

Working patriarchies? Police and criminal justice responses to domestic abuse in Scotland 1960–1990

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Abstract: Post-war Scotland remained a deeply patriarchal country. Domestic abuse was common yet widely under-reported by the women it affected. This article argues that police and criminal justice agencies in Scotland 1960–1990 were ‘working patriarchies’ which created significant barriers to reporting. Oral history narratives from domestic abuse survivors, police and criminal justice professionals reveal deeply patriarchal workplaces and practices designed to maintain longstanding traditions of the patriarchal family. These inhibited reporting, denied women access to safety and justice in private life and contributed to women’s continuing inequality in post-war Scottish society.

Key words: domestic abuse, twentieth-century Scotland, feminist oral history, patriarchal theory, police, criminal justice system.

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Instituciniai patriarchatai? Policijos ir baudžiamosios justicijos reakcijos į smurtą artimoje aplinkoje Škotijoje 1960–1990 metais

Santrauka. Pokario Škotija išliko giliai patriarchalinė šalis. Smurtas artimoje aplinkoje buvo plačiai paplitęs, tačiau jo aukos – moterys – apie tai pranešdavo retai. Šiame straipsnyje teigiama, kad policija ir baudžiamosios justicijos organai Škotijoje 1960–1990 m. buvo „instituciniai patriarchatai“, sukūrę reikšmingų kliūčių pranešimams apie smurtą. Smurtą artimoje aplinkoje patyrusių aukų, policijos ir baudžiamosios justicijos specialistų žodinės istorijos naratyvai parodo, kiek giliai patriarchatas buvo įsišaknijęs darbovietėse ir praktikoje, sukurtose tam, kad išlaikytų ilgametės patriarchalinės šeimos tradicijas. Tai trukdė moterims pranešti, apribojo jų saugumą ir teisingumo siekį privačiame gyvenime ir prisidėjo prie moterų nelygybės pokario Škotijos visuomenėje tęstinumo.

Pagrindiniai žodžiai: smurtas artimoje aplinkoje, dvidešimtojo amžiaus Škotija, feministinė žodinė istorija, patriarchato teorija, policija, baudžiamosios justicijos sistema.

Introduction

Domestic abuse has been a feature of Scottish marriages for centuries with contemporary debates characterised by criminal justice discourses of class, crime and crime prevention, family violence and feminist discourses of women's lives in the context of women's structural inequality. However, the methodological and conceptual limitations of the crime and victimisation surveys have constrained our understanding of the true extent of domestic abuse in late twentieth century Scotland and why it was estimated to be widely under-reported.

National crime surveys introduced first in the US in the 1960s and in Britain in 1982 measured the extent of crime and recorded individual perceptions and experiences of unreported crime (Kinsey 1992, Walby 1994). While survey results were likely to provide a more accurate picture of victimisation than police statistics, there remained a reluctance to report violent crime where the victim knew the perpetrator (Walby, Towers et al. 2014).

Data on violence against women from the 1988 British Crime Survey (Scotland) (Kinsey 1992) identified three key findings: domestic abuse was common, gendered and under-reporting was likely to be common. Women made up a third of all victims of violence or threats of violence with a male offender in 80% of those cases; a quarter of violent incidents against women occurred in the home with 40% of women assaulted by a husband/ex-husband, current/ex-boyfriend, or male relative (Kinsey 1992:50). However, under-re-

porting remained likely in survey settings (Andrews 1988) and it remained difficult ‘to estimate from survey findings the full extent of violence against women, especially domestic violence.’ (Kinsey 1992:51).

Population surveys examining domestic abuse carried out in North America, Canada, Europe and the UK in 1970s and 1980s used the standardised, incident-based Conflict Tactics Scale (CTS) (Straus 1979). Using criminal justice definitions, CTS measured motivation, physical and verbal aggression, violence and its severity in the family context (Straus and Gelles 1986; Smith 1987; Romkens 1987; Kinsey 1992). However, the limitations of CTS in capturing the complexities of causation, nature, impact and the gendered nature of violence and other forms of abuse in intimate relationships were noted (Dobash and Dobash 1979, Romkens 1987, Walby 1994; Walby and Myhill 2001; McFeely, Whiting et al. 2013, Walby, Towers et al. 2014; Myhill 2015; MacQueen 2016). Crime statistics and victimisation surveys had limited value in revealing the complexities or full extent of domestic abuse with a consistent claim that domestic abuse remained largely unreported.

Population-based crime and victimisation surveys and feminist research highlight two questions: why was domestic abuse so widely under-reported and to what extent were perpetration and victimisation gender symmetrical? The overall prevalence of male violence against wives was therefore likely to be hidden in a context where both the impact of the violence and the repercussions of public disclosure were likely to be dangerous for women (Buss and Duntley 2011).

Historically, the links between the impact of domestic abuse and reasons for its non-disclosure in British private and public life display elements of continuity from the 19th to the 20th century. Studies examining trends in wife assault in England focussed on the relationship between reported crime, victimisation and reasons for non-disclosure and raised ‘serious questions about the relationship between recorded and actual domestic assaults’ (Tomes 1978; Hammerton 1997:39).

More nuanced historical methodologies investigating this frequently hidden issue began interrogating qualitative sources such as court and social welfare agency records. These provided rich contextual detail about the interconnection between individual experiences of violence, its impact and the personal, economic, social, legal and cultural reasons for non-disclosure in the US in the late 19th and early 20th century (Pleck 1987, Gordon 1988) and in 18th and 19th

century Scotland (Clark 1995, Leneman 1997, Barclay 2013). Social stigma, homelessness, unwanted interference and surveillance by social care agencies, the failure of the civil and criminal justice system to deter violent husbands, the threat to remove children, fear of retaliation from publicly exposed husbands kept many women silent about their experiences throughout the 20th century (Dobash and Dobash 1979, Pleck 1987, Gordon 1988, Hammerton 1992). Oral history is acknowledged as a valuable methodology for illuminating hidden prevalence within living memory and potentially ending a hitherto 'widespread and enduring silence about domestic abuse in the post-war period' within the living memory (Hague and Wilson 1996:157; Hughes 2004).

