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Benjamin Wilkie examines records of convicts who left Scotland for Australia from the mid 18th century, to explore whether perceptions of a ‘criminal underclass’ have been exaggerated.

John Henderson, a captain of the 78th Highlander regiment stationed in India in the 1820s and 1830s, took leave from service due to ill health and travelled to Australia from Bengal in 1829. He would spend three years travelling through Van Diemen’s Land and New South Wales, collecting information and observations of the colonies and their inhabitants. Henderson wrote that he ‘endeavoured to pave the way for officers from the East Indies, who might desire to form permanent settlements in these Colonies.’ He told his readers that he believed that, in proportion to their respective countries, there was ‘an equal number of English, Scotch, and Irish’ in the convict population of the Australian colonies. Henderson also observed, ‘[o]f the Scotch, however, there are fewer,’ and further remarked that the ‘Scotch are considered the best workman, but are also accounted the most vicious and depraved characters of the whole.’

Scots such as John Henderson were in the forefront of the colonisation of Australia and the expansion of the Empire, but convicts were the first significantly sized cohort of Scots to settle in Australia until the middle of the 19th century. Using convict records of 100 Scots who arrived in 1840, we will see how they represented a heterogeneous and diverse group of migrants. What follows is an introductory survey of the nature and numbers of these convicts before the 1850s, revealing a colourful cross-section of Scotland’s industrial, urban workers. In examining the various trades and skills they brought with them to the colonies, we can see how perceptions of Scottish convicts as a hardened criminal underclass have perhaps been overstated and exaggerated.

**Scottish transportation and convicts since the 18th century**

The majority of Scots in Australia in the first decades of European settlement were convicts, although convict transportation from Scotland
had begun many decades before Britain's eyes fell on the Antipodes. Authorities in Scotland began sentencing felons to transportation and exile as early as the middle of the 17th century. By the middle of the 18th century, 'banishment' had become a central punishment in Scotland's penal code; one commentator observed in 1767, 'It came by degrees to be considered as one of the ordinary and established punishments of our Law.'

Very few courts had the power to sentence a criminal to deportation. One such court was the High Court of Justiciary in Edinburgh. Between 1718 and 1775, the court prosecuted 395 people. Nearly half of these were sentenced to transportation to North America, only 93 received the death penalty, 54 were simply banished from Great Britain or a smaller region, and the remainder were given punishments such as whipping and imprisonment. The best estimates indicate Scottish courts transported somewhere between 700 and 800 Scots out of Britain to North America up until 1775. This was a low number in comparison to the English. From 1787 until 1848, however, courts

sent over ten times more Scottish felons to Australia than they did to North America. This suggests considerable change in the culture and practices of Scotland's judiciary, and the reasons for this development help to deepen our understanding of the nature and numbers of Scottish convicts in Australia.

Throughout the 18th century, unlike England, Scotland did not contract the transportation of its convicts to merchants, who would subsequently sell them as servants in the colonies. The arrangements for transportation in Scotland were much more decentralised because of both the small number of convicts and the government's reluctance to subsidise their transportation. Most convicts would be confined while they made private bargains for a passage to America. In Edinburgh, Alexander Kerr was remanded in 1764 until 'any merchant Shipmaster or other person' who was able to 'find sufficient Caution and Surety' agreed to 'transport and land him' in one of his majesty's plantations. In addition to this, if prisoners were not wealthy enough to pay for the passage to America, shipmasters were usually in a position to force them to sign servant indentures. Furthermore, the departure of private ships to America was sporadic, and convicts could be confined in prison for months or years until they could strike a deal with a willing captain. Women and the elderly faced unique hardships in trying to find a passage because they were not considered to be as valuable as young men who were more marketable in the American colonies where skilled and heavy labour were in demand.

Noting that the 'effectual transportation of offenders' from Scotland had been 'often disappointed' so far, in 1766 the British Parliament extended the provisions of the Transportation Act of 1718 to Scotland. This required Scottish courts to consign convicts and transports to specialised contractors who, like those from England, would recoup their expenses by selling the convicts as servants in the colonies. The system was gradually centralised and, by 1771, Glasgow trader Patrick Colquhoun had been contracted to arrange for the transportation of all of Scotland's convicts, which he did until the outbreak of the American Revolution. The British system of transportation was intricately linked to labour demands in America, where a private market existed for indentured labour. The market model of transportation was so effective that a Treasury subsidy to merchants was removed in 1772.

As historian Eric Richards writes, effectively 'the British government was using a private market for transatlantic servants to dispose of convicts at a cheap and efficient rate as well as to create a deterrent.' However, the diversion of convicts to New South Wales in 1788 after American Independence soon meant that no ready market existed for their labour such as it did in America, and the system had to be placed entirely in the hands of the British government.

