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Sexual Violence in Early Twentieth-Century Scotland: An Overview

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This article explores the contents of over seven hundred criminal cases of sexual violence prosecuted at the High Court of Justiciary in Edinburgh and on circuit around Scotland between November 1918 and December 1930, and reveals the wealth of narrative content contained particularly within the precognition statements. Examining indictments of incest, rape, attempt to ravish, lewd and libidinous practices and behaviour, and assault, it identifies trends in the age of victims by indictment type, whether assaults were perpetrated indoors or outdoors, and how assaults were reported, and it attempts to understand the modus operandi of the perpetrators. Dealing with historical cases of sexual violence requires great sensitivity on the part of the researcher and an understanding of the ethical issues such research presents. This topic, as well as the author's issues with access to the records which underwent a GDPR review and subsequent negotiations to have them reopened, is also discussed.

After six years' research in the National Records of Scotland (NRS), reading over seven hundred cases of male-on-female sexual violence prosecuted in Scotland at the High Court of Justiciary (HCJ) during the 1920s, the overwhelming statistical trend discovered in the data points to a preponderance of crimes perpetrated by working-class men against working-class women and young girls in urban areas.[1] The research is time specific, investigating sexual violence cases prosecuted between November 1918 and December 1930, the records for which have not previously been examined. The immediate post-war years and the following decade were a period of reconstruction and great societal change. With supposedly brutalised soldiers returning from the front, labour unrest, gender tensions and economic slump, the 1920s was a disrupted decade. Unemployment in Scotland was felt particularly harshly in the heavy industries of the south-west and in Dundee's jute manufactories.[2] Working-class living conditions remained the same as before the war, with victims of incest describing extremely cramped accommodation, such as a two-room and kitchen apartment in which two teenage daughters, another in her twenties, a grandfather, several sons and the husband and wife lived.[3] In order to make ends meet, some families took in lodgers and in one 1920 rape case, the panel (defendant) used his familiarity

1 Male-on-male sexual crime was not investigated. If heard at the HCJ it would have been a sodomy trial or one of lewd and libidinous practices and behaviour; it may also have been heard at Sheriff Court as indecent assault.

2 W. W. Knox, *Industrial Nation: Work, Culture and Society in Scotland 1800–Present* (Edinburgh, 2009), 189–90.

3 NRS, AD15/19/45.

with the family's six-year-old child to lure her into the scullery where he raped her.[4] However, despite the elite's fears of violence by demobilised soldiers and the working classes in general, Scotland appears not to have experienced the level of violence that was anticipated.[5]

The wealth of narrative detail contained in the records is astonishing, from descriptions of living conditions to leisure activities, employment and working patterns. The documents investigated were sourced from the NRS online catalogue searching under the indictments of rape, ravish, attempt to ravish, lewd and libidinous practices and behaviour (LLPB), and incest, which were all indictments of sufficient severity to be heard at the HCJ in Edinburgh or on circuit around the country.[6] To ascertain the details of the crime, precognition statements (a form of deposition) from the victim, any eyewitnesses and her character witnesses were read, as well as police constables' and sergeants' reports within the precognition bundles. Also read were medical and forensic doctors' handwritten examination notes and statements also contained within the precognitions. These sources were complemented by letters between the panels' solicitors and the Procurator Fiscal (PF), handwritten notes between the PF and the Advocate Depute (AD), as well as other correspondence contained within the case papers. In each case, the details of the indictment sheet were pivotal to providing the 'coat-hanger' for the crime. This document always began with the indictment, the name or names of the panel or panels, their plea, and personal details of the victim, followed by a legal description of the details of the charge. For example, a rape case in 1921 began: 'on various occasions between ** January 1921 and ** April 1921, and on ** April 1921 in ** churchyard, ** Ayrshire, did ravish **, aged 9, daughter of and residing with **, shipyard worker **'.[7] These papers are all contained within the AD15 and JC26 series. Once the case had been constructed from these papers, the records for the judicial process were examined. These included Books of Adjournal and Minute Books, which provided details of jurors called for a session, the names and occupations of jurors balloted for each specific trial, confirmation of the panel's plea, the order in which witnesses were called, the jury's verdict and the judge's sentence. There were occasional notes concerning

4 NRS, AD15/20/75.

5 Analysis of the caseload before the Great War and in the years immediately afterwards indicates little fluctuation in the criminal statistics for sexual crime. The following is a good source for contemporary statistics: *Criminal Statistics for Scotland: Statistics Relating to Police Apprehensions, Criminal Proceedings, and Reformatory and Industrial Schools, for the Year 1925* (Edinburgh, 1925).

