ewan. Quotations taken from the Register of the Privy Council and other printed sources have been transcribed and translated into modern English by myself. It is these modern translations that I have used in this thesis.

Chapter One:

Women's Experiences, Perceptions, and Understandings of Pregnancy

Infanticide is one of the few examples of an almost exclusively female-gendered crime. As such, it offers the historian a unique perspective, not only into female criminality and the gendered dynamics that influenced the perpetration and perception of such offences, but also into the darker side of the early modern culture of pregnancy. As well, it offers insight into the ways in which the crime subverted the expectation that women were inherently feminine, maternal beings. Early modern pregnancy was defined not only by bodily uncertainties for the woman herself, but by the ambiguous nature of community involvement. The ambiguities inherent not only in the pregnant female body but also in a pregnant woman's role in the community and the way in which her body blurred the boundaries between private and public space reflects the inherent liminality of the early modern era and the ways in which early modern culture was to a large extent comfortable existing in such liminal space. When it comes to legitimate births and the accepted early modern culture of pregnancy, these cultural ambiguities are clear. However, more research needs to be done into how the inverse of this legitimate culture of pregnancy — the culture of secrecy in which infanticide occurs — also, and perhaps to a greater extent, reflects these same themes.

In the early modern era, birth and death were inextricably and intimately linked. While a woman in the modern age may generally conceive of pregnancy and childbirth as a relatively linear experience, with an accepted and knowable trajectory from conception to birth, this was not the case for early modern women. Pregnancy and childbirth were experiences that were

defined by their corporeal liminality, uncertainty, fear, and ambiguity. Women during this time were defined by their bodies, and the ways in which they experienced and behaved during pregnancy, childbirth, and the lying-in period were seen as reflective of their worth and status as women. The ambiguous position of women themselves, as well as the liminal status of their bodies, were reflected in the ways in which society interpreted and understood the processes of birth and, by extension, death. Thus, in order to effectively interrogate the ways in which infanticide reflected a darker side of the early modern culture of childbirth, it is necessary to explore and explain the legitimate culture of childbirth in tandem with its darker, more secretive side.

Women who were pregnant with illegitimate children were excluded in many ways from the traditional culture of pregnancy, and infanticidal women (who typically hid the fact that they were pregnant to begin with) were doubly excluded from the realms of female knowledge and the supportive culture of legitimate birth. As Laura Gowing states:

A history of reproduction that focusses entirely on the legitimate and the acknowledged will erase many of the anxieties, conflicts, and dramas that were part of the early modern culture of childbirth. The histories of pregnancies that were hidden or ended in infanticide expose another history of childbirth, characterized by narratives of concealment, fear, confrontation, and exposure. The social history of pregnancy is...more ambiguous than historians have tended to acknowledge; women's experiences of secret pregnancies, labours, and alleged infanticides were shaped by some profound cultural and social tensions about the reproductive body and about maternity.¹

There has been a relatively small amount of research done into the ambiguities and uncertainties of legitimate early modern pregnancies, and even less research done through these same lenses

¹ Laura Gowing, "Secret Births and Infanticide in Seventeenth-Century England," *Past and Present* 156 (1997): 90.

regarding illegitimate pregnancies. Though there is a fair amount of infanticide scholarship in the Scottish context, no studies of Scottish infanticide have been conducted through this interpretive framework. Thus, through the examination of roughly seventy seventeenth-century infanticide cases, this thesis will endeavour to fill that lacuna in the scholarship. It will not only add to the existing scholarship on Scottish infanticide, which largely focusses on legal and popular perceptions of the crime and examines the women who committed the crime through the lenses of legal history, women's history, and histories of crime, but will also contribute to the scholarship surrounding early modern Scottish maternity and the ways in which women interpreted and experienced their pregnancies and bodies during this uncertain time in their lives.

Before beginning, however, it is necessary to briefly outline some of the research on infanticide that has been completed, both in the Scottish as well as the wider European contexts. In the Scottish context, two scholars in particular have written quite prolifically on the subject of infanticide: Anne-Marie Kilday² and Deborah Symonds.³ Kilday approaches infanticide through the history of crime, and examines it in tandem with other aspects of early modern female criminality. Symonds, on the other hand, examines the popular perceptions of the crime, taking

² Anne-Marie Kilday, *Women and Violent Crime in Enlightenment Scotland* (Rochester: The Boydell Press, 2007); Anne-Marie Kilday, "'Monsters of the Vilest Kind': Infanticidal Women and Attitudes to Their Criminality in Eighteenth-Century Scotland," *Family and Community History* 11, 2 (2008): 100-115; Anne-Marie Kilday, "The Barbarous North? Criminality in Early Modern Scotland," in *The Oxford Handbook of Early Modern Scottish History*, edited by T.M. Devine and Jenny Wormald (2012): 1-16; Anne-Marie Kilday and Katherine D. Watson, "Infanticide, Religion, and Community in the British Isles, 1720-1920," *Family and Community History* 11, 2 (2008): 84-99.

³ Deborah A Symonds, "Reconstructing Rural Infanticide in Eighteenth-Century Scotland," *Journal of Women's History* 10, 2 (1998): 63-84; Deborah A. Symonds, *Weep Not For Me: Women, Ballads, and Infanticide in Early Modern Scotland* (University Park, PA: The Pennsylvania State University Press, 1997)

ballads and novels and using them to determine popular attitudes toward infanticide. Additionally, she interrogates the differences between popular, legal, and establishment perspectives on the crime. While both of these authors have contributed greatly to the study of infanticide in Scotland, there are nevertheless some gaps in the research that ought to be filled. For example, both Kilday and Symonds focus largely on infanticide in Scotland following the passing of the significant 1690 Infanticide Act.⁴ The passing of this act no doubt altered the ways in which the crime of infanticide was dealt with by authorities and understood by communities, and while the focus on the period following this act is important, Kilday and Symonds (as well as others) have neglected to thoroughly study infanticide in the pre-1690 period.

This is a significant oversight, as a thorough examination of the pre-1690 period would provide crucial context to the passing of the 1690 Act itself, and a comparative study of the crime before and after the passing of the act would be equally revealing. Though a proper comparative study of pre- and post-1690 infanticide in Scotland should be undertaken, that is not the focus of this thesis. However, this thesis is utilizing primary sources exclusively from the pre-1690 period, and thus the sources themselves are inherently revealing regarding this understudied period. Additionally, the sources that I have examined seem in many ways to go against some of the assumptions that Kilday and Symonds have made about pre-1690 infanticide in Scotland. These alternate findings only further reveal the necessity of a more thorough study of the period in question.

⁴ Lenora Ledwon, "Maternity as a Legal Fiction: Infanticide and Sir Walter Scott's *The Heart of Midlothian*," *Women's Rights Law Reporter* 18, 1 (1996): 6.

For example, one of the main points that Kilday makes throughout her work on infanticide is that while infanticide is generally understood to be a relatively non-violent crime, with the murder methodology typically being abandonment, suffocation, etc., as opposed to outright violence, this was not the case in Scotland. Kilday argues that in Scotland, the crime of infanticide was far bloodier than it was elsewhere, with women commonly stabbing their infants to death.⁵ This did not hold true for the selection of cases which I examined. In that selection, overtly violent infanticide was exceedingly rare. Another way in which Kilday and Symonds' work makes assumptions about infanticide in pre-1690 Scotland is in their insistence that infanticide is a female-coded crime wherein the women committing it acted alone the vast majority of the time. This assumption is not unique to Kilday and Symonds. Indeed, the vast majority of literature regarding early modern infanticide, from the Scottish as well as the wider European perspectives, make a note of infanticide as a women's crime that was typically committed alone. Once again, the sources that I examined have shown this to be untrue — or at least more complex than it has been given credit for. In the selection of cases examined for this thesis, there were very often others present during the birth and murder, and there was often more than one person indicted for the crime. This is not to say that there aren't cases which fit this supposedly 'typical' formula — just that they are rarer than one would assume given the state of the literature regarding infanticide.

The wider European literature regarding infanticide, as mentioned, follows the same model as Kilday and Symonds' work with the general argument that women committed infanticide alone. Interestingly, a good deal of the wider literature also discusses more overtly

⁵ Kilday, *Women and Violent Crime*, 70.

violent forms of infanticide, which to some extent disproves Kilday's repeated assertions that Scottish women were uniquely violent in their committal of the crime. The main themes of the wider literature on European infanticide, however, remain quite similar to the approaches taken by Kilday and Symonds in the Scottish context. A great deal of the research done on the crime examines it in the criminal context, and endeavours to use infanticide to more fully understand female criminality.⁶ This research examines the women who committed the crime, the circumstances that they were in, and the factors that made infanticide seem like the only sensible option. These are valuable research avenues, and ones that have been explored from a variety of different geographical lenses. In addition to looking at infanticide through the histories of crime and of gender, there is also a good deal of focus on the legal history of infanticide, with scholars examining the circumstances that led to increases in indictments and the extent to which infanticide prosecution was the prosecution of deviant female sexuality.⁷ Once again, these are

⁶ Anne-Marie Kilday, "The Barbarous North? Criminality in Early Modern Scotland," in *The Oxford Handbook of Early Modern Scottish History*, edited by T.M. Devine and Jenny Wormald (2012): 1-16; Mona Rautelin, "Female Serial Killers in the Early Modern Age? Recurrent Infanticide in Finland 1750-1896," *The History of the Family* 18,3 (2013): 349-370; Ulinka Rublack, *The Crimes of Women in Early Modern Germany*, (Oxford: Clarendon Press, 1999); Manon Van der Heijden and Marion Pluskota, "Introduction to Crime and Gender in History," *Journal of Social History* 51, 4 (2018): 661-671; Garthine Walker. *Crime, Gender, and Social Order in Early Modern England*, (Cambridge: Cambridge University Press, 2003).

⁷ Fiona Harris-Stoertz, 'Pregnancy and Childbirth in Twelfth- and Thirteenth-Century French and English Law,' *Journal of the History of Sexuality* 21:2 (2012): 263-281; Peter C. Hoffer and N. E. H. Hull, *Murdering Mothers: Infanticide in England and New England, 1558-1803*, (New York: New York University Press, 1981); Andrea Feher, "Women, Crime, and the Secular Court in Eighteenth Century Cluj," *Journal of Education Culture and Society* 2 (2015): 33-42; Marilyn Franucs, "Monstrous Mothers, Monstrous Societies: Infanticide and the Rule of Law in Restoration and Eighteenth-Century England," *Eighteenth-Century Life* 21,2 (1997): 133-148; Keith Wrightson, "Infanticide in Earlier Seventeenth-Century England," *Population Studies* 15 (1975): 10-22.

worthy areas of research. However, they have been discussed a great deal and are not the questions that interest me the most regarding infanticide.

This thesis will endeavour to more fully explore the experiential side of infanticide. By examining women's understandings of their own bodies and the ways in which their communities interacted with and understood female sexuality and the reproductive female body, this thesis will show that the culture surrounding infanticide was the inverse of the culture surrounding legitimate maternity during the early modern era. By examining the darker history of reproduction and childbirth, a more complete image of the early modern female experience and the ways in which the female body existed in both the private and public spheres can be revealed. Women had intimate relationships with and understandings of their bodies, and the physical ability to reproduce meant that women were consistently defined by their bodies and their corporeality. Rather than being a grounding presence, the early modern body reflects the liminality of the era in several key ways, which this thesis will endeavour to explore.

Examinations of infanticide cases from the lenses of corporeality, liminality, and uncertainty have been undertaken. However, there are only a few significant studies which examine infanticide from this angle, in addition to a few more which use this angle to explore legitimate pregnancies and births. None of these studies have been done in the Scottish context — a gap which this thesis will endeavour to fill. The studies that have been done, however, are significant and this thesis relies upon them greatly. Chief among these is Laura Gowing's "Secret Births and Infanticide in Seventeenth-Century England,"⁸ which has informed a great deal of my

⁸ Laura Gowing, "Secret Births and Infanticide in Seventeenth-Century England," *Past and Present* 156 (1997): 87-115.

own analysis and understandings of infanticide. Additionally, Elizabeth Steinway’s “Narrating Pregnancy and Childbirth: Infanticide and the Dramatization of Reproductive Knowledge”⁹ has an illuminating and insightful analysis of the ways in which infanticidal women used their bodily knowledge (or lack thereof) to take control of their own narratives when accused of infanticide. Though not focussed directly on infanticide, Ulinka Rublack’s “Pregnancy, Childbirth, and the Female Body in Early Modern Germany”¹⁰ reveals a great deal about the liminality of early modern pregnancy, and sheds significant light on the rituals and practices which surrounded legitimate childbirth. Likewise, Cathy McClive’s “The Hidden Truths of the Belly: The Uncertainties of Pregnancy in Early Modern Europe”¹¹ accomplishes much of the same. Finally, Linda A. Pollock’s “Childbearing and Female Bonding in Early Modern England”¹² focusses on the rituals and community that surrounded childbirth and informs a great deal of my own analysis regarding the role of the community in infanticide cases. These are the most significant studies which have informed this thesis, and the lack of additional research from the lens of liminality, corporeality, etc., shows just how open this field is. There is no doubt room for a great deal more analysis from these perspectives. For example, in an upcoming book Katie Barclay uses infanticide cases to examine the history of privacy — something very closely tied to the

⁹ Elizabeth Steinway, “Narrating Pregnancy and Childbirth: Infanticide and the Dramatization of Reproductive Knowledge,” *Humanities* 7, 120 (2018): 1-17.

¹⁰ Ulinka Rublack, ‘Pregnancy, Childbirth and the Female Body in Early Modern Germany,’ *Past and Present* 150 (1996): 84–100.

¹¹ Cathy McClive, ‘The Hidden Truths of the Belly: The Uncertainties of Pregnancy in Early Modern Europe,’ *Social History of Medicine* 15, 2 (2002): 209-227.

¹² Linda A Pollock, ‘Childbearing and Female Bonding in Early Modern England,’ *Social History* 22, 3 (1997): 286-306.

topics this thesis covers.¹³ These studies, however, are not enough, and should serve as a jumping off point for further analysis in this area.

To begin, then, it is vital to first explore infanticide in Scotland in some detail. Who were the women who were committing this crime? Why were they excluded from their society's cultures of maternity? As has been repeatedly shown in the literature on early modern infanticide, the women who were most likely to commit overt or violent infanticide were unmarried women, who were commonly employed as domestic servants.¹⁴ These women hid their pregnancies and their births, and in the majority of cases acted alone in their committing of infanticide.¹⁵ Their crime was one of desperation — women in these circumstances stood not only to lose their livelihoods if they bore an illegitimate child, but also would face harsh social and religious censure. Indeed, Scotland was a country known for its harsh forms of religious, moral, and social control,¹⁶ and there was no doubt that many women would go to great lengths to avoid the severe consequences that came with bearing illegitimate children. It is interesting to note also that indictments for infanticide were more common in rural areas than in urban ones, as the supervision of women in the countryside was far more intense than the supervision of women in towns, making it more difficult for rural women to conceal unwanted pregnancies and to dispose of unwanted infants than it was for women living in more urban environments.¹⁷ This

¹³ I am grateful to Dr. Barclay for giving me access to her unpublished chapter in her forthcoming monograph.

¹⁴ Kilday, *Women and Violent Crime*, 70.

¹⁵ Kilday, *Women and Violent Crime*, 70.