The importance of the wider socio-economic and cultural context to women's individual experiences of violence and their disclosure decisions in Scotland as elsewhere is clear. This article contextualises women's experience of reporting domestic abuse within the significant social and economic changes which occurred in Scotland 1960–1990. A period when Scotland's longstanding patriarchal legacy continued to impact women's daily lives (Hills 1994 in Breitenbach, Brown et al. 1998:45).

Scotland – economy and society 1960–1990

Historically Scotland has always had its own distinct and separate judiciary, legal (Reid 2008) and education systems (Paterson 2003; Devine 1999), religion, the relationship between church and state (Devine and Finlay 1996; McCrone 2004) and its socio-economic character. Traditionally dominated by manufacturing, mining and engineering (Knox 1999), from the late 1950s until the 1980s, Scotland experienced significant shifts towards a more service-based economy and from manual towards non-manual occupations (Paterson, Bechhofer et al. 2004, Peden 2012). The Conservative government's economic policies of the 1980s, the withdrawal of foreign investment, privatisation, the loss of nationalised industries, the changing nature of public sector employment and new technologies led to the further loss of thousands of jobs. Scotland's industrial economy declined at a rate faster than in England (Breitenbach 1989, Dickson 1992, Devine and Finlay 1996, Knox 1999). The dramatic rises in male unemployment and changing patterns of female employment altered women's lives more widely (Devine 1999; McIvor 1996; Knox 1999; Paterson, Bechhofer et al. 2004; Macdonald 2009; Gregg, Macmillan et al. 2012).

Women lives – Scotland 1960–1990

From the nineteenth century to the post-war period, Scottish women's work was typified as being 'synonymous with low pay' (Gordon and Breitenbach 1990, Knox 1999:91). The post-war British Welfare State formalised the patriarchal family of male provider/female homemaker in the calculation of wages, state benefits and pensions while the lack of external childcare provision limited married women's access to full-time employment. The shift from skilled to unskilled and manual to non-manual work for women maintained negative gender pay differentials wider than those in England. Unprecedented numbers of married women entered the paid, especially part-time workforce, education and training in the 1980s. However, the persistence of the traditional male breadwinner/female homemaker family, educational and occupational segregation and sex discrimination continued to disadvantage Scottish women in both the private and public spheres (Breitenbach 1978; Breitenbach 1989; Breitenbach 1990; McIvor 1996; Simonton 1998; Paterson, Bechhofer et al. 2004). Until legal reform in 1979, divorce and child custody disputes in Scotland were expensive, protracted and distressing and beyond the means of most working class women. Despite UK legislative changes such as the Abortion Act of 1967, the Equal Pay Act of 1970¹ and the Sex Discrimination Act of 1975², the position of women in Scottish society at the end of the 1970s remained less than ideal (Breitenbach 1989; Browne 2007).

A key research question was why, in this context, women did not report domestic abuse to the police and criminal justice system. This article, based on oral history research, argues that these agencies interpreted, investigated and prosecuted the law in ways which had not changed for decades and which inhibited reporting. It argues that individual and institutional responses operationalised long-standing patriarchal practices and cultures which reflected contemporary social norms and attitudes in relation to women, work, violence and marriage. Women thus faced a hostile public environment which continued to reinforce the social stigma associated with 'battered women', separation and divorce. This reinforced financial dependence on their husbands and

¹ <http://www.legislation.gov.uk/ukpga/1970/41>

² <http://www.legislation.gov.uk/ukpga/1975/65>

discouraged women from reporting at a time when they were disrupting the patriarchal family by entering the paid workforce in increasing numbers.

Research design

Oral History methodology

The study's interdisciplinary research design navigated a complex ethical terrain in order to recruit, and collect the oral histories of twenty-six participants (twenty-one women and five men) and create a safe research setting for exploring such a private issue. Interviews took place between 2013 and 2017. Feminist oral history practice was combined with trauma-informed good practice models from psychology, violence against women (VAW) research and person-centred counselling (Klempner 2000, Ellsberg, Heise et al. 2001, Rogers and Leydesdorff 2002, Herman 2015). Staged recruitment helped build rapport and trust between participant and researcher and enhanced the opportunity for disclosure (Ellsberg, Jansen et al. 2008). The study was advertised using a printed and electronic poster circulated nationally to VAW services, professional and voluntary networks, local press, health and community settings and snowballing via word-of-mouth and third party introductions. There were three inclusion criteria: i) those who, in 1960–1990, experienced 'conflict' in their adult relationships, ii) did so as children or iii) had worked with people in that situation. To overcome methodological issues when defining the forms of violence in the family (Weis 1989), behaviour-specific terms were used in discussion with potential participants to establish whether they had experienced one or more forms of 'domestic abuse' (the operational term currently in use in Scotland): physical, emotional, sexual and financial abuse. All of the women who went on to participate had done so.

Participants

Twenty-six participants (21 women and 5 men) took part in the study. All were white and born between 1944 and 1967; twenty-five were native Scots and all lived in urban, rural and suburban areas of central, south-west, east and north-east Scotland. Five women and five men were working or retired professionals in social welfare or criminal justice agencies during the period under study. Sixteen women had experienced domestic abuse as an adult and/or as a child. All of the women's abusive marriages had ended ten years ago or

more. No men with experience of domestic abuse as an adult and/or as a child enquired or participated.

