

**Introduction:
Defining the Figure of the Welsh Witch,
1536-1736**

Documentary evidence from the records of the Courts of Great Sessions for Wales¹ provides a framework for analysing witchcraft in early modern Wales, specifically from 1536 to 1736. Wales has two distinct types of witchcraft cases: witchcraft as words or slander cases, and witchcraft as *malefice* cases in which a woman was accused of practising *malefice* or premeditated harming. The outcomes in both types of cases before the criminal courts of Wales were almost always the same, the survival of the accused witch and the woman slandered as a witch. In other words, execution for charges associated with witchcraft was extremely rare in early modern Wales.

The timeframe, 1536 to 1736, is precise because the Courts of Great Sessions were established with the Acts of Union between Wales and England. The Acts began in 1536 and ended in 1543 but it was the 1536 Act which established the Courts of Great Sessions for all of Wales. Modelled on the Sessions of the former Principality of Wales, the Courts of Great Sessions were unlike the Assize courts of England although they were subjected to the same authority of English statute law. In 1736, the 1604 Witchcraft Act of James I/IV, which made execution the punishment for those found guilty of *malefice* witchcraft practices, was rescinded. This brought an end to the legal mechanisms which enabled the prosecution of people for witchcraft activities for which, if found guilty, they could face execution in Britain.

Two hundred years of court cases relating to witchcraft in early modern Wales are located in the Courts of Great Sessions records. Compared with other counties and shires in England and Scotland, there are very few Welsh witchcraft cases. There are more cases per county in England than there are records of witchcraft court cases for the whole of early modern Wales. Nevertheless, the surviving records provide important insights into traditional Welsh attitudes towards witchcraft and ways of dealing with it.

The Courts of Great Sessions had four circuits and each justice of the four groups of three shires held a Court of Great Sessions twice a year in each county, usually in spring and summer, for fifteen although not necessarily consecutive, days. This is the reason why so many witchcraft cases took such a long time to reach any sort of conclusion in the courts. Often the outcome remains unknown as people, particularly in witchcraft as words cases, simply did not proceed and there is no court record detailing what eventually happened. All that remains are the initial declarations. Such cases were, in all probability, settled out of court with no further notification to the court. Prothonotary papers therefore, sometimes contain only the brief declaration of the slandered woman plus the amount of financial compensation for which she originally asked.

¹ Held at The National Library of Wales, Aberystwyth, Wales.

Witchcraft as Words

Witchcraft as words cases are far more numerous than witchcraft as *malefice* cases. However, the Brecon Circuit has no cases of witchcraft as words for Radnor or Glamorgan although there is one case located in each of the quarter sessions records for these counties. There is one case for Brecon. The Chester Circuit has nine cases for Denbigh, eight for Flint and six for Montgomery. On the North Wales Circuit, there are three for Angelsey, one for Caernarvon but none for Merioneth. Merioneth is a particularly difficult county because quarter sessions and Courts of Great Sessions records no longer exist prior to 1682. Only Pembroke, with six cases, has witchcraft as words cases for the Carmarthen Circuit as there are none for the counties of Carmarthen or Cardigan. The records of the ecclesiastical courts, which dealt with defamation, for early modern Wales yield even fewer cases of witchcraft as defamation: one for the Peculiar of Hawarden Consistory Court, none for Bangor, St. Asaph, St. Davids, or the Archdeaconry of Brecon, and four for Llandaff, one in 1712 with a further three in 1722.

Table IWitchcraft as Words Cases: Summary of Court Circuits**Brecon Circuit****Brecon***Great Sessions*

1634 wife and husband against a man, man spoke words: witch

Quarter Sessions

1690 woman against one woman and two men, all spoke the words: witch plus ²

Glamorgan*Quarter Sessions*

1730 man against a woman, woman spoke words: bewitchment. Case for misbehaviour, causing a breach of the peace, not witchcraft ³

No cases for **Radnor**

Chester Circuit**Denbigh**

1604 wife and husband against wife and husband, woman spoke words: witch

1604 wife and husband against wife and husband, woman spoke words: witch

² "Witch plus" means that there was more than one slander about which the woman was concerned, i.e. she may also have been slandered as a harlot, a scold etc.

³ This is the Glamorgan case of William Williams against Margaret Richards who accused Williams of bewitching her oxen and wanted his blood so that he would not do it again. It is a slander case as it concerns "his Good Name and Credit." and the court records refer to it as an article of misbehaviour case against Margaret Richards, not as a witchcraft case. Glamorgan Plea Rolls (1542-1830) 1730 July at Neath. Glamorgan Quarter Sessions Roll Midsummer 1730 "c", No. 39.

- 1610 wife and husband against wife and husband, woman spoke words: witch
 1610 wife and husband against man, man spoke words: witch
 1627 wife and husband against man, man spoke words: witch
 1655 wife and husband against man, man spoke words: witch
 1673 woman against woman, woman spoke words: witch plus * witch second 4
 1684 wife and husband against man, man spoke words: witch plus
 1712 woman against man, man spoke words: witch plus * witch second

Flint

- 1605 wife and husband against wife and husband, wife spoke words: witch
 1610 woman against man, man spoke words: witch
 1615 wife and husband against wife and husband, wife spoke words: witch
 1617 wife and husband against wife and husband, wife spoke English words: witch
 1635 widow against man, man spoke words: witch
 1660 woman against wife plus husband, wife spoke words: witch plus
 1666 woman against man, man spoke words: witch
 1677 widow against man, man spoke words: witch plus * witch second

Montgomery

- 1635 wife and husband against wife and husband, wife spoke words: witch
 1636 wife and husband against wife and husband, all spoke words: witch
 1648 woman against wife and husband, wife spoke words: witch
 1651 wife and husband against man, man spoke words: witch
 1650-5 woman against widow, widow spoke words: witch
 1662 wife and husband against wife and husband, both spoke words: witch

North Wales Circuit

Anglesey

- 1652 widow against man, man spoke words: witch (Maud verch Hugh ap Hugh)
 1718 wife and husband against man, man spoke words: witch plus
 1732 wife and husband against man, man spoke words: witch plus

Caernarvon

- 1754 wife and husband against wife and husband, wife spoke words: witch plus
 * witch second (case also cited as being before the Spiritual court of Bangor)

No cases for Merioneth

4 This means that, in the court record, the woman was slandered for being more than a witch i.e. also a thief, a whore, a drunk, etc as well as being slandered for a witch. "Witch" was usually cited first, where it is not, I have used the " * witch second", to indicate the importance of each slander to the woman bringing the case. The most important of the slanders was generally cited first in the declaration.

Carmarthen Circuit

No cases for **Carmarthen**

No cases for **Cardigan**

Pembroke*Great Sessions*

- 1623 wife and husband against wife and husband, ?⁵ spoke the words: witch
 1634 widow against man, man spoke words: witch
 1634 widow against man, man spoke words: witch
 1638 wife and husband against wife and husband, woman spoke words: witch plus
 1661 wife and husband against wife and husband, both spoke words: witch plus
 1783 woman against man, man spoke words: witch plus

Quarter Sessions

Year ? wife and husband bound over for speaking of a wife: witch plus

Table IIWitchcraft as Words Cases: Ecclesiastical Courts**Peculiar of Hawarden Consistory Court**

1666-85 woman against woman, woman spoke words: witch

No cases for **Bangor**

No cases for **St. Asaph**

No cases for **St. Davids**

No cases for Archdeaconry of Brecon

Llandaff

- 1712 wife against woman, wife spoke words: witch plus * witch second
 1722/24 wife against wife, wife spoke words: witch plus * witch first. Witness depositions attached.
 1722 wife against wife, wife spoke words: witch plus * witch second
 1722 wife against wife, wife spoke words: witch plus * witch first

No cases for **Court of Arches (appeals)**

⁵ "?" indicates that the sex of the person who spoke the words is unknown.

Witchcraft as Malefice

The people of early modern Wales had a profound belief in witches, witchcraft and the supernatural. The belief was deeply ingrained but, during the years when the Witchcraft Act of 1604 was law, Wales did not experience a rash of accusations or prosecutions. Witchcraft cases in early modern Wales show the survival of almost all those who were accused of witchcraft as *malefice* and found guilty as charged. Witches were not usually executed in Wales even though they admitted their guilt in court. The only woman who did not admit her guilt was Margaret verch Richard who was executed after putting herself on the court. However, her case documents are unusual as there are no witness statements, no statement from Margaret herself and only the judgement is recorded.

Further refining the concept of *malefice* witchcraft as understood in early modern Wales, the transcripts of each witchcraft court case indicated that the guilty verdict for women tried as *malefice* practising witches may have been reserved mainly for those women whose actions had resulted in the death of a person. The cases of Gwen verch Ellis, Margaret verch Richard, Anne Ellis, Elizabeth Parry,⁶ and Olly Powell, provide evidence where their actions were related to the death of a person. All these women were found guilty but none, other than Margaret verch Richard, received any punishment for their proved actions. This, despite the fact that the bills were declared true and the case against each accused was proved. The other cases against the accused concerned the bewitchment of people and animals, lingering illnesses and unusual behaviour of people after contact with the accused. These cases also resulted in true bills, guilty verdicts followed by dismissal or the bill being declared *Ignoramus*.

Table IIIWitchcraft as Malefice Cases: Summary of Court CircuitsBrecon Circuit

Brecon	None
Glamorgan	1668 Rachel Flemynge/Fleming for witchcraft practices, dismissed 1678 Rachel Flemynge/Fleming for witchcraft practices, sentenced to death but died on the day of her execution. No extant records for the Glamorgan Courts of Great Sessions prior to 1690 exist.
Radnor	None

Chester Circuit

Denbigh	1594 Gwen verch Ellis for witchcraft practices
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⁶ A quarter sessions case from Denbighshire which was a petition only and the petitioner, Sarah Poole was proved to be a troublesome assaulter of her neighbours and bound over to keep the peace.

1672-73 Elizabeth Parry, quarter sessions for witchcraft practices

Flint 1655-56 Dorothy Griffith for witchcraft practices
1657 Anne Ellis for witchcraft practices

Montgomery None

North Wales Circuit

Anglesey 1652 Maud verch Hugh ap Hugh, fate unknown but this slander case may have become a witchcraft practices case.
1655 Margaret verch Richard for witchcraft practices. **Executed.**

Caernarvon 1621/22 Ritherch ap Jevan and Lowri verch Jevan committed to gaol on a charge of witchcraft. (No court records, only the letter of a contemporary citing the occurrence).

Merioneth None. No extant Courts of Great Sessions or quarter sessions.

Carmarthen Circuit

Carmarthen 1654 Joan Roger and David John for bewitchment
1656 Gwenllian David/Lys Hier and Margaret David/Maggie Hier for witchcraft practices

Cardigan 1693 C/Katherine Rees for witchcraft practices

Pembroke 1607 Katherine Lewis/Bowen for witchcraft practices
1693/4 Olly Powell for witchcraft practices

Haverfordwest County and Borough
1655 Golly Lullock for witchcraft practices

Brecon Circuit : no cases in the records of Great Sessions.

Brecon : none.

Radnor : none.

Glamorgan: none.

Women as Witches

This brief review of the Courts of Great Sessions records for witchcraft in early modern Wales shows that the cases all concern women, a fact which has generated the approach of this thesis. Witchcraft in Europe in the early modern period was generally associated with women but not always. In early modern Wales however, the association appeared to be almost exclusive. Such exclusivity apparently did not predispose the Courts of Great Sessions judges and juries towards punishment as most accused women were not fined, gaoled or executed. Margaret verch Richard ⁷ was executed but the fate of the others, most of which were recorded, was dismissal without any form of punishment. There is some dispute as to the fate of Gwen verch Ellis ⁸ but cases for *malefice* witchcraft in early modern Wales generally record survival as the usual outcome, not punishment or execution.

A considerable degree of correlation exists between Welsh popular beliefs relating to witches and the gendered nature of witchcraft cases in Wales. Early modern Welsh people defined witchcraft as the maleficent practices of the witch, activities which they believed were the result of intended and premeditated harm inflicted only by the witch. The witch, as far as the Welsh people were concerned, was always a woman as popular culture dictated that only women could be witches because only women engaged in *malefice*. Prior to the borrowing of the term *wits* from Middle English before the early modern period, the Welsh term for any individual thought to be a practitioner of the magical arts was *rheibwr* or *rheibes*, depending on the sex of the person, and came from the word *rheibio* which meant *to bewitch*. This term was all inclusive as it was used to refer to all types of practitioners of the magical arts, of both sexes: witch, conjuror, sorcerer, soothsayer and charmer.

Court records for Wales support the implication that witchcraft activities and witches in early modern Wales related only to women. All witchcraft as words cases before the Courts of Great Sessions concerned women who were bringing others to court for having slandered them as a witch. Similarly, witchcraft as *malefice* cases also concerned only women. There is no court case in which a man was brought to court accused of being a *malefice* practising witch. Nevertheless, those women accused as *malefice* practising witches survived guilty verdicts under the Witchcraft Acts of the English state, an authority under which the outcome should have been very different. Similarly,

⁷ NLW, Great Sessions 16/7 Great Sessions for Anglesey (1655) Margaret verch Richard of Beaumaris on 20th August 1655 at Beaumaris.

⁸ NLW, Great Sessions 4/9/4/10-15 NLW Denbigh Gaol Files (1594) Great Sessions for Denbigh 36 Elizabeth. See Richard Suggett, "Witchcraft Dynamics in Early Modern Wales." in Michael Roberts and Simone Clarke (eds), *Women and Gender in Early Modern Wales*, University of Wales Press, Cardiff, 2000, p. 85-86. Transcriptions of this case do not indicate what the verdict was. Suggett's statement "Gwen was arrested, arraigned for murder by witchcraft, found guilty and sentenced to hang." (op. cit., p. 81) is questionable as Gwen was tried under the 1562 Witchcraft Act of Elizabeth I, not the 1604 Witchcraft Act of James I. In the 1562 Act, *maleficia*, if proved, was a punishable offence for which one year of imprisonment was the sentence.

witchcraft as words cases were being heard in a criminal court system under the same state authority which demanded that any implication of witchcraft should be investigated. In other words, the slander cases for Wales should have been examined in an effort to ascertain if the slander had any truth to it and whether the slandered woman was indeed a practising witch. Witchcraft in early modern Wales does not appear to reflect the statutes of English law in relation to both types of witchcraft cases before the Courts of Great Sessions.

Summary of the Thesis

The thesis is concerned with examining the influences which determined the nature of the witchcraft cases in the Courts of Great Sessions. Witchcraft as words cases in the Courts of Great Sessions provide evidence that Welsh people continued to adhere to their customary laws, particularly those of the Law of Women, laws which existed for hundreds of years prior to the Acts of Union.

Witchcraft as *malefice* cases provide evidence of the continued use of customary practices with which to contain the *malefice* activities of the witch. Such practices enabled the individual to undertake self-empowerment actions in the face of perceived threats, thus alleviating the fear and paranoia which the existence of witches often generated. Evidence for the use of customary practices occurs in every witchcraft as *malefice* court case for Wales, suggesting that the actual court case was the final antidote to witchcraft, the end of what the thesis proposes is a three phase antidote process. The objective of the court case was to induce the witch to admit her guilt because customary practice dictated that reconciliation could not occur until an admission of guilt was achieved. The admission restored inter-personal and communal harmony, again indicative of adherence to customary law which required the restoration of such harmony in order to alleviate bloodfued or kin dispute.

Courts of Great Sessions case evidence indicates that witchcraft in early modern Wales may have had some significant differences from the experience of witchcraft before other courts in neighbouring countries, Continental Europe and America.

Chapter I "Contextualising the Welsh Witch in the Early Modern World: Witchcraft Historiography", provides a comparative analysis between Welsh popular beliefs, the nature of the Welsh witch and existing witchcraft historiography for the early modern world. In this way, the differences and similarities between witchcraft experiences in Wales and the rest of the early modern world can be contextualised.

Chapter II "The Courts of Great Sessions: the context of the witchcraft cases", details the new judicial system under which Wales, in its entirety, existed from 1536. The records from this court system are the main sources from which key evidence can be elicited for early modern Welsh witchcraft. However, despite the fact that English statutes

were imposed on Welsh society, the courts were not a mirror image of the Assize courts of England, nor did the judicial response to witches brought before the Courts of Great Sessions follow the principles of the various English Witchcraft Acts of 1541, repealed by Edward VI in 1547, the Act of 1562 and the Act of 1604.

Chapter III "The Customary *Law of Women* : Social Place and Cultural Status", examines the customary legal environment in which Welsh women had existed for hundreds of years prior to the Acts of Union. Welsh witchcraft slander cases were not heard before the ecclesiastical courts as was common in England and the reasons why Welsh women slandered as witches brought cases before the criminal courts for financial compensation can be found in the customary laws of the Welsh people. The Courts of Great Sessions slander cases are in direct contrast to witchcraft as defamation cases which were brought before the ecclesiastical courts in Wales in the 1700s. This chapter provides evidence for the reasons why the Courts of Great Sessions dealt with witchcraft as words in a criminal court, reinforcing the social place and cultural status of Welsh women after the Acts of Union.

Chapter IV "Order and Authority : Gender and the Continuation of Customary Laws and Practice in Early Modern Wales", examines two concepts of order, that of the English state and that of Welsh adherence to customary law after the Acts of Union and into the twentieth century. Witchcraft in early modern Wales is a gender issue and, using evidence from the centuries after that of the sixteenth, evidence for the Welsh response and reactions to women and witchcraft can be analysed retrospectively. This method overcomes the difficulty encountered because of the lack of contemporary written sources in relation to the women who were the subject of witchcraft as *malefice* and witchcraft as words accusations. The analysis of both types of witchcraft cases before the Courts of Great Sessions provides evidence which supports the principle that such cases reflect the customary laws and practices of the Welsh people rather than the statutes of the English state.

Chapter V "Witchcraft as Words : Slander and Defamation Case Studies" analyses witchcraft as words cases. Defamation/slander cases were usually concentrated in the ecclesiastical courts in early modern England and were not, therefore, awarded financial compensation. This chapter examines why Welsh women lodged such cases in the highest criminal court located within Wales which was available to all Welsh people. All such cases were brought by women, there are no cases of slander brought by men for being called a witch in the Courts of Great Sessions. Witchcraft as words cases were concerned only with the honour of the woman and not with whether she was or was not a practising witch. Using the Great Sessions records, the evidence of the Law of Women and the continuation of customary practices pertaining to women, it can be seen that a woman's social place and cultural status were essential criteria for showing the nature of witchcraft cases as slander. Defamation cases brought before the Welsh ecclesiastical courts in the 1700s provide a direct contrast to reasons associated with the lodgement of

witchcraft as words cases by Welsh women in the Courts of Great Sessions.

Chapter VI "Personal Protection, The First Phase of the Welsh Antidote to Witchcraft as *Malefice*", begins the analysis of the continuation of adherence to customary practice, and the reasons behind the lodgement of so few witchcraft as *malefice* cases in the Courts of Great Sessions. Evidence from court documents indicates that a set pattern of responses, personal antidotes to *malefice*, were undertaken by the accusers. Self-empowerment actions as part of a counter-magical process were undertaken well before a witchcraft case was lodged in the courts. Court case evidence also indicates that individuals moved into the second phase of the antidote process if the personal phase was unsuccessful.

Chapter VII "Communal Protection, The Second Phase of the Welsh Antidote to Witchcraft as *Malefice*", examines the role of the conjuror, the communal balancing agent between the people and the witch, in early modern Wales.

Chapter VIII "Witchcraft as *Malefice* : Witchcraft Case Studies, The Third Phase of The Welsh Antidote to Witchcraft", examines the different dimension of witchcraft cases which were lodged in the Courts of Great Sessions in early modern Wales. The lodgement of a court case was the end process of a *malefice* problem which the participants had been unable to resolve using the personal and communal antidotes offered by customary practices. In all cases but one, each woman accused as a witch admitted her guilt and was found guilty, a verdict however which resulted in the release of the woman with no further punishment. The evidence indicates that the reason why Welsh people lodged such cases was to achieve the reconciliation process which Welsh customary law viewed as the necessary outcome for people injured by or injuring another person. Only through reconciliation could inter-personal and communal harmony be restored. The thesis will argue that it was because the objective of the Welsh court case differed from the objective of court cases in other regions, as instanced by witchcraft historiography, that there were so few witchcraft as *malefice* cases brought to court in early modern Wales.

Chapter IX Conclusion, concludes that the nature of witchcraft cases before the Courts of Great Sessions was reflective of the customary laws and the continued adherence to customary practices pertaining to women and women accused as witches in early modern Wales. The reasons why witchcraft as *malefice* cases were so few and witchcraft as words cases were lodged in the criminal courts for financial compensation were due to the Welsh people's adherence to customary practices and to the customary Law of Women, authorities which clearly remained of greater significant to Welsh people than the authority of the English state.

Chapter I

Contextualising the Welsh Witch in the Early Modern World: Witchcraft Historiography.

I

Witchcraft historiography, from the 1970s to the 1990s, has concentrated on explanatory models. Based on social, political, religious, economic, medical and judicial themes, these models sought to reason why witchcraft, which had been a part of popular culture for hundreds of years, developed to the extent that it did during the early modern period. Explanatory models are functionalist but problematic as the emphasis on the function of the case promotes generalisations which make accommodation of the intricacies of regional variation difficult. The importance of comparative studies has also waned since the 1980s as research has shown that comparisons do not necessarily do sufficient justice to a particular regions' response to witchcraft in a specific social milieu. Added to this, too many regions still remain unstudied, a category into which early modern Wales fits,¹ so general concepts do little but promote preconceived ideas which contemporary regional documents often tend to discount.

Two basic principles underlie witchcraft in every culture: witchcraft begins with popular culture and cannot exist without such a belief system. The second is the degree of fear which popular culture associates with *malefice*, the premeditated harming initiated by the witch. In 1996, Sharpe and Briggs respectively, published on the central role of *malefice* in the popular (and also the learned) reactions to witchcraft.² Put simply, it was what the structures of early modern society did with popular beliefs which generated the diverse reactions to witches and witchcraft.³ These reactions have been explored using the explanatory models and, whilst these have contributed considerably to an understanding of witchcraft in early modern societies, it is still difficult to make sense of why witchcraft arose in the forms in which it did in the early modern period.

The gradual shift away from explanatory models has moved the discipline in two distinct directions: the interpretive model and the regional model which incorporates gender and authority studies. Harris sounded a warning against the tendency to generalise, underlining the importance of witchcraft studies being presented and analysed

¹ Ireland, the Isle of Man, the Outer and Inner Hebrides, the Orkneys and Shetlands, Greenland, the Arran Isles, many regions of the former Soviet republic and Eastern Europe are still unrepresented. Research in America has tended to concentrate on Massachusetts although there are many instances of witchcraft among other colonial groups such as the Quakers in Pennsylvania, the settlements generated by the Pilgrim Fathers, Barbados, South America and many others.

² James Sharpe, *Instruments of Darkness Witchcraft in England 1550-1750*, first published by Hamish Hamilton in 1996 (the thesis uses the Penguin Books Ltd, London, 1997 edition). Robin Briggs, *Witches and Neighbors The Social and Cultural Context of European Witchcraft*, Penguin Books, New York, 1996.

³ Robert Muchembled, "The witches of the Cambrensis: the acculturation of the rural world in the sixteenth and seventeenth centuries," in James Obelkevich (ed) *Religion and the People 800-1700*, University of North Carolina Press, Chapel Hill, 1979, p. 221-276.

separately because the contexts, causes and effects in each country or region are different and therefore, cultural pluralism needs to be recognised.⁴ Cultural pluralism is perhaps the most important aspect of witchcraft historiography because these enable an understanding of individual responses within specific societal structures. The regional variant must, however, recognise the characteristics and common denominators within general witchcraft theories.

Interpretive models concentrate on the experiences of those involved in witchcraft cases, exploring witchcraft as reflective of beliefs, values and fantasies. It also develops witchcraft as an ideological and cultural resource which generates an emphasis on "witchcraft's great symbolic and metaphoric power not only in literature and drama, but in the general world of religion and politics, and in the life of communities."⁵ This, in turn, leads to witchcraft as a category of language. Witchcraft as a system of belief is now considered to be a normal aspect of communal life and it is only in some areas where witchcraft produced responses which were out of the ordinary. Clark sees the current approaches as based on critical theory and cultural history which entails the "reading" of texts, making historians the interpreters of texts, the explorers of patterns of meaning as opposed to causal relationships. Witchcraft studies since the mid 1990s are being re-conceptualised, the emphasis is on "the role of narrative in the actions and descriptions of those who immediately confronted it".⁶ Within the narrative, the "notion of experience is central, both as something lived and as something known," interpretations which Roper, Willis and Briggs have all made.⁷

The narratives/interpretive form contrasts sharply with the regional/social/authority/gender form of the discipline. None of the papers presented at the *Reading Witchcraft Texts-Idioms-Vocabularies*, University of Wales, Swansea 9th -11th September 1998, which explored the regional variations, other than that of Aragon and Lorraine, appear in Clark's *Languages of Witchcraft*, although there were many: witchcraft, gender and society in early modern Hochstift of Eichstatt; witchcraft trials and the influence of literature in Guernsey; a re-assessment of church attitudes to charming as incantation or invocation and the use of ritual and word in seventeenth-century lowland Scotland; witchcraft and gender in the East Midlands of England; and temptations to the Devil's covenant, four underlying themes explored through the theology of Cotton Mather.

⁴ Tim Harris, Tim "Problematizing Popular Culture." in Tim Harris (ed) *Popular Culture in England, c 1500-1850*, Macmillan, London, 1995, p.12.

⁵ This discussion is based on Stuart Clark's "Introduction" in Stuart Clark (ed), *Languages of Witchcraft Narrative and Meaning in Early Modern Culture*, Macmillan Press, Ltd., Houndsmill, 2001, p. 1-18, quote at p. 6. I would like to thank Stuart Clark for his invitation to the conference in Swansea, 1998, which generated this book of collected papers.

⁶ Stuart Clark, *ibid.*, p. 9.

⁷ Stuart Clark, *ibid.*, p. 11, footnote 23, citing Lyndal Roper, *Oedipus and The Devil Witchcraft, sexuality and religion in early modern Europe*, Routledge, London, 1994. Deborah Willis, *Witch-Hunting and Maternal Power in Early Modern England*, Cornell University Press, New York, 1995. Robin Briggs, *op. cit.*

Witchcraft studies in Australian universities were given a forum at *Metamorphoses - Peoples, Places, Times*, 5-8th July 2001, University of Western Australia, The Australian and New Zealand Association for Medieval and Early Modern Studies Conference. The focus here was on the regional and gender issues with an emphasis on male practitioners: male sorcerers in Normandy; the meanings of male witchcraft in early modern England; the male witch in English records, concepts of bodies and persons in early modern witchcraft; demonic and sexual possession in French cases of demonic possession; gender, agency and the metamorphosis of the familiar in early modern English witchcraft, and witchcraft and gender in early modern Wales.

The seeming incompatibility between the two areas of witchcraft studies in the twenty-first century was highlighted by Roper at Perth. Exploring the cultural impact of the Reformation and the Counter-Reformation on magic and witchcraft in the emotional and psychic world of the individual and the witch, Roper reiterated the importance of the reality of the devil as the central figure in German witchcraft cases and the relationship between this figure, the expectations of the accused and of the accusers and judiciary. Roper presented Augsburg witchcraft in terms of gender as a category of social explanation, not only as a product of culture and language, but from the perspective that sexual difference was also a result of physiological and psychological reality. Continuing the theme, Roper⁸ examined the complexities of the witch figure and its metamorphosis over time from the 1434 trials in Augsburg to the later ones of the 1600s. Such transformations give ambiguous meanings to the figure of the witch and, unlike Clark's⁹ polarities and limits of intellectual language in regard to contemporary witchcraft writings, Roper indicated that historians need to regard such documents as an integral but suppressed part of any analysis of the figure of the witch, indicating that the perception must be balanced through analysing the literature of the period and how reflective such literature was of the popular German view of witchcraft, the devil and magic.¹⁰ The major problem with the interpretive model is that it relies on narratives which are not given freely and under conditions which are so subjective that the information contained therein must be viewed with circumspection.

The regional/social model is being presented at York in April, 2002 but few of the papers are being presented by those who prefer the interpretive model. Perhaps an indication that, unless the two models can find sufficient common ground, the discipline

⁸ Lyndal Roper, Plenary paper, ANZAMEMS Conference, University of Western Australia, Perth, 5-8 July 2001, "Metamorphoses : Peoples, Places, Times. ", "The Figure of the Witch."

⁹ Stuart Clark, *Thinking with Demons The Idea of Witchcraft in Early Modern Europe*, Oxford University Press, Oxford, 1997.

¹⁰ Lyndal Roper, *ibid.*

will split into two opposing camps.¹¹ Witchcraft in early modern Wales is a regional study.

Situating early modern witchcraft within regional, county and country frameworks assists with the contextualisation of aspects of theoretical explanations associated with the rise of witchcraft as misogyny, narcotic usage,¹² the syphilitic shock syndrome,¹³ the empowerment or disempowerment of women, mental illnesses of various kinds,¹⁴

¹¹ I would like to thank Wolfgang Behringer for his invitation to attend this conference. The University of York, Department of History: *Witchcraft in Context* April 11-13th, 2002. Final Program: Juergen-Michael Schmidt (Tuebingen, Germany), "No persecutions. The Electoral Palatinate and the European Witch-Craze", Wanda Wyporska (Oxford), "Poland. How to find 10.000 Witches in the State Without Stakes", Hans de Waardt (Amsterdam) "Johan Weyer and the Family of Love", H. C. Erik Midelfort (Charlottesville, Virginia) "Why is the History of Witchcraft So Hard to Learn?"; Robin Briggs (Oxford), "Witches, Healers and Doctors in Lorraine Witchcraft Trials," William Monter (Northwestern University/Illinois), "Mattaincourt: A Catholic Saint's Diabolically-Possessed Parish", Sara Ferber (Brisbane, Australia) "Senses Working overtime: the Bodies of the possessed in early modern France", Ralf-Peter Fuchs (Munich), "Witchcraft and Honour. Litigation against slander before the Imperial Chamber Court", Lyndal Roper (London), "Witchcraft and Psychology. Experiences with recent Witchcraft Research" , Machteld Loewensteyn (Amsterdam), "Magic, Marvels and Moral Judgement. A Debate on Demonic Deceit in two Prints of Pieter Brueghel the Elder" , Dr. Dries Vanysacker (Leuven, Belgium), "The impact of humanists on witchcraft prosecutions in 16th and 17th century Southern Netherlands, especially in the City of Bruges", Oscar Di Simplicio (Florence), "From Witchcraft Accusations to a New Culture of Misfortune. The Sienese Case, 1580-1721", Catherine Rider (University College London), "Magical Remedies and Medieval Physicians (ca. 1250-1450): Magic and Impotence in the Middle Ages", Louise Nyholm Bertramsen (Aalborg, Denmark), "Early 17th Century Inquisitorial Manuals", Kateryna Dysa (Queens College, Oxford), "Stories of Rivalry and Subordination in Ukrainian Witchcraft Trials of the Eighteenth Century", Marie Lennerstrand (Falun, Sweden), "The Aftermath of the Dalarna Trials (1669-1671) in Sweden", Laura Stark-Arola (Helsinki, Finland) "The Social Dynamics of Witchcraft Accusations in Rural Finland" , Lauren Martin (University of Edinburgh) "Women, Work and Words. The witchcraft interaction and community level witch-labelling in early modern Scotland", Joyce Miller (University of Edinburgh) "That Charming Man", Jonathan Durrant (London), "The Witchcraft Suspect in Custody. The Experience of Maria Mayr of Eichstaett, 1618-1619" , Andrew Cambers (York), "Ritual Reading: The Power of the Book in Edward Fairfax's 'Daemonologia'", Greg John Warburton (Newcastle/New South Wales, Australia) "The Mentality of Misfortune. An Anthropology of Religion and Magic Revisited."

¹² Sally Hickey (nee Parkin), "An Alternative View of Witchcraft: Hallucinogens and 16th and 17th English Witches", Litt.B. thesis (unpublished), University of New England, 1981. This work was inaccurately quoted by G.R. Quaife, *Godly Zeal and Furious Rage The Witch in Early Modern Europe*, Croom Helm, London, 1987, p. 202-203. Quaife has drawn inferences from the ointment compilations which have misrepresented the reality of early modern use of such ingredients. Unfortunately, the misrepresentation continues: James Sharpe, *Instruments of Darkness Witchcraft in England 1550-1750*, Penguin, London, 1997 edition, p.11, quoting Quaife. The best overall interpretation of hallucinogen usage can be found in Michael J. Harner, (ed) *Hallucinogens and Shamanism*, Oxford University Press, London, 1973.

¹³ Stanislav Andreski, *Syphilis, Puritanism and Witch-Hunts: Historical Explanations in the Light of Medicine and Psychoanalysis with a Forecast about Aids*, Macmillan, Basingstoke, 1989.

¹⁴ Michael MacDonald, *Mystical Bedlam*, Cambridge University Press, Cambridge, 1981. Michael MacDonald and Terence R. Murphy, *Sleepless Souls Suicide in Early Modern England*, Clarendon Press, Oxford, 1990.

urbanisation, underemployment and unemployment,¹⁵ women, particularly as midwives, as scapegoats, ¹⁶ agents of the Devil,¹⁷ pagan fertility cults, ¹⁸ patriarchal domination,¹⁹ the mass production of deviance as a control mechanism used by the early modern state,²⁰ and witchcraft as misogyny,²¹ to cite a few. These themes are vital for the construction of an entire picture. Witchcraft historiography now has such an enormous body of literature that it is unlikely that one cause will or should ever be established.

This thesis is a regional study, incorporating not only the Welsh popular view of what constitutes a witch but the methodology behind the types of court cases lodged in the Courts of Great Sessions. There are similarities between Welsh popular belief and the beliefs of other popular cultures but there are some significant differences in the reaction of authorities to the figure of the Welsh witch. Contextualising the Welsh witch within witchcraft historiography for the early modern world will show the similarities and the differences.

Witchcraft as an experience of authority extends the notion of the centrality of experience, examining witchcraft as an aspect of gender and authority, based largely on

¹⁵ The development of these areas has been largely dependent on Alice Clark, *Working Life of Women in the Seventeenth Century*, Frank Cass and Co. Ltd, 1968. Her work has also generated the extension of studies into gender, authority and power and witchcraft as an aspect of early modern history. See Chapter IV Order and Authority : Gender and the Continuation of Customary Laws and Practice in Early Modern Wales, of the thesis for a discussion of these studies.

¹⁶ T. R. Forbes, *The Midwife and the Witch*, Yale University Press, New Haven, 1966. Barbara Ehrenreich and Deidre English, *Witches, Midwives and Nurses*, Glass Mountain Pamphlets, 1973. Pennethorne Hughes, *Witchcraft*, Pelican Books, Harmondsworth, 1973.

¹⁷ Montague Summers, *A Geography of Witchcraft*, Kegan Paul, London, 1927.

¹⁸ Margaret A. Murray, *The Witch-Cult in Western Europe*, Clarendon Press, Oxford, 1921. Margaret A. Murray, *The God of the Witches*, Clarendon Press, Oxford, 1931.

¹⁹ Marianne Hester, *Lewd Women and Wicked Witches A Study in the Dynamics of Male Domination*, Routledge, London, 1992.

²⁰ Jon Oplinger, *The Politics of Demonology : The European Witchcraze and the Mass Production of Deviance*, Susquehanna University Press, Selinsgrove, 1990.

²¹ There are many aspects of the witchcraft as misogyny argument: Sara Heller Mendelson, *The Mental World of Stuart Women*, Harvester Press, Brighton, 1987; Mary Daly, *Gyn/Ecology*, The Women's Press Ltd., London, 1979; Gerda Lerner, *The Creation of Patriarchy*, Oxford University Press, Oxford, 1986; Carol P. Christ, "Why Women Need the Goddess Phenomenological, Psychological and political reflections," in Sneja Gunew (ed) *A Reader in Feminist Knowledge*, Routledge, London, 1991; Susan Griffin, "The Way of All Ideology," in Michelle Z. Rosaldo and Barbara C. Guelpi (eds) *Feminist Theory*, The Harvester Press Ltd, Sussex, 1982; Carolyn Merchant, *The Death of Nature: Women, Ecology, and the Scientific Revolution*, Harper and Row, New York, 1980; and Carolyn Merchant, *Ecological revolutions Nature, Gender, and Science in New England*, The University of North Carolina Press, Chapel Hill, 1989; Penelope Shuttle and Peter Redgrove, *The Wise Wound: Menstruation and Everywoman*, Penguin Books, Harmondsworth, 1980; Rosemary Ruether, "The Persecution of Witches: A Case of Sexism and Agism", *Christianity and Crisis*, 34, 1974, p. 291-295; Patricia Crawford, "Attitudes to Menstruation in Seventeenth-Century England," *Past and Present*, No. 91, 1981, p. 47-73. G.R. Quaife, *Godly Zeal and Furious Rage: The Witch in Early Modern Europe*, Croom Helm, London, 1987, argued that misogyny was not necessarily sexual, rather it lay in the attitudes of the intellectual and religious elite who chose to focus simply on the weakest elements of society who happened to be women.

the fact that most of the accused witches were women. Wales, initially appearing to follow Briggs's²² *maleficium* as the "common currency" of witchcraft, differs considerably since Welsh cases exhibit a very specific relationship between gender and the figure of the witch. More specifically, the documents relating to women accused of witchcraft as *malefice* in Wales use the term "witchcraft" whereas the cases concerning men use the term "bewitchment", not "witchcraft." This indicates that the language of witchcraft as well as the experience of witchcraft between the genders in Wales was probably perceived with a different emphasis on meaning. Popular culture and belief provide the base for this perception as witches in early modern Wales were considered to be women only.

Defining what the word "witch" meant to early modern Welsh people, how they perceived the person of the witch and what characteristics they associated with the witch can be established through the evidence provided in witchcraft as words and witchcraft as *malefice* court case documents. Linguistic definition is very important because *witch* was not a native Welsh term. Practitioners of the magical arts were referred to as *rheibwr* or *rheibes*, depending on the sex of the person, and came from the word *rheibio* which meant to *bewitch*²³ and was all inclusive. The introduction of the word *witscrafft* in some early Welsh manuscripts was borrowed from the English word *witchcraft*,²⁴ *wits* being the Welsh term used for the English term *witch*. The first printed use of *wits* was in a dictionary published in 1547 by William Salesbury,²⁵ which defined *wits* as meaning a *dewim* (sic) *wraic* or, in modern Welsh, *dewin gwraig*, or a woman diviner/wizard/soothsayer.²⁶ The usage clarified the term *witch* still further as Salesbury's definition implied that *wits* only referred to women in the Welsh language. The term *gwraig /gwarch* in the Welsh language described an "ugly old woman, crone, hag, witch, sorceress".²⁷ Not only is this a linguistic reference to women, it further implies that *witch* referred to

²² Robin Briggs, *Witches and Neighbors...*, op. cit.

²³ *Geiriadur Prifysgol Cymru A Dictionary of The Welsh Language*, University of Wales Press, Cardiff 1968- ongoing. Cites the use of these terms in Volume XLVIII, 1998 as being mentioned in the written work of William Salesbury, *Kynniver Llith a Ban*, 1551; Robert Holland, *Agoriad byrr ar Weddi'r Arglywdd*, 1677; and Edward Lhud, *Archaeologica Britannica*, 1707.

²⁴ T. Gwynn Jones, *Welsh Folklore and Folk-Custom*, Methuen and Co. Ltd., London, 1930, p.125.

²⁵ William Salesbury *A Dictionary in Englyshe and Welsh*, London. This was reprinted in 1887 by the Honourable Society of Cymmrodorion. *Geiriadur Prifysgol Cymru A Dictionary of The Welsh Language*, University of Wales Press, Cardiff 1968- ongoing., cites the written information as William Salesbury's text.

²⁶ Richard Suggett, *Some Aspects of Village Life in Eighteenth Century Glamorgan*. B.Lt. (Oxon), 1976, p.200. Richard Suggett's work goes on to explore the linguistic evidence for the introduction of the term into Welsh writings, Bible translations and culture. (Richard Suggett, op.cit., p.198-203.). I would like to thank Richard Suggett for our discussions at Aberystwyth in 1994 and for sharing his thoughts on the views of witchcraft in eighteenth century Wales.

²⁷ *Geiriadur Prifysgol Cymru A Dictionary of The Welsh Language*, University of Wales Press, Cardiff 1968- ongoing. Cyfrol II G-Llys, 1968-1987 cites the use of this term on p.1695-1696, the earliest written date is 1514.

women who were viewed as figures of bad or evil intent.²⁸ Suggett cites the replacement of *rheibes* in the 1588 translation of the Bible with *hudoles* in the 1620 publication but the feminine implication remained as both terms were female.²⁹

The term *wits /witch* remained a standard reference throughout the early modern period: *wits /witch*, when used in colloquial speech, always meant a woman and was not a term used in conjunction with men.³⁰ Court records for Wales support this implication as all witchcraft as words cases before the Courts of Great Sessions, where the emphasis on citing the slander in Welsh was paramount, concern women who were called *wits/witsh* (sic). Every witchcraft as words case was of a woman bringing another, usually a woman, to court for having slandered her as a witch.³¹ Similarly, witchcraft as *malefice* cases concern only women as there is no case in which a man is brought to court accused of being a *malefice* practicing witch.³²

Men who practiced the magical arts were referred to as conjurors, sometimes as wizards, and as sorcerers or soothsayers, again depending upon which branch of the magic arts they practiced. Conjurors were regarded as being beneficial as they found stolen goods, created charm papers for protection and acted in a protective capacity when it came to dealing with the effects of the witch and her activities. *Consuriwr*³³ was also a Welsh borrowing from the English term *conjuror* although the Welsh term was used only for men. The terms had a much wider meaning in England where both men and women could be referred to as witches, cunning people, charmers, and healers although, by the early modern period, witches were generally women.³⁴ Whilst the Welsh borrowed the terms, they do not appear to have borrowed the concepts which accompanied such terms as the Welsh language specified one term for women and another term for men whereas *witch* was not a totally gendered term in England.

²⁸ *Geiriadur Prifysgol Cymru A Dictionary of The Welsh Language*, University of Wales Press, Cardiff 1968- ongoing. Cites the use of these terms in Volume XLVIII, 1998 as being mentioned in the written work of William Salesbury *Kynniver Llith a Ban*, 1551.

²⁹ Richard Suggett, "Witchcraft Dynamics in Early Modern Wales." in Michael Roberts and Simone Clarke (eds), *Women and Gender in Early Modern Wales*, University of Wales Press, Cardiff, 2000, p. 84.

³⁰ *Geiriadur Prifysgol Cymru A Dictionary of The Welsh Language*, University of Wales Press, Cardiff 1968- ongoing. The entry specifically states that William Salesbury cited the term *wits* as referring to women who were evil.

³¹ Please see Appendix I Witchcraft as Words Case Studies.

³² Please see Appendix II Witchcraft as *Malefice* Case Studies.

³³ *Geiriadur Prifysgol Cymru A Dictionary of The Welsh Language*, University of Wales Press, Cardiff 1968- ongoing. Vol. I Part I, 1950, p.553 citing William Salesbury *Testament Newydd ein Arglwydd Jesu Christ*, 1567 who used the terms *consriwr*, *consurwr*, *consierwr*, *consurwyr* meaning conjuror or conjurer.

³⁴ Keith Thomas, *Religion and The Decline of Magic Studies in Popular Beliefs in Sixteenth - and Seventeenth-Century England*, Penguin Books, London, 1991, pp. 209-210, 295-6, 219-220, 316-18, 323-324, 271-272. Owen Davies, *Witchcraft, Magic and Culture, 1736-1951*, Manchester University Press, Manchester, 1999, Chapter 5 Occult Practitioners, p. 214-270.

Witchcraft case evidence in early modern Wales does not show any marked difference between the evidence witness statements give as to the figure of the witch and the characteristics which Welsh popular culture attributed to the witch. Essentially, the witness statements mirror Welsh popular cultures' concepts of the witch and the characteristics which Welsh popular culture attributed to the witch. Based on linguistic evidence, the witch, as far as the Welsh people were concerned, was always a woman as popular culture dictated that only women could be witches because only women engaged in *malefice*. The concept is an important deviation from the less specific gendering of the term in England and Scotland where witches were usually, but not always, women.³⁵ *Malefice*, as a term, was generally defined as premeditated and intentional harm but evidence for Wales indicates that the definition was more specific. Accompanying the association of *malefice* only with women was the evidence from witchcraft as *malefice* court cases that *malefice* in Wales usually meant premeditated and intentional harm which resulted in the death of a person. Welsh *malefice* cases did not deal with bewitchment and generation of illness, lost crops, milk and butter churnings: women were before the courts charged with *malefice* witchcraft which had resulted in death. Cases in which women were accused of bewitchment but where people did not die were also lodged before the courts and the guilty woman was released. Even when the verdict of guilty was brought against the woman whose *malefice* had resulted in death, the woman was not imprisoned, fined or executed.

Survival of the accused witch is not, however, confined to early modern Wales. In Scotland, from 1500 to 1700, one thousand people were executed because they were witches but another two thousand were also accused. These people were acquitted, or had the case against them dropped, died in prison, escaped from prison or they were given a non-capital punishment, such as banishment.³⁶ In Portugal, the normal procedure for witches after the witch panics of the 1550s and the 1710-1760s, was a whipping and banishment from either the town, city, municipality or diocese.³⁷ In Venice, punishments included imprisonment, exile, public whipping or the pillory, and the galleys, although not for women.³⁸ Klaniczay's research for Hungary showed that of over 1,482 cases, most of which concerned women, recorded between 1520-1777, 412 women were given the death sentence, 636 trial outcomes were unknown, 22 died in prison or were lynched, 213 were acquitted and 199 were given lesser sentences which included corporal

³⁵ Christina Lerner, *Enemies of God The Witch-hunt in Scotland*, Chatto and Windus, London, 1981, p. 91- 92. For a more recent analysis of witchcraft, women and witches in Scotland, see Julian Goodare, "Women and the witch-hunt in Scotland.", *Social History*, Vol. 23, No. 3, October, 1998, p. 288- 308. James Sharpe, *Instruments of Darkness Witchcraft in England 1550-1750*, Penguin Books, London, 1997, p. 114.

³⁶ Christina Lerner, Christopher Hyde Lee and Hugh V. McLachlan, *A Source Book of Scottish Witchcraft*, Department of Sociology, University of Glasgow, Glasgow, 1977, p. 240.

³⁷ Francisco Bethencourt, "Portugal : A Scrupulous Inquisition ." in Bengt Ankarloo and Gustav Henningsen (eds) *Early Modern Witchcraft : Centres and Peripheries*, Oxford University Press, Clarendon, 1990, p. 407- 409.

³⁸ Ruth Martin, *Witchcraft and the Inquisition in Venice 1550-1650*, Blackwell, Oxford, 1989, p. 221.

punishment, banishment or a fine.³⁹

Balleine's examination of the records of the Royal Court of Jersey provided a cross section of sixty-four trials, beginning in 1562, and ongoing until the 1620s. Most of the accused were women and, whilst the majority were executed, some were banished, others were given severe warnings by the court, and some died in the Castle before reaching trial. In some cases, the accused were acquitted when the jury failed to reach a unanimous verdict and these individuals were given "severe warnings."⁴⁰ Dewar analysed witchcraft in Guernsey, establishing that sorcery trials and executions continued in Guernsey for a century after Jean Thoumes was executed in 1550. In the next decade, three witches and wizards were burnt at the stake, another witch was whipped at the crossroads and another had one ear nailed to the pillory, after which it was cut off and thrown into the sea. The woman, Colenette Gascoing, was banished for life. Trials continued until 1649 but not all verdicts were recorded and some accused were released as there was insufficient evidence against them.⁴¹ McGuinness completed more recent research on witchcraft in the Royal Court records of Guernsey, finding that between 1563 and 1650, there were 167 witchcraft trials either as witchcraft or for the slander of being called a witch. Of these, 40% were executed, eleven had no known outcome but, depending on the will of the Royal Court, some may have been banished.⁴² The Netherlands follows similar diverse reactions to accused witches.⁴³

However, none of these countries experienced witchcraft accusations in quite the same way as did Wales. Although most witches in England, Scotland, Guernsey, Portugal, Hungary and Venice were women, all were not. In Wales, not only linguistic evidence supports the popular belief that only women could be witches but so does court case evidence, all of which implies that, in early modern Wales, only women were accused as *malefice* practitioners and only women were slandered as witches. The specific gendered nature of the Welsh evidence is further supported by the evidence that popular beliefs prior to the Acts of Union in 1536 were ongoing from the beginning of both types of witchcraft cases, 1594 to 1693 for witchcraft as *malefice* and 1604 to 1783 for witchcraft as words. Over a period of two hundred years, the popular belief record and the judicial record concur: the characteristics of the Welsh witch remain uncompromised. Details concerning the specific characteristics which Welsh people associated with

³⁹ Gabor Klaniczay, "Hungary: The Accusations and the Universe of Popular Magic." in Bengt Ankarloo and Gustav Henningsen (eds) *Early Modern Witchcraft: Centres and Peripheries*, Oxford University Press, Clarendon, 1990, pp. 219-255, 222.

