FISSURES FIRST: THE LIMINALITY OF MARRIAGE AND

SOCIOCULTURAL CHANGE

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Abstract:
The following thesis argues against the contemporary verbiage of the "traditionality" of marriage. It argues that marriage, like other sociocultural constructs, exists in a state of consistent liminality: its very substance and meaning constantly changing with the times and people who impart to it such meaning. A primary mechanism used to prove this is a case study involving the marital trends of the Scottish Reformation, and how the Knoxian reformers demonstrated the intrinsic liminality of marriage by changing it through polity and ecclesial reform.

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A Thesis Submitted to the Faculty of

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In Partial Fulfillment of the Requirements for the

Honors Program

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TABLE OF CONTENTS

CHAPTER ONE

Matrimonial Arrangements in Medieval Scotland

Arranged and Clandestine Marriages and their Implications
Within the Sociocultural Fabric of Late Medieval Scots

Let us begin with a tale of two weddings. These two particular nuptials occur in

vastly different settings, under a set of vastly different external circumstances, in vastly

different time periods. However, there is a common thread that connects these two

matrimonial ceremonies in myriad, yet nuanced, ways the parties of each could never

understand. The first wedding took place over four centuries ago. The second wedding took

place in 2011. The first wedding took place fifty-five miles from where I write this; on a

protrusion of farmland interruptingly jutting into Pettycur Bay, near the small fishing hamlet

of Kinghorn, Scotland.[1] The second wedding took place in the unforgiving mountain

landscape of Rajasthan, India. We have no record of when the first wedding occurred; other

than the fact that it was in 1595 (almost assuredly during the summer, as no one of sound

mind would have dared brave a wedding ceremony in Fife any other time of year). The

second wedding occurred in late April, around the time of the great Hindu festival *Akha*

Teej –a time locals believe to be auspicious for the formation of strong marital bonds.[2]

Whereas the summer temperature on the coast of Fife rarely peaks above seventy, the heat

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[1] Existing as nothing more than an outcropping sparsely inhabited by fishermen, town records
indicate that by the year 1595, 35 years after the official consolidation of the town, the village consisted of "40
Christian souls, a fine hwearf, and 76 ewes of fat countance." NRS, FT. 234.224

[2] Taisha Abraham, *Female Empowerment: Impact of literacy in Jaipur District, Rajasthan* (New Delhi:
Har-Anand Publications, 1995), 27.

index in Rajasthan commonly rises to one hundred-ten degrees Fahrenheit in April, before the cooling rains of the monsoon season arrive. Indeed, for these two weddings, the differences abound.

On the big day for the first wedding, a young bride –from the records available, no older than seventeen at the time –would have looked out upon a doubly dreary day. Young Elspeth Purdie would have undoubtedly shuddered at the day; dreary not only because of the cold, indifferent Scottish skies above Kinghorn, but also because of the fact that she was betrothed to a man twice her age and one for whom she had not the slightest trace of attraction, emotional connection, or endearment.[3] This cursory description is seemingly all we know of this young maiden, the rest having evidently been lost to historical obscurity long ago. However, as any historian or will tell you, it is often the smallest of details that lead to the most fascinating discoveries. This was decidedly my hope as I began searching for the medieval peasant girl whom I came face to face with in the National Archives of Scotland.

Having exhausted my resources and my energy reserves in the Scottish National Archives, I decided to head out to Kinghorn to see for myself what I could learn about young Elspeth's fateful arranged marriage. As a highly recondite historical event, having surrendered to obscurity long ago, a simple web search will not give you much. In fact, it was only within the cool, grey walls of the nondescript National Archives of Scotland that I discovered the wedding at all. The National Archives of Scotland take up three entire floors within the basement of the National Library in Edinburgh and are only accessible with a student ID card (a stipulation I was regrettably unaware of during the time of my initial

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[3] "Papers of the Dalrymple Family, Earls of Stair," (National Archives of Scotland, NRS GD135/2110).

arrival, prompting an additional forty minute walk back to my hostel in the Haymarket district). The archives offer a truly remarkable catalogue of recorded historical events from Scotland and the English Isles at large. However, they are not designed to hold superfluous details of their contents, but rather, to function as a starting point for the eager historian or overly caffeinated study abroad student. From the incomplete trace I found within the National Archives, my next best bet was to head out to Kinghorn to sleuth around personally.

While certainly not for lack of effort, the investigative journalist in me found absolutely nothing in Kinghorn, except for a fairly solid cullin skink. I arrived early in the morning, and after asking around for an hour or so I was directed the Kinghorn Parish Church, a senescent building sandwiched in a narrow patch of land between the Kinghorn Primary School and Pettycur Bay. I entered through the large front door, a flash of carmine against a backdrop of indifferent charcoal, and was greeted by a jovial man of about sixty. Jim Reid has faithfully served his parishioners and the town of Kinghorn for decades; and is reportedly the paragon of knowledge on all things related to Kinghorn and Kinghorn history. Yet even he was stumped – and certainly a bit confused –when a towering Texan came into his church asking about a medieval marriage no one could seem to recall. And when I say no one, I truly mean no one. As Jim likes to say: "If the man at the helm of the Kirk by the Sea doesn't know it, it probably bears nought on Kinghorn history."[4] At this juncture, you as the reader are probably wondering why I began this paper with such an obscure, seemingly insignificant wedding tale. This was done intentionally, as will be discussed later. But first, the tale of the second wedding...

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[4] Jim Reid, personal correspondence, September 24, 2016.

Whereas the first wedding took place along the cool shores of the North Sea, the second occurred deep within the rugged, heavily wooded mountains of Rajasthan, India, on a day where the mercury easily surpassed one hundred. Where young Elspeth's wedding involved only a single service, the second ceremony involved three weddings in one. Where the first involved a young woman no older than seventeen, the three girls in the second wedding, Radha, Gora, and Rajani, are fifteen, thirteen, and five respectively. They await the wedding procession in an unpretentious, rudimentary setup of bamboo poles draped with strips of brightly colored cloth.[5] Rajani sits in a pink children's shirt with a purple butterfly on it, almost entirely unaware of what the day will hold. Radha and Gora know all too well what is in store for them. While the two older girls will undergo the Indian ceremony of *gauna* today, whereby they will consummate their newly formed marriage under the watchful supervision of their parents, young Rajani will live a few more years with her grandparents before being transferred to the household of her newlywed husband.[6]

Why do I bring up these two different stories –with hardly a hint of resemblance or similarity other than the astonishingly young age of the brides and the fact that third party individuals arranged them? To show the progression of a cultural norm that at one point in history was commonplace in the West. Arranged marriages, often between juvenile females and much older men, were a staple of medieval European society, especially amongst those of nobility and wealth. However, the Enlightenment and subsequent sociocultural revolutions of Europe and the West brought about their rapid decline; until today when they

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[5] Cynthia Gorney, "Child Brides," *National Geographic Magazine,* 2011, http://ngm.nationalgeographic.com/2011/06/child-brides/gorney-text.

[6] Ibid.

are almost entirely taboo within Europe and the United States–only existing within the Western subconscious as an archaic, anachronistic practice of centuries past.[7] In the perspective of the contemporary Westerner, the practice seems crude, solecistic, and vulgar; a less socially evolved practice from ancestors of yesteryear.

This substantial change of the collective cultural mindset demonstrates that the sociocultural revolutions that began in the Renaissance and Enlightenment were as thorough as they were dramatic. Not only has the practice of arranged marriage been legally abolished, the disposition of the average Westerner toward the practice has been dramatically altered. Such change of mindset and perspective within a particular zeitgeist is only possible through thorough significant sociocultural evolution; it simply does not happen overnight. The institution of marriage as we have come to understand it today did not develop within a vacuum; it is the direct byproduct of centuries of shifting socio-ethnic normativity. Indeed, because of the consistently inconsistent traditions, values, and morays of any particular people group, a normative model for marriage is a shifting target at best and functionally impossible at worst.

Today the practice, once widely observed across Europe and sporadically in the United States,[8] has retreated primarily to regions within the Middle East and global South; hence the narrative from Rajasthan. Whereas in medieval Scotland, arranged marriages were

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[7] While still practiced and recognized by certain religious communities, such instances are the exception rather than the rule and are often entangled in significant legal battles with various governmental organizations.

[8] While most Anglo immigrants to the colonies of the New World were already practicing arranged, monogamous marriage, certain exceptions existed. Particularly within the United States, multiple sectarian Christian denominations and adherents of Mormonism were known to publicly practice polygamy and arranged marriage. Julie Dunfey, "Living the Principle of Plural Marriage: Mormon Women, Utopia, and Female Sexuality in the Nineteenth Century," *Feminist Studies* Vol. 10, No. 3 (1984): 526.

at one point in time so commonplace they were considered the normative marital model for most upper classes. How else could someone spend an entire day asking around a township and find nary a person with historiographical record of a marriage that occurred there? Much to the historian's chagrin, no lengthy records exist because Elspeth Purdie's betrothal and matrimony were simply non-unique; giving no reason to record them for later generations to read and study. There was nothing particularly significant, nothing out of the usual, and nothing deemed "noteworthy" about the marriage of Ms. Purdie –she was merely another unsatisfied bride-to-be in a long history of arranged marriages in medieval Scotland. However, as we will soon see, her story retains a degree of significance because it was a great harbinger of the social change to come.

On the other end of the spectrum, arranged marriages exist today within such a level of fascination and taboo that National Geographic picks them up in its television programming and magazine circulations. This was the case with the marriage of Radha, Gora, and Rajani; whose wedding was attended and documented by National Geographic photojournalists.[9] What was once performed in the castles, cathedrals, and manors of Europe is now only practiced within the mountainous villages of Rajasthan and similar cultural geographies. What was once deeply ingrained in Christendom is now almost exclusively practiced within sectarian Islamic, Sikh, and Hindu groups.[10]

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[9] Gorney, "Child Brides."

[10] Although exceptions certainly exist, findings from the *Quarterly Journal of Economics* indicate that the preponderance of contemporary arranged marriages are practiced strictly within peripheral sects of Islam, Sikh, and Hindu communities. Albert Bisin, "Beyond the Melting Pot: Cultural Transmission, Marriage, and the Evolution of Ethnic and Religious Traits," *The Quarterly Journal of Economics* Vol. 115, No. 3 (2000): 956.

Despite her pleading protestations, the wedding of Elpeth Purdie proceeded without hiccup, glitch, or hesitation. Going to great lengths to avoid this unfortunate fate, young Elspeth traveled to Edinburgh, where she would appeal her case before a church council presided over by the bishop of Edinburgh himself.[11] Ironically, the only immortalized record of Elpeth's wedding was not from the wedding itself, but from her passionate appeal to be released from the arrangement prior to the ceremony. The narrow stone halls of the council hall must have echoed resoundingly with her pleas, but unfortunately for the persistent teenager, they fell upon deaf ears. Oh, that the council would have listened to her in her pleading appeal of: "sik as best pleis quhome I shall nominat in presence of your lordships."[12] The desperate Elspeth literally volunteered to wed the first man randomly selected by the counceil, so long as that man was not her current fiancée. Although her appeal was denied, her words live on and attest to the remarkable will and persistence of a young woman to have her case heard before the bishop and council of Edinburgh; a feat not accomplished by many women at the time. The very fact that her case was heard at all is a living testimony both to her persistence and to the nascent sociocultural changes occurring during her time.

So where exactly did this once commonplace practice go? Why did it disappear so thoroughly and so swiftly? To find out these answers, one must go back in time, to the time and place where it was most common. Because I began my investigative journey in the beautiful rolling hills of Scotland, I invite you as reader to journey there with me –to the very homeland of young Elspeth Purdie. Let us say goodbye to the practice as it exists today –

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[11] "Papers of the Dalrymple Family, Earls of Stair."

[12] Ibid.

from Radha, Gora, and Rajani in Northern India and the legal codes restricting and prohibiting their religious practice in Scotland and throughout the West.[13] Travel back in time with me to medieval Scotland, and observe a matrimonial custom that was as intricate as it was complex; governed by a set of laws and customs from both local magistrates and the church at large. Upon doing so, one may begin to discover a surprising degree of nuanced complexity to the marital arrangements and nuptial contracts of the medieval nobility. Such complexity was often mired in a sophisticated bureaucracy rivaling our own contemporary bureaucracies; one that established myriad regulations, under both Common Law and Canon Law, for the governing of such marriages. Upon careful examination, one will also begin to observe a kingdom and a people in flux, with marriages representing not only a coming together of two people, but also a covenant of alliance between their respective clans. However, with so much riding on the development and implementation of strong marital alliances, one can easily see the potentially disastrous consequences of such arrangements, and the clandestine marriages that resulted when two young people found love outside of the parameters set by family, church, and state. In this examinatory process, we just might learn something about ourselves, and the institution of marriage as it exists today.

As discussed earlier, there was nothing particularly special or noteworthy about the matrimony and denied appeal of Elspeth Purdie. Her entire life and marriage exist as a nondescript blurb in the National Archives of Scotland. She is not "Google-able." Even

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[13] Facing increasing immigration from cultures actively practicing arranged marriages, the Scottish Parliament outlawed the practice with the Forced Marriage Act of 2011; a move that would prove to be one of the most hotly contested acts of legislation in modern Scottish history. Where proponents of the bill vigorously attacked the "seeming barbarianism" of the practice, opponents argued that the practice fell under the category of religious freedom, and should benefit from the equity and protection of the law as such. "Anti Social Behavior, Crime, and Policing Act of 2014," *legislation.gov.uk,* 2014, http://www.gov.scot/Topics/People/ Equality/violence-women/forcedmarriage.

people living in her own hometown have absolutely no idea of who she was, and the written record is certainly lacking. In this way, Elspeth is like most of us. From ashes to ashes, she lived a life not remembered by those half a millennium later. Yet her story has undeniable potency and significance. Was it easy for her to bring her appeal all the way to the Bishop of Edinburgh? Almost certainly not. I can travel from Kinghorn to Edinburgh in forty-five minutes, crossing the bay on the Forth Road Bridge. She did not have this luxury. For a woman to be heard before a bishop was astronomically difficult (and rare) enough.[14] For her to even get to Edinburgh, however, reveals her earnestness and persistence. Did she hire someone to row her across Pettycur Bay? Did she somehow row herself? In either scenario, it would have taken young Elspeth all day to cross the bay –notorious for its unforgiving waves and sudden storms.[15] Upon reaching the other side, she would have still had a five hour's walk before her to reach Edinburgh's city gates. All things told, her journey to Edinburgh and back would have taken no less than six days, and would have quite literally involved the risk of her own life. Tragically, the persistent young maiden underwent this extraordinary effort for an appeal that was never even granted. Even more tragically, this experience was prototypical for a woman in her situation, as she lived in a time where to be a woman was all too often to be an entity without a voice. While change eventually came, and indeed there is

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[14] Of the ninety-three hearings conducted by the Edinburgh Council in 1595, only seven of the plaintiffs were female. J. Maitland Thomson, *The Public Records of Scotland* (Glasgow: Maclehose, Jackson, and Co.,1922), 81.

[15] Pettycur Bay, while historically fruitful for the local population of fishermen, is also known for having "An ornery disposition, and a demeanor much fiercer than most bays of its size, with storms frequently materializing out of clear days." Peter Anson, *Fishing Boats and Fisher Folk on the East Coast of Scotland* (London: J. M. Dent, 1971)*,* 33.

still much work to be done on this front, women would not have the same legal and social standing as men in Scotland for several more centuries.[16]

Young Elspeth Purdie's experiences were neither significant in the timeline of arranged and protested marriages, nor close to the end of them. The practice would continue for centuries in Europe and in geographically isolated areas of the United States, and as earlier discussed, still exists sporadically in the Islamic and Hindu world. It would be over two centuries before the last recorded arranged marriage within the European royalty, a final act in a demise that signified a broader sociocultural change in the West; one where the very idea of an arranged marriage began to be viewed as an archaic anachronism from a less socially evolved time period.[17]

I. Sociological Considerations and the Fluidity of Cultural Normativity

In this way, the convention of arranged marriage was much like many others –the slave trade, the withholding of women's suffrage, systemic segregation –in that its demise was not intrinsic, but was more so a reflection of a transforming sociocultural climate. Empirically, one finds that systematized policies and practices only change after significant cultural reorientation.[18] Legislation is not the spark of societal change, but rather, the end result. This was decidedly the case when it comes to arranged marriages in the Western world.

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[16] While successive generations of Scots finally began to feminize the political and reinvent their conceptualizations of patriarchal biopolitics, it was not until 1928, eight years after the United States, that Scottish women gained the right to vote. Elizabeth Crawford, *The Women's Suffrage Movement, a Reference Guide* (London: Routledge Publishers, 2000).

[17] R. H. Helmholz, *Marriage Litigation in Medieval England* (Cambridge: Cambridge University Press, 1974), 46.

[18] Slavoj Zizek, *In Defense of Lost Causes* (London: Verso Publishers, 2009), 3.

Although the first major legislation moves on the matter began to occur as early as the Sixth Century, when the papal council of Alexander III ruled that consent of both parties was necessitated in the arrangement of sacramental marriages,[19] this was largely a legislative red herring and it would be centuries before policymakers and legislators began to cohesively outlaw the practice of arranged marriage as a whole. Even after the Papal decision, as one can clearly see in the Elspeth Purdie narrative and many like it, the local church and its accompanying secular governing bodies were notoriously slow to enforce the mandate of consent; all too eager to look the other way (especially when looking the other way meant looking toward a monetary offering from the families of the parties involved).[20] Long before the practice of arranged marriage began to dwindle, it was certainly evolving. Throughout the medieval ages, marriage was in a constant state of flux; ebbing and flowing in a dynamic equilibrium that mirrored and expressed the cultural necessitations of marital unions. Indeed, this has always been the case with marriages, long before medieval times. The fact that marriages change based on the particular necessitations and specificities of a culture has evolutionary roots. As Robin Fox states,

> And although Man has these facts of life in common with other mammals [in regards to the ability of *homo sapiens* to engage in selective copulation], he differs in that he can choose between the alternative courses that they offer him in the way of group-formation, succession, mating arrangements, etc. His choice is often constrained within narrow limits but the fact remains that he can *do* things with the basic bonds arising from the processes of mating, childbearing, and childrearing. The study of kinship, in regards to marriage, can be seen as the study of what he does and why he does it, and the consequences of the adoption of one alternative rather than the other.[21]

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[19] Charles Donahue, *Law Marriage and Society in the Later Middle Ages* (Cambridge: Cambridge University press, 2007), 16.

[20] Ibid.

[21] Robin Fox, *Kinship and Marriage: An Anthropological Perspective* (Cambridge: Cambridge University Press, 1967), 1.

In this regard, marriage is not alone. Any significant cultural institution –from politics

to priesthood, from the parochial to the secular, from business to matrimony –changes

consistently in the development of a society.[22] Expounding on this is Anna Freud:

> All of civilizational history can be seen as a history of change. Societies and civilizations, as they exist, are not static. They are fluid. Dynamic. What one people group accepts and celebrates yesterday will be rubbish tomorrow. To search for common themes is to risk madness.[23]

If change is the building brick of society, it would seem that custom is the mortar. Customs

and practices, as they constantly evolve, are the means by which a society adheres to and

effectively digests the changes it naturally undergoes. Thus, the implications for marriage

and gender roles in Europe and the United States due to the change in public acceptance of

arranged marriage are as complex as they are numerous. It was never simply that society

stopped tolerating arranged marriages in and of themselves, but rather, that European society

began to reshape its cultural understanding of the individual right to love, and subsequently,

to wed.[24] In this way, many could argue, the decline of arranged marriages in Europe

necessarily indicates a more evolved societal understanding of the individual, and a greater

appreciation for individual autonomy and choice. Indeed, no better evidence for the fluidity

of sociocultural normativity exists than the fact that we are still attempting to successfully

navigate this social shift in the modern West.[25]

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[22] Ibid.

[23] Richard Elkins and Ruth Freeman, *Anna Freud: Selected Writings* (London: Penguin Publishers, 1998), 51.

[24] James Brundage, *Law, Sex, and Christian Society in Medieval* Europe (Chicago: University of Chicago Press, 2009), 141.

[25] When discussing the evolution of the Western understandings of love, sexuality, and marriage, such recent events and groundbreaking court decisions as *Obergefell v. Hodges* (2015) and North Carolina's controversial *Public Facilities Privacy and Security Act* (2016) come to mind. Indeed, we are still attempting to understand and adapt to an ever-changing understanding of love and marriage.

This has demonstrably been the case in Scotland, where the debate on the arrangement of marriages has flared up once more in recent years. This time, however, it has much more to do with weddings the likes of Radha, Gora, and Rajani's than it does with anything resembling the matrimony of Elspeth Purdie. In 2011, the Scottish government, in a remarkably contentious vote, outlawed the arrangement of marriages, regardless of religious affiliation. The *Forced Marriage Act* was signed in the wake of a surge in Muslim and Sikh immigration to Scotland, and was met with fierce opposition from both migrant communities.[26] Sects within both Islamic and Sikh Scottish communities practiced arranged marriage widely at the time, and when Scottish investigators unearthed case after case where consent was not considered in the arrangement, the Scottish parliament cracked down on the practice.[27] The irony of a nation that once widely practiced arranged marriages giving the modern practice a deathblow is hard to miss, and demonstrates further just how far the Scottish mindset has evolved since young Elspeth Purdie's denied appeal.