Oral history participants may remain anonymous and use a pseudonym. Participants assigned copyright of their interview audio-recording to the Scottish Oral History Centre (SOHC) which adds it to the SOHC Archive in accordance with their wishes. Recordings are archived and become a permanent public reference resource. Participants are identified in-text by their first name/pseudonym, year of birth where known, with their SOHCA reference cited in full.

Oral history practice acknowledges researcher reflexivity and the inter-subjective and relational nature of the oral history interview setting. Interviews were carried out using Anderson and Jack's interview guidance (Anderson and Jack 1991). An *aide memoire* prompted a personal, background history followed by a focus on the relevant research questions: the nature and impact of living with domestic abuse as an adult or child; whether or not disclosed and the reasons for this; longer term outcomes for adult and child victims of domestic abuse; the policy, practices and outcomes of professional responses to victims and perpetrators during the stated period.

Data analysis

The importance of taking a 'context specific' approach has been recognised as vital to historicising domestic abuse within patriarchal society (Dobash and Dobash 1983, Leneman 1997). Doing so provided a basis for the study's grounded and feminist standpoint analytical approach (Harding 1986; MacNish and Bacon 2002; Crasnow 2009). The narratives were analysed in contextual relationship to each other, to contemporary archival material and secondary texts using a thematic coding framework utilising Nvivo software. Ecological systems theory provided a basis for the thematic coding framework which incorporated recent developments in operationalising and historicising patriarchal theory in new ways. The domains of the original ecological system: individual/ontogenic, family/microsystem, community/exosystem, culture and state/macrosystem and mesosystem (the interaction between systems (Bronfenbrenner 1987) had been further developed as a nested ecological model for highlighting violence against women risk factors (Heise 1998). I mapped Walby's six domains of the private/public patriarchal system: housework, sexuality, violence, paid work, culture and state (Walby 1989) on to Heise's model. I then inserted a suite of 'indicators' or codes of patriarchal attitudes, behaviours and policies (Ogle and Batton 2009, Crittenden and Wright 2013), see Table 1.

TABLE 1. Theoretical coding matrix - nested patriarchal system: indicators and risk factors

Ecological systems theory: (Bronfenbrenner 1987)	Individual/ Ontogenic	Family/Microsystem	Exosystem	Macrosystem; State, Economy, Society and Culture
	Mesosystem - Interaction between microsystems			
	Private Sphere	Public Sphere		
Patriarchal System (Walby 1989)	Sexuality; violence against women and children.	Housework	Paid work	State; Culture; Violence.
Patriarchal Indicators (Ogle and Bat-ten 2009) (Crittenden and Wright 2013)		Patriarchal practices in the familial division of labour; Evidence of patriarchy in family decision-making and authority; Discernable differences in the responsibility for child rearing; Family relationships (i.e., parent–parent, parent–child, child–child) characterised by the existence of hypermasculinity and hyperfemininity.	Education: Patriarchy may be manifested in the curriculum; patriarchal structures and practices that govern extra-curricular activities at all levels of education; gender differences in levels of educational attainment. Religion - Within religious doctrines, are the roles of men and women equally represented and valued? The actual treatment and position of women in the church.	Government: the extent to which political power is dominated by men in key decision making positions; the existence of legislation for regulating women's control over reproduction; the existence of laws requiring equal treatment for men and women in civil society. Society and Culture: Male entitlement/ownership of women; aggressive & dominant masculinity; rigid gender roles; acceptance of inter-personal violence and physical chastisement. Economy: horizontal and/or vertical job segregation by gender; gender pay differential for equal work; workplace power/seniority gender differential

TABLE 1 (Continuation). Theoretical coding matrix - nested patriarchal system: indicators and risk factors

Ecological systems theory: (Bronfenbrenner 1987)	Individual/ Ontogenic	Family/Microsystem	Exosystem	Macrosystem; State, Economy, Society and Culture
Mesosystem - Interaction between microsystems				
Private Sphere		Public Sphere		
	Sexuality; violence against women and children.	Housework	Paid work	State; Culture; Violence.
Patriarchal System (Walby 1989)				
Risks Indicators for VAW (Heise 1998)	Individual factors; personal qualities; the influence of childhood experiences and socialisation on attitudes; perceptions and social interactions linked to social interacting/perpetrating VAW.	interpersonal factors in intimate, personal, family & social relationships e.g. patriarchal attitudes/practices, sexually aggressive peer/social groups.	Factors in neighbourhoods and community structures: schools and colleges, workplaces, health, police & social care services, workplaces which increase the risk of VAW.	The wider context: National and global, social, legal, political, & economic systems which accept, reject or condone inequality and VAW;
Risk indicators for VAW (Heise 1998)	Witnessing marital violence; Being abused oneself as a child; absent or rejecting father.	Male dominance in family; Male control of wealth in family; use of alcohol; marital/verbal conflict.	Low socio/economic status; unemployment Isolation of women & family; delinquent peer associations.	Society and Culture: Male entitlement/ownership of women; aggressive & dominant masculinity; rigid gender roles; acceptance of inter-personal violence and physical chastisement.
Forms of Violence against women	Domestic abuse: Physical violence, rape and sexual assault, emotional abuse of women and children, stalking, harassment, murder.	Domestic abuse: Physical violence, rape and sexual assault, emotional abuse of women and children, stalking, harassment, murder, coercive control, financial abuse.	Rape, sexual assault, sexual harassment, stalking and harassment, commercial sexual exploitation including prostitution, pornography.	

This matrix of themes, domains and indicators helped pinpoint factors and common threads across the narratives and other sources showing the commonalities and interactions between public and private patriarchal discourses on professional responses to domestic abuse. These were then compared with the factors in the women's narratives which influenced their reporting/disclosure decisions. Identifying continuity and change across a broader timeframe and settings made it possible to 'find histories that seek to problematize continuity, and histories that grapple with the challenge of understanding patriarchy' (Bennett 2006:79).