⁴⁰ G.R. Balleine, "Witch Trials in Jersey.", *Societe Jersiaise*, Vol. 13, 1939, p. 379-398.

⁴¹ Stephen Dewar, "Witchcraft and the Evil Eye in Guernsey." *Guernsey Historical Monograph*, No. 3, 1968, p. 3-12.

⁴² Malcolm McGuinness, Exeter University. Unpublished postgraduate paper presented at "Reading Witchcraft Texts- Idioms- Vocabularies, History Department, University of Wales, Swansea, 9-11th September, 1998. " Witchcraft Trials and the Influence of Literature: Guernsey."

⁴³ Marijke Gijswijt-Hofstra, "The European witchcraft debate and the Dutch variant," *Social History*, Vol. 15, No. 2, 1990, p. 181-194.

witches in both contexts will, in all probability, provide answers to the small number of witchcraft cases before the courts as well as the experiences and responses of the accused, the accusers and the judiciary in Wales.

II

The Welsh witch was not usually one of the marginalised poor, her position was more akin to the "middling" sort of people. Witchcraft as words cases provide considerable detail about the occupations of all parties, marital status and their social position within their respective communities. Case evidence does not suggest that these women were generally part of the marginalised poor and the majority of Welsh evidence does not fit within the basic socio-economic framework generated by Trevor-Roper, Thomas and Macfarlane.⁴⁴ Gwen verch Ellis was sufficiently wealthy to have a maid as well as her own home,⁴⁵ perhaps one of the more "middling" sort of people whose "ability to employ servants... was one manifestation of their substance ; and while this did not distinguish them from the landed gentlemen above, it differentiated them from the poorer sort below them."⁴⁶

The social position of the Welsh witch probably needs to be considered more in the light of Gaskill's research for Kent and Gregory's for Rye, both of which challenge the stereotype of the English witch developed by Thomas and Macfarlane.⁴⁷ According to their typology the witch was usually female, elderly, one of the marginalised poor and widowed, characteristics which generated the link between witchcraft accusations as a social strain gauge and changing attitudes towards charity and helping one's neighbour. Gaskill however, found that the majority of women accused of witchcraft practices in Kent from 1560-1640 were married, were active community members, and were of comparable social rank. Personal feuds developed into witchcraft accusations between competing households as well as between individuals, so that interpersonal disputes were often the source of witchcraft accusations.⁴⁸ Gregory attributed the 1607 prosecutions in Rye to local politics and dissension between commercial factions in the town which was experiencing economic stress. Two women were accused, one a wise

⁴⁴ Hugh Trevor-Roper, *The European Witch Craze of the Sixteenth and Seventeenth Centuries and Other Essays*, Penguin Books, Harmondsworth, 1969, i.e. witchcraft accusations were a way of assuaging guilt over uncharitable conduct. Keith Thomas, op. cit. Alan Macfarlane, *Witchcraft in Tudor and Stuart England A regional and comparative study*, Routledge and Kegan Paul, London, 1970.

⁴⁵ NLW, Great Sessions 4/9/4/10. NLW Denbigh Gaol Files (1594) Great Sessions for Denbigh.

⁴⁶ Joan Kent, "The Rural 'Middling Sort' in Early Modern England, circa 1640-1740: Some Economic, Political and Socio-Cultural Characteristics.", *Rural History*, No. 10, 1999, 1, p. 19-54, at p. 22.

⁴⁷ Keith Thomas, op. cit., pp. 630, 652, 665- 671; Alan Macfarlane, op. cit., pp. 104-5, 110-12, 150-151, 168-176, 196-197.

⁴⁸ Malcolm Gaskill, "Witchcraft in early modern Kent: stereotype and the background to accusations." in Jonathan Barry, Marianne Hester and Gareth Roberts, (eds), *Witchcraft in Early Modern Europe Studies in Culture and Belief*, Cambridge University Press, Cambridge, 1996, pp. 257-287, 263-264, 265, 266, 271, 277, 283.

woman who was well off and socially advantaged, the other the woman who had consulted her. One woman was scapegoating the other and such a breakdown in good neighbourliness was considered spiritually dangerous. Rye witchcraft accusations were, Gregory concludes, related to political factionalism generated by the economics of merchants and competition,⁴⁹ with results, however, which differed considerably from a similar competitive framework in Salem, 1692.⁵⁰

A change in the perception of the witch's social status, the de-stereotyping of the Thomas and Macfarlane witch model, has emerged in more recent research. The accused witch might not necessarily be one of the marginalised poor but perhaps one of the more assertive, powerful, perhaps aggressive, and active members of the community with whom many people had contact on various levels. New images have emerged for England,⁵¹ New England,⁵² Germany,⁵³ Sweden,⁵⁴ France⁵⁵ and Scotland.⁵⁶ These social images, most of which were published before Clark's *Thinking with Demons*, may provide different avenues of exploration since, as Clark states, however clearly functionalist historians show that certain women were "anomalous" or economically marginal, this is still not an explanation for the reason why women generally were accused as witches. Clark's conceptual dualities, developed from the premise of demonology as an orthodox discipline of early modern thought concerned with dual and opposed systems of classification (God/Devil, male/female, order/disorder etc), does no more and no less than the functionalist approaches Clark criticises in connecting witchcraft and women directly.⁵⁷

⁴⁹ Annabel Gregory, "Witchcraft, politics and "good neighbourhood" in early seventeenth-century Rye.", *Past and Present*, Vol. 133, 1991, pp. 31-66, 33-35 and 37.

⁵⁰ Paul Boyer, and Stephen Nissenbaum, *Salem Possessed: the Social Origins of Witchcraft*, Harvard University Press, Cambridge, Massachusetts, 1974.

⁵¹ James Sharpe, *Instruments of Darkness Witchcraft in England 1550-1750*, Penguin, London, 1997, p. 169-189.

⁵² Carol P. Karlsen, *The Devil in The Shape of a Woman. Witchcraft in Colonial New England*, Norton, London, 1987.

⁵³ Lyndal Roper, "Witchcraft and Fantasy in early modern Germany.", in Jonathan Barry, Marianne Hester and Gareth Roberts, (eds), *Witchcraft in Early Modern Europe Studies in Culture and Belief*, Cambridge University Press, Cambridge, 1996, p. 207- 236.

⁵⁴ Bengt Ankarloo, "Sweden: The Mass Burnings (1668-1676)." in B. Ankarloo and G. Henningsen (eds) *Early Modern Witchcraft: Centres and Peripheries*, Oxford University Press, Clarendon, 1990, p. 310-312.

⁵⁵ Robin Briggs, *Witches and Neighbors . The Social and Cultural Context of European Witchcraft*, Penguin Books, Harmondsworth, 1996, p. 265-271. Robin Briggs, "Circling the Devil: Witch-Doctors and magical Healers in Early Modern Lorraine.", in Stuart Clark (ed), *Languages of Witchcraft Narrative and Meaning in Early Modern Culture*, Macmillan Press, Ltd., Houndsmill, 2001, p. 161-178.

⁵⁶ P.G. Maxwell-Stuart, "The fear of the King is death: James VI and the witches of East Lothian.", in William G. Naphy and Penny Roberts, (eds) *Fear in Early Modern Society*, Manchester University Press, Manchester, 1997, p. 209-225. Julian Goodare, "Women and the witch-hunt in Scotland.", *Social History*, Vol. 23, No. 3, October, 1998, p. 288- 308.

⁵⁷ Stuart Clark, *Thinking with Demons The Idea of Witchcraft in Early Modern Europe*, Clarendon Press, Oxford, 1997. p. 107-120.

The answer to the question of why witches were women rather than why women were witches in early modern Wales may simply be that popular mentalities perceived that witches could only be women because only women practised *malefice*. Yet the numerous witchcraft as words cases lodged in the criminal Courts of Great Sessions, if pursued as criminal rather than slander cases, could also have resulted in many more guilty of *malefice* verdicts. Similarly, only women could be witches in Aragon because women were responsible for infanticide and the church connected the high incidence of infanticide in Aragon to witchcraft. The logic followed the premise that abortion or the killing of a newborn child was a cessation of reproduction, a tampering with the fertility of women which was an aberration in the Catholic church.⁵⁸

The common link established between old age and witchcraft is an area where Welsh witches differ as, generally, she is not old.⁵⁹ Witchcraft as words cases concern mainly married women, as information about marital status was central to establishing both their own and their slanderers' social status. Witchcraft as *malefice* cases were, however, concerned with different issues, and detailed information is not so explicit. Gwen verch Ellis was approximately 50 years old,⁶⁰ Margaret David/Maggie Hier's age was unknown although her mother, Gwennlian David / Lys Hier was in her eighties.⁶¹ Margaret verch Richard may have been a poor widow as the declaration against her states: "that shee had noo goods, or cattle, land or rents,"⁶² but her age was not declared.

Marital status is important for reasons other than those relating to Welsh cases as much has been made of the vulnerability of single women, whether widowed or unmarried, in early modern societies.⁶³ The Welsh witch was usually married and some had an income of her own which gave her a measure of economic independence from her husband/s. Gwen verch Ellis had been married three times, two of her husbands were dead and she was then living apart from her third.⁶⁴ Gwen's chief income was gained from spinning and making cloth but she also made "plasters and salves for hearts that are

⁵⁸ Maria Tausiet Carles, University of Madrid, paper presented at "Reading Witchcraft Texts- Idioms- Vocabularies, History Department, University of Wales, Swansea, 9-11th Septemeber, 1998. "Witchcraft as Metaphor: Infanticide and its Translations in Sixteenth-Century Aragon." This paper has since been published in Stuart Clark (ed), *Languages of Witchcraft Narrative and Meaning in Early Modern Culture*, Macmillan Press, Ltd., Houndsmill, 2001, see Maria Tausiet, "Witchcraft as metaphor: Infanticide and its Translations in Aragon in the Sixteenth and Seventeenth Centuries." p. 179-195.

⁵⁹ Rosemary Ruether, "The Persecution of Witches; A Case of Sexism an Agism," *Christianity and Crisis*, Vol. 34, 1974, p. 291-295. S.R. Burstein, "Aspects of the Psychopathology of old age," *British Medical Bulletin*, Vol. 6, No. 1-2, 1949, p. 63-71.

⁶⁰ NLW, Great Sessions 4/9/4/10. NLW Denbigh Gaol Files (1594) Great Sessions for Denbigh.

⁶¹ NLW, Great Sessions 4/7/19/2/48. NLW Great Sessions for Carmarthen (1656).

⁶² NLW, Great Sessions 16/7. Great Sessions for Anglesey, 1655.

⁶³ See Keith Thomas, op. cit., pp. 630, 652, 665-671 and Alan Macfarlane, op. cit., pp.104-5, 110-112, 150-151, 168-176, 196-197.

⁶⁴ NLW, Great Sessions 4/9/4/10. NLW Denbigh Gaol Files (1594) Great Sessions for Denbigh.

diseased " as she was a healer who also had a reputation for seeing into the future.⁶⁵ Gwen stated that she also used to charm children and animals with plasters, drinks and salves and had been doing so for fifteen years.⁶⁶ The occupations of Gwenllian David and Margaret David were not stated but Margaret may also be classified as a healer although most of her patients seemed to be of the view that her "healing" was a hands on blessing after she had, unbeknowned to them, bewitched them.⁶⁷ Katherine Rees's occupation was not given but she was married.⁶⁸ The marital status of Golly Lullock was not given, nor was her occupation⁶⁹ but Olly Powell was an old woman and a widow.⁷⁰ Evidence for Dorothy Griffith indicated that she was a young, unmarried woman.⁷¹ Anne Ellis' marital status was not defined but she did have several children, lived in various homes with at least one of her female accusers and earned her living by knitting and begging.⁷² Katherine Lewis was a married woman, the wife of Thomas Bowen, who was a labourer.⁷³

The economic associations between witch accusations and women have hinged on the deterioration of the position of women and the changed role of women in economic production.⁷⁴ This was a result of the gradual move from feudalism to pre-capitalism and eventual capitalistic production. Disempowerment of women accompanied the beginning of capitalism as women's positions were affected by a series of inter-related developments. The gradual substitution of an individual wage by a family wage enabled men to organise themselves in the competition which ruled the developing labour market. But this did not share all the benefits gained in combination with the female members of the family. The family group had bound husband/wife interests together as an economic unit but infant capitalism disassociated them from each other and introduced rivalry for work and wages between individuals whereas previously it had been between families.

⁶⁵ NLW, Great Sessions 4/9/4/10. NLW Denbigh Gaol Files (1594) Great Sessions for Denbigh.

⁶⁶ NLW, Great Sessions 4/9/4/10. NLW Denbigh Gaol Files (1594) Great Sessions for Denbigh.

⁶⁷ NLW, Great Sessions 4/719/2/49. NLW Great Sessions for Carmarthen (1656).

⁶⁸ NLW, Great Sessions 4/886/15. Great Sessions for Cardigan (1693).

⁶⁹ NLW, Great Sessions 4/789/4 Great Sessions for Pembroke (1655).

⁷⁰ Bodleian Library MS: Ashmole1815 f.r-v. Letter written in February 1693/4 by John Edwards, then a justice of the peace for Pembroke to Alexander Forde, his Archdeacon then at Jesus College. The letter details the case of Olly Powell. If extant court records concerning the case of Olly Powell exist, these should be located in the NLW, Great Sessions for Pembroke 1693/4 Sessions held in April 1693 (NLW, Great Sessions 4/800/1); OR August 1693 (NLW, Great Sessions 4/800/2); OR August 1694 (NLW, Great Sessions 4/800/3); OR September 1694 (NLW, Great Sessions 4/800/4).

⁷¹ NLW, Great Sessions 4/985/2/1. Great Sessions for Flint (1655-56).

⁷² NLW, Great Sessions 4/985/5/f.21

⁷³ NLW, Great Sessions 33/6/5, the testimony of Richard Browning who gives this information concerning Katherine Lewis.

⁷⁴ Alice Clark, *Working Life of Women in the Seventeenth Century*, Frank Cass and Co. Ltd., 1968, p. 295-299.

Disassociation was not deliberate, it occurred along with the change of structure within the community, population expansion and the move from rural holdings to the towns which, in turn fostered the development of capitalistic principles. Capitalism prompted individualism where previously the familial unit concentrated on all members of the family group and their united economic survival.⁷⁵ At all socio-economic levels of society women performed vital services and were recognised for their contributions to everyday life but this challenged the official view of women as mentally and physically incompetent and morally defective. There was little or no official recognition of the part played by women within the community. Early modern Europe was undergoing economic changes which almost enforced this official view of women. Inflation in the sixteenth century, famines, dearth and destruction associated with religious wars, the commercialisation of agriculture, increased population mobility as people moved from rural areas to cities in search of employment, increased vagrancy and transient numbers all contributed to economic explanations for the rise in witchcraft accusations.⁷⁶

The economic milieu of early modern Wales was of considerable importance in terms of the analysis of witchcraft in this period. The country was generally poor overall, a situation which constantly emphasised the community based approach to survival and the continuation of neighbourly principles in a kin based society which felt obligated to caretake its own people. The degree and effects of economic changes were not as marked in Wales and, in consequence, the social ramifications which prompted witchcraft accusations as a result of economic changes were not pronounced.⁷⁷ Financial security was, however, a problem for the Welsh because of the seasonal nature of their rent/lease accumulation, which was based on cattle and cloth sales.

⁷⁵ *ibid.*, p. 300.

⁷⁶ Merry E. Wiesner, *Women and Gender in Early Modern Europe*, Cambridge University Press, Cambridge, 1993, p. 221.

⁷⁷ David J. Davies, *The Economic History of South Wales Prior to 1800*, University of Wales Press, Cardiff, 1933, p. 78. Wage assessments for Wales in the sixteenth and seventeenth centuries were very rare but a Merioneth wage assessment for servants, artificers and labourers exists from 1601. The wage assessments were carried out by the Justices of the Peace under a statute of Elizabeth (5 Eliz. c.4.) enacted in 1562-1563 and were assessed for the yearly rate of pay. Bailiffs of husbandry were paid 35s 8d per annum whilst reapers were paid 2d. and the list details whether or not the pay included meat and drink for daily consumption during the work period. (T.C. Mendenhall, T.C. "A Merioneth Wage Assessment for 1601." *Journal of the Merioneth Historical and Record Society*, Vol. II, No. 3, 1955, p. 204-208. Citing : Kinmel MSS, 1610, F. II). Monetary inflation rose again in the early part of the sixteenth century and, between the years 1570-1639, cereal prices rose but money wages were much less "buoyant... and real wages may reasonably be presumed to have fallen." (F.J. Fisher, "Influenza and Inflation in Tudor England." *Economic History Review*, 2nd series, 18, 1965, p.122.).

Wales was not, however, a rich country. The economy⁷⁸ was based on agriculture as the majority of the Welsh people were engaged in a mainly pastoral form of agriculture with some mixed farming. Counties specialised according to the nature of the terrain but farming practices were generally more backward. Yields were not high and the people were a lot poorer than their English counterparts. Advancement of new agricultural practices was slow in Wales as most people were Welsh speakers who could not read or write English, the language in which most agricultural literature of the period was written. It was not until the 1680s that husbandry techniques improved, the English language being, by then, more widespread in Wales. Rural settlement patterns were generally sparse with single farmsteads dispersed throughout the uplands with some nucleated small hamlets. In the mixed farming lowlands large villages were to be found although the normal settlement pattern consisted of single farms and small hamlets.⁷⁹

Major outbreaks of witchcraft in England and Scotland occurred more regularly in the prosperous rather than poorer counties. In Essex in the 1580s and 1590s, good harvests were experienced yet these years were those in which most witchcraft accusations occurred.⁸⁰ Similarly, in Scotland, the fertile areas of the eastern seaboard, the southwest, the lowlands and the Borders underwent major outbreaks of witchcraft but the poorer Highland regions never experienced the witch hunts of the Lothians, Fife, Aberdeen and the Borders. This is probably related to the fact that the economies of the richer agricultural areas were undergoing greater levels of change than the poorer regions. Economic changes both precipitated and were accompanied by changes in the social infrastructure of the area whereas, in areas where little or no change was experienced, witchcraft accusations did not arise. The all inclusive clan system, the social force in the Highlands, ensured the caretaking of all members of this extended family and kinship group under the auspices of the laird, a secure system which eliminated much social stress. No "outside elite saw fit to meddle in the moral relationships of the local

⁷⁸ For a general overview of the economic and agricultural situation in early modern Wales: A.H. Dodd, "The Pattern of Politics in Stuart Wales." *Transactions of the Honourable Society of Cymmrodorion*, 11, 1948, p. 27-29. Brian Howells, "Modern History" in David Thomas (ed) *Wales A New Study*, Newton Abbot, London, 1977, p. 95. T. Jones Pierce, "Landlords in Wales." in Joan Thirsk (ed), *The Agrarian History of England and Wales Volume V 1640-1750 Regional Farming Systems*, Cambridge University Press, Cambridge, 1972, p. 386. E.G. Bowen, *Wales A Study in Geography and History*, University of Wales Press, Cardiff, 1960, p. 72. Colin Thomas, "Place- Name Studies and Agrarian Colonization in North Wales." *Welsh History Review*, Vol. 10, No.2, 1980, p.159. Gerald of Wales, *The Description of Wales* in *The Journey Through Wales/The Description of Wales*, Penguin Books Ltd, London, 1978, p. 253 and John Leland, *Itinerary*, London, 1540, Vol. IV, p. 37. Brian Osborne, "Glamorgan agriculture in the Seventeenth and Eighteenth Centuries." *National Library of Wales Journal*, Vol. XX, No. 4, Winter, 1978, p. 387. For a description of the types of farming in the Welsh counties, see Frank Emery, "The Farming Regions of Wales." in Joan Thirsk (ed), *The Agrarian History of England and Wales Volume IV 1500-1640*, Cambridge University Press, Cambridge, 1967, pp. 155,129-139. Thirsk, Joan (ed), *The Agrarian History of England and Wales Vol. V 1640-1750 Regional Farming Systems*, Cambridge University Press, Cambridge, 1982, pp. 415- 420.

⁷⁹ Geraint H. Jenkins *The Foundations of Modern Wales 1642-1780*, University of Wales Press, Cardiff and the Clarendon Press, Oxford, 1987, pp. 114-115, 147.

⁸⁰ Alan Macfarlane, op. cit., p.152.

people.”⁸¹ Witchcraft cases in Finland were also concentrated in the prosperous areas which were located on the coast rather than inland in the poorer areas.⁸²

Many of the agriculturally advancing regions were affected by the rise of population which was outstripping agricultural activity. The rising agricultural prices curbed real wages and this, combined with unemployment, underemployment and an increase in the number of small farmers whose existence grew more precarious, was another disturbing aspect of change in the rural community. Resultant specialisation in animal farming and industry replaced self-sufficiency in some regions and people found it difficult to sustain themselves in dearth years, particularly when these came in a series rather than intermittently.⁸³

Witchcraft prosecutions themselves required considerable financial outlay and many initiatory accusers were reasonably well off. Assisted by the corroborative testimony of neighbours, both men and women, the accusers often waited for a long period of time before prosecuting the supposed witch. Many cases with groups of testifiers came to court only after a sufficiently wealthy person decided to initiate a prosecution, a possible reason for the time lapse, sometimes as much as twenty years, between the actual action of the witch and the court case. The motive for property acquisition through witchcraft accusation and conviction was one of the most insidious motives for witchcraft accusations.⁸⁴ The potential for the accuser to acquire the goods and landed property of the accused witch must always be considered in witchcraft cases because of the possibility of forfeiture if a conviction eventuated in European, English and Scottish cases.⁸⁵

The Welsh response to the effects of economic changes⁸⁶ did not follow the English and Scottish models. Poverty and unemployment were considerable in early modern Wales, and many individuals were employed from a pool of unemployed or

⁸¹ Christina Lerner, *Witchcraft and Religion The Politics of Popular Belief*, Basil Blackwell, Oxford, 1984, p. 26.

⁸² Antero Heikkinen and Timo Kervinen, "Finland: The Male Domination." in Bengt Ankarloo and Gustav Henningsen, (eds) *Early Modern Witchcraft: Centres and Peripheries*, Oxford University Press, Clarendon, 1990, p.323-325.

⁸³ R.B. Outhwaite, "Dearth, The English Crown and The Crisis of the 1590's." in P. Clark (ed) *The European Crisis of the 1590's*, George, Allen and Unwin Ltd., London, 1985, p. 33.

⁸⁴ Jon Oplinger, *The Politics of Demonology The European Witchcraze and the Mass Production of Deviance*, Susquehanna University Press, Selinsgrove, 1990, p. 74.

⁸⁵ Clive Holmes, "Women : Witnesses and Witches, *Past and Present*, No. 140, August, 1993, p. 55-56.

⁸⁶ For the English situation, see: R.B. Outhwaite, "Dearth, The English Crown and The Crisis of the 1590's." in P. Clark (ed) *The European Crisis of the 1590's*, George, Allen and Unwin Ltd., London, 1985, p. 33. A.L.Beier, *The Problem of the Poor in Tudor and Stuart England*, Methuen and Co. Ltd., London, 1983, p. 9 and H. Priestly, *Voice of Protest*, Leslie Frewin, London, 1968, p. 81.

underemployed men for specific purposes.⁸⁷ Pauperism emerged as a serious problem in Tudor times and the Welsh paupers were divided into two distinct groups: the deserving poor and the undeserving poor. The deserving poor were the old, widows, orphans and the sick and disabled members of the community and the undeserving poor consisted of the rogues, vagrants and vagabonds.⁸⁸ Among the Welsh however, most of the poor were classified as the deserving poor because there was far more real poverty related to scarcity rather than pauperism because the people had little livelihood. Nevertheless, in many places the Poor Law of 1601 remained a "dead letter" and no poor rate had to be raised because of "... the strong sense of family obligation among the Welsh, which caused it to be regarded as a duty to support one's own kinsfolk..."⁸⁹ The rates of Poor Law levied cannot be used as an indicator of rural poverty and hardship in Wales because these were unnecessary. "What made compulsory poor rates unnecessary was simply the fact that the population was still small enough for all men to be neighbours; and, when times were exceptionally bad, relief would take the form of family charity, or the bounty of the great, or 'briefs... read in church for the relief of the poor'; the spirit of the *cymorth*⁹⁰ was not yet dead."⁹¹

Urbanisation in Wales was minimal, a policy of the conquest of Wales by all English monarchs because, if the Welsh could be kept dependent on the border towns then suppression of any armed revolt was much simpler. Merely by suspending trading at town markets at any time, an effective "starvation" policy would result in the cessation of a financially drained uprising.⁹² The Acts of Union perpetuated this policy, whether intentionally or unintentionally, because the main marketing towns, Hereford, Shrewsbury and Chester, which had previously been located within the borders were now outside. The towns in the old Edwardian Principality were English towns in a Welsh country and the Welsh people initially went reluctantly to such towns as markets and fairs were, at that time, a new phenomenon to the Welsh people.⁹³ In direct contrast to the English and Scottish experience, Welsh people did not generally avail themselves or have the option of moving to towns.

⁸⁷ A.D. Carr "The Welsh Worker in the Fourteenth Century: An Introduction to labour prehistory." *Llafur*, Vol. 5, No. 1, 1993, p.6-8.

⁸⁸ *ibid.*, p.105.

⁸⁹ David J. Davies, *op. cit.*, p. 79.

⁹⁰ Also called *commortha*.

⁹¹ A.H. Dodd, "The Old Poor Law in North Wales." *Archaeologia Cambrensis*, 7th Series, 1926, p.113 citing the *Journal of the Flintshire Historical Society*, 1906, p.227 (famine relief at Hawarden, 1740); "Letters from Snowdon," p. 84; *Archaeologia Cambrensis*, 1906, p.163; Eden "State of the Poor" (1797), III, p. 887 (voluntary church collections, Llanynys 1662, Llanferres up to 1768).

⁹² Edward Arthur Lewis, "The Development of Industry and Commerce in Wales During the Middle Ages." *Royal Historical Society Transactions*, New Series, Vol. XVII, 1903, p.131-132. John Chapman, *A Guide to Parliamentary Enclosures in Wales*, University of Wales Press, Cardiff, 1992, p. 3- 5. A detailed list of all these acts was compiled by Ivor Bowen in *The Great Enclosures of Common Lands in Wales*, Chiswick Press, London, 1914.

⁹³ Edward Arthur Lewis, *op. cit.*, p.133.

Early modern Wales did not have any one county which was, overall, richer than its neighbours. Economic change did not generate changes in local infrastructure which remained largely static and the Welsh economy, dependent as it was on the two major industries of cattle droving and the Welsh cloth industry, was not subjected to major economic upheavals which did lasting damage to Welsh social structures or attitudes towards the woman accused as a witch in Welsh communities. Droving⁹⁴ and the cloth trade⁹⁵ remained the economic bulwarks of early modern Wales. Even the development of the shipping trade⁹⁶ and the infant mining industry⁹⁷ were secondary.

Other aspects of the economic model relating to accused witches provide different perspectives towards understanding why women themselves cultivated the stereotype image of the witch. Witch images gave women protection for many years in their communities as neighbours assisted them more readily and paid them in food and wood for services rendered. Gwen verch Ellis, Maggie Hier and Olly Powell are classic examples of the practical benefits of self-designation.

Scully's research for Venice emphasises the necessity of viewing witchcraft activities as an "extension of their (witches) life-pattern,"⁹⁸ as part of a woman's working life throughout which women had many and varied occupations.⁹⁹ The cases of Gwen verch Ellis and Maggie Hier give every indication that these women were healers but who, like the Venetian half-sisters in Scully's work, undertook their activities as a means of earning a

⁹⁴ For a detailed analysis of droving see Caroline A.J. Skeel "The Cattle Trade Between Wales and England From the Fifteenth to the Nineteenth Centuries." *Royal Historical Society Transactions*, 4th Series, Vol. IX, 1926, p.135-158 ; David J. Davies, op. cit., p. 51; Shirley Toulson, and Caroline Forbes, *The Drovers' Roads of Wales II, Pembrokeshire and the South*, Whittet Books Ltd., London, 1992, pp.10,12. For the importance of the drovers to the Welsh community, see Philip Gwyn Hughes, *Wales and The Drovers*, Golden Grove Book Co., Carmarthen, 1988 edition of a 1943 original, p. xix-xv.

⁹⁵ For a detailed analysis of the cloth trade see Edward Arthur Lewis, op.cit., p.156; Caroline A.J. Skeel, "The Welsh Woollen Industry in The Sixteenth and Seventeenth Centuries." *Archaeologia Cambrensis*, 7th Series, 1921-28 p. 220-257 ; T.C. Mendenhall, *The Shrewsbury Drapers and the Welsh Wool Trade in the XVI and XVII Centuries.*, Oxford University Press, London, 1953, p. 2; Act 21 James 1, c.9 Act for the Free Trade and Traffick of Welsh Clothes, Cottons, Friezes, Linings and Plains in and through the Kingdom of England and Dominion of Wales. Even though this act ensured that free trade was the right of every Welshman, by 1633 Shrewsbury had secured the weekly market trade and a monopoly situation eventuated. (See Caroline A.J. Skeel, op.cit. p. 245-246 and T.C. Mendenhall, op. cit., p. 230.).

⁹⁶ For a detailed analysis of shipping trade see James W. Dawson, *Commerce and Customs A History of the Ports of Newport and Caerleon*, R.H. Johns Ltd, "Directory" Press, Newport, 1932. State Papers Dom. Jas.I, Vol.108, No. 79 for the 26th April 1619 cites a request from Henry Morgan Esq. Vice Admiral, for the King not to charge the landed men of the county for land service as many of them were owners of boats which traded between Caerleon and Bristol and their services were required to run these trading ventures.

⁹⁷ For a detailed analysis of the infant mining industry see F. J. North, *Mining For Metals in Wales*, National Museum of Wales, Cardiff, 1962, pp. 33-36,41,43.

⁹⁸ Sally Scully, "Marriage or a Career?: Witchcraft As An Alternative in Seventeenth - Century Venice", *Journal of Social History*, Vol. 28, Summer, 1995, p. 854-876, at p. 858.

⁹⁹ *ibid.*, p. 859.

living in association with other, non-witchcraft, related occupations. There is no reason to suppose, given Gwen's economic situation, that she was any less a business woman than Laura Malipiero. Similarly, Maggie's endeavours could be paralleled with the less well organised and less specialised activities of Marietta Battaglia.¹⁰⁰ The view that witch trials were similar, in a general sense, may be "more a perception of historians than of either the practitioners or their prosecutors,"¹⁰¹ since witchcraft may have been incorporated by women in an economic and professional survival strategy in which women were agents in their own destinies.¹⁰²

Swain made a similar observation regarding the economics of witchcraft and the business aspect with which individuals regarded their occupations. Analysing the Lancashire witch trials of 1612 and 1634, Swain found that some of those accused of witchcraft were, in all probability, healers, practitioners of herbal medicine and folk medicine and others in the community encouraged people to believe that such women were witches, thereby intimidating people into giving charity,¹⁰³ much like the witches on the Isle of Man. However, only three cases of people accused as witches in Lancashire could be related to the Thomas/Macfarlane construct of witchcraft as an example of refusal of charity, confirming Sharpe's witchcraft findings for seventeenth century York: allegations of witchcraft were not related to refusal of charity.¹⁰⁴ Swain concludes that the Lancashire trials were related more to the problems people had of maintaining themselves, their situation generating the use of their reputations as witches to extract money and goods from others either by intimidation, selling their cures and extortion. In Pendle, witchcraft was more akin to a very risky business venture.¹⁰⁵

Women, witchcraft and poverty is also an aspect of the economics of witchcraft accusations. Most women concerned with the Welsh witchcraft as words cases and some of those accused in the witchcraft as *malefice* cases, were in long term relationships, probably with children of varying ages, and lived in nuclear family situations. As witchcraft as words cases give no details other than the marital status of the woman slandered as a witch, it can only be assumed that this was largely the case. Children are not mentioned in any witchcraft case, other than that of Anne Ellis. Eliciting such details for witchcraft as *malefice* cases is not, however, conclusive but rather, implied. Katherine Lewis of Gurfreston was a married woman but no mention was

¹⁰⁰ *ibid.*, p. 858.

¹⁰¹ *ibid.*, p. 862.

¹⁰² *ibid.*, p. 864.

¹⁰³ J.T. Swain, "The Lancashire Witch trials of 1612 and 1634 and the Economics of Witchcraft.", *Northern History*, Vol. XXX, 1994, p. 64- 85, at p. 81.

¹⁰⁴ *ibid.*, p. 84 quoting J.A. Sharpe. "Witchcraft and Women in Seventeenth-Century England: some Northern Evidence.", *Continuity and Change*, Vol. VI, 1991, p. 186-187.

¹⁰⁵ J.T. Swain, *op. cit.*, p. 85.

made of her children if she had any.¹⁰⁶ Margaret verch Richard was a widow,¹⁰⁷ as was Joan Roger although her son, also accused with her of bewitching John Thomas, was a husbandman. Those poorer women accused as *malefice* witches in early modern Wales were classified more as the deserving rather than the undeserving poor according to the Welsh perception of neighbourliness, charity and communal assistance.

III

Prior to the Middle Ages, Europeans saw the witch as a person who used magic to do evil (*maleficia*) which meant that a person was classified as a witch because of what they did. During the Middle Ages however, the demonological component was added and this changed the meaning: witchcraft became not what a person did but what a person was since the essence of witchcraft became the pact with the devil, a pact which required the witch to do what the devil wanted. From this developed the concepts of sabbats, esbats, shape transformation, flying, behaviour which parodied the mass, the stealing of unbaptised babies, and ointment production. *Maleficia* was no longer the proof required for a conviction, it was the relationship with the devil which became important. The *Malleus Maleficarum*¹⁰⁸ was the fifteenth century text which encapsulated the theories of demonology and was used all over the early modern world by judges and lawyers, both Protestant and Catholic.¹⁰⁹ The theories of an international conspiracy of witches developed from the widespread use of this text since it was the guide for those seeking, recognising and questioning witches. The questions often elicited answers which were very similar although the questioners were of different religions and from different regions.

The intellectualisation of popular culture, through the use of demonological texts, is a recurrent theme in witchcraft historiography. The early church absorbed many superstitious practices which were vilified by the Reformation but the absorption did not allow for those aspects of the natural world which were outside the comprehension of human nature. Before the Reformation, the practices which accommodated the incomprehensible had protected and enhanced the ability of the populace to cope with such occurrences. Protestantism accepted demonology as a reality but this was the only area in which Protestant theology did not deviate from Catholicism. Protestantism disallowed the safety valves of exorcism, rituals and the confessional leaving people feeling threatened by witchcraft, unprotected and vulnerable. The effect of these Catholic practices were "for purposes further-reaching, more intricate, and far more

¹⁰⁶ NLW, Great Sessions 33/6/5-6. Great Sessions for Pembroke (1607).

¹⁰⁷ NLW, Great Sessions 16/7. Great Sessions for Anglesey, 1655.

¹⁰⁸ *The Hammer of Witches* written by Heinrich Kramer and Jacob Sprenger, two German Dominican inquisitors, published in 1486.

¹⁰⁹ James Sharpe, *Instruments of Darkness Witchcraft in England 1550-1750*, Penguin Books Ltd, London, 1997 edition p. 21-22.

humane than their later critics were ever prepared, or perhaps able, to realize."¹¹⁰ Escape rested on bringing the cause of any *maleficia* before the courts.¹¹¹

In Wales, however, case transcripts and judgements do not reflect the influence of either texts or religious dissension. There is an almost complete lack of witchcraft texts mentioned in any archival material for Wales, there is no reference to texts such as the *Malleus Maleficarum* in court transcripts or religious tracts which were, however, used to provide guidelines in such cases in Wales. There is almost no literature on demonological theory specifically related to witches published in Wales, in Welsh, during the period when most witchcraft as *malefice* cases were concentrated in the 1650-55 period.¹¹² Theological writings discussed theories and presented evidence for the existence of witches and how to deal with them but references to such literature was not located in court transcripts, nor were the judgements and punishments of the Courts of Great Sessions in *malefice* cases indicative or reflective of court personnel having perused or relied on such writings.

Some pamphlets against witchcraft were published in the Welsh language: *Dav Gymro yn Taring yn Bell di Gwlad* or *Two Welshmen tarrying far from their Country*, which was originally published in c.1598 and written by Robert Holland but re-published in *Canwyll y Cymru* or *The Welshman's Candle* in 1681. *Adroddiad Gywin o'r Rethau pennaf, or a wneah, ac a ddwedodd Yspryd Aflan, ym Mascon yn Burgundy*. This work was a translation by Stephen Hughes of the English version of *The Devill of Mascon* which was a description of diabolic possession in Burgundy and was also published in 1681. The effect of these, however, on Welsh people is not known, nor is that of Robert Holland's *Dialogue on Witchcraft*.¹¹³ Henry Holland, the brother of Robert and a Puritan, wrote *A Treatise against Witchcraft* which was published in 1590. The scarcity of demonological texts makes it harder still to place Wales within the Clark structure of demonological theory as part of the broader trends of contemporary early modern thought, particularly as Welsh cases do not exhibit any aspects of the demonic, demonological theory or the demonisation of popular beliefs.¹¹⁴

The Welsh witch did not indulge in shape transformation, other than in oral histories, when she metamorphosed into a hare. The only evidence which implied that the woman slandered as a witch could transform her shape came from a Montgomery case in 1650/51 when Jane Meredith, a spinster, brought a case for an unspecified amount

¹¹⁰ Valerie I. J. Flint, *The Rise of Magic in Early Medieval Europe*, Clarendon Press, Oxford, 1991, pp. 6, 83-84.

¹¹¹ Keith Thomas, *Religion and the Decline of Magic*, Penguin Books, Harmondsworth, 1991, reprint of the 1973 version, p. 436-468.

¹¹² See the chart of all known witchcraft as *malefice* cases for early modern Wales in the Introduction.

¹¹³ See Stuart Clark and P.T. J. Morgan, "Religion and Magic in Elizabethan Wales: Robert Holland's *Dialogue on Witchcraft*." *Journal of Ecclesiastical History*, Vol. 27, 1976, p. 31- 46.

¹¹⁴ Stuart Clark, *Thinking with Demons The Idea of Witchcraft in Early Modern Europe*, Clarendon Press, Oxford, 1997.

against Joan Miris, a widow, at the spring sessions. Joan had said: "Allan a thi am ty i witch, di a withiest dy ew(ythr) oi haner i wared, mi a wel(aist) dy yn dwad mewn trwy dwll y klo dair gwaith me bedair." or "Out of my house witch, thou didst bewitch thy uncle from ye mydle downward; I saw thee coming through a hole in ye lock three or four times."¹¹⁵

No other demonic elements were evident in Wales. Popular belief perceived that witches were evil but this evil did not come from the witch's association with the devil. This is reflected in case studies as there is no mention of the elements usually associated with a relationship with the devil. Familiars, paps, teats or the devil's mark did not figure in Welsh witchcraft, the witch was tried for her maleficent practices but these were not considered to be related to the devil. The only evidence for a tenuous link with the devil comes from the witness statement of John Lloyd ap – ap Miller who testified that he spoke aloud his thought that the fly in Gwen's ale was the devil's minion. His testimony was corroborated by other witnesses:

"Gwen brought them
great goblet full of drink upon the top wherof there
was a great fly of the bigness of the bumble bee great and
ugly to behold which when this deponent saw said this is
your devil meaning the said Gwen and this deponent and the rest
of that company sought to take the said fly but could not
and then did pour down the drink upon the floor and yet
could neither see the said fly in the cup nor upon the ground..."¹¹⁶

The case against Margaret verch Richard states that "being led and seduced by the divell...", she caused the death of Gwen Meredith and caused harm to her neighbours, their goods and animals.¹¹⁷ The "divell" reference is difficult to contextualise, other than as a familiar early modern legal phrase, because there is only one document connected to this case. The document is the statement, judgement and sentence of the court, there are no witness statements attached and no statement from Margaret verch Richard who put herself on the mercy of the court as she was not, in her view, guilty. This case is also the only Welsh case in which an accused witch did not admit her guilt, and the reason, as far as the transcript implies, was that Margaret verch Richard did not consider that she was responsible for the death of Gwen Meredith through *malefice* practices.

The devil as the entity responsible, the reason/motive for an evil action was reflected in other types of criminal cases before the Courts of Great Sessions. Some cases in which the devil was used as the reason for the committing of various crimes refer to the devil as the instigator of particular actions. Cases also indicate that the accused sought refuge for their actions by naming the devil, stating that the devil was responsible for the crime, abnegating the accuseds responsibility for the crimes and offloading the responsibility onto the devil. The devil, by default, became the motivational force behind the crime of

¹¹⁵ NLW, Great Sessions 13/16 Great Sessions for Montgomery (1650/51

¹¹⁶ NLW, Great Sessions 4/9/4/13. NLW Denbigh Gaol Files (1594) Great Sessions for Denbigh.

¹¹⁷ NLW, Great Sessions 16/7. Great Sessions for Anglesey, 1655.

which the individual was accused because there was no other logical or rational explanation for the committing of the offence.¹¹⁸ The original reason for the case did not become confused with witchcraft, nor did any of the participants or justices seek to change the nature of the crime into that of an examination of possible witchcraft activities. One of the interesting aspects of this situation was that those who sought to use the devil as the excuse for their actions were nearly all male. Following the specific characteristics associated with the Welsh witch, it was unlikely that the cases in which men were accused would or could change the gender perception that only women could be witches.

Demonisation promotes, by its very nature, many accusations since the form of questioning encourages the accused to name co-conspirators. There is no evidence of such a process in early modern Wales. Without the demonic element, witchcraft in Wales remained a largely personal concern as all the cases indicate that only the accused woman was on trial. She had not been interrogated in order to establish if she had worked her *malefice* with others, a circumstance which implies that witchcraft in early modern Wales was not regarded as a communal activity. Case evidence is devoid of any inference that a pact with the devil may have occurred or that the accused had

¹¹⁸ Examples of cases in the court records where the accused sought to blame the devil were many but the following may serve to underline the point. Thomas Wynn esquire, a member of the extended Wynn family who were a prominent gentry family in Denbighshire, was accused of murdering Enion ap William ap Richard in 1604. He and a group of armed men attacked Enion in his own chamber and Wynn killed him with a dagger and a sword. Wynn claimed that the Devil had made him kill Enion. (NLW, Great Sessions 4/13/4/37,38,39,40.). John ap William went on trial for the theft of money, bread, cheese and butter from Thomas ap Gruffyd in Denbighshire in 1597. John volunteered the information that his actions were "by the insitigation of the devil" and was found guilty and hanged. (NLW, Great Sessions 4/10/4/36,126,127 Great Sessions for Denbigh (1597) Denbigh Gaol File 39 Elizabeth.) William Thowles, a butcher from Dolwyllidley in the county of Carmarthen claimed that he had been "frighted by the Divell" which had made him kill two of John ap Rys ap ... (?) sheep in 1629. (NLW, Great Sessions 4/19/3 NLW Gaol Files for Denbigh (1629).) John Ffoulke of Denbighshire was accused of a particularly horrible crime in 1682 as he murdered his young son, Robert ap John, with a hatchet and also attacked his mother-in-law with a knife. Robert ap John died about twenty-four hours after the attack and his father could offer no reason for his actions "unless it was his destiny and was tempted by the Debill." (NLW, Great Sessions 4/31/6/35,65,3 NLW Gaol Files for Denbighshire (1682).) Owen David averred that his theft of frieze cloth had been the result of the devil "being busy with him." and the reference to the devil was made by Owen David both to his accuser and to the justice of the peace who had asked Owen David, at his trial, why he had committed the crime. (NLW, Great Sessions 4/797/5-6/81 Great Sessions for Pembrokeshire (1684).)

However, there was a case in which a woman used the devil as the reason for her actions. Ellen Thomas was accused of having burnt down a barn at Llundynam in Montgomeryshire in 1637. Her accuser was her employer, John Brunt but the testimony of another employee, John ap Richards, made it clear that John Brunt was not telling the whole truth, both the house and the barn had been burned but John Brunt was actually taking Ellen to court for the theft of money which had been in the house before the fire. He could not prove that Ellen was responsible for stealing the money so had taken her to court for the firing of the buildings. Ellen claimed that the "Dibill" had been responsible for her actions but that she was not responsible for the theft of the money. (NLW, Great Sessions 4/151/2-4 Great Sessions for Montgomeryshire (1637).) The case was unusual because the depositions implied that a lot more was going on other than the reasons stated for the accusation. (The inference was that John Brunt, the employer was sexually abusing Ellen and that neither she nor John ap Richards, who may have been her partner, could think of any other way of stopping the abuse.) Nevertheless, the case remained one of arson and did not become a criminal witchcraft trial despite the mention of the devil by Ellen Thomas.

attended witches gatherings. Connotations of group activity cannot be inferred from any of the witchcraft case types in early modern Wales and there is absolutely no case evidence which indicates that Welsh witches were thought to attend either sabbats or esbats. The judges and juries of the Courts of Great Sessions circuits did not seek to expand or extend the *malefice* case by asking the accused to implicate others. There was no court record for early modern Wales in which an accused person was asked any such questions nor any cases where witnesses provided details of such events. The terms of reference remained the same throughout the witchcraft case chronology for Wales : the accused was tried, witness statements taken, the witch admitted her guilt voluntarily, the jury gave its verdict, the judge pronounced the sentence and almost all those accused were released.

Many countries, like Wales, did not experience a demonisation or intellectualisation process and demonic concepts never took hold in Hungary, Iceland, Finland, Estonia Portugal, Russia or Denmark. Areas such as Finland and Estonia "inherited" their demonic concepts from Sweden but this occurred from circa 1658. In Hungary, in direct contrast to the few case numbers for Wales, witch trials were ongoing from 1520 to 1777 although, "learned and theoretical foundations of witch-hunting, the demonological-juridical treatises felt to be so essential in (and often responsible for) the explosion of the sixteenth- to seventeenth-century European 'witch-craze' were almost completely lacking in Hungary.¹¹⁹ So much so that, in the mass persecutions of 1710-1720, magistrates in the Transylvanian town of Nagyszeben had to consult university personnel in Vienna and Leipzig when doubts arose about confessions under torture being creditable.¹²⁰ Witchcraft prosecutions in Hungary increased whenever the territory had been subjected to a war or an uprising, particularly in defeat, but had been peaceful for a few years. Prosecutions rose after the Thirty Years War ended in the 1650s and resumed in 1690 when the Turkish occupation of Hungary ended.¹²¹

In Iceland, the introduction of Danish law, accompanied by the Lutheran faith, in 1630 made demonology elitist as the popular culture base was more shamanistic and had no concepts of covens, sabbats or female witches. Witches in Iceland were male.¹²² Much like many parts of Wales, towns and villages did not exist in Iceland as all the population lived in scattered farmsteads. Finnish and Swedish witch trials were generated by the intellectualisation of popular culture through the universities and the court systems. Finnish witches were mainly male, possibly because shamans in pre-Christian Finland were always male, and the 710 cases from 1520-1699 reflect this gender base. From 1640 the cases of witchcraft began to rise but they generally involved only one or two at a

¹¹⁹ Gabor Klaniczay, *op. cit.*, p. 233.

¹²⁰ *ibid.*, p. 234.