As we can see in the communities most affected by the *Forced Marriage Act of 2011*, religious belief is the largest determining factor in modern arranged marriages. Several hundred years ago, this was simply not the case. Rather, it was the accruement and reinforcement of wealth, power, and prestige that drove the arrangement of marriages in medieval Scotland and the British Isles. The arrangement of marriages was a strategic mechanism utilized to ensure peaceful interactions between clans, profitable land and capital exchanges, and myriad commercial and financial benefits between the families involved in

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[26] "Anti Social Behavior, Crime, and Policing Act of 2014."

[27] "New Forced Marriage Law Comes into Effect in Scotland," *BBC News,* 28 November 2011, http://www.bbc.co.uk/news/uk-scotland-15909237.

the matrimonial union. This, however, applies much more to the marriages of the lairds, rather than the simpler nuptial unions of the peasantry. Where the affairs and priorities of lairds made political and fiscal matters their first priority when considering marital unions, the life circumstances of peasants and serfs drastically changed their criteria for marital consideration, and subsequently, the marriages of the lower socioeconomic strata in medieval Scotland provide an excellent framework for historical and sociological analyses. These analyses will be provided later in the chapter.

II. Case Studies for the Matrimonial Emphases of the Lairds:
The Campbells of Glenorchy and Clan Dominance Through Marriage

If any efficacious discussion of marital custom and social change in medieval Scotland can commence, it is first necessitated to understand the basic frameworks for such marriages. As previously discussed and intuitively assumed, the marital emphases of the nobility and the peasantry were vastly different. In regards to the arrangement of marriage, a sufficient understanding of how marriage was viewed and used by the Scottish gentry allows for a far greater understanding of the basic ethics of marital arrangement during the time. Therefore, before a critical analysis of social change and its implications for the arrangement of marriages in the West can proceed, let us first look at one particular noble family, and see how the Machiavellian arrangement of marital unions allowed for its rise to prominence and regional hegemony in the Scottish highlands.

With a stroke of cosmic fortune for the historian or scholar, the great medieval Scottish lairds often commissioned historians and scribes to record their familial business with painstaking detail and remarkable attention to the most intricate of minutia. From these

detailed records, scholars today can piece together a revealing narrative that unveils a

marital ethic of the lairds that was more strategic than endearing, and more calculated than

emotional. Marriage was a powerful tool that could be wielded in the struggle of working

toward clan dominance, and was understood as such far more than it was understood as a

covenant of respect, love, and loyalty between two individuals.[28] Perhaps no better case

study exists for the demonstration of this phenomenon amongst the Scottish elite than that of

the late-Medieval power clan: the Campbells of Glenorchy. Making use of detailed written

accounts and familial records, diligent teams of Scottish historians have been able to outline

a familial growth strategy within the Campbells; tracing out a marital trend within the clan

that valued factors such as wealth, power, and the extension of influence much more than

intimacy and sentimentality shared between betrothed individuals.[29]

The patriarchal position in a medieval Scottish clan was a multifaceted one; with

countless considerations, innumerable complications, and a plethora of headaches to

navigate in the never-ending pursuit of wealth, power, and clan dominance. A solid patriarch

was responsible for the maintenance of lucrative connections with local lords and earls, the

continuance of family business and mercantile endeavors, and the reinforcement of alliances

with regional monarchs and magistrates. This, of course, was piled on top of the

responsibility to ensure familial peace and the prosperity of constituent generations rising

within the clan –a task that grew increasingly difficult if the clan experienced particularly

rapid growth rates. For Clan Campbell of Glenorchy, these myriad responsibilities fell onto

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[28] Alan MacPherson, *An Old Highland Genealogy and the Evolution of a Scottish Clan* (Edinburgh: University of Edinburgh Press, 1966), 22.

[29] Jane Dawson, *Clan Campbell Letters* (Edinburgh: Scottish History Society Publications, 1997), 12.

the capable shoulders of Colin Campbell of Glenorchy; a man under whom the Campbells would flourish and a man from whom historians have gathered vast amounts of personal correspondences, transcripts, and records that have proven to be a fascinatingly detailed periscope into a the lives of the medieval Scottish lairds.

Located within the daunting, rolling topography of Argyleshire, in the Western Highlands, the Campbell family lands were as extensive as they were lucrative; with fertile farmland, profitable mills on key river locations, and strong ties with the local earl; with whom Collin frequently corresponded and visited.[30] These lucrative commercial opportunities and beneficial political alliances were the foundation of the Campbell's expeditious rise to power, and were to be protected, strengthened, and extended by any and all means possible. As was paradigmatic in the region and time, the Campbells would quickly and strategically begin to rely on betrothals and matrimonies as a prime mechanism to ensure this stability and growth within their ever-expanding sphere of influence.[31] This practice was indeed normative for those of nobility throughout the mid- and late-Medieval eras. In fact, a not entirely distant relative of the Campbells of Glenorchy –Archibald Campbell, Fifth Earl of Argyle –was arranged for marriage before his first birthday.[32]

Colin Campbell inherited immense wealth but a burdensome political climate to navigate.[33] The aforementioned arranged marriage of Archibald Campbell had ended in

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[30] Ibid., 49.

[31] Ibid., 52.

[32] Donald Wilkes, "Archibald Campbell," *University of Georgia Law,* July 6 2016, http://libguides.law.uga.edu/c.php?g=177206&p=1164801.

[33] Dawson, *Campbell Letters*, 44.

disaster; a fate not uncommon for marriages arranged before one party has ended teething. In

the political fallout that ensued from the broken marriage, institutional questions raged

within both the high courts of the Kingdom of Scotland and within the Kirk of Scotland. It

was here, at the intersection of the late Middle Ages and the Reformation, that questions

concerning the arrangement of marriages and the morality and legality of divorce would be

forced to the forefront of the dialogue between the Kirk and the nobility; particularly

questions concerning jurisdiction over such matters.[34] Whenever a medieval earl underwent a

divorce, there were innumerable complications involving inheritance, land ownership, and

alimony remittance to be meshed out between the two parties involved. However, the "two

parties involved" in the event of an earl's divorce are not merely the two individuals, but

rather, their entire network of clans, supporters, and allies. When the marital fallout was

directly linked to an arrangement made before one party had reached the age of one, the Kirk

had a sticky ethical situation on its hands. This was decidedly the case with the first marriage

of Archibald Campbell; which would elevate the divorce debate to the highest state and

ecclesiastical courts of Scotland.[35]

It was in this hectic sociopolitical climate that Colin Campbell first began formal

marriage negotiations for his children alongside wife and confidant Katherine Ruthven, Lady

of Campbell.[36] As suitable clans and families were sought out and examined, particularly

within Argyleshire proper, there was much to consider for Colin. Whatever ties were to be

formed had to synthesize with and strengthen the pre-existing commercial endeavors of the

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[34] Brundage, *Law, Sex, and Marriage in Medieval Society*, 59.

[35] Dawson, *Campbell Letters*, 49.

[36] Ibid., 13.

family. Colin had no interest in learning new tricks and trades at his age, and rightfully so

considering the already lucrative nature of his inheritance. This meant the arrangement of

marriages had to take place with power families already living within Argyleshire, and that,

due to matters of jurisdiction and overarching medieval authority structures, meant going

through the recently divorced earl for a matrimonial blessing and licensure to wed. Because

of the often-contentious nature of medieval Scottish clans and their interactions and affairs,

with each clan vying for economic (and sometimes, at its worst, military) dominance, the

presiding earl had to issue his stamp of approval before a marriage ceremony could be

planned.[37] This was one area where Collin's amiable relationship with the earl –who was in

fact a third cousin of Colin's –would prove to be a quintessential piece of the power puzzle

being crafted by the rising juggernaut of a family.[38]

The Campbells in many ways embodied the quintessential characteristics of the

medieval Scottish gentry. They were shrewd businessman, cunning, and selectively allegiant

to all the right people of power. Particularly the patriarch and matriarch, Colin and

Katherine, demonstrate these attributes, as is evident in the *Campbell Letters*. Where Colin's

personal responsibilities were to manage the familial businesses (a task he did with a very

hands-on approach, as indicated from the letters and correspondences available) and to

maintain favorable relations with the local earl, Katherine was by no means a supporting role

in familial affairs, having her own list of distinct responsibilities within the clan's

organizational structure. In fact it was Katherine, and not Colin, who personally sought after

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[37] Hector MacQueen, *Common Law and Feudal Society in Medieval Scotland* (Edinburgh: University of Edinburgh Press, 1993), 10.

[38] Dawson, *Campbell Letters*, 42.

potential marriage partners and investigated local families of relative power to find mutually

beneficial spousal matches.[39] This dual approach was certainly not normative for the time,

and demonstrates the family's dedication to growth, even at the sake of perceived cultural

normalcy. Rarely would a woman at the time –even the matriarch of a powerful family–have

such a hands-on duty in the suitor search for the family's children. Matriarchs were often

powerful, but operated in distinctly supportive roles to their husbands. However, as one can

see time and time again in their familial records and kept correspondences, the Campbells –

the proverbial Underwoods of their day—were willing and able to bend the rules of Scottish

high society to protect and grow their considerable wealth and sphere of regional influence.[40]

Due to the remarkable work of devoted, assiduous Scottish historiographers, the

central corpus of Clan Campbell correspondences allows contemporary scholars to peer

through time into the cunning, manipulative genius of Colin Campbell. With relentless

devotion to the family and the shrewd know-how to acquire new, more-profitable business

and commercial ventures at every turn, Colin Campbell was the paragon of medieval clan

patriarchal prototypes. Even the most conservative estimates indicate that familial lands

tripled and familial wealth quintupled under Colin's supervision and guidance.[41] Today,

historians can clearly see that this spectacular growth was due to the calculated, strategic

betrothals and marriages of his eight children, and a close alliance with the local earl,[42] to

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[39] Ibid., 43.
[40] Ibid., 2.

[41] Gordon Donaldson, *All the Queen's Men: Power and Politics in Mary Stewart' Scotland*
(London: Batsford Publishing, 1983), 49.

[42] Dawson, *Campbell Letters*, 3.

whom the last Campbell daughter would eventually marry.[43] Despite all of the business decisions and commercial gains factored into the Campbell marriages –with the family acquiring at least three known mills, hundreds of acres of fertile cropland, and even a whisky distillery through various marital arrangements[44] -it was the final wedding directly to the earl of Argyle that solidified the Campbells as the regional nexus of power for the better part of the next century.[45]

At the end of the day, Colin Campbell was blessed with eight bright, loyal, healthy children. To have eight children survive to adulthood was a surefire way for a powerful family to grow in influence and power during the late medieval ages. Eight children with eight thought-out betrothals and marriages meant at least eight new sources of income or business alliances. This was by no means unique to the Campbells –or even unique to Scotland, for that matter -but was true across the board amongst medieval families of moderate wealth and prestige.[46] For the Scottish lairds, marriage was much more than the mingling of two individuals. It was the mingling of two families, and subsequently, the mingling and intertwining of all composite familial business ventures and commercial opportunities.[47] What ease Colin must have enjoyed in regards to the enlarging of Clan Campbell lands; the matrimony of his first daughter alone increased family croplands by

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[43] Ibid., 9.

[44] Ibid.

[45] David Easson, *Medieval Religious Houses of Scotland: With an Appendix on the Houses in the Isle of Man* (London: Longman Publishers, 1976).

[46] Dawson, *Campbell Letters,* 42.

[47] Ibid.

150 acres of prime Argyleshire real estate and was also responsible for the eventual familial ownership of two River Orchy-bound businesses: a mill and a whisky distillery.[48]

Eventually the Campbell clan grew to an unsustainably large size, with new generations of Campbells spreading their sphere of influence far and wide in the Western Highlands. This familial growth spurt was in many ways the direct byproduct of Collin and Katherine's careful plotting out of their eight children's marriages.[49] However, the Campbells would soon learn that growth spurts often bring about growing pains. As the family grew and its business portfolio diversified and spread across Argyleshire, there were increasingly more chances for strife, tension, and rivalry to erupt within the family itself. In the fascinating narrative of the Campbell clan, it would prove to be internal –rather than external –strife that led to a familial growth ceiling.

As the eight children of Collin and Katherine began families of their own, the Campbell family grew both numerically and in the diversity of its business ventures.[50] Subsequent disputes between siblings and cousins within the clan over various business and financial matters eventually led to the calling of a Campbell Council in Argyle. The council met for several weeks with the earl of Argyle –himself a Campbell, and a party in the numerous familial disputes –and eventually reached a decision: the Campbell Clan was far too large to remain sustainable and efficient, and would be dismantled and reorganized into a confederation of new clans –each independent yet still fiercely loyal to the other

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[48] Ibid., 112.
[49] Ibid., 143.

[50] Ibid., 42.

branches.[51] Despite the eventual breakdown and the development of the new confederation of clans, the rapid growth of Clan Campbell was and is a testament to the power of strategic marriages within the Scottish nobility.

Collin and Katherine Campbell systematically arranged for the betrothals and marriages of their eight children to influential families that would only increase the lucrativity of the cornucopia of Campbell businesses, with their final child even marrying the regional earl. This was not easily accomplished, and demonstrates the profound attention to detail Collin and Katherine maintained when finding eligible suitors for their children. Indeed, the power and importance of marriage for medieval Scottish lairds cannot be easily overstated. It is not the least bit hyperbolic to attribute most (some would argue *all*) of the Campbell's rise to power to their carefully planned marital tactics. In the case of Clan Campbell, however, such marriages led to a lesson in the sustainability of a family and business. Strategic matrimony can lead to spectacularly rapid growth. However, if left unchecked, rapid growth can turn cancerous. Such was the case with perhaps the most powerful late medieval family in the Western Highlands.

III. Marriage Revisited: The Matrimonies of the Peasantry and Lower Classes

As demonstrated by the Clan Campbell case study, marriage was more calculated than intimate and more strategic than emotional for medieval families of nobility, wealth, and power. This, however, was much different for the less financially fortunate of medieval society. The world of medieval peasants could not have been more fundamentally and categorically different than the world of medieval nobles. Where the elite's marital milieu

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[51] Ibid., 41.

was one of business, commerce, and mercantilism, concerned with the constant struggle to increase in power and wealth; the primary daily concerns of the peasants and lower classes of medieval Scotland involved survival and survival alone. There were no considerations of lofty commercial pursuits, but rather, a simple yet frantic struggle for day-to-day survival. The difference between life and death could often be boiled down to one fruitful versus one infertile harvest, a family calamity such as the death of a healthy, working male, a natural disaster or worse-than-usual hailstorm, or even the ever-changing whims of the region's consistently battling lords and nobles.[52]

Before discussing the intricacies or distinctives of peasant marriages and matrimonial ethics, however, it is important to understand just how desperate the lives of most peasants and serfs were. Today there is often a romanticized, idealized perspective on the humble medieval peasant. Many movies within pop culture depict a jolly, happy-go-lucky medieval peasant who sings in the fields and feasts sumptuously when the hard work of the day is done. This depiction could not be more categorically incorrect. The lives of medieval peasants were filthy, toilsome, and downright brutal at times, and the brink of starvation was truly never far away. As we will discover, the marriages of medieval peasants would reflect this in many ways.

With such a drastic differentiation between the daily lives of the lairds and the peasantry, it is indeed no wonder that the institution of marriage would look vastly different between the two demographics. Where the marriages of those of some degree of wealth and power would often have a series of agendas stretching far beyond the day of the ceremony,

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[52] A.D.M. Barrell, *Medieval Scotland* (Cambridge: Cambridge University Press, 2000), 147.

peasants did not often have the same level of worry and consideration in marriage. However, this is emphatically not to say that the weddings of peasants were without agenda or overarching objective at all. It is rather to say that, despite the myriad ways in which peasant life was inferior to noble life, one peculiar area where life was better was the freedom of a young man or woman to choose a partner based more or less on personal choice and feelings of mutual affection.[53]

While those of lower feudal strata were freer to choose their marital partners without parental plan or arrangement, as the introductory narrative of young Elpeth Purdie proves, a cunning artisan or merchant class parent could certainly fight for a more stringent arrangement if it would pay dividends for the family business. Not to mention, the lives of non-noble classes were still brutally toilsome, burdensome, and dangerous at times.[54]

Despite such struggles, peasant and artisan-class individuals often celebrated romantic love and courtship quite publicly. In this way, their conceptualization and understanding of romantic love and marriage served a vital role as a cathartic escape from a frequently dreary reality. While their mundane lives may have been full of toil and hardship, romance and marriage was a place of carefree happiness; a place where a medieval peasant could escape briefly from the hardships of daily life.[55] Because of this open celebration of romance and its celebrated social role as an escape from a harsh subsistence existence, the courtship,

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[53] This autonomy, however, was not without exceptions and parameters. All weddings had to be approved by the overarching lord, and this task could potentially vary significantly based on the demeanor of the lord and the type of marriage desired. Some lords were stricter – not allowing marriage outside of the village or to a free man. Others were more generous and were quicker to allow unconventional marriages. The level of autonomous spousal choice was usually steady for free individuals such as artisans and lower-status merchants, but was considerably volatile and subject to change for peasants and the unfree. J.A. Raftis, *Pathway to Medieval Peasants*, (Brussels: Brepols Publishers, 1982), 199-202.

[54] Ibid., 203.
[55] Brundage, *Law, Sex, and Marriage*, 200.

romantic, and marital lives of peasants were often much more public than the romantic lives

of nobility (within their immediate surroundings).[56] This accounts for the fact that much of

the art –whether in the form of dramas, paintings, woodcuts, ballads, or sculptures –that

depicts love in the high Middle Ages depicts courtly love and subsequent folktales thereof

from peasant culture.[57] The enigmatic irony of medieval marriage was that the peasantry,

while living a life of far greater hardship than the nobility, was much freer to pursue its own

love interests, and subsequently, was much more prone to publicly celebrate romantic

ideals.[58] The simple fact that peasant families did not have business ventures or other

marketable capital sources to trade or grow meant that there were often less familial

considerations to be discussed prior to matrimony. Not to mention, in a flawed economic

system where upward mobility was all but nonexistent in most cases, there was no possibility

of greatly increasing wealth or status via marriage.[59] In a medieval irony of ironies, the

dreadful socioeconomic status of the peasantry and lower feudal strata often meant

individuals from such demographics had a far superior conceptualization of romantic

idealism and marriage in general.[60]

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[56] Roberta Krueger, *The Cambridge Companion to Medieval Romance* (Cambridge: Cambridge University Press, 2000), 4.

[57] Ibid.

[58] Rosamond Faith, "Peasant Families and Inheritance Customs in Medieval England," *The Agricultural History Review,* Vol. 14, No. 2 (1966), 88.

[59] "Section II: Medieval, Political And Economic Development: Feudalism And Manorialism," *The Cupola: Scholarship at Gettysburg College,* 1958, http://cupola.gettysburg. edu/contemporary_sec2/2/ ?utm_source=cupola.gettysburg.edu%2Fcontemporary_sec2%2F2&utm_medium=PDF&utm_campaign=PDFCover Pages.

[60] T.H. Alston, *Landlords, Peasants and Politics in Medieval England* (Cambridge: Cambridge University Press, 2006), 390.

As previously stated, it is interesting to note the plethora of art surrounding and

thematically engaging with romantic love, marriage, and sexuality among the peasantry and

lower feudal castes –most notably being the artisan and lower merchant classes.[61] While

there is no shortage of art involving those of nobility and royalty (as would be expected),

romantic, marital, and sexual art is commonplace among lower feudal demographics in

remarkable numbers.[62] In particular with the romantic genre of artistic depiction, medieval

art is found to be more "purist" in a sense when concerning the peasantry. In other areas of

artistic depiction involving peasants and lower castes, the art is often from a detached

perspective of nobility. That is, it depicts lower levels of the feudal system as toilsome and

filthy; the way such levels were often understood by members of nobility.[63] As Freedman

articulates:

> Medieval Europeans of the upper classes, like their modern descendants, regarded rural life as
> appealingly simple and admirably productive, but above all else as strange, a tableau with alien
> beings of a lower, dirtier order. Jean de La Bruyère described a countryside whose inhabitants
> appeared at first glance to be ferocious animals, dark, burnt by the sun, attached to the soil that they
> worked with stubborn persistence. Yet they could speak, and indeed when they raised themselves up,
> they had a human countenance. In fact, surprise of surprises, they *were* human.[64]

Medieval peasants were rarely regarded in a first-person perspective in poetry, paint, or

sculpture. However, just as their spouse-choosing autonomy was greater than that of the

nobles, so too was their depiction in arts involving sexuality and marriage far superior; at

least to the extent that it was a genuine depiction thereof.[65]

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[61] Paul Freedman, *Images of the Medieval Peasant* (Stanford: Stanford University Press, 1999), 32.

[62] Veronica Sekules, *Medieval Art* (Oxford: Oxford University Press, 2001), 72.

[63] Ibid., 73.
[64] Paul Freedman, *Images of the Medieval Peasant* (Stanford: Stanford University Press, 1999), 32.