¹⁶ Anne-Marie Kilday, “‘Monsters of the Vilest Kind’: Infanticidal Women and Attitudes to Their Criminality in Eighteenth-Century Scotland,” *Family and Community History* 11, 2 (2008): 103.

¹⁷ Kilday, *Women and Violent Crime*, 72.

community policing of morality is significant, as pregnancy during the early modern era was not only a private experience but also an intensely public one, and the role of the community in this process could be either supportive or threatening, depending on the status and circumstances of the woman in question.

Because of these religiously mandated forms of control and the willingness of the community to participate in this moral policing process, bearing an illegitimate child presented a significant risk in Scotland, particularly from the end of the seventeenth century through to the end of the eighteenth century.¹⁸ Deborah Symonds argues that before this time, illegitimate children were common, and were “often fitted into rural communities where their presence may indicate either temporary crises that led to the suspension of marriage plans — or just pragmatic fornication.”¹⁹ Whether this is entirely accurate can be debated, however, as extensive studies regarding illegitimacy and infanticide in pre-1690 Scotland have not yet been undertaken. It is known, however, that during the early modern period marriage itself was changing and was becoming less financially viable for young couples.²⁰ Though technically speaking it was relatively easy to get married in Scotland, historians have argued that “the small amount of evidence we have, all from the later part of the eighteenth century, suggests that the rural population had a sizeable proportion never marrying and a high age of marriage. The pattern of

¹⁸ Deborah A. Symonds, “Reconstructing Rural Infanticide in Eighteenth-Century Scotland,” *Journal of Women’s History* 10, 2 (1998): 64.

¹⁹ Symonds, “Rural Infanticide,” 64.

²⁰ Symonds, *Rural Infanticide*, 65.

local church discipline, backed by the sanctions of the state, exposed those anticipating marriage to financial penalties.”²¹

Thus, illegitimacy, and infanticide by extension, became increasingly visible and increasingly worrisome,²² as it was no longer simply carried out by married parents incapable of supporting another child, reflective of a famine, or the result of adulterous behaviour.²³ Without the ability of a community to absorb illegitimate children, and without it being relatively simple to arrange a quick marriage, women “saw themselves as separate, as exaggeratedly individual within a community that could punish but could not help them.”²⁴ Though married couples no doubt did commit infanticide during this period, it was much less obvious as couples had the option of simply neglecting an unwanted infant.²⁵ On the other hand, overt or violent infanticide was far more commonly carried out by unmarried women, who were desperate to hide the shame of an illegitimate child during a time when bearing one was considered to be sinful and disgraceful.²⁶

The differences between the way in which single women and married women were connected to the crime of infanticide demonstrates one of the most salient aspects of the context surrounding the crime: the ways in which the crime was intimately connected to women, and was

²¹ Leah Leneman and Rosalind Mitchinson, “Scottish Illegitimacy Ratios in the Early Modern Period,” *The Economic History Review* 40, 1 (1987): 59-60.

²² Rosalind Mitchinson and Leah Leneman, *Sexuality and Social Control: Scotland 1660-1780* (Oxford: Basil Blackwell, 1989): 210.

²³ Symonds, “Rural Infanticide,” 64.

²⁴ Symonds, “Rural Infanticide,” 64.

²⁵ Kilday, *Women and Violent Crime*, 70.

²⁶ Kilday, *Women and Violent Crime*, 70.

specifically female-coded. When women behaved criminally, this behaviour contradicted the (supposedly) inherently gentle and maternal aspects of their sex, and thus called their femininity into question and challenged their status as ‘proper’ women. Additionally, women’s bodies were themselves often subjected to public scrutiny and interrogation, commonly by other women, and especially when it came to matters regarding female sexuality, sexual morality, and reproduction.²⁷ Since women’s bodies were so inherently connected to their status and worth as women, they were seen as a kind of public property. Though pregnancy was doubtless an intensely private experience in many ways, the early modern codes of morality and conceptions of the body (and particularly the female body, with all of its unknowability), made pregnancy a public affair and thus blended the boundaries between the public and private spheres. It is necessary now to discuss the early modern understandings of maternity — medical, social, and individual perceptions of the pregnant female body allowed it to exist in a liminal space, where the body hid secrets and was in many ways illegible or unknowable.

Medical understandings of the female body as they existed during the early modern period — and, in particular, contemporary assumptions regarding the reproductive system, conception, and pregnancy — played an important part in defining the roles that women were expected to play in society. Furthermore, an examination of the medical thought that prevailed during this era shows that the connections between the physical, social, and emotional experiences were very pronounced,²⁸ and that these connections influenced the way in which

²⁷ Anne-Marie Kilday and Katherine D. Watson, “Infanticide, Religion, and Community in the British Isles, 1720-1920,” *Family and Community History* 11, 2 (2008): 89.

²⁸ Ulinka Rublack, “Pregnancy, Childbirth, and the Female Body in Early Modern Germany,” *Past and Present* 150 (1996): 109.

people imagined the human body in general, and the way in which people treated those who were pregnant in particular. Early modern medical and scientific views were dominated by ideas and writings from the past, and most importantly the writings of Hippocrates, Aristotle, and Galen.²⁹ Indeed, these ancient texts were crucial to the development of scientific thought in general, and to scientific thought regarding reproduction and differences between the sexes in particular.³⁰

To begin, it was argued by the ancient Greek philosopher Aristotle that there was scientific proof that women were inferior to men. This proof, he claimed, “could be seen in nature where the male of each species was demonstrably more advanced than the female—larger, stronger, and more agile.”³¹ The theory of the four humours—black bile, yellow bile, phlegm, and blood—put forth by Hippocrates, a Greek physician of the Classical era who is considered to be the father of medicine, also contributed to the idea that women were inferior to men because the qualities that influenced the humours—hot versus cold and moist versus dry³²—varied based on gender. Heat was considered to be the primary instrument of nature,³³ and thus women were considered to be imperfect because they were cold and damp (as opposed to men, who were hot and dry). Additionally, women were even considered to be ‘defective men,’ as if they were meant to be born as boys but something went wrong during the foetal stage. This position was

²⁹ Joan Cadden, *Meanings of Sex Difference in the Middle Ages: Medicine, Science, and Culture* (Cambridge: Cambridge University Press, 1993): 13.

³⁰ Cadden, *Sex Difference*, 11.

³¹ Vern L. Bullough, “Medieval Medical and Scientific Views of Women,” *Viator* 4 (1973): 487.

³² Cadden, *Sex Difference*, 17.

³³ Bullough, “Views of Women,” 492.

reinforced by the belief that women were merely men turned ‘inside out,’ and that each part of the internal female reproductive system had a corresponding part on the external male reproductive system. This is demonstrated in part by the fact that the ovaries were often referred to and understood as the female testes.³⁴

It is evident, then, that the medical and scientific understandings of the ancient and early modern worlds posited that men were the ‘norm,’ and that women were an intrinsic ‘other.’ The female reproductive system was largely a mystery to these thinkers, and their misunderstandings and fears regarding the female body and female sexuality influenced the subjugation and control of women for centuries. The thinkers that dominated early modern medical thought had a “pre-anatomical understanding of corporality,”³⁵ and thus were capable of believing in theories as improbable as that of the ‘wandering womb,’ which posited that if the womb became too dry due to lack of intercourse—again note the preoccupation with women being ‘wet’ or ‘damp’—the womb would float around the body causing various ailments.³⁶ Additional theories regarding the uterus claimed that it was animalistic, dark, and dirty. This proved to be a significant problem for pregnant women who were unable to purify and cleanse the uterus through monthly menstruation.³⁷ Misunderstandings regarding the female body also influenced theories of conception. While it was commonly believed that both men and women contributed to the formation of a child, early modern thinkers had no concept of the female ovum. Instead, they

³⁴ Bullough, “Views of Women,” 487-493.

³⁵ Rublack, “Female Body,” 93.

³⁶ Bullough, “Views of Women,” 493.

³⁷ Rublack, “Female Body,” 94.

believed that women had ‘seed’ similar to (yet weaker than) that of men.³⁸ Essentially, it was believed that while the female seed “contributed material for generation, it lacked the efficient and formal cause inherent in the male semen.”³⁹ The associations of masculinity with strength and femininity with weakness were so ingrained that it was believed that if a man’s semen (which was believed to determine the sex of the child at conception) was strong and well assimilated, it would lead to the birth of male children. On the other hand, it was believed that if the semen was weak and poorly assimilated, then it led to a ‘femalization’ of the seed and, thus, the birth of female children.⁴⁰

This pre-anatomical understanding of the body—and the theories that this understanding allowed—meant that the medical and scientific worlds during the early modern period were much more connected to the social and emotional worlds than they are today. Those who lived in the early modern period lived in a very interconnected world, and this interconnectedness extended to beliefs about health and medicine. For example, it was believed that outer experiences were capable of having a great effect on the inner workings of the body. Upon discovering that his wife had miscarried, a man living in Cologne in 1558 realized that a disagreement he had had with his wife must have altered or slowed the flow of blood to the infant, thus causing the miscarriage.⁴¹ During the medieval and early modern eras organs were far less prominent in people’s perceptions and understandings of their bodies than fluids,

³⁸ Bullough, “Views of Women,” 490.

³⁹ Bullough, “Views of Women,” 491.

⁴⁰ Bullough, “Views of Women,” 491.

⁴¹ Rublack, “Female Body,” 84.

especially blood. It was believed that blood could flow too fast, too slowly, or in the wrong directions, and that improper blood flow caused a variety of ailments. This idea of proper blood flow, and of keeping the four humours in balance, was very influential, and so experiences that caused the blood to react, such as shock, rage, or overexcitement, were all believed to cause illness and to have negative effects on a developing foetus.⁴²

With these understandings of the female body, and the position of the pregnant body as in between the private and the public — subject to public control, but also to public protection since the boundary between the world and the developing foetus was seen as so thin — women were able to use their bodily uncertainties and the liminal status of pregnancy to narrate and make sense of their experiences. In the case of women accused of infanticide, invoking bodily uncertainties was often a helpful court strategy, though it ought not to be assumed that it was only a court strategy and not reflective of genuine confusion and ambiguity regarding the progress of their pregnancies and deliveries.⁴³ Indeed, the only way in which such a strategy could be effective is because medical and legal experts were aware of the illegibility of the female body — “‘uncertainty’ was not simply a socially constructed guise employed by unmarried women, but a medical and physical reality experienced by early modern women and recorded by their medical practitioners. Ambiguities were, in essence, the vehicles for these women’s stories,” and “it was only possible for women accused of infanticide to construct narratives about lumps and stillbirths because such things could and did happen.”⁴⁴

⁴² Rublack, “Female Body,” 109, 93.

⁴³ Cathy McClive, “The Hidden Truths of the Belly: The Uncertainties of Pregnancy in Early Modern Europe,” *Social History of Medicine* 15, 2 (2002): 226.

⁴⁴ McClive, “Truths,” 211.

As has been made clear, in early modern medical thought there was a distinctive focus on the womb, which was difficult to definitively interpret despite its central role in the reproductive process. This difficulty in interpretation is due to the womb's inaccessibility and the ways in which it resisted being seen and understood. The challenges the womb posed were particularly apparent when attempting to identify a pregnancy, which is a status that is supposed to be marked by outward symptoms, but more often relied upon a woman's own interpretation of her body and the changes therein.⁴⁵ Though modern medicine has made the detection of pregnancy a relatively straightforward endeavour, it was not so easy in the early modern era: the common symptoms most typically associated with pregnancy—a growing stomach, the suspension of menstruation, and feeling foetal movement,—were all inconclusive symptoms that were open to interpretation. It was often difficult to tell whether one was carrying a 'true' or 'false' fruit, and even the pregnant woman and her midwives could be unsure and could interpret symptoms incorrectly.⁴⁶ There were a variety of explanations pregnant women could give for their growing bellies, swelling breasts, pains, or illnesses. Because of this, both within and outside of the realms of female gynaecological knowledge and expertise, pregnancy was often a contested condition whose symptoms could be contradictory, understood, ignored, or guessed at, and which made women's bodies open to public interpretation and scrutiny in a variety of forms.⁴⁷

⁴⁵ Elizabeth Steinway, "Narrating Pregnancy and Childbirth: Infanticide and the Dramatization of Reproductive Knowledge," *Humanities* 7, 120 (2018): 1.

⁴⁶ McClive, "Truths," 212.

⁴⁷ Gowing, "Secret Births," 90.

Quickening, the term for the detection of foetal movement in the womb, was afforded a special status in early modern thought as the certain proof of a living and viable foetus.⁴⁸ The problem with quickening, however, is the issue of expertise. How exactly does one become an expert in quickening? What qualifications were necessary? Was one an expert simply because one was a woman, or did one have to have personal experience with pregnancy? Was expertise unrelated to womanhood or personal experience and, in fact, was something that required formal training? As Cathy McClive argues, in the early stages of pregnancy and at the beginning of quickening, “only the mother would have been able to feel the foetal movements. At any stage, a pregnant woman’s narrative about quickening was based on her subjective interpretation of internal foetal movements, whereas a medical practitioner (male or female) listened and felt externally, but perhaps no less subjectively”⁴⁹

Thus, it makes sense that a single woman in the early stages of pregnancy might misinterpret even a telling sign such as quickening. When the detection of a pregnancy exists in an uncertain realm regardless of whether one is a physician, midwife, or expectant mother, the signs must be doubly ambiguous to the single woman, who had neither the personal experience nor the “access to knowledge and lore shared among other women who had borne children.”⁵⁰ Because of their exclusion from the realms of female gynaecological knowledge — knowledge offered to married women expecting legitimate children — these women may have defined these changes to their bodies in ways which made sense based on the medical information they did

⁴⁸ McClive, “Truths,” 215.

⁴⁹ McClive, “Truths,” 215.

⁵⁰ Gowing, “Secret Births,” 97.

possess. This led to women interpreting their symptoms as illness or disease, rather than as a pregnancy.⁵¹

Even for women who were aware of their pregnancies and acknowledged the symptoms for what they were, they would have nevertheless have had a uniquely early modern understanding of conception and pregnancy. These understandings would have provided these reluctantly pregnant women with useful interpretive frameworks that would have allowed them to deny or ignore their situation. For example, the belief that quickening did not occur until the fourth or fifth month of pregnancy could cause women to deny their symptoms, or to interpret them as something else, up until (or even far beyond) that point. The first several months, or even an entire pregnancy, could be interpreted by a woman in denial as simply a series of missing periods that could return at any point, or as a growing stomach which might eventually return to a normal size.⁵² The ambiguity inherent in foetal detection, and the difficulties of detecting or understanding quickening were not the only ways in which pregnancies could be uncertain. Once quickening did occur, and foetal movement was certainly felt, a woman and her midwife were required to interpret and make sense of the internal movement, which could quite easily be misread as colic or wind.⁵³

Additionally, false conceptions increased the uncertainties regarding a pregnancy. It was thought that “a false growth began as a corrupted conception, formed from two seeds, male and female. If not expelled after two or three months it might harden and become a mole. Moles were

⁵¹ Gowing, “Secret Births,” 97.

⁵² Gowing, “Secret Births,” 97.