Findings

Police and criminal justice responses to domestic abuse

In 1977, Dr Rebecca Dobash observed that

Scottish police attitudes to domestic violence were very unfortunate, both from the point of view of the women involved and for society as a whole. It seemed that Scots lived in a society which accepted the use of violence by a husband against his wife (SWA Archive, The Scotsman Newspaper 6/11/77).

In 1975, The UK Parliamentary Select Committee on Violence in Marriage recommended that 'Chief Constables should review their policies about the police approach to domestic violence' (Parliamentary Select Committee, 1975: xxvi). According to the few women in this study who reported domestic abuse to the police, and the police and other professional narrators, this reflected common practices and public discourses until the 1990s. Women were clear that they would not consider calling the police and why, 'Nobody calls the police, nobody ever called the police.' (Laura b. 1964), 'I didn't do stuff like that' (Elaine b. 1957); 'Even that night when I did fear for my life...I never thought about phoning the police.' (Sarah b. 1961). According to the police officers, it was more common for neighbours or others to call the police, and they had no recollection of women ever calling on their own behalf.

Despite the estimated high incidence of wife assaults, the police response remained minimal, consistent and unchanged from the 1960s until the early 1990s and 'lacked the recognition that it was an epidemic' (Bob). The reasons for this are twofold. Firstly, assaults by husbands on their wives were considered a private matter between couples. Secondly, long-standing crime

discourses regarded wife assaults as an intractable problem mainly of violent, drunken working class men and their brutalised wives. As a young lawyer in the 1970s, Iain recalled,

It would be very much drink-fuelled. The Friday night-Saturday night drinking culture...the accused in these cases returning home from the pub drunk taking out his drunken frustration on his partner (Iain).

Monica, a criminal justice group-worker, recalled senior police officers in the 1980s telling her:

“We’re fed up with going to this address every Saturday night. He comes home, she calls the police, we go, both drunk and then Monday morning she comes and says she wants to change her mind or we take him away and keep him in the cells overnight (Monica).

Men’s violence against their wives was regarded as a private matter for the couple and not a priority for the police, prosecutors or the court system, unless public order was breached, extreme violence was used or where there was a murder. Within those parameters, a considerable degree of individual discretion was available to police officers and established practices laden with cultural messages stressing the private nature of wife assaults were conveyed to new recruits. Scottish Women’s Aid (SWA) observed the

...unhelpfulness of police when called into a battering situation...Things seem to hinge on the attitude of the officer involved, and the way he [sic] chooses to make use of the power he [he] has (SWA Annual Report 1980).

John and Bob both joined Strathclyde Police in the 1980s and recalled being instructed in this approach by senior officers,

“See before we go in here son? This is between a man and a woman and we’re not getting involved in this.” And that was actually before we arrived at the front door and... Aye keep it in your own house, keep it private, this is what you do (John).

In response to a feature on ‘Scotland’s Battered Wives’ in *The Scotsman* newspaper in 1979, ‘Superintendent Cunningham of Strathclyde Police said that his police officers were prepared to investigate all incidents of assaults on wives as they were “in breach of the law of the land”’ (Scottish Women’s

Aid 1978 - 1986: The Scotsman 24 May 1979). According to the Police (Scotland) Act 1967, police constables' functions were to 'guard, patrol and watch so as to prevent the commission of offences, preserve order and protect life and property'.³ The narratives suggest that in practice there was considerable scope for discretion in carrying out those functions and in interpreting the law. There is also evidence of considerable public/private ambiguity in the police approach to wife assaults.

'A lot of these cases were dealt with on the spot and we [Procurator Fiscal's Service⁴] would not be involved. We would not have a case reported. The police would receive the call...go out to the house and, in their eyes sorted things out, themselves' (Iain).

The emphasis on the police constable's role in responding to public breaches of criminal law in the public interest coexisted with cultural discourses which minimised marital violence, prioritised family privacy and avoided intervening in the private domain of marriage and family life. This ambiguity was also mirrored in the practices of the Procurator Fiscal Service '...among some of my colleagues...there'd be a view taken that it was just a domestic...' (Iain) and also in the Scottish Office:

At that time there were a lot of stereotypes still around particularly within the police, people involved in the police division internally in the Government and externally...that it was a private matter. There was no point in causing any more problems and most of the time the woman wanted to withdraw their complaint the next day...and they should stay out of that area. ...“Leave it alone, it's a private family matter.”...it was kind of “better not, it was up to them to sort it out” (Jackie).

In practice the police considered their role was to contain the violence and to prevent further assaults by removing the abusive husband temporarily if necessary and to take no, or minimal, further action and keep the family together.

You would take a guy out the house to calm it down. You wouldn't do anything else except to keep him out the house and just say, “We'll take him away hen and we'll drop him two miles away and by the time he walks back he'll have sobered up and he'll be fine then.” It was absurd (John).

³ <http://www.legislation.gov.uk/ukpga/1967/77/enacted>

⁴ The Procurator Fiscal Service is Scotland's national prosecutor.

These practices had remained largely unchanged since Vickie called the police to deal with her drunk and violent husband in the 1960s,

It was a family dispute. They says we can't do nothin' but twice they took him away and kept him in the cells overnight and let him sober up (Vickie b. 1943).

Scots Law on 'wife assault' – police interpretations and practices

In Scots law a distinction is drawn between 'crimes' defined as serious criminal acts and less serious 'offences'; 'seriousness' relates to the maximum sentence which may be imposed following a conviction (Scottish Government 1997:21). Arrests were made if the situation was deemed 'serious' or where there was a public order breach. This was reflected in police practice where assaults by abusive husbands on attending police officers would be deemed more 'serious'⁵ than the assault on their wives.