[65] Freedman, *Images of the medieval Peasant,* 1.

The idealized prototype of the amorous, love-enthralled young peasant or artisan's

apprentice became a pervasive motif in medieval art, from numerous ballads to the awe-

inspiring frescos and oil paintings of late Medieval artists.[66] The simplicity and autonomy

of a lower-class lover to pursue the object of his affections was something perhaps desired

jealously by lovers of the upper classes who did not have the same level of personal

freedom in their spousal considerations.[67] This can be clearly seen in artistic forms that took

peasant and lower-class thematic elements and transposed them to images of noble and

wealthy life, which was an extremely common artistic style in the late Medieval Ages.[66]

Take, for instance, Jan Van Eyck's oil painting *The Arnolfini Portrait*, which depicts the

marriage of two nobles in a circumstance that would have been much more common

amongst peasants, as is discussed in greater detail in the appendix (see fig. A.1).

With all things considered, most artistic depictions of medieval peasants, while

masterpieces in their own rights, only revealed an idealized understanding of peasant life;

one that was particularly far from the toilsome reality of daily life in lower levels of the late

Medieval feudal system. For members of lower feudal castes, especially for peasants and

serfs who did not have the right to personal property in many villein systems, marriage and

life at large were difficult and full of complex, sometimes life-threatening burdens.[68] The fact

that peasants and poorer individuals could autonomously pursue the objects of their

[66] Jonathan Alexander, "Labeur and Paresse: Ideological Representations of Medieval Peasant Labor," *The Art Bulletin,* Vol. 72, No.3 (1990), 442.

[67] Michael Camille, *Image on the Edge: The Margins of Medieval Art* (London: Reaktion Books, 1992), 23.

[68] Paul Hyams, *King, Lords, and Peasants in Medieval England: The Common Law of Villeinage in the Twelfth and Thirteenth Centuries* (Oxford: Oxford University Press, 1980), 22.

affections was little consolation in light of the much larger issues facing such disenfranchised demographics.

One particularly significant marital issue for peasants and serfs in villein systems governed by particularly harsh lords was the hated *merchet.* A *merchet* was a taxation imposed on licensure for a marital ceremony that had to be paid before a ceremony could be commenced or a marriage could be considered valid; often paid by the father of the bride (but in actuality paid by whoever could afford to do so at the time of the ceremony).[69] While this was partially another mechanism to pad noble coffers, it can be better understood as a payment for the loss of workforce brought on by peasant weddings. Beyond any other considerations a nobleman would have for the marriages of his peasants or serfs, he primarily viewed marital ceremonies as glorified celebrations for the loss of an able-bodied worker. This was because a wife would no longer be expected to work at the same level once married; and indeed could not once pregnant.[70] To offset this incurred loss, feudal lords would charge fines for marriage licensure at unpredictable, often entirely circumstantial rates. There were no flat rates to be expected –merchet dues could often change based on what the lord had for breakfast.[71]

Although in many ways unpredictable, there were certain instances in which the betrothed knew to expect higher *merchet* payments than usual. Again, the payments

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[69] Eleanor Searle, "Seigneurial Control of Women's Marriage: The Antecedents and Function of Merchet in England," *Past and Present,* Vol. 82, No. 1 (1979), 10.

[70] Raftis, *Pathways to Medieval Peasants,* 200.

[71] Ibid.

expected were inflated or deflated based on the expected loss of manpower to the feudal

lord. As J.A. Raftis explains:

> Fines paid for special licenses tended to be higher than those paid for the typical license to marry an unfree man within the village. Permission which allowed marriage outside the village, marriage to a freeman, or marriage to whomever the woman chose all tended to cost roughly 1s. 6d. more than the typical license. This higher rate makes perfect sense since the lord stood to lose much more when granting such licenses. A typical license kept a woman's services, goods, and child-bearing capacities within the lordship; the lord stood to lose these same assets when he granted the licenses for which he charged an additional fee. In spite of this general trend, however, the amount of fine in individual cases did not necessarily reflect precisely the sort of license purchased. Although it is possible to cite entries from customals or cartularies which strictly delineated the amount of merchet fine to be paid in a given village, amount tended to vary widely; often on the individual whims of the lord.[72]

Much of Raftis' analyses come from the *Liber Gersumarum*, a remarkably well preserved

financial record from Ramsey Abbey, a fairly large, regionally significant abbey in the south

of England. The local lords of the area would almost never do business directly with their

serfs; they had much more significant business to attend. Thus, they directed this

monotonous business to the local abbey, which was all too happy to collect the *merchet*

payments for the lords in exchange for a cut of the dividend.[73] This was especially the case

considering the lack of oversight and the fact that no flat rates were established for merchet

payments. In this regard, the mass fluctuations recorded in the Ramsey Abbey ledger are

quite revealing. For the area peasants, the records reveal that merchet payments were likely

whatever the monks said they were –with the local lord never bothering to snoop into the

amounts charged by the abbey.[74]

Before continuing from here, it is necessary to pause momentarily and discuss one

final unfortunate aspect of medieval peasant life –particularly as it relates to peasant

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[72] Ibid., 200-201.

[73] Ibid., 194.
[74] Ibid., 191.

marriages. The concept of the *droit du signeur,* the "right of the Lord" has been popularized

significantly in recent movies involving medieval peasants –most notably the 1995

blockbuster *Braveheart.* The "right of the Lord," as legend has it, is the right of the medieval

noble or lord to sexual consummation of a marriage prior to the peasant bridegroom.[75]

Heavily debated within various circles of historians, it even made a cameo in Voltaire's

Dictionairre Philosophique.[76] Certainly practiced in the ancient Near East, the practice was

even mentioned in *The Epoch of Gilgamesh.*[77] Its roots and practice in medieval Europe,

however, are hotly contested, with an unreliable historical record available.

As it relates to William Wallace's homeland, the historical record is nebulous at best. In

1527, the prominent Scottish historian Hector Boece indicated that the right was practiced

widely in Scotland, until its abolition by Malcolm III.[78] However, in other places it is

mentioned that the payment of merchets was a means for peasants to circumvent the

custom.[79] In light of the indeterminate written record available, the best scholarly

interpretation is that the custom is largely myth; existing as a folktale of English and

Scottish peasants to commiserate and express their angst with their often deplorable status

quo. However, in certain spectacularly bad areas, it could have quite likely been practiced.[80]

In most areas, while not a custom, there is reason to believe that nobles would attempt to

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[75] Vern Bullough, "Jus Primae Noctis or Droit du Signeur," *The Journal of Sex Research,* Vol. 28 No. 1 (2010), 163.

[76] Voltaire, *The Philosophical Dictionary* (London: Wynne and Scholey, 1802).

[77] *The Epoch of Gilgamesh*, Trans. Andrew George (London: Penguin Classics, 2003).

[78] Alain Boreau*, The Lord's First Night: the myth of droit de cruissage*, Trans. Lydia Cochrane (Chicago: University of Chicago press, 1998), 17-18.

[79] Ibid.

[80] Ibid.

rape or sexually assault peasant women on or around the day of their wedding; a charge that

is consistent with the behavior of some of the more notorious nobles of Scottish history.[81]

With all things considered, the lives and marriages of medieval peasants were

difficult, toilsome, and fraught with peril. Although idealized notions of romance and

courtship blossomed within lower feudal levels, the images of the happy-go-lucky, love

enthralled peasant we have today do not paint an accurate picture. Life on the lower feudal

strata was difficult and marriage often brought with it myriad complications to maneuver.

However, a legacy remains of a hardworking class of individuals that clearly knew what it

meant to love and devote oneself to another. Institutions like marriage can often blossom in

the worst socioeconomic situations. Why is that? Because there is something unique about

courtship, love, and marriage that provides an escape, albeit brief, from an inescapably bad

reality. This was most certainly the case for the peasants, serfs, and members of lower feudal

strata in medieval Scotland. However, as one can see in the various customs and practices

forced upon such demographics –from the paying of merchets to the *droit du signeur* and

other, lesser matters –marriage was never a monolith even for the lower strata of Medieval

society. It changed consistently for those of nobility. It changed consistently for those of

poverty. While vastly different in both cases, this is because of a certain degree of liminality

that is inherent to the institution of marriage. Marriage changes because people change –only

when one can see this in the historical record is one better equipped to understand it in a

contemporary context.

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[81] Michael Brown, *The Black Douglases: War and Lordship in Late Medieval Scotland, 1300-1455* (Edinburgh: Tuckwell Press, 1998), 19.

IV. Flirting with Disaster: Clandestine Marriages and Their
Implications in Medieval Scottish Society

The social environment of the medieval Scottish lairds was an often-rigid one, where

parents and guardians had as much or more say in the arrangement of marriages than the

actual individuals involved. In this environment, one could easily forget one variable of

astronomical significance in understanding medieval marriages: the simple fact that the

agents of the betrothal and matrimony were almost always hormonally-driven teenagers or

young adults.[82] When dealing with young men and women so captivated and controlled by

their biological interworkings, the stage was set for things to go awry. When things went

awry concerning arranged marriages, which often had colossal implications for the families

or clans involved, the result bordered on complete catastrophe. More often than not, simple

coercion was the familial remedy.[83] However, within the gamut of potential outcomes for

such precarious situations of participant meltdown, one outcome in particular had disastrous

consequences for the parties directly involved and for their families at large: clandestine

courtships and marriages.

Although clandestine marriages occurred in a wide variety of complex circumstances,

they were primarily the result of a love outside of the boundaries of familial

arrangement.[84] It is interesting to note, however, that such marriages were rarely

outside of sociocultural normativity. That is, few nobles married down in class and

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[82] While medieval England saw average marital ages of the mid-twenties, the tale of the tape was different in medieval Scotland. Lowland Scotland saw roughly the same age patterns, but the higher birth rates recorded in the Scottish Highlands and in the Hebrides implies a lower age; most likely closer to 15 for women and 18 for men. A. Lawrence, "Women In The British Isles In The Sixteenth Century" in *A Companion to Tudor Brittain* Oxford: Blackwell John Wiley and Sons, 2008), 384.

[83] James Brundage, "Concubinage and Marriage in Medieval Canon Law," *Journal of Medieval History,* Vol. 1, No. 1 (1975), 12.

[84] Ibid.

next to no non-nobles married up.[85] There were essentially no interracial or interethnic

marriages.[86] Clandestine marriages were primarily between two individuals whose

families did not stand to benefit from their matrimony, or two individuals whose

families or clans were at odds with each other.[87] There were almost never proverbial

Jack and Rose situations in medieval times.

In order to understand the medieval mindset concerning clandestine marriages, it is

important to understand that they were by no means rare in medieval times.[88] While

clandestine betrothals and marriages occurred across the feudal spectrum, their most

common form was within the children of nobility.[89] While there are numerous hypotheses as

to why exactly this might have been the case, it was most likely due to the tension between

the law (which stated that consent was an absolute necessity for the arrangement of a

marriage) and the common practice of the time (in which consent was an afterthought at

best). As R.B. Outhwaite accounts:

> 'For it is a clear case,' said Henry Swinburne, the learned Elizabethan civil lawyer and author of *A Treatise of Spousals,* 'That without consent there cannot be any Matrimony' echoing the position that Catholic prelates and canonists had established at least four centuries earlier. Asked the question 'May a daughter be given in marriage against her will?' Gratian, about 140, affirmed that 'no woman should be coupled to anyone exept by her free will.' This emphasis on the necessity of willing consent contrasted with the coercion frequently encountered in that medieval world, where marriages were sometimes made by kings, feudal lords, and parents for blatantly political or economic ends.[90]

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[85] Brundage, *Law, Sex, and Marriage,* 95.

[86] R.B. Outhwaite, *Clandestine Marriage in England, 1500-1850* (London: A&C Black Publishers, 1995), 46.

[87] Ibid.

[88] Christopher Brooke, *The Medieval Idea of Marriage* (Oxford: Oxford University Press, 1989), 14.

[89] G.R. Quaife, *Wanton Wenches and Wayward Wives, Peasants and Illicit Sex in Early Seventeenth Century England* (London: Croom Helm Academic Publications), 70.

[90] Outhwaite, *Clandestine marriage in England, 1500-1850,* 20.

When a young medieval man or woman of nobility found themself in an arranged betrothal far beyond what they considered bearable, even in the name of wealth and prestige, the scene was perfectly set for a clandestine betrothal and marriage to take place; often at the stake of considerable losses for the families involved. All that stood between their current predicaments and seeming freedom was for one eligible suitor to stroll by and catch their eye.

Because of the potentially great losses incurred by these clandestine arrangements, there were no shortages of laws and legislative measures that attempted to combat them legally. While this will be touched upon in much greater detail later in the thesis, for now it is important to grasp that clandestine marriages were significant threats to the business and commercial ventures of medieval noble families, and while in many areas the laws governing them were rather ambivalent, in other areas the practice was completely outlawed. As one can observe throughout history, when a particular practice poses a threat to commerce and wealth, laws soon follow to outlaw it. Marriage, at home only in a state of flux, is not exception to this rule. It, like all else under the sun, is shaped by much broader sociocultural and even economic concerns.

One can almost imagine the fear and uncertainty of a noble parent attempting to navigate the hormonally-driven emotions of their teen or preteen going through the process of marital arrangement. All it would take for a huge commercial tie to be severed would be the happenstance interaction of the disillusioned teen and a handsome local bachelor or bachelorette. In fact, the seduction of young noble women by ardent suitors of unsuitable lineage or status was so common that it became a regular theme in medieval poetry and art (see fig. B.1). Think back to the substantial increases in wealth and business opportunities

the Campbell Clan experienced as Collin and Katherine arranged the marriages of their eight children to eight wealthy suitors. Had any one child ran off with a non-suitable suitor, the financial history and rise to power of the Campbell Clan could look vastly different today.

An interesting aspect of historical clandestine marriages was the fact that they almost always occurred without witness –as is inherent in the very terminology "clandestine" marriage. The only exception to this was, of course, the residing priest who performed the covert ceremony.[91] This lack of evidential attestation frequently led to a mire of complex issues for the parties involved, as any legal proceeding without a witness can be contested and misinterpreted in a variety of ways. One such misinterpretation that was extremely common in medieval Scotland and England was the accusation that the woman was in fact abducted or kidnapped and forced into marriage against her will.[92] This was the stance taken by many families of nobility pursuing a divorce, because why else would a young woman of noble stock choose to run off with another man against her families best wishes?[93] The very act was inconceivable to many noble families.

This accusatory position was often sufficient grounds for a family to pursue a divorce, so long as the family could coerce or somehow entice the daughter to agree, and reconsider her hastily taken course of action.[94] However, interestingly enough, the accusation was not always entirely without merit, as many such elopements ended with the woman crying foul and –along with her eager family –accusing the male party of abduction and

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[91] Caroline Dunn, *Stolen Women in Medieval England: Rape, Abduction, and Adultery, 1100-1500* (Cambridge: Cambridge University Press, 2012), 10.

[92] Ibid.

[93] Ibid., 42.

[94] Ibid., 43.

coercion.[95] While we may never know how many instances in which this was true, it is highly likely that, in many of the instances, the noble daughter simply regretted the decision and decided to retrace her steps in hope of securing a more affluent, comfortable life.[96] History may never be able to verify such cases in one direction or the other.

        After young women of nobility, there was one niche demographic in particular that was targeted the most by clandestine abductors: widows. Widows were involved in more clandestine marriages –of which the evidence indicates many were forced –than any other demographic outside of young women of nobility.[97] Dunn explains this phenomenon:

> Several factors explain the high percentage of medieval widows abducted. It is probable that unmarried maidens were more heavily guarded than most widows, and were thus less susceptible to forced abductions. Perhaps widows were more attractive objects for men seeking enrichment through marriage because of easier access to their dower or jointure properties (though if a widow had children from her first marriage, her property would descend to them upon her death rather than to her second husband). Daughters, unless they were orphaned heiresses, could be disinherited by wealthy fathers to prevent kidnappers from profiting from their thefts, but widows were legally entitled to their dower or jointure. If her dower lands had not yet come into her possession (if she had been recently widowed), the widow and her new spouse could sue jointly to retrieve them. Widows were less likely to elope; they faced less coercive pressure from family members to marry unwanted partners than did virginal damsels, reducing their need to engage in complicity abductions.[98]

Breaking away from the potential explanation that a particular clandestine betrothal or elopement was forced, there were several courses of action for a noble family to take if they woke up to find their virginal damsel missing from her night chambers. First and foremost, they could appeal to the law, which in many areas of Scotland and Europe outlawed clandestine marital arrangements (as will be discussed in the thesis sections dealing directly

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[95] Ibid., 44.

[96] Ibid.

[97] Ibid., 88.

[98] Caroline Dunn, *Stolen Women in Medieval England,* 107.

with analyses of such laws).[99] They could attempt to contact their missing daughter and

speak reason to her.[100] They could bribe the potential husband –an efficacious strategy if he

indeed was in it for the money.[101] Or finally, they could threaten to disinherit the daughter

from her portion of the inheritance in order to financially disincentivise the ceremony.[102] Of

these options, one would usually work. However, in cases where the family had arranged for

the daughter to marry a particularly loathsome individual, none would. Regrettably, these

instances would often lead to complete familial separation with the daughter involved.[103]

For the parents of the rebellious lovers, a silver lining existed in that out of all such

instances of clandestine betrothal, a very small percentage ever made it to the ceremony

stage.[104] The above strategies utilized by many a noble family were highly effective –

particularly in areas where it was legal to threaten to disinheritance for the action. In such a

circumstance, the young woman would not want to be cut off from her lucrative inheritance

and the young man would have no financial incentive to carry out the matrimonial plan. As

Beatrice Gottlieb understands it: "Clandestine marriage was a legal abstraction."[105] That is,

clandestine *marriages* were much, much less common than clandestine *betrothals*. It would

seem that many such betrothals were hormonally-driven and hastily made decisions, and as

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[99] Ibid.

[100] Ibid.

[101] Ibid., 94-95.

[102] Ibid., 108.

[103] Brundage, *Law, Sex, and Christian Society in Medieval Europe*, 128.

[104] Ibid.

[105] Ibid.

such, would often succumb to one of the aforementioned strategies put into play by the noble family.

Before leaving the topic of clandestine marriages behind, one idiosyncrasy within them deserves at least mentioning in any detailed discussion thereof. One particular type of marriage in medieval society –or better put, one particular type of relationship –was inherently clandestine in nature. I am talking of course about the relationships often discovered between parish priests and female parishioners –either members of the community at large, or personal concubines of the priests themselves. When traveling ambassadors of local bishops completed their annual journey through a particular region, visiting churches along the way, they would commonly come across "housemaids" or women who were "in need of shelter" living alongside the priest in his quarters.[106] By and large, the bishop's ambassadors would turn a blind eye to these potentially lewd circumstances, unless of course, upon a second yearly visitation, the woman remained in the quarters (often alongside children that bared uncanny resemblances to the priest).[107] In these cases, a series of fines were usually all it took for the bishop and his team of ambassadors to yet again turn a blind eye to the situation unfolding beneath their noses.[108]

The practice of eliciting concubinage by parish priests –often in child-bearing, continued relationships –was remarkably common in Scotland and the English Isles during the late-Medieval Ages.[109] It was so common in fact, that with the Reformation came

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[106] Dr. David Whitford, personal correspondence.

[107] Brundage, *Concubinage and Marriage in Medieval Canon Law*, 11.

[108] Ibid., 12.

[109] Ibid., 17.

significant pushes to allow for members of clergy to marry. Take, for instance, the marriage of Martin Luther to Katharina von Bora, a former nun, which was officiated by a municipal preacher named Johann Bugenhagen.[110] While Luther was neither the first former monk to marry nor was his marriage the most public, his iconic status within the Reformation made his marriage a trumpet call for other reformers to follow suit.[111]

When the Reformation eventually came to Scotland, it came like a banshee on the wind. Within a matter of years, reformers such as John Knox and company would establish a Calvinist national Kirk that would be thoroughly engrained in the Scottish national identity even to this day –and one that embraced and celebrated marriage amongst clergy.[112] This would be the final death-blow in a struggle that had raged for centuries in the Catholic Church of Scotland, and would forever signify that clerical matrimonies were no longer to be counted as clandestine, taboo affairs.[113] Here one sees the distinct liminality of marriage on full display: the societal view on a particular matter evolved, and then came legislation. Social change comes first; legislative reform comes second. Certainly clerical marriage was but one of many examples where marriage demonstrates this phenomenon.

Indeed in its many manifestations –from the clergy to young, love-enthralled noble teenagers –clandestine marriage had a significant role to play in the history of Western Europe, and of Scotland in particular. Its implications were myriad and its circumstances

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[110] Marjorie Plummer, *From Priest's Whore to Pastor's Wife: Clerical Marriage and the Process of Reform in the Early German Reformation* (Abingdon-on-Thames: Routledge Publications, 2012), 7.

[111] Ibid.

[112] Gordon Donaldson, *The Scottish Reformation* (Cambridge: Cambridge University Press, 2008), 6.

[113] Ian Cowan, *The Scottish Reformation: Church and Society in Sixteenth-Century Scotland* (Glasgow: The Glasgow University Press, 2004), 22.

were varied. However, one thing can certainly be agreed upon with every case: clandestine

marriages always impacted people far beyond the two individuals in question. Clandestine

marriages were not events that occurred in a social vacuum. They carried weight with them,

and possessed a power strong enough to rupture families and bring the most wealthy and

powerful of nobles to a screeching halt.

