WRITING ABOUT RAPE: LAW, CRITICISM, AND DRAMA, FROM SHAKESPEARE'S *TITUS* TO *THE LAWES RESOLUTIONS*

by

HELEN MARGARET BARKER

A thesis submitted to the
University of Birmingham
for the Degree of
DOCTOR OF PHILOSOPHY

The Shakespeare Institute
School of English, Drama and
American & Canadian Studies
College of Arts and Law
University of Birmingham
June 2014

UNIVERSITY OF
BIRMINGHAM

University of Birmingham Research Archive

e-theses repository

This unpublished thesis/dissertation is copyright of the author and/or third parties. The intellectual property rights of the author or third parties in respect of this work are as defined by The Copyright Designs and Patents Act 1988 or as modified by any successor legislation.

Any use made of information contained in this thesis/dissertation must be in accordance with that legislation and must be properly acknowledged. Further distribution or reproduction in any format is prohibited without the permission of the copyright holder.

Abstract

When writing about rape in early modern English drama, critics regularly cite its historical legal context. For a subject as highly charged as rape, it might be surprising to find that its legal context has not been as rigorously examined as might be expected. The thesis found misreadings of statutes and treatises in feminist writing of the 1980s. These doubtful readings, often cited at the time in support a paradigm of misogyny and female victimhood, have remained the predominant resource available, and become established in subsequent criticism. The thesis takes on a wider exploration of the discourse to place a reappraisal of rape law alongside already well known social and cultural factors, and the personal and artistic choices made by early modern dramatists. It examines the subject from the point of view of ideology / ethics (Part I), history (Part II) and drama (Part III). The Introduction looks at how the critical paradigm that emerged from the politics of the 1970s and 1980s became established. In Part I, Chapters 1, 2 and 3, review early modern statute law, a much-quoted treatise, *The Lawes Resolutions of Womens Rights*, and the work of Nazife Bashar to identify how misreadings have been incorporated into modern criticism. Part II, comprising Chapter 4, is concerned with social history. In Part III, Chapter 5 examines the route from classical writing to medieval culture, Chapter 6 continues with classical influences in early modern works, Chapter 7 reviews the impact of scandal among the Jacobean aristocracy on rape drama, and Chapter 8, the centrality of John Fletcher, Thomas Middleton and William Rowley to the genre. The thesis concludes that law, ethics, and drama cannot be forced to fit the same ideological paradigm, and that the rape discourse allows space for further critical exploration of early modern drama.

Dedication

For LKB

Acknowledgements

Talking to fellow students over the past few years has suggested it is a common experience to reach a point when neither the beginning, nor the end of the PhD tunnel is in sight. And it can be a long tunnel. Even so, I shall be ever-grateful to Kate McLuskie for saying ‘yes’, when I asked to be one of her research students. Always positive, she has generously imparted a store of knowledge, wisdom, energy, and encouragement throughout this project, with patience, humour and warmth. Looking back, there was always sunshine during the drive up the M40 to Stratford-upon-Avon, and the pleasure of counting red kites over the Chilterns. I always felt completely reinvigorated by my meetings with Kate, and on the return journey, the sun was, usually, still shining.

I should also like to say ‘thank you’ to Farah Karim-Cooper, for her constant friendship, and her interest and enthusiasm for the topic; and to Jane Gibney who first set me on this path. I am very aware of having neglected friends, and I am thankful for their patience and quiet encouragement during this undertaking.

Most importantly, the whole process has been made possible in countless ways, and immeasurably easier thanks to my IT, stationery, and time manager, diary planner, general overseer, provider of material comforts, as well as tasty morsels, liquid refreshment and outrageous humour at crucial times: my husband who has never, once, complained.