¹²¹ *ibid.*, p. 224.

¹²² Kirsten Harstrup, "Iceland : Sorcerers and Paganism." in B. Ankarloo and G. Henningsen, (eds) *Early Modern Witchcraft: Centres and Peripheries*, Oxford University Press, Clarendon, 1990, pp. 385, 387-392, 394-398.

time, probably because the plaintiff had to pay a fine if the case was not proved. The rise in trial numbers has, however, been linked to the establishment of the Turku Academy in 1640 and the spread of Continental ideas of witchcraft throughout Finland, resulting in hunts in 1668 and in the 1670s. The devil's mark became very important in the 1670s but the use of torture to induce confessions introduced a sceptical element, particularly as the accused were all housed in the same prison and, through communication with each other, could fabricate confessions in order to avoid torture.¹²³

Swedish views of witchcraft greatly influenced Finland through the Swedish fur traders who lived on the Finnish coast. The Reformation did not change popular belief forms of witchcraft but public opinion was aroused concerning magical practices. The children's stories surrounding Blakulla, the magical Blue Hill, were intermixed with the sabbath and, during the early seventeenth century, the secular authorities requested clarification from the bishops as to whether night riding to the sabbath and intercourse with demons were capital offences or were proof of *maleficium* as, if they were, the death penalty needed to be invoked. Through reference to the Carolina Code, the bishops stated that the accused should be executed and demonological and legal concepts were linked to allow for execution although torture was forbidden.¹²⁴

There are two opposite interpretations of witchcraft in Estonia: one stating that it was based on popular beliefs,¹²⁵ the other that it was related to Swedish imperialism.¹²⁶ Both of these explanatory models show that witchcraft in Estonia is an example of judicial and intellectual elitist impositions on a popular culture base. Diabolism accusations appeared only in response to leading judicial questioning and torture, the records showing that "the narrow theological definition of witchcraft - a power arising from a pact with the devil - was not accepted by the Estonian peasant."¹²⁷ Witchcraft cases rose after Estonia was conquered by Sweden in the early seventeenth century. The Swedes brought their concepts of witchcraft with them through the Turku university trained ruling elite, especially the Lutheran clergy, all of whom were expected to name and punish prominent witches. However, their use of torture failed to elicit confessions of a pact with the devil and, despite the strenuous attacks which the Swedish authorities launched against popular beliefs, the Estonians continued to meet openly at their sacred places up until the end of the seventeenth century, practicing a pre-Christian religion with

¹²³ Antero Heikkinen and Timo Kervinen, "Finland: The Male Domination." B. in Ankarloo and G. Henningsen (eds) *Early Modern Witchcraft: Centres and Peripheries*, Oxford University Press, Clarendon, 1990, op. cit., pp. 319-323, 327-333.

¹²⁴ Bengt Ankarloo, "Sweden: The Mass Burnings (1668-1676)." in Ankarloo, B. and Henningsen, G. op. cit., p. 286-290.

¹²⁵ Maia Madar, "Estonia I: Werewolves and Poisoners." in B. Ankarloo and G. Henningsen, op. cit., p. 259-267.

¹²⁶ Juhan Kahk, "Estonia II: The Crusade against Idolatory." in B. Ankarloo and G. Henningsen, op. cit., p. 275.

¹²⁷ Maia Madar, op. cit., p. 271.

Catholic overtones.¹²⁸ In Portugal, popular beliefs and views on witchcraft were very stable, encompassing the evil eye, metamorphosis and magical flights for long distance travel but the concepts did not evolve into the sabbath or pacts with the devil. ¹²⁹

Zguta, building on initial Russian research on seventeenth century Muscovite witchcraft trials,¹³⁰ noted that persecution for witchcraft had originally begun in Russia in 1000 when witches were first perceived as agents of harm and accusations usually followed periods of drought, famine and other natural calamities.¹³¹ Muscovite rulers passed laws to protect their citizens from witchcraft but these laws were never intended to become "a basis for an organized and systematic persecution of witches."¹³² Russian trials did extend to provincial centres but were small affairs with no definably rigid pattern of the victim's socio-economic backgrounds. Torture was used and accusations were based on six main categories: crop failure, maiming, taking a life, impotence, causing illness and depriving an individual of his/her reason. Familiars were cited in the 1667 trial of Gadiach but were not a common factor in Russian witchcraft, the characteristics of which were greatly influenced by the peculiarities of Russian religious attitudes. The Eastern Slavs attributed witchcraft to a pantheistic concept of the universe rather than a demonological concept. Russian witches could not be tried for heresy, only for malign sorcery. The duality of Russian religion also influenced the witchcraft issue as paganism and Christianity had existed side by side for hundreds of years, giving rise to *dvoeverie* or *ditheism* which made religious and cultural aspects of witchcraft somewhat ambivalent.

The Danish trials of 1559 and 1565 were characterised by an emphasis on sorcery crimes and, even up to the 1690s, this remained the case. Sabbaths and the devil remain unimportant in Denmark in comparison with Central Europe and northern Swedish trials and sabbaths are rarely mentioned in Danish records.¹³³ Those accused numbered between one and two thousand but acquittals were as numerous as sentences. After 1576, all sorcery cases had to be referred for appeal to the Landsting and court rolls of the Jutland High Court showed that judges imposed minor sentences compared with the sentences handed down by local courts. Of 225 people sentenced to burn at the stake, 114 were acquitted. Only 10% of those suspected as witches were men, and two-thirds of the women were over fifty. Only 6% were unmarried, most were married or widowed.¹³⁴

¹²⁸ Juhan Kahk, op. cit., p. 275-283.

¹²⁹ Francisco Bethencourt, "Portugal : A Scrupulous Inquisition ." in B. Ankarloo and G. Henningsen (eds) *Early Modern Witchcraft : Centres and Peripheries*, Oxford University Press, Clarendon, 1990, p. 414- 420.

¹³⁰ Russell Zguta citing the work of Nikolai Iq Novombergskii.

¹³¹ Russell Zguta, "Witchcraft Trials in Seventeenth-Century Russia.", *American Historical Review*, Vol. 82, No.5, 1977, p.1188 - 1207.

¹³² *ibid.*, p. 1195.

¹³³ *ibid.*, p.134.

¹³⁴ Gustav Henningsen, "Witchcraft in Denmark.", *Folklore*, Vol. 93:ii, 1982, p. 131-137.

Holmes' work indicates that English cases were forced to concentrate on harm rather than heresy because the penal statutes failed to incorporate the theological definition of witchcraft as heresy. Popular beliefs triggered the accusations of witchcraft but the outcome was influenced by members of the elite and the English clergy who sought to change popular belief through preaching and the use of educated laymen's pamphlets, ballads and dramas. Using the three elements of English popular belief: witchcraft as the manipulation of malignant powers in women, the generational nature of witchcraft and witchcraft as manipulation of natural forces by the witch, the divines sought to explain why women were prone to witchcraft but did not create the sexual emphasis, nor did they promote the selectivity of accusations through the blood relationship of others to a witch. The divines incorporated the popular belief of animals as the witches' familiar by promoting the familiar as the devil's worker and superimposing this image onto that of the witch's mark from which the familiar, as the worker, received blood nourishment. Thus the familiar and the mark became twin elements in the verification of an individual as a witch before the law and the populace absorbed the concept of the devil's pact.¹³⁵ In Wales, the basis of the accusation remained steadfastly that of *malefice* activities.

Elizabethans believed in 'spiritual creatures' but folk magic was homely in content and not demonic although the populace was subject to ecclesiastical and official perceptions of the devil.¹³⁶ The initial intellectualisation of witchcraft in England may have been instigated by John Jewel, a Marian exile and Elizabeth I's Bishop of Salisbury.¹³⁷ In 1604, the Witchcraft Act of James I made the first mention of the demonic pact but, whilst not immune, England resisted the Continental emphasis on the devil despite the fact that literate Englishmen were acquainted with orthodox theories of magic and witchcraft as demonic heresy.¹³⁸

Witchcraft in England was not demonised as, like Wales, court procedure did not allow the use of torture, thus making it difficult for prosecutors to elicit confessions which gave such ideas legitimacy. Even with the use of such methods as sleep deprivation, lack of food and water and poor gaol conditions, only the trials generated by Matthew Hopkins and John Stearne resulted in confessions of pacts with the devil. However, in these trials,

¹³⁵ Clive Holmes, "Popular Culture? Witches, Magistrates, and Divines in Early Modern England." in S.L. Kaplan(ed) *Understanding Popular Culture Europe from the Middle Ages to the Nineteenth Century*, Mouton, Berlin, 1984, p .87-100.

¹³⁶ See Robert Turner, *Elizabethan Magic The Art and the Magus*, Element Books, Longmead, 1989. Benjamin Woolley, *The Queen's Conjurer The Science and Magic of Dr. Dee*, Harper Collins, London, 2001.

¹³⁷ Robert H. West, *Reginald Scot and Renaissance Writings on Witchcraft*, T. Wayne, Boston, 1984, p .7-8.

¹³⁸ *ibid.*, p. 2 -5.

torture was used illegally.¹³⁹ The association and influence of texts and pamphlets with the rise of panics cannot, however, be discounted amongst the English immigrant colony of Salem. In 1689 Cotton Mather, one of New England's leading Puritan ministers, had published an account of supernaturally afflicted children, those of the Goodwin family in Boston in his publication *Memorable Providences Relating To Witchcrafts and Possessions*. The account was widely read and may be partly credited with helping to create the atmosphere in which the Salem trials took place as the book describes the Boston children's afflictions, afflictions which the Salem girls also exhibited. Cotton Mather himself, however, had a humane attitude towards the events he described in his book and did eventually take an active part in calling for calm and ethical legal proceedings.¹⁴⁰

The grafting of the demonic element onto the general stereotype of the witch may also, in part, contribute towards answering the question of why witches were women rather than why women were witches. Demonological texts associated witchcraft with the devil, generating concepts which showed great variety as to the roles the devil played: he was a worker of evil,¹⁴¹ a contract existed between the practitioner and the devil,¹⁴² the witch was an individual who accepted the devil's aid,¹⁴³ the devil assisted the witch to harm another,¹⁴⁴ and the devil enabled the working of wonders as far as God so permitted.¹⁴⁵ The devil's activities were beyond the comprehension of the common man,¹⁴⁶ the devil made a covenant with the children of men¹⁴⁷ and was the source of the black arts.¹⁴⁸ Witchcraft meant a pact or being in league with the devil for the purpose of doing evil, an associational relationship which had emerged sometime in the fourteenth century when witchcraft as a concept of magic gradually developed into witchcraft as a concept of heresy, an act of treason against God.

¹³⁹ Richard Deacon, *Matthew Hopkins Witch Finder General*, Frederick Miller Ltd., London, 1976. See James Sharpe, *Instruments of Darkness Witchcraft in England 1550-1750*, Penguin Books Ltd, London, 1997 edition, Chapter 5 England's Mass Witch-hunt: East Anglia, 1645-7. James Sharpe, "The devil in East Anglia: the Matthew Hopkins trials reconsidered," in Jonathan Barry, Marianne Hester and Gareth Roberts, (eds), *Witchcraft in Early Modern Europe Studies in Culture and belief*, Cambridge University Press, Cambridge, 1996, p. 237-254.

¹⁴⁰ G.L. Kittredge, *Witchcraft in Old and New England*, Russell and Russell, New York, 1929. Paul Boyer and Stephen Nissenbaum, *Salem Possessed: the Social Origins of Witchcraft*, Harvard University Press, Cambridge, Massachusetts, 1974; John Demos, *Entertaining Satan: Witchcraft and the Culture of Early New England*, New York, 1982.

¹⁴¹ George Gifford, *Discourse of the Subtle Practices of Devils by Witches and Sorcerers*, London, 1587.

¹⁴² Martin del Rio, *Disquisitionum magicarum*, Lyons, 1608.

¹⁴³ William Perkins, *A discourse on the damned art of witchcraft*, Cambridge, 1610.

¹⁴⁴ Francesco-Maria Guazzo, *Compendium maleficarum*, 1608.

¹⁴⁵ Sir Robert Filmer, *An advertisement to the jury-men of England, touching witches*, London, 1653.

¹⁴⁶ Edward Phillips, 1671

¹⁴⁷ Cotton Mather, *Memorable Providences, Relating to Witchcrafts and Possessions*, 1689.

¹⁴⁸ William Forbes, 1730

This not only personalised witches as the enemies of God but increased an obsessional link with the sexual connection between witches and the devil. The *Malleus* itself promoted this link but the relationship between demonisation, intellectualisation and the pact was influential in different ways within early modern societies. In Scotland, men accused of witchcraft were not accused of having a sexual relationship with the devil as the Scottish church and secular authorities appeared unable to countenance sexual relations between men and the devil.¹⁴⁹ France, however, had no qualms about such sexual intercourse.¹⁵⁰ In Wales, only two witchcraft cases mentioned the devil. Margaret verch Richard was considered to have sold her soul to the devil,¹⁵¹ and the case of Gwen verch Ellis which mentioned the devil in relation to what might be classified as his minion, a familiar in the shape of a fly.¹⁵²

The concern of most people at the popular level was the effects of the witch's powers and not the origins of these powers. The learned views gradually infiltrated popular understanding of witchcraft through pamphlets, broadsides and public executions where charges were read aloud prior to execution. By the late sixteenth century, popular denunciations of witches in many parts of Europe incorporated some aspects of the demonic conception of witches. The process of intellectualisation was also stimulated by the influence of the printing press and the consequent dissemination of ideas.¹⁵³ Caputi notes that the original demonologies were published in Latin, the language of the professional and educated classes and this, in turn, may be one of the keys to the dissemination of ideas and the intellectualisation process.

The "spread of diabolism led to a greater feminization of witchcraft, for witches were now the dependent agents of a male Devil rather than independently directing demons themselves..."¹⁵⁴ The idea that women were more likely to be witches was generated from views that women had less physical, economic and political power than men which made it more likely that they would need magical assistance to gain what they wanted. The writings of Aristotle, Judeo-Christianity theologians, Jerome, Augustine and Tertullian, all contributed to the development of ideas which designated women as inferior. This, combined with the view that women were physically weaker and were

¹⁴⁹ See J.K. Swales and Hugh McLahlan, "Witchcraft and antifeminism," *Scottish Journal of Sociology*, No. 4, 1980, p. 141-166.

¹⁵⁰ See Stuart Clark, "The 'gendering' of witchcraft in French demonology : misogyny or polarity ?," *French History*, No. 5, 1991, p. 426-437.

¹⁵¹ NLW, Great Sessions 16/7 Great Session for Anglesey (1655) Margaret verch Richard of Beaumaris 20th August 1655 at Beaumaris.

¹⁵² NLW, Great Sessions 4/9/4/10-15 NLW Denbigh Goal Files (1594) Great Sessions for Denbigh 36 Elizabeth.

¹⁵³ Jane Caputi, "The Influence of Print upon the European Witch craze." Unpublished paper, 1977 cited in Mary Daly, *Gyn/Ecology*, The Women's Press Ltd, London, 1979, p.190.

¹⁵⁴ Merry E. Weisner, *Women and Gender in Early Modern Europe*, Cambridge University Press, Cambridge, 1993, p. 228.

certainly weaker in the legal sense in the early modern period, made the position of women even more vulnerable. Women used the weapons they had available, their tongues, opening the way for accusations as scolds who could also cast spells and curse.¹⁵⁵ Without the protection of a husband, women's positions worsened further, and re-marriage was not necessarily a safe option as this left them vulnerable to step-children who were bound by legal contract to care for them when the husband/father died. Women were also involved in those areas of life where magic or malevolence often provided the only explanation when things went very wrong : food preparation,¹⁵⁶ animal husbandry,¹⁵⁷ reproduction,¹⁵⁸ and the nurturing of children in an era when infant mortality was very high.¹⁵⁹ This, in part, also associates witchcraft activities with the inversion of the normal or natural order.¹⁶⁰

By the late sixteenth century, the stereotype of the witch had become established: the witch was nearly always a woman; she was often elderly; she was nearly always single, either a widow or a spinster; she was usually poor; she had an unsavoury reputation as far as the community was concerned; she was an object of local fear due to her nature, maliciousness and/or suspected ability to perpetrate magical injury; she was often the blood relative of a suspected witch because witching power was believed to be hereditary; the witch was usually, although not always, solitary at the local level as she worked alone rather than in a group although she worked in a group at the witch gatherings, the sabbats and esbats; she had made a pact with the devil in exchange for powers; she possessed familiars, the devil's minions, such as toads, rats, mice, dogs,

¹⁵⁵ Christina Lerner, *Enemies of God: The Witch-Hunt in Scotland*, Chatto and Windus, London, 1981, p. 142-143.

¹⁵⁶ Thomas Robisheaux, "Witchcraft and Forensic Medicine in Seventeenth-Century Germany," in Stuart Clark (ed), *Languages of Witchcraft Narrative, Ideology and Meaning in Early Modern Culture*, Macmillan Press, Houndsmill, 2001, p. 197-215, which explores the repercussions of the eating of cakes on Shrovetide Tuesday by a young woman recently out of child-bed. Her very painful and quick death resulted in a forensic analysis, under the Carolina Code, which declared that the symptoms were due to witchcraft. A woman was subsequently accused and executed for her production of the cakes.

¹⁵⁷ Sally Hickey (nee Parkin), "Fatal Feeds? Plants, Livestock Losses and Witchcraft Accusations in Tudor and Stuart Britain," *Folklore*, Vol. 101: ii, 1990, p. 131-142.

¹⁵⁸ Deborah Willis, *Witch-Hunting and Maternal Power in Early Modern England*, Cornell University press, New York, 1995, a radical feminist text which examines the relationship between the witch and her accuser, showing that villagers imagined the witch more as a malevolent mother than as a servant of Satan.

¹⁵⁹ Lyndal Roper, *Oedipus and The Devil Witchcraft, sexuality and religion in early modern Europe*, Routledge, London, 1994, which shows that issues of maternity and images of bad mothers emerges more often in the witch trials of Augsburg than do issues of male/female sexuality. Laura Gowing, "Secret Births and Infanticide in Seventeenth-Century England," *Past and Present*, No. 165, p. 87-115. Robert Hole, "Incest, consanguinity and a monstrous birth in rural England, January 1600." *Social History*, Vol. 25, No. 2, May, 2000, p. 183-199.

¹⁶⁰ See Stuart Clark, "Inversion, misrule and the meaning of witchcraft," *Past and Present*, No. 97, 1980, p. 98-127. See also Ronald Hutton, *The Stations of the Sun*, Oxford University Press, Oxford, 1997, Chapters 7,8 and 9. I would like to thank Ronald Hutton for the discussions we had at Swansea in 1998 concerning Owen Davies' work on Wales and The Folklore Society's recent "reversal" on Margaret Murray's research.

cats, birds and insects; she had teats or paps on her body from which the familiar suckled blood as payment and nourishment in exchange for the devil's help; she indulged in metamorphosis or shape transformation through the use of ointments; she went to witches gatherings called sabbats and esbats; she flew to these gatherings on a broomstick or used an animal such as a horse or cow; she indulged in *malefice* or premeditated harm; she bewitched living things; she was responsible for blighted crops and agricultural products, as well as livestock, and caused changes in the weather.

Witchcraft became witch-hunting, a means of tracking down certain types of women. It became woman-hunting because of the type of woman considered to be a witch : a woman who used words as a weapon. Witchcraft, from this perspective, needs analysis "in the context of language, speech and meaning, for in witchcraft words have the power of waging war."¹⁶¹ Explanations for the rise in the persecution of numbers of women accused as witches in the early modern period must also be encapsulated within the religious, political, judicial, social and economic framework because witchcraft had become a gender issue as much as an "enemy of God" issue.

IV

Catholicism developed more uniformity through the Counter-Reformation. The idiosyncratic approach of individual medieval inquisitions with witchcraft was replaced by a more direct approach with the centralisation of the Roman Inquisition after the Counter Reformation. The Inquisition's centralised body provided more stability and a ready source of reference for those Catholic countries experiencing doctrinal difficulty and was itself influenced by key personalities when policy implementation concerning the witchcraft issue arose. All Catholic countries were influenced by Inquisitorial policy, formulated with the sole intention of keeping the Catholic faith intact and as territorially expansive as possible. Witch trials which occurred in Catholic countries in the early modern period were influenced, either directly or indirectly, by the Inquisition. The outstanding difference in Catholic countries was the willingness of the church to "correct" rather than execute the accused witch. This, combined with the tendency towards the acceptance of pre-existing beliefs, led to a policy of leniency which came from within the intellectual groups of the Church hierarchy. The centralised style of Inquisition government meant that this attitude could and did prevail as long as scepticism and intelligent assessment of the community remained at the forefront of Inquisitorial policy. The work of Ginsburg for Italy and Martin for Venice sustain this understanding although Ben-Yehuda hypothesises that the Inquisition created the witch crazes as a vested interest

¹⁶¹ Merry E. Weisner, op. cit., p. 229. This, I would suggest, is the concept from which the new, interpretive direction of witchcraft historiography derives its purpose : witchcraft contemporary literature as the narrative, the text from which to derive the "language of witchcraft". This is discussed later in this chapter.

corrected.¹⁶⁷ Both popular and learned beliefs began to blur the distinction between white and black witchcraft, healing and bewitching although it is certain that the Inquisition was not interested in *maleficium* prior to 1650.¹⁶⁸

Portugal did not experience a mass panic but there were witch trials in the 1550s and between 1710-1760. Witchcraft was classified as a social crime by the civil and ecclesiastical laws but had a low priority within the formal hierarchy of heresies. The trials were the result of "the maintenance of the legitimate religious agents' monopoly of spiritual power over the population."¹⁶⁹ The extent of the Inquisitions' influence on witchcraft accusations and prosecutions is underlined by the situation in the Friuli district of Italy as is the significance of ancient rites and the continuation of popular culture. A religious sect called the *benandanti* took part in night battles with witches and warlocks four times a year, battles in which the participants were invisible. The participants believed that they were travelling "in spirit" and it was this aspect that interested the judges, the witches and the inquisitors. In order to explain "in spirit" they formulated two alternative concepts: one was a sabbat in fantasy and imagination and the other was that the individuals attended a real, tangible sabbat. Modena experienced similar occurrences and, in both cases, the Inquisition accepted the *benandanti* explanations. No *benandanti* were executed for witchcraft and nor were they imprisoned for long periods.¹⁷⁰ The *benandanti* first appear in records from 1580 and analysis of these records shows that persistent questioning by the Inquisitors gradually changed the *benandanti* from people who went to night battles to fight witches into people who attended sabbats and orgies but, despite this, no accused *benandanti* was brought to trial after 1650.¹⁷¹

The people of Renaissance France believed in powerful supernatural forces and, during the late fifteenth and early sixteenth centuries, religious conflicts developed because the participants regarded their enemies as agents of the devil. Catholic preachers emphasised that women could only defeat the devil by renouncing their bodies, as had the Virgin Mary, as they were too weak, vain and frivolous to achieve such a state by any other means. By the end of the sixteenth and in the early seventeenth century, the concept of witches as devil worshippers began to infiltrate the views of magistrates and the lower orders of society. Nicholls attributes the great witch craze in France to the Renaissance devil obsession and theological ideas which, associated with the Counter-Reformation movement, identified the malevolent use of magic with devil worship. The diabolisation of religious opponents such as the Cathars and the Waldensians by the French Inquisitors, combined with the diabolisation of political opponents by secular

¹⁶⁷ *ibid.*, p. 222.

¹⁶⁸ *ibid.*, p. 225.

¹⁶⁹ Francisco Bethencourt, "Portugal ..." *op. cit.*,

¹⁷⁰ *ibid.*, p.16-28.

¹⁷¹ E. William Monter, "French and Italian Witchcraft." *History Today*, Vol.30, November, 1980, p. 33.

judges, re-moulded popular beliefs according to the beliefs of the intellectual elite.¹⁷² The cases themselves reflected the religion of the trial judge: Protestant judges instigated the devil's mark whereas Catholic judges believed witches could manipulate the forces of nature.¹⁷³ Briggs has, however, added an emphasis on male practitioners, *malefice* and witchcraft in studies of Lorraine.¹⁷⁴

Ladurie presents a different view of witchcraft in France, linking it to the archaic form which was witchcraft in its regional context and was based on popular beliefs. These beliefs characterised witches as coming from specialised lineages; they were attackers of property, people and the life-cycle, possessed the evil eye and could change into werewolves. The second form was de-paganised and comprised the criminalisation and diabolisation of the witch in the eyes of the Church and believers.¹⁷⁵ "The Witch-stereotype is made up.... of a rural substance much anterior to the definitive late-medieval crystallisation of the stereotype."¹⁷⁶

The Bocage, a rural area of western France, researched from a modern ethnographic perspective by Favret-Saada, established that it was the power of the spoken word, uttered in a crisis, which was later identified as being the source of the harm. The deadly words were then dealt with by *le desensorcelle* who took the words upon himself and turned them back upon the source of the words, the witch.¹⁷⁷ Counter-magical measures were used to achieve this: initially by teaching the victim methods of self-protection by avoiding all contact with the witch, keeping the doors of the house locked and only talking to the *le desensorcelle*, or by sending the harming words back upon the witch through sending illness or death to the witch. The witch in the Bocage did not, unlike early modern Welsh witches, have an opportunity to lift the spell as the Bocage witch became the victim of revenge from which there appeared to be no escape. Witchcraft in the Bocage was an intensely private and personal affair as only the victim and *le desensorcelle* knew what was going on. Communal involvement did not occur, community members never heard about the deadly words, who had spoken them, who was spoken against and who was responsible for the solution. The opposite occurred in early modern Wales:

¹⁷² E. William Monter, op. cit. p. 31. See also E. William Monter, *Witchcraft in France and Switzerland The Borderlands During the Reformation*, Cornell University Press, Ithaca, 1976.

¹⁷³ David Nicholls, "The Devil in Renaissance France." *History Today*, Vol. 30, November, 1980, p. 25-30.

¹⁷⁴ Robin Briggs, *Communities of Belief: Cultural and Social Tensions in Early Modern France*, Oxford University Press, Oxford, 1989, p. 7-105. Robin Briggs, *Witches and Neighbors .The Social and Cultural Context of European Witchcraft*, Penguin Books, Harmondsworth, 1996, p. 265-271. Robin Briggs, "Circling the Devil: Witch-Doctors and magical Healers in Early Modern Lorraine.", in Stuart Clark (ed), *Languages of Witchcraft Narrative and Meaning in Early Modern Culture*, Macmillan Press, Ltd., Houndsmill, 2001, p. 161-178.

¹⁷⁵ Emmanuel Le Roy Ladurie, *Jasmins' Witch*, Scolar Press, Aldershot, 1987, p.17-19.

¹⁷⁶ *ibid.*, p. 77.

¹⁷⁷ Jeanne Favret-Saada, *Deadly Words Witchcraft in the Bocage*, Cambridge University Press, Cambridge, 1980, (English translation), p. 9.

people could resolve their *malefice* problem by undertaking personal antidotes or could go to the conjuror, the communal antidote, who made public the plight of the individual who had consulted him. This public relations exercise ensured that the community became involved, thus alleviating the fear the "deadly words" (or actions) could create.

An Edict of Grace initiated the witch panic in the Basque region of Spain. It was triggered by the recounting of incidents in children's dreams, prompted through the power of suggestion. The Basques had traditions of local witches but the idea of sects was introduced over the Pyrenees from France, by local priests in their sermons. Basque cases exhibit three main components: indoctrination, stereotyped dreams and forced confessions. The cases of the witches of Zugarramundi resulted from the innuendo of one woman, Maria de Ximildegui, the spark which set off a panic. Witchcraft was part of the popular beliefs of the people but cases had previously been resolved through compromise and reconciliation, much like the early modern Welsh response. Maria's actions were taken up by the Inquisition and prosecutions were instigated along with a preaching crusade by Jesuit and Franciscan monks but this only served to underline the reality of witchcraft in the minds of the people.¹⁷⁸ The confessions for the Logrono trials were eventually dismissed because of disagreements between the Inquisitors at Logrono, a situation which prompted the Inquisitor General to halt proceedings in 1614. The people themselves realised that the accusations had become so rash that they were causing the complete breakdown of society.¹⁷⁹

Investigations by Salazar, an Inquisitorial representative, brought the cessation of the hunt in Spain. Men such as Salazar ensured that sceptics, a minority, could induce rulings which were generally unpopular within the Inquisition. Through centralised government, the internal hierarchy of the Inquisition showed a scepticism which was not felt by the external members of the Church, such as lay preachers and monks. The south of Spain was not troubled by witchcraft and the comparison between the north and the south prompted the Inquisition to implement a lenient policy.¹⁸⁰ It was the influence of the Inquisitor General Alonso Marique in the 1610s which induced the Inquisition to cease burning people for witchcraft and Spain was the first country in Europe to stop practicing this form of punishment.¹⁸¹ The actions of the Inquisition in Aragon in relation to infanticide

¹⁷⁸ Gustav Henningsen, "The Greatest Witch Trial of All : Navarre, 1609-1614." *History Today*, Vol. 30, November, 1980, pp. 38-39, 36.

¹⁷⁹ Gustav Henningsen, *The Witches' Advocate: Basque Witchcraft and the Spanish Inquisition 1609-1614*, University of Nevada Press, Nevada, 1980, pp.11-15, 27-36.

¹⁸⁰ *ibid.*, p. 385-389.

¹⁸¹ Henry Kamen, "500 Years of the Spanish Inquisition." *History Today*, Vol.31, February, 1981, p. 41. See also Michael Baigent and Richard Leigh, *The Inquisition*, Penguin Books, London, 2000, Chapter 6.

and witchcraft, initially harsh and then modified, have been discussed.¹⁸²

Protestant views of witchcraft were also based on popular beliefs although some Protestant countries were the most vehement when it came to witchcraft accusations. As the newer forms of religion in the early modern period, the various offshoots of Protestantism were perhaps more defensive of their theology. Despite the Reformation in England however, the new religion retained a surprisingly tolerant response towards witches and witchcraft throughout the sixteenth century. Witchcraft persecution in England was a local, communal and county affair. Such was not the case in Scotland. Theological factors which shaped the witch image in Scotland were the covenant principle and the Calvinistic doctrine that a just God punishes sin with earthly afflictions¹⁸³ and this, combined with an over-zealous reaction by local authorities who were assisted by intermittent centralised control, precipitated the witch panics.

The political fragmentation of the Holy Roman Empire precipitated the diverse reactions to witchcraft as evidenced by each state within the Empire. Wide regional differences as well as religious differences also influenced reactions. From the early decades of the 1600s, witchcraft accusations in Lorraine, the French-speaking territory within the Holy Roman Empire rose sharply as they did in Bavaria and Germany. However, the areas most affected were the Catholic territories of Trier, Mergentheim, Bamberg, Wurzburg and Ellwangen.¹⁸⁴ North of the European Alps and the Pyrennees, judges dismissed cases if they thought evidence was questionable. In the northern Netherlands¹⁸⁵ and Scandinavia, trials were fewer than areas on the Continent which had similar populations and this may be related to the absence of the learned stereotype of devil worship. Just as in England, Dutch and Scandinavian judges did not accept the devil worship concept and the use of torture was also far more restricted in these regions.

The perception of witchcraft, witches and belief in Germany has undergone a profound change since the early 1990s. Evidence from trials, of which there were perhaps 40,000 in Germany, showed a profound belief in sexual intercourse with the devil, the renouncing of the Christian faith, flying and nocturnal gatherings. Torture was an aspect of the trials as the controlling influence of the 1532 imperial law which sought to limit torture

¹⁸² Maria Tausiet Carles, University of Madrid, paper presented at "Reading Witchcraft Texts- Idioms-Vocabularies, History Department, University of Wales, Swansea, 9-11th Septemeber, 1998. "Witchcraft as Metaphor: Infanticide and its Translations in Sixteenth-Century Aragon." This paper has since been published in Stuart Clark (ed), *Languages of Witchcraft Narrative and Meaning in Early Modern Culture*, Macmillan Press, Ltd., Houndsmill, 2001, see Maria Tausiet, " Witchcraft as metaphor: Infanticide and its Translations in Aragon in the Sixteenth and Seventeenth Centuries." p. 179-195. Please note her name change, Maria Tausiet Carles in 1998, now Maria Tausiet.

¹⁸³ Christina Lerner, *Enemies of God*, op. cit., p.195.

¹⁸⁴ H.C. Erik Midlefort , *Wich Hunting in Southwestern Germany, 1562-1684: The Social and Intellectual Foundations*, University of Stanford Press, California, 1972, p.180-182.

¹⁸⁵ G.J. Stronks, "The Significance of Balthasar Bekker's *The Enchanted World*," in Marijke Gijswijt-Hofstra and Willem Frijhoff (eds), *Witchcraft in the Netherlands from the fourteenth to the twentieth century*, University Pers Rotterdam, Rotterdam, 1991, p. 150.

was largely ignored. The results were confessions in which demonology and popular beliefs were inter-mingled but there were strong indications that the victims believed only in the witch's *malefice* ability, not in the imposed demonological aspects of belief. The importance of popular beliefs in relation to witchcraft accusations has been illustrated through the work of Behringer.¹⁸⁶ Witchcraft in Cologne¹⁸⁷ showed the importance of urban magic and folklore in witchcraft trials. Behringer's update on Midlefort's¹⁸⁸ witchcraft research in Austria, Germany and Switzerland, indicates that accusations were instigated by the populace rather than the governing bodies.¹⁸⁹

The spread of Protestantism was more urban-based than Catholicism because of its dependency on literature and preaching. An individuals' religion could, therefore often be governed by locational factors rather than the authority of the state. The more isolated the person from centres of population, the less likely the development of Protestantism. This was the situation in Devon, Cornwall¹⁹⁰ and Wales.¹⁹¹ The issue of recusancy, retention of the Catholic faith and Welsh attitudes towards witchcraft is outside the scope of this thesis but it is a relationship which should be considered. If Catholicism did

¹⁸⁶ Wolfgang Behringer, *Chonrad Stoeckhlin und die Nathschar*, Piper, Munich, 1994 and ed. *Hexen und Hexenprozesse in Duetschland*, DVT, Munich, 1995.

¹⁸⁷ Eva Labouvie, *Zauberie und Hexenwerk: Landlicher Hexenglaube in der fruhen Neuzeit*, Fischer, Frankfurt and Main, 1991. Walter Rummel, *Bauern, Herren und Hexen*, Vandenhoeck and Ruprecht, Gottingen, 1991.

¹⁸⁸ H.C. Erik Midlefort, *Wich Hunting in Southwestern Germany...* op. cit.

¹⁸⁹ Wolfgang Behringer, "Witchcraft studies in Austria, Germany and Switzerland," in Jonathan Barry, Marianne Hester and Gareth Roberts, (eds), *Witchcraft in Early Modern Europe Studies in Culture and belief*, Cambridge University Press, Cambridge, 1996, p. 64-95. Please note that this is an oversimplification on my part as Behringer covers so many small territories.

¹⁹⁰ Robert Whiting, *The Blind Devotion of the People Popular Religion and the English Reformation*, Cambridge University Press, Cambridge, 1989, p. 261.

¹⁹¹ Please see the following for an appraisal of Protestantism in early modern Wales: For Protestants in early modern Wales, see: Eamon Duffy, "The Godly and the Multitude in Stuart England." *Seventeenth Century*, 1, 1986. Thomas Harris Lewis, "Carmarthenshire and the Reformation movement." *Transactions of the Carmarthenshire Antiquarian Society*, Vol. XIV, 1919-21, p. 35 (actually begins in 1941, p. 33-38 and p. 40-50; the National Library of Wales Index to Journals gives the above reference but the article appears in the 1941 edition, which may well be a reprint of the original 1919-21 edition. It can be found on the shelves at the National Library of Wales, Reading Room under the title but in the 1941 edition of the Transactions.) Thomas Harris Lewis was a Lecturer in History at Bangor Normal College and the University of Wales, Bangor holds a copy of the original article. Glanmor Williams, "Wales and The Reformation." *Transactions of the Honourable Society of Cymmrodorion*, 1966, p.122. William Salesbury had published a series of lessons based on the Scriptures in 1551 and the Book of Common Prayer and the New Testament were published in 1567 but Salesbury insisted on translating the work into a bizarre form of Welsh that few could readily understand. In consequence, the works were not popular and the translation of the Old Testament was abandoned. (ibid., p. 24-25.). However, it was not until 1737, through the efforts of the Welsh Circulating Schools, that the people were taught to read (ibid., p. 27-31.). Prys Morgan, *A Bible for Wales*, National Committee for the celebration of the four hundredth anniversary of the Welsh Bible in conjunction with Gwasg Cambria, Aberystwyth, 1988. C.J. Williams and J. Watts-Williams, (compilers) *Cofrestru Plywyf Cymru Parish Registers of Wales*, National Library of Wales and Welsh County Archivists' Group, National Library of Wales, Aberystwyth, 1986, p.,xxiii. This text is in both Welsh and English and lists the location and extent of all parish registers for Wales from 1538-1920 when the Welsh church was disestablished from the Church of England.

influence Welsh attitudes, it was probably positive as research for Catholic countries emphasises the willingness of the church to accommodate rather than execute the individual accused as a witch. Welsh studies emphasise the fact that the Papacy, after the Reformation in England, considered that Wales was a secure Catholic region and concentrated its campaign of counter-Protestantism by sending priests to England which was considered to be more at risk.¹⁹²

V

The judicial and administrative explanatory models of witchcraft largely hinge on the correlation between the rise of witchcraft and the rise of the early modern state. Changes in the legal and judicial framework in some countries transferred witchcraft cases from the ecclesiastical courts to the criminal courts. The ecclesiastical courts had been the main tribunals in which women were tried after allegations of witchcraft with a fine or some type of penance required as a means of resolving the case. But when the jurisdiction of witchcraft cases passed to either the Assizes or ordinary criminal courts, witchcraft became a serious felony and execution¹⁹³ a more likely result because witchcraft was seen as *malefice* or intent to harm, a premeditated act which was a crime against humanity, the state and God. This did not occur everywhere as the church courts of both the Spanish and Roman Inquisition and the Protestant church courts of the

¹⁹² For references to this concept please see: M.C. O'Keefe, "Three Catholic Martyrs of Breconshire." *Brycheiniog*, Vol. XVII, 1976-77, p. 59-65, particularly p. 63 and MarieTrevalyan, *From Snowdon to the Sea*, John Hogg, London, 1895, p. 580-427 for the details surrounding Rachel Fleming. Marie B. Rowlands, "Recusant women 1560-1640." in Mary Prior (ed) *Women in English Society 1500-1800*, Methuen, London, 1985, p.175. Adrian Morey, *The Catholic Subjects on Elizabeth I*, George, Allen and Unwin, London, 1978, pp. 131-132,109-110 and Arnold Pritchard, *Catholic Loyalty in Elizabethan England*, University of North Carolina Press, Chapel Hill, 1979, p. 5. Geoffrey Anstruther, *The Seminary Priest: A Dictionary of the Secular Clergy of England and Wales 1558-1850*, St. Edmunds' College, Ware, p. 394. Thomas Kennedy, "Roman Catholic Recusancy in Denbighshire." *Denbighshire Historical Society Transactions*, Vol. 42, 1993, p. 30. Emyr Gwynne Jones, "Catholic Recusancy in the Counties of Denbigh, Flint and Montgomery, 1581-1625." *Transactions of the Honourable Society of Cymmrodorion*, 1945, p.114-118. W.J. Smith (ed) *Herbert Correspondence The Sixteenth and Seventeenth Century Letters of the Herberts of Chirbury, Powis Castle and Dolguog, Formerly at Powis Castle in Montgomeryshire*, University of Wales Press, Cardiff, 1968, p. 22 See 1645/6 Sir Percy Herberts' Petition to the Committee of Lords and Commons for Sequestration [HM2.12/38a] endorsed 29th January 1645. Philip Jenkins, "Anti-Popery on the Welsh Marches in the Seventeenth Century." *The Historical Journal*, 23, 2, 1980, p. 276-277. Frank H. Pugh, "Monmouthshire Recusants in the reigns of Elizabeth and James I." *South Wales and Monmouth Record Society*, Publication No. 4, 1957, p. 60 and "Glamorgan Recusants 1577-1611." *South Wales and Monmouthshire Record Society*, Publications No. 3, 1954, p. 49 and "William Griffith of Llanvithyn: a Glamorgan Recusant." *Morgannwg*, Vol. XXX, 1986, p. 8. Griffith Thomas "Recusants in Carmarthenshire, 1637." *Transactions of the Carmarthenshire Antiquarian Society*, XI, 1917/1941 p. 36-37. Emyr Gwynne Jones, "The Llyn Recusancy Case, 1578-1581." *Transactions of the Honourable Society of Cymmrodorion*, 1936, p. 97. E.J. Watkin, *Roman Catholicism in England from the Reformation until 1950*, Oxford University Press, London, 1957, p. 72 citing an unnamed Public Record Office document. Llewelyn W. Williams, *The Making of Modern Wales*, Macmillan and Co. Ltd., London, 1919, p.197 -201. J. Gwynfor Jones, *Wales and the Tudor State: Government, Religious Change and the Social Order 1534-1603*, University of Wales Press, Cardiff, 1989, p. 95. G. Dynfallt Owen, G. *Elizabethan Wales: The Social Scene*, University of Wales Press, Cardiff, 1962, p. 220.

¹⁹³ Helena Kennedy, *Eve Was Framed: Women and British Justice*, Chatto and Windus, London, 1992, p. 25.

Netherlands,¹⁹⁴ actually tried fewer cases and continued to send the accused away with a warning and a religious penance.

In actuality, the ecclesiastical courts, particularly in England¹⁹⁵ and the Netherlands,¹⁹⁶ were being used to defeat accusations of witchcraft through the counter-claim of slander and the courts punished both the accused and the accuser and refrained from using theories of demonic heresy. Rushton's work on the records of the Church courts at Durham supports this tendency¹⁹⁷ as does the work of Thompson for Cornwall and Devon¹⁹⁸ and Ingram for Wiltshire.¹⁹⁹ With the removal of ecclesiastical jurisdiction, the political power of the clergy then rested on their credibility as far as the legitimate secular authority was concerned. The intellectual exclusivism of Christianity was effectively used by the clergy and was a consequence of the close association between the church and secular powers.²⁰⁰ In early modern Wales however, slander cases were heard in the criminal Courts of Great Sessions from 1604 onwards and it was only in the early 1700s that surviving church court records show that Welsh people used such courts for the counter-claim of slander.

Witchcraft accusations are also linked to the change in legal structures as inquisitorial procedure replaced accusatorial legal procedure. In the accusatorial procedure, the suspect knew his/her accuser and, if the charges were not proved, the accuser became

¹⁹⁴ Marijke, Gijswijt-Hofstra, "The European witchcraft debate and the Dutch variant," *Social History*, Vol. 15, No. 2, 1990, p. 181-194.

¹⁹⁵ J.A. Sharpe, "Women, witchcraft and the legal process.", in Jenny Kermode and Garthine Walker (eds), *Women, Crime and The Courts in Early Modern England*, The University of North Carolina Press, 1994, p. 106-124. J.A. Sharpe, *Crime in Early Modern England 1550-1750*, Longman, London, 1984, pp. 17, 24, 49.

¹⁹⁶ Hans de Waardt, "Prosecution or Defense: Procedural Possibilities Following A Witchcraft Accusation in the Province of Holland Before 1800.", in Marijke Gijswijt-Hofstra and Willem Frijhoff (eds), *Witchcraft in the Netherlands from the fourteenth to the twentieth century*, University Pers Rotterdam, Rotterdam, 1991, p. 84. Willem de Blecourt and Frank Pereboom, "Insult and Admonition: Witchcraft in The Land of Vollenhove, Seventeenth Century.", in Marijke Gijswijt-Hofstra and Willem Frijhoff (eds), *Witchcraft in the Netherlands from the fourteenth to the twentieth century*, University Pers Rotterdam, Rotterdam, 1991, p. 120-122.

¹⁹⁷ Peter Rushton, "Women, Witchcraft and Slander in Early Modern England: Cases from the Church Courts of Durham, 1560-1675." *Northern History*, 18, 1982, p.116-132. Please also see Peter Rushton, "Texts of Authority: Witchcraft Accusations and the Demonstration of Truth in Early Modern England," in Stuart Clark (ed), *Languages of Witchcraft Narrative, Ideology and Meaning in Early Modern Culture*, Macmillan Press, Houndsmill, 2001, p. 21-39.

¹⁹⁸ Janet Thompson, *Wives, Widows, Witches and Bitches Women in Seventeenth Century Devon*, Peter Lang, New York, 1993 American University Studies Series IX History, Vol. 106, p.81-101.

¹⁹⁹ Martin Ingram, *Church Courts, Sex, and Marriage, 1570-1640*, Cambridge University Press, Cambridge, 1987, p. 2.

²⁰⁰ Bryan Wilson, *Religion in Sociological Perspectives*, Oxford University Press, Oxford, Sixth Edition, 1992, p. 59.

liable for trial. This is what occurred in the Netherlands²⁰¹ and Denmark.²⁰² On average, only ten cases a year were held in Denmark despite the fact that every town and village was thought to have its witches, probably also a response to the expense incurred if a case was brought to court. In Denmark, the accuser had to pay for the upkeep of the accused if he or she was imprisoned and the possibility of there being insufficient evidence was also a risk. Witches were counteracted, as in Wales, by counter-magic as a trial was seen as a last resort. Cases came to court with many witnesses, sometimes as many as fifty, citing events which were twenty to forty years old when an individual "in the parish finally decided to serve a summons on a notorious witch."²⁰³ However, in inquisitorial procedures, the legal authorities brought the case and this meant that personal responsibility never had to be taken by the accuser. Inquisitorial procedure was introduced into Europe as part of the adoption of Roman law and most lawyers trained in Roman law believed that no witch could act alone

The perceived power of witches represented a distinct threat to the centralisation efforts of both the church and the state,²⁰⁴ particularly as the choice of either a Catholic or a Protestant commitment became so critical to the definition of statehood itself.²⁰⁵ This meant that beliefs which were independent of the state became an unacceptable menace; another dimension of this concept was that proceedings against witches were expressions of the public authority's insecurity rather than expressions of its new power. Assertiveness on the part of the state as an aspect of state power is perhaps the key: those who were deemed to hold heretical views were not persecuted because the content of their views was important, but because those who deemed the views to be heretical were significant persons within the structure of the state.²⁰⁶

Connecting the rise of the early modern state to the arrival of the witch panic rests on the principle that the issue became centralised through the state controlling body mainly because most early modern societies developed an official ideology which identified witches as enemies of both society and God. The legal system then prosecuted and

²⁰¹ Marijke Gijswijt-Hofstra, "Witchcraft Before Zeeland Magistrates and Church Councils, Sixteenth to Twentieth Centuries.", in Marijke Gijswijt-Hofstra and Willem Frijhoff (eds), *Witchcraft in the Netherlands from the fourteenth to the twentieth century*, University Press Rotterdam, Rotterdam, 1991, p. 103-108; Willem de Blecourt, "Four Centuries of Frisian Witch Doctors." in Marijke Gijswijt-Hofstra and Willem Frijhoff (eds), *Witchcraft in the Netherlands from the fourteenth to the twentieth century*, University Press Rotterdam, Rotterdam, 1991, p. 158-165.

²⁰² Gustav Henningsen, "Witchcraft in Denmark.", *Folklore*, Vol. 93:ii, 1982, p. 131-137.

²⁰³ *ibid.*, p.136.

²⁰⁴ Mary Condren, *The Serpent and The Goddess Women, Religion, and Power in Celtic Ireland*, Harper and Rowe, San Francisco, 1989, p.166.

²⁰⁵ Richard MacKenny, *Sixteenth Century Europe Expansion and Conflict*, Macmillan Press, Handsmill, Hampshire, 1993, p. 213.

