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‘Bankruptcy, failure, and the appraisal of worth in the Court of Chancery, 1674-1750’

During the sixteenth century, bankruptcy legislation was introduced in an attempt to tackle the dishonesty and immorality of failure in the wider economy. The creditor-friendly laws of period blamed the fraudulent bankrupt for their extravagant lifestyle and sought to drive them from the trading community. However, as the economy expanded and the use of credit became commonplace, this notion of blame became more complex. This paper utilises bankruptcy cases brought before the court of Chancery in order to show how the multifaceted nature of these suits destabilised the appraisal of an individual’s worth and credibility in wider society. As court of equity, Chancery sought to make judgements based upon the concepts of fairness and justice – plaintiffs had to prove that defendants had acted against conscience, while defendants needed to refute these claims by showing that they had acted reasonably. In this manner, the past actions of the bankrupt were described, debated, and assessed by individuals from the trading community, while the bankrupt was forced to defend their actions. Untangling these complex cases can illuminate how the flow of information and circulating judgements about individual failure were played out within the court.

Having recently completed my PhD thesis, this paper will provide the preliminary outline of a new research project that deals specifically with the public nature of status and worth that dictated a person’s ability to function — both economically and socially — in wider society. Indeed, while Craig Muldrew has effectively shown how debt-recovery in the local borough courts led to a ‘culture of obligation’, and Alexandra Shepard has demonstrated that a ‘culture of appraisal’ was established in the ecclesiastical courts, this project will take a different approach. By focusing on a central equity court, I will demonstrate that the complexities of bankruptcy cases upset the flow and circulation of information about individual debtors, upsetting the ability of those within the debt-recovery process to make sound judgements about a person’s worth, credibility and status within wider society. This paper will demonstrate how failure — as a social construct at law — was established by the court in order to mediate in social and financial affairs, highlighting what constituted honourable behaviour. Ultimately, such an approach will expose the norms and values of the period, as we compare what people believed should have happened against the day-to-day realities of procedure.