I was fighting with this guy and him lying on top of me and I've got his hands behind his back and I'm saying to my neighbour "[hand] Cuff him!". That was a domestic incident an' he was getting arrested in effect because he lashed out at us when we arrived (Bob).

'Breach of the peace', an offence in Scots law, requires '...conduct severe enough to cause alarm to ordinary people and threaten serious disturbance to the community'.⁶ In cases involving a man's assault on his wife, an essentially private crime, any further action was taken at the discretion of police and, if reported, of the Procurator Fiscal.

Interpretations of 'seriousness' also varied in the practices of individual police officers with a great deal resting on their discretion supported by a wider culture of non-intervention and minimisation of domestic 'disputes'. Incidents of wife assault may have been actively pursued if they involved higher tariff criminal acts which breached the public/private divide with the focus on the violent behaviour of the husband/partner rather than the impact on the victim. However, police officers did not always prioritise assaults on wives for investigation,

⁵ An offence under Section 41 of The Police (Scotland) 1967 Act <http://www.legislation.gov.uk/ukpga/1967/77/enacted>

⁶ 2002 JC 65, [2001] ScotHC 121, 2001 GWD 26-101, 2001 SCCR 800, 2001 SLT 1007 <http://www.bailii.org/scot/cases/ScotHC/2001/121.html>

'He would need to still be there and be angry and fighting for us to give him the jail. We would seldom go away looking for somebody (John); 'I don't remember doing any enquiries door to door, [asking] "Did you hear anything about your neighbour?"' (Bob).

John recalled the police value system, at the time,

We clearly saw our job as just giving people the jail... The policing circles that I was in, the value system, "Oh he's a great thief catcher" or when we recovered loads of drugs, that was the stuff that got there. The other stuff [domestic abuse] we didn't get involved in that. It was nothing to do with us (John).

Bob also reflected on the wider context on the 1980s,

At that time in the eighties,...we were chasing drug dealers and guns and robbers and Starsky and Hutch an' a' that stuff... If you were a detective, I was in the CID pretty young, ninety odd murders in my first year in the CID and that was the exciting stuff. I didn't want to go to domestics (Bob).

Monica recalled similar attitudes among police colleagues in the late 1980s,

They didn't take something that happened in someone's home as anything to do with them "It's just a domestic and not real police business... Our job is catching burglars and dealing with real crime" (Monica).

These extracts suggest that in the 1980s, violent, organised crime and the police response to it were both characterised by dominant hyper-masculine behaviour and highly patriarchal systems and practices. Thresholds for investigation were high: 'My recollections are that things would need to be bad, it would need to be a real, bad physical assault' (John). This is reflected in public discourse as well as practice. Newspapers at the time regularly reported court cases involving very serious assaults by husbands or partners with men convicted of a number of brutal attacks on their wives and partners often involving weapons such as guns and crossbows (Scottish Women's Aid 1978–1986). Iain recalled serious cases being reported to the Procurator Fiscal: '...a number of very serious assaults, using weapons, with serious injuries on occasions back then' (Iain). In Scotland, until 1989 the definition of 'serious assault' was where

the victim sustained an injury resulting in detention in hospital: fractures, concussion, internal injuries, crushing, severe cuts or lacerations or severe general shock requiring medical treatment (Scottish Government 1997:21).

In addition to the lack of investigation and evidence gathering following assaults, women did not always receive clear guidance about the procedures involved if their husbands were charged with a crime or offence and what could constitute corroboration as required by Scots law. In an interview with the Scotsman newspaper on 6 November 1977, Dr Rebecca Dobash had observed that

Wife assault tended to be heard in the district courts, rather than in sheriff courts, where more severe penalties were available. The impression that she had gained from court decisions was of a policy of hand slapping....The police in many cases decided not to prosecute because of lack of corroboration, appearing to believe that corroboration required a witness. (Scotsman 6/11/77 Police ‘turn blind eye to wife beating’ in Scottish Women’s Aid 1978–1986).

This appears not to have substantially changed by the 1980s,

If we did receive reports, if they were of a relatively minor nature they would, where it was domestic...where it was verbal or physical abuse...it would go to the district court...only more serious assaults or also somebody with a significant criminal record that it would end up in the Sheriff Court (Iain).

A report in 1980 by SWA also noted: ‘most of the women who came to the refuge felt that the police were not helpful, did not take domestic violence seriously and would not make charges without corroborative evidence’ (Scottish Women’s Aid 1980, Robertson Archive). The Parliamentary Select Committee on Violence in Marriage confirmed that corroboration ‘usually means there must be a witness to the assault other than the woman concerned... evidence of the injuries is not in itself corroboration.’ In his evidence to the Committee, Scotland’s Lord Advocate stated that: ‘lack of corroboration is a considerable check on taking proceedings’ (Parliamentary Select Committee 1975:xxii). The Committee also noted that corroboration was not required in English law and that the situation was full of ‘anomalies and absurdities, [which were] bringing Scottish law into disrepute’ (Parliamentary Select Committee, 1975: xxiii).

Under Scots law, the victim of a crime is ‘the complainer’. However, in cases of wife assault, where there were likely to be no witnesses, the prosecution rested largely on the complainer’s statement. This placed a substantial weight of responsibility on women to engage with police, prosecutors and courts and many withdrew. Bob and John recalled situations where, despite the severity of the assault and the extent of their injuries, women were reluctant to be involved with the

police and court proceedings. Women's fears about the prospect of appearing in court could be exacerbated by their lack of confidence in and knowledge about the system and deep concerns about the potentially negative personal, social and economic impact of being involved in the criminal justice system. When cases of violent wife assault did proceed to court, the outcomes could be highly unsatisfactory for the woman. Bob described the negative impact of a complex array of economic and social factors, police and court procedures on one woman who had been severely assaulted by her husband who told him,

'I went to court, they kept him in [custody]. I went to court on the Monday and I said I didn't want to speak up [make a complaint] because I've money and stuff and ... I said 'you going to be alright?' And you could see her eyes filling up with tears at that point 'Oh I'll be fine son, I'll be fine'. She went straight back into the house and he's back in the house at that point (Bob).