⁵³ McClive, “Truths,” 219.

masses of unformed flesh and blood that were more difficult to remove.”⁵⁴ These false conceptions offered a convenient explanatory framework for the infanticidal mother, who could claim that she had in fact borne a false rather than a true fruit. Indeed, it is irrelevant whether or not women’s bodies actually produced moles or false conceptions. It was understood that pregnancy was an uncertain and ambiguous experience, and the prevalence of this understanding in addition to women’s genuine beliefs that their bodies produced such things was enough to produce and legitimate such stories.⁵⁵ Additionally, “false conceptions could substantiate the claims of women to ‘knowledge’ of their bodies’ ‘secrets,’”⁵⁶ which would have certainly been a helpful approach for a woman accused of child murder.

In infanticide cases, then, women were left with a few options for defence. In 1690, an infanticide statute was passed in Scotland which primarily focussed upon the concealment of pregnancy and birth as the basis of the crime of infanticide.⁵⁷ The statute was inspired by a similar statute passed in England in 1624 and was “exactly written, and described three conditions — concealing pregnancy, giving birth alone, and having no child to show one’s neighbours — which were to be taken as proof that the mother had murdered and had planned to murder her child.”⁵⁸ The authors of the 1690 act ensured that juries would presume guilt, placed the burden of proof upon the women, and assumed that some women could and would kill their

⁵⁴ McClive, “Truths,” 219.

⁵⁵ McClive, “Truths,” 221.

⁵⁶ McClive, “Truths,” 223.

⁵⁷ Ledwon, “Legal Fiction,” 6.

⁵⁸ Deborah A. Symonds, *Weep Not For Me: Women, Ballads, and Infanticide in Early Modern Scotland* (University Park, PA: The Pennsylvania State University Press, 1997): 128.

own children if given the opportunity, and enough privacy, to do so.⁵⁹ For the period before 1690, there has not been sufficient research done into infanticide cases to definitively state any wider legal attitude or approach to the crime.

Aside from proving that she had made preparations for the birth or that her child was born dead, “a woman on trial for infanticide had two other options for pleading innocence: she might deny that a birth had happened by claiming she was never pregnant in the first place, or she might plead that she was unaware of her own pregnancy.”⁶⁰ The claim that a pregnancy had not occurred or that a pregnancy had only been a false conception “depends on the idea that a woman has more knowledge about her body than those who testified to her alleged pregnancy. Claiming to be unaware of one’s own pregnancy, on the other hand, hinges upon the difficulties in reading the reproductive female body.”⁶¹ A swelling belly, for example, could be explained away as an illness, a symptom of menstruation, or even simply wearing additional clothing. A woman accused of infanticide whose breasts were searched and squeezed for milk could mean that she had lately been pregnant, or could mean nothing, as it was believed at the time that women’s breasts could contain milk even if she had never conceived or been pregnant.⁶² Sometimes, “the presence of milk was attributed to menstruation or another aspect of a woman’s specific reproductive cycle. To make matters even more confusing, women would sometimes describe their bodies as having particular traits — such as the production of breast milk — that

⁵⁹ Symonds, *Weep Not for Me*, 128.

⁶⁰ Steinway, “Narrating Pregnancy,” 7.

⁶¹ Steinway, “Narrating Pregnancy,” 7.

⁶² Steinway, “Narrating Pregnancy,” 8.

they simply attributed to their unique (but normative) experience of their own bodies.”⁶³ The presence of milk, then, could either be attributed to a recent pregnancy and infanticide, or simply to a woman’s own unique body and as entirely separate from a pregnancy.

In addition to squeezing women’s breasts for milk, other signs of recent childbirth were sought out during infanticide trials. Bloodied clothing and sheets were often interpreted as signs of a recent birth, though even these were ambiguous. This evidence could be attributed to something else, such as an illness or menstruation. Even the presence of an infant’s body was not certain, as women attempted to argue that what appeared to be the birth of a child was, in fact, something else altogether. Women could explain births away as moles, lumps, gristle, etc., or even as monstrous and inhuman births. Thus, women attempted to claim their innocence based upon the fact that what they had given birth to was, in fact, inhuman or monstrous.⁶⁴ Because of the ambiguities of the body and the uncertainties inherent in pregnancy and pregnancy detection, women were thus able to discursively control the narratives and their experiences of the entire process of pregnancy. Essentially, the inherent ambiguity of pregnancy allowed women two possible defences when confronted with the crime of infanticide. Both defences depended upon women either claiming or rejecting knowledge regarding pregnancy and their reproductive bodies.⁶⁵

The ambiguities and uncertainties of pregnancy are not limited to the perceptions and understandings of the pregnant woman herself, however. As has been mentioned, community

⁶³ Steinway, “Narrating Pregnancy,” 8.

⁶⁴ Steinway, “Narrating Pregnancy,” 9.

⁶⁵ Steinway, “Narrating Pregnancy,” 10.

involvement was a huge factor, both in a supportive sense in regard to legitimate pregnancies, and in a policing sense in regard to infanticide cases. An exploration of both sides of the culture of maternity is necessary. There was a very powerful social aspect of pregnancy and childbirth, which can be seen not only through the lens of the legal regulation of pregnant women and infanticidal mothers, but also through the lens of community involvement in the processes of pregnancy and childbirth.

Though pregnant women enjoyed legal protection to some extent, laws concerning them were more often than not misogynistic—if not in their intent, then in their implementation and outcomes—and limited the rights and freedoms of women.⁶⁶ For example, the focus placed on the well-being of the foetus was so great that women were often expected to be self-sacrificial in motherhood, and to die themselves rather than let the same happen to their children. Martin Luther famously expected this of women, often espousing and exalting the ideal of self-sacrificial motherhood, though the policing of motherhood was undertaken by secular authorities in areas that were both Protestant and Catholic.⁶⁷ This represented the “Renaissance ideal of the ‘perfect wife’ as one that died in childbirth, performing the heroic task of furnishing her husband with an heir identical to himself.”⁶⁸ Because birth was such a large and important aspect of female identity, it was considered to be highly disturbing if a woman refused to suffer for her

⁶⁶ Fiona Harris-Stoertz, “Pregnancy and Childbirth in Twelfth- and Thirteenth-Century French and English Law,” *Journal of the History of Sexuality* 21, 2 (2012): 266.

⁶⁷ Rublack, “Female Body,” 90.

⁶⁸ Rebecca Wynne Johnson, “Divisions of Labor: Gender, Power, and Later Medieval Childbirth, c. 1200-1500,” *History Compass* 14, 9 (2016): 386.

child. This refusal challenged the very definition of womanhood.⁶⁹ Due to the expectation that women would essentially be subordinate to the children they were carrying, activities such as contraception, abortion, and infanticide were all criminalized and closely monitored. Indeed, even miscarriages were regarded as suspect, and “women who miscarried because they were reluctant to go into labour were accused as criminals and reported to the ducal supreme council, for such behaviour fundamentally challenged the view that motherhood was natural and sacred.”⁷⁰ There was a pervasive fear that if women were given complete control of the childbearing process, then they could easily take advantage of the power given to them, and would go on to fake pregnancies, provide their husbands with bastard children, or even kill their own children.⁷¹

In cases of infanticide, there is an interesting contrast to this assumption of women sacrificing and suffering for their children. For mothers of legitimate children in the early modern era, labour and birth were experiences that were planned for and were typically managed and supported by the women in one’s community. For illegitimate mothers, the opposite was true: labour and birth were experiences that were concealed and denied.⁷² Many mothers who went on to be accused of infanticide gave birth alone and in secret. In the same way that labour was inextricably tied to legitimate childbirth, it was erased from the narratives of illegitimate childbirth. This was necessary for a few reasons. Firstly, from a legal standpoint, claiming that

⁶⁹ Rublack, “Female Body,” 92.

⁷⁰ Rublack, “Female Body,” 90.

⁷¹ Harris-Stoertz, “Pregnancy and Childbirth,” 281.

⁷² Gowing, “Secret Births,” 99.

labour was short, painless, or unexpected was the best option for a woman accused of infanticide, because this would at least partially explain why she had not called upon other women for help. Additionally, it was believed at the time that poor women and women carrying illegitimate children had easier and faster labours and deliveries than mothers who were prepared for a full lying-in period, and stories of such births, and of the act of infanticide itself, created an understanding that such labours were meant to be disgracefully easy. The labours and deliveries that were the culmination of concealed and secret pregnancies were kept as hidden and quiet as the pregnancies themselves.⁷³ Just as women bearing illegitimate children were excluded from the realm of female gynaecological knowledge, so too were they excluded from the notion of labour as women's work. As Ulinka Rublack argues:

Pregnancy, childbirth, and lying in were experienced by the 'unfinished and open body...not separated from the world by clearly defined boundaries' but 'blended with the world' and suffused with the duality of birth and death. A woman before, during or after childbirth occupied a liminal space in which outer experiences were readily transmuted into inner experience which affected both her and her child. She knew that she could give birth successfully only if her whole body 'flowed': she had to sweat, cry, shout, and open her womb wide.⁷⁴

The silent, supposedly shamefully easy deliveries experienced by mothers accused of infanticide left little to no room for them to properly behave as a labouring woman should, and thus these women were denied the very experiences which were so foundational to perceptions of their femininity and their sex at that time.

Other women were crucial in upholding this status quo and in denying illegitimate mothers the knowledge and status that came with legitimate births. In cases where a prospective

⁷³ Gowing, "Secret Births," 99.

⁷⁴ Rublack, "Female Body," 86.

mother was unwed, and the identity of the father was in question, both laywomen and midwives played a crucial role in the interrogation of the expectant mother. In bastardy cases, men—for obvious reasons—tried to avoid being named, and women, whether due to pressure or threats from the father, or for their own personal reasons, often avoided naming the man who had impregnated them. In cases such as these, both midwives and the community of women who typically attended a local birth would question the mother during the most intense moments of her labour, while contractions were occurring, or even while she was actively giving birth. Additionally, the midwives, in particular, would be called to testify as to what the pregnant woman said in the birthing chamber. In such circumstances the midwife was not an ally of the expectant mother, she was a representative of the state.⁷⁵ When faced with this level of public scrutiny, it is not difficult to imagine why some women would choose the path of secrecy.

When these secret births and infant deaths were revealed, local women played just as significant a role in the infanticide proceedings. When the body of an infant was discovered, the women of the community, often under the supervision of the midwife, would interrogate any woman suspected of being recently pregnant. If a woman continually denied her pregnancy, or refused to speak, the women would try her breasts for lactation to determine whether or not she had recently given birth. At this point, the mother would typically claim that her child had been stillborn.⁷⁶ While for illegitimate mothers, community involvement posed a serious threat (especially for single women who shared space with other women — domestic labourers, for example), it was the opposite for legitimate mothers, to whom communities offered a valuable

⁷⁵ Pollock, “Female Bonding,” 303.

⁷⁶ Pollock, “Female Bonding,” 304.

place in which expectant mothers could be protected, as well as receive advice, material goods, etc.

As was mentioned previously, the external world and the internal world were heavily conflated during the early modern period and, as such, communities did their best to protect legitimately pregnant women from shocks and upsets that might negatively affect the children they were carrying.⁷⁷ It was understood that pregnant women ought not to participate in strenuous labour or do any heavy lifting, and it was recognized that those who were expecting should be well looked after. Thus, expectant fathers “had to reorganize the work-load, nourish their wives with meat and wine, buy or hire a bed in which she would lie in, and if possible pay for a nurse.”⁷⁸ It was expected that fathers would provide time and space for their pregnant wives to the best of their ability, despite the expenses involved therein. Though it was not always possible for every husband to provide at the same level, they were nevertheless expected to do what they could within their means. For illegitimate mothers and women accused of infanticide, these same protections were not offered. As most women accused of infanticide were domestic labourers, pregnancy for them meant continuing to work until the moment of labour, as well as a lack of the assistance and accommodations that legitimately pregnant women enjoyed.

The pre-birth preparations for legitimately pregnant women extended far beyond the expectant couple. Pregnant women, especially those expecting their first child, could rely on a near-constant stream of well-intentioned advice and, occasionally, gentle chiding from the women both in their immediate family and in the wider community. Expectant mothers were

⁷⁷ Rublack, “Female Body,” 96.

⁷⁸ Rublack, “Female Body,” 98.

emotional, vulnerable, and knew how dangerous the process of pregnancy and birth could be. Thus, they drew strength from the advice, suggestions, reassurances, and prayers other women offered them. Additionally, women relied a great deal on other women, particularly relatives, to provide them with the material goods (linens, birthing chairs, bassinets, etc.) that were required during and after birth.⁷⁹ Women who were illegitimately pregnant, and especially those who kept their pregnancies secret, were generally excluded from this realm of female knowledge and assistance.

When the time to give birth finally arrived, it was expected that the delivery would be a community event attended by many different women for many different reasons. In the case of the parturient woman herself, she would often opt to deliver her child in her parents' home—especially if she was a new mother—or alternately she would request that her mother come to her.⁸⁰ Occasionally even in cases of infanticide, as shall be seen in the primary sources analyzed in the following chapter, women's mothers were there to provide some assistance at the time of birth. While the expectant mother would most likely have chosen her midwife and her family to attend the birth, many other local women would attend as well, regardless of the wishes of the mother. This solidarity was “part supportive and part regulatory, less concerned with supporting a sister in need and more with ensuring all was met and proper.”⁸¹ There were a variety of reasons for attending a birth. For example, women could be there because they assumed it was their right, or could attend in a professional or legal capacity, or because they were close by when the

⁷⁹ Pollock, “Female Bonding,” 292, 289.

⁸⁰ Pollock, “Female Bonding,” 292.

⁸¹ Pollock, “Female Bonding,” 294.

mother began labour. Additionally, others might attend because they felt close to the expectant mother and wished to provide support, others might be there at the request of the mother or her husband, and still others might attend in an educational capacity or simply as a witness. It was considered desirable during these periods to have a full delivery room, as it reflected positively upon the status of a woman in her community. This social network of female support did not usually extend to those mothers who defied the rules of society—and if it did, the support was given grudgingly, and was offered only on the condition that the woman accepted punishment and social condemnation.⁸²

As has been made clear, the social aspects surrounding pregnancy and childbirth were extremely important not only as societal rituals but also to individual mothers. The community that surrounded a pregnant woman provides an excellent example of the way in which that which is considered to be private today was considered to be public in the early modern era. Though there were many positive consequences to the social aspects surrounding pregnancy, such as the advice, support, donation of material goods, etc., these supports were generally only provided to those women who upheld the patriarchal standards of the day. Just as the legal regulations surrounding pregnant women limited their agency, so too did other women, who insisted upon an orderly society that largely disenfranchised their sex. Whether positively or negatively, the public nature of pregnancy and childbirth in these eras had a profound effect on the experiences of women themselves.

Illegitimate mothers, then, had a very different experience of delivery and a unique conception of themselves as mothers. The process of childbirth “involves the production of

⁸² Pollock, “Female Bonding,” 297, 304.

another subject; childbirth in these circumstances, and with these results might mean the denial of that possibility, and the translation of the infant subject into what Kristeva has termed the ‘abject’, all that the body rejects.”⁸³ Though infanticidal women denied their births, did not acknowledge their labours as labour, and refused to extend subjectivity to their infants, they were often nevertheless incapable of hiding or abandoning the bodies of their newborns. Many women avoided burying or disposing of their child’s body, opting instead to keep it near them, even after they had recovered from the delivery and were working once again. Servant women often put their infants in their own chests or boxes, these being one of the few private spaces a young, unmarried woman (and particularly one working in domestic service) would have had at this time.⁸⁴ The uncertainties and ambiguities inherent in early modern pregnancy and birth are obvious here — these women, unable in every way to fully experience the culture of maternity and to accept themselves as mothers, nonetheless attempted to acknowledge themselves as mothers for a short time following the birth of their children. Whether this was a subconscious or conscious decision on the part of these women, it seems clear that a refusal to abandon an infant’s body is evidence of some sort of reckoning with the role of motherhood — a role made all the more liminal by the act of child murder. Is one a mother without a child? What of one’s status as a woman? These are questions which have not been fully explored in the secondary literature on infanticide, and which merit a great deal further thought and analysis.