²⁰⁶ *ibid.*, pp. 28, 203.

punished witchcraft because of and according too, this existing official ideology.²⁰⁷ Legal systems created the witch " according to the capacity of the relevant control systems to create them, and were created in the image of the interests of these systems." ²⁰⁸ Currie further contends that witchcraft was a repressive control measure on the Continent whereas England promoted restrained control and thus witchcraft as a deviant form of social behaviour took its character from the nature of the legal control systems. ²⁰⁹

A comparative view of English and Scottish witchcraft showed that both had a popular culture base and both were gradually influenced by indoctrination from the pulpit ²¹⁰ but witchcraft in Scotland was centrally controlled. Every case had to be processed through the Privy Council or Parliament and was, therefore, a potential political tool. Unification was the key issue for the Scottish state and was used in the 1649 witch hunt and at the Restoration.²¹¹ The state's use of witchcraft prosecutions as a unifying mechanism in Scotland was based on the premise that accusations and prosecutions were undertaken on behalf of the community, using the religious premise that the "peculiar utility of witches is that they represented not merely erroneous beliefs about Christianity but total hostility to it."²¹² Witches were pursued primarily as the enemies of God and not because they were women, criminals or social deviants. As Scotland followed Roman law, the crime was that of being a witch and the demonic pact was the primary witching act thus all witches were thought to be part of a Satanic conspiracy. Such intellectualisation of the witch was fostered by a central organization, the clergy and landlords.²¹³ Accompanying the rise of the nation state, was the personalisation of religion which Lerner considers required a more centralised government. In such an atmosphere, witches were the most extreme form of social deviants because they rejected Christianity in any form. ²¹⁴ The Christian church lost its control of witchcraft in the political sense and the change of control from the ecclesiastical to secular courts resulted in the witch hunts. People had lost the their ability to control or contain the effect witchcraft had on their lives as the Reformation deprived them of ecclesiastically sanctioned magic. In Scotland however, those executed for witchcraft were caught up in panics through accusations of already convicted witches, not through accusations levelled at them by

²⁰⁷ J.A. Sharpe, " Witches and Persecuting Societies." *Journal of Historical Sociology*, Vol.3, No.1, March, 1990, p. 79.

²⁰⁸ Elliott P. Currie, " The Control of Witchcraft in Renaissance Europe." in David Black and Maureen Mileski (eds) *The Social Organization of the Law*, Seminar Press, New York, 1973, p. 363.

²⁰⁹ *ibid.*, p. 348-362.

²¹⁰ Christina Lerner, " Witch beliefs and Witch Hunting in England and Scotland." *History Today*, Vol.31, February, 1981, p. 33-35.

²¹¹ *ibid.*, p. 36.

²¹² Christina Lerner, *Enemies of God The Witch-hunt in Scotland*, Chatto and Windus, London, 1981, p.195.

²¹³ *ibid.*, p.195.

²¹⁴ Christina Lerner, *Witchcraft and Religion The Politics of Popular Belief*, Blackwell, Oxford, 1984, p. 89.

their neighbours.²¹⁵

A different type of approach using the rise of the nation state in Scotland, revealed a process which showed that the ruling elite initiated the hunt and then different members of the same elite brought it to a close in years of the Great Hunt of 1661-1662.²¹⁶ English judges who had been substituted for Scottish judges during the Protectorate showed far more leniency towards witches than had the Scots. During the Protectorate, Scottish witchcraft cases had been minimal and this was due, in part, to the disbandment of the Scottish Privy Council, the body which had issued commissions to local authorities to try witches. Whilst Scotland was under military rule, the English army command governed and, as the command did not believe in witchcraft, Scottish witchcraft cases did not occur during this regime.²¹⁷ The driving force behind the Great Hunt, after the Restoration, were the clergy who, acting with lay elders of parishes in the kirk sessions, conducted the initial examination of the accused. It was the petition of the Earl of Haddington, who sought Parliamentary permission to try witches on his lands in 1661, which gave impetus to the hunt. Haddington's elitist views, combined with the employment of professional witch prickers, moved the witch hunt from county to county, supported as it was by rigorous enforcement through the judiciary court. Whilst popular factors determined who was accused, the appearance of the devil and the satanic pact arose at a later stage after interrogation. The Great Hunt ceased when a sceptical judiciary supported the prohibition of torture, arrested the witch prickers and implemented a new and special warrant to arrest witches²¹⁸

In recent years Levack has moved considerably from his initial connection of witch panics in Scotland to the development of the state. Moving to a position Quaife first posed in 1987,²¹⁹ Levack now presents the active force as being in the hands of the local authorities with a central authority doing much to restrict local over-reaction.²²⁰ By 1999, he had moved even further from his original premise, "What set Scotland apart from both countries (France and England) was its difficulty in controlling the excesses of local justice and the strength of religious sentiment in favour of witch-hunting."²²¹

²¹⁵ *ibid.*, p. 90-138.

²¹⁶ Brian P. Levack, *The Witch-Hunt in Early Modern Europe*, Longman, London, 1987 and "The Great Scottish Witch-Hunt of 1661-1662," *Journal of British Studies*, Vol.20, No.1, 1980, p. 90-108.

²¹⁷ Brian P. "The Great Scottish..." *op. cit.*, p. 91-93.

²¹⁸ *ibid.*, p. 94-107.

²¹⁹ Geoffrey Robert Quaife, *Godly Zeal and Furious Rage: The Witch in Early Modern Europe*, Croom Helm, London, 1987, p. 117.

²²⁰ Brian P. Levack, "State-building and witch hunting in early modern Europe," in Jonathan Barry, Marianne Hester and Gareth Roberts, (eds), *Witchcraft in Early Modern Europe Studies in Culture and belief*, Cambridge University Press, Cambridge, 1996, p. 96-99.

²²¹ Brian P. Levack, in Stuart Clark and Bengt Ankarloo (eds), *Witchcraft and Magic in Europe The Eighteenth and Nineteenth Centuries*, Volume 5 of The Athlone History of Witchcraft and Magic in Europe, The Athlone Press, London, 1999, p. 60.

Witchcraft in Germany appeared to be a complex power game with the use of prosecutions to extend the power struggle. The struggle was a two way process as the magistrates did not always exploit the populace since the issue was related to the "collaboration of broad sections of local communities, who could force magistrates to act against their own better judgement."²²² The participants manipulated these elements as a political device but it cannot be claimed that witch accusations were a tool used by the "ruling elites to intimidate the rural masses and erode their popular culture."²²³ The authorities did discriminate between diabolical witchcraft and sorcery and the outcome of witchcraft accusations was not a foregone conclusion.²²⁴ The true witch panic did not emerge in Germany until 1587 when many witches were executed at the instigation of prince-bishops and ecclesiastical state leaders. The secular territories and the imperial cities also hunted witches amongst the populace and the surrounding districts. ²²⁵

The Carolina Code, the criminal code of 1532, has been credited with implementing the witch hunts in all German-speaking territories. Charles V instituted the code for the territories of the German-speaking Holy Roman Empire and throughout the 1550s and 1590s two concepts emerged from the document: the witches sabbath became a common obsession amongst the ruling elite and, secondly, territorial laws gradually changed in order to allow for executions of witches solely on the grounds of their association with the devil and not from any *maleficium* the witches may have perpetrated.²²⁶ The most alarming aspect of the Carolina code was the inter-relationship it fostered between the judicial personnel and the legal professors of some of the universities within the Holy Roman Empire. Midelfort has suggested that the lack of a strong central power was the reason for the concentration of cases in the Holy Roman Empire ²²⁷ as some universities were opposed to the witch craze which evolved. The dependence of the judiciary on the professorial interpretation of the laws relating to witchcraft made the professors full members of the judiciary by default and this, combined with the power of the bishops and ecclesiastics in the territories, made the Holy Roman Empire the centre of witch-hunting. The decline in prosecutions only began when too many children were both accused and became accusers and when torture was seen as an unreliable means of obtaining confessions.²²⁸

Witchcraft in the rural areas of Schleswig-Holstein, in northern Germany showed that

²²² Bob Scribner, "Witchcraft and Judgement in Reformation Germany." *History Today*, April, 1990, p.19.

²²³ *ibid.*, p.13.

²²⁴ *ibid.*, p.16.

²²⁵ See H.C. Erik Midelfort, *Witch-Hunting in Southwestern Germany 1562-1684*, Stanford University Press, Stanford, 1972 and the updated review "Heartland of the Witchcraze: Central and Northern Europe." *History Today*, Vol.31, February, 1991, p. 27.

²²⁶ *ibid.*, *History Today*, op. cit., p. 29-30.

²²⁷ H.C. Erik Midelfort, *Witch-Hunting in Southwestern Germany 1562-1684*, op. cit.

²²⁸ *ibid.*, p. 30-31.

beliefs and magical activities were still very evident in these areas although no legal prosecutions could occur. Three people were involved in the witchcraft episodes, the victim, the witch, who was usually a woman, and the *Hexenbanner*, who was usually a man. The *Hexenbanner* was very powerful but his power was based on aggressive tactics, subterfuge and activities which made an innocent person appear guilty. The libel actions, assaults on people others presumed were witches, and cruel innuendo were the result of his "counter-magic."²²⁹ The law in Denmark ensured that a witchcraze could not occur because it disallowed the use of evidence statements from dishonest persons. The law regarded dishonest persons to be those people who were categorised as vagrants, vagabonds and witches and these people could not give evidence to convict a third party. Torture was disallowed until after the final sentence and all cases had to go before the County Court before sentencing was carried out.²³⁰ Another law in 1617 stated that only those who had been proved to have made a pact with the devil could be burned and cunningmen and sorceres could only be fined and exiled.²³¹ The 1680s Djursland witch hunt was related to the local squire's use of the hunt for personal gain and was quashed through a Copenhagen ruling.²³² Trials in Jutland were concentrated in the 1617 to 1627 period and accusations were based on accusations of maleficium. Demonic elements and the demonic pact were mentioned in confessions but Johnsen, in a later publication, attributed absorption of these elite concepts/ elements by the populace to church frescos. In Scandinavian countries, these frescos often depicted demons helping witches to steal milk.²³³

Witchcraft in Norway is an example of oppressive judicial power at the state and local level. Norway, annexed by Denmark in 1536, was ruled by a King's Council which consisted of Danish noblemen who wielded considerable power. The Lutheran pastors who replaced the Catholic Norwegian clergy built on the popular belief system concerning the supernatural and, assisted by the bailiffs who were the public prosecutors and the administrative officers of the court, executed over 280 individuals. The executions were for maleficium and for pact and/or sorcery practices, all achieved through circumvention of the Danish law concerning torture. Torture achieved a maximum number of confessions and the convicted were forced to denounce accomplices.²³⁴ The hunt in Norway ceased as a result of the influence of the *lagmenn* or judges of the Court of Appeal from Denmark. The scepticism exhibited by these men prompted rulings

²²⁹ Johan Kruse, *Hexen unter uns*, Verlag Hamburgische Bucherei, Hamburg, 1951.

²³⁰ Jens Christian V. Johansen, "Denmark: The Sociology of Accusations." in B. Ankarloo and G. Henningsen (eds) *Early Modern European Witchcraft: Centres and Peripheries*, Oxford University Press, Clarendon, 1990, p. 339-340.

²³¹ Inga Dahlsgard, "Witch-hunts and absolutism in ancient Denmark." *Cultures*, No.8, (4), 1982, p. 34 and Jens Christian V. Johansen, op. cit., p. 341-342.

²³² Inga Dahlsgard, op. cit., p. 34.

²³³ Jens Christian V. Johansen, *Da Djarvelen var ude*, Odense University Press, Odense, 1991.

²³⁴ Hans Eyvirid Naess, "Norway: The Criminological Context." in B. Ankarloo and G. Henningsen, op. cit., pp.367,371-376.

against the use of force and the removal of the Lutheran pastors from examination proceedings. Most of the Norwegian accused were women who were already regarded as social outcasts and widows of poor crofters prior to their prosecutions.²³⁵

Hagen has published several articles based on research from the Court books or the *Tingbok*, for Finnmark, Norway during the 1617-1663 period.²³⁶ From 1601 - 1692, there were about 150 witch trials in Vardøhus (known today as Finnmark, the northernmost county in Norway near the Russian border). About 100 of the witches, mostly women, were burned at the stake, and approximately 25 of the witch trials in Finnmark affected the indigenous people of Norway : the Sami people or the Lapps.²³⁷ Witchcraft trials in Iceland, Finland, Sweden, Estonia and Russia have been previously analysed as the situation in these countries was related to the intellectualisation/demonisation of a popular culture base.²³⁸

VI

Explanatory models relating to the politicisation of the witchcraft issue are considerably intertwined with the rise of the nation state, state authority and the centralisation of power. Within early modern society, there were many levels of authority which affected the outcomes of witchcraft accusations and, incorporated within each level, were degrees of power wielded by interested parties. In some regions the witch was safer when the state was in control but, in other areas, it was the local authority which ensured a more reasonable outcome.

Evidence for most early modern Welsh cases indicates that the accused were relatively safe, ensconced within the jurisdiction of the county authorities. Politicisation at the local level occurred when the squirearchy and the clergy took a village incident and expanded it. Popular beliefs triggered the accusations of witchcraft but the outcome was dependent on the members of the elite who shaped popular concerns in the light of their own attitudes. This is probably what happened to Margaret verch Richard ²³⁹ and Maud verch Hugh ap Hugh²⁴⁰ in Anglesey in the 1650s. In Wales, just as in England, the case had to be lodged by a person from the local community, there was no evidence that

²³⁵ *ibid.*, pp.380, 377-378.

²³⁶ Rune Hagen, "The witch-hunt in early modern Finnmark," *Acta Borealia* 1- 1999, p. 43-62.

²³⁷ The Lapps are discussed below in the section relating to ethnicity and witchcraft trials in the early modern period.

²³⁸ The relationship between witchcraft in early modern Wales and local, county and state authorities will be analysed in Chapter IV Order and Authority : Gender and the Continuation of Customary Laws and Practice in Early Modern Wales.

²³⁹ NLW, Great Sessions16/7 Great Session for Anglesey (1655) Margaret verch Richard of Beaumaris 20th August 1655 at Beaumaris.

²⁴⁰ NLW, Great Sessions16/5 Great Sessions for Anglesey (1652) Deposition No.5 Anglesey Plea Rolls, Roll 8.

cases in Wales were instigated by members of the judiciary or the gentry. However, evidence does show that some members of the local authority were sometimes instrumental in bringing cases to trial, as was the case of Gwen verch Ellis who was apprehended by a bailiff in Denbigh, William ap Griffith/Gruffyd ap William who was also the first witness against her.²⁴¹ Sometime in either February 1621 or 1622, Sir John Bodvel, who lived in the county of Caernarvon, wrote to his father-in-law, Sir John Wynn, to tell him that Griffith Hughes "by reason of a sickness in his house these 18 years, has apprehended two of Bodvel's tenants named as Ritherch ap Jevan and Lowri verch Jevan, and committed them to gaol on a charge of witchcraft."²⁴² As a justice of the peace for Caernarvon, Sir John Bodvel may have had an interesting decision before him but the outcome of the case is unknown.

English cases generally indicate the politicisation of the witchcraft issue at the local level as case outcomes were dependent on the reactions of those in power locally. Only the Matthew Hopkins trials could be classified as a panic in England in the 1640s, as can that of the English immigrant colony in New England's Salem panic in 1692.²⁴³ In the case of Jane Wenham of Walkerne in Hertfordshire in 1712, the local community, whilst believing Jane was a witch, had not proceeded against her until the clergy and the squirearchy took the village incident and expanded it into an event.²⁴⁴ Similar situations arose surrounding Anne Gunter ²⁴⁵ Margaret Moore,²⁴⁶ and Elizabeth Lowys.²⁴⁷ However, work on English criminal law generally indicates that "the middling sort of people often played a powerful role as mediators in the exercise of justice, and that they did not automatically or instinctively adapt the values of the governing elite."²⁴⁸

Evidence in Welsh witchcraft as *malefice* cases seem to follow this premise as the only case which reflects the Witchcraft Act of 1604, is that of Margaret verch Richard for Anglesey in 1655. All other Welsh cases show that the justices of the peace, the

²⁴¹ NLW, Great Sessions 4/9/4/13.

²⁴² Calendar of the Wynn Papers (Wynn of Gwydir) 1515-1690, NLW. No. 1009 1621/22, 12th February, p.159.

²⁴³ The relationship between the English cases in the Old and the New World has been updated by Malcolm Gaskill, "Witches and Witnesses in Old and New England," in Stuart Clark (ed), *Languages of Witchcraft Narrative and Meaning in Early Modern Culture*, Macmillan Press, Ltd., Houndsmill, 2001, p. 55-80.

²⁴⁴ Phyllis J. Guskin, "The Context of Witchcraft: The Case of Jane Wenham (1712)." *Eighteenth Century Studies*, No. 1, Vol. 15, 1981-82, pp. 48, 64.

²⁴⁵ J.A. Sharpe, *Bewitching of Anne Gunter: A Horrible and True Story of Deception, Witchcraft, Murder, and the King of England*, Routledge, London, 1998.

²⁴⁶ Malcolm Gaskill, "Witchcraft and power in early modern England: the case of Margaret Moore," in Jenny Kermode and Garthine Walker (eds), *Women, Crime and The Courts in Early Modern England*, The University of North Carolina Press, 1994, p. 125-145.

²⁴⁷ A. R. Young, "Elizabeth Lowys: Witch and social victim", *History Today*, Vol. 22, No. 12, December, 1972, p. 879-885.

²⁴⁸ Tim Harris, op. cit. p.17 quoting Peter King "Decision-Makers and Decision-Making in the English Criminal Law, 1750-1800." *Historical Journal*, XXVII, 1984, p. 25-58.

members of the jury, and gaol officials in some cases, made every effort to ensure that the accused woman, when found guilty, was not punished according to the dictates of the 1604 Act. It must also be said that English cases could and did reflect the same principles: the trial process was more balanced as the witch was tried at the local assizes by members of her community but under the "supervision" of a justice from the central courts at Westminster. The result depended upon the leanings of both parties. The benefit for accused witches in Wales was that they were tried not only by members of their community but also by justices of the peace, at least one of whom was a Welshman.

Witch trials occurred in north-west Iceland in 1625, 1654-56, 1667, and 1669-1685²⁴⁹ but legal protections existed in Iceland which checked the development of a witch panic. The institution was known as judgement by twelve lay persons and, by using this method, the accused could have all charges dropped if he/she could find twelve lay persons to swear to his/her innocence.²⁵⁰ The Icelandic institution was a variant of compurgation, an essential element in ecclesiastical courts throughout Europe and England. A recently published work by Byock,²⁵¹ examines the systems of power : legislative, judicial, friendship, family network, advocacy and the law in relation to maintaining harmony in a community which was subjected to blood feuds, feuds and vendetta in tenth to thirteenth century Iceland. Encompassing the Christianising process of Iceland, bishops and the secular authority, Byock's work lends weight to that of Harstrup, analysing the system of compromises, conflict management and arbitration by which the community prevented outbreaks of mass violence. However, the 1625 witch panic in Iceland illustrates the link between local power and its relationship to the rise in accusations. The local sheriff linked the devil to the individual responsible for *malefice* and the cause of the severe winter with its attendant loss of stock and the plague. Demonology was elitist and the 1627 publication on Icelandic demonology by Guodmunder Einarson linked the Lutheran perception of demonology with Icelandic witchcraft.²⁵²

The situation in Sweden was similar to that in Scotland as the courts encouraged a growing emphasis on witchcraft by presenting it in terms of a threat to the community. Through such a unifying tool, the Swedish king commanded that only those who confessed and who were the cause of the craze should be executed. The impetus for the cessation of the craze and the decline of accusations occurred when the judges and leading politicians came into close contact with the panic and their scepticism brought it

²⁴⁹ Kirsten Harstrup, "Iceland : Sorcerers and Paganism." in B. Ankarloo and G. Henningsen, (eds) *Early Modern Witchcraft: Centres and Peripheries*, Oxford University Press, Clarendon, 1990, p. 382-386.

²⁵⁰ *ibid.*, pp. 387-392,394-398.

²⁵¹ Jesse L.Byock, *Viking Age Iceland*, Penguin Books, London, 2001.

²⁵² Kirsten Harstrup, *op. cit.*, p. 336-391.

to an end.²⁵³

The relationship between border areas and witchcraft adds another dimension to the politicisation of witchcraft because the most frequent panics occurred in border areas of the Holy Roman Empire, Switzerland and France. This is possibly due to the fact that these areas were governed by provincial authorities which were divided by religion after the Reformation. Rulers of these small territories were perhaps more threatened than other monarchs of Europe and also were not answerable to a higher authority. Borderlands were also areas where the lines of legitimate authority were in question. Areas in the Empire, such as Ellwangen, Bamberg and Wurzburg experienced the worst panics and were also areas where a church official was head of the church and also head of the state. In these areas Christianity was a political ideology where persecuting witches demonstrated the piety of the head of state.²⁵⁴ This closely follows the concepts outlined by Lerner for Scotland.²⁵⁵

In Russia, the Church had jurisdiction over witchcraft but, by the mid sixteenth century, both church and state began to exhibit concerns over the survival of pagan manifestations amongst the people. The Muscovite court became pre-occupied, to the point of paranoia, with the existence of witches and used accusations as a political tool. Ivan IV used witchcraft accusations to eliminate his political opponents and consolidate his power. This trend was continued by Boris Godunov in 1601 when the entire Romanov family was exiled for witchcraft because they were seen to constitute a political threat. The Romanovs also used witchcraft accusations as a political manoeuvre when they attained power, largely because various wives of the Tsars died from *malefice* due to poisoning in 1625 and 1647.²⁵⁶

Witchcraft in Venice was caught in the middle of the Roman Inquisitions' very political interest in Venice itself as Venice was anti-papal for most of the early modern period. Venetian witches were both male and female and these were divided into two categories : male witches were more interested in capitalistic endeavours such as treasure hunting whereas female witches were concerned with divination and love magic. Most witches were considered to be female because of their weak minds but married women were less likely to be denounced than single women and married women living apart from their husbands. This view of women is reflective of the Inquisitions' view of women : male members of the family were supposed to supervise their womenfolk

²⁵³ Bengt Ankarloo, "Sweden : The Mass Burnings (1668-1676)." in B. Ankarloo and G. Henningsen (eds) *Early Modern Witchcraft : Centres and Peripheries*, Oxford University Press, Clarendon, 1990 , pp. 294, 296-302.

²⁵⁴ For specific case studies of early modern areas where this situation arose, see Brian P. Levack in Stuart Clark and Bengt Ankarloo (eds), *Witchcraft and Magic in Europe The Eighteenth and Nineteenth Centuries*, Volume 5 of The Athlone History of Witchcraft and Magic in Europe, The Athlone Press, London, 1999, Chapter 2 : Patterns and Dynamics of Decline...

²⁵⁵ See Christina Lerner , *Enemies of God...* op. cit. and *Witchcraft and Religion*, op. cit.

²⁵⁶ Russell Zguta, "Witchcraft Trials in Seventeenth-Century Russia.", *American Historical Review*, Vol. 82, No.5, 1977, p. 1195

and, if a witchcraft accusation arose, the Inquisition saw this as a dereliction of duty on the part of male family members.²⁵⁷ In France, the life of the French peasant worsened from 1560-1700 and power became a tool in the hands of rich village clans who, as indicated by the situation in the Cambrensis in the early 1600s, implemented witch hunts of their own.²⁵⁸ Some German areas turned the Muchembled ²⁵⁹concept of the local power elite controlling and initiating witchcraft accusations upside down. Research showed that it was the local populace, the village community, which organised trials and committees as part of popular culture. In the Hapsburg territories of south-west Germany, popular beliefs generated a fear of witches which aroused public interest to such an extent that it culminated in rebellion and unrest against feudal lords.²⁶⁰

This leads to the positive and/or negative responses of the state authority to witchcraft. The result of state power and a monarch's demands is demonstrated by the fate of Anne Boleyn in England. The loss of a stillborn son sealed Anne's fate but a legal structure was in place which could ensure her removal from the throne. Christian leaders denounced sexual acts which would not lead to procreation and it was well known that witches held orgies, were sodomites, homosexuals, adulterers and had incestuous relationships. The last three types of sexual deviancy were thought to be the cause of deformities, the birth of monsters and, possibly, failed pregnancies. The 1534 Parliament declared buggery a felony and bestiality was included because witches could metamorphose into animals.²⁶¹ The inference was that Anne Boleyns' private behaviour and the charges laid against her, including that of being a witch due to her extra finger and the wen on her neck, were used as a means of ensuring her removal from the throne.

Witch cases and the problem of authority was considerable for members of the aristocracy in Croatia. Witch panics among the South Slavs were recorded as early as the mid fourteenth century in Croatia.²⁶² Catholic authorities tried witches in Dalmatia and the sentences, in the 1440s, were severe. Article Ten of the Croatian Assembly, instigated in 1609, empowered all citizens to search for witches and hand them over to the nobleman who was responsible for punishment in his district. Failure to punish cost

²⁵⁷ Ruth Martin, *Ruth Witchcraft and the Inquisition in Venice 1550-1650*, Blackwell, Oxford, 1989, p. 226-231.

²⁵⁸ E. William Monter, "French and ..." op. cit., p. 33. Robert Muchembled, *Popular Culture and Elite Culture in France 1450-1750*, University of Louisiana Press, Baton Rouge, 1985. Robert Muchembled, "The witches of the Cambrensis: the acculturation of the rural world in the sixteenth and seventeenth centuries" in James Obelkevich (ed), *Religion and the People 800-1700*, University of North Carolina Press, Chapel Hill, 1979, p. 221-276.

²⁵⁹ Robert Muchembled, *ibid.*

²⁶⁰ Johannes Dillinger, "Grafschaft Hohenberg", *Hexen und Hexenverfolgung im deutschen Sudwesten*, ed Sonke Lorenz, Cantz, Osfildern, 1994, p. 245-151.

²⁶¹ Retha M. Warnicke, "Sexual Heresy at the Court of Henry VIII." *The Historical Journal*, 30, No.2, 1987, p. 247-268.

²⁶² T.P. Vukanovic, "Witchcraft in the Central Balkans I: Characteristics of Witches.", *Folklore*, Vol. 100: i, 1989, p. 9-24.

the nobleman his sword and thereby his rank.²⁶³ Twenty-eight trials occurred in Zagreb between 1640 and 1752; all were women between the ages of twenty and eighty and all were chained, tortured and burnt at the stake. Accusations against these women were of four types, causing storms, hail and frost, sickness and death in both animals and people, and that they stole the milk of others cows. Women in the Central Balkans were also killed without any due process at law at all. In 1685, peasants reacted to a severe crop failure by burning all those suspected as witches.²⁶⁴

In France the state acted to curb the excesses of an over-reaction to witchcraft. The Parlement was always reluctant to condemn witches to death, and, in 1624, decreed that witchcraft sentences which prescribed capital or corporal punishment, were subject to appeal. By 1640, "the high court began to take punitive action against subordinate judges who tolerated summary executions."²⁶⁵ The Paris court, from then on, worked towards coercing other French courts to follow the same approach. However, the statistics show that the Parlement, before the appeal process was introduced, had a record for leniency since the death sentence was half the total of convictions for witchcraft. From 1564 - 1640, 1123 individuals appealed their convictions for witchcraft. Of these, 115 were executed, 130 underwent corporal punishment, 395 underwent non-corporal punishment, 52 died in prison, 24 outcomes were unknown and 407 people were released.²⁶⁶ Over 90% of these sentences, other than the death sentence, were further commuted, either by reduction of the fine, a shorter time in the galleys or a shorter period of banishment, perhaps to ensure even further checks on excesses of "subordinate jurisdictions."²⁶⁷ Appeals in witchcraft cases were reflective of appeals in other cases, arson, conjugal murder and sodomy. Only in appeals of infanticide were the judgements of the death sentence confirmed in over 70% of cases: this was because the 1556 edict pertaining to pregnancy stated that the woman must register her pregnancy and have a witness at the birth if she had not done one or both of these things and she was convicted of infanticide, she was usually executed. In effect, "the law had elevated what was 'a certain chain of presumptive evidence' into proof of guilt."²⁶⁸ Witchcraft could, like infanticide, have been made a *crimen expectum* in France and it is significant that it was not.²⁶⁹

Most executions were based on confessions but the Parlement was, in the 1580s, increasingly concerned with how such confessions were obtained when they were "achieved" by local courts. Abuses were discovered in Champagne and in the

²⁶³ *ibid.*, p. 10.

²⁶⁴ *ibid.*, p. 10-11.

²⁶⁵ Alfred Soman, "The Parlement of Paris and the Great Witch Hunt (1565-1640).", *Sixteenth Century Journal*, Vol. IX, No. 2, 1978, pp. 31- 44, quote at p. 33.

²⁶⁶ *ibid.*, p. 35.

²⁶⁷ *ibid.*, p. 36.

²⁶⁸ *ibid.*, p. 36.

²⁶⁹ *ibid.*, p. 37.

Ardennes where local judges were sometimes so intimidated by angry villagers who resorted to lynching, that they brought in execution verdicts. The high court's commuting response to many death sentences was probably related to the doubts it had concerning the abuses which subordinate magistrates used to bring in a guilty verdict.²⁷⁰ The cases concentrate on *maleficium*, sabbats and the devils pact are not emphasised. The majority of accused were magical healers (*guerisseur*), individuals whom the courts regarded as charlatans, essentially because their practices, which attempted to release another from bewitchment, were contrary to the belief that only the instigator of the *malefice* could undo the spell. Trials of these people centred on the charges, which were astronomical, which they had attempted to gain for the lifting of a bewitchment.²⁷¹ The Parlement of Paris sought to respond to the accusations of witchcraft not because of any change in the intellectual climate but in response to "the maintenance of public order and the imposition of high standards of criminal justice upon a lower magistracy far from easy to control."²⁷²

Perhaps the most negative effects of state authority occurred in Scotland and the Puritan theocracy of Massachusetts, New England. Lerner's work for Scotland proposed that Reformation Christianity became a political ideology where rulers felt compelled to prove their devotion to their faith and to their subjects. Witches thus became the enemies of God and of the state.²⁷³ In America however, witchcraft trials and accusations had occurred well before the Salem trials of 1692 and witchcraft per se was not a new phenomenon amongst the settlers of New England although execution was not standard practice for those found guilty. It was the role of the magistrates, the judiciary and Puritan theologians which politicised witchcraft accusations in Salem. The Protestant dogma divided supernatural or "preternatural" activities into two major categories: diabolic possession²⁷⁴ and witchcraft but the remedies for these were undermined by the admission of presumptive evidence in the Salem trials: spectral evidence, the evil eye, the healing touch, unnatural feats of strength, an inability to recite the Lord's Prayer and an inability to shed tears.

The background factors which preceded the witchcraft outbreak at Salem were numerous but, most important, was the religious and political factionalism with which the

²⁷⁰ *ibid.*, p. 42.

²⁷¹ *ibid.*, p. 43.

²⁷² *ibid.*, p. 44.

²⁷³ Please note that Christina Lerner's works have been quoted at length throughout this chapter and the thesis. For the most recent publication on Scotland, please see Lawrence Normand and Gareth Roberts (eds), *Witchcraft In Early Modern Scotland: King James Demonology & The North Berwick Witches*, Northwestern University Press, 1998. Terry Brotherstone and David Ditchburn (eds), *Freedom and authority : Scotland c. 1050-c. 1650 : historical and historiographical essays presented to Grant G. Simpson*, Tuckwell Press, East Linton, 2000.

²⁷⁴ For an analysis of possession, power and authority in England, see J.A. Sharpe, "Disruption in the Well-Orderd Household: Age, Authority, and Possessed Young People," in Paul Griffiths, Adam Fox and Steve Hindle (eds), *The Experience of Authority in Early Modern England*, Macmillan Press, Houndsmill, 1996, p. 187-212.

colony had been riven since 1660.²⁷⁵ These internal divisions were complicated by the concerted campaign waged from England to reduce the colony's independence. Starkey presents a different view, relating witchcraft accusations to the sexual frustrations experienced by many who lived under the repressive New England Puritan ideology.²⁷⁶ An aspect of this is expanded by Demos: the outbreak was a revolt by daughters against their mothers although they side stepped the actual accusation against their mothers by fixing accusations on women of their mother's generation.²⁷⁷ Hansen thought the general clinical hysteria was induced by adolescent guilt feelings exhibited by psychosomatic symptoms and suggestibility.²⁷⁸ Karlsen has suggested that New England accusations of witchcraft were often linked to inheritance patterns. Women who inherited property upset the primogeniture inheritance principle and stood in the way of an orderly transmission of property from one generation of male landholders to the next.²⁷⁹ Ruether points out that the primary witch hunters, and the major formulators of the new understanding of the patriarchal family as the key institution of both the church and state, were generated by the Calvinistic principles of the Protestant New Englanders in conjunction with the Calvinists of England and Scotland.²⁸⁰

Rosenthal concentrates on the legal and judicial structure which tried the witchcraft cases, showing that Salem trials differ greatly from other New England and English trials because of the nineteen people hanged, all of them had declared their innocence but many of those who had confessed were not hanged. Much like Margaret verch Richard in Wales who did not confess and was hanged.²⁸¹ The key to the Salem trials of 1692 was the behaviour of the magistrates who acted very differently from the way they had always acted and never acted in such a way again. In pre-Salem witchcraft trials in New

²⁷⁵ Paul Boyer and Stephen Nissenbaum, *Salem Possessed: the Social Origins of Witchcraft*, Harvard University Press, Cambridge, Massachusetts, 1974. The factionalism and controversies of Salem Village made it a microcosm of the Massachusetts Bay Colony. The essence of Boyer and Nissenbaum's study of the Salem witch outbreak hinges on the social disharmony between Salem Village and Salem Town. Salem Village was an outlying settlement of the port town of Salem and comprised approximately five hundred people in one hundred households. The Salem Village adult population numbered about 250 people and, by the 1660s, the Village had grown sufficiently for the agricultural community to consider itself as an identity separate to Salem Town. Just as other outlying areas such as Wenham, Beverley and Marblehead had achieved independent township status from Salem, Salem Village wanted independent township status. Salem Town was reluctant to forgo the tax and agricultural produce from the Village and resisted Salem Village moves.

²⁷⁶ Marion Starkey, *The Devil in Massachusetts*, New York, 1949.

²⁷⁷ John Demos, "Underlying Themes in Witchcraft in New England", *American Historical Review*, Vol. LXXV, 1970, p. 1311-1326.

²⁷⁸ Chadwick Hansen, *Witchcraft at Salem*, A Mentor Book from the New American Library, New York, 1969.

²⁷⁹ Carol F. Karlsen, *The Devil in the Shape of a Woman: Witchcraft in Colonial New England*, Norton, New York, 1987, p.77-116.

²⁸⁰ Rosemary Radford Ruether, *Gaia and God An Ecofeminist Theology of Earth Healing*, Harper, San Francisco, 1992, p.193

²⁸¹ NLW, Great Sessions 16/7 Great Session for Anglesey (1655) Margaret verch Richard of Beaumaris 20th August 1655 at Beaumaris.

England, the bench was usually loaded against people who accused others of witchcraft but the opposite occurred at Salem. Normal procedures were not followed and, most importantly, spectral evidence was allowed, a major and unique New England feature of the Salem witch trials. The court's admission of spectral evidence left the accused with no means of proving or disproving their guilt and, instead of being sceptical, the Salem magistrates encouraged the accusations.²⁸²

Governor Phips ordered a moratorium on the trials on 12th October and the Court of Oyer and Terminer was terminated on 26th October. The court had heard thirty-one cases, six against men, and had pronounced sentence of execution in every case. Eleven persons remained to be executed and, of these, five were reprieved after confessing, two died in jail, two had their executions postponed because they were pregnant and they were later reprieved, and one escaped. Tituba was held until the court decided that it could not reach a decision and she was sold off into slavery in order to pay for her imprisonment costs. Reprieves were costly and those whose estates had not been seized already were often bankrupted by the fees. Others remained in jail until someone paid their bills.²⁸³ Witchcraft at Salem highlights another aspect of the politicisation of witchcraft: ethnicity, in association with power, gender and authority, is also a factor in witchcraft accusations.

VII

Women in the New World were especially vulnerable to witchcraft and demonic suggestion and this applied most particularly to ethnic women. Merchant presents two different but inter-related views on the Salem witch outbreak. Protestantism overturned but could not annihilate the pagan customs and festivals which had been incorporated in the now superseded Catholic religion. Even though Puritans did not practice these old pagan rituals openly, their world was filled with spirits, apparitions and powers of the occult. Increase Mather wrote about Puritan belief in *Remarkable Providences* in terms of earthquakes, floods, thunderstorms, apparitions, possession by the devil and witchcraft as God's judgement. All these instances could be attributed to God, signs which God sent in various forms, sometimes as instruments of the devil or the power of

²⁸² Bernard Rosenthal, *Salem Story*, Cambridge University Press, Cambridge and New York, 1993.

²⁸³ Please see Francis Hill, *The Salem Witch Trials Reader*, Da Capo Press, 2000, takes the reading witchcraft as narrative literally as first-person accounts are provided by contemporary documents including trial records, personal letters etc. of all those involved in the Salem witch trials. *John Hale A Man Beset by Witches*, Prepared for The Hale Family Association and Hale Farm Beverly Historical Society and Museum, Beverly, Massachusetts by Marguerite L. Harris, Miles F. Harris, Elanor V. Spiller, and Emily Carr. Printed by Wilkscraft Creative Printing, Beverly Massachusetts, 1992. David D. Hall (ed), *Witch-Hunting In Seventeenth-Century New England: A Documentary History, 1638-1693*, Northeastern University Press, 1999. Elizabeth Reis, *Damned Women: Sinners And Witches In Puritan New England*, Cornell University Press, 1999. I would like to thank John Fields, my friend and mentor for many years, for all these publications which he brings home to Australia after every visit to Salem near his hometown of Gloucester, Massachusetts.

witches.²⁸⁴ Witchcraft was a manifestation of Protestantism's popular consciousness' inter-relationship with nature: witchcraft and women were closely associated because women were deemed to be closer to the natural world due to their menstruation and reproductive capacities. Merchant sees the witch as a symbol to Christians of uncontrollable nature and witch trials as the means whereby women as the causes of natural disasters and evil were controlled. "In New England both pagan beliefs and Christian perspectives about the closeness of women to nature underlay the presumed practice as well as the persecutions of women as witches."²⁸⁵

Purkiss, exploring the witch on the margins of 'race', cites Mercy Short and Mary Toothaker's descriptions of the devil as a tawny man, an Indian rather than a black man whilst another woman told of attending sabbaths with French Catholics and Sagamore Indians. She sees the Salem witch crisis as being blamed on the Indians since notions of witchcraft in the New World arose from and were shaped by the colonialists' terror of the Indians.²⁸⁶ The ethnic background of Tituba, perhaps the generator of the whole Salem episode because of her ethnic heritage and storehouse of stories, myths and beliefs, is important as is that of her husband, Indian John.²⁸⁷

Ethnicity is also important in witchcraft accusations in Mexico, generated as a result of the mass conversions of native peoples. Witchcraft in terms of the influence of demonic possession and the actions of the devil became the particular concern of the Franciscans and other Catholic religious orders, as well as the Inquisition, in late seventeenth century Mexico.²⁸⁸ The initial Christianisation process of the Indians, begun in 1524, resulted in thousands of converts who resorted to their pagan gods when epidemics and escalating demands for native labour became too overwhelming. Demonic possession amongst the Franciscan community of converts became so apparent that, by 1691, the Holy Office in Queretaro was writing of it to the Inquisitors in Mexico City. The occurrences were causing rising scepticism in the Dominican, Carmelite and Jesuit communities and the head of the Franciscan college at Queretaro felt it necessary to justify his community's actions by 1692. Women were the most likely to be possessed and some had hundreds of spirit demons put inside their bodies by groups of witches, the most prominent of whom was called "the mice-sucker" or *La Chapparatonas*.²⁸⁹ Holy drinks

²⁸⁴ Carolyn Merchant, *Ecological Revolutions Nature, Gender, and Science in New England*, University of North Carolina Press, Chapel Hill, 1989, p.104-105. This work expands themes first proposed in Carolyn Merchant, *The Death of Nature: Women, Ecology, and the Scientific Revolution*, Harper and Row, New York, 1980.

²⁸⁵ Carolyn Merchant, *Ecological Revolutions ... op. cit.*, p.105.

²⁸⁶ Diane Purkiss, *The Witch in History Early Modern and Twentieth-Century Representations*, Routledge, London, 1996, p. 256.

²⁸⁷ See Elaine G. Breslaw, *Tituba, Reluctant Witch Of Salem: Devilish Indians And Puritan Fantasies*, New York University Press, New York, 1996.

²⁸⁸ Fernando Cervantes, "The Devils of Queretaro: Scepticism and Credulity in Late Seventeenth-Century Mexico.", *Past and Present*, No. 130, p. 51-69.

²⁸⁹ *ibid.*, p. 55.

and prayer were the remedies against such spirits but the Inquisitors felt that the Franciscans' inability to stop the possessions was leading to disunity and dissent, a view supported by the Carmelites who saw it as a confrontational situation developing between the religious orders and the Indian converts.²⁹⁰

Matters came to a head in 1692 when the Inquisitors formally charged the two women who had remained possessed, as well as some others, with pretence, using the supposed possession as a means of uttering blasphemy and heretical remarks. These actions brought the possessions to an end. In Mexico, the Mexican Inquisition "blatantly dismissed" diabolism and continued to do so until after 1729.²⁹¹ Cervantes argues that the Inquisition reacted in such a manner because the Franciscan theological position was not traditional as it changed the role of the witches, making them agents who enacted the will of God.²⁹² Political motives were, Cervantes maintains ²⁹³, the key, essentially a conflict between religious orders of the Catholic church. ²⁹⁴

The Old World however, also had communities who related witches to ethnic background. Nationality played a key role in Venetian witchcraft as non -Venetians were more often targets than were Venetian citizens as outsiders were more at risk.²⁹⁵ The regional distribution of accusations in Hungary is complicated by the division of the country into three parts, all with different legal and political systems and diverse religious belief : Catholic, Calvinist, Orthodox and Lutheran.²⁹⁶

The fate of many Sami, the Lapps, in Norway does, however, provide an example of the relationship between ethnicity, state authority and witchcraft accusations. Based on research from the Court books of the Tingbok, for Finnmark in Norway, the evidence shows that of the 150 people accused, 100 were women who were burned at the stake but 25 of these were the indigenous people of Norway, the Sami or Lapps.²⁹⁷ The trial of Quiwe Baarsen, the shaman of Alta was heard at Hasvåg, in the western region of Finnmark, Norway, on 9th May 1627 before a bailiff and a jury, beginning a process which resulted in the execution of many Sami.²⁹⁸ Between the years 1620 to 1663, more than one hundred and twenty-five witch trials were heard for Finnmark, the most

²⁹⁰ *ibid.*, p. 56-57.

²⁹¹ *ibid.*, p. 60-61.

²⁹² *ibid.*, p. 63.

²⁹³ *ibid.*, p. 65 - 68.

²⁹⁴ *ibid.*, p. 68. See also Fernando Cervantes, *Devil In The New World: The Impact Of Diabolism In New Spain*, Yale University Press, Yale, 1997.

²⁹⁵ Ruth Martin, *op. cit.*, p. 231-241.

²⁹⁶ Gabor Klaniczay, " Hungary: The Accusations and the Universe ..." *op. cit.*, pp. 224, 228-229

²⁹⁷ Rune Hagen, "The witch-hunt in early modern Finnmark," *Acta Borealia* 1- 1999, p. 43-62.

²⁹⁸ Rune Hagen, "The Shaman of Alta The 1627 Witch trial of Quiwe Baarsen.", based on the records of the Court Book ("Tingbok"), No.2 for Finnmark, March 1627 - August 1633, 4a-5b. University of Tromsø ,1998.

northern county of Norway. Approximately ninety-five witches, most of them women, were burned at the stake and, between 1601 and 1663, about seventy of these witch-trials were held in Vardø, making it "the witch capital" of Norway.²⁹⁹ In the trials of 1621, approximately ten women were burned at the stake for their pact with the devil and causing a storm. The 1621 trials were the beginning of a worsening series of prosecutions against suspected witches in Norway, particularly around the 1660s.³⁰⁰

The only incident of possible ethnic differences in early modern Wales concerned Rachel Flemynge or Fleming³⁰¹ who was tried for witchcraft practices in Glamorgan twice, once in 1668 and again in 1678. The case of Rachel Flemynge was made after discord arose at the Beltain (1st May) rites in the district and had a great deal to do with the descendants of Flemish weavers, of whom Rachel was one, who had come to the district many years previously.³⁰² The case may have been one in which racial discrimination played a role, based on the fact that Flemish weavers had been moved into the area by successive English monarchs since the twelfth century. Giraldus Cambrensis mentioned that the Flemings had first been located at Ros, where Haverfordwest is now, but were not liked by the Welsh and eventually retreated to Gower in 1135.³⁰³ Whilst there was no textual evidence of racial discrimination, there may have been tensions of another kind as the "Flemings were credited with having imported a 'new breed of witches', who were a terror to the South-West and West of Wales."³⁰⁴ Divination practices were a refined art amongst the Flemings as they were known to use the blade bone of a ram, specifically the right blade bone. The flesh was stripped away and the bone was boiled and, using this blade, the Flemings could discover past and future events, a power which their neighbours may have found too threatening.³⁰⁵

VIII

The medical explanations for the rise of early modern witchcraft explore the relationship

²⁹⁹ Rune Hagen, "The Witches' Sabbath at Christmas Eve." The initial passages of this article are based upon District Governor Hans Hanssen Lilienskiolds' sorcery manuscript (c. 1695), which is neither recorded nor printed in other sources. This manuscript may be found in Copenhagen's Royal Library. Lilienskiold made use of old court records - of which major portions of the 1621 records have been lost. The sorcery reports of District Governor Lilienskiold were published in October 1998 under the title: HANS H. LILIENSKIOLD. Trolldom og ugudelighet i 1600-tallets Finnmark, Rune Hagen and Per Einar Sparboe (eds.), Ravnetrykk 18, Universitetsbiblioteket i Tromsø: 1998.

³⁰⁰ Rune Hagen and Per Einar Sparboe (eds.), Trolldom og ugudelighet i 1600-tallets Finnmark, Ravnetrykk 18, Universitetsbiblioteket i Tromsø, 1998.

³⁰¹ This information is taken from Sally Parkin, "Witchcraft in Early Modern Wales: The Counties of Merioneth, Radnor, Brecon and Glamorgan." The Gwyn Alf Williams Memorial Award for 1998 submitted to The Welsh Academy, Cardiff, June, 1999, p. 42.

³⁰² Marie Trevelyan, *From Snowdon to the Sea*, John Hogg, London, 1895, p. 380-427.

³⁰³ J.D. Davies, *A History of West Gower Glamorganshire*, Part I, H.W. Williams, at 'The Cambrian' Office, Swansea, 1877, p. 95-98.

³⁰⁴ Marie Trevelyan, *Llantwit Major Its Histories and Antiquities*, John E. Southall, Newport, Monmouth, 1910, p. 209.

³⁰⁵ J.D. Davies, op. cit., p.112.

between popular culture and its use of witchcraft to explain mysterious illnesses, injuries and events for which societies had no explanation. Injuries and death to people were the primary consideration and were attributed to the *malefice* of the witch. The damage meted out to livestock and the cessation of various forms of agricultural production was the second major concern and a large proportion of accusations levelled at individuals concerned the strange deaths of livestock, crop failure, unusual diseases and the failure of animals to thrive.³⁰⁶ In early modern Wales however, there is almost no documentary evidence which could link witchcraft accusations with medical explanations in regard to people although there are links between *malefice* and animals.³⁰⁷

Bewitchments of people comprise the majority of accusations against witches and modern medicine does provide correlations between accusations and symptomatic evidence. The physically disadvantaged and the mentally ill were groups which were very susceptible to witchcraft accusations, possibly due to society's view that these afflicted individuals envied and hated the unafflicted members of the community.³⁰⁸ Such afflicted people included the crippled, blind, deaf and dumb, disfigured and the maimed. The mentally ill, those suffering from schizophrenia, psychosomatic illnesses, priapism, somnambulism, senile psychosis and chronic alcoholism,³⁰⁹ to cite a few, were more disadvantaged, viewed as potential witches or as witches by the medical profession and the populace who had no reason for their conditions. Doctors were able to preserve their reputations by blaming the disease they were either unable to cure or understand on witchcraft practitioners. The patient was declared to be bewitched, thus the doctor was relieved of any responsibility. Estes goes so far as to state that "the rise of the craze could be traced to the revolution in medical thinking that marched beside it so closely."³¹⁰ Zilboorg contends that millions of so-called witches and sorcerers were severe neurotics and had considerably deteriorated organic deliria, he likens the situation in the early modern world to a massive insane asylum. This grossly exaggerated contention is counteracted by Schoeneman³¹¹ who proves, by examining psychopathological evidence and case histories, that Zilboorg more than overstates the situation.³¹²

³⁰⁶ See Sally Hickey (nee Parkin), "Fatal Feeds: Plants, Livestock Losses and Witchcraft Accusations in Tudor and Stuart Britain." *Folklore*, Vol. 101 : ii, 1990 p.131-142. I would like to thank Jacqueline Simpson for her interest in this work.