Policing practices emphasised non-interference in patriarchal marriage and family privacy. The lack of corroboration, high thresholds for prosecuting wife assaults and the wider structural barriers women faced outwith patriarchal marriage combined to render the response of even sympathetic police officers ineffective. Such outcomes could send strong messages of impunity and did not deter violent husbands. A particularly violent case, despite corroborating medical evidence of severe injury, did not proceed further because the victim, the accused's wife, had to identify her assailant in court, 'She never spoke up and it got kicked out of court Yeah. He waved to us in the court. I always remember him waving to us' (Bob). The police narratives suggest there was a growing awareness of the inadequacy of their response at the time, that women were justified in having little confidence that the police could help solve their problems and that they could in fact make matters worse,

I do remember lots of times women not wanting their men arrested when we turned up. The view was we're making this worse, we're not making this better, we're not there to help...because we're not going to follow it through and do anything, neither was the court. Lots of the attitudes of the women were just "Look just stay out the way you're only making this worse we'll be fine" (John).

This was confirmed by the few women narrators who called police who also felt that doing so made matters worse: 'they'd lock him up for the night but he was always back in the morning, fighting furious because I'd shopped [reported] him' (Vickie b. 1943) .

Police told me to get out, which I did and I think I actually went to my Mum's that night. He phoned the police and said I was missing. So I got into trouble for wasting police time (Linda b. 1967).

This was echoed by the police and criminal justice system narrators, all of whom recalled becoming aware that contemporary police responses were inadequate, largely futile and often counterproductive. Police colleagues told Monica, "We might make it worse if we do something here. What can we do that's going to change it anyway?" (Monica). These views of the contemporary police response are also reflected in Denise's account. After her husband assaulted her, she called the police who combined very clear professional and cultural messages emphasising their policy of non-interference in 'domestic' assaults overlaid with strong inferences about social class which further distanced her from finding a solution to her situation,

"It's a domestic and the two of you need to sort this out and you need to sit down and talk and you know... Your husband's a professional man, you know... I'm sure he didn't mean it, he's just a bit stressed, and...basically it's a domestic situation and we won't get involved". They did nothing. They didn't take a statement, they didn't do anything, they just said, "It's between husband and wife." I was visibly hurt. I had bruises all down my forehead and everything where he'd head butted me so...and they did absolutely nothing (Denise b. 1966).

This incident, which took place in the early 1990s, demonstrates a police response which had not significantly altered since the 1960s.

A report by the Women's National Commission published in 1985 found that the discretionary nature of the police response contained highly gendered cultural messages including placing the blame for the violence on women's inadequate role performance,

Many women put up with violence because they are frightened of the attitude of the police. There is evidence that police tended to judge the behaviour of women victims. If they thought a woman was 'nagging, hysterical, or a sluttish housewife, they considered that this contributed to a man's violence' (Guardian 11 December 1985).

*Investigating and prosecuting domestic homicides –
cultures and practices*

Cases of domestic homicide, perpetrated by men and women, were common, prioritised and dealt with by the police and Procurator Fiscal's office in the same way as all other homicides. Iain recalled these being: 'a significant part of the Fiscal's workload, 'we would be involved in homicide cases from day one basically' (Iain). Both Bob and Iain recalled that domestic homicides were investigated 'just like any other homicide' with considerable uniform branch and CID (Criminal Investigation Department) resources immediately allocated to ensure the investigation met the necessary court timescales. 'The CID would be interested because you could make some money – it's overtime, that's what you're there to do, investigate murders and serious crime' (Bob).

If somebody's murdered on a Wednesday night, the case is reported to us on Thursday morning and we have to get that person to court on Thursday. So it's a short time scale and the police are investigating the case and getting information to us right up until the date of the first court appearance (Iain).

There is evidence that prosecution and sentencing of male and female murderers were highly gendered practices. Women's Aid groups in Scotland and England campaigned on behalf of women like June Greig in Scotland and Emma Humphreys in England who had been given long sentences for murdering their husbands or partners after experiencing years of abuse. The movement and journalists like Julie Bindel⁷ challenged the narrow time-limited definition of the term 'provocation' which, in the case of women who killed their abusive husbands or partners, did not take into account women's prolonged experiences of abuse. Courts' handling of women accused of domestic homicide reflected 'standards of behaviour and experience that are more commensurate with male patterns of behaviour and male standards of acceptable conduct' (for a full discussion of provocation in this context see Fitz-Gibbon 2014:74). Changes to the courts' treatment of domestic homicides were observed by Iain in the later 1980s in Glasgow where the defences of provocation given by men who murdered their wives became less acceptable:

⁷ <https://www.theguardian.com/lifeandstyle/2008/jul/23/women.law>

Provocation would have to be proved, verbal provocation which could be tied in with some allegations with somebody being unfaithful and having an affair or whatever, but I would say round about that time there was less credence given to these sort of defences (Iain).

Iain recalled the signs of changes to the standard practice of remanding the accused in custody in murder cases in the early 1990s where women were accused of killing their abuser:

Part of that was the beginning of a greater understanding of the impact of domestic abuse and there were cases where there was a well-established history of serious domestic abuse that had resulted in hospital treatment for the victim, who then became the accused. In the past, the woman would have been kept in custody. The Lord Advocate granted bail in a couple of cases where women were on charges of murder and by the time the case came to court the charge would have been reduced to culpable homicide because more and more information came out (Iain).