CONTENTS

INTRODUCTION
THE CRITICAL CONTEXT p. 1
History and Evidence p. 4
Ideology and the Critical Debates of the 1970s and 1980s p. 9
Furthering the Debate p. 14

Part One: Laying Down the Law

CHAPTER 1
THE LEGAL FRAMEWORK p. 24
Common Law: Ancient, Medieval, Early Modern p. 26
Some Sources of Confusion p. 32
The Statutes p. 42
'History cannot be written from the statute books alone' p. 60

CHAPTER 2
THE LAWES RESOLUTIONS OF WOMENS RIGHTS p. 65
Authorship p. 67
Finding a Readership p. 70
Law Books and the Print Trade p. 79
Publishing *The Lawes Resolutions* p. 85
Rape Law and *The Lawes Resolutions* p. 90

CHAPTER 3
CRITICISM AND INTERPRETATION p. 98
Reviewing Bashar p. 98
The Lawes Resolutions, Criticism and a Complex of Errors p. 110

Part Two: Rape and Social Reality

CHAPTER 4
WOMEN, SOCIETY AND RAPE p. 120
'Sorts' of People p. 121
Gender, Sex and Power p. 123
Women in Public and Private p. 127
Rape and Masculine Identity p. 146
Recognizing the Rapist: Scandal in the Castlehaven Household p. 148

Part Three: Sources, Circulation, Dramatic Representation

CHAPTER 5
FROM ANCIENT TO EARLY MODERN:
MYTH, ROMANCE, NARRATIVE p. 152
Myth, Analogy and Genre: Livy and Ovid p. 152
Helen, Rhea Silvia, The Sabine Women, Lucrecia and Philomela p. 159
Christianity and Pagan Myth p. 164
Medieval Writing p. 171

CHAPTER 6
OVID AND HIS INFLUENCE:
FROM NEO-CLASSICISM TO LOW-BROW HUMOUR p. 178
Translation and Circulation p. 179
Shakespearean Re-Interpretations p. 184
Doubt and Humour p. 191
Sharing the joke: Ballads and Broadsides, Libels and Scandals p. 196

CHAPTER 7
RAPE AND MARRIAGE: A SHOCKING INNOVATION? p. 208
'Marrying the Rapist' p. 209
Rape Drama and the Marriage Resolution p. 215
The Limits of the Marriage Resolution p. 236

CHAPTER 8
FLETCHER, MIDDLETON, AND THEIR COLLABORATORS p. 240
A Tightknit Fraternity p. 243
Authorship and Dramatic Representation: Rape and Threat p. 246
Massinger's Contribution p. 268
Rape: A Passing Fashion? p. 272

CONCLUSION p. 275

BIBLIOGRAPHY p. 278

Conventions and Abbreviations

Quotations from early printed works retain the original spelling, punctuation and capitalization. I / j, u / v, and long s has been silently amended.

The following abbreviations have been used:

BL	British Library
DNB	*Oxford Dictionary of National Biography*
ESTC	*English Short Title Catalogue*
HMSO	Her Majesty's Stationery Office
OED	*Oxford English Dictionary*
PMLA	*Publication of The Modern Language Association of America*
STC	*Short Title Catalogue*
TLS	*Times Literary Supplement*

INTRODUCTION
THE CRITICAL CONTEXT

Rape and the response it elicits is a particularly profound individual and cultural expression of the inequitable balance of power between the sexes, in favour of men and to the detriment of women. For the twenty-first-century reader that inequality is inescapable in the drama of early modern England. The subject for this thesis – the combination of rape and early modern drama in a legal and critical context – follows from previous post-graduate work on significations of rape in Shakespeare's *A Midsummer Night's Dream*. Although the play itself contains no physical rape, the legal context appeared to offer greater ambiguity and opportunity than existing criticism suggested.[1] At the same time, while thinking about Shakespeare's work, it was striking that rape as it is understood today, despite its apparent dramatic potential, only occurs in his plays in the course of his *Titus Andronicus*.[2] A further review of drama in which physical rape is a material fact shifted the focus of the project to the Jacobean stage: in particular to John Fletcher and Thomas Middleton, and the matter of why rape plays were written by whom, and when they were. The drama discussed in the final part of the thesis represents a selection relevant to the discussion in each chapter.[3]