Another way in which the culture of infanticide is the inverse of the culture of maternity, with all of its community involvement in the birthing process itself, is in the search for or

⁸³ Gowing, “Secret Births,” 107.

⁸⁴ Gowing, “Secret Births,” 108-111.

discovery of an infant's hidden body. As Laura Gowing argues: "in a way that the actual birth never could be, it was a public event, uniting neighbours in a fraught and frightening enterprise. Secret pregnancies, when they were discovered, ended in a drama that was the precise opposite of, and the substitute for, the public, acknowledged births of legitimate mothers."⁸⁵ In interviewing accused women, searchers found a way to confront the subject head on and to talk about infanticide. In retellings by searchers, "the mother's words dwell on the child, not as dead body or abandoned waste matter, but as lost infant. They echo grief, trauma, and the power of the mother-child bond."⁸⁶ Here it is clear that infanticidal women powerfully reckon with their own maternity and status as mothers, and use narratives to express the circumstances and uncertainties of their situation. Gowing's arguments on the ways in which the culture of infanticide is the inverse of the culture of legitimate pregnancy are fascinating, and can be pushed further than they are here. While it is certainly true that the public rallying to investigate an infanticide is similar to the ways in which they would come together to support a legitimate birth, there are a great deal many more inversions and similarities between the culture of infanticide and the culture of legitimate birth than are described by Gowing here. This thesis will endeavour to push Gowing's arguments further and to more fully explore infanticide as an inversion of legitimate pregnancy.

During a time when pregnancy was uncertain and, "to some degree, negotiable, the desire or readiness to be pregnant could be what made the difference between publicly recognized pregnancies and secret ones, between a pregnancy supported by female reproductive rituals or

⁸⁵ Gowing, "Secret Births," 111.

⁸⁶ Gowing, "Secret Births," 111.

characterized by fear, concealment, and confrontation.”⁸⁷ We have seen the ways in which women accused of infanticide were able to interpret their own bodies to their advantage, whether it was by claiming superior knowledge of the inner workings of their bodies or by denying knowledge of the secrets of their bodies. Additionally, we have seen the ways in which the female body was subject to constant public scrutiny, and how this scrutiny blended the public and the private for pregnant women. These uncertainties are revealed in infanticide cases and reflect the anxieties inherent in the process of pregnancy and childbirth, as well as the deep connections between the public and the private, and between birth and death.

⁸⁷ Gowing, “Secret Births,” 114.

Chapter Two:

Telling Infanticide Stories in Scottish Courts

I have examined a selection of seventy infanticide cases, all from the seventeenth century, and found either in the Justiciary Court records located at the National Records of Scotland in Edinburgh, or in the printed volumes of the Register of the Privy Council and, in one case, in the Records of the Justiciary Court of Edinburgh. The Privy Council volumes, hereafter referred to as *RPC*, were edited by P. Hume Brown, David Masson, and Evan Whyte Melville Balfour-Melville and published between 1887 and 1967. These cases have, to my knowledge, been unexamined thus far in the scholarship surrounding Scottish infanticide. Though the scope of this thesis is quite narrowly focussed on the themes of bodily uncertainty, narrative ambiguity, and community involvement, there is much more to be analyzed and explicated from these cases. For example, a sustained comparative study of Scottish infanticide before and after the implementation of the 1690 statute has not yet been undertaken and would be a significant contribution to the existing scholarship. However, such an examination is outside of the scope of this project.

Through the examination of the selection of sources which I have acquired — and which are by no means completely representative of Scottish infanticide in the seventeenth century, but rather act as an effective sample size for a study of this length — several interesting aspects of the crime can be seen. Though many of the seventy cases examined provided little to no detail regarding the circumstances of the case beyond simply stating the name of the defendant, the crime she was accused of, and noting that her case would be passed on to the courts in

Edinburgh, there are roughly ten which are sufficiently detailed and reflect the themes discussed in the first section of this thesis.

There are certain cases which reflect the bodily uncertainty and narrative control discussed earlier, many of which contain the silent, secret, and supposedly ‘non-laborious’ deliveries that traditionally characterize the crime of infanticide, and a handful which go into detail regarding the public inquiries that occur during infanticide cases and which reflect the role of the community as a policing force. Most surprisingly, many of the cases examined do not conform to the traditional models of infanticidal births — that is, a woman concealing the birth, acting alone, and killing her child of her own volition. There were several cases in which the mother had help in the delivery and in the murder of the infant — often, but not always, it was her own mother who provided assistance. In cases of incest and infanticide, of which there were a surprising amount, often the fathers of the children were present and aided in the act of child murder. In yet other cases, midwives, sisters, and community women were involved, in ways that both aided and harmed the mother. In two cases, the infant was killed by third parties present at the birth, without the knowledge of the mother, who had been told that the infant was stillborn. Thus, the topic of community involvement in infanticide cases is far more nuanced and complex than has been acknowledged in the scholarship thus far, and the ambiguities and realities of this involvement is reflective of the darker, secret culture of childbirth that existed in tandem with the legitimate culture of childbirth during this time.

Before delving into the community involvement that characterized many of the examined cases, and which will be discussed further in chapter three, I will begin with a discussion of the cases that reflected individual uncertainties, private experience, and women’s narrative

interpretations of their own bodies and pregnancies. In November 1678, Mary Weir was accused and indicted of the crime of infanticide. Her labour and delivery conformed to the traditional perceptions of infanticidal births. Namely, she “brought forth the said child in a chamber...and did most cruelly and unnaturally kill and murder the child. And though there were two women with her in the same chamber at the time of her pains and delivery, she never revealed her condition to them nor required their assistance.”¹ It is important to briefly note here that this is the language of those indicting Mary, and not a reflection of her own experiences. Thus, the bias of those writing and interpreting the case must be acknowledged, and their language understood to be deliberately negative. Though Mary Weir did confess to giving birth, she did not mention her labour pains or acknowledge her labour as such in any significant way. There were women in the room with her during her delivery, but she delivered silently and secretly enough that they remained unaware of what was occurring, or at least pretended not to know.

In addition to her secret, ‘non-laborious’ birth, Mary Weir stated that “a very good reason of her concealing is that she was not able to tell from her condition”² that she was in active labour. She also noted that “she got a fall some days before”³ and thus was unsure whether or not the child was even alive in her womb at that point. Witnesses even testified that they saw the fall as well as “tokens of abortion and...her bleeding.”⁴ Mary also confessed to taking “a purge of fallop from an English chirurgeon for a distemper in her stomach, not knowing that she was with

¹ NRS, JC6/10, f. 29r

² NRS, JC6/10, f. 29v

³ NRS, JC6/10, f. 29v

⁴ NRS, JC6/10, f. 31v

child.”⁵ This reflects the liminal state of motherhood and the blurred boundaries between a woman and her infant, and shows how infanticide was often understood not as a violent crime, but as a crime of passivity and neglect.⁶ Mary was uncertain of the status of her body and her foetus, and therefore her crime was not malicious or violent but rather based in the bodily uncertainties which extended into uncertainties and ambiguities regarding the child’s status as alive or dead.

Thus, Mary offered an alternative story for her labour and pains — she was unaware of what was happening and she did not think the child was alive. She was able to create a tale of her labour, keeping its narrative form intact while turning it into something different.⁷ In addition to reflecting uncertainty regarding the onset and experience of labour, as well as expressing her hesitation regarding whether the child was alive or dead (and therefore placing the child in a liminal epistemological realm), she additionally stated while being questioned that if she did in fact bear a child, “it was not bigger than her fist.”⁸ This claim of a child that was not fully developed, or perhaps that was not even a child at all judging by Mary Weir’s rhetoric, harkens back to the previous discussion of true versus false conceptions, and of women who did not interpret their infants as infants. This was the ultimate denial, and an acknowledgement of the fact that pregnancy and birth were often perceived through the framework of disease, or even monstrosity.⁹ Mary Weir would not even acknowledge that she had birthed a true child, stating

⁵ NRS, JC6/10, f. 31r

⁶ Gowing, “Secret Births,” 106.

⁷ Gowing, “Secret Births,” 101.

⁸ NRS, JC6/10, f. 29v

⁹ Gowing, “Secret Births,” 96.

that if she had in fact given birth to *something*, it was not a viable human infant. This is perhaps evidence of a dissociative reaction, where the mother is unable to mentally acknowledge her circumstances, and denies her pregnancy and her birth.¹⁰

In Mary Weir's case, several of the previously discussed forms of uncertainty and ambiguity regarding pregnancy and birth can be found. As Elizabeth Steinway argues, women must walk a fine line between sharing and holding back information in order to keep narrative and interpretive control over their bodies. Thus, in this way, the courtroom can be read as a performative space where a woman can defend herself only if she is embodying and enacting specific reproductive circumstances.¹¹ Mary Weir no doubt utilized the performative space of the courtroom to the best of her abilities, invoking the uncertainties of her body in the way that she no doubt felt would be most advantageous to her in that situation. How much of the cited uncertainties regarding her bodily status were real versus simply employed as a courtroom strategy is difficult to determine, but as has been clearly outlined it would have been entirely possible, given the state of medical and bodily knowledge regarding maternity at the time, for Mary Weir to have been telling her own bodily truth.

Mary's personal uncertainties regarding her pregnancy and delivery extended to the days following her child's death. After bearing the child, she "had put it under a bed in the chamber,"¹² and kept it there for several days before the body was discovered. As has been previously noted, women who committed infanticide were often unable to abandon the corpses

¹⁰ Gowing, "Secret Births," 107.

¹¹ Steinway, "Narrating Pregnancy," 2.

¹² NRS, JC6/10, f. 30r

of their infants, or to separate themselves from them too quickly or extremely. For these women, the life and death of their infants made persistent and urgent demands upon them, and required more of themselves than the women had likely expected.¹³ In addition to body disposal posing a practical problem, it also reflected an emotional and a cultural one.¹⁴ Indeed, for women who had committed infanticide, the consequences of their actions meant a painful decision between denying or accepting and confessing their recent maternity.¹⁵ Some women took this to extreme levels. For example, in 1627, Katherine Robertson was indicted for infanticide. She was said to have “cruelly and unnaturally murdered her own bairn (procreated in fornication) the time of the birth thereof, which she thereafter hid and carried under her clothes hung by the neck in a towel at her belt a day or two, till by the providence of God (who knows all secrets) she was discovered and apprehended.”¹⁶ Physically keeping your child’s corpse on your body, like Katherine, or hiding it near you in a private space, like Mary, is reflective of the traumatic maternity that these women experienced and of the ways in which they struggled with their status as mothers. The tension between having given birth and having caused the death of your child no doubt affected the mentality of these mothers intensely.

Mary’s narrative of ambiguity and assertion of her own subjective bodily truth was contested by the court and by her community. Another servant in the house in which Mary worked noted that “there were apparent signs of Mary Weir having brought forth a child or

¹³ Gowing, “Secret Births,” 108.

¹⁴ Gowing, “Secret Births,” 108.

¹⁵ Gowing, “Secret Births,” 111.

¹⁶ *RPC*, 2nd ser, vol 1, 532.

parting with a child,”¹⁷ and questioned Mary about whether or not this was the case. Mary vehemently denied that it was, and the other servant urged her further, eventually trying her breasts and discovering milk within them.¹⁸ Thus, Mary’s case reflects not only the ambiguous state of her own understandings and perceptions of her body, and her own narrative control of this bodily uncertainty, but also reflects the body as existing in a liminal state between private and public. Her body was viewed as public property, to be touched and examined at the will of others, and though the community and the courts both required and distrusted the word of women, and thus remained neither wholly accepting nor dismissive of the women’s claims¹⁹ — the question of bodily expertise comes into play here. Does one trust the woman’s interpretation of her own bodily experience and bodily symptoms? Or does one trust the opinions and analyses of outsiders to the situation? Despite Mary’s assertions that the child — if it was a child — was born no larger than the size of her fist, the women of the community “judged it to be brought forth to the right time,”²⁰ though the midwife was unable to tell “whether it was dead or quick born.”²¹ Despite the uncertainties of both Mary and the midwife, in this case, the courts opted to trust the outside perspective. Mary was found guilty and hung at the Grassmarket in Edinburgh.²²

Of the cases examined for this thesis, Mary Weir’s trial is without a doubt the case that best reflected the main themes discussed here. Her uncertainty regarding her body, her reckoning

¹⁷ NRS, JC6/10, f. 29v

¹⁸ NRS, JC6/10, f. 29v

¹⁹ McClive, “Truths,” 236.

²⁰ NRS, JC6/10, f. 30r

²¹ NRS, JC6/10, f. 30r

²² NRS, JC6/10, f. 37v

with her maternity and motherhood, and the ways in which the community participated in her trial all reflect the uncertainties and ambiguities inherent in early modern pregnancy. She was unsure of what precisely her labour pains meant, which perhaps reflected her own exclusion from the female knowledge surrounding childbirth. She was additionally uncertain about whether or not she was carrying a live child, as evidenced by both the fact that she took a fallop, which she no doubt believed influenced the pregnancy in some way, thus crossing the threshold between mother and foetus, but also due to the fact that she had a fall shortly before her delivery. Thus, the status of her pregnancy was doubly uncertain. In her narrative of her delivery, Mary did not reflect her labour as labour. As Laura Gowing argues of infanticidal mothers, none of the tales of infanticide reflect the idea that illegitimate labour was the same variety of work that was expected of legitimately pregnant women. Indeed, the retellings of infanticide conceal the pains of labour as something else.²³

Mary's delivery was completely silent and remained a secret, despite the presence of other women in the room with her, and her interpretation of her own delivery did not allow room for her to effectively acknowledge the pains of labour and her own efforts in bringing forth the child. In cases such as this, most women stick to a similar narrative model which obscures the details of the birth and subsequent death in the same way they obscured or hid the details of their pregnancy. This narrative model allowed women the freedom to claim that the birth was a surprise, that they did not expect it, that they did not look at the child, neglected to check whether it was alive, and assumed that it was not.²⁴ Mary's narrative framework does this, and

²³ Gowing, "Secret Births," 102.

²⁴ Gowing, "Secret Births," 105.

goes further when she attempts to argue that what she bore was no bigger than her fist, and thus not a true child. Since the distinctions between infanticide, miscarriage, stillbirth, and neglect were able to be interpreted in a variety of ways both by the mother and by the legal establishment,²⁵ Mary attempted to utilize varying interpretations of each of these in order to make the case that she did not commit a crime. She was able to draw attention to the various ways in which the female body is illegible, and was able to frame her discourse around this illegibility. Though her attempt was not successful, it nevertheless reinforced the very real difficulties that arose when attempting to successfully diagnose or interpret a pregnancy. Obviously, such difficulties were of paramount importance in cases of infanticide and child murder.²⁶

In addition to her bodily uncertainties and the narratives she presented, Mary's case also shows how women in her situation reckon with their own maternity following the death of their child. In keeping the body of her child close, Mary was able perhaps to more effectively process what had occurred and to explore the tensions between birth and death in a more comfortable way. Katherine Robertson did this as well, going so far as to keep her child's corpse on her person for days following the delivery. Earlier, it was mentioned that the children that infanticidal women bore reflected Julia Kristeva's notion of the abject — the abject being, simply put, what is rejected by the body.²⁷ While this certainly seems to be true in regard to the

²⁵ Gowing, "Secret Births," 107.