V. Gender Ethics and the Foundations of the
Medieval Cultural Conceptualization of Matrimony

For one to truly understand arranged and clandestine marriages, they must be

observed within their distinct cultural context. The sociocultural climate of Scotland –and

of Europe as a whole –was incredibly complex during the late Middle Ages. Particularly

within the land of the Scots, where clan loyalties and political alliances formed an intricate,

complex web, marriages could make or break a potential political or economic alliance.[114]

However, to have a firm comprehension of this, one must first understand how fragmented

medieval Scotland truly was. As Barrell explains:

> The people known as the Scots originated in Ireland. Some had presumably already crossed the North
> Chanel by the time that Fergu Mor mac Erc, king of Dalriada, moved his power base from the coastal
> region of what is now County Antrim to Argyll sometime around 500. The old Irish territories of
> Dalirada continued to be ruled from Scotland until the middle of the seventh century, but the future of
> the Scots was to lie in the geographical area to which their name would ultimately be given. Their
> cultural dominance from the middle of the ninth century onwards must not, however, conceal the fact
> that Dalriada was but one of the territorial and political divisions of early Scotland, and rarely the
> most important or the most powerful. Indeed, the word 'Scotland' is somewhat inappropriate when
> used in connection with the early medieval period, for writers of that time normally used the word
> 'Scots' to refer generally to the inhabitants of Ireland, and by extension to the Irish colonists
> elsewhere. Even the Latin *Scotia,* often taken in a twelfth-and thirteenth-century context as referring
> to the whole area north of the marshy isthmus between the long firths of Forth and Clyde, was capable
> of a more restricted meaning, not necessarily including the territory of the old kingdom of Dalriada
> where the Scots had originally settled. Although in this volume the word 'Scotland' is used in its
> modern familiar sense, it was not until the thirteenth century that the whole area ruled by the king of

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[114] Frank Adam, *The Clans, Septs, and Regiments of the Scottish Highlands, Eighth Edition*
(Philadelphia: Clearfield Publishing, 2012), 30.

> Scots came to be called 'Scotland,' while the idea that the Scots were a distinct race rather than people of Irish origin was first fully articulated only during the crisis of the Wars of Independence.[114]

Here Barrell is hinting at a central enigma of medieval Scottish studies: the fact that there is no such thing as "medieval Scottish studies" to the extent that the terminology can be all-encompassing and render a monolithic, holistic understanding of the complex, multiethnic people of medieval Scotland. A study of medieval Scotland includes a study of a wide variety of ethnic groups developing into myriad clans and families of power (like the earlier discussed Campbells of Argyll), who came to live in modern geographic Scotland.[115]

While the study of the development of medieval Scottish clans is certainly multifaceted, one area of congruity concerns the socioreligious underpinnings of medieval Scottish culture. Scotland, like almost all of Western Europe during the Middle Ages, was a distinctly Christian area.[116] This, however, can be slightly complicated by the fact that there were areas of fascinating syncretism between traditional Gaelic, Scot, Pict, and Attocotti flavors of Paganism and the monastic Christianity of medieval Europe.[117] Nevertheless, medieval Scotland was a Christian place –albeit with distinctly Pagan customs and traditions interwoven into its tradition-rich cultural fabric.[118]

This distinctly Christian cultural identity is precisely why no historian can ever fully understand medieval Scottish marital customs without understanding the medieval Christian understanding of marriage and gender roles at large. This truth applies also to medieval

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[115] Ibid.

[116] Ibid.

[117] Simon Coates, "Dwellings of the Saints: Monasticism in the Scottish Borders in the Early Middle Ages," *Downside Review,* Vol.114 No.396 (1996), 66.

[118] Stephen T. Driscoll, "Picts and Prehistory: Cultural Resonance Management in Early Medieval Scotland," *World Archaeology* Vol 30 No. 1 (1998), 147.

Europe as a whole, a vast land permeated with Christian traditions, customs, and practices. The medieval Christian conceptualization of sexual ethics and gender roles had roots stretching all the way back to the New Testament, and was greatly effected by countless individuals between the two times. Thus, to allow for depth of understanding and more efficacious pedagogy, it is necessitated to briefly delve into the development of medieval Christian sexual and marital ethics; tracing a cursory outline of their evolution and growth. Rather than observing medieval Scotland in an academic vacuum, here we will take a bird's eye view of medieval Christian ethics as a whole, as it is effectually impossible (and largely arbitrary) to differentiate between medieval *Scottish* theology and medieval *European* theology. While the particular traditions and areas of emphasis would differ dramatically from region to region throughout medieval Europe, the far-reaching teachings of the Catholic Church did not. As one begins to observe this evolution of marital thought, marriage's uniquely liminal institutional form and function is clearly seen.

To begin with any proper understanding of a concept, it is vital to go back to its source. For the medieval Christian understanding of marriage, that source is found not necessarily in the New Testamental period, but rather, in the centuries that immediately followed. This is because, frankly, the New Testament does not spend much time on marriage. Sure, there are the famous passages such as Ephesians 5 in which Paul addresses how husband and wife are to interact with each other and with society in what the Germans came to refer to as the *haustafeln*, but New Testament Christians observed the same Jewish marital customs as everyone around them. The Biblical literature has much to say on the *substance* of marriage, but does not necessarily concern itself with a particularly formulaic list of customary beliefs to hold regarding the subject. This is why the genesis of Christian

marital and gender thought does not truly begin until the Post-Apostolic years; where much

of the foundational beliefs that medieval Christians held would initially be written and

discussed.

After the apostles died off, the bourgeoning church was at a serious crossroads. What it

needed at this critical juncture in history was strong central leadership. While it would take

several hundred years for leadership to be centralized under the pope, the church did receive

relatively strong leadership in the form of the early church fathers. The efforts of these men,

who came from a variety of different backgrounds, ethnic groups, and even languages, would

forever be immortalized as the first Christian theological writings. These early theological

writings would be arguably as significant as the Bible itself for the medieval Christian

understanding of sexual and marital ethics; they were certainly as widely distributed.[119]

The most significant function of the early church fathers was that of writer and

scribe. The church fathers that existed particularly between the years of 30-580A.D wrote

tirelessly on myriad topics, not least of which were the topics of marriage and gender

roles.[120] It is vital to understand, however, that there is no singularity involving the church

fathers. There is no "patristic theology". There is no "Church Father" catechism or

ideological consensus. There is a group of diverse individuals, spanning several continents,

who wrote on different topics, with different epistemic bases, and different social and ethnic

worldviews. Among them, some were labeled as heretical. Others were championed as

saints. Most were known to be brilliant and were widely respected. These writings would all

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[119] Brundage, *Law, Sex, and Christian Society*, 191.

[120] Harry Wolfson, *The Philosophy of the Church Fathers* (Cambridge: Harvard University Press, 1970), 23.

be passed down to the medieval Catholic Church, which had the significant task of sorting

through them in an attempt to formulate a cohesive, singular sexual and marital theology.

Within patristic literature, one can find many different ideas concerning marriage and

gender roles. Some possess views seemingly a millennium before their time. Others wrote

some of the most horrific, misogynistic writings ever penned in the Christian tradition. While

neither perspective was the clear victor in terms of widespread acceptance, the writings of

the church fathers served a vital role. As times changed and people questioned their religious

and cultural assumptions, learned men were needed to lead and educate. This need

particularly arose during the Post-Apostolic Period, as many Greeks and Jews alike were

confronted by a significant

worldview shift in the New Testament. Whereas the Hebrew Bible forwarded marriage and

procreation as holy and desirable –even to the point of considering infertility a surefire sign

of Divine accursedness[121] –the New Testament championed celibacy and chastity. Jesus was

a virgin, as were his precursor (John the Baptist), his mother, and many of his successors

(the Apostles).[122] The Apostle Paul even provided the early church fathers with an ethical

hierarchy to follow with his words in 1 Corinthians 7:38: "He who marries his betrothed

does well, but he who abstains from marriage does better."[123]

With this significant paradigm shift came disillusionment and confusion for many

Christian converts in the ancient world. Thus, the early church looked to its leaders to

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[121] Elyse Goldstein, *New Jewish Feminism: Probing the Past, Forging the Future* (Woodstock: Jewish Lights Publishing, 2009), 69.

[122] Philip Reynolds, *Marriage in the Western Church: The Christianization of Marriage During the Patristic and Early Medieval Periods* (Leiden: E.J. Brill, 1994), 28.

[123] 1 Corinthians 7:38, New Revised Standard Version

provide insight and direction. Many took this opportunity to define marriage in terms of

mutual respect and submission. Such was the case in Justinian's *Institutes*, where he

provided the definition: "Marriage is a union between one man and one woman, involving a

shared way of life, both submitting to the other out of Divine reverence."[124] Justinian clearly

demonstrates a remarkably enlightened, egalitarian worldview. As sound as his teachings

were, others took a different approach, instilling in their listeners a patriarchal, misogynistic

perspective on marriage and gender roles. A paramount example of this is Tertullian, who in

his many works defamed and degraded women and the feminine form. Take, for instance, his

writings from *De Cultu Feminarum*, where he unabashedly stated:

> And do you not know that you are (each) an Eve? The sentence of God on this sex of yours lives in
> this age, the guilt must of necessity live too. You are the devil's gateway: you are the unsealer of that
> (forbidden) tree: you are the first deserter of the divine law: you are she who persuaded him whom the
> devil was not valiant enough to attack. You destroyed so easily God's image, man. On account of your
> desert— that is, death—even the Son of God had to die.[125]

These writings, as asinine and puerile as they appear, are but the mildest of his rantings on

women and wives; many of which were widely circulated during his time. Indeed, such

words were nowhere near the nadir of his deranged writings, which countless Christians

would have read and circulated. Again, Tertullian's work –while categorically antithetical to

the works of Justinian and Jerome –demonstrates the hyper-fragmented views of marriage

held by the early church. Christians would not begin to have a single, coherent

understanding of marriage until centuries later at the height of the medieval papacy. It was

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[124] Justinian, *Justinian's Institutes* (Ithaca: Cornell University Press, 1987), 43.

[125] Tertullian, "On the Apparel of Women*,"* in *De Cultu Feminarum,* trans. Rev. S. Thelwall
(Grand Rapids: WM. B. Eerdman's Publishing Company, 2005), 20.

during this time, as one will see, that the church was forced to solidify a coherent

understanding of these earliest works from the church fathers.

Several hundred years after the church fathers, the Middle-Ages were a complex time

of societal and biopolitical flux. Power structures were developing within the Church and

State – respectively but not independently –that would forever change the way Westerners

understood power complexes and life within a civilizational context. This was felt from

Rome to Scotland, with no area of Christendom immune to the struggle of developing both a

Church and a State power system and hierarchy. The Roman Catholic Church had risen to

power and asserted its influence over almost all of medieval Europe and every facet of life

therein–from the boardroom to the bedroom, and from the judiciary courts to the

churchyards.[126] There was no aspect of life that was not under the shadow and jurisdiction of

Rome; even for the Scots in the highlands of the farthest recesses of Western Europe.

It is during this time that one can begin to observe a phenomenon occurring within the

sexual and marital ethics of the European zeitgeist. The fragmented, abstruse, and often

enigmatic opinions of the church fathers began to evolve as their teachings took root in

Rome and in the myriad cathedrals and abbeys that dotted the rolling hills and forests of

Western Europe. The monks and theologians of medieval Europe took the teachings of the

church fathers and ran with them – often to their most radical, quasi-logical extents. Perhaps

this comes as no surprise from the same scholastic theologians who debated how many

angels could dance on the head of a pin. While medieval theologians were profoundly

affected by the teachings of the church fathers, it is interesting to note that they themselves

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[126] Brundage, *Law, Sex, and Christian Society,* 158.

did not recognize this to the extent that scholars can centuries later. Most, on the other hand,

believed their marital and sexual theology was directly from scripture, not from their

theological predecessors. As Brundage describes:

> The mindset of the medieval monks and theologians was not one of duplication, but rather, of
> interpretation. Most of the notable theologians, while certainly impacted by writers such as Augustine
> and Tertullian, pointed to the New Testament for their inspiration; primarily looking to the Pauline
> Epistles. Paul considered sex a major source of sin and a frequent impediment to the Christian life.
> Although he did not rank sexual offences at the top of his hierarchy of sins, they nonetheless had a
> dominant place in Paul's thought.[127]

Brundage captures the central enigma of the medieval monks and theologians and their

thoughts on marital and sexual ethics: they were undoubtedly shaped by their theological

ancestors, but for a large part failed to recognize this. The implications of this shaping

would foundationally impact their teachings on marriage, and the sacramental form they

believed it should take.

While the marital teachings of the church fathers were confusing and fragmented, the

teachings of the medieval papacy were no better. While continuing and expounding on the

misogynistic ethics of Tertullian et al., the Medieval church added yet another element to

their ever-growing sexual theology: the championing of celibacy and the denunciation of

sexuality altogether (see fig. C.1). In this way, the Medieval church was a case study in

biblical reception history gone rogue. Much of the doctrinal emphases of the Medieval

church had kernels of biblical truth to them, but were warped by innumerable

reinterpretations. Take, for instance, Paul's pro-celibacy position, as described earlier. How

would one take this position, which is by no means a central tenant of Pauline theology, and

arrive at the conclusion of Thomas Aquinas, who famously believed that, "Spouses sin

whenever their purpose in having intercourse is the pleasure of it. The pleasure itself is not

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[127] Ibid., 60.

sinful, but a natural, necessary, and good end. Nevertheless, it cannot be man's intended end."[128] The inconsistencies and logically incoherent seem too numerous to comprehend.

Besides preposterous inequity to the original textual intent, there were countless other ramifications of the medieval church's warped biblical reception. In keeping with their radicalized, often hyperbolic interpretations of biblical motifs, the furthest extent of this trend often manifested in the absurd, quasi-biblical legal codes the medieval church instituted for marital sex. While the Old Testament had its share of sexual laws,[129] they paled in comparison to the draconian sexual codes of medieval Catholicism. For instance, a few restrictions for a medieval couple to consider before marital relations might be: you cannot have sex on Sundays, Wednesdays, Fridays, Saturdays, during the daylight, during fast days, during feast days, during Advent, or during Easter Week. (see fig. D.1 for a flowchart on these regulations and guidelines) And those are just to name a few.

Remarkably, many of these ideas only increased in absurdity throughout the Middle Ages. As fragmented as the original concept of marriage was in the various teachings of the church fathers, a holistic conceptualization of marriage was largely solidified by the high Middle Ages. However, this solidification came at a high cost: the idea of marriage soon became a misogynistic construct where women were enslaved vessels of lust, and human sexuality was the paragon of all human sinfulness. Take, for instance, the following words pulled directly from a medieval monastic rule: "And look well at thy body's lust as tis the enemy's offspring, and our reason is God's daughter, both are within us, as the weaker

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[128] John Milhaven, "Thomas Aquinas on Sexual Pleasure," *The Journal of Religious Ethics* 5, No. 2 (1977): 157-81.

[129] Bernard Ramm, *Protestant Biblical Interpretation: A Textbook of Hermeneutics* (Grand Rapids: Baker Publishing Group, 1970), 91.

vessel, more prone to wandering."[130] This demonstrates the tensions felt as female

anchorites grappled with their sexual desires and the idea that they were a "weaker vessel"

and were "more prone to wander." While this phrasing comes partially from the New

Testament,[131] the unhealthy, misogynistic extremes of the medieval understanding of

women –both within marriage and as monastics to whom the passage was addressed –often

manifested quite negatively.

These hyperbolic, often radically misogynistic ideological perspectives were in many

ways exacerbated in medieval Scotland. The Scots, showing through to the warrior culture

from which they evolved, placed much significance and responsibility on men, being both

the breadwinner and protector of the family and clan at large.[132] This often meant women,

although in many cases serving vital roles as discussed earlier with the case of Katherine

Campbell, were an afterthought at best in most Scottish clans.[133] This certainly goes a long

way in explaining the outright ignoring of consent laws that occurred in many arranged

marriages amongst the Scottish nobility. As the ontological 'other' of the family nexus,

women were voiceless. In most cases, men protected the family, tended to its business, and

called the shots for the arrangement of marriages.[134] Women such as Katherine Campbell

were the exception rather than the rule.

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[130] Anne Savage, *Anchoritic Spirituality* (Mahwah: Paulist Press, 1991), 230.

[131] 1 Peter 3:7

[132] Fitzroy MacLean, *Highlanders: A History of the Scottish Clans* (New York: Studio Books, 1995), 19.

[133] Ibid.

[134] "Sex and Spouses: Marriage, Pleasure, and Consummation," *The Decameron Web: Brown University,* January 31 2011, https://www.brown.edu/Departments/Italian_Studies /dweb/society/sex/sex-spouses.php.

With the church doctrine that marriage was intended solely for procreation widely accepted, another responsibility was added to the average Scotsman's shoulders once married: procreate at all costs.[135] The man's responsibility was to ensure that there were children to continue and grow the businesses and wealth of the clan. This, however, did not necessarily mean that the burden of fertility was on the man. Rather, this meant that men could opt out of marriages where pregnancy seemed difficult or impossible –long before scientific advances began to discover that men and women have an equal role in the success of implantation and pregnancy. In fact, one of the earliest legal grounds for divorce legislated in the Scottish and English Parliaments was impotence.[136] If marriage was primarily considered a mechanism for procreation and failed to serve this intended, God-ordained purpose, a medieval Scotsman or Englishman could opt out with a certain degree of ease.[137] This issue was so rampant in medieval Scotland and England that it represented a widely depicted artistic motif from the period (see fig. E.1). This phenomenon is but one example of what happened when church doctrines were widely accepted and integrated into a culture such as that of the Scots; which already had substantially engrained ideas about gender roles and the leadership responsibilities of males. The resulting syncretism empowered men and silenced women, as one could see in the narrative of young Elspeth Purdie. Because of the liminality inherent to marriage, however, even the most staunchly ingrained societal norms can eventually change. Indeed, much of this chapter has been intended to show just that.

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[135] Brundage, *Law, Sex, and Christian Society*, 200.

[136] Ibid.

[137] Ibid.

VI. Conclusion and Chapter Emphases

At the end of the day, medieval Scotland was a complex place and medieval matrimony – with particular emphases on arranged and clandestine marriages –is a complex subject. One cannot fully understand one without the other. Medieval Scotland can only be understood if one has a grasp of what medieval Scottish marital customs were like. Medieval Scottish marriage can only be understood if one understands the unique sociocultural makeup of medieval Scotland.

While medieval marriage had much more personal implications for peasants and individuals from lower feudal castes, the consequences of marriage for the lairds were numerous and stretched far beyond the happiness and wellbeing of the immediate individuals involved.[138] Too much was riding on marriage, especially in terms of inheritance and the copulation of heirs and heiresses, for singleness to be a viable option for a medieval Scottish noble, with exceptions coming few and far between.[139] Singleness was much more common amongst people lower in the feudal system, but even then it was not largely common for able-bodied individuals of sound mind and normative social standing.[140] For nobles, singleness was utterly out of the question, as the need for heirs and heiresses was constant and urgent. For peasants and serfs, singleness meant a lack of helpers and able-bodied children to help tend the soil. Across the feudal spectrum, marriage was something that provided offspring and connected families and clans together. As such, marriage served

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[138] E.R Creegan, "The Changing Role of the House of Argyll in the Scottish Highlands" in *Scotland in the Age of Improvement* (Edinburgh: 1970), 154.

[139] George Bannatyne, *The Bannatyne Manuscript* (Glasgow: The Hunterian Club, 1896), 30.

[140] Brundage, *Law, Sex and Christian Society in Medieval Europe*, 180.

a truly indispensable role in medieval Scottish society, regardless of one's standing in the feudal system.

With the arrangement of marriages, however, came unintended side effects. Clandestine marriages could result from myriad scenarios, in a wide variety of contexts, under a wide variety of circumstances. Not all were catastrophic. Many were quelled by eager noble parents long before the ceremony, and existed as nothing more than brief "clandestine betrothals."[141] The surviving evidence from medieval ecclesiastical courts suggests that they were an extremely common issue, and the next chapters on Canon and Common Law will address this in much greater detail.[142] We certainly know they were common in Scotland and England not only from the court record, but also from popular art – such as Shakespeare's *Romeo and Juliet* and its depiction of clandestine lovers, or a myriad of other folk and fairy tales from the time that involve a courageous protagonist saving a maiden betrothed unfairly to someone she did not love.[143] Such common depictions in art and remarkably detailed ecclesiastical court records indicate that, while clandestine marriages were significant threats for the families involved, they were by no means rare. This, perhaps, has much to say about the nature of arranged marriages and the happiness of the voiceless individuals often involved in them.

The preponderance of the historical records and clan proceedings offer much data about arranged and clandestine marriage in medieval Scotland. While the clarity of the

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[141] Ibid.

[142] Ibid., 47.