The title of the thesis, *Writing About Rape*, describes the process and the milieu of the enquiry. Shakespeare's *Titus* (1592), and *The Lawes Resolutions of Womens Rights* (1632) by the quasi-anonymous author T. E. indicate the time-span under review.[4] *Titus* has a well-established prominence in literature, while *The Lawes Resolutions* is a legal compendium used as a key document in discussion by modern scholars of history and literature. It is a piece of legal writing from the past that has become embedded in critical writing of the

[1] Rape law – that also includes elopement and abduction – is explained in Chapter 1.
[2] William Shakespeare, Shakespeare, *Titus Andronicus*, ed. by Jonathan Bate, The Arden Shakespeare, third series (London: Routledge, 1995; repr. London: Arden Shakespeare, 2003). Subsequent references are to this edition unless otherwise stated, and given after quotations in the text.
[3] A summary of the chapters follows at the end of the Introduction.
[4] *The Lawes Resolutions of Womens Rights* (London: More, 1632).

present. However, its anomalous status was also significant in directing the thesis to test the reliability of sources, and in bringing law, history and criticism under scrutiny in order to better understand the representation of rape in the professional, commercial theatre.

Rape has unsurprisingly attracted the attention of feminist critics across the academy since the mid-1970s, and in the field of literature there are numerous articles and chapters devoted to rape in individual works, in particular Shakespeare's *Lucrece,* and *Titus*.[5] Yet exploratory reading reveals that despite publication of Nazife Bashar's 1983 essay, 'Rape in England between 1550 and 1700', in the years immediately following a surprisingly narrow body of critical writing developed the potential of the law as a sources for discussion of rape and early modern drama.[6] Only the onset of the twenty-first century brought two monographs focusing primarily on rape. The first, Jocelyn Catty's *Writing Rape, Writing Women in Early Modern England: Unbridled Speech,*[7] was followed by Barbara J. Baines's *Representing Rape in the English Early Modern Period*. In addition Karen Bamford encompasses rape in her monograph on sexual violence, *Sexual Violence on the Jacobean Stage*.[8] The apparent dearth of criticism engaging with historical sources, in the period between the mid-1970s and the turn of the century, during which feminist theory flourished – particularly following Bashar's 1983 paper – on a topic central to gender politics, seemed a matter of curiosity.

An investigation of the legal, social and cultural history relied on to support existing feminist analysis indicated possible reasons for an apparently uncrowded field, and provided the direction for this thesis. The investigation found error, misinterpretation and a tension

[5] *The Rape of Lucrece*, in *The Poems: Venus and Adonis, The Rape of Lucrece, The Phoenix and the Turtle, The Passionate Pilgrim, A Lover's Complaint*, ed. by John Roe, The New Cambridge Shakespeare (Cambridge: Cambridge University Press, 1992; repr. 2004). Subsequent references are to this edition, and given after quotations in the text.

[6] Nazife Bashar, 'Rape in England between 1550 and 1700', in *The Sexual Dynamics of History: Men's Power, Women's Resistance*, the London Feminist History Group (London: Pluto, 1983), pp. 28-42.

[7] Jocelyn Catty, *Writing Rape, Writing Women in Early Modern England: Unbridled Speech* (Basingstoke: MacMillan, 1999; paperback repr. 2011). Obviously until recently most critical references are to the 1999 edition. The reprinted edition contains a new preface; the chapters include reference to more recent criticism, but are otherwise largely unchanged. Subsequent references in this thesis are to Catty's 2011reprint.