Britain transported around 162,000 convicts to Australia in the years between 1787 and 1868. Over 80,000 convicts and 1,173 exiles were transported to New South Wales, Moreton Bay, Norfolk Island, and Port Phillip between 1787 and 1840. Between 1803 and 1852, Van Diemen's Land received around 67,140 convicts. Transportation continued to Western Australia between 1850 and 1868, and around 9,790 convicts arrived there in those years.

There were very few Scottish-born within the convict population in Australia. By 1823 a mere 855 Scottish convicts had arrived, accounting for only 3.5 percent of the total. In some years, there were no Scots among the convict arrivals. Malcolm Prentis has estimated that, until the end of transportation in 1868, about 8200 of the convicts in Australia's eastern colonies and between 570 and 700 in Western Australia were born in Scotland.

While Scotland's population was around one-tenth of the United Kingdom during the period of transportation, Scots accounted for only around 5.6 percent of convicts transported to Australia.

Scotland recorded only between 20 and 25 percent of England's transportation rate. One Australian historian reasoned in 1974, 'Scotland did not contribute many convicts, the Scots being less prone to criminality than the English.' Indeed, Scotland was characterised by high urbanisation, industrialisation, literacy, and education, and was therefore typical of the kind of modern society in which these developments are generally accompanied by increased personal safety and freedom from violence. Despite rapid urbanisation and industrialisation, however,
Scottish homicide rates increased massively in the first half of the 19th century and were double the rates of England and Wales. Lethal crimes became more common in cities than rural areas, and southern industrial regions had homicide rates five times higher than in the Highlands between 1836 and 1856. Scotland, therefore, was no less prone to criminality than other British or European societies, and low transportation rates were, as we shall see, more to do with Scotland’s legal system and judiciary.

A.G.L. Shaw argued in 1966 that the distinctiveness of the Scottish legal and penal systems had an effect on the nature and numbers of Scottish convicts. The 1707 Act of Union preserved Scotland’s judiciary and law, and Shaw observed, ‘the Scottish penal code never contained as many capital offences as the English.’ Scotland’s laws and judiciary allowed the accused to plead mitigating circumstances for his or her crime, and handed down only moderate punishments for theft until the third offence. Capital punishment was more moderate in Scotland, too, and only 97 people were executed between 1768 and 1788 in comparison to the 800 executed in London and Middlesex alone.

Previous studies of Scottish convicts suggest that those who were convicted and sentenced to transportation tended to have committed more serious crimes than English, Welsh, or Irish convicts. This seems to have been reflected in popular perceptions of convict Scots. In 1824, a writer in the Morning Chronicle in Britain observed: ‘I have no hesitation in saying that the Irish convicts are decidedly the best, the English are also very innocent creatures, but the Scotch of both sexes are very bad... Though a Scotchman myself, I never wish to see the face of a Scotch convict.’ In his survey of Scottish transportation to the colonies, Archibald Alison observed that, ‘the Scotch beyond all question, were the worst who arrived.’ It was very rare, he said, that those sent to Australia, ‘had not either committed some grave offence, or been four or five, often eight or ten times, previously convicted or imprisoned.’ Of the Scottish legal system, Alison said that transportation was reserved for those who are deemed irreclaimable in this country.’

Historians, who note that most Scottish convicts were repeat offenders (and have also argued that Scots were disproportionately represented among ‘incorrigibles’ at Port Arthur), have reinforced the notion that they were more hardened criminals than their English counterparts. Earlier studies of Scottish convicts have confirmed the observation that Scots often had a history of criminal offences before transportation. Researchers have found that the rate of recidivism among Scottish convicts was 61 percent, which was much higher than the total average of 39 percent, providing more evidence to claims that Scottish convicts, though smaller in number, were more criminally inclined than others were arrived on transports from Ireland, too: the Middlesex on 25 January, and the Dibou arrived via the Cape of Good Hope on 6 November. One Scottish convict arrived in Sydney in 1841 from South Australia on the Dorset – Alexander Gordon had been transported to Van Diemen’s Land in 1829, but was reprimanded again in 1841 in Adelaide for pickpocketing and sentenced to a further seven years. One Scot arrived in 1842 on the Barclay from South Africa: James Graham had been court martialed in Graham’s Town for description and sentenced to seven years transportation. Twenty Scottish women arrived from England on the Surrey on 14 July, 1840, and one further arrived from Ireland on the Isabella on 24 July of the same year.

Most of these Scots received their conviction in 1838 or 1839 – a year or so before their voyage. Prisoners in Scottish cells were often held until twenty or more could be sent under guard to hulks in England. The voyage itself could take three to four months.