[143] J.E. Stevens, *Medieval Romance: Themes and Approaches* (London: Hutchinson Publishers, 1973), 10.

written record is a breath of fresh air for historians and scholars, there is still much to learn about the arrangement of marriage and the potential fallout that often manifested in illicit, clandestine betrothals and matrimonies. The lessons of this unique aspect of medieval history go far beyond mere historical pedagogy. Indeed, there is much that can be learned about the institution of marriage as it exists today the institution of marriage as it exists today by examining the development of the institution in centuries past. As a general heuristic, good historical work does not end in, nor have its substance in, the past. History is about examining the past in order to critically engage the present and be better informed for the future. Voices cry out from the medieval Scottish letters, records, and documents of those involved in arranged and clandestine marriages. What they have to say can fundamentally shape how we understand marriage, personal choice, and familial ties and loyalty in the modern world. It is up to us to listen to them.

Marriage in medieval Scotland went through almost innumerable changes; changes which increased in severity and frequency when the Reformation arrived. This seemingly constant state of change hints at the true nature of marriage as a cultural construct: it changes because people change. Marriage, like many customs, traditions, and cultural institutions, exists as an aggregate construct of the people within a society. As their values and assumptions change, so do their marriages. This stands as true today as it was in medieval Scotland. True for women like Elspeth Purdie, but also for girls like Radha, Gorha, and Rajani. Perhaps by learning from the former, we can better understand the circumstance of the latter.

CHAPTER TWO

Societal Change and Jurisprudence:
A Discussion of Marriage, Law, and Liminality

While there is a great sense of ease with which the contemporary reader can look

back at the normative gender roles and marital customs of late-medieval Scotland and scoff

at the egregious abuses of power and misogynistic and patriarchal ideals clearly evident, it is

vital that modern scholars detach themselves from their own preconceived sociocultural

biases and assumptions, and attempt to view historical events within their own unique

contexts. It would be absurd for modern scholars to hold men the likes of Colin Campbell to

21st Century ethical standards. Likewise, it would be unfair for Colin to hold us to his. As

James Mahoney astutely articulates:

> Modern scholars of history must dutifully fight the compulsion to pass anachronistic judgment upon
> the objects of their study. That is to say, we are endowed with millennia of social evolution and
> cultural development, which have fundamentally shaped our ethical norms. Those we study from
> years of antiquity did not have this luxury. This is not something that condemns them morally or
> ethically. If they were born in our societal context, they may very well have acted in starkly different
> ways.[144]

It would be wise to heed Mahoney's advice when doing any research of substantial depth in

regards to the subject matter of marriage and matrimonial custom. Particularly within studies

of anthropological institutions such as marriage, we find that methodologies for model

creation are vulnerable to degradation and complete derailment. This owes itself to

something inherent to marriage as an institution; a concept that I will hereafter refer to as

"intrinsic liminality."

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[144] James Mahoney, "Path Dependence in Historical Sociology*," Theory and Society, Vol. 29, No. 4* (2000):
24, accessed October 3, 2017, http://www.jstor.org/stable/3108585?origin=JSTOR-pdf.

Intrinsic liminality is found in cultural phenomena of significant breadth and variation, of which marriage is a prime archetype. Before the provision of a formulaic paradigm for defining and understanding the concept of *intrinsic* liminality, it might prove beneficial to refer to the brief definition of *liminal* provided by Victor Turner:

> A *limen* is a threshold, but at least in the case of protracted initiation rites or major seasonal festivals, it is a very long threshold, a corridor almost, or a tunnel which may, indeed, become a pilgrim's road or passing from dynamics to statics may cease to be a mere transition and become a set way of life, a state, that of the anchorite or monk. Let us refer to the state and process of mid-transition as *liminality* and consider a few of its very odd properties. Those undergoing it –call them "luminaries" –are betwixt-and-between established states of politico-jural structure. They evade ordinary cognitive classification, too, for they are neither this-nor-that, here-nor-there, one-thing-not-the-other.[145]

When it is said that one can consider marriage to have "intrinsic liminality," then, that indicates that marriage –as much as it can be understood as a cultural phenomenon –is in a constant state of flux. It is always liminal because liminality is inherent, or *intrinsic*, to its very nature as an institution of a particular culture or ethnic group. As sociocultural values, assumptions, and normative structures undergo continual evolution, they manifest in certain, patternable ways. That is, the changes of thought in the zeitgest of any particular people group will manifest themselves in some way or another. Social evolution is not a covert operation. If it were, it would indeed cease to be social *evolution*, and would simply be social *consideration.* That is where marriage comes into the discussion. Marriage, as any cultural phenomenon, is a litmus test for societal change. The changes in the assumptions, presuppositions, and normativities of the zeitgeist often appear in institutions with a moderate degree of social significance (read: *marriage*). If you wish to see the general direction a society is heading, look to the weddings within it, among other things. This was uniquely true of late-medieval Scotland, as the world Colin Campbell was forced to

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[145] Victor Turner, "Variations on a Theme of Liminality," in *Secular Ritual,* ed. Sally Falk Moore and Barbara G. Myerhoff, (Assen: Van Gorcum and Co, 1977), 37.

navigate was ripe with divisiveness and societal change. The transition from the late-medieval period to the Reformation was not a fluid one. It was a collision. A collision of thought. A collision of normativity. A collision of authority. Power structures –particularly within the Church and State –were challenged and changed. Marriage would come to reflect these changes in myriad ways. In fact, as these two paradigms of authority began to clash, marriage was caught in the proverbial crossfire.

Think back if you will to the story of young Elspeth Purdie. Recall her astonishingly laborious efforts to appeal her marriage, only for a heartbreaking denial in the appellate process. How might her story have been different had she been born in a different time period and social setting? One could certainly make the case that her outcome would have been much different if her appeal had occurred merely half a century later. However, if one gazes deeper into her story, the liminality of the Scottish Reformation comes into clear display. While her appeal was denied –indicative of a society not yet willing to grant women such judicial equality –it was nevertheless seen in Edinburgh before the highest ecclesiastical court of the land.[146]

This seems atypical for the time and incongruent with much of what we know about women's ability to formally appeal in ecclesiastic courts.[147] Ms. Purdie's story shows the greying of the lines and the converging of mindsets that occurred during the transition from the medieval period into the Reformation. Young Elspeth, along with myriad other women and men pursuing marriage at the time, was thrust into an arena with uncertain authority and

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[146] N.P Brooks and G. Whittington, "Planning and Growth in the Medieval Scottish Burgh: The Example of St. Andrews," *Transactions of the Institute of British Geographers,* Vol. 2, No. 3 (1977): 32, accessed September 19, 2017, http://www.jstor.org/stable/621832.

[147] P. Collinson, "The Role of Women in the English Reformation Illustrated by the Life and Friendships of Anne Locke," *Godly People: Essays on English Protestantism and Puritanism* (1983):112-113.

nebulous parameters for adjudicating marital concerns. In this way, we see marriage as possessing the intrinsic liminality much of this chapter will discuss. Elpeth's appeal –any many like it –existed in the transition zone between two significant periods in Western history. Both her hearing and her outcome attest to that: a hearing representational of one historical period and a result representational of the period from whence it came.

Think back once more to the two matrimonial narratives used to introduce the previous chapter. The first, as previously discussed, involved the valiant efforts yet denied appeal of Elspeth Purdie in the year 1595. The second was as recent as 2011 and involved the young Indian brides Radha, Gora, and Rajani. Why do we still see the practice of arranged marriage today in some areas and not others? What factors –social, religious, and ideological –account for such a difference in perspective between northern India and northern Europe? What changed in the West that did not elsewhere, and why? We will see through the progression of this chapter that much of the answer to these questions harkens back to the Reformation and eventually the Enlightenment. However, as for the question of what exactly changed, the answer is simple: people. People changed. It was not as if some single policy measure or ecclesiastic decree changed the institution of marriage and began to shift away from acceptance of arranged marriages, but rather, that the ideological change came first. The way people in the West began to think about gender roles and the conceptualizations they had of marriage began to evolve, and only after that evolution had come to a point of general acceptance within the zeitgeist did cultural phenomena like marriage begin to reflect it. This is a motif that this chapter will repeatedly draw upon: the fact that social change comes prior to changes in cultural phenomenon and authoritative policy –not after. Policy

changes and institutional practices reflect shifts in cultural acceptance of a particular issue.

They do not have a causal relation to such change; they are in fact superseded by it.[148]

As this chapter attempts to successfully navigate these critical issues, it will utilize

marriage in the context of late-Medieval and early-Reformation Scotland as a case study for

broader discussions of cultural phenomena as indicators and not causations of perceived

sociocultural change. This historical backdrop is particularly well suited for such a task. As

we take a deeper look at marriage (a cultural phenomenon) in a period of unique cultural flux

(the ushering in of the Reformation in Scotland) we will be able to observe the tension and

intrinsic liminality involved in such a transition. The ethical considerations and social

implications for the patterns we will observe are as numerous as they are significant and will

be critically discussed in great depth at a later chapter in the thesis.

I. Societal Liminality and Jurisprudence:
Theoretical Applications and a Medieval Case Study

If it has been established that marriage exists as a litmus test for sociocultural

evolution, it must also be noted that it is non-unique in this capacity. Rather, it exists within

the ranks of myriad cultural phenomena that serve the same anthropological function. Indeed,

the historical record attests to this, particularly from the personal correspondences of Colin

Campbell with another regional earl, who wrote rather acidly of his conundrum: "It is

beknownst not whether our governance for this great happening [the arranged matrimony of

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[148] Peter Hall, "Policy Paradigms, Social Learning, and the State: The Case of Economic Policymaking in Britain," *Comparative Politics* Vol 25 No. 3 (1993): 292, accessed September 17, 2017.

his daughter Katherine] can be found within the fools of the Kirk or the knaves of your own dwellinghouse."[149]

Colin's frustration was caused by a lack of certainty in regards to who actually had the authority to initiate the ceremony and authorize the arrangement of Katherine and her royal suitor. Both the high courts of Argyleshire and the Kirk claimed to have this authority; the courts arguing that the Kirk had never before assumed the role of matrimonial overseer in the region and the Kirk arguing that the courts would be biased in their proceedings because Katherine was pledged to be wed to the young earl-to-be. If consent had to be validated prior to formal arrangement of the marriage, the Kirk believed itself to be the most neutral agent to do so. In either case, it was not the argument in and of itself that truly spoke volumes, but the fact that the argument was taking place at all. These issues were not isolated to the case of the Campbells, and cannot be understood in a circumstantial vacuum. Rather, they were the boiling, effervescent surface of a witch's brew –one that had been forming in the ideologies and philosophies of countless influential individuals throughout the Western world as the Reformation took its firm grasp of Europe. Indeed, they were the tip of an iceberg of thought that extended well beyond the shores of Scotland. The Campbells –and the arranged marriage they so desperately desired –were caught up in an event much larger than perhaps any of them could have understood at the time.

The issues facing the late-medieval Scottish Kirk were created and exacerbated largely because of the lack of uniform legislation and jural thought concerning a changing populace. As Mary Lyndon Shanley articulates:

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[149] Dawson, Clan Campbell Letters, 49.

In the everyday experience of most late medieval Englishmen, the vast majority of social relationships took place between persons who believed themselves to be unequal. Indeed, well-born and lowly alike thought that hierarchy in human relationships was essential to the maintenance of social order: magistrate must rule over subject, priest over congregation, master over servant, parent over child, and husband over wife. Most persons regarded these hierarchies as integrally related; each was governed by God's command to "honor thy father and they mother." When the whispers of the Reformation began to appear on the breeze, however, things began to change. In part due to the reformers egalitarian outrage against the "lecherous hierarchy of Rome," and in part due to the fundamental idea that everyone –man and woman, noble and lowly –was a priest in their own right, the Reformation would begin to fundamentally change the way Englishmen thought about and practiced their daily life.[150]

These "whispers on the breeze" would soon blow themselves into an outright tempest. When the Reformation blew into a new region on a strong wind, it brought with it chaos and confusion: for both clergy and nobility alike. In this way, the Reformation was like any great time of substantial societal change. Social change is never a fluid, smooth process. It is often a collision –a great clash of worldviews vying for dominance with the full knowledge that the losing side will fade into historical oblivion. Pre-Reformation medieval ideals, power complexes, and normative structures did not fade quickly into the good night of social evolution; they fought hard at every turn –a fray that would forever alter the way Scotsmen would think about marriage, the Church, and the State. If one can begin to understand the nuances of this historic social change and its implications for the institution of marriage, one will be better equipped to understand the contemporary changes marriage is undergoing. Not by virtue of contemporary changes to the cultural phenomenon mirroring those of the Reformation, but rather, in terms of seeing and comprehending the intrinsic liminality of marriage as a cultural construct.

One particularly fertile petri dish for many Scots' disillusionment –very notably so Colin Campbell and the noble family of Argyleshire –was the initial lack of uniform legal

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[150] Mary Shanley, "Marriage Contract And Social Contract In Seventeenth Century English Political Thought," *The Western Political Quarterly* Vol 32 No 1 (1979): 1.

codification in the Reformation movement. The monolithic legal codes of the Catholic world –the aptly dubbed "Canon Laws" were some of the most extensive legal codifications in human history.[151] The Roman Catholic Church had never been shy about flexing its musculature of authority –often in direct defiance (or at the very least, in direct supersession) of local magistrates and secular governing bodies.[152] However, when the authority of those laws was dissolved alongside the Catholic Church in general, confusion about how to proceed plagued many disillusioned Scots.

The astonishing breadth and complexity of Canon Law –while harshly draconian and frequently confusing –created an environment where order was rarely questioned and the established system was rarely challenged –at least without any great degree of efficacy on the part of the challenger. However, as persons across the Scottish kingdom would soon begin to find out –from commoners the likes of Elspeth Purdie et al., to the most powerful of gentry such as Colin Campbell –the sociocultural evolution that begin with the Reformation of mainland Europe and found its way to Scotland on the capable shoulders of John Knox would soon begin to complicate daily matters quite significantly. The Church was changing, and with it, the secular governments of Europe. The people would be left in a mad scramble to navigate this uncertain new world.

Recall the immensely burdensome political climate inherited by Colin Campbell when the arranged marriage of Archibald Campbell was left in tatters. Archibald Campbell was still nursing when his marriage was initially arranged in 1505.[153] The same year, a young

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[151] Brundage, *Lax, Sex, and Christian Society,* 37.

[152] Ibid., 44.

[153] Dawson, *Campbell Letters*, 49.

German monk by the name of Martin Luther received his master's degree in philosophy and was beginning to privately journal rather scathing critiques of the Roman Catholic Church.[154] While neither knew the other, Martin's life would be inextricably intertwined with young Archibald's. Martin's work would go on to set a continent on fire; a fire that would very quickly and very irrevocably spread to the farthest reaches of Europe and Scotland. In more ways than one, the Reformation would dramatically change the socio-religious climate Archibald would have to navigate when the ill-advised arrangement of his marriage backfired much later on.

The marriage however, or at least the initial arrangement thereof, was in reality a beautifully crafted strategy for the solidification of Clan Campbell's regional hegemony in western Scotland. The marriage would not only serve to bring a land-owning family of considerable wealth into the Campbell fold, it would solidify economic ties between both clans and usher in an unprecedented unity between northern Argyleshire (Colin Campbell's estates) and southern Argyleshire (which was dominated by the MacTavish Clan); a distinct advantage considering the vast (and fertile) MacTavish croplands to the south and east of Argyleshire.[155] With the arrangement of this unifying marriage at such an astonishingly early age, the historian's keen eye can truly see the Campbell Clan's ruthless cunning and utilitarian approach to marital arrangements. Archibald, before he could ever become conscious of the fact, was predestined to solidify this potentially powerful interfamilial bond. Before the infant was teething, he was a pawn in a Machiavellian pursuit to concretize an ever-growing familial hegemony.

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[154] Lyndal Roper, *Martin Luther: Renegade and Prophet* (New York: Penguin Publishers, 2016), 79.
[155] Patrick L. Thompson, *The History of Clan MacTavish* (Baltimore: Otter Bay Books, 2012), 15.

Just when all seemed to be running as planned, however, the single element the

Campbells could not control began to run rogue: Archibald's marital life. Indeed, the

heuristic proved true that love is the one thing money cannot buy –try as desperately as it

might. When the answer became divorce, the problem became much larger than simple

marital strife. The issue at hand was now one of jurisdiction and the challenging of

overarching authority structures. For obvious reasons, the Campbells immediately turned to

the local earl for the annulment –one Colin Campbell, the family patriarch.[156] The

MacTavishes, seeking fair ground and unsure of where to turn, ran to the barely established

Scottish Reformation Parliament for representational equity in the forthcoming legal

battle.[157] The ensuing jural struggle would have resounding consequences for Scottish legal

thought for the next several centuries.[158]

Early in 1560, a courier rode southwest from the emerald grasslands of Argyle,

heading toward the Scottish capital city of Edinburgh. The courier was carrying a response to

a writ of cessation issued from the Scottish Reformation Parliament. As the Campbells had

predicted, Colin issued the annulment without hesitation.[159] What they had not counted on,

however, was the supposed "authority" of the newly minted Reformation Parliament to

override his decree.[160] The MacTavishes had successfully appealed to the religious leaders in

Edinburgh in a desperate attempt to garner leverage in the annulment deliberations. Their

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[156] Dawson, *Campbell Letters*, 100.

[157] Thompson, *The History of Clan MacTavish,* 18.

[158] Although, in reality, the divorce of Archibald Campbell and Kate MavTavish was merely one of myriad similar cases. As such, it was not this particular case, but the ensuing battles that raged for many cases involving many different legal topics that began to change Scottish legal thought.
[159] Dawson, *Campbell Letters*, 91.

[160] John Knox and David Laing, *The Works of John Knox* (Edinburgh: Bannatyne Club Publications. 1909)

plea to Edinburgh was simple: either disallow the divorce, or inflict some degree of punitive

damages upon the Campbells, allowing the MacTavishes to at very least regain control of the

land they had granted to the Campbells through the dowry and subsequent marital treaties.[161]

Their fear, quite substantiated, was of the increasing encroachment of Clan Campbell onto

the historic lands of Clan MacTavish. With the geographical size and economic strength of

the Clan Campbell juggernaut during the fifteenth and sixteenth Centuries, such an

encroachment could very easily signal the end of days for the MacTavish's regional

influence.[162] Indeed, they would not be the first regional clan to terminally fade in

significance in the wake of the Campbell's rise to power.

The Campbells, infuriated by this audacious new religious entity, were simply

confused about how the Reformation Parliament could claim jurisdiction over the legislative

and legal matters of Argyleshire. They were in Edinburgh, after all, and had no

understanding of the intricacies of life on the western coast. On top of this, they had no

figure of central, overarching authority. Who would they appeal to? John Knox? Was not a

central critique of the Catholic Church during the tumultuous past half of a century its

domineering approach to international affairs and its willingness to override kingdom

authority? For the Campbells, it was a blatant inconsistency to harshly critique the Catholic

Church on such grounds, and then begin doing the same thing immediately once Queen Mary

was ousted from power in Edinburgh.[163] They were still unsure of who this brash young

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[161] Thompson, *The History of Clan MacTavish,* 29.

[162] Ibid.
[163] George Yule, "The Scottish Reformation," *Journal of Religious History* (1991): 491, doi:
10.1111/j.1467-9809.tb00685.x.

reformer was, but they were certainly not going to let him begin meddling in business entirely outside of his expertise and jurisdiction.

Not only did the actions of the reformational leaders in Edinburgh seem inconsistent, they simply seemed laughably audacious. For the earls of clan lands across Scotland, this new group in Edinburgh was seen as something of an enigma. They would all go along smoothly with the passing of ordinances, and the drafting of important statements such as the *Confession of Faith Ratification Act*, a 1560 decree that sought to establish a uniform doctrinal position for all of Scotland.[164] This seemed simple enough, and nothing within the act itself gave reason to believe the parliament had greater interests in mind than simple matters of doctrinal orthodoxy:

> The Confessioun of fayth professed and beleued be the protestantis within the Realme of scotland publischeit be thame in parliament and be the estaitis thairof ratifeit and apprevit as hailsome and sound doctrine groundit vpoune the infallibill trewth of godis word. And this glaid tydingis of the kingdome salbe preichit throwch the haill warld for a witnes vnto all natiounis and than sall the end cum. The estaitis of scotland with the Inhabitantis of the samyn professing Christ Jesus his holy evangell To thair naturall cuntrey men and to all vtheris Realmes and Natiounis professing the samyn christ Jesus with thame wische grace mercie and peace from God the father of our lord Jesus christ with the spreit of rychteous Jugement for Salutatioune.[165]

The eyes of the parliament, however, were fixed on much more than simple statements of faith. Spurred on by Knox's experiences in Geneva, the parliament had a bold design in mind for Scotland: they envisioned a kingdom united by reformation ideals, connected by a common statement of faith, and presided over by a parliament of clergy.[166] Where Calvin's Geneva consisted of city, Knox's Scotland would bring together a proud and

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[164] James Kirk, *Patterns of Reform: Continuity and Change in the Reformation Kirk* (Edinburgh: T & T Clark, 1989), 14.