[8] Barbara J. Baines, *Representing Rape in the English Early Modern Period* (Lampeter: Mellen, 2003); Karen Bamford, *Sexual Violence on the Jacobean Stage* (Basingstoke: Macmillan, 2000).

between history and ideology in critical representations of the theory and practice of early modern rape law. Bashar's fundamental assertion that rape law changed at the end of the sixteenth century appears to be based on a misreading of the statutes, yet it has become commonplace in criticism, while *The Lawes Resolutions* fails to represent fully and accurately the statutes and other recognized authorities.[9] Feminist writers participating in the critical climate of historicist criticism of the 1980s, and since, have relied heavily on Bashar's essay and *The Lawes Resolutions* for their legal context. However, reading both documents alongside the relevant legal statutes indicates that reliance on either work might be unsafe.[10]

In addition Bashar's ideological interpretation of law and history has created a simple and reductive paradigm of polarized male oppression / female subjugation that has closed down wider discussion and limited the scope for further enquiry. In one reaction to the resulting critical stasis, in 2009 Amy Greenstadt described the failure of feminist critical practices that were trapped in the opposing positions of 'human intentionality' (which she sees as 'outmoded') and 'a critique of intention' (which invites the very scepticism it seeks to overturn). Her recourse was to displace rape from focal subject to analogy.[11] It would indeed be ironic if feminist criticism itself has inhibited the potential for rape as a locus for debate. Yet the contradictions and anomalies afflicting the discourse appeared to offer more complex and interesting scope from which to re-examine the subject.

Fundamental to Bashar's evidence is the lack of prosecutions for rape. It is incontrovertible that rape in the early modern period is characterized by low prosecution rates. But Bashar's essay has established an ideological approach whereby those prosecution rates are presented as evidence of the oppression of women as an adjunct to male

[9] Chapter 1 is devoted to detailed discussion of the law, Chapter 2 to *The Lawes Resolutions* and Chapter 3 looks more closely ay Bashar's influence on modern criticism.
[10] The law, *The Lawes Resolutions*, and Bashar's essay are discussed in detail in Chapters 1, 2, and 3 respectively.
[11] Amy Greenstadt, *Rape and the Rise of the Author: Gendering Intention in Early Modern England* (Farnham: Ashgate. 2009), pp. 5-4.

'hypocrisy'.[12] It has contributed to confining subsequent criticism either to embrace a monolithic narrative of gender opposition, or at least to attempting to force an account of the legal framework to fit such a narrative. The roots of the tension between history and evidence, and the ideology of a post-structural feminist account might be found in tensions in the academy at the time Bashar's work emerged. These are explored below, before the introduction outlines the remaining chapters of the thesis and how they contribute to it.

History and Evidence

There are two significant challenges to consider when discussing rape, either as a crime or as a literary subject, in early modern England: how to treat the subject historically and how to negotiate the gender politics surrounding the topic. The two challenges have found themselves at odds. Feminist criticism has tended to encourage a perception of a polarized subject in which male-dominated historiography is complicit with the trans-historical diminution of the reality of female victimhood. From a historical perspective, any commentary on the crime of rape in the second half of sixteenth-, and early seventeenth-century England relies on sufficient cases having been brought to court to be statistically meaningful. It also requires the contextual evidence from surviving records in which to place such statistical information. That evidence is scant. The limited critical history of the subject correlates with a lack of recorded crime-specific evidence available from the period from which to make sound credible inferences. The opposition between the two positions has drawn historiography itself into the debate.

In an early modern society where the very importance attached to female chastity allowed the ultimate capital penalty for rape, the law was, apparently, rarely invoked. The written law did specifically recognize the crime as one involving sexual violation of the body

[12] Bashar, p. 41.

of a woman but, in legal practice, such cases were rarely pursued. It is an apparent inconsistency between the law in theory and in practice that is readily called upon as evidence of women's objectified status and a failure of those responsible for executing the law. Bashar notes that 'rape usually constituted less than 1 per cent of all indictments'. Yet, she points out, there seemed to be no similar reluctance to execute thieves or murderers.[13] She takes the low rate of recorded rape prosecutions as indicative of a patriarchal legal system that was prepared to consider prosecution almost exclusively when it threatened property or inheritance arrangements Women represented a potential asset to be disposed of in an advantageous marriage. Rape would render them unchaste and unmarriageable – their personal violation was considered a secondary matter; and women without property were, she suggests, of little consequence.[14]