³⁰⁷ *ibid.*

³⁰⁸ Lucy Mair, *Witchcraft*, London, 1969, p.102-179 for an expansion of this concept.

³⁰⁹ R.D. Anderson, "The History of Witchcraft : A Review with Some Psychiatric Comments." *American Journal of Psychiatry*, 126, 12th June, 1970, p. 76.

³¹⁰ Leland Estes, "The Medical Origins of the European Witch Craze: A Hypothesis." *Journal of Social History*, Winter, 1983, p. 279.

³¹¹ Thomas J. Schoeneman, "The role of mental illness in the European witch hunts of the 16th and 17th centuries : an assessment." *Journal of Behavioural Sciences*, Vol. 13, 1977, p. 337-351.

³¹² Gregory Zilboorg, *The Medical Man and the Witch During the Renaissance*, Cooper Square Pub. Inc., New York, 1969 , p. 76.

The medical profession was burgeoning during this period and it has been suggested that legitimate medical men often used witchcraft as a means of securing their own position in society. To ensure their livelihood, professionals as a group promoted the idea that healers from diverse economic and social backgrounds were witches : in a convoluted form of logic, the argument states that healers as non-professionals gained the respect and trust of the people through their abilities and the competence of these healers emphasised the incompetence of the legitimate professionals. The reputation of the healers threatened professional prestige and income which professionals reacted to by becoming victimizers, using their legitimacy in the state hierarchy as a means of destroying the healers through witchcraft accusations. Midwives were particularly susceptible to such strategies through their unlimited access to infants and women. Women of mature years who acted as midwives and nurses had a moral authority which most men lacked under the pre-Reformation value system.³¹³ Combined with this, midwives possessed knowledge of contraceptive techniques, knowledge which was in direct conflict with both the Catholic and Protestant doctrines of reproduction since midwives "knew best how to prevent and abort unwanted pregnancies."³¹⁴ Classifying these women as witches was a means of ridding society of this knowledge. The myths of witches eating babies, using unbaptised infants in ointment recipes for flying and shape transformation stem from the conflict between midwives and professionals and midwives and religious doctrine.³¹⁵

Analysing the case books of Richard Napier, Sawyer showed that witchcraft accusations offered a wide range of action to the bewitched, a vehicle enabling a coming to terms with illnesses such as visions, abnormal behaviour, suicidal thoughts, convulsions, lameness, pining, consumption, body wasting and body shaking, severe coughing fits and permanent disabilities.³¹⁶ Primarily however, witchcraft accusations were a "flexible strategy through which ill people sought to construct their own reality and to achieve healing."³¹⁷ Suicide or self-murder was believed to be prompted by the devil, a traditional folk belief that survived in Wales, the Highlands of Scotland and rural districts in England during the early modern period. Suicide was also thought to be the result of supernatural causes and "the role of the devil in popular interpretations of suicide

³¹³ Sheldon J. Watts, *A Social History of Western Europe 1450-1750 Tensions and Solidarities among rural people*, Hutchinson University Library, Century Hutchinson Ltd., London, 1984, p. 204. See Jean Donnison, *Midwives and Medical Men A History of the Struggle for the Control of Childbirth*, Historical Publications Ltd, New Barnet, 1988, particularly Chapters 1-5.

³¹⁴ Stephanie Lahar, "Roots Rejoining Natural and Social History." in Greta Gaard (ed) *Ecofeminism Women, Animals, Nature.*, Temple Univesity Press, Philadelphia, 1993, p.103.

³¹⁵ See Jean Donnison, *Midwives and Medical Men A History of the Struggle for the Control of Childbirth*, Historical Publications Ltd, New Barnet, 1988, particularly Chapters 1-5.

³¹⁶ Ronald C. Sawyer, "'Strangely Handled in all Her Lymms': Witchcraft and Healing in Jacobean England.", *Journal of Social History*, 22,3, 1989, p. 461-469.

³¹⁷ *ibid.*, p. 469.

became more conspicuous in the sixteenth and early seventeenth centuries."³¹⁸

The syphilitic shock syndrome proposed by Andreski surmises that witchcraft arose as a reasoned societal reaction to the spread of syphilis, a proposal that once again underlines the inappropriateness of relating the rise of witchcraft to one specific explanation.³¹⁹ Syphilis is an illness caught through sin, therefore the clergy used women, partly because of their powerless position, as scapegoats for the disease. Paralleling the rise of witchcraft accusations with enforced celibacy, as decreed by the Council of Trent from 1545-1563, Andreski states that witchcraft accusations were a rational method of disavowing sin and disclaiming responsibility for the visible sinful symptoms which could be attributed to bewitchment rather than to illicit copulation.³²⁰ More recently, another explanation links the Salem witch trials to encephalitis among the New England population.³²¹

Some of the myths associated with witchcraft and the activities of witches fall into the medical explanations category, myths such as shape transformation, flying, sabbats and the unnatural deaths or illnesses of both people and animals. The publication of the *Malleus Maleficarum* or *Hammer of the Witches* in 1486 helped precipitate analysis of these phenomena which men and women believed they experienced. In the late 1400s, Laguna,³²² Porta,³²³ and Johann Weyer/Weir in the 1600s³²⁴ linked the possibility of flight and shape transformation with the ingestion and/or external application of hallucinogenic plants and animal products. The use of hallucinogens results in a series of visual hallucinations, all of which are often accompanied by auditory hallucinations.³²⁵ Hallucinations are illusions, a response to a stimulus which results in an individual's apparent seeing of an object which is actually not present and can also induce experiences of undergoing various physical changes. The experiences are entirely psychological but the individual is convinced that it is physical.

The ingredients of witching ointments or *laminarum ungenta* were extremely narcotic and

³¹⁸ Michael MacDonald and Terence R. Murphy, *Sleepless Souls Suicide in Early Modern England*, Clarendon Press, Oxford, 1990, pp.7,351,50-52, quote at p. 60.

³¹⁹ Stanislav Andreski, "The Syphilitic Shock," *Encounter*, May, 1982.

³²⁰ *ibid.*, pp.14-15, 25. These concepts have been further expanded in Stanislav Andreski, *Syphilis, Puritanism and Witch-Hunts: Historical Explanations in the Light of Medicine and Psychoanalysis with a Forecast about Aids*, Macmillan, Basingstoke, 1989.

³²¹ Laurie Winn Carlson, *A Fever in Salem: A New Interpretation of the New England Witch Trials*, Chicago Press, Illinois, 1999.

³²² Laguna, 1555, IV, xxv, p.421-422.

³²³ Giovanni Battista Porta, *Natural Magick* 1562, II, xxvii, p.197-198 (Reproduction of the 1658 English edition by Basic Books, New York 1957).

³²⁴ Johann Weyer, *De Praestigijs daemonum* George Mora (ed.) *Witches, Devils, Doctors in the Renaissance*, Medieval and Renaissance Texts and Studies, Vol. 73, New York, 1991, Book Three Of *Laminae*, p.163-279.

³²⁵ R.E. Schultes, "The Plant Kingdom and Hallucinogens." *Bulletin of Narcotics*, Vol. XXI, No. 3, Part I, July-September, 1969, p. 6.

hallucinogenic, created specifically for two effects: an illusion of flight, or transvection, and the induction of shape transformation, or metamorphosis. Application was generally external although internal application was achieved using a vaginal applicator "then placed this little wand between their legs," the probable origin of the broomstick myth.³²⁶ The walls of the vagina facilitate quick absorption and faster results were achieved from substances applied by this means.³²⁷ Cohn's assertions that none of the recipe citations were eye-witness accounts are refuted by careful reading of Weyer, Laguna and Porta,³²⁸ all of whom document ingestion of ingredients such as aconite, deadly nightshade, mandrake, hemlock, water parsnip, cinquefoil, datura, smallage, celery, poplar leaves, bat's blood, urine, soot, meal of fine wheat³²⁹ and baby's fat. Harner provides a sound analysis of these herbs and their use but there are some other aspects of the recipe contents that are more subliminal and which precipitated the mythology surrounding witches.³³⁰

The toad/ witchcraft connection has always been obscure but toads produce a white, milk like substance from glands on their skin which contains *bufotenine*, an hallucinogen which produces the highly specific hallucination of flying.³³¹ The same chemical compound is also found in the Fly Agaric, *Amanita muscaria*, which is one of the oldest known hallucinogenic ³³² mushrooms. All users are aware that the urine of a person who has ingested the substance is intoxicating and, although the effect is diminished with each voiding, up to three drinkings can be obtained from the original ingestion of the mushroom.³³³ Urine is often included in the ointment recipe contents. The colour black is also alluded to and this was probably soot or ash, a blood purifier which made the

30. T.R. Forbes, *The Midwife and the Witch*, New Haven, 1966, p.121.

327 Michael J. Harner, *Hallucinogens and Shamanism*, Oxford University Press, New York, 1974, p.121.

328 Norman Cohn, *Europe's Inner Demons*, Chatto Hienmann, Bungay, 1975, p. 220.

329 This ingredient has generated the ergot debate, particularly in relation to Salem. See Linda R. Caporeal, "Ergotism: The Satan Loosed in Salem," *Science*, Vol. 192, April, 1976, p. 21-26; and the counter-response of N.P. Spanos and J. Gottlieb, "Ergotism and the Salem Village Witch Trials". *Science*, Vol. 194, December, 1976, p. 1390-1394; which is based on a chemical formula which is totally incorrect since they confuse the natural rye grass chemical components of the fungus *Claviceps purpurea*, which causes the hallucinations, with LSD, a synthetic chemical which can only be produced in the laboratory.

330 Michael J. Harner, *op. cit.*, p.123-151.

331 A. Allen, "Toads: The Biochemistry of the Withes' Cauldron." *History Today*, April, 1979, p. 266. I would like to thank my father, T.E. Parkin for drawing my attention to this article in 1979, beginning my postgraduate interest in early modern witchcraft studies. Malcolm A. Smith, *The British Amphibians and Reptiles*, Collins, London, 1954, p.75; S. Cohen *op. cit.*, p. 22.

332 See John M. Allegro, *The Sacred Mushroom and the Cross Fertility Cults and the Origins of Judaism and Christianity*, Doubleday and Co. Inc., New York, 1970.

333 Erich Hesse, *Narcotics and Drug Addiction*, Philosophical Library, New York, 1947 p.109; R.E. Schultes, "The Plant Kingdom and Hallucinogens." *Bulletin on Narcotics*, Vol. XXI, No. 3, Part I, p. 9; Louis Lewin, *Phantastica, Narcotic and Stimulating Drugs, Their Use and Abuse*, Kegan Paul, Trench, Trubner and Co. Ltd. 1931, p.125-6; Sidney Cohen, *The Beyond Within The LSD Story*, Atheneum, New York, 1964, *op. cit.*, p.16.

ointment safer.³³⁴

Hallucinogens are specific in their effect as they induce a reaction in any individual which is basically always the same. The predominance of chemicals such as *scopolamine*, *hyoscyamine* and *atropine*, substances found in the chemical composition of the narcotic elements in the ointments, indicate specificity. *Atropine* induces experiences of lycanthropy (shape changing into a wolf, the probable origin of the werewolf myth) and shape transformation, whereas *scopolamine* induces the highly specific hallucination of growing fur, feathers, scales or warts, of feeling that one has become a particular animal, and *hyoscyamine* produces the specific hallucination of flight. The hallucinations produced through use of plants of the Solanaceous family, (belladonna, deadly nightshade), are frequently dominated by the erotic moment and the use of these narcotics induce the mental experiences of sexual intercourse with man, woman or the devil, the particular partner often linked with the power of suggestion and expectation on the part of the user. Ginzburg offers an alternative explanation concerning the witches' sabbat by linking "the emergence of the notion of an all-powerful sect of witches threatening society"³³⁵ with the lepers' conspiracy of 1321 in France and the re-emergence of the Black Death in 1348. The amalgamation of these two events, created, he believes, the myth of the witches' sabbat.³³⁶

Ointment citations are devoid of ingredient amounts as the ointments were mixed according to ingredient availability, also the reason for the interchangeability of ointments : aconite for deadly nightshade, belladonna for thorn apple, and so on. Each ointment was balanced, one ingredient modifying the extreme effects of another and a significant aspect of all the recipes was the inclusion of blood purifier, an absolute necessity if the user was to avoid the cumulative effects of hallucinogen use. Cinquefoil, parsley, soot, sweet flag, smallage and poplar were included as blood purifiers as the inclusion of such herbs prevented debilitating illnesses such as the loss of liver and kidney function.³³⁷ In other words, the compilers of the ointments knew what they were doing.

Narrative evidence from trials, depositions, and witness statements relating to the death, disease and illness of domestic livestock and the loss of agricultural production generates another concept within witchcraft accusations and medical, or veterinary, explanations. The incidents of strange and unusual deaths and illnesses such as wasting diseases, bloody milk, failed butter churning and cheese makings, frothing at the mouth, convulsions, to indicate a few, all have a potential link to plant ingestion and the effect

³³⁴ Please see Sally Hickey (neeParkin) "An Alternative View..." op. cit, p. 25-26.

³³⁵ Carlo Ginzburg, "The Witches' Sabbat: Popular Culture or Inquisitorial Stereotype." in Stephen L. Kaplan (ed) *Understanding Popular Culture Europe From the Middle Ages to the Nineteenth Century*, Mouton Publishers, Berlin, 1984, p. 41.

³³⁶ *ibid.*, p. 42-43. Ginzburg extends this concept in *Ecstasies Deciphering the Witches' Sabbat*, Penguin Books, London, 1991, translated by Raymond Rosenthal.

³³⁷ See Sally Hickey (nee Parkin), "An Alternative View ..." op. cit., for an overview of hallucinogen and narcotic use amongst English witches.

such ingested substances had on the livestock and animal by-products in the early modern period. Poisonous and toxic substances commonly present in the fields and foods of the community's livestock, eaten unwittingly or through excessive hunger, caused symptoms which led their owners to believe that their livestock had been overlooked or bewitched. All witchcraft accusations relating to animal losses have a potential relationship to plant ingestion, a relatively simple and explainable link in the immediate working world of the early modern community.³³⁸

IX

Witchcraft historiography provides the contextual framework for witchcraft in early modern Wales and raises questions about the experience of those accused as witches, particularly as the parameters of this experience were very specific. All were women, most of whom were found guilty but no further action was taken against the witch. Consequently, the analysis must become more subtle in its approach. The country had, comparatively recently, experienced the imposition of the authority of the English state, an imposition which contributed its own dimension to the experience of gender and authority in early modern Wales. The Acts of Union, 1536 to 1543, imposed a court system throughout Wales and it was in the Courts of Great Sessions that witchcraft cases of both types, witchcraft as words and witchcraft as *malefice*, were tried.

³³⁸ See Sally Hickey (nee Parkin), "Fatal Feeds ? Plants, Livestock Losses and Witchcraft Accusations in Tudor and Stuart Britain." *Folklore* 101: ii, 1990 based on an unpublished Master of Arts (Hons) thesis "Livestock Deaths, Plant Ingestion and Witchcraft in sixteenth and seventeenth century Britain." University of New England, 1989.

Chapter II

The Courts of Great Sessions: the context of the witchcraft cases.

The explanatory models developed for witchcraft historiography suggest that the rise in the number of witchcraft cases in the courts during the early modern period in Europe can generally be attributed to the enormous changes to which communities were subjected in the sixteenth and seventeenth centuries.¹ Wales was no exception to the influence of change although the degree of change experienced in Wales was not as marked. The most significant change was, however, the newly imposed centralised system of justice and administration, imposed by the Acts of Union between England and Wales.

As a consequence of the Acts of Union of 1536 and 1543, the king's law became supreme throughout Wales, unifying and overriding the patchwork of English and Welsh laws that had existed since 1284. The order of authority in the new administrative system comprised the King, the Star Chamber, which became the highest court of appeal available to the Welsh, the Council of the Marches in Wales (presiding over more than one hundred and fifty marcher lordships), and the Courts of Great Sessions. Below these were the courts of Quarter Sessions, the county courts and the borough courts.

¹ These issues have been discussed in Chapter I Contextualising the Welsh Witch in the Early Modern World, *Witchcraft Historiography*. Please see the following for the development of this witchcraft historiographical framework from the 1970s: Keith Thomas, *Religion and the Decline of Magic*, Weidenfield and Nicolson and Charles Scribner's Sons, New York, 1971 and Alan Macfarlane, *Witchcraft in Tudor and Stuart England A Comparative Study*, Routledge and Kegan Paul, London, 1970; G.L. Kittredge *Witchcraft in Old and New England*, New York, 1956; J.A. Sharpe, *Crime in Early Modern England, 1550-1750*, London, 1984; Ronald C. Sawyer, "Strangely Handled in All Her Lymys": Witchcraft and Healing in Jacobean England." *Journal of Social History*, 22, 3, 1989; Jon Oplinger, *The Politics of Demonology The European Witchcraze and the Mass Production of Deviance*, Susquehanna University Press, Selinsgrove, 1990; Clive Holmes, "Women: Witnesses and Witches, Past and Present, No. 140, August, 1993; Michael MacDonald, *Mystical Bedlam*, Cambridge University Press, Cambridge, 1981. Michael MacDonald, "Women and Madness in Tudor and Stuart England" *Social Research*, Vol. 53, No. 2, 1986; Christina Lerner, *Enemies of God: The Witchhunt in Scotland*, Chatto and Windus, London, 1981; H.C. Erik Midelfort, *Witch Hunting in Southwestern Germany 1562-1684: The Social and Intellectual Foundations*, Stanford University Press. William E. Monter, *Witchcraft in France and Switzerland: The Borderlands During the Reformation*, Cornell University Press, Ithaca, 1976. Gustav Henningsen, *The Witches' Advocate: Basque Witchcraft and the Spanish Inquisition (1609-1619)* University of Nevada Press, Reno, 1980. Paul Boyer and Stephen Nissenbaum, *Salem Possessed: The Social Origins of Witchcraft*, Harvard University Press, Cambridge, 1974. Lyndal Roper, *Oedipus and the Devil Witchcraft, sexuality and religion in early modern Europe*, Routledge, London, 1994. Bengt Ankarloo, and Gustav Henningsen, (eds) *Early Modern European Witchcraft: Centres and Peripheries*, Oxford University Press, Oxford, 1990. This compilation covers nearly all countries of Europe, the peripheries consist of Finland, Denmark, Iceland, Estonia, Portugal, Sweden and Norway. Richard MacKenny, *Sixteenth Century Europe Expansion and Conflict*, Macmillan Press, Handmill, Hampshire, 1993. James A. Sharpe "Witches and Persecuting Societies." *Journal of Historical Sociology*, Vol. 3, No. 1; Elliott P. Currie "The Control of Witchcraft in Renaissance Europe." in David Black and Maureen Mileski (eds) *The Social Organization of the Law*, Seminar Press, New York, 1973. Russell Zguta, "Witchcraft Trials in Seventeenth-Century Russia.", *American Historical Review*, 82 (5), 1977.

Before the Acts of Union, Welsh women had their legal rights protected by traditional native laws known as the Law of Women.² While response to witchcraft in other areas of early modern Europe, including the rise of prosecutions, hinged a great deal on the social vulnerability and poor legal status of women, the relatively low prosecution rate in Wales, and the even smaller instance of execution for witchcraft, seem reflective of a higher degree of legal protection offered to Welsh women under native law, accompanied by their acceptance within the community. However, with the imposition of the Acts of Union, all other types of legal authority became, ostensibly, defunct and there is no doubt that the native laws of Wales, including the Law of Women, were considerably eroded, putting the traditional position of Welsh women at risk. This chapter examines the mechanisms of the Courts of Great Sessions in Wales, the links between the procedures of the courts in Wales, and the outcomes for the defendants in witchcraft trials.

The personnel of the Courts of Great Sessions is extremely important when analysing the nature of witchcraft in Wales in the early modern period. These courts were manned by Welshmen who acted in their capacity as justices of the peace, juries and as judges. In other words, the Courts of Great Sessions were the highest courts available to the Welsh people where they were judged, in the majority of cases, by Welshmen. Although Welsh people had recourse to the Council of the Marches and the Star Chamber, these courts, particularly the Star Chamber, were not manned by Welshmen.

Witchcraft cases in Wales were not only of two distinct types, cases also show that two separate court procedures were followed within the same court system, at the same time and with the same result, usually the survival for the accused witch. Witchcraft as words cases were lodged in a manner which was very different than the procedure for witchcraft as *malefice* cases.³

Great Sessions records pertaining to witchcraft as words cases are located in NLW, Great Sessions 13; NLW, Great Sessions P; and NLW, Great Sessions 28. Witchcraft as *malefice* cases were located in NLW, Great Sessions 4 which are the gaol files; NLW, Great Sessions 33 which are gaol files additional and NLW, Great Sessions 16 which are plea rolls.⁴

² The Law of Women is detailed in the following chapter, Chapter III The Customary *Law of Women* : Social Place and Cultural Status.

³ Court procedures for witchcraft as *malefice* cases are detailed and discussed in Chapter VIII Witchcraft as *Malefice* : Witchcraft Case Studies, The Third Phase of The Welsh Antidote to Witchcraft.

⁴ These are the actual call numbers of each set of documents for the Courts of Great Sessions. These records were originally located in the Public Record Office in London but were removed to the National Library of Wales at Aberystwyth when this institution was established. The Public Record Office used the call number "Wales" whereas, now these are called NLW, Great Sessions... meaning, National Library of Wales, Great Sessions... The number associated with the NLW, Great Sessions, refers to the group of documents for each circuit. "P" denotes Prothonotary Papers, "p" also but the discovery of some additional papers, previously considered lost, has resulted in this additional file.

Although the Acts of Union was a process which began in 1536, the Courts of Great Sessions were not formally established until the Act of 1542 and, right from the start, the Courts of Great Sessions were an independent body. Although many court procedures "were borrowed from the practice of the high or 'great' sessions which had operated in North Wales since 1284",⁵ the Great Sessions remained independent from London's central courts. The influence of the existing English judicial system in the Principality, counties of which came under the jurisdiction of the North Wales circuit after 1543, had significant bearing on the Courts of Great Sessions in Wales. The courts in the Principality had had two and a half centuries of experience in the administration of both English and Welsh law, an experience which permeated the new system created by the Acts of Union and which "had the effect of giving to the Courts of Great Sessions in all parts of the country something of a Welsh character."⁶

The Act of 1542, which introduced the body to be known as the Courts of Great Sessions, stated that the court, in each county, had the ability to try "all manner of pleas of the Crown in as large and ample a manner as the King's Chief Justice in England."⁷ Court procedure was detailed in the 1542 Act, which stated that there was to be a proclamation made fifteen days before the commencement of each session. The counties were grouped anew into four circuits, as had been decreed by an earlier Act of 1535. One circuit, under the Justice of Chester, was responsible for Denbighshire, Flintshire and Montgomeryshire; the Justice of North Wales was responsible for Caernarvonshire, Anglesey and Merionethshire; Cardiganshire, Carmarthenshire and Pembrokeshire were grouped together under another justice; and a fourth justice took up office for Glamorganshire, Breconshire and Radnorshire.⁸ Each circuit had its own set of officials consisting of a chief clerk, who was called a prothonotary, "a secondary, a marshal, a clerk of indictments, a king's attorney who acted for the Crown in criminal prosecutions, barristers and attorneys."⁹

Each justice of the four groups of three shires held a Court of Great Sessions twice a year in each shire, generally in the spring and the autumn. The court sat for six days, although these were not necessarily six consecutive days, and the local community was given fifteen days' notice prior to the arrival of the justice. The date of the next sessions was set by the presiding judge and if there were more pleas than the justice could answer in the six-day period, the remainder were tried before a deputy justice in petty

⁵ Glyn Parry, *A Guide to the Records of Great Sessions in Wales*, The National Library of Wales, Aberystwyth, 1995, p. v.

⁶ William Rees, "The Union of England and Wales.", *Transactions of the Honourable Society of Cymmrodorion*, 1937, p. 58. and Hugh Thomas, *A History of Wales 1485-1660*, University of Wales Press, Cardiff, 1972, quote at p. 51.

⁷ Hugh Thomas, op. cit., p. 51.

⁸ *ibid.*, p. 61-62.

⁹ Glyn Parry, op. cit., p. iv-v. citing W. Llewelyn Williams, *An Account of the King's Court of Great Sessions in Wales*, Macmillan and Co. Ltd., London, 1916, p. 9.

sessions.¹⁰ Unlike the English courts which sat throughout the year, the Court of Great Sessions met only twice a year and all proceedings halted at the end of one sessions until the commencement of the next sessions. The only business conducted between sessions was the instigation of actions for the issuing of writs or bills, including writs of inquiry concerning the awarding of damages to a successful plaintiff. While actions could commence between sessions, actions could not proceed, making the six-day court session the only time where decisions could be made for a resolution of a case.¹¹ Pressure of time such as this may have influenced the outcomes of both witchcraft as words and witchcraft as *malefice* cases, whether to the advantage or disadvantage of the individuals concerned. Case evidence for both witchcraft case types suggests that this pressure was, in most cases, an advantage.

The Courts of Great Sessions tried all criminal cases, all civil cases and all cases relating to land as well as rebellions against the law. The Great Sessions had exactly the same jurisdiction as the English King's Bench and Common Pleas as well as the jurisdiction held by the English justices of Assize,¹² and could hold a Chancery Court to determine cases of equity, i.e. cases of recourse to principles of justice to correct or supplement the law.¹³

The Courts were popular and proved to be efficient in both civil and criminal cases. Their popularity was such that, by the 1560s, Elizabeth I's government was petitioned to increase the number of justices. Statute 18, Eliz., c. 8 appointed an additional justice to each circuit because of the amount of work outstanding, although this situation changed in the later history of the courts in the eighteenth when, as court business declined, six days became far too long in all areas except Carmarthen and Chester.¹⁴ The Courts of Great Sessions determined personal, real and mixed pleas; transacted conveyances; and tried cases of petty treason, murder, robbery and felony, riot, rout and extortion.¹⁵ The justices held ten courts during the six days and these included three courts to appear, three courts to declare and three courts to plead.¹⁶

Theoretically, the Court should have had a wide range of cases called before it but, in practice, there were limits to the scope of Court activities. This was due mainly to the overlapping of the jurisdictions of the Courts of Great Sessions and those of the Council

¹⁰ W. Llewelyn Williams, "The King's Court of Great Sessions in Wales.", *Y Cymmrodor*, Vol. XXVI, 1916, p. 43-45.

¹¹ Glyn Parry, *op. cit.*, p. vi.

¹² Thomas H. Lewis, "The administration of justice in the Welsh county in relation to other organs of justice, higher and lower." *Transactions of the Honourable Society of Cymmrodorion*, 1945, p. 152-154.

¹³ Hugh Thomas, *op. cit.*, p. 63.

¹⁴ W. Llewelyn Williams, *op. cit.*, p. 43-45.

¹⁵ Thomas H. Lewis, *op. cit.*, p. 155.

¹⁶ W. Llewelyn Williams, *op. cit.*, p. 11.

of the Marches, particularly by 1574. The courts had difficulty in enforcing their decisions and the process of outlawry appears all too frequently in the plea-rolls. An added difficulty was getting men to serve as jurors or to attend court when summoned and the sessions were often deferred because of the frequent defaulting of jurors.¹⁷ Problems also arose because justices were often members of the Council of the Marches, while the interconnection of both friendship and kinship ties between justices of the Courts of Great Sessions and members of the Council of the Marches (all of whom were English) often contributed to the thwarting of justice.

Intimidation and threats made the execution of a judgement difficult and kinship ties could influence the outcome or lead to delays and considerable inconvenience. The plea-rolls indicate that the scope of the Courts' work was not as wide as the Acts of Union suggest.¹⁸ Complaints regarding the Great Sessions were associated with Welsh judges continuing to practise at the bar in England and fixing their circuit duties in Wales at the convenience of their English business. Most importantly, as far as witchcraft cases of both types are concerned, "It seems that the efficiency of the courts was impaired by the very considerable number of cases which were settled out of court, without the court's being informed of these settlements."¹⁹

Three main differences existed between the procedures of the Courts of Great Sessions and the courts at Westminster. Firstly, the Westminster courts sat throughout the year whereas the Welsh courts did not.²⁰ In consequence, as previously mentioned, actions in Wales could be commenced between sessions through the issuing of a writ or a bill, including writs of inquiry which ascertained damages to be awarded to a successful plaintiff, but no further action could be taken until the next court was in session. As the Courts of Great Sessions sat only twice a year for six days per session in every county, resolutions on any outstanding cases often took a very long time.²¹ This aspect of the Great Sessions court procedure was important in both types of witchcraft cases because many of these cases show no outcome in court records. What actually happened cannot be ascertained but, in view of the practice and extent of settlement of cases out of court, it can be assumed that this was often what occurred, particularly in witchcraft as words cases before the courts in early modern Wales.

A second difference in Wales, introduced in the 1543 Act, was that the litigant was able to begin personal actions either by taking out an original writ or by the cheaper means of a bill. In actions for sums over two pounds, either a writ or a bill could be used but actions for sums under two pounds had to be by bill. In the English system however,

¹⁷ Emlyn Jones Sherrington, "The Plea-Rolls of the Courts of Great Sessions 1541-1575.", *The National Library of Wales Journal*, Vol. XIII, No. 4, 1964, p. 344-366 for examples of cases.

¹⁸ *ibid.*, p. 367-368.

¹⁹ Hugh Thomas, *op. cit.*, p. 63.

²⁰ Glyn Parry, *op. cit.*, p. vi.

²¹ *ibid.*, p. vi.

proceeding by bill was not available in the common law courts.²² A third difference was that, unlike the King's Bench or the Common Pleas, the Courts of Great Sessions held jurisdiction in equity.²³N.B.

The greatest weakness of the Courts of Great Sessions was their inability to summon before them anyone it who did not live within their jurisdiction. A further weakness was their inability to compel a defendant who had fled.²⁴ Anne Ellis, accused of witchcraft in Flint in 1657,²⁵ took advantage of both these limitations by fleeing to the parish of Renberrie in the county of Chester (i.e. Wrenbury in Cheshire), which was outside the jurisdiction of the court at Flint. Another weakness of the Great Sessions, very important in witchcraft cases, was the implication that Welsh juries were partial rather than impartial as the "main complaint directed against Welsh juries was the extraordinary degree of interest the Welsh took in each other's affairs and disputes."²⁶ Proceedings in the Great Sessions were slow but, as Abel Moysey, a Brecon circuit justice, pointed out, slow proceedings were not such a bad circumstance as an extended period of time gave the participants in law-suits time to think about their litigations and, with time on their side, these cases of civil action were often settled well before they came to trial. This, in actuality, was often what happened.²⁷

The implementation of Tudor policy proved to be most difficult in the extensive Marcher lordships, as the Marcher lords were used to being a law unto themselves and saw no reason to change their activities. Approximately 150 Marcher lordships existed in this period and, although not a distinct cohesive political group which could or would offer any concerted opposition to the Union process, the actual diversity of the group in terms of status and interests dictated the individual interest of each Marcher lord regarding the

²² *ibid.*, p. vi-vii.

²³ How this was held remains unknown as the Act did not provide for it and no law exists giving the judges jurisdiction in equity although it seems that the Great Sessions held this jurisdiction from its inception. The equity jurisdiction may have accompanied the clause in the Act of 1543 (Section 32) which set up the system according to that which existed in North Wales prior to the Acts of Union. See Glyn Parry, *op. cit.*, p. vii-ix. At this juncture, equity cases do not appear to have any relationship to witchcraft cases of either type.

N.B. Equity law is a system of law coexisting with and superseding common and statute law and provides a recourse to principles of justice to correct or supplement the law. See Mary O'Dowd, "Women and the Irish chancery court in the late sixteenth and seventeenth centuries.", *Irish Historical Studies*, xxxi, No. 124, November 1999, p. 470-487 for a discussion of how the exercise of equity in the chancery court acted as a mediation technique between the English common law and the Gaelic customary law, particularly in relation to the Gaelic forms of partible inheritance.

²⁴ *ibid.*, p. xxviii-xxix.

²⁵ NLW, Great Sessions 4/985f.23 Great Sessions for Flint.

²⁶ Glyn Parry, *op. cit.*, p. xxix.

²⁷ W. Llewelyn Williams, "An Account of The King's Court of great Sessions in Wales [1542-1830, its jurisdiction, officials, statutory changes, relations with other courts etc.]", *Transactions of the Honourable Society of Cymmrodorion*, Vol. 26, 1916, p. 54.

changes to his position.²⁸ The implementation of the Union in the Marcher lordships did not progress smoothly, and by Elizabethan times it had become apparent that the problem lay in the English Marcher lordships, the Englisheries, rather than in the Welsh Marcher lordships, the Welsheries, although why this was so, remains unclear.²⁹

The Acts of Union established an infrastructure which permeated all aspects of Welsh life. Although the legal implementation of the judicial and administrative changes associated with the Acts of Union went unchallenged when introduced, the extent of total acceptance of the new formal structures among the Welsh people cannot be easily measured. Participation in and adherence to the new law were complicated not only by the newness of the structures but also by language barriers which made feelings of alienation very probable. Transition to the new formal legal and administrative structure was not always an easy process for the Welsh and, while the Welsh people did not outwardly object to the new system, their degree of acceptance of it and the actual efficiency of the system should not be regarded as absolute. Gwynfor Jones,³⁰ speaking of the county of Merioneth in this period, emphasised this point: "Historians generally have given the impression that the Acts of Union came as a blessing to the Welsh people... they do not take into account the distinct possibility that there may well have been a show of opposition or some indifference to the legislation."³¹

The Acts of Union had imposed an English shire system on the Marches and Wales, administered by the four independent circuits of the Courts of Great Sessions, but the English Marcher shires were administered by assize justices from Westminster. Problems therefore arose because the demarcation lines between the borders of the Englisheries and those of the Welsheries were very unclear. The Council of the Marches in Wales had authority over all Wales and the border regions but the English border regions could appeal all judgements to the Court at Westminster and this occurred frequently.³² Until the beginning of the seventeenth century, few Welshmen were

²⁸ W.R.B. Robinson, "The Marcher Lords of Wales 1525-1531.", *The Bulletin of the Board of Celtic Studies*, XXVI, 1972-3, p. 342.

²⁹ Please note the spelling of "Englisheries" and "Welsheries" follows the format used by the Welsh historians being quoted.

³⁰ J. Gwynfor Jones, "Lewis Owen, Sheriff of Merioneth, And the 'Gwyllid Cochion' of Mawddwy In 1554-55.", *Journal of the Merioneth Historical and Record Society*, Vol. XII, Part III, 1996, p. 228.

³¹ The county of Merioneth was one of the most lawless throughout the early modern period and proved to be a continuing problem for the Crown up to the Elizabethan period. Merioneth is of particular importance in the analysis of witchcraft in early modern Wales as all records both for the Great Sessions and the Quarter Sessions are no longer extant. Merioneth was, however, the only Welsh county where a witch, named Dorti, was put to death (oral history) using a method hitherto found only on the Isle of Man: she was placed in a spiked barrel which was filled with tar, then set alight and rolled down a hill sometime in the seventeenth century. She was from Llyn Treowyn Uchaf in the parish of Llandecwyn and she was originally buried where her body came to rest. Her grave, still covered in white stones, can be seen above the lake where it was moved in the 1920s, at the community's insistence, because a dam was to be built over the original Bedd Dorti (the name of her grave).

³² Penry Williams, "The Welsh Borerlands under Queen Elizabeth.", *Welsh Historical Review*, 1, No. 1, 1960, p. 21.

admitted as members of the Council of the Marches in Wales or as judges of the Great Sessions and this caused resentment among the Welsh as it left a system of English administrators supervising Welsh justices of the peace.³³ This situation exacerbated the overwhelming problem of which body had jurisdiction in the region, the Council of the Marches or the Star Chamber at Westminster. This unresolved situation was exploited fully by the Welsh Marcher lords in accordance with their own interests.

Nevertheless, the Court of Great Sessions was an independent body and was not attached to or dependent on the central courts of London. The Great Sessions had the power of the King's Bench and the common pleas, as 34 and 35 Henry VIII, c.26, ss. 5-10 had made law.³⁴ The only occasions when inter-relationships between the Westminster court system and the Courts of Great Sessions occurred were in appeals in real or mixed actions, which lay to the King's Bench. Appeal in personal actions was to the Court of the Council of the Marches in Wales. Appeal to the House of Lords occurred only when this Council was temporarily suspended from 1642 to 1660 and again from 1689 when the Council was finally abolished,³⁵ making the Courts of Great Sessions independent of the high courts at Westminster. If individuals were unable to achieve their desired outcome in cases before the Council of the Marches, they could go to the Star Chamber in the hopes of a more palatable resolution of the case. Although Welsh shires sent very few cases to the Star Chamber, the border shires were not averse to this process and there was an enormous increase in litigation before the Star Chamber in the second half of the sixteenth century.³⁶ Cases for Brecon and Montgomery, counties where few records are extant for any courts in the early modern period, appeared in the Star Chamber for 1594³⁷ and 1596.³⁸

Disorder in the Marches following the Acts of Union continued until well into the sixteenth century. Outbreaks include those of 1581 at Abergavenny in Hereford, and of 1575 and 1585 in Glamorgan. The habit of keeping liveried retainers was still commonplace in these areas, and it was often these groups which caused dissension. Such conflicts were always between Welshmen, never between Welshmen and Englishmen, and were always kept within the same county.³⁹ Intimidation, might over right, as opposed to

³³ *ibid.*, p. 22.

³⁴ Penry Williams, *The Council of the Marches in Wales Under Elizabeth 1*, University of Wales Press, Cardiff, 1958, p. 26.

³⁵ Glyn Parry, *op. cit.*, p. v.

³⁶ Penry Williams, *The Council in the Marches of Wales...*, *op. cit.*, p. 216.

³⁷ Montgomery Star Chamber Proceedings for the Reign of Queen Elizabeth I P 1/2 (36) between Thomas Powell, the complainant against John ap Morice David, Hugh ap David and Margaret verch Lln. (Llewelyn ?) for being "common offerers unto wells, seekers unto charmers, and invocators of saints."

³⁸ Brecon Star Chamber Proceedings for the Reign of Queen Elizabeth I W 38/27 (38) between Thomas William against John Games, Howell ap Rhytherch and Roger Vaughan for "being evil disposed in religion, reading Welsh superstitious books and repeating vain songs and rhymes ending to the discontent of the true religion..."

³⁹ Penry Williams, "The Welsh Borderlands..." , *op. cit.*, p. 23-26.

outright violence was usual and in legal cases frequently took the form of ensuring a verdict by the compelling of a biased jury. This underlines "the difficulty of obtaining an impartial jury in a small, close-knit, kin-conscious society, where a large proportion of the available jurors might be servants or relatives of the parties in action."⁴⁰

Continuing difficulties associated with enforcing the principles of the new law in the Marches meant that the common people had to contend with ongoing disorder since the new system seemed incapable of solving perennial problems satisfactorily. Cattle thieving, for example, was endemic.⁴¹ Feelings of unease were exacerbated by rising economic and religious conflict on the Welsh Marches which began in the sixteenth century with enclosures, common rights invasions and the felling of timber by many of the gentry. Recusancy, an issue which became increasingly important as the Reformation took hold in England, was also commonplace in Gloucester, Shropshire, Hereford and Worcester, and the continuation of Catholicism in these border counties was accompanied by clashes between the old faith and the new religion, endangering the public peace in places such as Wrexham, Worcester and Shrewsbury.⁴² The language barrier did little to ensure ease of access to the new court structures among the Welsh people, the majority of whom spoke only Welsh.

The degree of effectiveness of law enforcement and implementation in terms of quality and actual practice can be measured by the number of cases before the Court of the Council of the Marches in Wales. Much of the Council's time was spent dealing with charges brought by justices of the peace and sheriffs, including bribery, riots and affrays, assaults, resisting arrest, refusal to obey court orders, perjury, corruption of witnesses and many other irregularities. The Welsh gentry had a reputation for lawlessness and the difficulties experienced by the Council of the Marches underlined how weak the local courts often were in practice.⁴³ The Council's influence in fact began to decline by 1633, largely due to a curtailment and re-direction of its powers, compromised by royal perceptions of its role and the Council's actual performance.⁴⁴ Support for the Council was not widespread among the common people as they and the gentry tended to ignore the authority of the law, an attitude based on the secure knowledge that the outcomes of any cases would not be the loss of life or limb.⁴⁵ In 1641, the Council's criminal jurisdiction was abolished and the entire Council was disbanded in 1642. After

⁴⁰ *ibid.*, p. 27.

⁴¹ This problem arose particularly in November at the time of the last fairs and markets when cattle numbers were swelled by the excess stock which, due to lack of fodder, were sold off before winter. This was a traditional time for such activities, following the Celtic system of quarter days in the year. The cattle were sold on the last quarter day of the year, the final fair before Samhain, the old festival of the Dead which was 'replaced' by All Hallow's Eve, now generally called Halloween.

⁴² Penry Williams, "The Welsh Borderlands...", *op. cit.*, p. 28-30.

⁴³ Thomas H. Lewis, *op. cit.*, p. 152-154.

⁴⁴ G. Dynfallt Owen, *Wales in the reign of James I*, The Royal Historical Society Studies in History 53, The Boydell Press, Woodbridge, Suffolk, 1988, p. 8-9.

⁴⁵ *ibid.*, p. 14.

the Restoration it was re-established in 1660 but was finally abolished in 1689.⁴⁶

The Courts of Great Sessions were the highest courts in Wales to which people could bring their cases but these were not the only courts created in the Acts of Union. An examination of the relationship between the Courts of Great Sessions and other courts in Wales may have some bearing on the outcome of witchcraft cases. The Great Sessions did not have exclusive jurisdiction in Wales as jurisdiction was shared by the Chancery and the Council of the Marches. The King's Bench no longer had jurisdiction in Wales as the independence of North Wales was extended by the Acts of Union to cover all of Wales. This did not prevent the King's Bench from making efforts to encroach on the Courts of Great Sessions jurisdiction, a process which occurred largely before the Council of the Marches was abolished in 1689.⁴⁷

The relationship between the Courts of Great Sessions and the Quarter Sessions, as well as with the Great Sessions and the Council of the Marches, were generally harmonious and there was little evidence of the Courts of Great Sessions attempting to poach cases from the quarter sessions. Many justices of the Courts of Great Sessions also served on the Council and, in the 1630s, the Council appeared to have acted as a clearing house, sending prisoners and papers relating to cases to the relevant Court of Great Sessions.⁴⁸

Though the Quarter Sessions Court was subordinate to the Courts of Great Sessions, the Council of the Marches and the Westminster courts, the quarter sessions were the chief machinery of government, due mainly to the fact that the quarter sessions had firm support from the central government right from their inception, and grew in authority at the expense of the County, Hundred and Manorial courts.⁴⁹ The Courts of Quarter Sessions were held four times a year by the justices of the peace in every shire, one of whom was chosen as the keeper of the rolls (*custos rotulorum*) and acted as chairman.⁵⁰

Quarter Sessions records for Wales are relatively unimportant to this thesis, since most cases of either witchcraft as words or witchcraft as *malefice* occurred in the records of Great Sessions. In addition, many county quarter sessions records are no longer extant for the early modern period. One factor which may have had some bearing on both the lodgment and outcomes of all types of witchcraft cases in both the quarter sessions courts and the Courts of Great Sessions was the issue of which court had final responsibility for the cost of the judgements. Trials were expensive undertakings and,

⁴⁶ Owen M. Edwards, *The Story of the Nations*, T. Fisher Unwin, London, 1901, p. 328; Thomas H. Lewis, op. cit., p. 154-155; G. Dynfalt Owen, op. cit., p. 36-63.

⁴⁷ Glyn Parry, op. cit., p. xiv-xv.

⁴⁸ *ibid.*, p. xxii-xxiii.

⁴⁹ Thomas H. Lewis, op. cit., p. 151.

⁵⁰ Hugh Thomas, op. cit., p. 63. David Williams, *A History of Modern Wales*, John Murray Ltd., 1982, reprint of the second edition, p. 43.

when a felon was convicted and condemned to death at the Great Sessions, the expenses were borne by the county and the quarter sessions. This meant that , if the jurors and magistrates of the county and quarter sessions considered that the cost of the Courts of Great Sessions judgements might be greater than they could afford to pay, they might have attempted to keep serious cases out of the Courts of Great Sessions since a whipping was less expensive for the county than transportation or a hanging.⁵¹

Although the quarter sessions courts were subordinate to the Courts of Great Sessions, the two court systems co-ordinated activities as they tended to compliment each other. The Courts of Great Sessions provided an alternative option for suitors and defendants where the disadvantages of local influences and regional prejudices in the quarter sessions courts could be overcome. The quarter sessions courts, on the other hand, provided a more impartial atmosphere compared to the manorial court system, thereby providing a ready buttress between individuals and manorial jurisdiction.⁵²

The Acts of Union established the office of Justice of the Peace in Wales. The holders of this office were appointed through the Lord Chancellor and on the advice of the President, the Council of the Marches and the Justices of the Great Sessions. In Section 55 of the Act a maximum number of justices was assigned to each county and these directives were followed from 1542-1693. The statutory limitation set the number of justices at eight but this was inadequate considering the population density. In practice, there were always more than the stipulated number of justices of the peace,⁵³ particularly after 1576.

Filling the office of Justice of the Peace with a Welshman was hampered by the relative poverty of the Welsh themselves, because the new English law required that each justice of the peace should have an income of twenty pounds per year in land qualification. Many potential Welsh justices were too poor and did not have the financial assets required so the qualification was often waived of necessity, a circumstance which led to too many individuals taking the position for the sake of advantage. Poor justices were open to bribery and inclined to engage in theft of others' goods to maintain their incomes. A status problem both accompanied and complicated the authority of the justices, many of whom had insufficient personal authority over their neighbours because justices often belonged to a lower social strata. The justices were not salaried or professional officials and the eagerness with which some took on these positions in Wales points towards bribery and some unstated financial inducement to take office.⁵⁴

The privileges and social status which accrued to the position of justice of the peace were

⁵¹ Thomas H. Lewis, *op. cit.*, p. 157-159.

⁵² *ibid.*, p. 161-163.

⁵³ *ibid.*, p. 125.

⁵⁴ *ibid.*, p. 125-126.

a powerful inducement and the recurrence of the same names at session after session emphasises that county government in early modern Wales was a small, family group concern.⁵⁵ The magistrates were often father and son and such names as Mostyn, Stradling, Wynn, Glyn and Griffith occur throughout the sixteenth and seventeenth centuries.⁵⁶ The office of justice of the peace does not, however, appear in a very favourable light during this period. The justices often did not do their jobs either properly or at all: they tended to undervalue stolen goods and sometimes resorted to grand larceny, a capital offence. Instances of petty larceny and susceptibility to bribery were accusations often levelled against the justices of the peace and the influence and status of the position was valued far more highly than any monetary rewards to which the individual was legally entitled.⁵⁷

The base courts followed the quarter sessions in terms of importance and the chief of these was the County court, held by the sheriff at monthly intervals. The County court heard small civil cases such as debt, trespass, distress and the detaining of goods, and all cases presented at the base courts had to involve amounts less than 40 shillings. The role of the sheriff was important because it carried the heavy responsibility of local administration. The selection was carried out by the monarch from a list of three nominees presented by the President and the members of the Council of the Marches and the justices of Wales.⁵⁸

The sheriff of each shire held the office for a year and was an executive officer whilst in that position. His duties included the responsibility for the execution of all processes out of the courts of law, both central and local, as well as those from local officials which were directed to him. He returned all juries for trial of civil and criminal cases, had charge of the gaol and its prisoners and executed all court decisions. In addition, the sheriff also executed all lawful processes from the Lord President and justices of the peace and collected all extracts sent to him from the various courts. He was responsible to the monarch for the goods and chattels of felons, outlaws, waifs and strays, all escheats and for forfeitures. Amongst other duties allocated to the sheriff was the role of returning officer for parliamentary elections, a task which became more onerous as the sixteenth century progressed.⁵⁹ The difficulties faced by individuals who took on the position of sheriff were often dangerous as well as onerous although the motives associated with filling the

⁵⁵ The implications of this for witchcraft cases is discussed in Chapter VIII Witchcraft as *Malefice*...