[165] GD Henderson, *The Scots Confession of 1560* (Norwich: Hymns Ancient and Modern Ltd, 2007), 69.
[166] WIP Hazlett, "The Scots Confession of 1560: Context, Complexion, and Critique," *Archiv fur Reformationgeschihte* (1987): 287.

profitable kingdom. From the raging Atlantic on the western coast to the frigid waters of the

North Sea to the east, the reformer's vision for Scotland was grand in both scale and

complexity. This bold vision, however, would be painfully slow in coming and would only

be possible provided the clans were willing to fall under the centralized authority of

Edinburgh (something that had empirically been as easy as a camel fitting through the eye of

a needle).

The Campbell courier was met with fierce resistance by the parliamentary board of

Edinburgh, which replied starkly that the annulment would be allowed if and only if the

Campbell's lands once owned by the MacTavishes were returned. Unless the Campbells

were willing to relinquish their fertile cropland in southern Argyle –a region once referred to

as the "breadbasket of Western Scotland" due to its remarkably rich, wheat-producing loam –

the marriage would remain intact.[167] To this heavy-handed approach, Colin responded not by

softening but by hardening; railing against the newly formed Reformation Parliament and

disregarding any claims of authority they made.[168] The next fifteen months saw much of the

same: a standoff that culminated in a spectacular meltdown with both sides eventually

threatening military action, rather than a continuation of the diplomatic stalemate.[169]

While Knox had previously stuck to a strict policy of letting the parliament handle

such disputes, his hands were tied once diplomacy with the Campbells broke down. Once a

potential military confrontation was in the works, Knox had no choice but to intervene. His

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[167] Al MacInnes, *Crowns, Clans, and Fine: The Civilizing of Scottish Gaeldom, 1587-1638* (Edinburgh: Edinburgh University Press, 2015), 31.

[168] ER Cregeen, "The Changing Role of the House of Argyll in the Scottish Highlands," in *History and Social Anthropology,* ed. I.M. Lewis (London: Routledge Publishers, 2005), 82.

[169] Ibid.

solution? Appeal to Colin Campbell's innate desire for long-term power entrenchment and

clan domination. If the Campbells would be willing to grant but half of the lands back to the

MacTavishes, Colin –a man of high social standing, beloved by half of Scotland and feared

by the remaining half –would find himself a position he could not refuse: a member of the

Lords of the Congregation.[170]

Colin's tune quickly changed in regards to the new powers of Edinburgh when this

opportunity was set in his lap. He was all too willing to give up a small portion of farmland

for a chance to reinforce the family name in the upper echelons of Scottish power; he would

not be the ruthlessly practical patriarch he was known to be is he passed up such an

opportunity. The current debacle with the MacTavishes –although certainly an intense one

with myriad ramifications for his commercial endeavors in the south of Argyleshire - would

not cause him to be myopic. By the end of 1561, Colin's devotion and loyalty to the new

reformation government was so intense that previous commercial partners were unable to

sway him against his newfound loyalties to Edinburgh:

> Gaenst Edynburgh they traed to sway him, the old Erle of Ergyle (Colin Campbell), who was then in
> the Castell of Campbell, where he tawght certane dayis. The Lard of Glenurquhare, (which yit liveth),
> being one of his auditouris, willed the said Erle of Ergyle to reateane him still gaenst the council's
> demands, but he, purposed upoun his jorney, wold not att that tyme stay for no such request, adding,
> "That yf God so blessed thei small begynnynes, that thei continewed in godliness, whensoever thei
> pleased to command him, thei should fynd him obedient, but he must neadivisit that lytill flock which
> the wickedness of men had compelled him to leave."[171]

In 1561, a former commercial ally of the Campbell's from the lowlands of the River

Pefferey (due north of Argyelshire) sought to perhaps rely on old business ties to recruit the

Campbells in his anti-Knox agenda. The above quote, where Colin ignored his requests and

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[170] RL Greaves, *Theology and Revolution in the Scottish Reformation: Studies in the Thought of John Knox* (Christian University, 1980), *94.*

[171] John Knox, *The Works of John Knox* (Edinburgh: Banner of Truth, 2014), 254.

encouraged him to "continue in godliness" and visit the "lytill flock" of conspirators who had so compelled him to leave a state of godly living, indicates Colin as a man of surpassing loyalty to Knox and his Reformation Parliament in Edinburgh. This again comes from the same Earl of Argyle who so viciously attacked the parliament's authority and undermined Knox's legislative power a brief fifteen months prior. It would seem that when the winds of change blow, loyalties often strategically rearrange. Colin's former business partner-turned-subversive did not heed his advice, either, for: "Immediately after, the Bischoppis summoned him, and for non compeirance, burnt him in effigie at the Croce of Edinburgh."[172]

What then can account for such a change of heart within the court of Argyle? How could a patriarch so staunchly opposed to the Reformation Parliament of Edinburgh in 1560 become a fierce defender of Knox and his mission in 1561? The answer is found in Knox's offer to Colin (and, as one will find, many like him) to claim a seat among the Lords of the Congregation. The Lords of the Congregation, Knox's new hybrid of the initial Reformation Parliament, would prove to be one of the Scottish Reformation's most brilliant tactical moves: one which very evidently saved the bourgeoning movement from caving in under the pressure of the various earls of the kingdom.

The tensions were high. The Reformation powers in Edinburgh had an ambitious agenda to form a clergy-based legislative body for Scotland. The earls, as evidenced by the Campbells standoff with Edinburgh over young Archibald's divorce, were having none of it and refused to recognize the newly formed parliament's authority as superior to their own. The church was treading in the waters of the state, and the state was responding as it usually does when its power is threatened or authority is undermined. Even though the ecclesial laws

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[172] Ibid.

of the Roman Catholic Church had been abolished with the onset of the Reformation, a new

set of church laws had replaced them. Common Law now stood face to face with Canon Law

like never before: the council of Edinburgh demanded an authority that the earls claimed was

rightfully theirs. The solution was one of the greatest political maneuvers of the Scottish

Reformation and it shook the kingdom from the vaulted hauls of Edinburgh to the farthest

reaches of the expansive highlands: the development of the Lords of the Congregation.

II. Reformation Confusion and the Politics of Societal Change

The standoff between the Campbells of Argyle and the Reformation Parliament of

Edinburgh was neither the largest nor the most significant standoff between a regional earl

and the new Knoxian ecclesial government.[173] When the Reformation breezes began to blow

in Scotland during the mid-16th Century, the masses, largely impoverished and

geographically isolated from the continental epicenters of power and prestige, quickly

adopted a new understanding of the church: one which promised to ignore them no longer.[174]

With a fire quickly growing among the people and Knox enjoying a cult following in

Edinburgh, the stage was set for a complete reconceptualization of the Scottish Kirk.[175] A

complete reconceptualization of the Kirk, however, would also require a complete rethinking

of kingdom governance on the whole. This, as Yule explains, would impact the Western

world profoundly:

> Scotland, a remote, poor, and largely feudal kingdom whose population was barely one-tenth that of
> England, adopted the Reformation in something like its Genevan form in a way that affected the

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[173] John Knox, *The Political Writings of John Knox: The First Blast of the Trumpet and the Monstrous Regiment of Women and Other Selected Works,* ed. Marvin Breslow (Washington: Folger Books, 1985), 164.

[174] Yule, *The Scottish Reformation,* 221.

[175] Ibid.,249.

whole of its society and, because of the massive migration of Scots in the nineteenth century, has affected many other countries as well. The Scottish Reformation was a complex movement, brought about by an act of state as well as by the work of religious reformers. The Church of Scotland became the dominant force in national life; and until 1840 there was never a large voice dissenting from that of the National Church. When the centre of political gravity shifted to London after the union with England in 1707, the General Assembly of the Kirk, which had always played a dominating and symbolic role in national life, now became the central voice of Scots national life.[176]

When the newly established church government began intervening in the matters of earls, however, great friction resulted. Such is usually the case in historical times of transition, as liminality breeds uncertainty and uncertainty breeds conflict. Colin Campbell and many others throughout the kingdom very quickly mired the new council in significant controversy. Fearful that the whole establishment may soon come crashing down, Knox rethought his strategy. Instead of having the Church become the State, what might prove more efficacious would be to have the State become the Church. That is, instead of bringing in clergy to begin overriding the decisions of myriad infuriated earls, why not offer the earls a chance to join the clerical conversation. The formula for this would be simple: a joint governance council aptly dubbed "The Lords of the Congregation." The development of the Lords of the Congregation paid off immensely for Knox, as Colin and countless other angered earls quickly had their senses placated; all too eager to join in the highest governing body of Reformation Scotland.[177]

In many ways modeled after the English Reformation Parliament of 1529-1536, the Scottish Reformation Parliament immediately adopted a heavy-handed legislative approach.[178] The new governing body sought first to unify the clans under the collective doctrinal positions outlined in the *Confession of Faith Ratification Act of 1560.* Once this

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[176] Ibid,.109.
[177] Ibid.

[178] Ibid, 122.

common ground was established, the Lords of the Congregation began to draft laws

pertaining to seemingly every aspect of life –in a vein not unlike the theocracy Knox so

admired in Geneva.[179] The implications of a newly formed legislative body all too eager to

draft and enforce laws were many, and thousands of Scots struggled to keep up with the pace

of legislative reform brought on by the Reformation.[180] In this way, the Scottish Reformation

was so much more than a reformation of the church –it was a reformation of Church, State,

and almost every facet of Scottish life. To this end, Edinburgh would leave no stone unturned

and no law unpassed –seeking to govern everything from commerce to agriculture to worship

to marriage. Indeed, nothing significant to Scottish life, including marriage, was left out of

the legislative equation.

With the hectic pace of the Scottish Reformation however, there was a unique

susceptibility to contradiction and exploitation in lawmaking. When a legislative body is

primarily comprised of once-angry earls who only took their position to increase their clan's

chance of regional hegemony, there is no shortage of conflicts of interest. These conflicts of

interest and contradictions of legislative intent are perhaps the greatest vulnerability of the

Scottish Reformation to criticism, and would certainly come to impact marriage in numerous

incredible ways.

Take, for instance, the granted annulment of Archibald Campbell. While Archibald

was granted annulment of his matrimony, many were less fortunate, particularly the poor and

underrepresented. Recall from the beginning of the first paragraph the young Elspeth Purdie,

whose appeal for annulment was denied in 1595 by the Council of Edinburgh. Why was her

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[179] Greaves, *Theology and Revolution in the Scottish Reformation,* 355.

[180] Roger Mason, *John Knox and the British Reformations* (Aldershot: Ashgate, 1998), 64.

appeal given any less credit than Archibald's? Could it certainly be because of the obvious

social gap between the heir to an earl and a peasant girl from a sleepy fishing town? But then

again, there might be more to young Elspeth's narrative than immediately meets the eye.

Elpeth's appeal, although denied, represents the extreme liminality of this time of

great transition. She was denied. Young Archibald of Argyleshire was not. A woman did not

receive the equal outcome of the law due to a nobleman. Yet, despite that, she was *heard.*

The Council of Edinburgh listened to her –the highest court in the land hearing the case of a

peasant girl. That would have almost assuredly never have occurred prior to the Reformation.

While the English Reformation, spurred on by Henry VIII's break with Rome, might have

been primarily motivated by political reasons, the reformation of the Scots further north was

influenced by the theological and philosophical movements of the continent.[181] One such

principle, as Elspeth's hearing demonstrates, was an increased ecclesial egalitarianism –all

believers could access Scripture, interpret Scripture, and belong to the body of Christ,

regardless of age, gender, ethnic group, nationality, or socioeconomic class.[182] While this

romanticized idealism would take centuries to perfect and work out (and indeed, many would

argue is still being worked out in the Western world), they nevertheless permeated much

Reformation thought.[183]

However, where social change can come about quite quickly and unexpectedly (as

was discussed earlier, in the poor, rural Scots' rapid acceptance of Reformation ideals), legal

change comes much slower. Hence, the *liminality* of Scottish Reformation politics. The

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[181] Ibid.

[182] Ibid.

[183] Greaves, *Theology and Revolution in the Scottish Reformation,* 343.

social change was enough for half of the battle to be won: Elspeth was heard before the highest council of the land. It was *not* enough for legislative codification to ensure equal protection of the law to everyone underneath it: her appeal was not granted.

Elpeth was not alone in her frustration, however. In fact, she was in the overwhelming majority for Scottish peasants and women in particular.[184] Neither was the subject of her appeal one of particular importance or significance to the Edinburgh Council. The Lords of the Congregation had much more on their hands than the denied appeal of a nameless young woman from a local fishing village. They were actively deliberating, drafting, and codifying a new legal system: one in which the National Kirk was above the local governments of the kingdom yet different enough from its Catholic predecessor so as not to arouse angst, disillusionment, or suspicion.[185] In the decade between 1560 and 1570, in fact, the Lords of the Congregations and the Scottish Reformation Parliament drafted over 2300 separate laws, of which 93 involved marriage, marital ceremonies, marital taxes, and nuptial arrangements.[186] Almost all of the laws passed, certainly including the laws governing marriage, show the modern historian something about the men who drafted them and their motives in doing so.

For instance, the centuries-old regulations on endogenous marriages imposed by medieval Canon Law were revoked, probably in an attempt to make clan intermarriage easier.[187] In such a way, the new ecclesial laws of the Scottish Reformation relaxed the legal

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[184] Elizabeth Ewan, *Women in Scotland, 1100-1750* (Edinburgh: Tuckwell Press, 1999), 294.

[185] WL Mathieson, *Politics and Religion, A Study in Scottish History from the Reformation to the Revolution* (Glasgow, 1902), 197.

[186] Greaves, *Theology and Revolution in the Scottish Reformation*, 292.

[187] Ewen, *Finding the Family in Medieval and Early Modern Scotland,* 294.

burden of Canon Law. At the exact same time, the laws also heightened other burdens of the

Canon Law system. For instance, where Canon Law had outlawed marital arrangements

without the consent of the arranged as early as the Sixth Century, the Scottish Reformation

Parliament was one of the first governing bodies to implement practical measurements for

this, and a universal protocol for marital arrangements –all of which would have to answer to

the Church prior to the arrangement from henceforth in Scottish history.[188]

III. Legislative Liminality: Social Change, Custom, and Tension

With such a wide variety and vast topical expanse of legislative activity, it was easy

for many Reformation Scots –lairds and serfs alike –to lose track of the changes and

misunderstand new protocols.[189] This was certainly demonstrable in the previously discussed

case studies involving the arranged marriages both of Archibald Campbell (a laird) and

Elspeth Purdie (a peasant). While marital arrangements were certainly a prime area for such

confusion, they were not the sole area of confusion during this time. Rather, legal confusion

was widely pervasive due to the inherent liminality of the transitional time. The Reformation

did not slip quietly through the backdoor into medieval Europe, it came crashing in with

ferocity and vehemence. When such tumultuous societal change occurs, confusion can run

rampant. However, today the cunning historian can look to certain places to help navigate

such times of upheaval in the historical records: sociocultural institutions and cultural

constructs like marriage. In the case of such constructs, people assign the custom, tradition,

or practice meaning. When an institution derives its entire meaning and significance from a

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[188] Ibid.
[189] Ibid.

particular people group, all it takes for a change in the institution is a change in the people. This is the heart of the issue concerning the intrinsic liminality of marriage and matrimony. Again, as the case studies of the chapter have shown, a chronology becomes increasingly clear in such times of great change throughout history.

When social change comes, alterations within societal norms and practices are the first indications. Once a society's practices and norms begin to change, the church must inevitably involve itself: its hand is forced as the institution relied upon historically to interpret and give meaning to changes in the normativities of a particular Christian culture. Finally, after significant social shifts and involvements of the church in a new thought or movement–running the gamut from the idealism and egalitarianism of the Scottish Reformation to the bourgeoning thoughts of racial justice in the American Civil Rights movement –the State becomes involved. By its very nature, it is the last to get involved. From our unique historical perspective, we look back and see the finished products: the amendments and proclamations and confessions of faith and major legislative events. What we often fail to realize, however, is that such legal phenomena only come *after* significant change within the zeitgeist. They are not the catalysts of social change, they are the reluctant, slow-to-change events that signify the State's recognition of the societal phenomenon. Again, this is true from the Scottish Reformation and its laws implementing protocols for marital arrangements to ensure consent (a measure which eventually led to the outright prohibition of arranged marriages) all the way to the Civil Rights Act of 1964 and countless instances of social change between the two. When left to its own devises, the state is notoriously slow to change in the absence of all out revolution. The church is not much better, equally as slow to change with the signs of the times.

The chapter's examples demonstrating the legislative liminality and political confusion of the Scottish Reformation are numerous: from Elspeth to Archibald to many others. However, the case studies themselves mean nothing devoid of their context. Their great value is found in their demonstration of the liminality of the time, and in particular, of the institution of marriage. Marriage was changing constantly under Canon Law. When the Reformation took hold in Scotland, marriage began to change under the Knoxian governance and the Lords of the Congregation: moving from whom can marry (exogenous to endogenous) to *how* they can marry (the necessitation of consent to the eventual prohibition of parental arrangements). It has not stopped changing since. Why is that? Because marriage is an institution of *people* and people are notoriously prone to change. This gives the historian with the eyes to see a powerful lesson for the world of today and the world of tomorrow. History has failed to provide for us a singular, normative prototype for "traditional marriage." It simply does not exist. Perhaps then, we can begin to examine the societal institutions that govern much of our lives, begin to understand more of the changes we see around us, and better face a future not of less change, but of more. History has certainly provided for us the precedent. It is up to us to learn the lessons they have to teach.

CHAPTER THREE

Marriage and the Chronology of Societal Change:
Sociocultural Shifts as a Precurser to Legislative Reform

What is *history*? What are its purposes, its characteristics, its defining attributes? What is the role of a historian in society? Are historians simply the compilers of information concerning the events of yesteryear, completely devoid of societal significance and strictly at home within the hallowed, narrow walls of professional academia? Certainly not. On the contrary, history is something that continually unfolds. As I write this, history is occurring. As you read it, history will be occurring. History is assuredly the past, but it fundamentally shapes both the present and the future. The job of the historian, then, is much more than the scholarly interpretation and synthesis of bygone events. The historian is charged with the noble task of compiling and synthesizing the available records of our collective human past, and then gleaning the historical narrative for lessons concerning our present. Indeed, the ancient words of Cicero still prove resoundingly true today: "He who knows only his own generation remains forever a child."[190]

How then does one interact with the marital narratives discussed throughout the preceding chapters? Were the stories of the great Scottish lairds such as Colin and Katherine Campbell destined to vanish into the wind of the Argyle Highlands? What about the tale of brave serfs risking everything for a chance to marry whom they pleased? Was young Elspeth's journey to Edinburgh a pursuit of vanity? Are there still lessons to be learned from the grandiloquent efforts of John Knox and his fellow reformers? Surely their lives were not

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[190] Cicero, *Cicero: On the Orator,* trans. E.W. Sutton (Cambridge: Harvard University Press, 1948).

destined to vanish into the never-ending onslaught of time without a trace of significance. Particularly now, and particularly with marriage, the lessons to be learned are numerous. The collision between the Scottish Reformation and the late Medieval Age was an abrupt one. When the two time periods collided, the underlying foundations of society –from the church to the state and from law to polity to clan commercialism –were all shaken dramatically. Perhaps our contemporary circumstances resemble this tumultuous time in Scottish history far closer than one might immediately realize.

The lessons of history, however, are almost always revealed retrospectively. That is, the lessons useful for today usually stem from a breakdown, conflict, or judgment lapse from the past. Past failures, if thoughtfully examined, lead to today's successes. When it comes to the tensions and marital conflicts of the Scottish Reformation, today's scholars can begin to see the intrinsic liminality of marriage on full display. Besides the clear lessons to be learned regarding how we understand the institution of marriage, there are also valuable lessons concerning the nature of legal change in society and the reflection of social change in law and policy measures. What one finds when any period of great legal change throughout history is examined is a recognizable pattern: one that can give insightful clues about what potentially lies ahead during time.

I. Historical Lessons for Contemporary Jural Scholars:
Lessons from the Marital Changes of the Reformation and Beyond

When it comes to the institutionalized or established leadership of a particular movement, a reliable heuristic recognizes that leadership is only possible where allowed by the consent of the governed. That is, the driving force behind any political, religious, or ideological movement is never the individual or individuals at the helm. Certainly, a great

leader can become a catalyst for a movement and can ensure operational efficacy, but the power for the movement at large exists within the body politic in question. A potential leader without a larger constituent of likeminded persons is merely a pariah, whereas a potential leader with a substantial following is the ignition spark for a *movement.*

By the time John Knox arrived back on Scottish soil in 1559, the winds of the Reformation had already reached the Scottish people.[191] The Protestant Reformation was far too powerful and far too tumultuous to be contained within a continental vacuum; with much of its literature, thought, and political framing reaching the British Isles before the leaders of the English and Scottish Reformations themselves.[192] Therefore, Knox's return to Edinburgh in the spring of 1559 can be better understood not as the invasion of a foreign land with a new wave of thought and expression, but rather as a native son returning home with the knowledge and skills necessary to help an already growing constituency reach its full potential.[193]

This phenomenon is non-unique to the Scottish Reformation, but is empirically observable in historical times of great political or ideological alteration. Take Martin Luther King Jr.'s leadership role in the Civil Rights Movement of 1950's-60's America, for example. While King's work with the Southern Christian Leadership Conference organized and mobilized thousands in nonviolent protests throughout the South, the movement itself would have been nonexistent had there not been thousands to mobilize. Leading up to King's successes were myriad seminal events, not least of which being Rosa Parks' instigating of

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[191] D. McRoberts, *Essays on the Scottish Reformation, 1513-1625* (Glasgow: Burns, 1962), 22-23.