Low prosecution figures alone though, can neither be assumed to indicate under-reporting of the crime nor, without supporting evidence, can they necessarily be taken to indicate the conscious manifestation of misogyny perpetuated by all-male institutions. Nor can it be assumed that the influence of those elements is not significant. J. S. Cockburn notes the 'comparatively inefficient nature of law enforcement […] in the late sixteenth and early seventeenth centuries'. He quotes Edward Hext, a Somerset magistrate and clerk in Star Chamber, as suggesting that 'in 1596 […] 80 per cent of all criminals evaded trial'. In his analysis of crime Cockburn considers indictments laid at Essex, Hertfordshire and Sussex assizes. He chooses these 'because of the survival and accessibility of their records'. He warns: 'They should not be viewed as a microcosm of the whole of England. Their proximity to London, if nothing else, ensures that the experience of these counties differs to some extent

[13] Bashar, pp. 33-35(p. 34), p. 40. In addition to the numerical limitations, the records she cites are not coterminous in timespan or location: inconsistencies in statistical presentation and other problems with reliance on her essay are discussed in more detail in Chapter 3.
[14] *Ibid*., pp. 41-42.

from that of the country at large'.[15] Bashar draws on his work and on similar records, presumably for similar reasons of accessibility. When the statistic that rape represents one per cent of all indictments at assizes and quarter sessions is placed in conjunction with those of Cockburn's magistrate, the fact that there is little material evidence on which to draw conclusions about rape in the period is not only inevitable, but creates considerable space for speculation about the actual incidence of the crime, and the reasons for its invisibility. And, as Cockburn implies, speculation can be dangerous.

The question of poor evidence is not confined to prosecution statistics. Cockburn explains that we still have only a limited understanding of the criminal law system of the period and that 'a majority of criminal court records have been lost or destroyed; and the few that remain are often cryptic and open to various interpretations'.[16] In addition, despite his own painstaking work to produce the *Calendar of Assize Records*, he argues that the inaccuracy of the details recorded on those indictments which survive, particularly occupation and place of residence, is so rife that possibly half of indictments could have been successfully challenged and dismissed '*ignoramus* ('we do not know')' at the assizes.[17] Cockburn suggests that information about the thirteenth century is possibly more accessible than the sixteenth. However, he goes on to suggest that sufficient records survive from 1559 onwards 'to allow limited quantification'.[18] However, his observations reinforce the need for great caution when handling the data.

If rape was under-reported, then so were other crimes, and easy assumptions about the under-reporting of rape must be treated with caution. But if the legal historical record alone is too thin to come to reliable conclusions about rape, Cockburn suggests that it might be

[15] J. S. Cockburn, 'The Nature and Incidence of Crime in England 1559-1625: A Preliminary Survey', in *Crime in England: 1550-1800,* ed. by J. S. Cockburn (Princeton: Princeton University Press, 1977), pp. 50-52 (p. 50, p. 51).
[16] *Ibid*., p. 50.
[17] Cockburn (ed.), *Calendar of Assize Records,* 14 vols (London: HMSO, 1975-1995); also J. A. Sharpe, *Crime in Early Modern England 1550-1750,* 2nd edn (London: Longman, 1999), pp. 53-54.
[18] Cockburn, 'Nature', p. 50.

considered alongside the 'substantial vein of collateral material, both printed and manuscript'. Then he sees the possibility of limited, but valid analysis.[19] In 1988, as the interest in previously marginal writings grew, Patrick Collinson also suggested ways to broaden the historical picture by using collateral material: 'hitherto there has been a characteristic neglect by historians of literary evidence, which includes the often valuable evidence of ballads, proverbs and other surviving ephemera'. The idea does not originate with the modern historian: according to the early seventeenth-century scholar John Selden, 'More solid Things do not shew the Complexion of the times so well as Ballads and Libels'.[20] Yet, despite renewed scrutiny by historians and literary critics from the mid-nineteen-eighties onwards, specific references to the subject of rape in collateral sources are also sparse.[21]