⁵⁶ Thomas H. Lewis, *op. cit.*, p. 127-128. The work of J. Gwynfor Jones, "Caernarvonshire Administration: the activities of the Justices of the Peace, 1603-1660.", *Welsh History Review*, V, 1970-71, p. 130-163., provides a county study for the justices of the peace which supports many of the concepts in Thomas H. Lewis' earlier work.

⁵⁷ Thomas H. Lewis, *op. cit.*, p. 130-131.

⁵⁸ Owen M. Edwards, *op. cit.*, p. 333 and Hugh Thomas, *op. cit.*, p. 64.

⁵⁹ *ibid.*, p. 333 and *ibid.*, p. 64-65.

position outweighed such disadvantages.⁶⁰

The Act of 1536 established a commission to divide the Welsh shires into hundreds, just as pre-Tudor Wales had been divided, and these subdivisions all had bailiffs and constables. The justice of the peace held great authority within each hundred and conducted the petty sessions where the bailiffs attended the justices in sessions. The constables were responsible for preserving the peace in the hundreds and both the high constables of the hundreds, or Liberties, and the petty constables of the townships and parishes were legally, if not actually, the nominees of the manorial court. If the manorial court failed to appoint a parish constable, the quarter sessions elected an individual to fill the office.⁶¹ Each hundred consisted of a number of parishes but parish officers as such are not mentioned until after the Act of Union and the Reformation, as it was only then that the parish became a civil unit. Originally the parish was concerned only with ecclesiastical administration but the growth of the Elizabethan legislations, particularly the Poor Law, contributed to the blurring of the ecclesiastical tasks of the parish and emphasised its secular responsibilities.⁶²

Administration in early modern Wales was further complicated by the existence of a large number of corporations which had been given borough status by royal and private charter in the Tudor and Stuart period. Royal charter endowed some boroughs with quarter sessions of their own: Tenby was made a corporation in 1581, James I granted sessions to Kidwelly, a charter of 1608 gave Cardiff quarter sessions which were presided over by the Constable of the Castle, the town bailiffs and county justices, Beaumaris had borough status and Haverfordwest had its own justices for the county, its borough had quarter sessions of its own but also depended on the quarter sessions outside the immediate borough.⁶³

Individuals accused of witchcraft in early modern Wales were, therefore, subject to several levels of authority. The overall authority was English state law but its

⁶⁰ A case in point concerned Lewis Owen, a sheriff of Merioneth, who was assassinated at Mallwyd (Mawddwy) in 1555, apparently by members of a band known as the 'Red Brigands' who had been responsible for terrorising a large area of "one of the most inhospitable areas of mid-Wales." Owen was a prominent member of Merioneth society in the 1540s-1550s, a member of the Llwyn family of Dolgellau, (J. Gwynfor Jones, "Lewis Owen..." *op. cit.*, p. 221). Gwynfor Jones has largely proved that the assassins were not necessarily members of the Red Brigands as historical evidence exists which indicates that the assassination was either carried out by or at the behest of Merioneth yeomen who objected to Lewis Owen's grasping characteristics. Lewis Owen was a typical representative of the Welsh gentry who availed themselves of the opportunities arising from the Tudor settlement of Wales. Owen's rapid rise to power was probably, in part, responsible for his fate as he took advantage of opportunities which consolidated his own family's position within Merioneth society. The move created difficulties between Merioneth county families as Lewis Owen's ambitions brought him into conflict with the powerful Nannau family of Merioneth. (J. Gwynfor Jones, *ibid.*, p. 222.).

⁶¹ Thomas H. Lewis, *op. cit.*, p. 165.

⁶² Hugh Thomas, *op. cit.*, p. 68-69. and David Williams, *op. cit.*, p. 44-45.

⁶³ Thomas H. Lewis, *op. cit.*, p. 166.

implementation in Wales was, as elsewhere, influenced by the new political and religious climate, the ramifications of which were associated with the upheavals which accompanied the aftermath of the Civil War in early modern Wales. While the Acts of Union had begun in 1536, the full implications of these changes for the accused Welsh witch may not have been so obvious, defined as she still was by Welsh popular concepts of witches and witchcraft. The change in social background of those who now manned the court system, associated as these individuals sometimes were with the newer and more forceful forms of Protestantism, may also have made the accused witch more vulnerable.

In view of this, factionalism and the pursuit of individualism amongst members of the Welsh gentry in their positions of authority as administrators of justice, must also be given important consideration. These individuals manned the judicial system within which witchcraft cases were lodged and their inclinations almost certainly had a bearing on the outcome of the case for the woman concerned. The reasons why Margaret verch Richard, the only Welsh woman definitely known to have been executed for witchcraft practices, was hanged in Anglesey in 1655⁶⁴ and why Rachel Fleming was tried and acquitted in 1668⁶⁵ and then tried and sentenced to death by burning in Glamorgan in 1678,⁶⁶ may be attributed to aspects of factionalism amongst members of the judiciary in their respective counties.⁶⁷ Such factionalism was based on community, class, kinship and religious ties. Conversely, evidence for most witchcraft cases in Wales, shows that the exact opposite may be true.

The legal rights of Welsh women had been protected by the body of customary law known as the Law of Women and, despite the Acts of Union, the authority of these traditional customary legal structures appear to have been ongoing after the Acts of Union. This is particularly evident in the witchcraft as words cases as such cases were lodged in a manner which did not follow the statutes relating to witchcraft which the English state had introduced. It is only through the Law of Women that the reasoning behind the lodgement of witchcraft as words cases in the Courts of Great Sessions can both be established and understood. The thought processes associated with the Law of Women might, as evidence suggests, be assumed to have continued well into the early modern period when both types of witchcraft cases were lodged in the Courts of Great

⁶⁴ NLW, Great Sessions 16/7 Great Sessions for Anglesey (1655) Margaret verch Richard of Beaumaris on 20th August 1655 at Beaumaris.

⁶⁵ Great Sessions records for 1668 and 1678 for Glamorgan no longer exist and the details of Rachel Fleming's cases can be found in Marie Trevelyan, *From Snowdon to the Sea*, John Hogg, London, 1895, p. 380-427. The oral history information can, however, be verified by matching the justices of the peace named in the oral history with the known justices of the peace for Glamorgan in J.R.S. Phillips, *The Justices of the Peace in Wales and Monmouthshire 1541-1689*, University of Wales press, Cardiff, 1975, p. 304-308.

⁶⁶ Rachel died before she could be tied to the stake, an unusual outcome for a witchcraft case of any type in Wales, England or Scotland as witches to be executed were usually hanged, not burned.

⁶⁷ This is discussed in Chapter VIII Witchcraft as *Malefice*...

Sessions.

The Act of 1536 initiated a program which resulted in a confused administration, run by officials who were unsure of their course of action and who experienced extreme difficulty in obtaining instructions necessary to carry out their allotted tasks.⁶⁸ The Act did, however, grant full citizenship to Welshmen, a right which they had lost after Owain Glyn Dwr's revolt in 1400, during Henry IV's reign. Citizenship gave full economic rights and freedoms and enabled the full participation of the Welsh people in any area of economic, social and political life.

Interestingly, in 1536, a commission was established to examine the Laws of Hywel Dda to ascertain what should be preserved but, although the commission deliberated for several years, its outcome is unknown.⁶⁹ It was probably established to counteract any possible objection by the Welsh to the imposition of new political, judicial and administrative structures although the granting of full citizenship tended to outweigh the disadvantages of the loss of Welsh tribal law and the Welsh law codes. Nevertheless, the existence of the commission lends further weight to the possibility that the use of customary law amongst the people of Wales did not simply cease after 1536.⁷⁰ Witchcraft cases for Wales provide evidence that adherence to customary law and customary practices is an ongoing process in the early modern period. Welsh customary law relating to women is, therefore, of considerable importance in the analysis of witchcraft in early modern Wales.

⁶⁸ William Rees, "The Union of England and Wales." op. cit., p. 54-57.

⁶⁹ David Williams, op. cit., p. 16-17.

⁷⁰ R.R. Davies, *The Age of Conquest Wales 1063-1415*, Oxford University Press, Oxford, 1991, p. 368-392.

Chapter III**The Customary Law of Women¹ : Social Place and Cultural Status.**

The thesis has suggested that people in early modern Wales may have had specific expectations regarding the outcome of court cases when these were lodged for witchcraft of both types in the Courts of Great Sessions. The witchcraft as words cases all concern women, a focus which suggests a link between the social place and cultural power of early modern Welsh women and the lodgement of slander cases in the criminal Courts of Great Sessions. As all these witchcraft cases relate only to women, and have outcomes which are not detrimental to either party, other than a financial recompense payment in some cases, there is every probability that the motives behind the case lodgement were related to and dependent on aspects of Welsh society and culture which were not related to the witch slander. The emphasis in Wales, as far as witchcraft as words cases are concerned, may be related to the perception which Welsh communities had concerning women who were slandered as witches. In other words, the authority under which such cases were lodged may not have been that of the English state.

The social and cultural place of Welsh women had been enshrined in a series of traditional customary laws which had existed in Wales for hundreds of years prior to the writing down of these laws in the ninth/tenth century. Known collectively as the Laws of Hywel Dda, these tracts contained a specific set of laws, the Law of Women, which were deemed to be defunct throughout Wales after the implementation of the Acts of Union. The Law of Women recognised the importance of women as reproducers, and within the authority of the Law of Women are the probable reasons for the way in which witchcraft as words cases were lodged and the lack of legal consequences for Welsh women slandered as witches. This may also explain why such cases in Wales were lodged in the criminal courts rather than in the church courts as such cases were in England.

The previously stable position of Welsh women was perhaps more threatened in the early modern period than at any other time in the history of the Welsh people. The effects of social, political and economic changes, in association with the religious changes of the Reformation in Wales, were compounded by the newly imposed cohesive judicial and administrative framework generated by the Acts of Union of 1536 and later. The customary legal system under which Welsh women had existed was, therefore, facing erosion by the imposition of the authority of the English state. Theoretically, the customary law should have disintegrated completely after the Acts of Union but witchcraft as words cases provide considerable evidence that this did not occur. Most importantly, because the case was lodged in a criminal rather than a church court, Welsh cases could

¹ I would like to acknowledge, with deep appreciation, the input of Dr. Huw Pryce of the University of Wales at Bangor and Prof. Rees Davies of the University of Wales at Aberystwyth (1994) for reading initial drafts of this chapter in 1994 and for their time, comments, ongoing encouragement and intellectual support.

have resulted in many women being accused of witchcraft in early modern Wales if the slander accusations had been examined for *malefice* as the Witchcraft Acts of the English state required. Such was not the outcome: slander for financial recompense remained the sole focus of the cases.

Evidence in witchcraft as words cases supports the Welsh popular view that only women were witches in early modern Wales because, according to Welsh beliefs, only women practised *malefice*, placing considerable importance on the circumstances which led to the low prosecution rate. This chapter will argue that the outcomes of witchcraft as words cases in the Courts of Great Sessions were related to an authority which was very different from that of the authority of English law.

Welsh women were not as socially vulnerable before the law as were their English counterparts. The society in which they existed had had an ancient customary and written legal framework for women which recognised their rights and social and cultural place throughout all aspects of Welsh women's lives. The Law of Women detailed the principles of the law relating to women in pre-1536 Welsh society and was organised into five separate sections which dealt with the normal aspects of a woman's life : her place in the kin, her property interests, her status in marriage, her matrimonial property and her inheritance rights.

Two main texts have been used as the sources for the examination of the pre-1536 Welsh legal system pertaining to women. Dafydd Jenkins has translated and edited *The Law of Hywel Dda*² (LHD) from the medieval Welsh with an introduction, notes and glossary.* The second text, entitled *The Welsh Law of Women*³, (WLW) is a collection of essays presented to Daniel A. Binchy by various scholars and this text analyses the sources and the specific nature of the Law of Women.**

The origin of the written Welsh law books was attributed to Hywel Dda who, by 942, was the "king" of Wales except for the south-east. Medieval Wales consisted of a series of small countries, each of which was ruled absolutely by its own sovereign. Through marriage, inheritance and deaths, Hywel Dda became the most powerful sovereign, his reign characterised by a long period of peace, during which, the Laws were written down. As the compilation occurred in Hywel's time, the Laws have become known as the Law of Hywel Dda.⁴ The writers of the Law were not recording the legislation of a sovereign or evolving law through solving and deciding existing cases, they were

² Dafydd Jenkins, (translated and edited) *The Law of Hywel Dda Law Texts From Medieval Wales*, Gomer Press, Dyfed, 1986.

* Henceforth referred to as LHD.

³ Dafydd Jenkins and Morfydd E. Owen (eds.) *The Welsh Law of Women*, University of Wales Press, Cardiff, 1980.

** Henceforth referred to as WLW.

⁴ Dafydd Jenkins, Introduction, LHD, op. cit., p. xi-xiv.

working from the application of the customary practices and principles of their people.⁵

Approximately forty manuscripts of Welsh law written between the thirteenth and the sixteenth centuries still exist and emphasise that the Law of Hywel Dda was still used in parts of Wales in the Tudor period. This fact is supported by a manuscript⁶ which was probably prepared by a Welshman from the Teifi Valley in his capacity as official adviser on Welsh law to the royal authorities in fifteenth-century Cardiganshire.⁷ Despite the creation of the English Principality in Wales in 1284, following the defeat of Llywelyn ap Gruffudd, English and Welsh law co-existed in different parts of Wales and a large part of Wales was left untouched by English law.⁸ The situation in the Marches, as has been shown, differed again as each lordship used whichever legal system according to the will of that lord.

The Law of Hywel Dda was still practised by the Welsh people in areas outside the jurisdiction of the Principality, including the areas of Denbigh, Montgomery, Radnor, Brecon, Glamorgan and Pembroke as well as in the Welsherries on the Borders. Interestingly, these counties (other than Radnor and Glamorgan where court records are scant) had the highest percentage of witchcraft as words cases. The place and status of women within Welsh society were determined by their legal position and their customary and traditional position, two distinct areas which were superseded by the imposition of the Acts of Union. The legal position of Welsh women therefore underwent a dramatic change when the 1536-1543 Acts of Union blanketed Wales with an English legal and administrative system which was essentially foreign to the majority of Welsh people.

Welsh law prior to 1536 emphasised compensation of the victim rather than punishment of the perpetrator in cases of murder, death or injury, although physical punishment did grow in importance as the state became stronger. Ordeal by hot iron or hot water and ordeal by combat between the two opposing parties, of the kind practised elsewhere in Europe, did not exist in Welsh law. Welsh law depended on the non-combative method of oaths sworn by both parties before witnesses and the law books enlightened the judge as to which oath was required. Oath swearing was a common practical response to crime, the purpose of which was to ensure the accused did not transgress again and that the appropriate compensation was paid to the oath swearers and to their kin. As Jenkins points out, it is necessary to remember that Welsh society was microcosmic, everyone knew everyone else in the local area and this was a preventative measure against false oath taking in itself.⁹

⁵ *ibid.*, p. xv.

⁶ The British Library : Additional 22356 manuscript.

⁷ Dafydd Jenkins, Introduction, LHD, *op. cit.*, p. xxi.

⁸ *ibid.*, p. xviii.

⁹ *ibid.*, p. xxx-xxxiii.

The kin, those people who comprised a four-generation group descended from a common great-grandfather, were responsible for the payment of compensation or *galanas*, the blood-price in cases of homicide.¹⁰ The kinship networks, which so ardently maintained the continuation of the bloodfeud after the Edwardian conquest, remained a prominent feature of Welsh early modern society. Although evidence for the bloodfeud peters out by 1523 in Pwllheli in the county of Caernarvon and in Glamorganshire and Monmouthshire by 1575,¹¹ the concept was deeply reflective of the importance of kin groups and kin protection of individual members of the kin. It was the means by which the bloodfeud was settled which was significant in terms of the witchcraft as words cases in the courts of Great Sessions in the early modern period. In almost all cases where the outcome was known, these cases were settled through compensatory payments and fines. Even in those cases where the outcome was not known, it can be assumed that an out of court settlement was reached because this was the usual practice after a case was brought to court.¹²

Bloodfeud was settled by the payment of *galanas*, the financial compensation agreed upon by the two parties in order to pay out the crime. Bloodfeud practices continued in the Marches throughout the fourteenth and fifteenth centuries and, between 1333-1400, there were approximately fifteen cases of homicides settled through the use of *galanas* in Clun (in what is now Shropshire).¹³ The Tudors faced considerable problems when it came to dealing with blood kin in Wales because, as the primary social bonding mechanism, blood kin promoted vendettas which occurred either in the form of reparation killing or *galanas*.¹⁴ The Tudors wished to eliminate both reparation killings, which were rare, and *galanas* but implementation could only be achieved through precise judicial structures.

The Welsh had a distinct preference for solving bloodfeud through *galanas* settlement rather than through reparation killing, and also preferred settlement without an arbitrary jury system. Avoiding a jury system represented a surer means of ending kin-vengeance¹⁵ because agreement between all participants ensured a peaceful outcome. A jury system would have punished the murderer but the murdered person's kin would not have received compensation or satisfaction, a situation which would probably have escalated the vendetta in the long term.

¹⁰ Gwyn Alf Williams, *When Was Wales? A History of the Welsh*, Penguin Books, Harmondsworth, 1991 reprint of the 1985 edition, p. 8.

¹¹ E. Rowland Williams, *Some Studies in Elizabethan Wales*, Folcroft Library Editions, 1973, (reprint of 1924 edition), p. 26.

¹² Glyn Parry, *A Guide to the Records of Great Sessions in Wales*, National Library of Wales, Aberystwyth, 1995, p. xxxii-xxxiii and Hugh Thomas, *A History of Wales 1485-1660*, University of Wales Press, Cardiff, 1972, p. 63.

¹³ R. R. Davies, "The Survival of the Bloodfeud in Medieval Wales." *History*, LIV, 1969, p. 344.

¹⁴ E. Rowland Williams, op. cit., p. 20-21.

¹⁵ R. R. Davies, op. cit., p. 354.

In essence, the Welsh had a long tradition of preferring compensatory payments for a death or injury of a kin member rather than execution or imprisonment of the individual responsible for the crime. A long tradition of payment for insult to honour, injury, or death may explain why women accused as witches in Wales were not commonly executed for their *malefice*. More importantly, the concepts inherent in financial payments for insult to honour may explain the large number of witchcraft as words cases lodged before the criminal Courts of Great Sessions. Whilst the kin network existed, it worked as a protective measure for and amongst the common people. Women were themselves specifically located in a legal system which dictated all payments, almost all of them compensatory in nature, for all aspects of womens' lives prior to the Acts of Union.

The Law of Women sets out the principles of law governing women in Welsh traditional society. The Law of Women recognised the rights of women from birth to death and sought to cover all aspects of their rights in the intervening period. The parameters of a woman's life in terms of the law began on her marriage, not because the law recognised her only on her marriage but because marriage concerned the merging of two distinct kin groups, an economic transaction which could place the woman at risk because she was no longer located within the assumed protection of her natal kin group. In other words, marriage could place the woman in a vulnerable situation outside her natal kin group and the laws sought to protect her rights if her new kin group proved to be less than protective.

Prior to her marriage, the girl stayed with her father from birth until the age of between 12-14 and her family had to be able to swear to her virginity when her marriage took place. Under Welsh law, the family gained little financial value if the girl was not a virgin when she went to the marriage bed.

If a maiden is given to a man and is found to be corrupted, but the man suffers her in his bed until the morrow, he cannot on the morrow take away any of her entitlement. If immediately after he finds her to be corrupted he rises to the wedding-guests with his penis erect, and testifies to them that he found her corrupted, and he does not sleep with her until the morrow, she is not entitled on the morrow to anything from him. If it happens that her breasts and pubic hair have developed and she has menstruated, then law says that no one knows what she is, whether maiden or woman, because signs of childbearing have appeared on her; and therefore law allows her to be vindicated by the oath of seven persons from among her mother and father and brothers and sisters. If she does not want to be vindicated, let her shift be cut off as high as her groin, and let there be put into her hand a yearling

steer with its tail greased, and if she can hold it by its tail, let her take it for her share of her *agweddi*; if she cannot hold it, let her be without anything.¹⁶

Marriage was a complicated legal affair with a wealth exchange which included the girl herself as the prime commodity, but which never included land. Three payments had to be made on the marriage: the girl's father had to pay *amobr*¹⁷ to his lord when he gave his daughter in marriage to another man; the husband had to pay the woman her *cowyll* or virginity payment as a morning gift after he took her to his bed, and she was entitled to her *agweddi* or her part of the property settlement if the pair separated. Strict rules governed the *cowyll* and *agweddi* payments as the girl had to stipulate what the *cowyll* payment was to consist of before alighting from the bed after her marriage night. If she did not follow this procedure, she forfeited her *cowyll* payment. All this, including the actual bedding, took place before witnesses who could then plead one case or the other if a dispute arose. For the next nine days after the initial bedding, the new wife remained in the environs of the marriage bed and, from then until her seventh year of marriage, she was entitled to the payment of *agweddi* from her husband whether he left her or she left him.¹⁸

After seven years the law recognised the union of two people howsoever it came about and the law stated that after seven years of marriage the woman was entitled to half a share of the marriage wealth but not of the *agweddi* should the couple separate. The contents of the half share were precisely laid down in the law and the Laws of Women actually began with the details of such a division:

and though three nights should be wanting from the seventh year and they separate, it is right for them to share everything in two halves.

It belongs to the woman to divide and the man to choose.¹⁹

Welsh customary law actually recognised women existing in three legal types of relationships: a woman who was properly betrothed and married and was within the seven year period, that is, "under her *agweddi*"; a woman who was not formally betrothed or married and who was not officially recognised as a man's wife because seven years had not passed from the commencement of the union; and a woman who was in a marital union after the seven year period. The discrepancy between canon law and customary practices was very apparent as the Church viewed marriage as immediately legitimate, but Welsh law recognised legitimacy only after a seven year

¹⁶ LHD, op. cit. , p. 49.

¹⁷ Please note: all Welsh terms used in the thesis are explained in the Glossary.

¹⁸ Christopher McAll, "The Normal Paradigms' of a Womans' Life in the Irish and Welsh Texts." in WLW, op. cit., p. 8-10.

¹⁹ LHD, op. cit., p.45.

as all types of compensatory payment were based on the perceived social position of her male next of kin who, if she was married, was her husband. Before marriage, when she was a *morwyn* or virgin, her *sarhaed* was half that of her brother and one third of her husband's when she was *gwraig* or wife/sexually experienced woman. Hence, for most women it was a change in *sarhaed* which was the most obvious sign of her changed status on marriage.²⁵

This particular point is important in relation to the motives surrounding the formula used by plaintiffs when lodging actions of witchcraft as words cases in the Courts of Great Sessions. The majority of witchcraft cases lodged in the courts were witchcraft as words cases which were brought by the woman and her husband against another woman and her husband. Each woman's *sarhaed* value was based on her nearest male relative which, in these cases, were the husbands of the accuser and the accused. The cases were all seeking compensatory payments for verbal harm, in the form of a slander, done to an individual. However, the *sarhaed* value of the woman could only be established in relation to her husband. Whilst the importance of *sarhaed* and status regarding women was underlined in the legal aspects of the woman's place in the kin and her role in the concepts of shame and reparation, her demand for compensation for a verbal insult had to be based on the social place and status of her husband. If the woman was unmarried, her *sarhaed* was based on her father or, sometimes, her brother if her father was dead.

The two witchcraft as words cases concerning Jane Jones in the court records for Denbigh in 1673²⁶ and a third case in 1684²⁷ support the premise of a woman's *sarhaed* value being dependent upon her nearest male relative. As an unmarried woman in 1673, Jane brought two cases for damages, one of 100 pounds and the other with no request for damages attached. She was accused by the slanderers of being a thief. The first damages claim was for thieving and for being a witch, the second for stealing. The second case concerned words spoken about her to her brother but the first case involved a woman only, Katherine verch Eubule who had slandered Jane to Jane's mother. The third case in 1684 was for a damages claim of 500 pounds and was brought in conjunction with Jane's husband, Edward Lloyd, against another man, Hugh Powell, who had called her a witch and a whore. Jane's status and *sarhaed* value in relation to verbal insults had, according to her perception, increased from 100 pounds when unmarried to 500 pounds when married.

Property interests were the prime consideration in marriage contracts and the Law of Women dealt with these at some length. The law books allowed for legal situations which were often far removed from social conventions because, despite the circumstances of the union, these had little significance in terms of the inheritance rights of

²⁵ Morfydd E. Owen, "Shame and Reparation: Womens' Place in the Kin.", WLW, op. cit., p. 42-44.

²⁶ P.680 NLW, Great Sessions for Denbigh (1673) Sessions for ...? April 25 Charles II.

²⁷ P. 720 NLW, Great Sessions for Denbigh (1684) Sessions for ...? March 36 Charles II.

the children of that union.²⁸ Property regulations regarding marriage have been outlined but there were particular circumstances in Welsh law which emphasised the importance of a woman's well-being within society. The law made specific efforts to provide a woman with security when she was outside the accepted normal paradigms of a woman's life.

Society anticipated that daughters would marry but if a daughter chose not to marry, the law stated that she was entitled to control what was hers. After the age of twelve she became subject to the feudal lord since she was then deemed to have no lord of her own i.e. no legal father in charge of her or husband:

Every woman is entitled to go the way she will, for it is not right for her to be car(e) returning, and there is no right to anything from her save her amobr, and one amobr at that, for a woman has no ebediw save her amobr; therefore, as it is right that a woman should pay only one amobr, since she has no ebediw save her amobr.²⁹

If the young woman eloped her family could reclaim her against her will but, if she had been with a man on the first elopement,³⁰ a second elopement would make her irreclaimable, therefore allowing the girl to be in charge of her own fate.³¹ However, women who were abducted were treated differently.

A woman who is taken clandestinely, and who does not make a contract in the presence of witnesses for receiving her full right, gets according to the men of Gwynedd only three steers. According to the men of the South she used formerly to get her agweddi in full like a woman given by her kin.³²

The obligation which remained at all times was the payment of *amobr* to the lord, an obligation which had also to be met if the girl became pregnant without a formal union. As far as the law was concerned, pregnancy indicated a union, whatever the circumstances and therefore *amobr* must be paid. The concept of *amobr* lay in the assumption that the feudal lord was the protector, the champion of the virginity of Welsh womenfolk: ³³

If it happens that a woman is raped and from that rape she becomes pregnant, and that she does not know who the

²⁸ Dafydd Jenkins, "Property Interests in the Classical Welsh Law of Women." , WLW, op. cit., p. 69.

²⁹ LHD, op. cit., p. 57.

³⁰ The assumption here is that sexual intercourse had occurred although the law books do not state this specifically, but imply it.

³¹ Dafydd Jenkins, WLW, op. cit., p. 71-72.

³² LHD, op. cit., p. 49.

³³ Dafydd Jenkins, WLW, op. cit., pp. 75,96.

father is, and the lord claims amobr and she says that there is no right to it from her (for she was raped and no woman who is raped is bound to pay amobr) : the reason is, law says there that her amobr is extinguished because he could not keep her from rape when he was bound to keep her. Moreover, if she is doubted for what she says, only her own oath will be given that what she says is true.³⁴

Welsh laws relating to women were therefore specific, far-reaching, and embedded in community assumptions about the nature of each woman's honour.

Walker's study of abduction in early modern Wales, using forty-two cases sued at the Court of Star Chamber at Westminster between 1540 and 1640, emphasises the importance of the "complex relations of Welsh legal and cultural practices to a dominant English legal system." The cases indicate that Welsh law was not subordinate to English law as concepts of Welsh law and custom were used as resourceful means of achieving particular outcomes.³⁵ Following the Acts of Union, Welsh abduction cases were prosecuted according to English law but the Welsh response to abduction cases was probably a reaction to the act of 1558. This act was for the abduction of maidens from their guardians, pre-requisites of which were that maids be under sixteen years of age and also heiresses. Welsh defendants, in an effort to remove their cases from the criteria dictated by the act, often claimed that the abducted maid was over sixteen or that she was not an heiress.³⁶

A 1579 case before the courts of Great Sessions for Montgomery highlights some of the difficulties the Welsh faced when lodging a case in the new system whilst trying to achieve justice in terms of the pre-existing customary laws, particularly the Law of Women. It may also reflect the point made earlier, that Welsh law and custom provided resources which enabled the achievement of preferred outcomes.³⁷ The case was lodged as an enchantment case,³⁸ a rare form of magical activity before the courts in early modern Wales, and was also accompanied by an accusation of bewitchment although the enchantment accusation was used as a covert means of concluding an issue which

³⁴ LHD, op. cit. , p. 55.

³⁵ Garthine Walker, "Strange Kind of Stealing': Abduction in Early Modern Wales." in Michael Roberts and Simone Clark,(eds), *Women and Gender in Early Modern Wales*, University of Wales Press, Cardiff, 2000, p. 51.

³⁶ *ibid.*, p. 52.

³⁷ *ibid.*, p. 51.

³⁸ Following the popular beliefs surrounding witchcraft and its practitioners in early modern Wales, the case was not lodged as a witchcraft case as *malefice* because the accused was a man. This was despite the fact that the evidence in the case indicated that practices associated with witchcraft had been used: bewitchment and enchantment and that the word "witchcraft " had been used in the text. It was not, however, used in the indictment. The point was that witchcraft of any type was not the reason why David Lloid ap John of Mynod brought the case. He wanted restitution of his daughter's honour.

probably had very little to do with the supernatural.

David Lloid ap John of Mynod, a gentleman, brought a case against Gruffydd ap David ap John and others before Sir John Throckmorton. The plaintiff stated that the defendants had conspired together, through the use of evil spirits, enchantment and witchcraft, to enchant an apple. This apple was then delivered to Margaret verch David, the plaintiff's daughter, *"together with a certaine powder in like manner enchanted, with the diabolical purpose of bewitching her, an undefiled virgin, and allure her to run away with John ap Gruffydd, a light, lewd and evil-disposed person and a married man with many children."* Margaret verch David was bewitched by consuming the apple and powder, after which she had been taken, against her will, by the defendants to the County of Denbigh. There she had been ravished by John ap Gruffydd.³⁹

Taken at face value, the case was clearly one of kidnapping but, initially, it is difficult to understand why David Lloid ap John of Mynod brought the case as one of bewitchment and enchantment rather than as one of pure kidnapping. Perhaps he felt that the methods used to achieve the kidnapping were so underhand and dishonourable, concepts which would be well understood by the Welsh court, as to deserve special consideration in the hope of greater punishment. He may also have thought that a charge of pure kidnapping would not have generated the result he desired because such a charge would have failed to emphasize the methods used to kidnap Margaret. The inference was that Margaret had always been unwilling to go and, recognising this, her kidnappers had resorted to underhand means to achieve their aim. Under the influence of enchantment and bewitchment, Margaret had been more easily carried away against her will. The underlying issue, apart from the kidnapping, was the ravishment of Margaret verch David, a crime which carried considerable personal and social ramifications, and her father brought the case, in order to seek restitution of his daughter's honour.

David ap Lloid ap John was, in all probability, seeking to accomplish the best possible outcome for his daughter in a court system which no longer outwardly recognised the pre-Acts of Union customary laws surrounding the resolution of such a crime. Rape may not have been an appropriate charge as the precise meaning of "ravished" cannot be ascertained. The word "ravished" had several meanings as it could mean "rape and violate" but it could also mean "enrapturement, charm and entrance". The testimony mentions that Margaret was "an undefiled virgin", the only indication that the ravishment was, in the eyes of Margaret's father, and probably Margaret herself, a rape. Nevertheless, the concentration of the information given was on the use of bewitchment, enchantment and witchcraft in order to achieve the kidnapping of Margaret and Margaret herself remained unheard. The customary Law of Women dealt severely with kidnap, defilement and rape of a woman and, if customary law had been followed in this instance, the kidnapping and rape would have been a great financial burden to the accused parties and their kin as the honour, marriage and morning gift payments would

³⁹ NLW, Great Sessions 4/129/4 Great Sessions for Montgomery (1579).

have been considerable. Not only that, the payment would have acknowledged the wrong done to Margaret and restored her honour in the eyes of her family's community.

David Lloid ap John followed the only course he could legally take under the judicial structure implemented by the Acts of Union which would clear his daughters' name and absolve her of all blame: as an unmarried woman on the marriage market in the early modern period, Margaret's chances of securing a good match were considerably lessened by her "defilement", particularly if society thought she may have been willing rather than unwilling. David ap Lloid ap John had to provide his daughter with a legally acknowledged reason for her predicament. By using enchantment and bewitchment as accusations, he achieved his aim: his daughter was blameless since her dishonour was not the result of her own actions or will.

Another less dramatic case serves to outline the same principle of upholding Welsh laws relating to women and community assumptions about the nature of women's honour. Evan Reece, a yeoman of Coychurch, was brought to court in 1692 for the crime of abduction and forcible marriage. He, along with the help of others, seized Mary Taynton at Cardiff and took her to Neath where she was forced to undergo a marriage ceremony. As Mary was then only ten years old, it was assumed that she had been abducted because "she being seised in her demense as of fee of lands and tenements to the clear yearly value of 20li and more, against the form of the statute."⁴⁰

Widowhood was a potentially uncertain time for any woman and, in an effort to alleviate any difficulties, the law made every effort to ensure some security for the widow. The law stated that a widow had nine days to leave the matrimonial home after the death of her husband and, as she could have no land because her husband's interest in that land was only lifelong and his sons were entitled to it on his death, it was necessary to provide the widow with some security. In view of this, the law allowed the widow to take a share in her husband's chattels. The daughters from the union were entitled to take half of a son's share and all the husband's sons were entitled to a share whether they were born of that union or not.⁴¹

Substantiated links between widowhood and witchcraft cases are common in the

⁴⁰ John Hobson Matthews, (ed) *Records of the County Borough of Cardiff*, Henry Sotheran and Co., London, Vol. II , 1900 (Vol. I was published in 1898), p.181 citing Bundle 22 No.65 William and Mary, 1692.

⁴¹ Dafydd Jenkins, WLW, op. cit., p. 85-86.

witchcraft historiographical record of the early modern period.⁴² Two difficult witchcraft cases from Anglesey may be indicative of a problem which developed for widows in this county in regard to their vulnerability before the court when facing either witchcraft as words or witchcraft as *malefice* accusations. Anglesey⁴³ is the only county in early modern Wales where it is known with certainty that a woman, Margaret verch Richard, was hanged for witchcraft practices. Another witchcraft case for Anglesey, that of Maud verch Hugh ap Hugh,⁴⁴ is a witchcraft as words case which who may also have resulted in execution although evidence in the records is inconclusive.⁴⁵ Both women were widows.⁴⁶ Widowhood in Anglesey may have been a perilous state but, in the rest of early modern Wales, this is not reflected in any other witchcraft cases: Gwenllian David, also known as Lys Hier, was a widow from Llangadock in Carmarthen who was accused of witchcraft in 1656. The evidence against her was very strong but the judge returned a verdict of *ignoramus* (literally "we do not know")⁴⁷ or 'no case to answer', and she was released.⁴⁸ Olly Powell, a widow who traumatised the coalworkers who had been rude to her at Jefferson colliery in Pembroke, and who was eventually scratched ⁴⁹ by them and made to bless those whom she had harmed, was also charged and released.⁵⁰

Within the Law of Hywel Dda, the Law of Women exhibited humanitarian attitudes

⁴² One of the main contentions of the Thomas/Macfarlane concept relates the rise of witchcraft accusations in the early modern period to the breakdown of communal ethics, leaving vulnerable members of society at risk and dependent on charity. One of those risks was widowhood as English and Scottish witchcraft cases, as well as Continental cases, tend to target widows as witches. Please see: Alan Macfarlane, *Witchcraft in Tudor and Stuart England*, Routledge and Kegan Paul, London, 1970, Chapter 16; Keith Thomas, *Religion and the Decline of Magic*, Penguin, London, 1991, Chapter 17; Robin Briggs, *Witches and Neighbors The Social and Cultural Context of European Witchcraft*, Penguin, 1996, pp. 237, 264, 356; Clive Holmes, "Women: witnesses and witches.", *Past and Present*, CXL, August, 1993, p. 45-78.

⁴³ I would like to thank Mr Glyn Parry, Keeper of the Great Sessions records at the National Library of Wales, Aberystwyth for his assistance and our discussions in 1994. Mr Parry insisted that Anglesey was the only county where records existed for the execution of at least one but perhaps three women in the 1655-1656 period. No other Great Sessions records for any other county in early modern Wales records a death by execution of a woman accused of witchcraft.

⁴⁴ NLW, Great Sessions 16/5 Great Sessions for Anglesey (1652) Deposition No. 5 Anglesey Plea Rolls, Roll 8.

⁴⁵ NLW, Great Sessions 16/7 Great Sessions for Anglesey (1655) Margaret verch Richard of Beaumaris 20th August 1655 at Beaumaris.

⁴⁶ These cases are discussed at length in Chapter VIII Witchcraft as *Malefice* : Witchcraft Case Studies, The Third Phase of The Welsh Antidote to Witchcraft.

⁴⁷ My thanks to Catherine Richards, archivist at the Powys Record Office, Llandrindrod Wells for this direct transcription in 1998.

⁴⁸ NLW, Great Sessions 4/719/2/48-55 Great Sessions for Carmarthen (1656).

⁴⁹ Scratched : drew blood from her as this was thought to be an effective way of counteracting the *malefice* of the witch.

⁵⁰ Bodleian Library, MS Ashmole 1815, ff. 1. The extant Courts of Great Sessions records for Pembroke for 1693/4 no longer exist but the reference is to a letter written by the local justice of the peace, John Edwards to Alexander Forde, then residing at Jesus College, detailing the case which Edwards had had before him.

concerning children of any union. The laws were very stringent and saw no difference between legitimate and illegitimate sons; what was important was the child's affiliation with his father. Any child born of any type of relationship needed only to be raised by the father and fed at his table for a year and a day for the acceptance/legitimacy of that child to be confirmed.

If it happens that a person makes pregnant a woman of bush and brake, it is right for him to maintain the child; for the law says that though she may lose the man, it is not right for her to suffer want from him or because of him, though she gets no benefit; and therefore it is right for the man to rear the child. If it happens that a man separates from his wife when she is pregnant, let the time from when he separates from her until she is delivered count as half a year of the rearing of the child; and after the child is born it is for her to rear it again until the end of the year. Whether she wants to or not, it is necessary for her to rear it in return for goods from the man. --- (Laws then detail the goods) And from then on until the end of fourteen years, two thirds from the father and one third from the mother; and from the end of the fourteen years on it is proper for the father to take him to his lord, and for him to do homage to him. And from then on let him be at the lord's maintenance ⁵¹ (The laws assumed that the daughters would be eligible for marriage at fourteen years and that the kin was responsible for finding a suitable husband).

Cases concerning paternity are almost non-existent in the records and there are virtually no cases of any kind under native law before the fourteenth century. In the later Middle Ages, cases occur mainly in the mixed custom of the Marcher lordships, confirming the significance of customary laws which detail the male child's inheritance rights and the daughter's rights to sit at her fathers' "platter" until her marriage.⁵² It was the acceptance of the paternity of the child rather than the status of the mother which was crucial and, since marriage was one of the easiest states to enter and exit in Welsh customary law, the legal mechanisms had to exist in order to provide legal security for the offspring of these unions. Whilst expectations of women on their marriage were high, the actual marriage and its dissolution were not regarded by society as a great problem and the expectation of children from a few different unions led to a situation before the law where all offspring

⁵¹ LHD, op. cit. , p. 50-51.

^{**} The Laws assumed that the daughters would be eligible for marriage at fourteen years and that the kin was responsible for the finding of a suitable husband.

⁵² Huw Pryce, op. cit. , p. 97 ; Dafydd Jenkins, WLW, op. cit., p. 90.

were economically maintained and otherwise protected.⁵³

The strength of Welsh society's view of offspring rights was exhibited by the development of *cynnwys* which appeared after 1284. *Cynnwys* was the term given to the device used by the Welsh to circumvent the prohibition in the Statute of Wales (Edward 1) concerning the inheritance rights of sons whom the Church regarded as illegitimate.⁵⁴ The Acts of Union displaced the rights of Welsh legitimate and illegitimate sons by imposing the concept of primogeniture but *cynnwys* was still widely practised amongst the Welsh in the early modern period.

These issues relating to marriage and property rights in Welsh law are significant. In a society where land title depended on membership of a patrilineage and was restricted to the male members of a four generation agnatic group, the woman had no role to play other than as the bearer of male heirs.⁵⁵ The Welsh woman could not be an heiress and her potential as a wife was dependent on herself and the moveable goods she brought with her on her marriage. Dowagers did not exist under Welsh law as women could not inherit land or receive dower in land from their husbands on the death of that husband.⁵⁶ The Welsh law texts make it clear that Celtic society in the early historical period was androcentric as women's "legal status is defined in the law-texts in terms of their relationship to male relatives and the Irish and Welsh laws both suggest that women were subject to men."⁵⁷

This brief examination of the Law of Women demonstrates that Welsh society had legal mechanisms which ensured the protection of Welsh women before the Acts of Union. A written legal framework, citing customary laws, had existed from the tenth century onwards and this governed every aspect of a woman's life: childhood, adolescence, whether she was unmarried, married, experienced a dissolution of marriage, procreation, her widowhood, and rape. The law not only provided safeguards for both married and unmarried women but also ensured that Welsh women were guaranteed security financially in spite of marriage dissolution, elopement and/or abduction, rape, spinsterhood, widowhood and the death of the woman's immediate kin. The research indicates that there is a solid historical tradition of acceptance of women within Welsh society, under safeguards which guaranteed each woman's social place and cultural status.

⁵³ R.R. Davies, "The Status of Women and the Practice of Marriage in late-medieval Wales.", WLW, op. cit., pp.106,108.

⁵⁴ R.R. Davies, WLW, op. cit., pp.107,197.

⁵⁵ In the sense of land entitlements only.

⁵⁶ R.R. Davies, WLW, op. cit. , p.101.

⁵⁷ Miranda Green, *Celtic Goddesses Warriors, Virgins and Mothers*, British Museum Press, London, 1995, p. 25.

The Law of Women was essentially personal, familial and largely extra-curial⁵⁸ and the Welsh had long since overcome the difficulties, in the social and legal sense, of a woman making a personal choice concerning her union as indicated by the dissolution of marriage, elopement and spinsterhood contingencies. At all times the woman was financially secure as her *cowyll* and *agweddi* were available to her after marriage and she had a right to her fathers' table before marriage.⁵⁹ In terms of lineage and inheritance, and without individual judicial power, the Welsh woman was no more than a procreatrix but the place and status she had within the social framework was extremely important. Socially the Welsh woman was valued very highly as the genetrix, the unifying force between her natal kin and the kin into which she married. The social importance of the woman was underlined by the complex laws dealing with compensation which pervaded all life situations commonly experienced by women.

Despite the fact that Welsh law officially ended with the Union of Wales and England in a process which began 1536 and ended in 1543, the existence of a traditional native law system and customary practices regarding the treatment of women by the community and society in pre-Union Wales has widespread ramifications in terms of witchcraft cases.

The removal of the Law of Hywel Dda and the Law of Women after the Acts of Union placed Welsh women under an English legal system which did not incorporate the protective measures offered by the Law of Women. Although not as pronounced as the situation in Ireland,⁶⁰ the ethnic/native Welsh were, in all probability, able to retain an environment in which women were still not regarded as a threat to the existing social order. Attitudinal change, without a link to a predisposition to change, was not likely to occur as quickly as changed legal systems. The outcomes of both types of witchcraft cases give every indication that Welsh popular culture did not immediately exhibit any attitudinal change which affected how Welsh people dealt with women and witches under the new Acts of Union structures.

By 1640 the Anglicisation of the Welsh gentry was in its final stages and the dichotomy which prevailed in Welsh life between the Welsh-speaking common people and the Welsh gentry class, who progressed more and more towards the English language and gentry model, grew more pronounced. Essentially, two distinct groups had begun to emerge and the native Welsh preserved the internal cohesion of their community even though Welsh society in its entirety was much less well integrated.⁶¹ Witchcraft cases in

⁵⁸ R.R. Davies, *WLW*, op. cit. , p. 97.

⁵⁹ D.B. Walters, "The European Context of the Welsh Law of Matrimonial Property.", *WLW*, op. cit., p. 122-131.

⁶⁰ Raymond Gillespie, "Women and Crime in Seventeenth - Century Ireland." in Margaret MacCurtain and Mary O'Dowd (eds) *Women in Early Modern Ireland* , Edinburgh University Press, Edinburgh, 1991, p. 44.

⁶¹ Michael Hechter, *Internal Colonialism: The Celtic Fringe in British National Development 1536-1966*, Routledge and Kegan Paul, London, 1975, p.111.

early modern Wales were generated by and concerned people from the native Welsh population.

Implementation of the Law of Hywel Dda had always depended on "the memory and support of the kindred and the neighbourhood"⁶² and this was still very much intact and remained so after the Acts of Union. Welsh customary law operated on the principle of reconciliation through arbitration, seeking, as it did, to preserve communal harmony and peace. Such a basis did not encourage the execution or overly harsh punishment of the accused, particularly women, because communal harmony would be impossible to maintain.⁶³ Harsh punishments led to the continuation of disputes which, in a small kin-orientated society only perpetuated personal and communal disharmony. Resolution of the dispute through arbitration, kin and personal responsibility, was the preferred option amongst Welsh people, in accordance with their native laws. As witches and their activities appears, from case evidence, to have been very much an accepted part of communal life, there is no reason to suppose that communal resolution of the problems would not continue amongst early modern Welsh people. The premise of long-duration of acceptance of witches by the community is emphasised by the fact that no reference occurs to witches, witchcraft or the supernatural in the Laws of Hywel Dda.

The Law of Women was both conceived from and based on the customary laws of the Welsh people which emphasised the maintenance of inter-personal and communal harmony. The role of the community in Welsh society was always important and, in its earliest forms, the Law of Hywel Dda was supervised and imposed by the community. Because the implementation of the laws was not dependent upon or linked to a strong princely authority, there was an expectation that the practice of Welsh customary law would continue in after the Acts of Union.

Witchcraft cases in Wales were brought by and lodged against the common people and can not be related to motives generated from within the upper classes of Welsh society: the common people generated cases involving witchcraft in early modern Wales but case evidence shows that they were not encouraged to do so by members of the gentry class, aristocracy or by judicial authorities. The reasons why witchcraft as words cases were lodged in the criminal Courts of Great Sessions was largely based on the need for the restitution of individual honour and involved a compensatory payment for damage done to that honour and the re-establishment of an individual's reputation in the eyes of the community. Witchcraft as words cases reflect native legal attitudes to slander as a type of insult requiring appropriate compensation. Nevertheless, the cases had to be heard in the English courts of post-1536 Wales in the context of English law. Welsh witchcraft cases may, therefore, have been following two distinct concepts of

⁶² David Walker, *Medieval Wales*, Cambridge University Press, Cambridge, 1990, p.144-149, quote p.147 and Gwyn A. Williams, *op. cit.*, p. 75.

⁶³ Concept from a review of European legal customs in Anne Llewellyn Barstow, *Witchcraze A New History of the European Witch Hunts*, Pandora, San Francisco, 1995, p. 32.

authority: the authority of customary law which they adhered to within the structures provided by the imposed authority of the English state, perhaps with due disregard for those aspects of the imposed authority which did not accomodate the traditional Welsh response to individuals accused as witches.

Chapter IV

Order and Authority: Gender and the Continuation of Customary Laws and Practice in Early Modern Wales.