Patriarchal workplaces and practices

The narratives reveal a police and criminal justice system which, despite the passing of the 1975 Sex Discrimination Act,⁸ remained, by the 1980s, a predominantly male workforce and culture. While the provisions made sex discrimination unlawful, Bob recalled a hyper-masculine police culture, ‘... there was still calendars up on the wall... it was quite misogynist there’s no doubt about that’ (Bob). Married male police officers and their families lived in force-owned accommodation tied to their employment. John recalled that police families did not generally mix with one another with male police officers keeping their private and working lives quite separate. Maintaining a clear separation between officers’ professional role and their private lives was also problematic for highly patriarchal police forces which employed officers who abused their own wives.

⁸ The Sex Discrimination Act of 1975 prevented discrimination on the grounds of sex in recruitment or working practices, in the provision of education and training, goods, facilities and services, the management or allocation of premises and advertising. It also abolished the marriage bar which prevented women being recruited or continuing in employment if they were married. <https://www.legislation.gov.uk/ukpga/1975/65/enacted>

According to police narrators, with no formal mechanisms for dealing with male officers who assaulted their own wives, informal approaches were taken. A woman officer who reported abuse by her officer husband was told that taking further action would jeopardise her husband's job and their home which was tied to it. Male colleagues of another woman officer whose officer husband was violent towards her took matters into their own hands: 'four of the senior cops went up and leathered [assaulted] him' (Bob). While the former response was aimed at preserving the position of the male provider, the latter took an informal, chivalrous, hyper-masculine approach in defence of their female colleague. These cases indicate patriarchal practices inherent in a predominantly male police culture. Measures taken were designed to keep the abuse hidden within the wider police community and, by avoiding court proceedings, hidden also from public view. Parallels can be drawn between preserving privacy in the family in relation to wife assault with institutional practices keeping it in-house in the police force. Dave a prison social worker working in the 1980s recalled a system which also implicitly supported the patriarchal breadwinner/homemaker hierarchy within marriage. Although prison could compound women's difficulties without the main breadwinner, the system upheld the rights of convicted husbands to control their wives and families from within a highly patriarchal prison system. The introduction of telephone access ensured prisoners were able to check up on their wives. If men became unsettled by news from home, 'The prison's solution simply was to send all these men down to me [the social worker] to request 'special visits' from wives and girlfriends (Dave).

Women's reasons for non-disclosure to police

The British post-war welfare state fully supported the institution of marriage and the nuclear family, and aimed to ensure that the husband's earnings from paid work or benefits were sufficient to support his wife and children. The system, with inadequate external childcare provision, was not designed to support women combining paid work with caring responsibilities (Lewis 1992, Hantrais 1994). The male breadwinner/female homemaker economic model continued to dominate British, including Scottish, economic and social policy into the 1980s (Wasoff and Hill 2002). The differential approach to the calculation of men's and women's national insurance contributions, state ben-

efit entitlements and an underdeveloped, state-funded childcare sector continued to reinforce women's dependent social and economic status (Lewis 2013). When Andrea told her Mum that her husband was very violent, she was told,

Get over the road and get his dinner made and don't make it worse for yourself? I traipsed [trudged] back over the road and it [leaving] was never gonnae happen again. (Andrea b.1960).

As a wife and mother, Andrea was financially as well as socially dependent on her 'provider' husband. Domestic abuse reinforced her economic status in the marriage and ensured the performance of her domestic role as wife, homemaker and mother. The macro-system factors combined with a cultural climate which further aggravated the situation for women like Andrea and created substantial barriers to solving their problems. Implicit in her mother's reaction to the assaults Andrea had endured, was the message that there was no external means of preventing the violence or of her being able to live as a single mother. Similarly, Denise explained why at first she was reluctant to call the police. Her Mum reinforced the common Scottish saying directed at women voicing fears about their marriages, 'you've made your bed...' with additional warnings against not being a good wife, making her situation public, involving the police and the stigma associated with marriage breakup and the need to maintain respectability.

My Mum drummed into [repeatedly told] me that you don't bring trouble to your door and... you know, I had that all the time growing up...she was an assistant head of a school and it was all about front and image...and even when her own marriage broke down it was all covered up and nobody knew (Denise b. 1966).

Constitutive gender discourses of patriarchal marriage, family privacy, respectability, non-disclosure and women's gender role continued to permeate individual and family attitudes and practices. Women's external disclosure and help-seeking were further inhibited by the intersection of police and criminal justice, and social welfare agency policies, discourses and practices which created additional macro-system barriers to women's social and economic independence.

A 1981 survey carried out in England among women living in Women's Aid refuges (n=656) found that over half turned, in the first instance, to family

and friends and if little or no help was offered they would then turn to statutory services. According to the women and the professionals in this study, the absence of an effective police response to domestic abuse into the 1990s created significant barriers to reporting for women. The women were clear that they would not consider calling the police and why, 'Nobody calls the police, nobody ever called the police.' (Laura b. 1964), 'I didnae [do not] do stuff like that' (Elaine b. 1957); 'Even that night when I did fear for my life...I never thought about phoning the police..' (Sarah b. 1961). According to John, it was more common for neighbours or others to call the police, and they had no recollection of women ever calling on their own behalf. This was the case for Vickie, Geraldine and Theresa where neighbours called police on overhearing the men's violent assaults.

These findings show that despite its estimated high incidence, the police response to violence against wives remained minimal, consistent and unchanged from the 1960s until the late 1980s and that 'It lacked the recognition of the serious nature of what it was. It was an epidemic' (Bob). Two key elements contributed to this approach. Firstly, men's violence against their wives was considered essentially a private matter for the couple and not a priority for police, prosecutors or the court system unless public order was breached, extreme violence was used, or in murder cases. Secondly, this conceptualisation also reflected long-standing crime and social policy discourses which blamed women for the assaults (Maynard 1985), viewed wife assaults as an intractable working class problem and pathologised abused women, abusive men and their children (Dunn and Pizzey 1979). For some of the women participants who experienced domestic abuse during the 1980s, such class-based discourses, popular in the media, seemed very far from how they conceptualised their own experience.