Insight to the complexity of influences surrounding all aspects of early modern sexual morality is offered by critics who have completed work on different aspects of social history. A particularly rich source of evidence for the ways in which rape eluded definition comes from the church courts, and both Laura Gowing and Bernard Capp are among those who have conducted research among those records. The church courts, also referred to as the 'bawdy' courts, as their colloquial name suggests, dealt with matters of moral conduct. So it follows that, in addition to other minor social misdemeanours, all aspects of sexual conduct came within their remit. It is not simply that the subject matter of the complaints is particularly relevant, but the records of those courts are more plentiful and therefore represent a more valid sample of their operation than those of the assizes.[22]

Christopher Hill though, adds another rider, when he tells us that '[t]he proceedings of church courts were conducted in Latin, which few English laymen could understand. Men

[19] Cockburn, *ibid*.
[20] Sharpe, 'Plebeian Marriage in Stuart England: Some Evidence from Popular Literature', *Transactions of the Royal Historical Society*, 5th Series, 36 (1986), 73.
[21] Printed sources, ballads and libels are discussed in Chapter 6.
[22] See Laura Gowing, *Domestic Dangers: Women Words and Sex in Early Modern England* (Oxford: Clarendon Press, 1998); Bernard Capp, *When Gossips Meet: Women, Family, and Neighbourhood in Early Modern England* (Oxford: Oxford University Press, 2003).

and women […] were put on oath and then compelled to testify, if necessary against themselves'.[23] It seems that in cases of sexual assault or rape one major supplementary source is likely to be mediated by the recorder who is certain to have been male. And in many cases he was likely to share with the accused a higher (educated) social status than the victim. He would also inevitably be steeped in the cultural suspicion that a woman's failure to defend herself against assault resided in her will rather than her physical strength. It was a culture in which women were considered 'weak in reason and highly susceptible to [sexual] sin'; and the *querelle des femmes* – the debate about the nature of women – was in full sway.[24]

Among historians and critics alike there is general agreement that rape was under-reported, and that it is a matter of statute that the emphasis of the law was placed on protecting the integrity of family estates against the loss of the material value attached to an heiress. The law protected families against loss of a woman's reputation (and therefore marriageability), through actual rape, through abduction (with financial gain as the objective), or through the exercise of her own choice of partner (elopement) – although the distinction between these three is not necessarily straightforward.[25] But when the law is made by men, predominantly to protect male interests, and is conducted by men, in pursuit of a crime by men against women, it is less likely to be the case either that it was under-used by women, or that it failed in its purpose. Rather, it seems to have functioned much in the way it was written. Even if, from our twenty-first-century vantage point, its practice seems inconsistent

[23] Christopher Hill, *Liberty Against the Law: Some Seventeenth-Century Controversies* (London: Penguin, 1996), p. 194.
[24] Michael Hall, *The Structure of Love: Representational Patterns and Shakespeare's Love Tragedies* (Charlottesville: University Press of Virginia, 1989), p. 3. Hall connects Aristotelian philosophy through St Thomas Aquinas to its influence on Renaissance beliefs about religion and gender. On the *querelle des femmes* see for example Katherine Usher Henderson, and Barbara F. McManus, *Half Humankind: Contexts and Texts of the Controversy About Women in England, 1540-1640* (Urbana: University of Illinois Press, 1985); Merry E. Wiesner, *Women and Gender in Early Modern Europe*, 3rd edn (Cambridge: Cambridge University Press, 2008), Chapter 1, pp. 17-49, esp. pp. 24-34 on the debate about women, and ideas perpetuated through religious thinking; Helen Ostovich and Elizabeth Sauer (eds), *Reading Early Modern Women: An Anthology of Texts in Manuscript and Print, 1550 – 1700* (New York: Routledge, 2004), pp. 56-58.
[25] The law of rape is set out and discussed in detail in Chapter 1 of the thesis, demonstrating how the priorities of those and subsequent statutes persisted into early modern times.

with its theory, its failure to protect women was inflicted not in the (mis)application of the law by the early modern judiciary but by both the religious and secular cultures in which it operated.