The average age of male Scottish convicts who arrived in Australia in 1840 was 27 years old; the average in 1830 was 25. Just over half of the male convicts (51.1 percent) were between 21 and 30 years old. Following this, under a quarter (23.2 percent) were younger than twenty, while 13.6 percent were between the ages of 31 and 40, and 12.5 percent were 41 and
over. Roughly one third (68.2 percent) were single; two men were widowers. These men were, therefore, mostly in their twenties and single. There were, of course, variations. The eldest in the 1840 cohort was Robert Dinwoodie Lawrence, a 51-year-old silk weaver from Glasgow, who was married with two sons and had been convicted of forgery in Edinburgh. He was among just under a third of this group who were married. The youngest were four young men of the age fifteen years, and were all ‘errand boys’ convicted of picking pockets and burglary. Eleven of the Scottish women were between twenty and thirty years old, three were 30 or older, and seven were under twenty years of age. The youngest was Margaret Neill from Glasgow, who, at age fourteen, stole clothes and was sentenced to seven years transportation; it was her fifth conviction. Sixteen were single, two were married, and three were widows. As is to be expected, over half of the women were Presbyterian (54.7 percent), and an additional 34.9 percent were otherwise ‘Protestant’, while nine convicts were Catholic. Of these Catholics, four were born in Scotland but convicted in Ireland, while others were tried in Glasgow, Edinburgh, Dumfries, Lancaster in England, and Graham’s Town in South Africa. Nine of the women who arrived in 1840 were Presbyterian, eight were Protestant, and four were Catholic.

Internal migration in Britain and Ireland, and migration to other parts of the Empire, nuances our picture of Scottish convicts. Not all Scottish-born convicts were tried in Scotland, and not all convicts tried in Scotland were born there. Due to high mobility in Britain at the time, emphasis on the place of trial is considered almost meaningless as an indication of a convict’s origin. Comparing the place of trial and place of birth reveals far more subtleties. All of the women in the 1840 group were from either Glasgow or Edinburgh and all but five had been convicted in the same place they had been born. Over half of the men were from four large Scottish cities: Glasgow, Edinburgh, Perth, and Aberdeen, and, in contrast to the women, two-thirds had been convicted in a different city or region to the one they had been born in.

The story is similar for the Augusta Jessie, which arrived from Ireland on 25 February bearing 115 male convicts. James Campbell, Hugh Gilmore, James Harkness, and Dugald McDonald were the four Scottish-born onboard. All but McDonald, a Presbyterian from Perthshire, were Catholic and had been transported for theft. McDonald had deserted the armed forces and was tried at a court martial in Dublin. On the other hand, Irish-born William Cooper was convicted by court martial in Edinburgh for striking an officer, and was transported for ten years in 1840 on the Woodbridge from England. The traditionally high levels of emigration from Scotland are thus clearly borne out in the convict records.

**Hardened criminals or convict labourers?**

The eminent Australian historian Manning Clarke argued nearly half a century ago that the convicts transported to Australia were relentless thieves who were engaged in a life of crime. Many others have all supported and extended this understanding of Australia’s convicts. They were not workers, pushed to crime out of desperation; they were a hardened criminal underclass, the drunken and demoralised outcasts of British society. This interpretation, however, places limits on understanding the role and impact of transported labour on the economic

**Just two Scottish women onboard the Surry had committed assault, while the others had been committed for crimes against property**

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HISTORY SCOTLAND - NOVEMBER / DECEMBER 2014
development of the Australian colonies. To this end, it has been argued that the convict settlement of Australia represented a substantial act of public investment on Britain’s behalf. With regard to class, the occupations of convicts were recorded with great accuracy—greater even than the British censuses. Analyses of the occupational characteristics of convicts have suggested that they represented a cross-section of the working classes from which they were drawn. In short, historians have found that convicts actually offered colonial administrators an extraordinary pool of skills and occupational experience.

There are two immediate reasons to believe Scottish convicts also represented a cross-section of the working class rather than a hardened criminal underclass. Firstly, the number of Scottish men with prior convictions does not match with observations that Scottish convicts were of the worst kind, or that Scottish courts only sent the most serious offenders.

The largest segment from 1840 had no prior convictions at all (40.9 percent), while a third had just one prior conviction. A further seventeen percent had two convictions, 5.7 percent had three convictions, and 3.4 percent had four, while just 2.3 percent of the convicts had more than five prior convictions on their record. One Scot, 42-year-old John Hunter, had the misfortune of receiving two life sentences; after escaping his first conviction and managing his way back to Scotland, he was reprimanded in Edinburgh and sentenced for life for ‘returning from transportation.’ Only ten convicts had previously served sentences of more than one year; the remainder with prior convictions had only been sentenced to serve periods of between ten days and ten months, indicating that the severity of their crimes and criminal history did not match with perceptions.