6 Rape and incest indictments were automatically referred to the HCJ for trial. The sentencing powers of the Sheriff Court restricted the hearing of sexual violence crimes under other indictments. If a panel pleaded guilty to ravish or LLPB at Sheriff Court, he was transferred to the HCJ for sentencing; if he pleaded not guilty, the case proceeded to the HCJ for jury trial.

7 Under restrictions imposed by the Lord President's Office, all personal details from which the person, location or date of a crime could be identified are anonymised.

special pleas and special defences (alibis), mitigating circumstances for the judge to consider before passing sentence and, interestingly, on a few occasions they record the judge excusing the jury from future service for a period of time because of the nature of the evidence they had endured, such as detailed descriptions of a severe assault. These books are catalogued under JC5 and JC9 for Edinburgh, and JC10–JC16 for circuit courts. After 1926, an appellate court was established for criminal cases heard at the HCJ; appeal case records are listed under the JC34 series and, in these instances, trial transcripts have been kept under JC36, both of which were consulted where available. However, appeals for sexual violence cases appear to have been rare, given the few files available.

Thus, the circumstances of the crime from the victim's perspective, the police's involvement from either reporting to the police office or seeking the panel to arrest him, and medical and forensic evidence were collected, providing as full a narrative of the case as possible. However, although the judicial process has become apparent, the panel's 'voice' has remained silent. Apart from confirming or changing his plea at the commencement of the trial, his contribution to the judicial process remains hidden; in a few cases, his first words on apprehension were reported by the arresting sergeant, but otherwise his is a silent contribution to the archives. Therefore, the motive for each crime remains impossible to ascertain, which is where factors such as alcohol abuse, previous indictments for similar crimes and the evidence of exculpatory character witnesses become important. However, without the panel's own words, these sources remain subjective. In a rape case involving a nine-year-old girl and an adult rapist in Glasgow in which the panel was accused of the aggravation of communication of venereal disease, the mother of the victim reported him as saying 'but ** you know I couldn't interfere with anyone, you know I'm suffering from a runner' when she confronted him.[8] In another case, the arresting sergeant reported that the panel's excuse for incest with his daughter was that his wife was very fat and he had had to leave the marital bed.[9] Where the panel's 'voice' is heard in these records, it is through reported speech and it is possible that such evidence was constructed through the biases of the person reporting it.

The material collected by examination of HCJ prosecutions for rape, ravish, attempt to ravish, LLPB and incest were used to populate a data set capturing age, ethnicity and residential area for the panel and victim. The data set also captures the circumstances of the assault as recalled by the victim and her witnesses, and to whom she first reported the assault; a separate entry notes the panel's plea. In addition, the jury gender composition has been collected, their verdict whether unanimous, by majority or offering an alternative indictment, and the judge's sentence; where available, the judge's name has been noted. This wealth of information has allowed for analysis of the geographical distribution of sexual violence crimes by indictment type, as well as providing data showing trends in age of victim by indictment, the panel's modus operandi, and reporting patterns.

[8] NRS, AD15/26/78 – 'runner' was vernacular for venereal disease.

[9] NRS, AD15/20/76.

It should be noted that the HCJ records contain no cases where the panel was middle class. While it is improbable that middle-class males did not commit sexual violence of any kind, either men of this class committed sexual crimes below the threshold of an appearance in the HCJ, or their activities were 'redefined' as non-criminal, such as an episode of insanity, and thus could be dealt with outside the judicial system. Middle-class abuse against female relations or servants is also not apparent in the HCJ records. Further, if sexual violence by working-class males against middle-class females occurred, it is probable that the moral outrage at such class transgression would have ensured that these men were prosecuted, yet there are no cases within the HCJ records of this nature. Also invisible within the HCJ archives is the 'dark number' of cases: those that were reported but for some reason were unproceedable and those that were never reported and were suffered in silence. Thus, the prosecuted cases discussed here may not be representative of the whole number of reports of sexual assault that for some reason did not proceed.