²⁶ Steinway, "Narrating Pregnancy," 2.

²⁷ Gowing, "Secret Births," 107.

denials seen in Mary Weir's case, the decision to keep one's infant near shows a more complex relationship between mother and child or mother and corpse.

The practice of keeping an infant's body near is not limited to those who committed infanticide, but rather reflects a wider practice during the early modern period, and shows the variety of circumstances wherein women were struggling to come to terms with their status (or not) as mothers. In Laura Gowing's study, she discusses a variety of examples of this practice, and, indeed, is the only historian I have come across who has done so. This thesis, then, is contributing further to Gowing's findings regarding this particular aspect of the crime. Some of the examples provided by Gowing include a woman named Sarah Peele, who had a miscarriage at twenty two weeks, and was so shaken by the experience that she wrapped the partially developed foetus in a handkerchief and carried it with her following the delivery, eventually presenting it to the father, who gave the foetus a proper burial.²⁸ Another woman, Anne Jackson, gave birth to a child which promptly died. Her husband was not present for either the birth or the death of the child, so Anne kept the child's corpse by her until her husband returned home several days later, at which point they made the decision to bury the child in their garden.²⁹ It is clear, then, that women in a variety of circumstances opted to keep the corpses of their dead children close by them, and used this time to come to terms with what had occurred and to make sense of their circumstances and their status. Additionally, as the two examples from Gowing's study show, women often kept their children's bodies and presented them to the fathers, no doubt

²⁸ Gowing, "Secret Births," 109.

²⁹ Gowing, "Secret Births," 109.

in an attempt to coerce the men into reckoning with events in the same way that the women no doubt were.

In Mary Weir's case, however, though the child was rejected both physically and narratively — thus positing it as an abject being — and though it was often impossible practically, materially, and socially for many single pregnant women to view or imagine themselves as a mother,³⁰ Mary and others like her nevertheless to some extent grappled with this status, and had battles within themselves between the acknowledgement and the denial of their circumstances and of the realities of pregnancy and childbirth.³¹ However, a denial of pregnancy and birth is perhaps too simple an explanation. Instead, perhaps these women never had to deny their pregnancies, because they never acknowledged them to begin with. By not acknowledging it in any formal sense, but by keeping the corpse near and grappling with their circumstances internally, these cases reflected the struggle of women to make sense of their roles and their actions in a community which defined them by their maternity — whether for good or for ill.

One case from 1627 that reveals similar themes is that of Marioun Kemp and Patrick Robesoun. They were called before the court for the crime of adultery, and for Marioun “taking of a poisonable drink for destruction of the bairn within the said Marioun's belly.”³² In this case, both Patrick and Marioun were sentenced to death. The case is not very detailed and does not elaborate on their crime besides reiterating its severity, which was found to be “of that nature and

³⁰ Gowing, “Secret Births,” 107.

³¹ Gowing, “Secret Births,” 108.

³² *RPC*, 2nd ser, vol 2, 162.

quality that it deserves death,”³³ and thus begs several questions. How were they caught? Who would have known that Marioun had consumed a poisonous drink for that specific purpose? Perhaps she purchased or acquired it from someone who then informed on her. This seems at least relatively likely to be the case. Additionally, what was Patrick’s exact level of involvement? Clearly it was significant enough for him to also be sentenced to death, but the actual extent of his involvement remains unclear. Was he perhaps the one who had acquired the drink? It is possible that he pressured Marioun into taking it. It is also worth asking whether they were certain she was pregnant. How far along was she? Additionally, how certain was the court that the poisonous drink had been an effective abortifacient? Women who were sentenced to death, but were pregnant, had their executions stayed in order not to end the life of the foetus as well.³⁴ Were they certain that this was no longer the case for Marioun?

As this case shows, foetal life was considered sacrosanct, and thus abortions and miscarriages were closely monitored.³⁵ As Cathy McClive notes in her discussion of miscarriages, the difficulties of distinguishing between a miscarriage and an abortion for both the woman and her physician or midwife can be seen in the ambiguous language employed in such cases. Thus, in these cases both the woman’s body and the language used to describe bodily experience conceal the ‘truth’ of that experience. This linguistic malleability can be seen as a reflective of the uncertain nature of pregnancy and the unreliable perceptions of the condition.³⁶

³³ *RPC*, 2nd ser, vol 2, 162.

³⁴ McClive, “Hidden Truths,” 209.

³⁵ Rublack, “Female Body,” 90.

³⁶ McClive, “Hidden Truths,” 223.

Though the language in this case does not directly reflect the ambiguities inherent in these situations, it is important to remember who is writing and interpreting the case here. Marioun and Patrick's guilt had already been decided and the only perspective we are left with regarding their case and what happened is the perspective of the court as penned and perceived by the court scribe. Marioun's testimony is not present and thus she was not afforded the opportunity to maintain interpretive control over her bodily narrative. Thus, her case may be a lot more uncertain and ambiguous than it appears. Earlier on, during the discussion of Mary Weir's case, it was noted that she took a purge of fallop to rectify an upset stomach. This was cited as one of the reasons why she was uncertain whether she was with quick child, or even with child at all. In Marioun's case, her abortion/miscarriage is portrayed as a purposeful, murderous act. Indeed, though accidents did happen and it was understood that miscarriages could occur, it was expected that women would be aware of the dangers and uncertainties of pregnancy, as well as aware of which activities put the developing foetus at risk. It was expected that women would take the utmost care to avoid anything which would put the child at risk, or which could potentially harm it.³⁷ Despite all of the ambiguity inherent in the experience of pregnancy, and the understanding by legal and medical authorities that pregnancy was in many ways uncertain, the female body was still strictly policed and abortion and miscarriage were treated just as severely as child murder. For a woman during this time to not accept her proscribed feminine role of motherhood was highly subversive, because the experience of birth defined the female identity. The concurrence of birth, pain, and death was part of what it meant to be a woman, and the refusal to experience the pain, fear, and potential finality of death in order to bring about new

³⁷ McClive, "Hidden Truths," 225.

life challenged the entire conception of what womanhood was and what women were meant for.³⁸ For Marioun not to even go through the full experience of pregnancy, then, was just as much a rejection of her womanly role as a woman who brought a child to term before killing it.

Another case that reflects the ambiguity of the female body is the 1680 case of Jean Henryson, who confessed to the crime of child murder on February 2nd of that year. The case is typical of many infanticide cases: Jean concealed her pregnancy, “and when the pains of childbirth came upon her she might have had the assistance of women but did not call for the same,”³⁹ despite the expectations placed upon her to do so. About an hour before her delivery, a woman named Bessie Lawson confronted her and said “I know by your countenance and carriage that you are going to bring forth a child,”⁴⁰ to which Jean replied that it was “a pain she had gotten with lifting a sack at the miln, and that she would bear no child that day nor yet tomorrow.”⁴¹ Following Bessie’s confrontation, as well as the birth of her child, a midwife also approached Jean, who reasserted that she “would bring forth no child,” and “never confessed but concealed that she had brought forth the child until the midwife came close up to her and found the dead child lying beside her.”⁴² Whether Jean’s denials of her pregnancy were entirely a practical response to being questioned by women who would threaten her status and livelihood if she were to be discovered, or whether Jean really was not certain regarding her condition and inscribed different meaning to the changes in her body is not entirely relevant here. The

³⁸ Rublack, “Female Body,” 92.

³⁹ NRS, JC2/15, f. 264v

⁴⁰ NRS, JC2/15, f. 264v

⁴¹ NRS, JC2/15, f. 264v

⁴² NRS, JC2/15, f. 265r

psychological denial of maternity, and the stress placed on the mother by the threat of the community, which operated to keep women in line and under the watchful eye of a self-censorious female culture⁴³ were significant enough factors that display the ambiguities and narrative tensions of the period. Jean's denials, despite all the evidence to the contrary, reflect the harsh realities of the time in which she lived, as well as the level of social censure that would occur if she were found out or if she confessed to the crime of infanticide. The role of the community in this case played an important role in the way Jean not only narratively framed her situation, but perhaps additionally affected how she herself understood it. The desire to avoid the opprobrium placed upon unwed and illegitimate mothers would perhaps have been strong enough to convince Jean that she had, in fact, not born a child, that she had done nothing wrong, and that she was undeserving of the scrutiny placed upon her by the women in her community.

An additional aspect that reflects the liminality of the early modern era, and which merits further discussion, is the use of corpses in courtrooms. In the case of James Kennedy, Marion Donaldson, and Elspeth Vause (which will be further discussed and analyzed in the next chapter), the infant's corpse was brought into the room, and "James Kennedy and Marion Donaldson his mother were commanded by the bailie depute to put their naked hands upon the child and to take the child upon their knees."⁴⁴ Following this demand, "after they had touched the child, there appeared several small red spots upon sundry places of the child's body."⁴⁵ This practice of identifying killers — wherein the murdered corpse will physically react if touched by the

⁴³ Pollock, "Female Bonding," 292.

⁴⁴ NRS, JC2/15, f. 260v.

⁴⁵ NRS, JC2/15, f. 260v.

murderer — was accepted as legal proof in many parts of Europe at this time⁴⁶ and is reflective of the liminal space in which early modern society and culture existed, and effectively demonstrates various themes discussed in this thesis. This connection between the living and the dead blurs the boundaries between these realms, as well as the boundaries between the physical, spiritual, and emotional. During an era when the unpredictable state of women's bodies, emotions, and senses pre- and post-delivery explained a considerable amount, and where negative emotions were believed to be strong enough to cause women to give birth to 'monstrous' beings, or even entirely non-human beings such as cats,⁴⁷ it makes sense that the connections between life and death would be thin and intertwined enough for corpses to physically manifest signs that proved who killed them. The liminality of the early modern period was extended to every realm of life and death. As such, it is an error to try and conceive of the practices and beliefs of this period from a modern viewpoint. The epistemological frameworks of the modern and early modern eras are so fundamentally different that in order to fully and properly examine the uncertainties and ambiguities of this period, the historian must embrace the epistemology and explanatory frameworks of the period, and must examine and interrogate them for what they were and what they reflected about the era.

As Linda Pollock argues, "surveying early modern childbirth through the prism of corporeality highlights...the intimate relationship women had with bodies — their own and others' — their close ties to pain, sickness and death, their sexuality, and the physical

⁴⁶ Bettina Bildhauer, *Medieval Blood* (Cardiff: University of Wales Press, 2006): 41.

⁴⁷ Rublack, "Female Body," 95.

manifestations of their reproductive nature all tethered women to the corporeal world.”⁴⁸ Though these ties to corporeality are perhaps most obvious in the illegible female body, and in the maternal female body in particular, which existed in the liminal state between life and death to a degree not experienced by the bodies of men, this corporeal uncertainty is by no means inherent only to the female body. As can be seen in this case, the connections between the corporeal and the psychic or spiritual manifested in various ways during this era, and upon a variety of different bodies. The early modern connections between life and death were present throughout society; they were simply the most apparent in the female body, which, as Pollock argues, “formed not only a vital part of female identity but was also a significant component of their public role. The body, in fact, constituted the intersection between their private and their public life.”⁴⁹ Just as the female body existed in the realms between public and private and between life and death — a successful delivery was not counted on during this time, and pregnant women knew the chances of either themselves or their infants dying during the birthing process, and thus were aware of their liminal status⁵⁰ — so too did other bodies. Though it might be assumed that a corpse would exist firmly within the realm of death, such was not the case during this period, where the distinctions between life and death were malleable enough for both living and dead bodies to exist in the space between the two.

The case of Helen Moses is another that effectively shows the blurred boundaries between life and death, as well as the deep and intimate connection between the emotional and

⁴⁸ Pollock, “Female Bonding,” 300.

⁴⁹ Pollock, “Female Bonding,” 300.

⁵⁰ Pollock, “Female Bonding,” 290-291.; Rublack, “Female Body,” 92.

physical realms of human experience. In 1642, Moses and her mother were indicted and imprisoned for infanticide. Specific details regarding their crime are not provided, however it is noted that while in prison, Helen's "mother died of heartbreak."⁵¹ This, though perhaps not as intensely as the previously examined case, is equally revelatory regarding the connections between the physical and the emotional. Though the precise circumstances of Helen and her mother's crime is unknown, the fact that her mother was said to have died of heartbreak — whether or not this is medically accurate is irrelevant — is reflective of the narrative frameworks utilized by people in the early modern era. These explanatory frameworks were utilized to make sense of the world, and during an era when scientific and medical knowledge and certainties were relatively lacking, it made sense to form connections between the physical, spiritual, and emotional realms in this way.

⁵¹ *RPC*, 2nd ser, vol 7, 538.

Chapter Three:

The Role of the Family and the Community in Infanticide Cases

The role of the community in the culture of childbirth, as well as in infanticide cases, has been explored in depth in Chapter 1. However, the findings in the sample of primary sources utilized here are not entirely reflective of what the secondary literature on infanticide has claimed up to this point. There has been much written about the secret culture of infanticide, how women operated alone, and how these illegitimately pregnant women who concealed their births and went on to kill their infants received little to no help from others.¹ While this is true for many of the cases in the sample which I have examined, there are a significant number in which there are multiple indictments and accessories to the crime of infanticide. Oftentimes these multiple indictments are found in infanticide cases that were the result of “incestuous” births, (noting, however, that the definition of incest was much wider during the early modern period and included family in-law, and noting that such cases may be overrepresented due to the taboo

¹ Laura Gowing, “Secret Births and Infanticide in Seventeenth-Century England,” *Past and Present* 156 (1997): 87-115; Peter C. Hoffer and N. E. H. Hull, *Murdering Mothers: Infanticide in England and New England, 1558-1803*, (New York: New York University Press, 1981); Iris Idelson-Shein, “The Monstrous Mame: Mapping the Margins of Maternity in Early Modern Jewish Discourse,” *Jewish Social Studies* 20,3 (2014): 37-71; Anne-Marie Kilday, “‘Monsters of the Vilest Kind’: Infanticidal Women and Attitudes to Their Criminality in Eighteenth-Century Scotland,” *Family & Community History* 11, 2 (2008): 100-115; Anne-Marie Kilday, *Women and Violent Crime in Enlightenment Scotland*, (Rochester: The Boydell Press, 2007); Anne-Marie Kilday and Katherine D. Watson, “Infanticide, Religion, and Community in the British Isles, 1720-1920,” *Family and Community History* 11, 2 (2008): 84-99; Rosalind Mitchinson and Leah Leneman, *Sexuality and Social Control: Scotland, 1660-1780*, (Oxford: Basil Blackwell, 1989); Ulinka Rublack, *The Crimes of Women in Early Modern Germany*. Oxford: Clarendon Press, 1999; Deborah A. Symonds, *Weep Not For Me: Women, Ballads, and Infanticide in Early Modern Scotland*. (University Park, PA: The Pennsylvania State University Press, 1997).

nature of such relationships),² or in cases of adultery, though this was certainly by no means always the case. There were many cases in this sample in which a woman received help from a mother, sister, or a midwife, who then appeared before the court in addition to the woman who had borne the child. An examination of these cases reveals that the role of the community in such cases is much more nuanced than has previously been acknowledged, and shows that the ambiguities inherent in early modern childbirth extend from the private realm of individual and subjective experience, to the public realm wherein the involvement of others may be either helpful or detrimental to the mother in question. The ambiguous role of the community reflects the ways in which the public and the private were inextricably and intimately bound during the early modern era, and shows that the connections between these realms were much more complex and subtle than has previously been suggested.