Secondly, the nature of their crimes does not suggest that they were particularly abhorrent criminals. They were, as it turns out, mostly opportunists. Just three Scottish convicts from 1840 received sentences for crimes against persons: one for murder, one for grievous assault, and one for ‘cutting and maiming.’ The majority of offenses, 71.6 percent, were related to property—burglary, receiving stolen goods, and pick pocketing, for example. There were four cases of forgery. As mentioned earlier, a large number of men were sentenced for deserting the armed forces, mostly in Canada. One more was convicted of threatening a sergeant, another for striking his superior. All told, court martialled convicts made up 24 percent of this cohort. Overall, there is no strong evidence that Scottish convicts were particularly hardened—indeed, the majority were petty thieves and deserters.

While Scottish convicts had high rates of recidivism, most crimes were petty and trivial, and the demographics of Scottish convicts reflect more of the problem of juvenile delinquency in 19th century Scottish cities than depraved criminality. Most people convicted of crimes were in their early twenties, many had committed previous offenses, and the most common crimes were theft and crimes against property. Most Scottish convicts were thieves and burglars and, although contemporary opinions of the Scottish convicts were undisputed, there is little evidence of a population of hardened criminal Scots in Australia. For Scottish convict women in particular, who some historians have deemed to be the ‘worst of a bad lot’, past criminal records are a poor marker for criminality—most previous convictions had been a similar kind of petty crime that had led their transportation to Australia. Very few women were ever professional criminals. This is reflected in the 1840–42 sample of convicts.

Just two Scottish women onboard the Sirius had committed assaults, while the others had been convicted for crimes against property; most had stolen items such as clothes, money, books, and shoes. Three had been sentenced for ten years, while the remainder had sentences of seven years. Three women had no prior convictions, six had one prior...
conviction, five had two or three, while seven of the women had over four convictions on their record. Only one of them had served a sentence over eleven months before transportation, indicating the mostly minor nature of their previous offences. While there are technically high rates of recidivism in this example, prior convictions are rarely a good measure of criminality. These boatloads, at least, were not carrying the ‘the worst of a bad lot.’

Further analysis of the Scottish convicts from 1840 reflects what some have described as a ‘remarkable reservoir of craft skill and occupational talent.’ All of the women in the 1840 sample of ten boatloads were maids or domestic servants. The majority of the male convicts were skilled and semi-skilled workers – blacksmiths, weavers, and shoemakers, for example. There were a handful of servants, and one wine merchant – John Wishart also Joseph Wiseman, from Fife – who had been convicted of forgery in Edinburgh and sentenced to fourteen years.

Australian colonies, and despite their poor reputation, almost all Scottish convicts had a trade or skill to offer. Not only were the Scots transported by Britain, they contributed to the economic growth of Britain’s Empire through their labour. While this is not special to the Scots, it is a notable contrast to the perceptions and opinions of Scottish convicts as irreclaimable and hardened criminals.

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Most skilled Scottish workers who had arrived as convicts were eventually found utilising the abilities recorded on their indents

in Australia. Just eight of 88 were agricultural or farm workers.

The occupational skills in this sample reveal a diverse group of shoemakers, errand boys, cabinetmakers, soap manufacturers, and hairdressers. Many worked in textiles, transport, building and construction, as professionals and servants, and in the food and drink industries, and they put their skills to good use in the colonies. Most skilled Scottish workers who had arrived as convicts were eventually found utilising the abilities recorded on their indents. Convicts were even able to appeal to authorities if their assigned work was not appropriate to their occupational background.

An interesting feature of the group is the number of soldiers. There were 22 Scots convicted at court martials in various parts of the Empire and transported to the British armed forces, therefore, is also noticeable in the records for Scottish convicts.

This sample of ten boatloads suggests that Scots who involuntarily emigrated as convicts to the Australian colonies in the late 18th and early 19th centuries were mostly young, urban and at least semi-skilled. Their convictions were usually for a minor offence against property, probably committed out of desperation since there seems to be little evidence of habitual criminality. Neither the men nor the women appear to have been overly hardened criminals; they were mostly petty thieves, burglars, and, in this example, deserters from the British armed forces.

After transportation, Scots ‘earned’ a living in the colonies by plying a trade they had brought with them. Convict labourers contributed to the economic development of the early

Further reading

Ian Donnachie, ‘Scottish criminals and transportation to Australia’, Scottish Economic and Social History, Vol. 4, 1984

Abandoned women: Scottish convicts exiled across the seas, Lucy Frost (Sydney, 2012)


The Scots in Australia, Malcolm Prentis (Sydney, 2008)