The research began in 2013 having confirmed that the NRS criminal trials records were open for research under the seventy-five-year rule. However, two years later, after a reassessment of data protection legislation which had an impact on the closure rules, the HCJ papers disappeared again into the vaults of closed records. An appeal to the Lord President's office resulted in lengthy negotiations, the main outcome of which is that personal and geographical details contained in the court records, which may otherwise put flesh on the bones of the people involved in the crimes investigated, must remain anonymous. Further, any ability by other researchers or members of the public to 'triangulate' the evidence from this research had to be made impossible. For example, the date of a trial and limited case details could be used with another source, such as newspaper reports, to identify a victim or panel, and perhaps to corroborate a family story of incest or a child born of rape. However, news reporters were generally excluded from the HCJ when sitting on sexual violence cases, which was a different situation from that in England. There, the famous judge Mr Justice McCardie argued that 'the publicity of proceedings was an essential element in their usefulness' because it was through publicity that the public became aware of child sexual violence in particular, the discussion of which was avoided by polite society.[10] In Scotland, journalists were not admitted when the evidence was of 'such a character that its publication is undesirable in the public interest'.[11] Thus cross-referencing with newspaper reports may yield little assistance when attempting to triangulate the cases discussed here and elsewhere. In addition to the stipulation of complete anonymisation of the material, the author was assigned a separate desk in the NRS Historical Search Room to prevent any

[10] A. Lentin, *Mr Justice McCardie 1869–1930* (Newcastle-upon-Tyne, 2016), 40.

[11] *Scots Law Times*, 23 May 1908, 15. Kim Stevenson's research reveals that in England reporting of child sexual abuse was 'episodic and fatalistic' as 'an inevitable feature of society', while reporting incest was prohibited; K. Stevenson, '"These are cases which it is inadvisable to drag into the light of day": Disinterring the Crime of Incest in Early Twentieth-Century England', *Crime, History and Societies*, 20:2 (2016), 2.

other researchers from reading the documents. Also, stringent restrictions on data security were imposed so that backups of data and any work in which it is included had to be made to a secure device; cloud backups were deemed insufficiently secure.[12] With all these measures in place, after six months' delay, the HCJ archive was once again within reach.

The ethics of dealing with cases of historical sexual violence extend beyond data security and the individual's anonymity. Does naming the victim give the individual a 'voice' beyond the grave? Does she receive justice as a victim/survivor? Does it remove the veil of shame attached to victims of sexual violence? Or by naming these women and girls, does the historian divulge family narratives that the protagonists had wished to keep secret? This author would argue that naming the victim does not memorialise them in the same way as, for example, engraving a soldier's name on a war memorial. When researching the cases of victims of sexual violence in the 1920s, it is the historian's responsibility to assess the crime and the case through contemporary eyes and not evaluate it using twenty-first-century moral judgements. The researcher's duty is to convey the truth of a historical event in the context in which it occurred, employing the values with which it was judged at the time; the victim's personal details, or indeed those of the panel, are immaterial to analysis of who did what to whom where and, potentially, why. Thankfully, in this instance the Lord President's decision has superseded any need for further discussion on the ethical management of sexual violence cases in 1920s Scotland, which remain closed to the general public.

For adult and minor females in the 1920s complaining of a sexual assault, the process began with the victim or her family reporting the assault to the police office. The police in turn reported the case to the PF who is the public prosecutor in Scotland. As a professional within the legal establishment, the PF was usually not a university-educated lawyer; he would have trained on the job and his team of precognoscers (those taking statements on his behalf) were drawn from the body of retired policemen, lawyers' clerks or other 'trusted' individuals. In the 1920s, there were nine regional PFs employed in Scotland who reported to the Lord Advocate and who operated under a written code contained in *The Book of Regulations*.[13] Adhering to the instructions contained in *The Book of Regulations*, precognitions were usually taken within forty-eight hours of a crime having been reported to the police, or very soon thereafter. Although the precognitions cannot be assumed to be the verbatim transcripts of the victims' or witnesses' actual words, they are probably not very far from their original 'voices', particularly when the instructions in *The Book of Regulations* stipulated that speed of interview, as well as accuracy so as not to offer testimony

[12] The thesis and its underpinning data set will be available via the University of St Andrews after the three-year embargo expires. However, application for permission to view the data set will need to be made to the Lord President's Private Office before St Andrews' Digital Repository can release it.