I

The Law of Women affirms the social, legal and cultural protection afforded to Welsh women throughout all the normal aspects of each woman's life. Until 1536, the authority relating to Welsh women was held within the memories of the law-givers and all actions had specified outcomes according to the punishments contained within customary law. Customary laws pertaining to acts of *malefice* and how to deal with the activators of *malefice* are, however, conspicuous by their absence. This may be indicative of witchcraft as a normative aspect of Welsh society, perhaps a strong indication that society either accepted such practitioners; dismissed their actions as outside the process which demanded a customary legal solution, hence its lack of legal concern where witchcraft activities were apparent; or relied on other means of containing the threat which such practitioners posed. It also suggests that witchcraft activities may not have been a customary legal concern because there were other customary procedures which controlled and/or provided an authoritative and effective method for dealing with both the results and the initiators of actions which Welsh society construed as witchcraft.

The emphasis on the gendered nature of witchcraft accusations in early modern Wales tends to lend support to such concepts. Although there are cases of men before the courts accused of bewitchment activities, *malefice* actions which in England and Scotland, would be considered as witchcraft, the Welsh cases dealing with men do not use the word "witch" nor is the term "witchcraft" cited in the transcripts. Witchcraft as *malefice* cases are the preserve of women in early modern Wales: there is no record of a man being accused of the death of any person through his use of *malefice* and certainly no cases ended in a verdict of execution for any male before the courts accused of bewitchment activities. Only women were so accused in Wales, that is, only women were accused of *malefice* witchcraft which had resulted in the death of a person. Nearly all of these women were found guilty but only one of these women was certainly executed. Witchcraft as slander cases also concern only women.

The reasons for the Welsh response to women accused and found guilty of witchcraft activities lie somewhere between the customary laws relating to women in pre-Union Wales and the continuation of such customary responses within the constraints of the new legal system imposed with the Acts of Union. Perhaps, in some way, the Welsh reaction to witches can be construed as a form of social protest "guided by tradition and custom...",¹ despite or in spite of the English legal system.

What this relationship between common law and customary rights does illuminate, as

¹ Roger B. Manning, *Village Revolts Social Protest and Popular Disturbances in England, 1509-1640*, Clarendon Press, Oxford, 1988, p. 319.

the Law of Women chapter shows, is the reality of a people whose customary laws dictated their reactions and ways of behaving within the confines of their own language and culture. The Witchcraft Acts dictated that punishment for acts of *malefice* should result in execution after a guilty verdict, but the evidence of court outcomes indicates a very different reaction. Welsh people, whether as protagonists in such cases, judges, witnesses or as the accused party, did not follow the principles set out in the Witchcraft Act of 1604. Their own popular culture and customary law did not require such a response to suspected witches because the problem of what to do with an accused witch and the ramifications of the accused's actions had been resolvable prior to and without such Acts.

This chapter examines the structure within which concepts of order in Wales from 1536-1736 were maintained. Early modern Wales had two concepts of order: the order imposed from without, represented by the statutory laws of England; and the order which existed because it had arisen from conformity to customary law. In Wales, the customary law had been applied for hundreds of years and, well before it was textualised, the writers of the law were working from the application of the customary practices and principles of their people.²

Using a method which resembles that proposed by Marc Bloch,³ it is possible to see a continued adherence by the Welsh people to many of the customary laws relating to women and their social place and cultural status in Welsh society as an indication of earlier values. Evidence from as late as the mid-twentieth century shows that many aspects of the Law of Women survived, particularly in the areas of economic independence, illegitimacy, marriage, the end of marriages and the care of children from all types of marriages. In this way, the Welsh reaction to witchcraft, women and the results of cases before the Courts of Great Sessions from the 1590s until the 1690s can be better understood. This overcomes the problem of too few primary and contemporary sources, other than court cases, on which to base an analysis.⁴ Customary laws and customary practices may be the reasons why Welsh people reacted to witches and people accused of witchcraft in the manner in which court cases indicate they did. In addition, evidence from other Celtic-speaking areas of Briatrain and Ireland supports the continuation of customary laws and practices alongside English legal authority.

II

Wrightson has proposed a concept of order in early modern English society which is

² Dafydd Jenkins, (translated and edited) *The Law of Hywel Dda Law Texts From Medieval Wales*, Gomer Press, Dyfed, 1986, p. xv.

³ Marc Bloch, *French Rural History*, Routledge and Kegan Paul, London, 1966, "The historian... is perpetually at the mercy of his documents; most of the time he must read history backwards if he hopes to break the cypher of the past", p. xxviii.

⁴ Much like the problems of sources referred to by Llinos Beverley-Smith, "Towards a History of Women in Late Medieval Wales," in Michael Roberts and Simone Clarke (eds) *Women and Gender in Early Modern Wales*, University of Wales Press, Cardiff, 2000, p. 14-49, at p. 13.

outside, or perhaps beyond, the official ideology; order entailed conformity to local custom rather than to statute law. Such conformity acted as a conflict restraint among people in a local, or communal context. If statute law had been applied in full, conflict within the local community may have resulted.⁵ Maintaining the public peace at the local level was done through degrees of law enforcement, the emphasis at the local level being on the preservation of order sufficient to resolve social conflicts which could threaten communal harmony. It was the degree of law enforcement which was the determining factor between central regulation and local customary practices. Local government was the mediating factor between these two areas and the relationship could either be harmonious or strained.⁶

Those individuals who were responsible for law enforcement at the local level were, therefore, at the forefront of preventing conflict within their community. The justices of the peace were responsible, as the representatives of the secular administration, for mediation between the national and local government groups. They either reacted to the commands of the national government or they delegated the enforcement of the law to the officers of local government, the constables and jurymen.⁷ The difficulties of filling the local government offices in Wales with suitable individuals and the problems associated with their law enforcement endeavours were highlighted in the preceding chapter.⁸ The evidence cited for Courts of Great Sessions personnel in early modern Wales underlined the difficult position of the man who was not only an officer of the law but was also a neighbour and member of the same community.

In Wales, the population was small, kin networks were strong and the interconnectedness of relationships were considerable in such microcosmic communities. Given these circumstances, there was every possibility that local law officers were reluctant to present people before the justices when such an act would have "scandalized, threatened or alienated the greater part of the community."⁹ The case¹⁰ of Anne Ellis is perhaps the most indicative of the reluctance of officers to prosecute or to complete a court process if they felt that the outcome may have led to an increase in communal tensions rather than a solution. Indeed, in Anne's case, it was not only the gaoler who assisted her escape but also some of those who had provided witness testimonies against her. It is also probable that the thirty plus signatures from members of the gentry, both Catholic and Protestant, on the petition lodged in support of Dorothy

⁵ Keith Wrightson, "Two concepts of order: justices, constables and jurymen in seventeenth-century England." in John Brewer and John Styles, *An Ungovernable People The English and their law in the seventeenth and eighteenth centuries*, Hutchinson, London, 1983 paperback edition, p. 22-24.

⁶ *ibid.*, p. 25.

⁷ *ibid.*, p. 26.

⁸ See Chapter II The Courts of Great Sessions: the context of the witchcraft cases.

⁹ Keith Wrightson, "Two concepts of order:..." *op. cit.*, p. 29.

¹⁰ See Chapter VIII Witchcraft as *Malefice* : Witchcraft Case Studies, The Third Phase of The Welsh Antidote to Witchcraft, where these cases are discussed in detail.

Griffiths, were a successful local attempt at conflict resolution.¹¹

Wood has suggested that "different conceptions of legality, order and authority might be articulated by different social groups through different legal and quasi-legal institutions..."¹² The theory builds on Sharpe's evaluation of people's familiarity with the legal system under which they live, largely through association, participation and involvement in office bearing capacities and jury duty. By such means, the law becomes a part of popular culture and that culture's experience of the authority.¹³ The entire process acknowledges only the law as contained within statutes, the laws of the realm, but does not account for the extent or depth of adherence to a different authority, more localised but of considerable importance, the law of custom. Nevertheless, as Beverley-Smith reiterates, status, in terms of Welsh women, marriage and property, "was never subjected to critical, learned analysis and its governing principles must be assembled from a number of disparate and sometimes conflicting cases when status was the matter at issue."¹⁴

Sharpe's infusion process occurs over a period of time, time which early modern Wales had not experienced because the Acts of Union were such a recent imposition on a customary law base which had been extant for hundreds of years. Just as the free mining laws enabled free miners, the subject of Wood's study, to resist the wishes of the elite authority of the state, there is evidence to suggest that Welsh people, through adherence to customary laws, conflicted with the Witchcraft Acts of 1564 and 1604.

Studies of authority, gender and the law in early modern England, concentrate on the

¹¹ NLW, Great Sessions 4/985/5 Great Sessions for Flint (1657) Anne Ellis of Penley on 28th September 1657, particularly f. 23. and NLW, Great Sessions 4/985/2/18-19 Geat Sessions for Flint (1655-1656) Dorothy Griffith of Picton on 7th April 1655-1656 at Flint.

¹² Andy Wood, "Custom, Identity and Resistance: English Free Miners and Their Law c. 1550-1800.", in Paul Griffiths, Adam Fox and Steve Hindle (eds) ,*The Experience of Authority in Early Modern England*, St. Martin's Press, Inc., New York, 1996, p. 250. See too Andy Wood, *The politics of social conflict: the Peak district, 1520-1770* , Cambridge University Press, Cambridge, 1999.

¹³ J. A. Sharpe, "The People and the Law ," in B. Reay (ed), *Popular Culture in Seventeenth-Century England*, London, 1985, pp. 248, 264, 252.

¹⁴ Llinos Beverley-Smith, " Towards a History ..." op. cit., p. 16.

customs of local communities.¹⁵ The dimensions of what constitutes “local communities” in England may, however, need re-defining for early modern Wales. Early modern Wales was a small country with a small population: in 1536 the population numbered approximately 278,000 which had increased to approximately 405,000 by 1630.¹⁶ Essentially a rural country throughout the early modern period, Welsh communities were small, their outlook internalised, and people were concentrated in small villages, hamlets and isolated holdings. Early modern Welsh social structure was compact, nobility numbers were small and exclusive: about 3% were descended from the *uchelwyr* or princes, and other members of the county elite consisted of baronets, knights, squires and wealthy burgesses. After the parish gentry, yeomen, who were substantial farmers, constituted the next social level, after whom were husbandmen ranked who farmed on a lesser scale. The majority of people were commoners, consisting of small farmers, rural craftsmen, labourers, paupers and vagrants.¹⁷ Households were also small, averaging 4.40 individuals because of low life expectancy and late marriages. The population was relatively youthful as life expectancy was thirty-five years of age, hence veneration of the aged was evident amongst contemporaries as, although many people did survive to the ages of sixty and seventy, eighty years and older was considered very unusual.¹⁸

Early modern Wales, as a whole, may need to be considered as a “local community” with reference to local customs, customary law, and witchcraft. Although local custom in England applied only to specific jurisdictions in law, such as the manor, borough or parish,¹⁹ it may be necessary to consider Welsh “local” custom in terms of customary

¹⁵ See Paul Griffiths, Adam Fox and Steve Hindle (eds), *The Experience of Authority in Early Modern England*, St. Martin's Press, Inc., New York, 1996. Contributions from Keith Wrightson, Martin Ingram, Adam Fox, Bernard Capp, Paul Griffiths, J.A. Sharpe, Steve Hindle, Andy Wood and John Rule. Jenny Kermode and Garthine Walker (eds), *Women, Crime and the Courts in Early Modern England*, The University of North Carolina Press, Chapel Hill, 1994. Contributions from Garthine Walker, Jenny Kermode, Laura Gowing, Martin Ingram, Jim Sharpe, Malcolm Gaskill, Geoffrey L. Hudson and Tim Stretton. Sara Mendelson and Patricia Crawford, *Women in Early Modern England, 1550-1720*, Clarendon Press, Oxford, 1998. Patricia Crawford and Laura Gowing (eds), *Women's Worlds in Seventeenth-Century England A Sourcebook*, Routledge, London, 2000. Amanda Shepard, *Gender and Authority in Sixteenth-Century England*, Ryburn Publishing, Keele University Press, Staffordshire, 1994. Laura Gowing, *Domestic Dangers Women, Words, and Sex in Early Modern London*, Clarendon Press, Oxford, 1996. Susan Dwyer Amussen, *An Ordered Society Gender and Class in Early Modern England*, Basil Blackwell Ltd., London, 1988. Anthony Fletcher and John Stevenson, *Order and disorder in Early Modern England*, Cambridge University Press, Cambridge, 1985. Andy Wood, *The politics of social conflict: the Peak district, 1520-1770*, Cambridge University Press, Cambridge, 1999. Steve Hindle, *The State and Social Change in Early Modern England, c. 1550-1640*, Palgrave, New York, 2000.

¹⁶ Glanmor Williams, *Recovery, Reorientation and Reformation Wales c1415-1642*, Clarendon Press, Oxford and the University of Wales Press, Cardiff, 1987, p.382. Population figures vary according to whether the figures for Monmouth shire are included or not.

¹⁷ Brian Howells, “Modern History” in David Thomas (ed) *Wales A New Study*, Newton Abbot, London, 1977, p. 96-99; Geraint H. Jenkins, *The Foundations of Modern Wales Wales 1642-1780*, University of Wales Press, Cardiff and the Clarendon Press, Oxford, 1987, p. 92.

¹⁸ Geraint H. Jenkins, op. cit., p. 91.

¹⁹ Andy Wood, “The place of custom in plebian political culture: England, 1550-1800.”, *Social History*, Vol. 22, No. 1, 1997, p. 47.

law as “applied to a variety of rights, access to which depended upon social, spatial or gendered conceptions of place.”²⁰ Customary law in Wales had been a recognised legal system through which the Welsh people resolved disputes, felonies, the rights of all individuals and the distribution of property. In early modern Wales, the system was one of collective remembering rather than one of collective forgetting in which the Laws of Hywel Dda provide an overall comparative. In view of the long duration of adherence to customary law prior to the Acts of Union, consideration needs be given to a set of different social dynamics in relation to local customs and customary law in early modern Wales. Taking the concepts of local custom a step further, it may be possible to extend the “two concepts of order” to that of customary law as a pre-existing system of authority which was maintained even though the state authority was English.

Wales, Ireland, Scotland and the Isle of Man all had systems of customary laws and government before English law was imposed. Combined with different languages and different cultures with diverse histories and origins, their dependence on a system of customary law for generations prior to the imposition of English law was a normative process in all these societies. Where there is a cultural group in Britain which did not originally have the same language base or the same cultural heritage as the imposed controlling authority, the secular law of England, there is every reason to believe that these groups continued to adhere to their original customary and traditional laws which were subsumed within the structure of the new English state authority. The popular group’s perceptions of the law, property and the social order, as well as the gender relations within that law, may be more reflective of that groups’ customary laws than of the legal requirements of English law. This premise becomes very relevant when the reaction of these groups to those of its members accused of witchcraft is examined, most particularly in relation to the outcomes of such cases, the small numbers per head of population who were actually accused of witchcraft, and the gender of the accused, who were usually women and who usually survived despite guilty verdicts.

III

Ireland, the Isle of Man, Cornwall and the Highlands of Scotland all had customary laws, very few accusations of witchcraft and, in Ireland and the Highlands, witches were considered to be women. Both Cornwall and the Isle of Man regarded both sexes as potential witches but Manx witchcraft court cases concerned women whereas Cornish cases were balanced between men and women.²¹

This common response underlines the importance of pre-existing customary laws governing reactions to witchcraft and the survival of the accused. These areas may have exhibited the opposite of Sharpe’s evaluation of legality, order and authority for

²⁰ *ibid.*, p. 47.

²¹ Please see the following discussion for references to witchcraft court cases for each community.

England.²² In areas where customary law had existed for centuries, English statute law becomes infused with the popular culture's longstanding experience of authority, customary law. Customary law, as a part of popular culture, inevitably becomes a part of the new state authority. In other words, the customary laws, as these relate to women, witchcraft and those accused of witchcraft, become part of the law of the state because regional societies retained their customary response to witchcraft and customary laws relating to women. Witchcraft in early modern Wales is particularly reflective of Welsh customary law. Comparisons with other regional societies with a long tradition of customary laws, elicited in the following discussion, provides further evidence of the distance between the authority of the English state and local adherence to traditional authority when these societies were reacting to women, witches, and witchcraft.

Irish law, as promulgated by the medieval Parliament in Dublin, required a separate legal profession and was always subject to an English veto although it refrained from implementing all English statutes automatically. Until 1920, English law prevailed in Ireland when a conflict arose (though the English (1679) Act of Habeas Corpus did not apply until 1781 in Ireland).²³ The numbers of witchcraft cases which came before the courts were extremely small in early modern Ireland and came only from areas of English settlement. Charges had to be laid by the alleged victims of witchcraft or by their relatives and neighbours but the Irish accusations were few because the ethnic Irish community remained impervious to legalised witch hunting.²⁴ Between 1534 to 1711, of the estimated 2 million in the Irish population, 1.5 million were ethnic Irish²⁵ and there were several reasons why the ethnic Irish probably did not take action against the witches in their midst. Apart from their refusal to bring the cases before English governors, the language differences provided a strong deterrent and the English authorities were preoccupied with issues of recusancy, civil unrest and the extension of Crown control over the country. Other, more simmering reasons were apparent however. There was a sharp social and racial distinction between the English populations in the towns and the Anglo-Irish of the country. To those who lived in towns, the countrymen were "meer", Irish who had no rights at English law and the Irish in many cities were restricted to living in a quarter outside the walls, known as "Irishtown".

²² i.e. people's familiarity with the legal system under which they live, largely through association, participation and involvement in office bearing capacities and jury duty. By such means, the law becomes a part of popular culture and that culture's experience of the authority. See J. A. Sharpe, "The People and the Law ." in B. Reay (ed), *Popular Culture in Seventeenth-Century England*, London, 1985, pp. 248, 264, 252.

²³ Norman Davies, *The Isles A History*, Papermac, Macmillan, London, 2000, p. 672.

²⁴ To date (2002) there are no examples of ethnic Irish women being accused of witchcraft. The only ethnic Irish woman ever to be executed for witchcraft was Petronilla of Meath, who was tortured, whipped and burned at the stake in 1324. For a full appraisal of the Alice Kyteler case, see L.S. Davidson and J.O. Ward, (eds) *The Sorcery Trial of Alice Kyteler*, Medieval and Renaissance Texts and Studies, New York, 1993, p. 1-15.

²⁵ Elwyn C. Lapoint, "Irish Immunity to Witch-Hunting, 1534-1711." *Eire*, XXVII ; 2, Summer, 1992, pp. 84, 86.

The ethnic Irish community had its own ways of dealing with the supernatural and witchcraft but this did not include going to court. The most likely reason for the lack of trials for witchcraft in Ireland centred around the place and status of ethnic Irish women within their society. In the purely Gaelic regions of Ireland, the customary or Brehonic Law ensconced women in a legal tradition very similar to that of the Law of Women. Irish women "enjoyed the right to hold and administer property independently of their husbands"²⁶ and, whilst an Irishwoman could not inherit the land of her clan she could hold it for her lifetime as, on her death, the land reverted to the agnatic patrilineage instead of passing on to her immediate offspring. Women were somewhat more economically independent, but only amongst the ethnic Irish.²⁷ Such concepts however, should not be taken too literally as the law texts do not give absolute independence to women, rather the law texts make very clear the importance of women and their rights in relation to their male relatives. Women's rights were ensconced in a traditional legal system which protected them in terms of marriage, property, inheritance, divorce, separation, or remarriage, the rights of their children and made provisions for their well being in whatever stage of their lives women found themselves.²⁸

One of the areas in which the continuation of the customary rights of Irish women can be established is in cases before the Crown Court of Chancery in Ireland. Through its exercise of equity, this court has been seen as the mediator between Gaelic customary law and English common law as the chancellor "was prepared to consider Gaelic forms of partible inheritance from the standpoint of equity."²⁹ In the English Chancery court, female litigants included all women, whether single, married or widowed but, under the common law of England, only single women and widows were entitled to legal representation in their own right because married women were regarded at law as legally merged with their husbands. Most of the surviving Irish chancery court documents were from areas which had formerly been English lordships where an English legal system had been operating since the medieval period. Counties around the Pale, where English colonisation had occurred during the sixteenth century, were also represented and there are some cases which come from the plantation areas of Dublin and some from Ulster. Very few cases come from the ethnic Irish areas and those that do are related to issues of land inheritance, such as. "appeals to the chancellor to recognise Gaelic customs of partible inheritance."³⁰

²⁶ K.W. Nicholls, "Irishwomen and Property in the Sixteenth Century." in Margaret MacCurtain and Mary O'Dowd (eds) *Women in Early Modern Ireland*, Edinburgh University Press, Edinburgh, 1991, p. 17.

²⁷ *ibid.*, p. 26.

²⁸ See the works of Peter Beresford Ellis and Peter Chericci cited in the footnotes and Miranda Green, *Celtic Goddesses Warriors, Virgins and Mothers*, British Museum Press, London, 1995, p.15-28. Chapter 1, "Women in Celtic Society."

²⁹ Mary O'Dowd, "Women and the Irish Chancery court in the late sixteenth and seventeenth centuries.", *Irish Historical Studies*, xxxi, No. 124, November 1999, p. 470.

³⁰ *ibid.*, p. 474

Litigants appear to have come mainly from the landed gentry and urban merchant classes although these were not the wealthiest members of society. Some were husbandmen and craftsmen. "Litigants from the poorest members of society did not present cases in chancery."³¹ The Irish Chancery court was prepared to consider Irish customary law as Gaelic inheritance law had four areas which were not acceptable under English common law. Gaelic law favoured the division of estates between a number of male heirs, not just the eldest son; women could not inherit ancestral lands; Gaelic law recognised marriages which were not church sanctioned; and, under Gaelic customary law, a widow could not have her third of her husband's estate during her lifetime. This meant that "the legal status of women was at the core of the dispute"³² since three of the areas of contention between Gaelic customary law and English common law concerned women. Gaelic customary law did not recognise the widow's third from her husband's estate during her lifetime as the Irish custom was that she was entitled only to her original dower agreed before the marriage. Different views of marriage were the basic issue as Gaelic society viewed marriage between landholding families as political alliances which were dissolvable at any time and these marriages did not involve land transfer. "The woman brought a dowry or 'marriage goods' to the husband, and the goods were returned to the woman in the event of the marriage coming to an end."³³

English common law threatened landholding families from Gaelic society because English law recognised the dower and inheritance rights of women and this could potentially undermine the ancestral holding of Gaelic families. By the early seventeenth century however, the chancellor was insisting that common law be upheld thus denying the equity of the customary law position of women. The chancellor was also insisting on women's legal rights under common law: heiresses were to be granted full inheritance rights, widows were entitled to their dower and only those born in a church sanctioned marriage were to be considered as the rightful heirs. The Dublin chancery court became the legal forum in which the conflict between English common law and Irish Gaelic customary law resulted in the upholding of women's rights to dower and land inheritance³⁴ but at the expense of Gaelic customary law.³⁵

The system of justice in the Manx courts did not resemble the court systems used elsewhere in Britain or Ireland because Man had been a self-governing dominion of the

³¹ *ibid.*, p. 475.

³² *ibid.*, p. 485.

³³ *ibid.*, p. 486.

³⁴ *ibid.*, p. 486-487.

³⁵ See Margaret MacCurtain and Mary O'Dowd, (eds) *Women in Early Modern Ireland*, Edinburgh University Press, Edinburgh, 1991 for contributions on other aspects of women, gender, property, and customary law in early modern Ireland have been analysed from K.W. Nicholls, K. Simms, R. Gillespie, J.C. Appelby, Mary O'Dowd, J. Casway, N.J. Curtain, P. Kilroy, D.Hempton, M. Hill, P.J. Corish, D. Dickson, L.A. Clarkson, E.M. Crawford, W.H. Crawford, N. Cullen, S. Connolly, J. Murphy Lawless, Anne O'Connor, E. Malcolm and Margaret MacCurtain.

English Crown since 1399, when rule by Scotland ended.³⁶ Man was ruled by the Welsh from the sixth to the ninth centuries and then by the Scandinavians, Scots and English. The Norse invaders began their conquest in 800, a conquest which was ongoing until 1266 and it was this group which most affected the structures of customary law and government of Man. The Manx Tynwald Court emerged from the Norse *thing*, an annual open-air meeting of all freemen where cases were brought for trial and punishment decided. The Tynwald court consisted of the King or the Earl and the Lord Bishop as head of the court. Two *deemsters* or judges, one representing the southern part of Man and the other representing the northern part of Man,³⁷ and the Earl's principal officers (now the legislative council) made up the main administrative hierarchy of the Isle. The Manx House of Keys (whose role is similar to that of the English House of Commons) consisted of twenty-four members who were elected by the freemen as their representatives. These individuals were usually chosen from amongst the chief landowners on the Isle of Man. The House of Keys did not make the laws, but assisted the Tynwald in deciding what the law was.³⁸

Written law for the Isle of Man did not occur until 1422 when the laws were codified at the instigation of Sir John Stanley, then the Lord of Man.³⁹ Prior to this, the Manx had relied on the memories of their lawmen as the laws "were supposed to be locked in the memories, or the 'breasts', of the men appointed for that purpose. It was the duty of the lawmen to declare to the king what the laws were and such declarations were called 'breast-laws' "⁴⁰ which were based entirely on the customary laws of the Manx people, remaining oral until about 1690. Known as "Breast Law", this system of laws was orally transmitted through the centuries and was regarded as no less binding than any written law texts.⁴¹ Manx customary law was therefore in the heads and hands of the deemsters throughout the early modern period ⁴² and the degrees of adherence to customary law can be found in Manx witchcraft cases which arose before, during and

³⁶ Norman Davies, op. cit., p. 586.

³⁷ R.H. Kinvig, *The Isle of Man A Social, Cultural and Political History*, Liverpool University Press, Liverpool, 1975, p.11.

³⁸ *ibid*, p.72-74.

³⁹ *ibid.*, p. 97.

⁴⁰ *ibid.*, p. 74.

⁴¹ Ward Rutherford, *Celtic Lore The History of the Druids and Their Timeless Traditions*, Thorsons, London, 1995, p. 50.

⁴² Today, the island has its own Parliament, the bicameral (meaning with two legislative chambers) Court of Tynwald, which consists of the elected House of Keys and the Legislative Council. The Legislative Council is composed of the Lieutenant-Governor, the President, the Lord Bishop of Sodor and Man, the Attorney-General, and seven members elected by the House of Keys. Acts of the British Parliament do not generally apply to the Isle of Man.

after 1617.⁴³

The precise charges against Margaret Inequane and her son, the 1617 witchcraft cases, are unclear although both were first found guilty in the ecclesiastical courts by a jury of six, all of whom were drawn from the parishes, members of which claimed to have been affected by the witchcraft practices of both Margaret and her son. The law demanded that, having been found guilty in the ecclesiastical court, both should be handed over to the secular power. This was done by the Bishop's chief executive officer, the General Sumner. In 1617, the two accused appeared in the Head Court before the Deemsters and a Jury of Twelve drawn from several sheadings under the advice of the Chapter Quest men.⁴⁴ The Bishop was also present at the secular trial but was refused permission to sit by the Jury when the guilty verdict was brought in. This followed an ancient Manx tradition as the Bishop, or Chancel-man, had to leave before the verdict was stated to avoid being involved with the shedding of blood. Up until 1845, the bishop and arch-deacon were required to appear on the bench in a capital trial. The question put to the jury in Manx cases was not "Guilty?" or "Not Guilty?" but "May the man of the chancel continue to sit?" The answer was either yes or no but, if no, then the departure of the clergy was followed by a sentence of death.⁴⁵

The response of the Manx judicial system in these 1617 witchcraft cases was probably heavily influenced by the political and social situation which the island was undergoing during these years, influences stemming from mainland Britain. James I had ascended the English throne in 1603, implemented the Witchcraft Act of 1604, and took particular interest in witchcraft cases which came before the Manx courts because he was temporarily in control of Man in 1617. The Lordship of Man was in dispute between

⁴³ 1993-2000: records for the Isle of Man 1500-1700 are currently the subject of a research project funded by the Leverhulme Trust. The 1993 project "Crime, Litigation and the Courts in the Isle of Mann, 1500-1700." (Please note that "Mann" is the spelling used by the research team members.) is being undertaken by Dr. James Sharpe and Dr. Roger Dickinson of York University and Stephen Miller of Oxford University and the completion date of the project is December 1996. Stephen Miller is currently writing a Ph.D on this now completed research work (See James Sharpe *Instruments of Darkness Witchcraft in England 1550-1750*, Penguin Books Ltd, London, 1997 edition, p. 32 "Research in progress into Manx records, conversely, reveals a very individualistic interpretation of witchcraft which was firmly embedded in local folklore." See also Footnote 42 on p. 307 in Sharpe for details of Stephen Miller's Manx research.

2001-2002 update: however, the project has been abandoned as Stephen Miller was unable to contextualise the Manx evidence within existing witchcraft historiography. I would like to thank Dr. P. J. Davey of the Centre for Manx Studies, University of Liverpool, for this information which he kindly forwarded to me in response to my request for an update on the project in November, 2001.

⁴⁴ The similarities between the Isle of Man jury of twelve and the Icelandic institution of "judgement of twelve lay persons" should be noted. Iceland remained free of witchcraft trials until the introduction of Danish law in 1630 and the Lutheran faith which balked at a shamanistic popular culture base with demonic concepts. See Kirsten Hastrup, "Iceland: Sorcerers and Paganism." in Bengt Ankarloo and Gustav Henningsen (eds) *Early Modern Witchcraft: Centres and Peripheries*, Oxford University Press, Clarendon, 1990. pp. 387-392, 377-378.

⁴⁵ W. Carew Hazlitt *Faiths and Folklore of the British Isles A Descriptive and Historical Dictionary*, Benjamin Blom, New York, 1965, Vol. II, p. 387.

members of the Stanley family, a situation which made the king directly responsible for the government of the Isle of Man.⁴⁶ The degree of adherence to Manx customary law in other witchcraft cases did, however, make the execution of people found guilty of witchcraft activities very uncommon on the Isle of Man and others so accused in 1666 and in 1712-1713 were not executed. Manx customary law began to prevail, and the Manx Ecclesiastical Courts and the jurymen of the Isle of Man were, in the main, responsible for the cessation of executions for witchcraft on the island.⁴⁷

The Manx preference for the continued use of customary laws is reflected in the manner in which they dealt with suspected witches, most of whom were Manx women rather than men. In 1666 a group of Kirk Arbory farmers returned a verdict couched in terms of Manx law rather than the rulings which had been made under James I in a case which concerned a woman who was accused of witchcraft. In their declaration, the jurymen stated that

“ We give for answer, that for as much as wee have not had any proofs that she is positively a witch, therefore wee doe cleere her, and say (being questioned) that she is not guilty to death, but notwithstanding, the proofs already by us taken into consideration by the spirituall officers, wee leave her to be punished at their discretion.”

The ecclesiastical courts duly gave out the punishment for the woman which consisted of three Sunday penances, a process in which she had to go down on her knees before the congregations of Rushen, Arbory and Malew. Dressed in a white sheet, she appeared carrying a white wand, barefooted and wearing a piece of paper on her breast which stated her offence. She had to verbally confess her sin and promise to reform before all three congregations.⁴⁸

Most of those accused of witchcraft on the Isle of Man were women although both men and women could be regarded as witches. Manx people generally refer to witches as *butche* or *butches* when using Manx English and there are many popular beliefs which surrounded these individuals.⁴⁹ However, it was only women who were called *caillag* or *caillagh*, the term for “witches” in the Manx language.⁵⁰ Customary laws relating to women were very clear in the passage of laws through the Tynwald. An aspect of a 1098 law stated that a wife as well as a husband had to sign a deed of property. The same law stated that women from the northern half of the island were entitled to half their

⁴⁶ David Craine, *Manannan's Isle*, printed for The Manx Museum and National Trust, Robert Maclehouse and Co. Ltd, University Press, Glasgow, 1955, p.15.

⁴⁷ See David Craine, *op. cit.*, where these cases can be found throughout the text.

⁴⁸ *ibid.*, p.15.

⁴⁹ John Rhys, *Celtic Folklore Welsh and Manx*, Clarendon Press, Oxford, MDCCI (1901), p. 294.

⁵⁰ David Craine, *op. cit.*, p. 25.

husband's property, whilst women from the southern part of the island were entitled to a third share of the husband's property. Ecclesiastical laws were enacted on the island in 1266 and 1405 but customary law, the "breast law", prevailed. The written law gave all women on Man the right to half a share in a husband's possession on his death. Each woman was also entitled to this half share even if she left her husband because of any crime, adultery or for any other reason. If a woman's husband was found guilty of any crime, she was not forced to forfeit her share of his property. However, during the rule of Ferdinando Stanley, the fifth earl of Derby and Lord of Man, 1593-94, the earl declared such a practice "against the laws of God and good government."⁵¹

Nevertheless, other customary laws remained in place: if a woman was found guilty of a felony, her husband could legally divorce her. If, however, he concealed her crime, the law considered him to be as guilty as she. Husbands were also responsible for all debts incurred by wives. Rape was punishable by death according to the English lords of Man.⁵² The Deemsters, however, preferred to adhere to the customary law which demanded compensation, similar to that in the Brehon laws and the Law of Women. Both these systems of customary laws concentrated on reparation and compensation for a wrong done to another ; financial compensation was paid by the kin of the person who committed the crime to the kin of the victim, avoiding kin violence and bloodshed. Execution for a crime was, therefore, uncommon in those countries in which authority rested on customary laws prior to the imposition of English authority.

Early modern Cornwall was another area of Britain which did not have a high incidence of witchcraft case accusations before the courts. This was in spite of the fact that the county, unlike Wales, the Isle of Man and Ireland, had been included in the English mainstream at a much earlier stage in its history than had these other areas. The dislocation caused by the Civil War encouraged the prevailing English view that the Cornish were a lawless people and engaged in independent behaviour. The theory was further accentuated by the geographical remoteness of Cornwall from London. The Cornish coastline was complex and contacts with Brittany and the Channel Islands promoted government unease as, just like Anglesey and Ireland, Cornwall was considered too close to countries from which military threats could be launched against the English state. Cornwall was, however, largely assimilated into English culture by the mid-seventeenth century although it was not until this period that the English state began a serious and concerted effort to implement policies of cultural intolerance towards this region of England.⁵³

Under the Tudors, Cornwall experienced a campaign of centralisation and control of

⁵¹ Peter Berresford Ellis, *Celtic Women Women in Celtic Society and Literature*, Constable and Company Ltd., London, 1995, p. 109.

⁵² *ibid.*, p. 109.

⁵³ Michael Hechter, *Internal Colonialism The Celtic Fringe in British National Development, 1536-1966*, Routledge and Kegan Paul, London, 1975, p. 64.

power similar to that which Wales was to experience. Prior to this, Cornish affairs were controlled by two separate interest groups; the Duchy of Cornwall, which provided revenue for the king's eldest son, and the autonomous Stannaries Parliament, which administered parts of Cornwall and Devon from its base at Truro. The Cornish language fuelled the belief that Cornwall was not a part of England, but a separate country.⁵⁴ Two Cornish rebellions in 1497 and a series of outbreaks from 1548-1550 resulted in the elimination of feudal magnates with the transfer of their power and wealth to the Crown. The establishment of a regional Council, similar to Henry VII's Star Chamber, was accompanied by the replacement of Cornish "local institutions by all the manifold instruments of Tudor government": English common law, the central judicial system with all its administrative facets, crown patronage of landholdings, and uniformity of religion.⁵⁵

The Cornish, or West Welsh as they were sometimes called, continued to follow traditional customary practices which preserved a pattern of traditions, superstitions and alternative beliefs of which reactions to and views of witchcraft were an inherent part. Belief in the healing power of holy wells, traditional celebrations of Midsummer's Day and St. Piran's Day and the continued participation in the Padstow 'Obby 'Oss⁵⁶ and Helston Furry⁵⁷ as well as the continued observance of Celtic saints and feast days, helped to preserve the individuality of the Cornish people.⁵⁸ The superstitions and beliefs of Cornish miners made these individuals the main contributors to the retention of Cornish cultural distinctiveness before, during and after, the early modern period.⁵⁹

Other aspects of the retention of Cornish cultural individuality were related to the result of generations of settlement patterns and the types of tenant farming which prevailed in Cornwall for centuries. Cornwall did not have a tradition of being influenced by great landowning families and the manorial system in Cornwall had proved to be too weak to stifle the independence of its tenant farmers. Celtic settlement patterns prevailed, farms were remote, physically isolated and the people retained their communal microcosm when faced with external influences and change.⁶⁰ Added to this was the slow acceptance of the religious changes accompanying first the Reformation, then the Interregnum and the Restoration. The established Church of England was weak in Cornwall, a common feature of Celtic areas in Britain as Protestantism thrived more

⁵⁴ Norman Davies, *op. cit.*, p. 404.

⁵⁵ *ibid.*, p. 405- 406, quote at p. 405.

⁵⁶ Roy Palmer, *Britain's Living Folklore*, Llanerch Publishers, Felinfach, 1995, p. 111 for a description of this custom.

⁵⁷ *ibid.*, p.112 for a description of this custom.

⁵⁸ A. K. Hamilton Jenkin, *Cornwall and its People*, 1932 and 1934 editions re-published by David and Charles, Newton Abbot, 1983, p. 2.

⁵⁹ A. K. Hamilton Jenkin, *The Cornish Miner*, 1927 edition re-published by David and Charles, Newton Abbot, 1972, p. 272.

⁶⁰ Concept generated by the discussion in A.C. Todd, *The Cornish Miner in America*, Bradford Burton, Truro, 1967 on individualism and the preservation of "Cornishness" amongst immigrants.

readily in urban environments and areas where nucleated villages predominated. Exeter, the episcopal centre for Cornwall, was remote from the people and the inadequate supervision of incumbents, who were often of poor quality, limited the spread of Protestantism.⁶¹

Court records for witchcraft case studies for the early modern period in Cornwall are located in the records of the Diocese of Exeter, the quarter sessions records and the consistory court records. Cornish people did not make many accusations of witchcraft practices; from 1527-1723, only three men and nine women were accused of practising witchcraft in Cornwall. During the religious controversies and the rise of non-conformity after the Civil War, witchcraft accusations were on the increase in many areas of England, but Cornish people accused three men and eight women of witchcraft activities.⁶²

Law in Scotland differed considerably from that of the English state and the same Scottish law applied to both the Highlands and Lowlands of the country. Nevertheless, in the Highlands of Scotland, witchcraft accusations were almost unknown, even in the worst years of the 1590s and 1670s trials in the Lowlands. In 1426, a royal decree established that all the King's subjects were to answer to the King's law in Scotland, and the legal system of Scotland, even after the Union between England and Scotland in 1707, remained independent and separate. The central Court of Sessions for civil justice can be dated from 1532 and, in 1563, the Commissionary Court for ecclesiastical affairs was established. Oliver Cromwell's invasion of Scotland in 1651 overturned the judicial system but this was re-established with the Restoration. In 1672, the High Court of Justiciary, the criminal justice court system was established.⁶³ Scotland passed its first Witchcraft Act in 1563, forbidding the use of witchcraft, sorcery and necromancy⁶⁴ and, in 1641, the Commissioners of the Kirk petitioned Parliament that the Acts against such persons be renewed and the Act of Queen Mary was ratified in 1649, with special reference to those persons who were consulting with devils.⁶⁵

Several reasons have been advanced for the lack of witchcraft accusations in the Highlands : the relative stability of Highland pastoral agriculture, the existence of the clan system which was a stabilising influence in itself and the inherent belief Highland people had in the second sight and the supernatural. Combined with the language barrier and the lack of a kirk with easy access to Edinburgh, where prosecutions in Scotland were

⁶¹ John Pearce, *The Wesleys in Cornwall*, Bradford Barton, Truro, 1964, p. 24-25.

⁶² Janet A. Thompson, *Wives, Widows, Witches and Bitches Women in Seventeenth-Century Devon*, American University Studies IX History, Vol. 106, Peter Lang, New York, 1993. *ibid.*, p.107. The title can be misleading as Thompson covers six counties of the west of England and includes a considerable amount of information on Cornwall. I would like to thank Janet for forwarding a copy of her doctoral thesis to me in 1989 and for the discussions we had concerning witchcraft in Cornwall, England and New England (USA).

⁶³ Norman Davies, *op. cit.*, p. 674.

⁶⁴ Mary, *9 Acts of the Parliaments of Scotland*, ii, p. 539.

⁶⁵ Charles I, 44; Mary *9 Acts of the Parliaments of Scotland*, vi, pt. ii, p.152.

centralised, the tenacity of popular beliefs in the Highlands probably contributed to the lack of witchcraft accusations.⁶⁶ However, the Highlanders themselves were not totally subdued, despite the Union of Scotland and England in 1707, until 1745.

Highlanders believed that some witches were good and some witches were bad or did harm, but that all should be tolerated and left alone.⁶⁷ Highland witches were often anonymous but those people who were known to be witches were often credited with the possession of the evil eye. Even though the evil eye is distinct from witchcraft, people reasoned that the evil eye could cause unintended harm because the possessor of the evil eye did not always intentionally use his or her eyes to cause harm. No one could therefore be blamed for witchcraft as the harm may have been caused unintentionally by a person with the evil eye.⁶⁸ The Highlands did not have demonic witches during the period of the Scottish hunt; they had charmers, healers, soothsayers, poisoners, owners of the evil eye and cursers but these individuals were not referred to as witches. Highland witch beliefs were "impersonal and apolitical" and "caused little human suffering."⁶⁹

Tain in Ross-shire was an apparent exception to the rule that Gaelic-speaking areas had few if any witchcraft cases but these were motivated by their Chisholm landlord's use of witchcraft accusations in order to secure the eviction of his tenants. These evictions were brutal in nature and the cases are an example of the use of witchcraft for political and economic gains rather than actual instances of witchcraft activity.⁷⁰ The slow progress of the Reformation in the Highlands and, in the valleys and the remoter islands of the Hebrides, the Reformation largely failed despite the complete collapse of the Roman Catholic religious structure. The Protestant reformers had a poor church to dismember and were constantly hampered by a lack of ministers and, in consequence, their form of worship took a long time to establish in Highland parishes.⁷¹ In those parts of the Highlands where the kirk held little sway and where the Gaelic-speaking clan system dominated, there was no witch-hunting or none that reached the records. Gaelic patronymic names such as those of Mary Nein Goune Baike of Strathglass and Marion

⁶⁶ Christina Lerner, *Witchcraft and Religion The Politics of Popular Belief*, Basil Blackwell, Oxford, 1984, p. 26.

⁶⁷ T.C. Smout, *A History of the Scottish People 1560-1830*, Fontana, 1977, p.189.

⁶⁸ Christina Lerner, *Enemies of God The Witch-Hunt in Scotland*, Chatto and Windus, London, 1981, p.8 citing J.G. Campbell, *Witchcraft and the Second Sight in the Highlands and Islands of Scotland*, Glasgow, 1902 (no pagination cited) and A. Macgregor, *Highland Superstitions*, Stirling, 1922, (no pagination cited).

⁶⁹ Christina Lerner, *Enemies of God...*, op. cit., p. 98, quote from p. 202.

⁷⁰ Christina Lerner, Christopher Hyde Lee and Hugh V. McLachlan, *A Source Book of Scottish Witchcraft*, Department of Sociology, Glasgow, 1977, pp. 81-82,105. (Hereafter referred to as SBSW).

⁷¹ A.C. O' Dell and K. Walton, *The Highlands and Islands of Scotland*, Thomas Nelson and Sons Ltd., London, 1962, p. 87-88.

Nein Gollimichaell of Tain are rare in the compiled lists of suspects.⁷² As Lynch has indicated, from the 1560s, during the Reformation in Scotland, society was co-agnatic in both rural and urban Scotland. After marriage, the wife retained her own name, property and kinship network as "Marriage was a contractual convenience but not a merging of kin." This meant that, even though the male head of the household could be "ultra-Protestant, he may have had a Catholic wife", which, in effect, meant that two households were contained within the one household. The outwardly seeming Protestant household "might often conceal a second household, resolutely Catholic, within it." ⁷³ Adherence to Catholicism was a strong feature of Highland society.

Nevertheless, it was two poor Highland women who were the last witches executed for witchcraft in Scotland. In 1722, a mother and daughter from the parish of Loth were brought before Captain David Ross of Littledean, the Deputy-Sheriff of Sutherland. They were charged with witchcraft and consorting with the Devil, the mother charged with using her daughter as her "horse and hattock" where the daughter was shod by the Devil and was therefore lame in both feet and hands. Despite the fact that the woman's son also had a similar deformity, which posits a genetic disorder, the two women were sentenced to death and burnt at the stake. Why the son was not accused or prosecuted is unclear.⁷⁴ This was the last execution for witchcraft in Scotland and the act was repealed, as elsewhere in Britain, in 1736. After this time, people could only be prosecuted for "pretend" witchcraft and the maximum penalty was a year's imprisonment.⁷⁵

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Linking customary law, women and those accused of witchcraft and the legal consequences of such a link in Ireland, the Isle of Man, the Highlands and Cornwall, signifies the importance of customary law as a major contributory factor in the survival of the accused who were, in the main, women. Contrasting the experience of women accused of witchcraft in areas of the early modern world which did not have customary laws further underlines the important relationship between customary law, witchcraft and the survival of the accused witch. Social reactions to marriage, widowhood, property, illegitimate children and the rights of women in countries where pre-existing customary laws had not existed, varied considerably.

Stone's work on women, marriage and divorce shows that, for poor women, marriage

⁷² Christina Lerner, et. al. SBSW op. cit., p. 81, Case No. 1112 and p.138, Case No. 1785.

⁷³ Michael Lynch, "The Reformation in Edinburgh: The growth and growing pains of urban Protestantism." in Jim Obelkevich, Lyndal Roper and Raphael Samuel (eds), *Disciplines of Faith Studies in Religion, Politics and Patriarchy*, Routledge and Kegan Paul Ltd., 1987, p. 287.

⁷⁴ Montague Summers, *The Geography of Witchcraft*, University Books, Evanston, 1958, p. 249.

⁷⁵ Charles W. Cameron, *Scottish Witches*, Jarrold Publishing, Norwich, 1990 2nd edition, p. 7.

⁷⁶ For Patricia Crawford in grateful acknowledgement of her encouragement, faith and continued support for this study of women, witchcraft and the law in early modern Wales.

was an economic necessity for their survival. To avoid poverty, women could only leave a marriage if they could find another man or, if widowed, another husband, who added income to the family. As England had failed to adopt the laws of full divorce, thus enabling remarriage only on the grounds of female adultery, male cruelty or desertion of seven years duration, England was the only Protestant country where marriage was an easy state to enter legally but impossible, legally, to leave. Marriages could be made via a private legal contract before two or more credible witnesses, clandestine marriages were made between two people in a ceremony conducted by a clergyman but without banns or a licence, all done in secret, or marriages were made according to canon law, in the parish where one party was resident and after the banns were called or a licence obtained, before witnesses and the marriage entered in the parish register. In Scotland, contract and clandestine marriages remained legal after 1753 but this was not the case in England.⁷⁷

Marriages could be broken by desertion and elopment and by wife-sales. Wife-sales were a public method of divorce by mutual consent where a mutual and amicable separation occurred when the husband "sold" his wife to another, usually her lover, in order to sever the legal financial obligations of the husband to wife and wife to husband and were "a development which had long been customary procedure among the poor."⁷⁸ Separation by private deed was another method of breaking a marriage in which the husband assured his wife of alimony and she indemnified him against any suit by creditors or future debts she may incur. "Criminal conversation" was also used ; a husband sued his wife's lover with a writ of trespass since the lover had trespassed on the husband's property in the form of the body of his wife. This form of breaking a marriage was only available to the gentry and nobles as it was a very expensive undertaking. Parliamentary divorce was also available only to those in this category.⁷⁹

Erickson, concentrating on England, cites three types of irregular marriages; clandestine marriage, 'common law' marriage, and 'smock' marriage where the bride came to the ceremony dressed only in her shift or smock. It was thought that women did this in order to preserve their financial independence but this was incorrect although smock marriage was symbolic of the husband not getting anything on the marriage.⁸⁰ The numbers of clandestine marriages grew in the seventeenth century whereas there were few in the sixteenth century. By the 1690s, clandestine marriages were common, "probably because such marriages avoided the posting of banns in order to hide an inequality between the fortunes of the bride and groom, or illegal remarriage, or to avoid one

⁷⁷ Lawrence Stone, *Broken Lives Separation and Divorce in England 1660-1875*, Oxford University Press, Oxford, 1993, p. 6 - 17.