There are several examples of women who were helped or assisted by family members or other individuals during their illegitimate births and the infanticides that followed. In June 1663, Margaret Taylor was indicted and found guilty for committing of adultery and infanticide. Additionally, her sister Agnes Taylor was indicted as an accessory in the crime. She had been there while her sister “brought forth [the child] in an obscured place in the fields, and had thrown it into a water within a sark.”³ In 1682, Jean Rae was imprisoned on the suspicion of murdering her own child, in addition to “Halbery Irving, indweller in Dumfries, and Janet Neilson, his

² Brian P. Levack, “The Prosecution of Sexual Crimes in Early Eighteenth-Century Scotland,” *The Scottish Historical Review* 89, 228 (2010): 176.

³ William George Scott-Moncrieff, editor, *The Records of the Proceedings of the Justiciary Court of Edinburgh, 1661-1668, Vol I* (T and A Constable for the Scottish History Society: Edinburgh, 1905): 62.

spouse, as accessories thereto.”⁴ In the same year, Agnes Galt and her mother, Marion Muir, were both imprisoned for the murder of Agnes’ child.⁵ In 1667, Jonet Hutson was imprisoned for child murder, as well as her mother, Katherine Simson, who was indicted as an accessory.⁶ In 1620, Geillis Walker was indicted for child murder, along with her sister, Marion Walker, and her father, Richard Walker, who “concurring together in council and advice most wickedly resolved and concluded to murder the child”⁷ as soon as Geillis delivered. In January 1612, Marion Ballintyne was accused along with Christine Reid, her mother, Helen Marshall, her gooddame, and Jonnet Thomson, a midwife.⁸

These are the cases which contain a relative lack of detail — only enough to name the accused and identify their relationships to each other. It is clear, however, that family bonds during this time could be strong enough to withstand the shame of an illegitimate delivery as well as the potential consequences of child murder. No doubt keeping the child would have been catastrophic for most of these single mothers, and their families clearly recognized that and helped the women in the ways in which they were able, even if this meant committing infanticide. It could also be argued, however, that families may have participated in infanticide in their own self-interest and out of a desire to keep the family name scandal free. This is no doubt a factor, though the extent to which this self-interest was balanced with genuine care and concern for one’s child cannot be definitively stated. Surprising as well is the involvement of a woman’s

⁴ *RPC*, 3rd ser, vol 7, 476.

⁵ *RPC*, 3rd ser, vol 7, 370.

⁶ *RPC*, 3rd ser, vol 2, 287.

⁷ *RPC*, vol 12, 354.

⁸ *RPC*, 3rd ser, vol 9, 312.

father in the Walker case. As has already been noted, childbirth was for the most part a female dominated realm at this time, and the presence of a father at an illegitimate delivery is surprising. Though Geillis' sister was there as well, and was most likely the one actively taking care of her during labour, perhaps her father was there for emotional and practical support. Ulinka Rublack explains the significant role played by a woman's husband during her pregnancy and lying-in period: a husband was expected not only to provide for his wife materially and financially, but to be present before and after the birth, thus providing the necessary emotional support required during the trying months before birth, and the weeks following.⁹ In the Walker case, perhaps Richard recognized the precariousness of his daughter's position and her lack of the traditionally expected male support that a husband would provide, and opted to be there to support his daughter in the only way he was capable given the circumstances. Though illegitimate pregnancies were not able to be celebrated or welcomed in the public ways that legitimate pregnancies were expected to be, the social culture of childbirth is nevertheless inversely reflected in cases of infanticide. Despite what has been argued previously, it is clear that in many cases mothers were still provided with support on some level.

As can be seen as well, the majority of the accessories to child murder listed above were women — either sisters or mothers. Whether this reflects the inclusion of illegitimately pregnant and infanticidal women into the realms of practical female knowledge surrounding birth and delivery, or whether this reflects a more practical acceptance of circumstances as they are cannot be definitively stated — but regardless, it is clear that there was a relative sense of female solidarity in many of these cases. As Linda Pollock notes, the concept of sisterhood has been a

⁹ Rublack, "Female Body," 99.

very constructive way of examining the lives of women in the past, and of discovering and drawing attention to their agency and their culture.¹⁰ She argues that the notions of sisterhood and inherent female bonds are highly complex and context dependent, and that female solidarity was not only inclusive, but oftentimes exclusive. In the early modern era, female solidarity demanded compliance and conformity, with those unable to meet society's standards of acceptability given little to no support.¹¹ While this is certainly the case, as can be seen from the ways in which communities often policed and interrogated illegitimately pregnant women, discussed below, it is also true that there did seem to be a particular notion of female solidarity, particularly from within one's nuclear family. However, while the fact that support and care was often offered cannot be disputed, the support was not offered without critique and criticism. That is to say that familial aid was based upon society's assumptions regarding how women should act and behave in order to be worthy and to receive familial and community support, and this aid was determined by the standards of appropriateness and respectability.¹²

These above-mentioned cases are insufficiently detailed and do not reveal whether the aid from families was offered critically or uncritically. However, it is important to note and to recognize that even if the familial support offered was contingent upon the doling out of some personal criticism, it nevertheless was significant enough that this criticism did not really matter, practically speaking. These women's sisters, mothers, and fathers participated (whether entirely willingly or not) in the secret customs and culture of illegitimate birth and infanticide, and to the

¹⁰ Pollock, "Female Bonding," 286.

¹¹ Pollock, "Female Bonding," 287.

¹² Pollock, "Female Bonding," 289.

best of their abilities kept the secrets of their daughters. Making themselves additionally culpable for their daughters' mistakes reflects a level of familial support and care that has not been properly acknowledged in the literature surrounding early modern infanticide. Thus, the involvement of the wider community in cases of illegitimate birth and infanticide is more nuanced and complex than it appears, and this can be gleaned from cases which have an almost complete dearth of detail.

More can be seen in cases that are slightly more robust in terms of the reporting and the details that they contain. In 1679, Sibilla Bell and her mother Elspeth Morries were indicted and accused of premeditating and completing the crime of infanticide.¹³ During the delivery, they did not call for any help, though "the said Elspeth's son and his family lived in the house immediately below them."¹⁴ When the child was delivered,

The cruel and unnatural mother did violently throw the child from her upon the floor whereby he had undoubtedly died, but the said Elspeth Morreis the gooddame thirsting for the innocent life of the infant snatched him up and put him in the bedfoot beside her daughter under the clothes which did wholly extinguish his life thereof, where the said infant lay by the space of two days and then she did put him in the coal house under the stair about a foot or two under the earth where it lay until 6 Feb the said year that it was dug up by the order of Alexander Hamilton, bailie of Linktoun, upon their confession.

There are a few ways in which this case conforms to the themes being discussed in this thesis. Firstly, as is clear, the familial (and perhaps female) solidarity reflected in the presence of Elspeth at her daughter's birth shows the complexities of community involvement in infanticide cases. Secondly, it is established that Sibilla and Elspeth kept the child close at hand for two days

¹³ NRS, JC2/15, f. 259r.

¹⁴ NRS, JC2/15, f. 259r.

following the murder. As has been established, keeping the child near was a way for women to reckon with the trauma they had just experienced and to process the facts of their motherhood with the child nearby — oftentimes, it was emotionally (as well as practically) difficult to rid themselves of the corpse. Whether Elspeth was able to help her daughter psychologically through her traumatic experience of maternity is a question that is difficult to answer, but there is little doubt that her mother's presence would have been a comfort to some extent for Sibella. As has been shown, women often opted to return to their parents' homes for their own deliveries,¹⁵ and the involvement of women's parents in their illegitimate and concealed birth reflects not only the anxieties of the experience but also the deep bonds of family and the desire to protect one's child no matter the cost. Those present during these secret deliveries, however, were not always there to provide support and assistance to the mother.

In March 1679, Margaret Chrystie was indicted for the crime of child murder.¹⁶ She was a servant to a man named John Walker, and both of them were found:

guilty of the said crime insofar as the said John Walker having begot a child upon the said Margaret Chrystie and she having taken the pangs of childbirth in the said John Walker's house upon the last day of January last by past in the night time, the said John being in the same room where she did bring forth the said child and she and the said John Walker did most cruelly and unnaturally kill and murder the said infant by cutting the throat of the same with a knife.¹⁷

The role that John Walker plays in this case is clearly more complex than the role Richard Walker played in his daughter's trial. There are alternative considerations in this case because, as

¹⁵ Pollock, "Female Bonding," 84.

¹⁶ NRS, JC2/15, f. 42v.

¹⁷ NRS, JC2/15, f. 42v.

opposed to the illegitimate pregnancy being shameful only for the mother, the father here would also face public censure and scrutiny if one of his servants bore a child that he helped to conceive (especially if he were married and adultery were a factor, though it is not clear whether or not that was the case for John), so there was little doubt that masters who impregnated their servants wanted it to be concealed and kept quiet.¹⁸ It is interesting, then, that masters who fathered the children of their servants had relatively little power over their servants' bodies and the community rumour mill in comparison to mistresses. It was the women of the house, not the men, who tried their servants' breasts, confronted them regarding their pregnancies, dealt with the wider community regarding such issues, and chose whether or to reveal or hide what information they had.¹⁹ Thus, it was important for such men to conceal their bastard children, (though perhaps less important for those who were unmarried), and John's desire for Margaret's silence undoubtedly influenced his decision to be present at her delivery. At their trial, despite Margaret's full confession that "she with her own hands took the little knife wherewith she use to cut down the tallows or taluch and therewith did cut the throat of the said child and murdered the same,"²⁰ and that John was in the room during the birth, and despite the fact that the dead child itself was brought into the courtroom,²¹ John nevertheless testified that he did not know Margaret was pregnant, that they had not conceived a child together, and that he knew nothing of the

¹⁸ Gowing, "Secret Births," 103.

¹⁹ Gowing, "Secret Births," 104.

²⁰ NRS, JC2/15, f. 43r.

²¹ NRS, JC2/15, f. 43r.

murder.²² Margaret was found guilty of the crime and was hung at the Grassmarket in Edinburgh, while John faced no consequences.²³

This case is enlightening regarding the role that men often played in infanticide trials. As was mentioned previously while discussing the practice of keeping a deceased child's body nearby, women often wanted men to reckon with their reproduction and maternity in the same way that the women themselves were doing. Clearly, based on the cases Gowing described, that was difficult enough already when one had a partner. Being in Margaret Chrystie's position, with no male support and impregnated by one's employer who consistently denied his role in the situation, would not have been easy. This case also clearly reflects the double standard in place during this time, with John facing no consequences and Margaret being put to death for actions they both committed. The power balance here is apparent. Perhaps John would have faced additional consequences had he been married and had adultery been a factor. That not being the case, however, meant that he was able to use his position and the power of his denials to evade any sort of repercussions.

In the case of Elspeth Vause, James Kennedy, and Marion Donaldson (discussed briefly in the previous chapter), the three were apprehended and found guilty for the murder of Elspeth's child. The child was conceived by Elspeth and James, and Marion, James' mother, was involved in the delivery.²⁴ Following the discovery of the infant's corpse, the interrogation of Elspeth, who initially denied that she had borne a child, and finally, a successful search of her breasts for milk,

²² NRS, JC2/15, f. 43v

²³ NRS, JC2/15, f. 43v

²⁴ NRS, JC2/15, f. 260v

Elsbeth confessed the bearing a child and was apprehended along with James and Marion. Elspeth testified that “the said Marion Donaldson had a mind to destroy both her and her child, having left her when the child was half born, half unborn, and gone and made cheese.”²⁵ Note here the framing of the child as ‘half born, half unborn.’ This is reflective of the liminality of the period and of the existence of the parturient female body as being in an in between state. Elspeth also noted that Marion was “unkind to her and would not assist nor help her but when the child was half born she threw the cloaks over her, and the declarant [Elsbeth] said she had a mind to destroy her, but thereafter on her desire she received the child and said it was still born. Declares that all this time the father of the child was absent and about two hours after the bearing of the child the father came in.”²⁶ This treatment, of course, is the opposite of what would normally be expected by calling for the aid of women, and reflects the inverse of the traditional culture of pregnancy in a rather interesting (if horrifying) way.

It is clear here that Elspeth’s experience of familial/community involvement in her pregnancy and delivery was doubly traumatic. The mother of her child’s father took it upon herself to dispose of the infant, and took clear advantage of Elspeth during her most vulnerable moments. The familial bonds mentioned previously come into play here in a negative light — desiring so much to rid her son of the shame of fathering a bastard child, Marion inserted herself into the delivery room, took control of the situation, did not help Elspeth adequately, lied to her regarding whether or not her child was born alive, and ultimately killed the infant of her own volition. Perhaps in no other case is the ambiguous state of community involvement in

²⁵ NRS, JC2/15, f. 261r

²⁶ NRS, JC2/15, f. 262r.

pregnancy and childbirth more obvious. Female solidarity has been discussed previously, but there was no cooperation based on gender in this case. Women's involvement in community policing was taken to an extreme level here. While women were expected to take note of any potential changes in other women's bodies, and were expected in certain cases to try their neighbours' breasts for milk, or to examine their urine,²⁷ thus effectively policing the morality of the community, here, Marion took matters into her own hands and attempted to fully avoid the shame that would have been brought upon her son had he been revealed as the father of a bastard. The complexities of female solidarity (or the lack thereof), are thus clearly seen.

There was not some sort of gendered allegiance at this time wherein women were entirely supportive of each other. Each had her own allegiances and priorities, and as has been stated, it was more often the women in a community who policed each other and made sure that everyone was behaving in a proper fashion. Women are not at an advantage under a patriarchal system and thus often attempt to claim whatever power they are capable of — even if it is to the detriment of other women. By upholding patriarchal standards women thus participated actively in the system set up to subjugate them. Thus, the concept of female solidarity is especially complex. This case also reflects the inversion of the culture of legitimate pregnancy in a very revealing way. Marion inserted herself into the situation, as many women did during legitimate births and labours, but provided none of the reassurance or aid expected from women attending others. Thus, the inversion of community involvement can be seen in more ways than one here. Not only did Elspeth have others present at her delivery and participating in the 'secret' side of reproduction,

²⁷ Pollock, "Female Bonding," 300-301.

but Marion took the inversion a step further by inverting her own role, and thus playing an antagonistic rather than a supporting role.