[13] R. Shiels, 'The Mid-Victorian Codification of the Practice of Public Prosecution', *Scottish Historical Review*, 98 (Supplement) (October 2019), 413.

that could not be corroborated or repeated in court, are considered.[14] Thus, the potential for judicial construction of the precognitions may have been very limited and they are as close to the individual's 'voice' as the historian is likely to get, particularly for crimes that do not lend themselves readily to being described in memoirs or other anecdotal sources. However, a close reading of the precognitions suggests that victims, witnesses and precognoscers were at pains to establish degree and type of resistance offered, and how 'knowing' of the sexual act the victims were.

When very young children were asked to describe what had happened, they might use vernacular and often ambiguous language to describe an assault, for example 'he took his "tittie" out, he pees with, and put it against my bum and then on to my "scadda"'.[15] However, when young women were questioned, the use of slang might imply prior sexual knowledge, whereas overly prim language could suggest that the victim was following a learned 'script' of what she believed was expected of her. Prior sexual relations with young men, illegitimate pregnancies, how fiercely she fought back and even the particular words used to describe the assault, such as 'he made me wet' (a term used by many victims to confirm emission), suggest that both victim and precognoscer understood that the sexual morality of working-class girls was questioned among the elites and that the possibility of victim culpability was understood by both sides. In giving her statement of her rape in Elgin in 1927 by a stranger while she was collecting wood, a 34-year-old victim divulged that she had had prior relations with men, two illegitimate pregnancies and that once her assailant threatened to kill her she acquiesced, thus discontinuing her previous struggles. The PF thought her case sufficiently credible that he decided to prosecute. However, a jury of seven women and eight men returned a verdict of not guilty. The examining doctor's report had made light of her injuries and cast doubt on her degree of resistance; by desisting from her struggles, had she been culpable in her assault? Her inability to confirm whether her assailant had ejaculated, and her previous sexual relations, may have also counted against her.[16]

This case and others like it highlight some of the differences between Scots Law and the judicial process in England and Wales. In Scotland, as public prosecutor, the PF was responsible for managing the case from collecting testimonial and physical evidence to instructing medical and forensic examinations. The PF could decide to prosecute based on his personal evaluation of the evidence and he could neither be compelled to prosecute nor prevented from doing so.[17] If he decided to proceed, the case would be presented to the Crown Agent, who would consult Crown Counsel as to the indictment to be charged and in which court the case would be heard. The HCJ records provide evidence that sometimes the PF

[14] Shiels, 'Codification', 419–20.

[15] NRS, AD15/20/74.

[16] NRS, AD15/27/94 and JC11/20.

[17] R. MacGregor Mitchell, *A Practical Treatise on the Criminal Law of Scotland* (Edinburgh, 1929), 321.

could overrule counsel's advice and proceed to prosecution. For example, in 1922 in a Perth rape case involving a 27-year-old and three assailants, the Advocate General advised against prosecution based on the woman's previous non-virginal state, adding that the AD 'believes sexual relations would be proved but not rape and that the case is one for no pro' (no proceedings). However, the PF held a different opinion: 'it is hardly feasible that the girl would consent to all three having connection with her one after the other which is what they stated, and she emphatically denies'. The case went to the HCJ.[18] Here it is possible to 'hear' the PF's personal attitude towards a working-class woman raped by multiple assailants. He expressed disbelief in the panels' story that she had allowed them access to her body: this was not necessarily based on the complainer's version of events but on his personal assessment of what was more likely. The HCJ sexual violence case archives are full of snippets similar to this. In a 1928 rape case in Perth, the PF was acquainted with the girl's 'people' and her brother was chauffeur to a personal friend of his. He thought the complainer's family were 'most respectable', although clearly of a lower class than himself or his friend since they were employed by them. In this case, the PF proceeded presumably because the forensic evidence supported the girl's story and also because he had a personal connection with the girl and her family whom he held in high regard.[19]