[192] Alec Ryrie, *The Origins of the Scottish Reformation* (Manchester: Manchester University Press, 2010), 10.

[193] Kirk, *Patterns of Reform,* 100.

the Montgomery Bus Boycott.[194] King, like Knox, was an ambitious leader with the moxy and people skills to mobilize and inspire a larger movement. However, King's work alone did not equate to a successful non-violent resistance against the systemic racism of his time. The people were there to mobilize; all that was needed was a leader to do so.

Perhaps consideration of a more recent sociopolitical scenario might prove equally beneficial to an analogous understanding of the legislative phenomenon discussed. While certainly shocking for millions of Americans and citizens around the globe, the election and inauguration of Donald J. Trump was undeniably rooted in the deeper subconscious fears, anxieties, and uncertainties shared by countless Americans. President Trump could never have won office and could never have started a so called "movement" to "Make America Great Again" if he did not have the luxury of an enormous political base and ideological constituency. For better or for worse, those uncertain about the current administration should first examine the nation that voted it into office, for therein lies the answer to the myriad questions the current administration has forced to the top of the political docket. Just as Knox could never have ushered in the Scottish Reformation without a large, politically mobile group of followers, Trump could never take the oval office and begin dramatically altering the American legislative landscape without a pre-existing group of similarly minded citizens. To simply examine the current administration's sporadic movements in a vacuum would prove myopic. Rather, a much broader examination of the American populace might lend answers about how the current political situation developed. If one seeks sufficient explanatory answers to a political or social movement, one must fight the urge to look at its

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[194] Randall Kennedy, *Martin Luther King's Constitution: a Legal History of the Montgomery Bus Boycott* (New Haven: Yale Law Journal, 1989), 54.

often more visible leaders and instead look at their constituents. This proves true for Trump, King, and Knox alike, as fundamentally different as the men themselves may be.

Within any particular society or culture, however, there exist telltale markers of societal evolution. The church, while itself rarely a stunning beacon of morality, has consistently been an influencer of the moral and ethical normativities of Western people in the past millennia. As such, it has been a great wellspring of such indicators of social change. If the church can be best understood as a societal institution, certainly its most quintessential practices can themselves be considered likewise. Such has demonstrably been the case with marriage, a once primarily religious phenomenon that today exists in a state of quasi-secularity. That is, while countless marriages today serve legal and anthropological roles without a religious emphasis, many such marriages still contain foundationally religious elements.[195] Because of marriage's unique positioning between the lines of secular and religious governance, it proves to be a remarkably reliable indicator of social shifts. When the church and the state respectively begin to re-conceptualize a particular social function, ideal, or norm, it makes sense that one place where such a reconceptualization would manifest would be an institution dually governed by both, such as marriage. Such intrinsic liminality is not unique to marriage, but is particularly observable within it, as the previous chapters' discussion of Scottish marital laws clearly demonstrated.

While the implications of this realization are numerous, one primary consequence of marriage's intrinsic liminality is that the common presupposition of a "traditional marriage" is completely shattered. Before one begins examining the numerous changes occurring in

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[195] Laurel Bossen, "Toward a Theory of Marriage: The Economic Anthropology of Marriage Transactions," *Ethnology* Vol 27 No. 2 (1988): 131-133, http://www.jstor.org/stable/3773624?seq= 1#page_scan_tab_contents.

modern marriages and utilizing this examination to predict certain outlets of societal change, one must understand that the notion touted by many evangelical conservatives of a "traditional" form of marriage is both arbitrary and absurd. By its very nature, a custom that undergoes continual change cannot have a formulaic, traditional modus operandi. The image many have in mind when such arbitrary verbiage is loosely used is a form of marriage common prior to the great waves of liberalization and modernity that altered the American value systems of the 1960's and 1970's.[196]

The "prototype" envisioned in such conversations usually involves one man and one woman of the same socioeconomic and ethnic background, united by their Protestant faiths, entering into a marital covenant.[197] While many would argue that this has been the Christian prototype for quite some time in the West, this assumption is simply built upon a house of straw. Very few today would argue for the necessitation of a dowry or the parental arrangement of the betrothal, yet those aspects of Western marriages could easily be considered "traditional" if one's paradigm for discerning traditionality is simply the length of time a custom has been around within a set people group. These examples are reinforced by numerous other examples of long-lasting marital customs that, while technically traditional, would never be openly endorsed by so-called supporters of "traditional marriage." Consider the appalled reaction such individuals would have if one recommended a reversal of Malcomb III's ban on the *droit du signeur*.[198] Certainly a custom with such expansive historical roots can be considered traditional. However, this form of traditionality is much

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[196] Ibid., 22.

[197] R R Bell, *Marriage and Family Interaction* (Belmont: Dorsey Press, 1963), 6.
[198] Alain Boreau*, The Lord's First Night: the myth of droit de cruissage*, Trans. Lydia Cochrane (Chicago: University of Chicago press, 1998), 17-18.

less politically and socially appealing than the high aesthetic of one man and one woman united in a Protestant (read: *heteronormative*) marriage. It would seem then, upon even the slightest analysis of the historical record, that the modern debates over the contemporary "changes" to traditional marriage miss the mark. Such debates, rather than doing justice to the intrinsic liminality of marriage, attempt to construct a new understanding of traditionality in matrimony. It would be wise for those who adhere strongly to a particular definition of marriage –whether conservative or otherwise –to dramatically rethink the basis for their understanding. That which exists within a state of continual, intrinsic liminality cannot, by its very nature, have a "traditional" form.

Uniquely today, in the tumultuous wake of *Obergefell v. Hodges*, such a robust historical understanding of marriage is desperately needed. As Huntington explains:

> A lamentable byproduct of the *Obergefell* decision has been a new form of conservative epistemological constructivism. With the verbiage and feel of a culture war rather than a political disputation, people on seemingly every end of the sociopolitical spectrum are scrambling to "define" marriage –an oxymoronic attempt to transpose one's own conceptualization of an abstract institution onto others (and worse still, onto the objective legal paradigms that govern the lives of others). [199]

What Huntington is describing is a phenomenon neither new nor unique. The collective cognitive dissonance resounding in American society over "defining" marriage echoes the cries of countless other historical periods when significant changes happened to their own conceptualization of the institution. The rally cries of the modern evangelical right, therefore, are an inadvertent continuation of the pleas of the Scottish gentry when the Reformation began to challenge their previously unchecked power to arrange matrimonies without the consent of their children. Indeed, if one were to juxtapose the early correspondences of a

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[199] Huntington, Clare, "Obergefell's Conservatism: Reifying Familial Fronts," *Fordham Law Review*, Vol. 84, No. 23, (2015): https://ssrn.com/abstract=2681189.

man like Colin Campbell to many conservatives today, the similarities would be uncanny. Both lament the change of a once secure cultural institution, and neither takes it lightly.

With such considerable predictability to the current trimmers of the marital milieu, the need for sound historical work is perhaps greater than ever. American's the nation over need to understand that *Obergefell* did absolutely nothing to "change" marriage. By allowing homosexual men and women the equal legal rights of their heterosexual neighbors, the Supreme Court was not "defining" marriage. There intent was legal, not social. The end result was political, not religious. And finally, the end result was indeed not an "end result." Implicit to the very terminology is the idea that a single, solidified model for marriage will develop post-*Obergefell.* This is simply not the case. Just as the Scottish Reformation dramatically changed the medieval marital structures that preceded it, there will undoubtedly be a very different picture of marriage in the United States two-hundred years from now. Such is the case within any cultural construct that possesses a degree of intrinsic liminality.

So what then is one to do in regard to the tense status quo of marital constructivism? Is it enough to simply acknowledge that marriage is an institution prone to change, and as such, one should have no surprise when it does? Or is there more to be learned? The lessons of history, particularly the great marital microcosm of the Scottish Reformation and its tumultuous intersection with the late Middle Ages, cry out to be analyzed with an attentive eye to the behavioral patterns those in authority displayed. That is, it does not suffice simply to recognize the intrinsic liminality of marriage. One must look further; peeling back the layers to understand what marriage has to say about sociocultural evolution in general. If it has been established that societal institutions such as marriage are reliable litmus tests for the winds of social change, how does this phenomenon practically manifest? Are there any

reliable ways to glean future predictions off of the changes one witnesses in cultural institutions such as marriage –both in history past and today?

II. Fissures First: Societal Change as a Catalyst for Legislative Reform

In many ways, the Scottish Reformation is a uniquely fertile model for discussions of Church and State, and how the two institutions react and respond to social change, both independently and interdependently of one another. The agents at work and the factors at hand –social, political, economic, and religious –came together in a frenetic, effervescent amalgam. It was, to say the very least, not a pretty site. Certainly the vitriol and confusion of the previously discussed Scottish lairds attest to this. Questions arose. Conversations grew heated. Various institutions vied for authority and power in a changing sociopolitical landscape. Within the chaos, however, are lessons. The voices of powerful men such as John Knox and Colin Cambpell, and even of women such as Elpeth Purdie and Elizabeth Campbell, attest to the chaotic connections between societal change and legislative reform.

So what then, if anything, can be gleaned for the modern pragmatist from the lessons of the past? Is there any effectual way to recognize and utilize the patterns of the past in order to face the future? Using the microcosm of the Scottish reformation as a guide, the answer would seem to be yes. The lessons to be gleaned from the past, however, have much less to do with the particularities of marital custom than they do with the fluctuations of the church and state, and how the two institutions respectively respond to times of societal change. On top of this, there are lessons to be learned involving how certain social customs (such as marriage) often reflect these changes.

It was on a beautiful summer's day in Geneva in 1555 when John Knox received a

beckoning letter to return to his homeland for a preaching series.[200] Pessimistic about the

Reformation's roots in the Scottish Highlands, Knox obliged and returned northward in

August of 1555. Upon beginning his preaching series, however, any previous doubts about

the Reformation's progress in his homeland must have been vanquished. Astonishingly to

Knox and his fellow Reformation compatriots, the winds of the Reformation had swept over

the north, and Knox and his preaching were accepted warmly wherever he traveled. On top

of its boost to Knox's moral concerning Scotland's reception of the Reformation, the visit

boasted practical benefits for Knox, not least of which being the formation of a nascent

network of supportive nobility. Throughout his eight months of traveling, Knox encountered

and befriended numerous members of the high Scottish gentry, even being accepted as a

formal guest of the courts of two up-and-coming regents: the Earl of Mar and the Earl of

Moray.[201] By the time Knox returned to Geneva in the fall of 1556, he had developed a

robust network of loyal supporters –powerful, and therefore influential lairds who would

prove invaluable in his establishing of the Scottish Reformation Parliament a mere four years

later.[202]

Here one can observe in the historical chronology the first bedrock fact concerning

societal evolution: *we the people* empirically tend to change first. No legislative, religious,

economic, or political reform catalyzes a great ideological change within the zeitgeist.

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[200] Jasper Ridley, *John Knox* (Oxford: Oxford Clarendon Press, 1968), 223-227.
[201] Ibid.

[202] Stanford Lehmberg, *The Reformation Parliament 1529-1536* (Cambridge: Cambridge University Press, 1970), 82.

Rather, the nuanced, and often quite subtle, changing ideological emphases of the people

catalyze the subsequent reform. As Duggan articulates:

> Aside from those nations with the most egregious of authoritarian regimes, cleavages and fissures
> within the Political, no matter how seemingly unprecedented or unpredicted, always follow change
> within the body politic. Laws are ideologically neutral; controlled and reflected by the men and
> women who pass them and advance their agendas. If one is unsatisfied with a legal or political change,
> consider the change itself only secondarily to the zeitgeist. It changed first.[203]

So what then does this have to do with John Knox, and even more so, what does it

have to do with us today? Quite frankly, it means that John Knox can emphatically not be

considered solely causal to the efficacy of the Scottish Reformation. While the man can

undoubtedly be upheld as the countenance of the greatest social and religious reformation in

Scottish history, he himself was not the catalyst for the reformation. His tireless work in

preaching, teaching, and equipping the leaders of the Scottish Reformation, along with the

arduous task undertaken of establishing and directing the Scottish Reformation Parliament,

surely contributed substantially to the movement. However, the people themselves were

responsible for their unique reception of Reformation ideals. And this they did indeed, and

had in fact already been doing prior to Knox's 1555 visit to his motherland.[204] As one

unnamed Scottish historian remembers of Knox upon the warm reception of his 1555 visit,

"He was a man enflamed, exuberant of countenance and heart, at the prospects of the great

awakening of the Scottish peoples."[205]

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[203] Lisa Duggan, *The Twilight of Equality?: Neoliberalism, Cultural Politics, and the Attack on Democracy* (Boston: Beacon Press, 2004), 121.

[204] Ridley, *John Knox,* 223.

[205] Geddes MacGregor, *The Thundering Scot* (Charleston: Nabu Press, 2011), 90.

III. When Reform Comes: Navigating the Politics of Social Change

More than stripping Knox of undue credit, however, the understanding that societal

changes have their genesis within the zeitgeist prior to legislative or political reform provides

contemporary scholars with a sturdy evaluative framework for understanding and

interpreting sociopolitical phenomena in an often-tumultuous status quo. Take two

astoundingly divisive political events from American history, for example: the *Obergefell v.*

Hodges ruling (2015) and the passing of the *Civil Rights Act of 1964*. Regardless of political

or ideological leaning, few would argue the extent to which both events were remarkable in

their social and political implications and in their propensity to breed division.

Consider the SCOTUS ruling in *Obergefell v. Hodges.* Some, such as Evan Wolfson

of the *Freedom to Marry Foundation*, remarked on the day of the decision:

> Today's ruling is a transformative triumph decades in the making, a momentous victory for freedom, equality, inclusion, and above all, love. For anyone who ever doubted that we could bend the arc of the moral universe toward justice, today the United States again took a giant step toward the more perfect union we the people aspire to. Today the Liberty Bell rings alongside wedding bells across an ocean of joy.[206]

On the same day prominent evangelical pastor and author Mark Blitz lamented:

> A totally unbelievable decision yet totally believable for our society as we are definitely in the swirly mode headed down the toilet. The Bible says as it was in the days of Lot so will it be when the Messiah comes. The sewer floodgates are opening for all filth to come pouring in. The very fabric of what makes up a moral society is being ripped apart.[207]

While both men were clearly led by strong conviction and held strong with regard to

the outcome of the Supreme Court's decision, the true critique and the true applause were not

necessarily the Supreme Court's to bear. Rather, the SCOTUS decision was made in the

wake of a monumental shift in the American social conceptualization of marriage. According

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[206] Leo Hohmann, "Pastors Sound Off on Marriage Ruling," *World Net Daily* (2015): http://www.wnd.com/2015/06/is-there-still-hope-for-america/.

[207] Ibid.

to Pew Research Center polling in 2001, Americans opposed gay marriage by a margin of 57% to 35%. That figure had shifted decisively to a level of 62% support just prior to the Supreme Court's decision late in the Obama administration, and continued on its upward trajectory well after the decision was reached.[208] This upward trend, while perhaps rooted in myriad causalities, echoes the same trend observed in Knox's visit to Scotland prior to the establishment of the Scottish Reformation Parliament. The societal evolution began first; the legislative change followed. If one wants to understand more fully the jural backdrop to the SCOTUS ruling, first seek to understand the sociopolitical changes that occurred within the American zeitgeist between 2001 and 2015.

In the same way, if one is seeking to understand the efficacy of the Knoxian Reformation in Scotland, look not the work of the man himself, but instead to the movements within Scottish society which had already began to challenge many common cultural assumptions before the leader's arrival from Geneva. In both cases, the social fabric was altered significantly prior to the legislative and religious reforms came to pass. Perhaps above and before many others, this is a primary point of the thesis. Observing social shifts through the lens of legislative and religious reform is myopic. The greater revelations come into view when one looks at the underlying cultural shifts in a particular people group, for that is where the power for and substance of any great time of political change is found.

By the time the Civil Rights Act of 1964 had passed, the American South had witnessed appalling acts of racism and violence and inspiring acts of heroism at the hands of clergymen and laity alike, all banned together for the common cause of racial justice. The

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[208] "Changing Attitudes On Gay Marriage: Public Opinion on Same-Sex Marriage," *Pew Research Center: Religion and Public Life* (2017): http://www.pewforum.org/fact-sheet/changing-attitudes-on-gay-marriage/
For a visual representation of this trend, where one can clearly see the change *prior* to the SCOTUS ruling, see fig E.1.

great works and words of Dr. Martin Luther King, Jr. and the SCLC had catalyzed teams of both blacks and whites to fight systemic discrimination through non-violent resistance, running the gamut from spur of the moment sit-in's at local diners to large scale resistance the likes of the Montgomery Bus Boycott.[209] The legal reform was a reactive response to a widespread change within the zeitgeist. It most certainly did not catalyze the change.

Who was it that King called to action as he sat in a Birmingham jail cell in 1963, a mere matter of months before the passing of the landmark bill of the Civil Rights Movement? It was not the fighting and toiling black laborers of the movement, nor was it even the white supporters of the cause: it was the white moderate.[210] King knew the social and political pressures thrust upon average white citizens to remain quiet during the extreme tumult and liminality of the Civil Rights Movement, but he called upon the average, yet secretly sympathetic white citizen to spring to action with courage and conviction. Why would King choose this particular demographic? Because he knew all too well that most whites, even in the South, were already beginning to sympathize with the cause, and a collective strengthening of their voice would be the spark that would ignite legislative reform.[211] Even if he had hesitance to believe most whites would be explicitly sympathetic to the cause, he certainly understood that most white citizens were beginning to see the inherent absurdity of the racial injustices of the time, particularly in response to acts of extreme racial

[209] JD Hall, "The Long Civil Rights Movement and the Political Uses of the Past," *The Journal of American History* No 4 (2003), 9.

[210] Martin Luther King Jr, "Letter From a Birgmingham Jail," *University of Pennsylvania African Studies Center* (1963): https://www.africa.upenn.edu/Articles_Gen/Letter_Birmingham.html.

[211] John Patton, "A Transforming Response: Martin Luther King Jr.'s 'Letter From Birmingham Jail,'" *Rhetoric and Public Affairs* Vol 7 No 1 (2004): 55.

violence.[212] Indeed, as history has proven, King was correct. The legislative reforms of the

Civil Rights Act of 1964 were the result of social change rather than the catalyst for it, just as

Knox's Scottish Reformation Parliament was the result of social change and not its

beginning. History has no shortages of case studies in this peculiar chronology: social change

leads to legislative change. Rarely if ever is that order switched.

An interesting aspect of all three examples of cultural realignment, from the Scottish

Reformation to the Civil Rights Movement to the fight for gay marriage, is that all

manifested through certain predictable avenues, namely, societal institutions (marriage being

a prime example). When any great societal shift occurs, the bedrock cultural practices of the

people undergo inevitable changes of their own. While an outsider's view sees the clear-cut

marital implications of the *Obergefell* decision, at first glance religious movements such as

the Scottish Reformation and socioethnic events such as the Civil Rights Movement seem to

have little to do with marriage. However, the liminality of the institution can be clearly seen

not always in those events that directly affect it, but rather, in phenomena that indirectly

impact it.

As discussed early in the thesis, marriage possesses an intrinsic liminality precisely

because *people* possess an intrinsic liminality. The Scottish Reformation decided who was

responsible for the arrangement of a marital union. The Civil Rights Movement changed the

outlook for interethnic and interracial marriages. The *Obergefell* decision, rather than

"redefining" marriage as multiple pundits have put it, simply continued the tradition of non-

traditionality by opening avenues for people of all sexual orientations to enter into marriage.

Just prior to the Scottish Reformation's change regarding the arrangement of marriages,

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[212] Ibid.

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people were already beginning to question whether a strict parental arrangement was ethically acceptable, as evidenced by people the likes of Elspeth Purdie et al. In the immediate years prior to the passing of the Civil Rights Act of 1964, many were beginning to (if at least in private) reconsider their standard arguments against interracial marriage. Certainly, as the above poll indicated, many were drastically rethinking their position on gay marriage prior to *Obergefell.* In each case marriage, as a cultural construct whose value and normative structure is entirely dictated by the people, showed the forthcoming change prior to the change itself. Social changes preemptively manifest in certain ways, if only one knows how and when to look for them. Changes in marital norms, like changes in all forms of social convention, do not occur in vacuums: they occur because of much larger changes within a particular people group. This proves as true today as it did in 16th Century Scotland.