Continuing to discuss the theme of community involvement and the secret culture of illegitimate pregnancy and birth, I would like to more fully explore a case involving multiple people in the delivery room during an illegitimate birth and subsequent infanticide. In March 1679, Margaret Smith, Margaret Henryson, and Katherine Scott were accused of and arrested for infanticide.²⁸ Margaret Henryson bore a child in the house of Margaret Smith, a midwife, and Katherine Scott was an attendant at the birth, having carried Margaret Henryson to the midwife's house when she had gone into labour.²⁹ During Margaret Smith's testimony, she declared that "Katherine told the mother that the child was dead,"³⁰ but the mother was in significant pain and didn't hear or see what was occurring between Margaret Smith and Katherine Scott. According to the court record, however, the child was, in fact, "brought alive to this world and being a strong and lively child brought forth to the full time, so monstrously wicked and cruel was the said Katherine Scott that she offered to tear the child in parts and burn it in the fire."³¹ Instead of doing this, Katherine and Margaret Smith left the child "naked and undressed, crawling on the floor of the said Margaret Smith's house in a cold frosty night by the space of three hours, and thereafter carried the said infant to the south side of the Canongate and left the same in the furrow of a ridge upon the snow because they could not get it buried, the frost being hard."³²

²⁸ NRS, JC2/15, f. 44v

²⁹ NRS, JC2/15, f. 45r

³⁰ NRS, JC2/15, f. 45r

³¹ NRS, JC2/15, f. 45r

³² NRS, JC2/15, f. 45r

During Katherine Scott's testimony, she noted that "Margaret Henryson said if this child be dead bury it quietly that it may neither shame me nor its father."³³

Margaret Hamilton, another woman who was at Margaret Smith's house that night, testified that she inquired about who Margaret Henryson was, and asked how she was doing, and that "Margaret Smith answered that Margaret Henryson was brought to bed and was yet alive, but thought she would do no good, and that the child was dead born."³⁴ She also testified that "immediately after Katherine Scott had spoken to the mother she took up the child and went downstairs with it, being accompanied by Margaret Smith, and said to the deponent that they were going to the West Port to put it to fostering in a tanner's house."³⁵ Further testimony from a woman named Euphane Wright said that at "7 o'clock she went into the said Margaret Smith's house and challenged the said Margaret of having a child born in her house by Margaret Henryson the panel, which Margaret Smith denied."³⁶ She further testified that upon pushing her further, "Margaret Smith promised her several things to conceal it."³⁷ The testimony of Alexander Karr, the bailie of the Canongate, stated that

Having called Margaret Smith before him and having examined her anent a child alleged brought forth in her house, she positively denied that there was a child brought forth in her house and that with assertions and oaths depones that after the child was brought into the chapel, he called for four midwives and a surgeon to visit the body of this infant and they did perceive marks of violence upon the child's body but the midwives challenged her for some desert in her duty anent the child but she said she

³³ NRS, JC2/15, f. 46v

³⁴ NRS, JC2/15, f. 47r

³⁵ NRS, JC2/15, f. 47r

³⁶ NRS, JC2/15, f. 47r

³⁷ NRS, JC2/15, f. 47r.

was so taken up with the mother, she being in hazard, that she could not take time to advert to the child, and this is the truth as she shall answer to God.³⁸

After all was said and done, the jury “with one voice unanimously found two of the panels viz Margaret Smith and Katherine Scott guilty and accessories to the murdering of the child born by Margaret Henryson and found Margaret Henryson the mother of the child not guilty of the murder.”³⁹

This case is highly interesting and relevant for a variety of reasons. First of all, the roles which community members play in this case are varied, and reflect the ambiguities inherent in community participation in childbirth. Margaret Smith and Katherine Scott play ambiguous roles in this case, because one cannot be sure to what extent they were helping versus harming Margaret Henryson. It seems that they were genuinely trying to help her out of a bad, life-altering situation, and by taking matters into their own hands when she was incapacitated and vulnerable they did what they thought was best for her. It is unclear, however, the level to which Margaret Henryson actually knew what was going on. It was stated multiple times that she was told that her child had been born dead — whether or not this is true, or whether she had taken a more active role in the process of infanticide remains unclear. It is clear, however, that Margaret Smith and Katherine Scott attempted to conceal her birth and the results of it from the other women who were prying into the situation, and who presented quite an immediate threat.

It cannot be fully stated, of course, that Margaret Smith and Katherine Scott were entirely helpful in this situation because the full details of Margaret Henryson’s own involvement are not apparent. It may be that they were taking advantage of her while she was in an extremely

³⁸ NRS, JC2/15, f. 47v

³⁹ NRS, JC2/15, f. 47v

vulnerable position, but there doesn't seem to be — like there was in the case of Marion Donaldson — a motive for that to be the case, and it seems rather that they were attempting, in the way they were able to in that situation, to provide Margaret Henryson with the traditional supports granted to legitimate mothers during legitimate deliveries, albeit the inverse of that same support. It is interesting as well that Margaret Smith made a point of saying that the mother was in distress, and of emphasizing her own care and kindness while also using that as an excuse for why she was not more attentive or watchful concerning the child. Ulinka Rublack argues that the support given to parturient women was predicated upon their behaviour. Thus, contraception and abortion were penalized and miscarriages were monitored and investigated. In Württemberg, women who miscarried because of a perceived reluctance to experience labour were indicted as criminals and reported to the authorities because their behaviour challenged the deeply held notion that motherhood was a woman's natural role. Those cases, Rublack argues, are particularly interesting because they demonstrate both the physical and emotional circumstances that were deemed necessary for a successful birth.⁴⁰

Though the details of Rublack's analysis are obviously not entirely relevant to the Scottish context, the same rule seems to apply due to the harsher policing of infanticide cases that was occurring during the seventeenth century, as well as due to the increased policing of women's sexuality that occurred in Scotland during this time.⁴¹ It is interesting, then, that Margaret Smith used the fact that she was helping the mother as a defence regarding her abandoning the child. This was looked down upon and not at all in adherence to what would

⁴⁰ Rublack, "Female Body," 90.

⁴¹ Kilday and Watson, "Infanticide, Religion and Community," 89.

have been expected of a midwife at the time, as is evidenced by the four other midwives accusing Margaret Smith of abandoning her duty to the child. Indeed, under normal circumstances, midwives would have played a significant part in the policing and watching of young women. Community vigilance was hugely important in the process of bringing illegitimacy and infanticide to light,⁴² and Margaret Smith subverted her prescribed role in the community in order to help Margaret Henryson. What her reasons for this were, or whether this was the first time she had done such a thing — perhaps there were whisperings among single women that she was sympathetic — cannot be known. However, her empathy towards Margaret Henryson and her acknowledgement of what would be the best for her in the long run, however horrifying a thought that might be, was clearly an important consideration in her mind, and perhaps in her practice of midwifery more generally.

The other women who testified in the Margaret Henryson case, Margaret Hamilton and Euphane Wright, reflected the more common and expected role women played during infanticide cases during this period. As has been shown, illegitimate pregnancy rarely escaped the notice of those in one's community, and particularly the notice of other women. These women then went on to ask questions of the women suspected of illegitimate pregnancy or birth, to inform their employers or families, and to summon the parish authorities.⁴³ These findings are clearly reflected in the sample of seventeenth-century cases that I have examined. To further illustrate this point, I will briefly discuss a few less detailed cases which nevertheless reflect this same

⁴² Kilday and Watson, "Infanticide, Religion, and Community," 85.

⁴³ Kilday and Watson, "Infanticide, Religion, and Community," 88.

level of community involvement, from both women and men, though more significantly and commonly from women.

In 1681, Helen Girdwood was arrested (alone, hers being one of only four detailed cases I examined which did not include multiple defendants) and indicted for the crime of child murder, having adulterously conceived a child with a man named William Pennie, who was married.⁴⁴ Helen, “being suspected and challenged by several persons as being with child, she still refused and denied the same, resolving also to conceal the birth and murder the infant.”⁴⁵ When her labour began, she “brought forth the child privately and alone at a dykeside near Coldham without the help, presence or assistance of any woman, though women might have been easily had and were within a cry to hear and could not but have heard if she had cried.”⁴⁶ The notation that women might have been present shows the expectations for a normal and traditional birth at the time. Following her delivery she murdered her child, and “buried it in the medd land where the swine having dug up the child, the bloody marks and signs of her cruel and bloody hands were found upon the infant.”⁴⁷

During Helen’s trial, there was testimony from a single woman in her thirties named Margaret Wright, who stated that “she was called by her neighbours to try if the panel Helen Girdwood was with child and she found her sitting on a head rig and she said to the panel that she was either with child or would bring forth a child shortly, and the panel denied that she was

⁴⁴ NRS, JC2/15, f. 260r

⁴⁵ NRS, JC2/15, f. 260r

⁴⁶ NRS, JC2/15, f. 260r

⁴⁷ NRS, JC2/15, f. 260r

either with or had brought forth a child.”⁴⁸ She brought Helen to a house, and Margaret “offered to try her breasts and the panel turned upon her face and would not suffer her breasts to be tried.”⁴⁹ During this time, neighbours had come in and brought the child’s corpse, which had been dug up by swine. Margaret “went and brought in the child and washed it and the child was in such a condition that it could not have lived any time, although it had been born alive since the string was pulled from it.”⁵⁰ Margaret noted that the string (or umbilical cord) “could not have been pulled from the child in the birth, unless the mother had done it, but depones that the swine who found the child might have pulled the string from the child for they carried the child along the land.”⁵¹

Additional testimony from a woman named Margaret Caldwell, a widow in her fifties, stated that she and Helen Girdwood had been at the miln together when Helen had taken ill, complaining of a sore head, and had gone home. Pitying Helen’s condition, Margaret had followed her and found her “sitting near to a dyke side in unseemly condition.”⁵² Margaret questioned Helen regarding her condition, to which she “answered that she had not had her courses for a quarter year together which was the only occasion of her trouble, but the deponent finding her condition to be otherwise, caused bring her into the house, and called for the midwife to search her breasts.”⁵³ Helen again refused the search of her breasts, though this would have

⁴⁸ NRS, JC2/15, f. 265v

⁴⁹ NRS, JC2/15, f. 265v

⁵⁰ NRS, JC2/15, f. 265v

⁵¹ NRS, JC2/15, f. 265v

⁵² NRS, JC2/15, f. 265v

⁵³ NRS, JC2/15, f. 265v

likely been forced upon her had the child's corpse not been brought in by neighbours at that time. As Laura Gowing notes, young women who lived with their parents, and, even more significantly, domestic servants were far more likely to be confronted by family or community members and forced to publicize their bodies than older women or widows. Domestic servants in particular were vulnerable to gossip and rumour, and were also the group most likely to be accused of infanticide.⁵⁴ Indeed, it seems to have been that the sexuality of domestic servants was, even more so than that of young women living with their parents, both public property and a threat to the community.⁵⁵ The way that Helen's neighbours banded together to question her, and insisted upon the right to examine her body, is proof of the threatening sexuality of single women during this time. This threatening sexuality affected the community in several ways. Firstly, women's sexuality could simply disrupt the status quo and could potentially bring shame upon the community and specific members thereof. Secondly, a child could be brought into the community illegitimately, and it would have to be decided how to care for and provide for the child (something which in many infanticide cases the mother would no doubt be unable to effectively manage on her own). Finally, if pregnancy and a subsequent infanticide were to occur, the community would be made aware of a crime and would have to then come together in order to deal with the shame and sin that had occurred. Allowing unmarried women to see themselves and to behave as sexual beings thus presented a variety of ways in which the community could be threatened and would have to become involved in affairs that, though they may initially seem private, had a profound impact on public life as well.

⁵⁴ Gowing, "Secret Births," 92.

⁵⁵ Gowing, "Secret Births," 92.

Further testimony in this case from a teenager named Alexander Mathieson notes that “he saw a swine snuffing in the furrow of a ridge and he came up to see whereat and he found the sow carry the child by the arm upon which he went and told the neighbours.”⁵⁶ Alexander Brand testified that he was present when the minister examined Helen, and that she had claimed that “she had borne it dead.”⁵⁷ When confronted about why she buried the child, she answered that “she had only put the furrow of a ridge upon it.”⁵⁸ The minister also asked her if she had notified the father that she was pregnant, and she said that she had, “whereupon they called for him and he denied it and then they called him in and confronted him and he said he forgot.”⁵⁹

In Helen’s case there was clearly much neighbourly involvement and neighbourly scrutiny into her condition. The insistence of women on searching her breasts, and the assumption by these same women that they could and should follow Helen — despite her excusing herself due to illness — shows the level of entitlement which neighbours and communities felt during this time. As Anne-Marie Kilday and Katherine D. Watson note, people during the early modern era understood the need for legal control and regulation, especially in cases involving violence, and as a result communities tended to self-police.⁶⁰ These cases of infanticide obviously had a strong sexual component, and there are clear links between infanticide and the larger societal concerns about the role of motherhood, feminine virtuousness,

⁵⁶ NRS, JC2/15, f. 266r

⁵⁷ NRS, JC2/15, f. 266r

⁵⁸ NRS, JC2/15, f. 266r

⁵⁹ NRS, JC2/15, f. 266r

⁶⁰ Kilday and Watson, “Infanticide, Religion, and Community,” 88.

and the ways in which those interacted with and affected wider society.⁶¹ Thus, for Helen, her community felt not only obligated to police a potential crime, but also felt entitled to examine and judge her body — a locus of improper and deviant sexuality.

Helen's case also connects back to the previous discussions regarding bodily uncertainty and the ambiguity of pregnancy. In Margaret Caldwell's testimony, she noted that when she followed Helen after she had left the miln and claimed she was ill, she "found the panel at home sick of a colic as the deponent apprehended."⁶² As has already been noted, Helen gave alternate excuses for her condition, but even Margaret Caldwell interpreted her illness initially as simply a colic. For Helen, insisting upon reading her body and its symptoms for herself and in her own way was perhaps her only defence against the questions and concerns of her neighbours. Indeed, many women in her situation used a variety of explanations for their pregnancy symptoms, with colic or wind being the most common.⁶³ Indeed, Laura Gowing further argues that the tales that women told to their families, neighbours, employers, and their wider communities were not just attempts to conceal pregnancy as long as they possibly could. At a certain level, it made sense to view pregnancy as a disease because that was how society conceptualized it at the time. For some women, the interpretations and disorders they presented may have been the only way for them to make sense of the changes happening in their bodies. Their symptoms could mean colic, wind, or dropsy, but not pregnancy.⁶⁴

⁶¹ Kilday and Watson, "Infanticide, Religion, and Community," 87.

⁶² NRS, JC2/15, f. 265v

⁶³ Gowing, "Secret Births," 96.

⁶⁴ Gowing, "Secret Births," 97.

For Helen, then, it would have been entirely possible for her understanding of her condition to have been limited, and for her to have honestly interpreted her pregnancy symptoms as an illness. Whether this understanding was maintained as her pregnancy further progressed, or whether she was simply using the little agency she had to avoid the critical eyes and questions of her neighbours is uncertain. However, it is clear from many of the cases discussed in this thesis that women's interpretations and perceptions of conception, pregnancy, labour, and birth could be complex. Thus, their interpretations could be contradictory or open to reinterpretation to suit the woman's circumstances, whether on a conscious or sub-conscious level.⁶⁵ And it is not just Helen's own perceptions of her pregnancy that were uncertain — as has been noted, Margaret Caldwell initially identified Helen's symptoms as a colic, thus reflecting the uncertainties of the body and the difficulties of diagnosing a pregnancy, even in the moments preceding delivery.

There is one last aspect of community involvement in infanticide deliveries which was found in a far higher percentage of cases than initially expected: cases of incest. In many of the cases it was noted that the illegitimate child was conceived in incest, and there were a couple of these cases which included someone besides the mother present in the room during delivery. Before discussing these cases, it is important to note that the early modern definition of the word 'incest' is broader than the modern definition. In these cases, it is considered incest if one is having sexual relations with a relative by marriage, even though there would be no blood connection in that circumstance.⁶⁶ This fact is reflective of the ambiguities of the early modern era, and of the blurred bounds or the liminal state between being family and being unrelated.

⁶⁵ Gowing, "Secret Births," 98.