As already noted, 'hearing' the panel's voice is almost impossible. The impact of the Criminal Evidence Act of 1898 on the judicial process meant that panels usually declined to give a statement prior to a trial for fear of self-incrimination.[20] Previously, the panel would have given a statement in front of the sheriff or judge, but changes in the rules of admissibility of evidence altered this so that the panel did not give a statement in the police office on arrest or in court. Therefore, the greatest amount of evidence, both of the crime and of the lived experience of Scotland's working classes in the 1920s, is contained within the precognitions given by the victims and their witnesses and supporters. In 108 cases of incest prosecuted between November 1918 and December 1930, the victims of fathers and stepfathers reported that assaults had commenced with the onset of puberty, and most incest precognitions revealed that the mother had either left home, was in hospital or, in the greatest number of cases, had died. Thus, for the majority of incest prosecutions, victims lacked a maternal protector in the home. Most of the victims were aged between thirteen and sixteen years. It could be argued that fathers and stepfathers waited until their daughters were more 'womanly' before beginning their abuse, or conversely more teenage daughters were successful in bringing a complaint than their younger siblings who might have suffered in silence. The records reveal that more fathers were prosecuted than stepfathers, which may indicate that the PF

18 NRS, AD15/21/75.

19 NRS, AD15/28/97, letter from PF to Crown Agent, 14 April 1928.

20 E. R. Keedy, 'Criminal Procedure in Scotland II', *Journal of the American Institute for Criminal Law and Criminology*, 3:6 (1913), 838.

and other elites were more concerned by a blood father committing incest than they were by an assault perpetrated by a non-blood stepfather.

The HCJ data do not provide insight in this matter, but they do reveal the difficulties of Scots Law in this period when dealing with consanguineous and non-consanguineous incest. For example, a case in 1920 involved a widower who was accused of incest with 'the lawful daughter of your wife'. The wife had died leaving the panel with her ten-year-old daughter by a previous marriage. Once the child turned thirteen, the assaults began and were indicted as incest. However, simultaneously the widower was accused of attempted incest with her five-year-old half-sister, his natural daughter. In instances like this, the law was blind to the relational difference between the siblings; the crime was incest irrespective of their blood relationship to the perpetrator. In this case, the panel was found unanimously guilty of incest with both girls.[21] However, confusion over the law might be a first line of defence, as illustrated by a case in 1926 in which the panel was reported to have said at the police office that he had no idea sex with a stepdaughter was illegal; another stepfather in 1928 was reported as saying 'that is not incest' when charged with incestuous intercourse with his stepdaughter.[22] If an illegitimate child was assaulted, under Scots Law that was not incest, but might be charged as rape. An absurd case in Glasgow in 1930 involved a thirteen-year-old blood daughter and her older stepsister. Under Scots Law, the charge against the panel might have been incest on both counts; however, the stepdaughter had been born out of wedlock making her illegitimate, and therefore there was no incest charge to answer. In these circumstances her case might have been heard as rape, but it appears that no one pursued it on her behalf, although the younger blood daughter's case was successful.[23]

The necessity to maintain secrecy and privacy meant that incestuous assaults were all committed indoors and almost always without witnesses; most fathers threatened their daughters with further physical violence if they divulged their 'secret'. In the majority of cases, the mother was absent either temporarily or permanently through death or the break-up of the marriage. However, in one particularly disturbing case, assaults had begun when the mother fell ill. The father shared a bed with his two daughters, leaving the kitchen bed for his sick wife. The precognitions do not reveal whether she was aware of the abuse of her fourteen-year-old daughter, but on the night she died and was laid out in her coffin in their single-room house, the father assaulted the child again, threatening her not to tell the aunt who was coming to collect the girls.[24] Although the HCJ records do not state it absolutely, analysis of the records indicates that incest was a premeditated crime, its perpetration timed when witnesses were absent from the home or powerless to intervene, and its criminality was acknowledged by the perpetrators in their requirement for silence afterwards.

[21] NRS, AD15/20/93 and JC14/35.
[22] NRS, AD15/26/4 and AD15/28/46.
[23] NRS, AD15/30/13.
[24] NRS, AD15/24/12.