This analysis indicates that a considerable degree of individual discretion was available to police officers and that established practices, laden with cultural messages stressing the private nature of wife assaults continued to be conveyed to new recruits. SWA observed

The unhelpfulness of police when called into a battering situation... Things seem to hinge on the attitude of the officer involved, and the way he [sic] chooses to make use of the power he [he] has. It would help if women were recommended to WA by police on the spot, but this seldom occurs (SWA Annual Report 1980)

Continuity or change?

Police and criminal justice responses to domestic abuse began to change in the late 1980s as a result of Scottish Office research into the way Scottish police forces and the Crown Office respectively investigated and prosecuted sexual offences and crimes against women (Chambers and Millar 1983, Chambers and Millar 1986). This research followed press and public controversy over ‘The Glasgow Rape Case’ in 1982 where criminal proceedings against three youths were dropped and the complainant, Miss X, went on to pursue a successful civil case against the men (Harper and McWhinnie 1983).⁹ Also in 1982, the prosecution of a man for raping his estranged wife was allowed, for the first time (Greenan 2004). Jackie led the team which undertook the sexual offences research which found that police treatment of rape victims was highly unsatisfactory, that their cases were not prioritised, and that there was a lack of police training on the ‘meaning and impact of sexual violence’ on victims. The report recommended the creation of specialised teams of detectives with women officers playing ‘a more active role’ in enquiries (Chambers and Millar 1986). Despite initial hostility, Strathclyde Police subsequently established the UK’s first Female and Child Unit (FACU) in Glasgow in 1987:

Studies indicated that police reactions to allegations of sexual assault were carried out in a belligerent manner coupled with an institutional presumption that the complainant was falsifying facts. In an effort to address this attitude, FACUs were established to provide victims with a more sympathetic police response (Strathclyde Police 2011).

By 1988, there was a FACU in every Strathclyde Police division. Their remit was to investigate private and family crimes, or those of a sexual nature with mainly women and child victims including: ‘incidents of indecent exposure, cot deaths, wife assaults, cruelty to children, missing persons and absconders’ (Strathclyde Police 2011). In a radical departure, FACUs were:

‘staffed by specially trained female officers who assist both CID and uniform personnel in the investigation of crime and incidents involving women and children and emphasised the support needs of women and child victims’ (Strathclyde Police 2011).

⁹ <http://hansard.millbanksystems.com/commons/1982/jan/21/rape-case-glasgow>

In addition,

This marked the first publicly stated shift away from the police's long-standing discretionary approach to sexual and physical assaults on women and children by husbands, fathers and strangers, including wife assaults and focussed attention on the victim as well as the offender. For the first time there was an emphasis on addressing the needs of victims and on the relational aspects of active criminal investigation and evidence gathering in crimes which took place in private contexts (Strathclyde Police 1975-1998: Report for 1988:23).

Roisin, a social worker in the 1980s, recalled working with the new FACUs,

They marked a change in attitude and a time where no human being should be treated like that by any other and women who had been, sometimes quite horrifically abused by their partners beginning to be seen as people in their own right, rather than "just his wife" (Roisin b. 1960).

However, even by the 1990s this new public focus on the needs of victims of sexual and domestic violence remained a challenge for a police culture with deeply engrained practices of minimal intervention in 'domestic' disputes where, it was noted, 'little or no emphasis was put on positive experiences and better outcomes for women and children' (MacEachern 2005:56).

Conclusion

This article has outlined the extent of patriarchal discourses of male dominance, marriage, family privacy, and traditional gender roles on Scottish police and criminal justice system policy and practices in 1960s-1990s. It also revealed that domestic abuse was regarded by the authorities and husbands alike as a private and not a public concern. Police and the criminal justice system prioritised serious public crimes of violence. Men's violent or sexual crimes against their wives or partners were interpreted within discourses of family privacy. Police and courts intervened only in the most serious cases or murder thus creating a culture of impunity for violent husbands. The Scots law requirement for corroboration, resulted in a focus on a need for third party witness statements at the expense of other forms of evidence such as medical or circumstantial evidence. The professional discretion of individual, mainly male, police officers in domestic abuse cases was a key element in sustaining

the policy and practice of minimal or non-intervention in marriage and the family giving tacit support for all but the most seriously violent husbands. The unsympathetic practices of police, prosecutors and courts in domestic abuse cases were compounded for victims by the largely patriarchal workplace policies and cultures of these organisations. Taken together, this minimised private crimes vis-a-vis public crimes creating a two-tier response. Victims of private crimes such as domestic and sexual violence were therefore significantly disadvantaged in their engagement with these agencies. The professional narratives suggest that these practices were of long-standing, that they were deeply embedded in the public discourses and norms which negatively influenced women's disclosure and help-seeking decisions. While there was evidence that police and criminal justice responses to domestic abuse were beginning to change by the 1990s, these continued to remain dependent on the discretion and individual attitudes of the professionals involved.

This article has argued that the police and the criminal justice system operated as 'working patriarchies' and contributed to sustaining Scotland's patriarchal legacy into the late twentieth century. Traditional patriarchal norms were evident in their workplaces, policies, responses and in the individual attitudes of officers to domestic abuse and sexual violence against women. The role of violence in the domestic sphere and the absence of effective responses by police and criminal justice system thus reinforced men's right to use violence in their relationships, and by denying women access to safety and justice reinforced their unequal status in private and public life. Public patriarchy, represented by the practices of law enforcement and the criminal justice system, remained in close symbiosis with the patriarchal family and male dominance in the home. Domestic abuse thus continued to fulfil an important function in maintaining women's inequality and their economic and social dependence on marriage in Scotland into the 1990s.

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