CHAPTER FOUR

Systemic Hesitation: The Church, The State, and
Fluctuating Social Authority

I. The Church, the State, and Resistance to Change

Retrospectively, it seems obvious that social changes come prior to legal reform;

particularly when one considers the available empirical records that spawn from periods of

intense sociocultural evolution. However, Knox is not done teaching us. Neither is the

institution of marriage in general. Both, and the critical juncture in history where the former

fundamentally shaped the latter, have much to say not only about *why* efficacious reforms

come only after significant social change, but *how.* In larger discussions of social change and

legislative reform, one must inevitably face the two great bastions of authority in the modern

West: the Church and the State. There is no sufficient historical dialogue involving issues of

Western cultural significance without them. And they are both, for the time being, here to

stay. When Thomas Jefferson penned in his famous *Letter to the Danbury Baptists* that the

two institutions must "stand united in purpose but separate in agency," he was continuing a

debate much, much older than himself and the young American republic.[213] Indeed, the

debate raged centuries prior, in the highlands of Scotland when the winds of the Reformation

blew. Jefferson was merely a continuation, although certainly with a categorically different

position on the matter, of the same dialogue Knox forced to the epicenter of Scottish life with

the establishment of the Scottish Reformation Parliament. Even in the words alone, with

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[213] Thomas Jefferson, "Letter to the Danbury Baptists," *Library of Congress* (1802): https://www.loc.gov/loc/lcib/9806/danpre.html.

"reformation" and "parliament" used to describe the dual agency of the newly formed

legislative body, one sees the coming together of two emphatically different cultural

institutions.

If it has been established in previous chapters that the ideological whims of the

zeitgeist are fickle and empirically prone to alteration and evolution, it is also necessitated to

understand that the church and state are categorically slower to such change, and the reasons

for this are found within their very nature as functional units of people-gathering. The

reasons for this are quite simple, both historically and anthropologically speaking. When any

particular individual is manipulated or persuaded by a certain means or another to undergo a

substantial change of mind or direction, a tension is always felt. This tension, which arises

powerfully during times of change or when a predetermined set of biases or assumptions is

challenged, is known as cognitive dissonance.[214] If the church and state can be best

understood simply as amalgams of people, then it is no wonder that society (where

interpersonal interactions are performed largely on an individual basis) is quicker to change

than the church or state (where individuals are united under a common belief or goal, and as

such, have a collective rather than individual conscious).

The church and state respectively experience a collective form of cognitive

dissonance that prototypically lends itself to sociocultural inertia. If a singular instance of

cognitive dissonance can make even the most levelheaded individuals uncomfortable when

faced with a challenging new position or new evidence against a previously solidified

position, then the aggregate cognitive dissonance of the individuals which collectively make

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[214] Saul McLeod, "Cognitive Dissonance," *Simply Psychology* (2014): https://www.simplypsychology. org/cognitive-dissonance.html.

up the church and state is that much more powerful. Not to mention, the individuals most prone to strong political or religious affiliation empirically possess stronger ideological emphases than those not prone to such political or religious action.[215] This means that all the more change of sentiment is necessitated to bring about any concrete change of position from either entity.

One can witness this peculiar inertia within both the church and state today, and within the lengthy historical record of the two. Recall the thunderous tumult of the Protestant Reformation, in Scotland as well as on the continent. While there were countless reasons for the great bedlam the Reformation caused when it slammed into the late Medieval Age, one paramount reason for the jarring transition between the two periods was that the church and state were largely indistinguishable in medieval Europe. While they were certainly distinct in *form*, they were often in conflict due to their often-indistinguishable *function*. When such a situation arrives, as Jefferson would so clearly see a mere two centuries later, tension is inevitable. Because of the two differing driving factors behind each institution, the church and state invariably differ on their diagnosis of a particular social shift.

One could begin to see this when men the likes of Colin Campbell had two different authoritative voices giving him two different answers as to how to proceed in the arrangement of his daughter Katherine's marriage. However, rather than separating the two institutions as they would in America two centuries later, Knox did the only thing he knew to do. Drawing from his experiences in Geneva, he rallied the gentry he had befriended on his 1555 preaching tour and founded the joint clerical-legislative *Scottish Reformation*

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[215] Julie Beck, "This Article Won't Change Your Mind," *The Atlantic* (2017): https://www.theatlantic.com/science/archive/2017/03/this-article-wont-change-your-mind/519093/

Parliament in 1560.[216] One theocratic body politic was swapped for another: so went much

of the initial reformations of the Protestant Reformation.[217] This again hints at the liminality

of the time, as that which the reformers critiqued was replaced by a system in many ways

indistinguishable from it. Although the theocracies of the reformation were decidedly

different in form and theological emphasis from their Catholic predecessors, they were often

strikingly similar in functionality.

II. Marital Liminality and the Empirics of Social Flux

So what then does marriage have to do with such a change? While marital custom

was never a top of the docket item on the reformer's platform, marriage as an institution was

deeply rocked by the passage from the late Medieval Age into the Reformation. Marriage,

with its unique form of intrinsic liminality, reflected the changes of the Scottish Reformation

by manifesting many of their humanistic and egalitarian emphases in its changing attitude

toward strict parental arrangement. The great humanistic flare of the Reformation drove

much of the criticism the Catholic Church received, and had numerous implications for

society at large. If human beings could be their own priests and interpreter's of the holy

scriptures, should they not be allowed to think freely and see to the arrangement of their own

marriages? John Knox and his Scottish Reformation Parliament certainly believed so.[218]

What must be noted here, however, is the simple fact that the marital changes of the

Scottish Reformation were by absolutely no means unique. They were part of a long, stories

lineage of constant marital flux. Just as the outlook for interracial and interethnic marriages

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[216] Ryrie, *The Origins of the Scottish Reformation*, 72.

[217] Ibid.

[218] Stanford Lehmberg, *The Reformation Parliament 1529-1536* (Cambridge: Cambridge University Press, 1970), 119.

began to change dramatically during the American Civil Rights Movement and the position

of the average American toward gay marriage changed in the years immediately leading up

to *Obergefell,* the laws enforcing checks and balances on parental arrangement of marriages

in the Scottish Reformation were indicative of much larger social shifts.

When one begins to understand marriage in terms of its constant empirical change,

the cultural construct begins to take on new value and meaning. If anything, this consistency

of change is not something to be lamented –as many today have argued in the year following

the SCOTUS decision on the matter –but to be celebrated, as it means that marriage only

possesses the value endowed to it by the people performing and conceptualizing it. If one

person desires for a marital custom or ceremony to take a particular form, because of the

institution's intrinsic liminality –they can have a marriage with that form with little to no

objection.

With this noted, however, there are still laws and policies in place to dictate certain

aspects of the custom. Certain forms of marriage –perhaps most notably a polyamorous

contractual agreement between more than two betrothed parties –are still off limits. As is the

establishment of a marriage outside of current tax structures (a good thing, for many in the

United States). Marriage is what marriage is. Namely, exactly what one wants or desires it to

be within current structures. Who knows, however? In the not-so-distant future the marital

model of today might be a distant cultural memory. In this notion is also the notion that one

is free to consistently change their position regarding marriage. Many conservative pundits

criticized Hillary Clinton's fairly recent switch from the more conservative view of the

custom to a more open, gay-friendly perspective. However, is her change of mind any

different than Colin Campbell's change of heart in regards to the reformation of his

homeland? Certainly both were free to change their minds when presented with new, potentially challenging, perspectives. The custom's liminality and lack of "traditionality" in its current sense allow them as much.

III. Concluding Remarks

Looking to the future, then, there is great practicality in even a cursory understanding of the unfolding of these historical events. The practical benefits of this understanding go far beyond a simple recognition of the absurdity of the contemporary debate regarding the "traditional understanding" of marriage. They go beyond this primarily because marriage is not alone in its intrinsic liminality. If one can begin to understand, after an examination of the historical record, the constant flux of marriage as a cultural construct, one can begin to observe other cultural constructs in the same light.

Whatever it is you can possibly fathom that humans and their society assigns meaning –dealings of marriage, life, death, the church, and the state –all change. This change is due to the simple fact that people change. As society progresses, so too will its customs and institutions. Rather than progression, however, which seems to imply a forward trajectory and linear form, perhaps a form of waxing and waning better explains such liminality in cultural custom. One generation may perhaps swing toward the "progressive" side of things (in the current sense of the word), which in turn might lead the next generation to swing back to more the familiar grounds of "traditionality." Both terms are misleading. In reality, what one will see in both the historical record and in the future, is a group of cultural constructs changing in mirroring ways to the culture that constructs them. One need not look further than the contemporary political milieu to see this firsthand. Finally, however, in regards to

the tumult of change and uncertainty of times categorized by great social flux, one need not fear. Society changes, in constant pendulum-patterns. What we see in society today will be almost antithetical to the society of our offspring. And in turn, their children will see another cyclical pattern of change. Rather than experiencing great angst of suffering from crippling cognitive dissonance in response to this, one should instead seek to become to the most informed citizen possible. Only when that is done will we have the security of a society who's future rests in capable, knowledgeable hands. Only time will tell, however, if the hands that hold the future will have wedding rings. Or perhaps something new altogether.

APPENDICES

Appendix A

Figure 1: Jan van Eyck's *Arnolfini Portrait*

Per James Brundage's analysis on the portrait, provided in the book *Law, Sex, and Christian Society in Medieval Europe*, "The exchange of free consent between the couple constituted the sole formal requirement for sacramental marriage according to the doctrine of Alexander III's decretal *Veniens ad nos,* which remained the basic law on the subject in Christian Europe from the late twelfth century up to the Council of Trent. Jan van Eyck's painting of the marriage between Giovanni Arnolfini and Giovanna Cenami shows such an exchange between a couple, witnessed only by their dog and the two persons shown indistinctly in the mirror. This romanticized notion was a common motif in medieval and renaissance art, despite being functionally fictional in regards to actual marital practices observed in medieval Europe.

Plate (emboldened)

Appendix B

Figure 1: Plate 12 from Gratian's *Decretum*
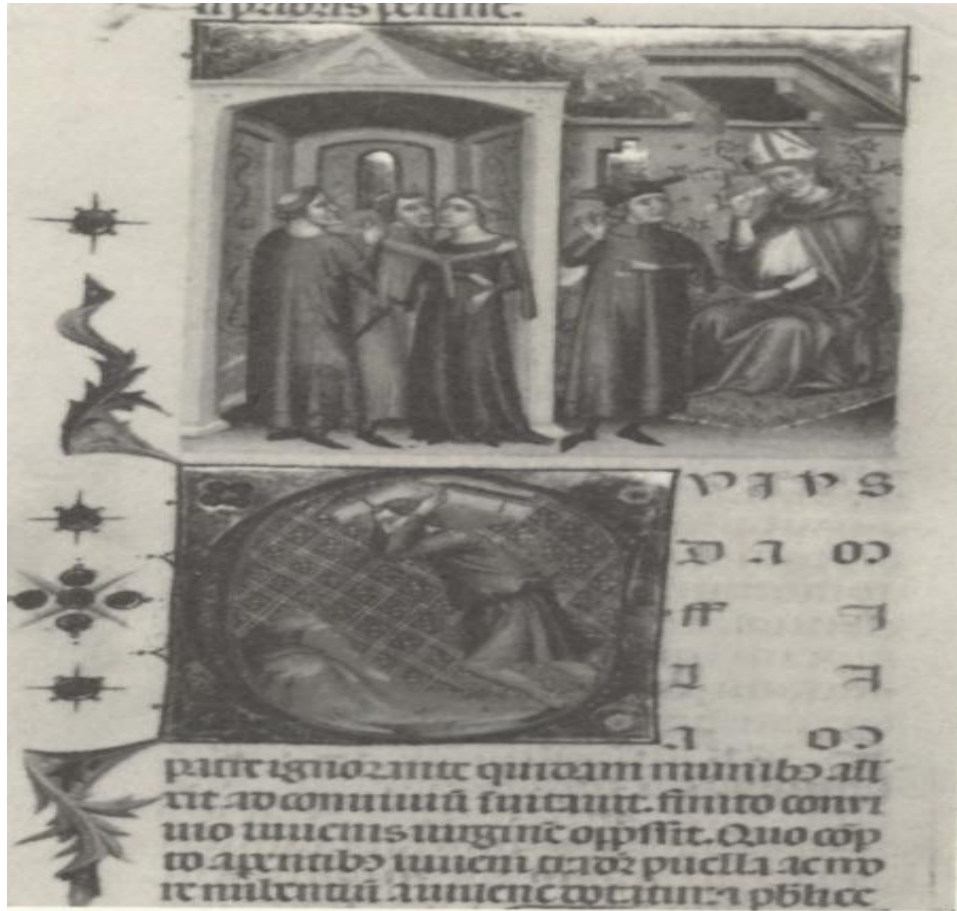
This illumination, from Gratian's *Decretum,* depicts the discovery of a clandestine marital arrangement by a nobleman, presumably the young woman's father. Set to the right, another scene shows the subsequent meeting between the father and the local bishop, seeking an annulment on the arrangement. The bishop's raised hand perhaps indicates an initial willingness to comply with the father's wishes. The final scene (set beneath), shows the young woman in a frantic state, indicating that the father's meeting with the bishop most likely achieved its intended result. Image taken from James Brundage's *Law, Sex, and Christian Society in Medieval Europe.*

Appendix C

Figure 1: Illumination of woodcut from *Der Seelentrost*

This illumination of a woodcut from *Der Seelentrost* demonstrates the common medieval belief that the Devil was implicitly involved with the bringing together of the opposite sexes, often personally implanting lustful thoughts in their minds. Here, a devil is seen crossing the paths of a young man and woman, thus initiating the "sinful" relationship. This illuminated woodcut hails from fifteenth-century Augsburg (1478), but the idea behind it was specific neither to Germany nor to the fifteenth century, with traces and manifestations of the idea permeating medieval thought throughout Europe. Courtesy of the National Library of Scotland, Edinburgh.

Appendix D
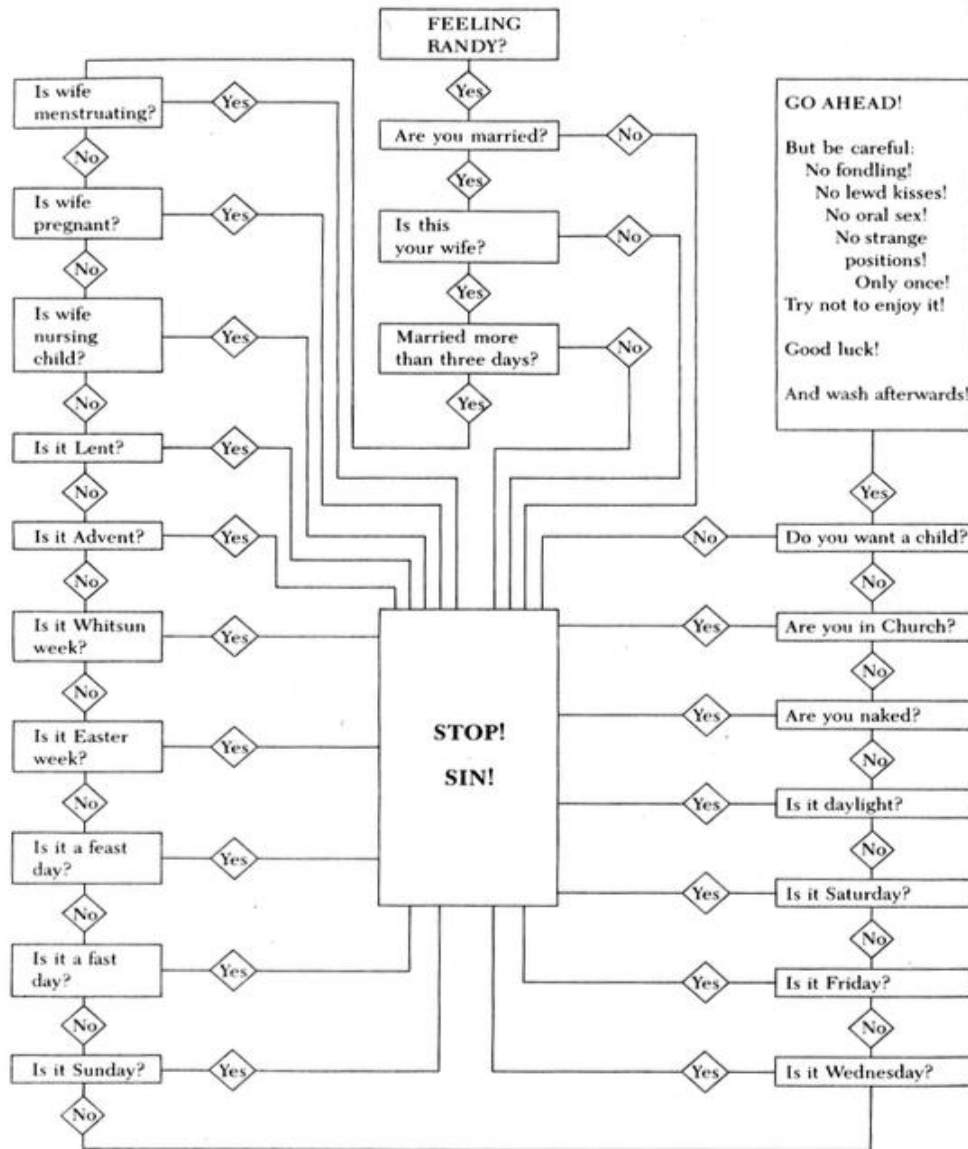
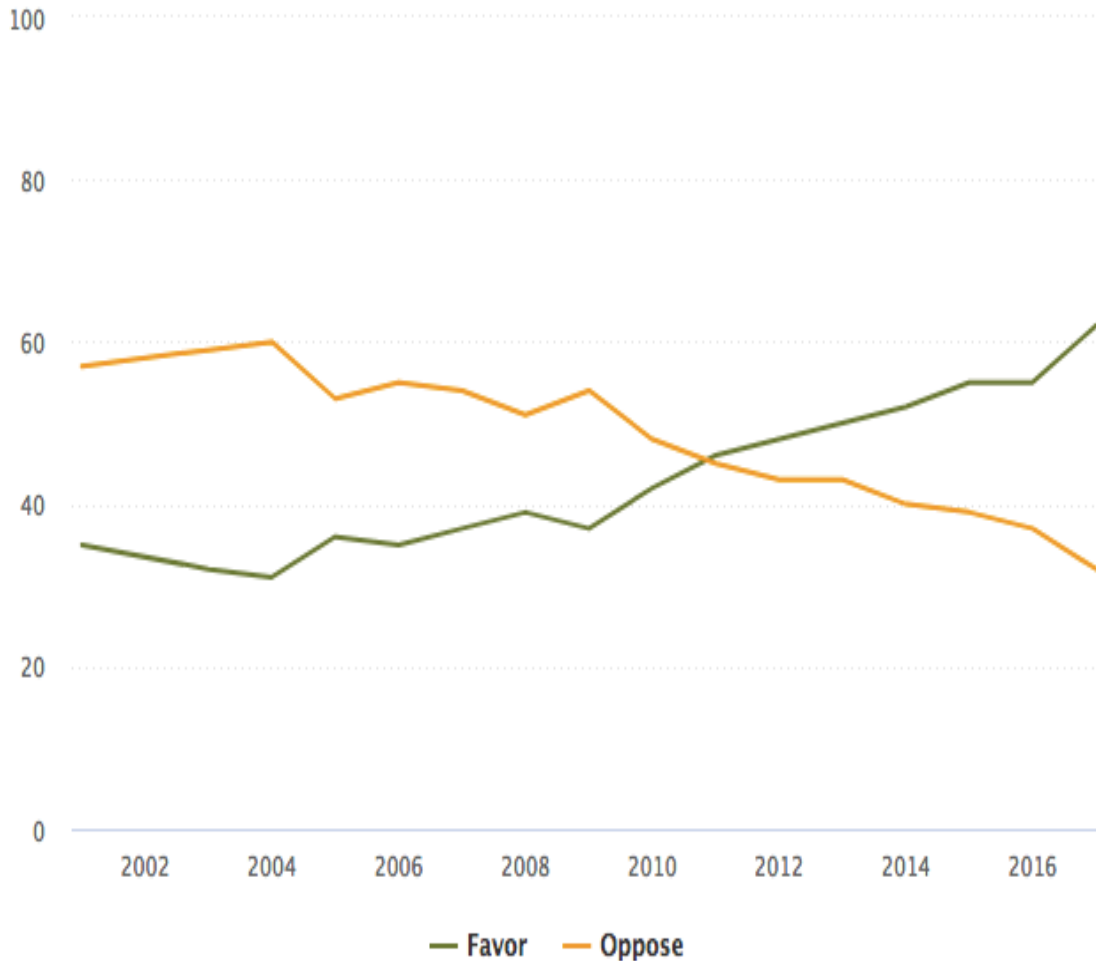Figure 1: Brundage Medieval Sex Flowchart

Figure 4.1. The sexual decision-making process according to the penitentials

A humorous, yet accurate, depiction of the absurd, draconian, and often largely arbitrary sexual laws instituted by medieval Canon Law. Image provided by Dr. James Brundage.

Appendix E

% of U.S. adults who favor/oppose same-sex marriage (2001-2017)

The image clearly demonstrates what the chapter sought to prove: the social change regarding the zeitgeist's opinion of homosexual marriage was changing rapidly, and in fact had inverted in terms of the majority/minority opinion split *prior* to the SCOTUS ruling. Legislation does not cause social change; it is *caused* by social change. Those who critique former Secretary Clinton's change of opinion regarding the matter should first understand that millions like her had a similar change of opinion in the past two decades.

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