Sexual assaults perpetrated against minor females followed similar patterns to those committed incestuously, but with some areas of divergence. Of 101 cases of rape, forty-seven cases were prosecuted on behalf of girls under sixteen years, most of whom were under thirteen years; this is a younger cohort than victims of incest. However, as with incest, many of these crimes were committed indoors, although a proportion occurred outdoors. Those committed indoors correspond with incest cases in their requirement for secrecy, their need for privacy and coercion of the child. For example, an eight-year-old girl in Glasgow was raped in the 1920s when she entered a neighbour's home to light his fire in return for sixpence. Her assaulter had been interfering with her for some time.[25] However, sexual assault of minor girls appears to have been a more opportunistic crime than incest, as illustrated by the case of a seven-year-old in 1919 in Glasgow who was sent with her sister to buy salt late at night; on their way home she was raped and her sister was assaulted by a man waiting in the shadows.[26] In another Glasgow case, a three-year-old girl went in search of a friend next door and was raped by her friend's teenage brother; it was a chance encounter and the perpetrator had no previous police record.[27] Further, a visit to the water closet on the stair could also prove dangerous, as experienced by two girls aged thirteen and seven in Wishaw who were raped as they went to the toilet before bedtime.[28] Although at first reading these crimes appear to have been opportunistic, it might be contended that men intent on sexual violence against children understood that opportunity would present itself in certain locales because of the inhabitants' lifestyles, thus allowing for a degree of premeditation in their activities (see Figures 1, 2 and 3).

Figure 1 Rape, all ages.

[25] NRS, AD15/20/92.
[26] NRS, AD15/19/49.
[27] NRS, AD15/20/74.
[28] NRS, AD15/20/91.

Rape of minor females was the most serious indictment; however, the number of LLPB cases heard at the HCJ reveals that this too was a crime largely committed against female children, both indoors and outdoors, opportunistically as well as with a degree of premeditation. Several cases reveal prolonged abuse against a group of children, for example a case in Glasgow in 1925 involving eight girls aged between eight and fourteen. They reported that the panel had exposed himself to them at his window between June and July. Then, between July and August, the eight- and ten-year-old among them visited his home where he handled them intimately.[29]

Figure 2 Ravish, all ages.

Figure 3 Lewd and libidinous practices and behaviour, all ages.

[29] NRS, JC26/1925/86.

Contemporary welfare investigators attributed sexual violence against minors, whether intra- or extra-familial, to the living conditions and lifestyle of the working classes. Across Scotland's cities, the working classes lived on the streets, spilling out of overcrowded homes, with Glasgow and Dundee arguably the most overcrowded of all. Approximately 60 per cent of Glasgow's and Dundee's populations lived in one- and two-roomed dwellings.[30] The precognitions provide ample evidence of cramped living conditions, such as a family cared for by a married older sister. Her younger siblings, three girls aged from six to eighteen years and a ten-year-old brother, lived in a room-and-kitchen house with their father in Parkhead. An eight-year-old daughter slept in the kitchen with her father and brother, while the other girls took the room. The married sister had suffered attempted incestuous intercourse when visiting to clean the home, after which the other girls aged eighteen and fifteen came forward to report that their father had assaulted them, always when the other family members were absent. Their mother had died in 1920.[31] In another home, the victim's parents shared a bed in the kitchen with the baby and a younger sister; the victim usually shared 'a crib' in the kitchen with her brother but, on the night she was assaulted, her father had pulled a tooth for her and had taken her into the marital bed. She reported that her mother had said he should leave her alone when she heard his activities during the night.[32]

In the 1917 *Report of the Royal Commission on the Housing of the Industrial Population of Scotland, Rural and Urban*, the implication from contemporary welfare officers was that overcrowded apartments, where families grew up without privacy, resulted in depraved behaviour, a theory emphasised nine years later in a further government report. The authors of the *Report of the Departmental Committee on Sexual Offences against Children and Young Persons in Scotland* commented that 'few people realize the closeness of the connection between bad housing and the offences with which we are dealing'.[33] The HCJ records reveal that details of sleeping arrangements were only requested in precognitions for incest and where rapes had been perpetrated by lodgers, which emphasises contemporaries' correlation of overcrowding with sexual violence. Professor Glaister, Glasgow University's famous forensic physician who provided expert opinion on many of the cases contained in the HCJ records, further correlated alcohol abuse and unclean conditions with 'moral degeneracy amongst the poor'.[34]

Equally, outdoor spaces could be sites for sexual assaults. 'The streets offered poor families positive resources for entertainment, companionship, and survival', as Linda Mahood and Barbara Littlewood's research on Scottish child offenders

30 Knox, *Industrial Nation*, 192.
31 NRS, AD15/22/25.
32 NRS, AD15/24/79.
33 *Report of the Departmental Committee on Sexual Offences against Children and Young Persons in Scotland* (Edinburgh, 1926), 40–2.
34 M. A. Crowther and B. White, *On Soul and Conscience: the Medical Expert and Crime* (Aberdeen, 1988), 52.

reveals, but it also left children vulnerable to prowling males intent on sexual crime, as a child going for chips late at night experienced when she was raped on her way to the fish shop.[35] Since working-class parents 'could not afford the luxury of extended dependence' by keeping their children within the confines of the home and closely supervised, it meant that these children gained their independence at an earlier age than their upper- and middle-class counterparts and spent their leisure time outdoors.[36] Nevertheless, victims and their supporters in their precognitions failed to evince either living conditions or lifestyle-related reasons for sexual assaults against their children.