⁷⁸ *ibid.*, p. 18 - 19, quote at p. 19.

⁷⁹ *ibid.*, p. 19-20

⁸⁰ Amy Lee Erickson, *Women and property in early modern England*, Routledge, London, 1993, p. 146-147.

party's liability for the other's debt."⁸¹

Gowing and Hole have both emphasised the social reactions of English communities to illegitimacy, infanticide, incest, consanguinity and "unnatural" births.⁸² The responses of all the participants underline the secrecy, threats and division between the women of the community when an extra-marital pregnancy occurred. The rates of infanticide and the efforts women went to to hide their pregnancy and then dispose of the body of the child, if stillborn or miscarried, in such situations is a seldom mentioned in Welsh, Irish, Manx or Highland societies.⁸³ The research of Gowing and Hole is in direct contrast to that found by Pollock in relation to children born in wedlock.⁸⁴ As Pollock says, the primary sources for childhood etc amongst the lower classes are not well represented since diarists come from the sixteenth century and represent only the literate section of society, largely Puritan in the seventeenth century. Pollock refutes the suggestions made by both Shorter and Stone who represent the lower classes as living short and brutal lives without affection, representations which Pollock attributes to a lack of evidence. The assumption that poor people make poor parents has, however, been refuted by Le

⁸¹ *ibid.*, p. 147 quoting Roger Lee Brown, 'Clandestine marriages in London, especially within the Fleet Prison, and their effects on Harwicke's Marriage Act, 1753.' (London MA thesis, 1972, pp. 29, 164, 170, 178.

⁸² Laura Gowing, "Secret Births and Infanticide in Seventeenth-Century England." , *Past and Present*, No. 156, p. 87-115. Robert Hole, " Incest, consanguinity and a monstrous birth in rural England, January 1600." , *Social History*, Vol. 125, No. 2 , May, 2000, p. 183-199.

⁸³ Research in the areas of infanticide, illegitimate births and unmarried mothers has yet to be done for early modern Wales. See Michael Roberts and Simone Clarke, *Women and Gender in early modern Wales*, University of Wales Press, Cardiff, 2000. Anne O'Connor has published on some aspects of this area "Images of the Evil Woman in Irish Folklore." *Women's Studies International Forum*, Vol.11, No.4. 1989 and her article in Margaret MacCurtain and Mary O'Dowd, (eds) *Women in Early Modern Ireland*, Edinburgh University Press, Edinburgh, 1991. Research for such areas is still in its infancy for the Isle of Man and Cornwall. A recent publication for Scotland and the Highlands is Terry Brotherstone and David Ditchburn (eds) *Freedom and authority: Scotland c.1050 - c. 1650: historical and historiographical essays presented to Grant G. Simpson*, Tuckwell Press, East Linton, 2000. As Sharpe has said " The problem of gender is one that has only recently begun to attract the attention of historians of crime, of the law, and of the operation of legal systems." See Jim Sharpe, "Women, witchcraft and the legal process." in Jenny Kermode and Garthine Walker, *Women , Crime and the Courts in Early Modern England*, The University of North Carolina Press, Chapel Hill, 1994, p. 106-124, quote at p. 106. Diane Purkiss has, however, researched the narrative relationship between fairies, incest and illegitimate births in Scotland and uses case studies from Orkney, Shetland and the Highlands as well as Lowland Scotland. See Diane Purkiss, "Sounds of Silence: Fairies and Incest in Scottish Witchcraft Stories," in Stuart Clark (ed), *Languages of Witchcraft Narrative, Ideology and Meaning in Early Modern Culture*, Macmillan Press, Houndsmill, 2001, p. 81- 98.

⁸⁴ Linda A . Pollock , *Forgotten children Parent-child relations from 1500-1900*, Cambridge University Press, Cambridge, 1985 reprint of the 1983 edition; Linda A. Pollock, *A Lasting Relationship Parents and Children Over three Centuries*, University Press of New England, Hanover, 1987.

Roy Ladurie, Gillis, Scott, Hanawalt and MacDonald.⁸⁵

Roper's research for early modern Germany shows how far guilds affected marriage, widowhood and reproduction. Marriage in sixteenth century Germany did not just consist of a ceremony in church, rather, it was a series of stages, one of which was recognition by the guild. The recognition of married status was essential because guild membership could be transferred from wife to husband to which her new husband was entitled on their marriage but the guild only admitted legitimate offspring. The system meant that all members of the guild had their honour and reputation at stake, especially as the "collective honour" of the guild was reliant on maintaining a reputation for "sexual probity and legitimate birth." Problems arose when a guildswoman married a man of non-legitimate birth who then sought entry into the guild on their marriage. "At every point, women's work was affected by the guild organization which neither protected their interests nor represented them."⁸⁶ The widow was also constrained by the guild system as her widowhood enabled her to inherit her husband's guild rights but did not allow her to elect her guild representatives and "her 'right' to run the business was subject to restriction." Some guilds, such as that of the goldsmiths, did not allow female members, others reserved particular types of work for widows which were usually less lucrative than those for men : butchers allowed sausage-making where the women were dependent on the butchers for their raw materials.⁸⁷

The 1537 Church ordinance moved political power in Augsburg from the guild to the Council, disempowering the guild in relation to its collective honour since jurisdiction over illegitimacy, bigamy, and desertion now became the jurisdiction of the secular authority. Clandestine marriage promises were made anywhere between two people and usually took the form of the man asking the woman and shaking hands etc after a verbal exchange that resembled the Church marriage ceremony. The man often gave a gift, a token such as a ribbon, coin etc. The shaking of hands signified a contract between the two. The pre-Reformation Church did, however, offer some support to marriages of this nature as the sacrament, with or without parental permission, consisted of the free exchange of promises. The Church declared such marriages illegal and threatened excommunication of the parties but the validity of the unions was recognised. Disputed marriage promises did, however, make up most of the pre-Reformation ecclesiastical

⁸⁵ Linda A. Pollock, *Forgotten children ...* op. cit., p. 70. Edward Shorter, *The Making of the Modern Family*, William Collins, 1976. Lawrence Stone, *The Family, Sex and Marriage in England*, Weidenfeld and Nicholson, London, 1977. Emmanuel Le Roy Ladurie, *Montaillou: Catholics and Cathars in a French Village*, The Scolar Press, London, 1978. John Gillis, "Affective individualism and the English poor.", *Journal of Interdisciplinary History*, Vol 10, 1979, p. 121-128. John Scott, "The history of the family as an affective unit.", *Social History*, Vol. 4, No. 3, 1979, p. 506-516. Barbara Hanawalt, "Childrearing among the lower classes of late medieval England.", *Journal of Interdisciplinary History*, Vol. 8, No. 1, 1977, p. 1-22. Michael MacDonald, *Mystical Bedlam. Madness, Anxiety, and Healing in Seventeenth-Century England*, Cambridge University Press, Cambridge, 1981.

⁸⁶ Lyndal Roper, *The Holy Household, Women and Morals in Reformation Augsburg*, Clarendon Press, Oxford, 1989, pp.19-20, 38, quote at p. 20.

⁸⁷ *ibid.*, pp. 48-50, quote at p. 49.

court cases between 1535-1536 and most of the petitions were rejected. On the other hand, disputed marriage contracts were recognised more often in the reformed civic Marriage Court, established after the Reformation in Augsburg, between 1537-1546.

The Reformers made parental consent a pre-condition to a valid marriage but required that children should not be forced into marriages or be prevented from marrying. After the Reformation, the Council's Discipline Ordinance required couples to prove that they had parental approval prior to marriage. Objecting parents could have the union dissolved by the Marriage Court which, in the majority of cases brought before it between 1537 and 1546, declared the promise void and did so even when the marriage had been consummated. As a consequence of such actions, the Council was ready to order compensation to women who had lost their virginity or who needed child support and awarded nearly all those women compensation in the form of damages when they brought a case to court. The ecclesiastical court awarded damages to less than half those lodging compensation cases.⁸⁸

In colonial New England, most settlers in the seventeenth century were married in their middle twenties. The widows third was long established in New England as the widow was entitled to this in custom and in common law. She had the use of one third of the land in her lifetime and the full title to a third of all moveable property. In New England, the wills of husbands often contained precise details of how the wife should be cared for after his death and directly involved the testator's children in the care of his widow. Wives were also empowered to see that the deceased's wishes were adhered to. As in England, "Infanticide appears to have been closely associated with illegitimacy; in some (most?) of the documented cases, it was the desperate recourse of unmarried mothers faced with both material privation and social stigma."⁸⁹

It is the age of New England women who were both accused and accusers in witchcraft cases which appears to be more significant than whether they were widowed, unmarried or unmarried mothers. Women accused of criminal activities, such as blasphemy, assault, murder and theft, came from the middle of life phase and they appeared in court between the ages of 50-60. Women in court cases involving others, where the women were acting as deponents, were not, however, usually aged between 50 and 60. This implies that women in their middle years "faced away from the moral center(sic) of their community" since they had run "afoul of official norms, and (were) less likely to provide support for those norms."⁹⁰ This "deviant" theme is pursued by Kai T. Erikson.⁹¹

⁸⁸ *ibid.*, pp. 71, 157, 158, 159-161.

⁸⁹ John Demos, *Past, Present, and Personal The Family and Life Course in American History*, Oxford University Press, New York, 1986, pp. 5, 163, 74.

⁹⁰ *ibid.*, p. 128.

⁹¹ Kai T. Erikson, *Wayward Puritans: A Study in the Sociology of Deviance*, New York, 1966, which explores the role of women in the Antinomian Controversy in the 1630s, the Quaker insurgency in 1650 and the witchcraft panic in the 1690s.

Most New England indicted witches were women over the age of 40 who had long histories of a pattern of suspicion against them, which tends to point towards the development of a reputation for witchcraft in New England as an age-specific event.⁹² Accusers, witnesses and complainants were also from the same age group as the accused and accusations concentrated on harm to themselves and their children; when they were also at a vulnerable stage in their lives.⁹³ Witches were characterised as malign figures interested in infants and young children. The emphasis in the New England witch trials was on maternal function, concentrating as the trials did on those who were menopausal. Whilst now free of the dangerous period of the reproductive cycle, Puritan menopausal women were also relieved of their primary power, a power "which defined their role and nature in the most profound way."⁹⁴

In early modern France, most women waited to marry until they were in their early twenties, when either their family or they themselves accumulated a dowry from their wages or gained it from a generous master/mistress. Widowhood does not appear to be as problematic in France as in England as many of those women who were Protestants in early modern France in the 1560s and 1570s were also widows but were self-employed and sometimes with nicknames associated with eccentric personalities. Remarriages were not, however, welcomed by society and were often subjected to *charivaris*, especially between a young person and a much older person who was either widowed or a widower. This was because remarriage was regarded as limiting the choice of young people who remained on the marriage market. The legal position of women declined and a feature of this was the limitation on women who remarried in regard to their handling of property. With regard to clandestine marriages: until the Council of Trent, canon law allowed that a marriage promised between two people privately and without the presence of a priest was a sacrament. After the Council of Trent, it took some time for the 1564 legislation, which required the presence of a priest for the marriage to be a sacrament, to be widely known and followed. Regarding women and witchcraft, the French concept concerning women was that the lower ruled the higher: women had to have sexual intercourse or be reproducing as the "mother", or uterus, demanded it. Hence, the view, that women who were not so employed were prone to disorderliness which could lead them "into the evil arts of witchcraft". It was also considered that such a woman would want to rule those outside herself just as her body, or the lower part thereof, ruled her.⁹⁵

The relationship between women, witchcraft, legal systems and the vulnerability of

⁹² John Demos, *Past, Present...* op. cit., p.128-129. Also see John Demos, *Entertaining Satan; Witchcraft and the Culture of Early New England*, New York, 1982, p. 66-67.

⁹³ John Demos, *Entertaining Satan...*, pp.144-147, 154-156.

⁹⁴ *ibid.*, 72-73, 179-181, 198, 204-205. See also Deborah Willis, *Malevolent Nurture Witch-Hunting and Maternal Power in Early Modern England*, Cornell University Press, New York, 1995.

⁹⁵ Natalie Zemon Davis, *Society and culture in Early Modern France*, Duckworth, London, 1975, pp. 69, 81, 306,320, 125.

women accused as witches in areas which did not have pre-existing customary laws has not been researched specifically. However, the examination of witchcraft accusations and persecutions in all the countries⁹⁶ discussed above indicates the extent of the vulnerability of women in communities which did not have a long tradition of customary laws.

V

The Law of Women provides evidence of a Welsh perception of women which protected women accused of witchcraft in Wales in areas where women so accused in Europe, England, Lowland Scotland and American New England societies were vulnerable. In terms of lineage and inheritance, and without individual juridical power, the Welsh woman was no more than a procreatrix but her social role and status had widespread ramifications. Socially the Welsh woman was valued very highly as the genetrix, the unifying force between her natal kin and the kin into which she married. The social importance of the Welsh woman was underlined by the complex laws dealing with *sarhaed* and *galanas* which pervaded and protected her in all the life situations commonly experienced by women.

Witchcraft case typology for early modern Wales reflects an adherence to pre-1536 traditional customary laws and practices: witchcraft as words cases were lodged in the Courts of Great Sessions as slander cases in a manner which related to the Welsh customary laws of *sarhaed* and *galanas*. The objective of these cases was the upholding of the woman's honour and financial value of that honour. Compensatory payments were requested so that the slandered woman could re-instate her honour in the context of her community. Witchcraft as *malefice* cases were lodged for reasons which were related to customary practice, although not the specific customary laws associated with the Law of Women. Nevertheless, the reactions of the judicial authorities and the members of the accused witch's community reflect customary laws pertaining to women. Witchcraft as *malefice* cases were lodged in court as the last part of a three phase process, the two preceding phases being the traditional customary practices used by the individual and the community to protect themselves from the *malefice* of the Welsh witch. These customary practices followed the premise of reconciliation and restoration of communal harmony, although not financial compensation, for harm done to both the witch and the victim. Witchcraft as *malefice* cases lodged in the Courts of Great Sessions also reflect the protective aspects of the Law of Women as preservation of the accused woman was the outcome of all but one such case despite guilty verdicts.

The structures of early modern Welsh society were dominated by men : men filled all the positions associated with the judicial, legal and administrative framework imposed by English authority. Establishing what roles women played in this society is another important aspect of understanding why Welsh society reacted to the accused witch in the

⁹⁶ See Chapter I Contextualising the Welsh Witch in the Early Modern World, Witchcraft Historiography.

way in which it did. If Welsh early modern society retained attitudes to women which continued to reflect customary law and tradition, the reason for so few witchcraft as *malefice* cases between 1536 and 1736, may become more apparent. The welfare of women accused as witches was contingent upon the extent to which the newly implemented system undermined or dominated previous Welsh attitudes towards women. If such a situation occurred, there could be severe ramifications for women accused of witchcraft of whatever type in the Courts of Great Sessions in early modern Wales. The fact that so few cases were lodged has prompted the examination of evidence which indicates the continuation of the use of customary law.

Edward I's Statute of Rhuddlan in 1284 allowed women in Wales a dower from their husbands and, in the thirteenth century, Anglesey and Flintshire followed this premise because, by the fourteenth and fifteenth century, Welsh widows in these areas were leasing their dower lands. However, this was greatly opposed in the north-western March as the lords insisted on upholding ancient Welsh practice as instanced in a 1391 case.⁹⁷ The north-eastern March was, however, one "area of unusual legal and social conservatism"⁹⁸ and exhibits some of the more distinctive features of Welsh society. Welsh law died out very slowly in this region but in the rest of the Marcher areas, the primary concern was to establish whether a woman was subject to Welsh or English law, particularly when it came to cases of inheritance. In the fifteenth century, circumvention of Welsh custom in issues of inheritance was indicated when the phrase "Welsh custom to the contrary as used from ancient time notwithstanding" was appended to enfeoffment allowing daughters to succeed where no male heirs were apparent.⁹⁹

The commonest Welsh plea in the courts of the later middle ages sought judgements concerning the payment of *amobr*.¹⁰⁰ Davies cites thirty-seven cases, which occurred between 1440-1450,¹⁰¹ all of which revealed that Welshmen themselves were upholding their law, but only when it suited them. The practice of *cynnwys* has already been cited but a *cyfran* or partition case of inheritance in 1446 was also decided by Welsh law.¹⁰² Most *cyfran* and inheritance cases were not brought before the English court but were decided by Welsh judges out of court, as the cases from Caio, Cydwell

⁹⁷ R.R. Davies, "The Status of Women and the Practice of Marriage in late-medieval Wales," p. 101-102 in Dafydd Jenkins and Morfydd E. Owen (eds.) *The Welsh Law of Women*, University of Wales Press, Cardiff, 1980.

⁹⁸ *ibid.*, WLW, p. 98.

⁹⁹ *ibid.*, WLW, p.100-101.

¹⁰⁰ Llinos Beverley-Smith, "Towards a History ..." *op. cit.*, p. 17 for evidence from the Dyffryn Clwyd court rolls from 1340-1352 and 1389-1399. See footnote 3, p. 40 for information about the Dyffryn Clwyd court rolls now on a database at Aberystwyth.

¹⁰¹ R. R. Davies, "The Twilight of Welsh Law, 1284-1536." *History*, li, 1966, p.155 in the Llannerch court rolls.

¹⁰² *ibid.*, p.158

and Dinmael in the early sixteenth century indicate.¹⁰³ Between 1485 and 1536 the Welsh law was slowly dying and the law of women was itself undergoing a profound change because of the Statute of Wales and the Corpus Juris Canonici. With these came a redirection of "many of the basic assumptions on which Welsh social order was based."¹⁰⁴ Nevertheless, for a generation after the Union, the native legal tradition continued, as, whilst the formal structures pertaining to women's lives changed dramatically, the informal structures remained in relation to the role and status of women in Wales.¹⁰⁵

Walker's study of Welsh abduction cases before the Star Chamber at Westminster indicates that Welsh litigation should not be viewed as a component of either a uniform English or British legal system.¹⁰⁶ *Cyfran* was officially outlawed with the Acts of Union but this gavelkind system of partible inheritance of customary socage tenures¹⁰⁷ continued well into the seventeenth century, particularly in Builth, Gower and north-east Monmouthshire where *cyfran* prevailed. In north Wales, 'custom of the north' continued, and not only in the north. 'Custom of the north' was the phrase used to mean the continuation of the one-third entitlements of Welsh widows of their husband's personal estate or his moveable property, just as the Law of Women decreed. The woman was entitled to half if there were no children of the marriage, children were entitled to one third between them all and the final third, half if there were no children, was bequeathed by the husband. This customary law originated, as has been shown,¹⁰⁸ in the Welsh law which prevented women from inheriting, holding or transmitting title to land and was not abolished by parliamentary statute until 1669.¹⁰⁹

In the early modern period, Welsh women may have found it difficult to retain custody of their children as, following the customary Law of Women, male kin-groups were a powerful force when it came to custodial roles. Social convention in north Wales was very restrictive and maternal uncles were favoured as the relative to whom guardianship in socage was given, particularly as these men could not inherit the child's property. Most of the gentry left the guardianship of their children, widows and land to close male relatives but, as Sir John Wynn complained, women could wield considerable informal

¹⁰³ T. Jones Pierce, "The Law of Wales - the Last Phase." *Transactions of the Honourable Cymmrodorion Society*, i, 1963, p.7-25 The manuscript photocopies on which the text is based can be located on p. 26-32.

¹⁰⁴ R.R. Davies, *WLW*, op. cit., p.114.

¹⁰⁵ T. Jones Pierce, op. cit., p. 26.

¹⁰⁶ *ibid.*, p. 56, citing Christopher McAll, "The normal paradigms of a woman's life in the Irish and Welsh texts", *WLW*, p. 19.

¹⁰⁷ i.e. knight's fee associated with the holding of lands owned by the Crown or nobility usually paid in military service but in Wales paid in money rent as socage tenure.

¹⁰⁸ See Chapter III *The Customary Law of Women: Social Place and Cultural Status*.

¹⁰⁹ Garthine Walker, op. cit., p. 73.

power.¹¹⁰ New marriages however, depended on property from both sides.¹¹¹ Whilst the Law of Women states that there had to be three distinct payments made by the groom to the bride plus the morning gift,¹¹² marriages in early modern Wales required the groom's portion to support the household, plus any children that may be "attached" to the new household and, in areas where the 'custom of the north' did not prevail, the jointure. Consequently, the groom's fortune needed to be comparable with that of the bride in early modern gentry marriage arrangements. Abduction therefore became an option when fortunes were unequal, a situation referred to as disparagement. Disparagement meant that one party was marrying beneath them and this was regarded as far worse when this was a daughter. Lineage extended through both the female and male line in Wales as daughters were as much a part of their kin group as was a son. Kin shared the same social and cultural bonds, interests which not only linked power to property but meant that a disparaged daughter was lost to the kin group.¹¹³

Almost all the cases in Star Chamber were between individuals who used Welsh partynomic names rather than Anglized forms. At the time, almost 90% of people in Wales spoke Welsh and an investigation of patterns of speech recoded in these Star Chamber documents may be related not only to Welsh linguistic practice but also "to other cultural forms."¹¹⁴ Walker concludes that Welsh abduction cases indicate that "early modern law should not be seen primarily in terms of homogeneity and incorporation" because those Welsh customary laws pertaining to property and inheritance provided Welsh people with an alternative when faced with a situation which English law designated as abduction. This suggests that Welsh people had "different conceptions of legality, order and authority" and that customary law provided resources for those who not only "struggled over contested meanings" but, importantly, over material resources.¹¹⁵

Prest has shown that English law about how women should be treated and how far English women themselves were able to use the law to their own ends must be totally separated.¹¹⁶ Sole concentration on the legal structures tends to cloud the issue. This concept is supported by Churches' research for the town of Whitehaven between

¹¹⁰ *ibid.*, p. 59 citing Katherine Warner Sweet, "Widowhood, custom and property in early modern north Wales.", *Welsh Historical Review*, No. 18, 1996, pp. 218-219, 225; and (J. Gwynfor Jones, *The Wynn Family of Gwydir: Origins, Growth and Development c.1490-1674*, Aberystwyth, 1995, p. 82.

¹¹¹ Garthine Walker, *op. cit.*, p. 61 citing Amy Louise Erikson, *Women and Property in Early Modern England*, Routledge, London, 1993, pp. 91-92, 96-97.

¹¹² See Chapter III *The Customary Law of Women: Social Place and Cultural Status*.

¹¹³ Garthine Walker, *op. cit.*, p.62.

¹¹⁴ *ibid.*, p. 69, citing Geraint H. Jenkins (ed), Richard Suggett and Eryn M. White, "The Welsh language in early modern Wales," *The Welsh Language Before the Industrial Revolution*, University of Wales Press, Cardiff, p. 47-122.

¹¹⁵ Garthine Walker, *op. cit.*, p. 70-71.

¹¹⁶ W. R. Prest, "Law and Women's Rights in Early Modern England." *Seventeenth Century*, Vol.VI, No. 2, Autumn, 1991, p.170,183.

1660-1750.¹¹⁷ Legal structures, such as the Elizabethan Ecclesiastical Commission, when examined, present a picture of commissioners who took their instructions from an increasingly conservative monarch. Their mission became one of conformity rather than one of potential innovation, reform and experimentation. In consequence, English marriage law reform was not such a common feature of English Protestantism to the extent that it was in other Protestant countries.¹¹⁸

The informal channels of power women used to retain and maintain their families have largely been underestimated as analysis of some of the political roles of upper-class women has made it apparent that the system of client/patronage crossed the barriers of private and public life as well as social barriers. Marriage and kinship formed the basis of the patron/client relations at the centre of early Tudor politics, a reality which was further underscored by the frequency of second marriages and the "acquisition" of step-parents and step-children, which further extended existing patronage networks. English women of the upper class increased this network, reinforcing it through fostering, gift and token exchange and letters, since they used these networks to secure positions, marriages and annuities for members of their own family, all with a consummate ease which belied the concept of docile women. The power base of English women rested on their heiress potential on their first marriage and their retention of some property on their widowhood and they further protected themselves on re-marriage with pre-nuptial agreements, contracts and feoffments to preserve their rights.¹¹⁹ Nevertheless, women preserved the image of themselves that men had, that is, their political activity never threatened or attempted to change the male dominance of political institutions. Whilst men wrote, published and read the literature on women and their modes of behaviour, a dichotomy existed between the reality of women's roles and the role of women, based on male writings.¹²⁰ Joan and Maria Thynne of Longleat were examples of this dichotomy as both were able administrators of lands, large estates and family matters during the extended absences of their husbands.¹²¹

A Welsh example of gender, power and state authority was Mary Wharton, whose "political views and connections led to a major realignment of the party politics of

117 Christine Churches, "Women and property in early modern England: a case study." *Social History*, Vol. 23, No. 2, May, 1998, p. 165-180.

118 Eric Joseph Carlson, "Marriage Reform and the Elizabethan High Commission." *Sixteenth Century Journal*, xxi, No.3, 1990, pp. 437,451.

119 Barbara T. Harris, "Women and Politics in Early Tudor England." *The Historical Journal*, 33, No.2, 1990, pp. 260-261, 264-68, 280-81.

120 Themes also explored in Antonia Fraser, *The Weaker Vessel: Women's lot in seventeenth-century England*, Weidenfeld and Nicholson, London, 1984 and Germaine Greer, Susan Hastings, Jeslyn Medoff and Melinda Sansone (eds), *Kissing The Rod An Anthology of Seventeenth-century Women's Verse*, The Noonday Press, Farrar Straus Giroux, New York, 1988.

121 Alison Wall, "Elizabethan Precept and Feminine Practice : The Thynne Family of Longleat." *History*, Vol. 75, No.1, February 1990, pp. 27,37.

Glamorgan county community" in Stuart Wales.¹²² Mary's upbringing was very patriarchal, puritan and parliamentary but her second marriage to Sir Charles Kemys of Cefyn Mabli brought her into an extremely royalist household, one of the bulwarks of Glamorganshire and Monmouthshire gentry. Her life reflected a more modern attitude towards women, an attitude which was not uncommon amongst Welsh families in the 1680s and it was certainly not akin to the traditional model of an upper class woman's life. Evidence for this can be found in her management of her husband's estates where she introduced progressive agricultural techniques, and was responsible for upgrading estate lands. Mary's influence eventually converted her husband and, through him, others of the gentry families, to a more Whig political view, helped particularly by James II's Catholicism and his opposition to the established church.¹²³

The role and rule of women received a great deal of literary attention in the reigns of Mary I and Elizabeth I because the reign of women underlined the conflict between women in power and women's socially perceived role. Two views were prevalent: the conservative view that God created women inferior and therefore women had no authority in respect of any man; and the more liberal view which stated that women were capable of governing men. Female monarchs created many problems as, if they married then the difficulties of securing a marriage contract where the spouse had no political power in the governance of the country were obvious and Mary I's marriage arrangements proved to be unworkable. A female monarch who chose not marry, as in the case of Elizabeth I, could not then be subordinate to any man. The problem of an heir became of paramount importance and doctrinal Protestantism much preferred married chastity to celibacy.¹²⁴

The depths of religious conviction could not dissuade Welsh people who chose not to abide by the dictates of the conviction itself. Wesley taught celibacy but it did not suit most Methodists to follow this premise and "if they followed him, they did so in their own way."¹²⁵ John Wesley, both in print and through exhortation, wanted converts to Methodism to refrain from marrying and this view, whilst not unique to Methodism, was very unusual and not shared by "his helpers and clerical sympathizers."¹²⁶ Wesley was also opposed to mixed-sex seating in family pews and ordered that "the seating in the Methodist preaching-houses be entirely segregated by sex, the women on one side,

¹²² Philip Jenkins, "Mary Wharton and the Role of the 'New Woman'." , *The National Library of Wales Journal*, Vol. XXII, No. 2, Winter, 1981, p.172-180.

¹²³ *ibid.*, p.172-180.

¹²⁴ Constance Jordan, "Women's Rule in Sixteenth-Century British Political Thought." *Renaissance Quarterly*, Vol. 40, 1987, pp. 423-424, 426, 440.

¹²⁵ Henry Abelove, "The sexual politics of early Wesleyan Methodism." in Jim Obelkevich, Lyndal Roper and Raphael Samuel (eds), *Disciplines of Faith Studies in Religion, Politics and Patriarchy*, Routledge and Kegan Paul Ltd, 1987, p. 98.

¹²⁶ *ibid.*, p. 86-87, quote at p. 87.

the men on the other, and a rail between."¹²⁷ Methodists did not do as Welsy indicated and stay single as, whilst they deferred to him, they did not follow the celibacy principle. Methodism appealed to women because it provided an opportunity for them to "modify the family obligations that they felt to be oppressive", a different choice, particularly when considered in the light of Welsey's "devaluation of marriage and of family."¹²⁸ Most especially, Methodism provided openings for women which they would not otherwise have had as they could re-orientate their lives away from the household, move away both physically and emotionally from parents, husbands etc who did not share their views. Men also had the same opportunities. The Methodists strongly disapproved of extra-marital intercourse, regarding it as a sin. Nevertheless, they did contribute another method of birth control to the existing eighteenth century birth control methods of coitus interruptus, coitus reservatis, abortion, infanticide or neglect amounting to infanticide. The Methodists may have introduced "long-term conjugal abstinence at the wife's insistence."¹²⁹

Evidence for the survival of the principles of the Law of Women amongst the Welsh people can be found in case studies of Welsh communities, some of which were undertaken in the twentieth century. The tenets of the Law of Women, as a conscious aspect of Welsh people's thinking and reactions to specific issues which affected women, were maintained over many years. This adds weight to the theory that the principles of the Law of Women, as an aspect of the people's inherent customary consciousness, influenced the lodgement of witchcraft cases before the Courts of Great Sessions. The issues which concerned women and their communities centred on marriage customs and practices, the treatment of illegitimate children and the economic independence of Welsh women in the early modern and later modern periods.

Between 1930 and 1940 Alwyn Rees conducted study of the Parish of Llanfihangel yng Ngwynfa, an upland agrarian community in northern Montgomeryshire specifically to discover how many features of Welsh traditional life were still extant.¹³⁰ The rights of women on entering marriage in the 1930s community were still very distinct as Welsh women in Llanfihangel had the sole right to their own bank accounts, savings and moveable goods brought as dowry to the marriage and it was expected that their husbands would offer no advice or interfere with any aspects of the wife's property. In Gwynedd daughters were specifically entitled to half the brother's share in moveable property, a direct link to the Law of Women.¹³¹

Kinship networks were very strong in the parish and formed a twofold social function. Kin

¹²⁷ *ibid.*, p. 89.

¹²⁸ *ibid.*, p. 93.

¹²⁹ *ibid.*, p. 94-96, quote at p. 96.

¹³⁰ Alwyn D. Rees, *Life in a Welsh Countryside : A Social Study of Llanfihangel yng Ngwynfa*, University of Wales Press, Cardiff, 1961.

¹³¹ *ibid.*, p. 71.

provided the security and checked violent and instinctive behaviour because, if an individual offended one member of the kin then the offence was taken by all the kin.¹³² Extra-marital pregnancies were not condoned but the woman was not censored as too many parents and grandparents had encountered similar problems in their youth. Marriage was encouraged but if it did not occur after conception then the parents of the child's father paid a sum of money to the parents of the girl, a settlement usually agreed upon without recourse to the courts, and the child was raised by the girl's parents. Attitudes towards illegitimate children remained virtually unchanged although the raising of the child by its maternal relatives differed from the principles of the Law of Women which stated that an acknowledged child had a right to a place at his/her father's table from birth to the age of twelve or fourteen. Nevertheless, the father's responsibility to acknowledge and caretake the child remained.¹³³

The Parish Registers of Llanfihangel contain evidence of prolonged informal cohabitations as the baptisms of illegitimate children record the father's name whereas the baptisms of legitimate children often do not record the name of the mother. This was probably related to the provision of detailed information pertaining to the father in case the parish had to provide for the mother if the father reneged on his responsibility, a remnant of the Poor Law. Welsh marriage customs survived longer and an informal troth plight marked the beginning of married life "until recently in some districts."¹³⁴

Attitudes towards illegitimate children in the 1960s do not appear to have deviated significantly from those prevalent in Wales prior to the 1536 -1543 Acts of Union. The continuation of a subtle undercurrent of community practices is perhaps best illustrated or explained by the concept of "Not-knowing" in the moral code of a community. In an anthropological study of the North Wales village of Llan in Merioneth, Isabel Emmett ¹³⁵ explored the differences between the moral code of the chapel and the moral code of the community when it came to unwed mothers. Of all the counties in Wales, Glamorganshire was the only county which had a home for unmarried mothers because, as evidence suggested, such institutions were not required in North Wales. Although the chapel cast out unwed mothers, their families and communities did not,¹³⁶ as the people adhered to their own moral code rather than the religious moral code of the chapel.¹³⁷

The numbers of unwed mothers in the community at the time of the study was large: "in 1950, the Merioneth rate, at 10.2 per cent, was the highest for any county in England and

¹³² *ibid.*, p. 73-80.

¹³³ *ibid.*, p. 88-89.

¹³⁴ *ibid.*, p. 89.

¹³⁵ Isabel Emmet , *A North Wales Village A Social Anthropological Study*, Routledge and Kegan Paul, London, 1964.

¹³⁶ *ibid.*, p. 101.

¹³⁷ *ibid.*, p. 102.

Wales.”¹³⁸ Whilst both the Baptist and the Methodist chapels rejected the mother, the families of the girl returned to the church although they may have refrained from paying their subscriptions but they still regarded themselves as Methodists or Baptists. The evidence for courting in bed or on the mountainside, a traditional customary practice, existed for Llan as many marriages took place after the conception of the first child and “a chapel deacon apologized for the paucity of records, explaining that few couples were willing to have dates of marriages and births recorded in the chapel’s books.” Newspapers often omitted the date of the wedding ceremony.¹³⁹

Emmett goes on to point out that “From the Ordinance of Rhuddlan, promulgated by Edward I in 1285, it is clear that the Welsh customary law allowed illegitimate sons to inherit land and property from their fathers equally with legitimate sons. The application of English laws and the contrary teaching of the Methodist Revival hardly touched the practice of Welsh-speaking people in this matter.”¹⁴⁰ The value system which existed in this North Wales village was a double one as people lived up to the chapel code but supported those whose activities sometimes placed them outside the chapel code. The principle appeared to be that, “If people are to live harmoniously with each other and, indeed, with themselves, they must pretend not to know half of what they do know about each other.”¹⁴¹ and that “The practice of ‘not knowing’ enables North Welsh people to live with their ‘sins’.”¹⁴² Mechanisms such as “not-knowing” were used to maintain community harmony, as these were methods of dealing with difficult problems within a community which knew the real story but chose not to make it any of their ‘open’ business.

Such studies are reflective of continuing traditional approaches, instanced also in attitudes towards women, illegitimacy and paid work in the Ceiriog district of South Wales where the illegitimacy rates were rising from the 1770s onwards. In the Ceiriog valley itself, the numbers of unwed mothers was extremely high and this has been attributed to the different economic and social conditions which existed in the valley. Industrialisation began in this region in the late eighteenth century and employment for women was so abundant and near to home that women were not marrying. In the pastoral and industrial north and west, the working class adhered to the old betrothal rites even though the Hardwicke Act made this illegal after 1753. Custom, under this betrothal system, sanctioned a child before marriage but the birth of multiple children before marriage was a new phenomenon.¹⁴³

¹³⁸ *ibid.*, p. 103.

¹³⁹ *ibid.*, p. 106-107.

¹⁴⁰ *ibid.*, p.111.

¹⁴¹ *ibid.*, p. 113-114.

¹⁴² *ibid.*, p.117

¹⁴³ John R. Gillis, *For Better or Worse British Marriages, 1600 to the Present*, Oxford University Press, Oxford, 1985, pp. 207,127.

This situation is in direct contrast to the English experience of women from 1650-1914. Alice Clark for the seventeenth century and Ivy Pinchbeck for the eighteenth century "have outlined the slow shift from women's active participation in commerce, farming and other business pursuits." The loss of opportunities to earn increased the dominance of marriage as a 'choice', the survival route for middle-class women "as illustrated by the metamorphosis of the term 'spinster', from one who spins to an unmarried woman." These developments fostered "the contradiction between women's perceived and actual relation to the economy" exemplified by the growth of scale. For example, farms in which family labour only was used as opposed to very large farms of perhaps 1000 acres, where the role of the farmer's wife was done by servants, a housekeeper was employed. This was accompanied by a gradual move towards the expectation of gendered tasks and the "equation of women with domesticity came to be one of the fixed points of middle-class status." 144

Welsh men who were fathers but not husbands made definite arrangements to financially caretake their offspring. Legal arrangements between parents where the father agreed to pay support for the child were common in the Ceiriog. Cardiganshire men in the 1830s paid the women through the parish officials and in eighteenth century Merionethshire illegitimate children were supported by a relief system encompassing charitable donations and neighbourly assistance which allowed the women to do as they wished with maintenance payments so long as they were no further burden on the ratepayers.¹⁴⁵

Late eighteenth century Welsh society tolerated the married and unmarried mother. In industrial regions familial and communal cohesion supported the woman as she stayed at home because her income was welcome and grandparents looked after or "adopted" children as did other relatives.¹⁴⁶ In North Wales, unmarried mothers were said to have been "taken through the bush" or "jumped o'er t' besom" before being married, a reference to a prior betrothal that therefore legitimised the child in the eyes of the local people if not the law.¹⁴⁷ Between 1769 and 1799 in the Ceiriog Valley, a form of marriage was practised which was not formally solemnised in church but which was considered sufficiently different to register the children of these unions in a form other than those in which the father was unknown. This was indicated by the baptismal records of the Llansantffraid parish in the Ceiriog Valley.¹⁴⁸

The Hardwicke Marriage Act of 1753 abolished betrothal rights and clandestine

¹⁴⁴ Leonore Davidoff and Catherine Hall, "The hidden investment": women and the enterprise." in Pamela Sharpe (ed) *Women's Work The English Experience 1650-1914*, Arnold, London, 1998, p. 240-242.

¹⁴⁵ John R. Gillis, *For Better or Worse ... op. cit.*, p. 128-129.

¹⁴⁶ *ibid.*, p.128.

¹⁴⁷ *ibid.*, p.198.

¹⁴⁸ *ibid.*, p. 198.

marriages forcing people to find other means of "marrying." The Act was meant to curb abuses in a system of civil marriage, without ecclesiastical blessing, which was made compulsory by the Puritans in 1653. Although Charles II re-legalised church marriage for those who wished a church marriage, all that still remained to get married before the Hardwicke Act came into law, was " a simple declaration and the clasping of hands. No ring was needed Marriage was permissible at any hour, in any building, without banns or licence, at a moment's notice." ¹⁴⁹ Abuses such as bigamy and fictitious marriages in order to secure an heiress's fortune or for the purposes of seduction were common and the Act made publication of the banns necessary or " the giving of prior notice of marriage. This was regarded, at the time, as an intolerable imposition."¹⁵⁰ Erickson reiterates these points, adding that no one could be legally married except by a Church of England parson, an intolerable insult to the religious feelings of Protestant Dissenters and still more, to Roman Catholics.¹⁵¹

The Welsh people appear to have been particularly adept at side-stepping the Act, perhaps because marriage before witnesses had always been accepted as "marriage" by the community. The besom wedding was carried out before witnesses and the miners of South Wales carried this practice to the northeast of England in the 1860s and 1870s following the mining boom in that region. The Act made the process of marriage expensive with the result, as evidenced by the situation in the Ceiriog, that the whole community was embedded in common-law marriage practices, the extent of which cannot be exactly determined.

Clandestine marriages throughout the seventeenth century and in the early eighteenth century continued to be more common than uncommon in Wales as Peter Roberts, a seventeenth century Notary Public in the diocese of St. Asaph, recorded in his Commonplace Book, *Y Cwta Cyfarwydd* between the years 1607 and 1646 where, of 157 marriages, 26 were clandestine. Thomas Rowlands recorded 16 marriages between 1646 and 1653 in his Register Note Book, which he kept in his position as a vicar choral of St. Asaph, and five of these were clandestine.¹⁵² There were many reasons for such clandestine marriages in Wales: secrecy; the need to sidestep the licences and calling of the banns required by the Church; one could marry at home and when one wanted; as an effort to avoid ridicule; and because of the secrecy which could disguise a shotgun marriage. "Hedge parsons" became common as these individuals married people anywhere as a means of providing themselves with an income.¹⁵³ The clergy, under duress from pluralism and non-residence where there were too few jobs

¹⁴⁹ G. Rattray Taylor, *Sex in History*, Thames and Hudson, London, 1953, p. 191-192.

¹⁵⁰ *ibid.*, p.192.

¹⁵¹ Amy Louise Erickson, *Women and Property in Early Modern England*, Routledge, New York, 1993, p. 165.

¹⁵² R. Brown, "Clandestine Marriages in Wales." *Journal of the Historical Society of the Church in Wales*, Volume XXV, No. 30, 1976, p. 67.

¹⁵³ *ibid.*, p. 69.

for too many clerics, were very underpaid in eighteenth century Wales and their economic position made many quite willing to marry couples clandestinely, for a small fee.¹⁵⁴

Evidence for the continuation of types of clandestine marriages existed up to World War I when a clergyman in South Wales was made aware that many in his parish were not legally married but were married under "living tally."¹⁵⁵ Tally marriage was widespread in the nineteenth century and was also an event undertaken before witnesses and an agreement was reached by the two parties in order to protect the woman should she become a mother. An interesting aspect to the whole Welsh view of marriage, parenthood and cessation of marriage, was the understanding amongst the people that a wife could give her husband back his wedding ring or gifts if he failed to maintain her and therefore was free to marry again. In the Ceiriog district a besom wedding performed before witnesses could either be transformed into a legal marriage at a later date or terminated by jumping back over the broom or besom. This form of common-law divorce followed the traditional principles and pattern of marriage termination cited in the Law of Women.¹⁵⁶

Throughout the early modern period therefore, an undercurrent of traditional social and cultural mores was maintained by the people of Wales. The importance of the retention of communal harmony to the Welsh people cannot be underestimated, continuing as it does the principles which governed Welsh lives. Part of the reason for the way in which lodgement of witchcraft cases in the Courts of Great Sessions occurred related to the Welsh predilection towards retention of communal harmony through the continued use of traditional customary practices. The principles of retention of communal harmony are exhibited by various forms of community punishment and containment of abusive actions, one of which was the use of *y ceffyl pren*. Although common law marriage was accepted by the community, loose behaviour, a term used to describe seducers, loose women and adulterers, was the subject of great condemnation amongst Welsh communities. Communal response to such behaviour took the form of *y ceffyl pren* or

¹⁵⁴ *ibid.*, p. 70.

¹⁵⁵ J. R. Gillis, *op. cit.*, pp. 198,206,196, 202.

¹⁵⁶ *ibid.*, p. 204 and John R. Gillis, "Peasant, Plebian and Proletarian Marriage in Britain, 1600-1900." in D. Levine (ed) *Proletarianization and Family History*, Academic Press, Orlando, 1984, p. 142.

"the wooden horse" in south-west Wales, ¹⁵⁷ the Welsh term for "riding the stang" or the "skimmington."

A social punishment, *y ceffyl pren*, was a policing device which was conceived and generated by the community in response to obvious and long term breaches of community morality. Groups of individuals banded together and made community views and intolerance plain to adulterers, wife beaters, husband beaters and others involved in what the community considered to be immoral behaviour. As action, *y ceffyl pren* was carried out by community groups which existed outside the family and took the place of the family which was, as the initial controlling body, unable to control the immoral behaviour of its member or members. The community action also existed outside the legal supplier of the penal reaction, the state. "These customs constituted an unofficial legal system deriving its efficacy from the power of popular feeling in communities in which each man knew the business (and secrets) of his neighbour." ¹⁵⁸ *Y ceffyl pren* developed as a substitute for church and manorial justice and was mainly predominant in areas away from established authority as local people developed their own forms of social regulation. Instances occurred in Anglesey as late as 1878 and in Conwy, another such case was reported in 1882. *Y ceffyl pren* was most evident in the Vale of Glamorgan, Brecknock and Llanfyllin in Powys, Clwyd and Llangefni in north Wales, Cardiganshire and Monmouth.¹⁵⁹

Evidence from the period prior to the Acts of Union, the early modern period and beyond, indicated that the Welsh people adhered tenaciously to their own customary and traditional practices. Such methods were effective and had proven capabilities for retaining and maintaining communal harmony which was of considerable importance in

¹⁵⁷ Rosemary Jones, "Popular Culture, Policing, and the 'Disappearance' of the Ceffyl Pren in Cardigan c. 1837-1850." *Ceredigion*, Vol. II, 1988-89, p.19. I would like to thank Rosemary Jones for the discussions we had in Aberystwyth in 1994 concerning the use of *y ceffyl pren* amongst the Welsh miners at the Stanford Merthyr mine in the Hunter Valley during the strikes on the Maitland coalfields in the late 1890s to the early 1900s. This mine was known as a Welsh mine as all the miners were from the Rhondda, imported specifically because of their skills and accompanied by family members who formed the teams which worked in family groups, all of whom spoke Welsh. The newspaper descriptions of the methods used by the Stanford Merthyr miners and community when trainloads of "scabs" were brought in to work the mine, were an exact description of community justice using aspects of *y ceffyl pren*. In Australia, the Hunter Valley mines were referred to by colloquial Australian expressions for migrants from different areas of the British Isles e.g. Stanford Merthyr was a "Welsh" or "Taffy" mine, Richmond Main was a "Geordie" mine and Pelaw Main was an "Aussie" mine. The Welshmen of Stanford Merthyr Colliery were responsible for establishing the Mine Rescue Teams which now operate throughout the Hunter Valley mines and the rest of Australia. See Sally Hickey (nee Parkin), "The Welsh/Cymri of Stanford Merthyr on the South Maitland Coalfields." *Australian Folklore*, No.8, 1993, p. 77-83. I would like to thank James "Jimmy" Seamer, my children's great-grandfather on the paternal side, for his many stories and oral histories of the miners, "The Fed", the Communist Party and the events surrounding the strikes in the Hunter Valley. It was he who first mentioned in the 1970s that no speaker at union meetings in the Hunter Valley had to indicate which mine they worked in as the accents ensured that everyone knew which mine they represented.

¹⁵⁸ Tefor M. Owen, *Welsh Folk Customs*, Gomer Press, Llandysul, Dyfed, 1987 edition, p. 168.

¹⁵⁹ E. Scourfield, "Reference to Y Ceffyl Pren (the Wooden Horse) in south-west Wales." *Folklore*, 87, 1976, p. 60.

Welsh communities. *Y ceffyl pren* provided the Welsh with a communal means of enforcing moral behaviour, 'not-knowing' provided the community with the means of supporting those who had stepped outside the moral code of the chapel.¹⁶⁰ All such community responses had been generated centuries before the Reformation and existed outside the prevailing Christian religion, whatever its denomination, in early modern Wales. Methods existed which worked outside the mainstream judicial, social, and religious system, which meant that there was little need to access such bodies if the community could resolve its own problems by following such methods, particularly if these methods were centuries old and based on traditional customary responses to communal problems.

Welsh reactions to the authority of the English state were therefore augmented by an adherence to customary law and customary practice, particularly in witchcraft cases because these concerned women in early modern Wales. The analysis of both types of witchcraft cases before the Courts of Great Sessions provides evidence which supports the principle that such cases reflect the customary laws and practices of the Welsh people rather than the authority of the English state. Witchcraft as words cases in early modern Wales are very indicative of this concept: as in England, there is evidence to support the view that "Time after time in the later sixteenth and earlier seventeenth centuries the statutory proscription of established local customs resulted in popular reluctance either to accept the law's definition of an offence, or to enforce it where it ran counter to local needs."¹⁶¹

¹⁶⁰ Generated by a concept outlined in Christopher Harding and Ireland, W. Richard, *Punishment: Rhetoric, Rule and Practice*, Routledge, London, 1989, p. 41.

¹⁶¹ Keith Wrightson, "Two concepts of order..." op. cit., p. 26.