⁶⁶ Levack, "Sexual Crimes," 186-187.

In my case sampling there were a total of seven cases of infanticide that mentioned the child had been begotten through incest. In 1621, Margaret Mitchell was arrested for murdering a child incestuously conceived between her and a man named William Cochrane, who was her sister's husband.⁶⁷ In 1666, Agnes Kid was apprehended and imprisoned in the tolbooth at Forfar for incestuously conceiving a child with Alexander Law, her father-in-law, and for committing child murder following the birth.⁶⁸ In the same year, George and Jean Thomsons were imprisoned for incest for murdering two children "so incestuously begotten betwixt them."⁶⁹ In this case, George was Jean's own father.⁷⁰ In 1671, Jean Bonnar, the daughter of David Bonnar, was also indicted for the murder of a child begotten in incest, though it was not clarified if the child in question was incestuously conceived between Jean and her father, or whether the courts were simply listing her relations.⁷¹ In 1683, Janet Sinclare was accused and indicted for incest and child murder, though her case offered no further details regarding the circumstances of either the conception or murder of the child.⁷² Finally, in the 1690 case of Grizell Walker, she was indicted for having brought forth a child "with the help and assistance of James Walker, her brother, who is the father of the child, and Jannet Aytone, spouse to Andrew Struthers,"⁷³ as well as for the murder of that child.

⁶⁷ *RPC*, vol 12, 441.

⁶⁸ *RPC*, 3rd ser, vol 2, 201.

⁶⁹ *RPC*, 3rd ser, vol 2, 201.

⁷⁰ *RPC*, 3rd ser, vol 2, 201.

⁷¹ *RPC*, 3rd ser, vol 3, 357.

⁷² *RPC*, vol 8, 86.

⁷³ *RPC*, 3rd ser, vol 15, 448.

Slightly more detailed than the above-cited cases is the following case, which is unique in that it involves the acknowledged presence of others at the delivery of the incestuously conceived child. In 1616, the court apprehended and tried “Alexander Oigstoun in Tyrie, Archibald Penny in the parish of Rathine, Agnes Yoill, daughter-in-law of the said Alexander and the wife of the said Archibald, and Issobell Fraser, her mother.”⁷⁴ The charge was as follows: Alexander was charged for keeping unlawful society and company with Agnes. They were both brought before the courts and swore that there was no just cause of suspicion against them, which was accepted, and there were no further proceedings.⁷⁵ Following this, in the month of September, Archibald Penny entered into a marriage with Agnes, and there were new suspicions aroused that she was pregnant. She gave birth to a child the following January, and immediately after her delivery she and Archibald Penny, as well as her mother, Issobell Fraser, “consulted how and by what means they might best conceal the incestuous birth, and in the end they resolved that the best expedient for them was to murder the innocent infant.”⁷⁶ After the child was born, “Archibald with his own hands digged a little hole at his yard dyke, and cast the murdered infant therein, and filled up the hole, and they thought themselves to be free of fear and all possibilities of discovery of their vile murder.”⁷⁷ The following sentence in the case says that “God, who by his eternal providence brings such murders to light, made some whisperings to arise within the parish of Rathine that the said Agnes had borne a bairn.”⁷⁸

⁷⁴ *RPC*, vol 11, 18.

⁷⁵ *RPC*, vol 11, 18.

⁷⁶ *RPC*, vol 11, 18.

⁷⁷ *RPC*, vol 11, 18.

⁷⁸ *RPC*, vol 11, 18.

These are all cases which contain relatively little detail, and wherein it is uncertain whether or not the fathers themselves were involved in the delivery in any way, as well as uncertain how the incestuous relationships themselves came to light, etc. Did communities feel the same sort of need to police incestuous relationships as they did other aspects of sexuality? In the case of Agnes Yoill this is clear, as she was indicted for incest before she became pregnant, and the case summary specifically states that the reason she was found out following the committal of infanticide was because of the circulation of rumours in the town. In how many of these cases was abuse and sexual assault a factor? It is highly likely that that is the case for George and Jean Thomson (though it is possible she may have been his stepdaughter), but the other instances are less clear due to the nature of the relationships and the fact that many of them were between families in-law as opposed to blood relatives. The high instance of incest in infanticide trials effectively demonstrates several aspects of this crime and of the circumstances that often surrounded it. For example, the shame brought upon women for bearing illegitimate children was obviously very strong during this period, and the policing of women's bodies, sexuality, and morality (which were all very intertwined)⁷⁹ led to levels of shame and opprobrium that many illegitimately pregnant women simply could not face. Due to the circumstances of the conceptions of the children in these cases, with the heightened and strong cultural incest taboo, it is no doubt that these women were under higher pressure to conceal their pregnancies and dispose of their infants. It is useful, then, to ask to what extent living in a society rife with rumour, gossip, and religious and social opprobrium, combined with the need to

⁷⁹ Kilday and Watson, "Infanticide, Religion, and Community," 89.

maintain a reputable and virtuous image, actually encouraged women to commit infanticide?⁸⁰ For cases such as these, it seems clear that this climate would have encouraged infanticide more than prevented it, specifically because of the increased immorality of infanticide combined with incest.

This was no doubt harmful to the women, not only because the aspect of community policing led them to take such drastic actions, but also because this means that the community policing process had failed. Kilday and Watson note that “the literature on the history of domestic violence supports this impression of communal policing, and has consistently highlighted the role of neighbourly surveillance: violence in the family was never entirely a private matter and community intervention and informal mediation were commonplace.”⁸¹ This raises the question, then, of to what extent the community was involved in policing abuse of a different kind. Was there any sympathy extended to the women who were left impregnated through rape? It seems that from a legal perspective there was not — these women were still indicted for infanticide and the language used in the court cases strongly implies that the relationships that led to the conception of their children were entered into willingly. This is another way in which the ambiguities of community involvement are clear in cases of infanticide. The moralizing and policing of communities oftentimes actively harmed the communities they were meant to protect, and by allowing cases of abuse and incest to occur, and by indicting the women who were left pregnant, the communities showed that they valued moralizing over harm reduction.

⁸⁰ Kilday and Watson, “Infanticide, Religion, and Community,” 95.

⁸¹ Kilday and Watson, “Infanticide, Religion, and Community,” 88.

Conclusion

This thesis has attempted to fill some of the gaps in the scholarship surrounding early modern infanticide in Scotland. Up until this point there has not been a sustained study, in the early modern Scottish context, of the liminality and uncertainties of the pregnant body and the ways in which these uncertainties were reflected in infanticide cases. Indeed, there have to date only been a handful of studies regarding these themes in the early modern context generally speaking. Additionally, though the existing literature on Scottish infanticide does discuss the role of the community, there has not been an extended study on community involvement through the lens of corporeality and ambiguity. Anne-Marie Kilday and Katherine D. Watson note this as well, stating that “little has been written about the reactions to child murder by blood relatives, near neighbours, or members of the local community in which the crime took place.”¹ This thesis has attempted to examine the involvement of some of these actors in infanticide cases, and their connections to women’s uncertain perceptions of their own experiences and of their bodies, as well as the ways in which the female body — and the pregnant female body in particular — blurred the boundaries between private and public space. Additionally, the culture of secrecy reflected in infanticide cases has been examined as the inverse of the traditional culture of legitimate maternity.

The apparent exclusion of infanticidal women from the realms of female knowledge regarding the body and maternity has been examined. Though this exclusion has been explored in detail by Laura Gowing the sampling of cases which were examined in this thesis revealed a

¹ Kilday and Watson, “Infanticide, Religion, and Community,” 85.

more nuanced picture about this apparent exclusion. There were many women who had female help in the delivery room. This is contrary to the traditional narratives of infanticide seen in the literature, which specify that infanticidal women usually give birth alone. Of these women, a good proportion were family members of the mothers, and there is no doubt that to some extent at least, they were welcomed into the realms of female gynaecological knowledge.

Having said this, however, the cases examined did reveal the ambiguities and corporeal uncertainties that characterized early modern pregnancy — as seen in the articles by McClive, Gowing, Rublack, and Pollock — in addition to revealing the narrative power of these liminal states, as was examined by Steinway. There needs to be further research into this aspect of Scottish infanticide, as my sample size was not large enough for an exhaustive analysis and did not contain enough adequately detailed cases for such an analysis. The case of Mary Weir was the most revealing regarding these themes, as her case contained a great deal of uncertainty regarding her condition. She was unsure of whether her child was alive or dead in her womb because of a fall she had taken prior to her labour, as well as a purge of fallop she had received.² This uncertainty meant that she was able to retain narrative control over her delivery, claiming that she was unaware of what was going on with her body and that she did not know if her child was alive. Additionally, her narrative framed her child as something not quite like an infant — she claimed that it was born “not bigger than her fist.”³ This ultimate denial and lack of acknowledgement of the facts of pregnancy reflects the liminality and bodily uncertainties that were so common during the early modern era.

² NRS, JC6/10, f. 31r

³ NRS, JC6/10, f. 29v

For Mary Weir, then, the courtroom was a performative space where she was able to use the ambiguities and uncertainties inherent in the female body and in the detection and perceptions of pregnancy to frame her case and to argue for her innocence. As Elizabeth Steinway notes, women in these trials were required to enact “a specific reproductive status”⁴ in order to maintain control over the narratives of their bodies. This reflects the “unstable epistemology of pregnancy”⁵ that existed during the early modern era. As Steinway also notes, the two options for a woman accused of infanticide during this time were to either claim that she had never been pregnant, or to plead ignorance of her condition.⁶ Mary Weir opted for both, in a sense, by claiming that the child was not in fact a full child, and also that she was unaware of her condition in the days leading up to the birth. She thus attempted to rewrite her delivery and the birth of her child as something other than a normal birth. She claimed both knowledge of her body (in that she had taken a fall, thought something was wrong, and gave birth to something not entirely normal) as well as a lack of knowledge regarding her body (she was unsure about whether or not her child was alive, she did not realize that she was pregnant when she took the prescribed purge of fallop).⁷

In addition to the Mary Weir case being reflective of the uncertainties and ambiguities of the body, her case is additionally reflective of the uncertainties and ambiguities inherent in the early modern role of motherhood. Following her delivery, which was apparently typical in that it

⁴ Steinway, “Narrating Pregnancy,” 2.

⁵ Steinway, “Narrating Pregnancy,” 3.

⁶ Steinway, “Narrating Pregnancy,” 7.

⁷ NRS, JC6/10, f. 31r.

took place in secret and Mary was the only one present at the birth (though my findings show that this was not as typical as is commonly assumed), she put the infant's corpse underneath the bed in her chamber.⁸ Though infanticidal mothers rejected their supposedly 'natural' roles as women, denied their births, reinterpreted their labours, and refused to allow their infants subjectivity, they nevertheless often had a difficult time parting with the bodies of their children.⁹ This was sometimes taken to extreme lengths, as in the case of Katherine Robertson, who tied her child's body underneath her clothes and wore it there for several days.¹⁰ Women kept the bodies of their children nearby even when they had recovered and were back to work following the delivery,¹¹ and often kept the bodies of their children in the only private spaces they had in the quarters which they often shared with other women.¹² This deeply reflects the liminality and ambiguity of the early modern experience of pregnancy, and especially of illegitimate pregnancy and infanticide. Women like Mary and Katherine were unable to experience the culture of maternity in a legitimate way, and thus were excluded from a woman's defining role as a mother. The community celebrations inherent in the culture of legitimate birth were not extended to these secret births,¹³ and thus these illegitimate mothers were left alone to try to make sense of their status and identity. Birth was such a defining experience for women, and despite the fact that they in many ways clearly rejected their births, labours, and roles as mothers, keeping the

⁸ NRS, JC6/10, f. 30r.

⁹ Gowing, "Secret Births," 107.

¹⁰ *RPC*, 2nd ser, vol 1, 532.

¹¹ Gowing, "Secret Births," 110.

¹² Gowing, "Secret Births," 111.

¹³ Pollock, "Female Bonding," 292.

corpses of their children nearby or even physically on their bodies allowed them space to attempt to acknowledge themselves as mothers, and to grapple with that status given the absence of a live child. It remains unclear whether these women were consciously or subconsciously keeping their children nearby for this purpose. However, the physical presence of the infant would have, in many cases, likely offered the women some measure of comfort and space to process their decisions, experiences, and their uncertain statuses.

The uncertainties of the body and the ambiguities of the presence of a child's corpse were themes that blended together in a fascinating way in the case of Elspeth Vause, James Kennedy, and Marion Donaldson. Elspeth Vause, the mother of the murdered child, was acquitted of infanticide charges, while James Kennedy, the father, and his mother, Marion Donaldson, were charged with the crime of murdering Elspeth's child. A very interesting courtroom practice can be seen in this case, wherein the child's corpse was brought in during testimony, and James and Marion were made to hold it. When they touched the child, it was said that small red spots appeared all over the child's body.¹⁴ At the time, this was a courtroom tactic used to identify someone's killer — it was believed that if marks appeared on the body of the corpse while someone touched it, then that person was the murderer. This is a fascinating practice and reveals in several ways the liminality and ambiguity inherent to the early modern body and to the early modern experience in general. Though corporeal uncertainty is the most obvious in pregnant women, who “dramatically expanded into space, opened to deliver a child, and closed and contracted again,”¹⁵ this was not a unique experience to parturient women. The early modern era

¹⁴ NRS, JC2/15, f. 260v

¹⁵ Rublack, “Female Body,” 109.

was defined by ambiguities such as these, which were reflected in a variety of bodies — dead ones included.

The liminal aspects of childbirth extend beyond the narrative interpretations of pregnancy and the courtroom strategies used to obtain convictions. The liminality extends into the social aspects of the crime and is revealed in the ways in which a woman's family and wider community participated in the 'secret' culture of infanticidal births. This can be seen in the case of Margaret Smith, Margaret Henryson, and Katherine Scott, wherein Margaret Smith and Katherine Scott took control of the situation while Margaret Henryson was in labour, and who killed the child on her behalf. It is unknown to what extent this was malicious, helpful, or wanted by Margaret Henryson, but certainly displays the liminality inherent in community involvement. Additionally, the liminal aspects are also revealed in the ways in which men participated in infanticide — this can be seen especially in the case of James Walker and Margaret Chrystie, wherein James took an active role in the delivery and murder of the child and yet successfully denied everything in court.

This thesis has endeavoured to explore infanticide in Scotland in a way previously unattempted: through the lenses of corporeality, bodily uncertainty, narrative ambiguity, and community involvement. In addition, this thesis has exclusively used seventeenth-century sources, something that has not been done before in the literature, wherein the seventeenth century has been neglected in favour of the eighteenth. Bringing the seventeenth-century sources into the literature on infanticide is an important project that will allow historians to more fully understand the crime, and the ways earlier infanticide affected post-1690 infanticide. The sources utilized here have been previously unexamined, and reveal some fascinating truths about

infanticide in Scotland. What has been portrayed as a crime that women commit alone (and, in Scotland, commit violently) has turned out to be a crime wherein others are often present and involved, and wherein violence is relatively rare. What has been (in the Scottish context) examined almost exclusively through the lenses of criminal history, women's history, and legal history has shown itself to be relevant through other lenses as well. By examining infanticide in conjunction with the culture of legitimate birth, and by embracing the uncertainties and ambiguities inherent in the experience of pregnancy, this thesis has attempted to widen the parameters of study regarding infanticide in Scotland, and has posed questions which leave room for additional work in this realm.

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