However, lifestyle and everyday contact with males may have contributed to some of the adult rape cases prosecuted at the HCJ. In these cases, the records reveal that young women returning from work or entertainment alone might fall prey to a predatory male or be assaulted by boyfriends. As courting couples, they were alone with no eyewitnesses and, in these cases, it was the girl's word against her assailant's. In cases of boyfriend–girlfriend rape prosecutions, a close reading of the records suggests these were instances of courtship gone too far, and it might be speculated that where the male had paid for the girl's entertainment, such as a cinema trip or dance, and she had accepted his offer to walk her home, he anticipated some form of sexual appreciation. For example, in 1921, having met at a local dance, a twenty-year-old domestic servant was accompanied home by her dance partner at four o'clock in the morning. Her statement suggests there was little preamble to the assault on a remote lane, after which she managed to reach home and informed her parents who called for the doctor.[37]

Of rape cases brought by adult women, the majority were aged 16–24 years, and most of them were acquainted with their attacker to some degree, either as boyfriend and girlfriend, or work colleagues. There were sixteen cases of group rape perpetrated by two or more men against a single female, with a further nineteen cases identified as stranger rape, which follows modern patterns for stranger rape.[38] However, comment from these adult victims or their supporters concerning the reason for their assault is again absent from the records. Either it was unsolicited by their precognoscers and other officers of the judiciary, or they did not hold an opinion.

Thus, the ultimate question remains unanswered by the HCJ criminal case files for sexual violence: why did these men perpetrate their crimes? Sharing

[35] L. Mahood and B. Littlewood, 'The "Vicious" Girl and the "Street-corner" Boy: Sexuality and the Gendered Delinquent in the Scottish Child-Saving Movement, 1850–1940', *Journal of the History of Sexuality*, 4:4 (April 1994), 554.

[36] D. Gorham, 'The "Maiden Tribute of Modern Babylon" Re-Examined: Child Prostitution and the Idea of Childhood in Late Victorian England', *Victorian Studies*, 21:3 (Spring, 1978), 372.

[37] NRS, AD15/21/44.

[38] Today, group rapes would be termed 'gang rapes', but this was not a recognised phenomenon in the 1920s.

a bed with an overlarge wife was no excuse for incest, neither was the defence offered by another panel that his nineteen-year-old daughter had nightmares and needed comforting.[39] Analysis of the HCJ records provides no correlation between alcohol abuse which may have reduced the perpetrators' inhibitions, or correlation with periods of unemployment when economic stresses may have provoked criminal sexual behaviour. Contemporary theories correlating living conditions with sexual depravity are not borne out by the limited number of cases in the HCJ records. If domestic arrangements caused sexual abuse both in and outside the home, then surely there should have been more prosecutions? Further, surely prosecutions would have been more evenly distributed across Scotland's urban centres? Or indeed, should more cases have been prosecuted from rural areas where living conditions could be as impoverished as the cities and where opportunities for sexual violence in unobserved locales were greater? Poor living conditions, unstable employment, widespread alcohol abuse, access and proximity to judicial assistance (particularly relations with local police), demographic and employment differences, regional attitudes to premarital sex and an unquantifiable 'dark number' that may also have been subject to regional differences: all of these factors require extensive research in order to ascertain why certain concentrations of sexual violence are apparent in geographical analysis of the HCJ records. Jane Caputi offers a contention that may provide a starting point for further investigation, arguing that 'the violent male is actually society's ultimate man'.[40] Might this argument explain why some men committed sexual crimes while others did not? Were rape and incest manifestations of hegemonic and toxic masculinity among 'ultimate men'?

[39] NRS, AD15/21/9.

[40] J. Caputi, *The Age of Sex* (London, 1988), 62.