Ideology and the Critical Debates of the 1970s and 1980s

In 1977 Edward Shorter began his article, 'On Writing the History of Rape' as follows: 'I am going to criticize *Against Our Will*, writing from my vantage point as a historian'. The book he was criticizing, by Susan Brownmiller, is one which he acknowledges to be 'an important substantive contribution to a subject as well known to conventional scholars as the dark side of the moon'.[26] However, it was not Brownmiller's arguments themselves with which Shorter wished to take issue, but her lack of historical methodology in reading the present back into the past. He challenges her assumptions about 'the *nature* of rape in times past', and her failing to note 'an apparent *decrease* in the incidence of rape over the past century'.[27] His own proposal of rape in past cultures as attributable to 'sexual frustration', arising from the apparent assumption 'that male sexuality is a constant', Roy Porter points out, is also contentious, being guilty of the same anachronistic error.[28] In addition, it is significant that the figures on which Shorter relies span not only several geographic locations (France, Denmark and Toronto), but events on which he fails to comment: for instance the First World War, and the influenza pandemic in its aftermath. His own assumptions, selectiveness and omissions raise innumerable questions about the choices he makes and therefore, in turn, about the rigour of his conclusions. However these are not the focus here. The point is to begin to draw attention to controversies arising throughout the academy during the 1970s and 1980s, as the impetus of postmodernism and feminist academic work took hold.

[26] Shorter, 'On Writing the History of Rape', *Signs*, 3 (1977), 471; Susan Brownmiller, *Against Our Will: Men, Women, and Rape* (New York: Simon & Schuster, 1975).
[27] Shorter, 472.
[28] Roy Porter, 'Does Rape have a Historical Meaning?', in *Rape*, ed. by Sylvana Tomaselli and Roy Porter (Oxford: Blackwell, 1986), p. 219; Shorter, 474.

Feminism was a significant discourse within postmodernism, and rape is a subject which cannot be extricated from feminist concerns. Through the interplay invited by postmodern discourse, rape is a site where ideology is contested within and across disciplines. Nurture versus nature, essentialism versus relativism, radical versus reformist theories of feminism became crucial to situating discussions concerning history, sociology, law and literature. Eventually, debates within and between academic departments about ideology and critical approach connected beyond the campus with a wider political mood, to challenge the context in which increasingly highly emotive and controversial topics might be discussed. The scenario perhaps goes some way to explain why, after its emergence from 'the dark side of the moon', via feminist criticism of the nineteen-eighties, rape seems still to be treated with caution.

The linked challenges of history and ideology emerge in the difference of approach between Brownmiller and Shorter. The problem of history with which Shorter was concerned was not the (now) acknowledged dearth of material historical evidence, but one of methodology, approach and interdisciplinary critical protocols, underpinned by ideology: history versus historicism. Brownmiller's project was an overtly feminist one. The discussion surrounding her work is an example of how the difficulties afflicting the subject of rape in general come to bear – particularly when located in a different period of history. It is not simply the charge that she was guilty of bad history in an academic sense, but that she was approaching it from a specifically ideological and political point of view. As a non-historian she was attempting to create a history of rape to prove that it has always been deployed consciously as a means of social control by men to oppress women. And feminism is one discourse of several embraced by, and calling on, a range of traditionally separate disciplines – including literature – both at that time and subsequently.

The collision of ideology and history, and the debates it inflamed, erupted as literary critics increasingly began to engage with history. It was at the beginning of this evolution that the clash of methodologies between Shorter's history and Brownmiller's multidisciplinary feminism occurred. The particular arguments and tensions that arose within Shakespeare studies are set out in a full account written in 1987 by Lynda Boose in which she tells the story from the point of view of radical feminism. Boose argues that the status enjoyed by subjects such as Shakespeare and Renaissance studies, and specific social issues they engender, means that controversies around them cannot be '"merely academic"'. And the emergence of interest in family, sex and marriage throughout all Renaissance disciplines, at the same time as literary theory was being propelled to a much more public and politicized arena of study on both sides of the Atlantic, helped to establish their academic significance.[29]

Building on the theories of Melanie Klein, early feminist psychoanalytic theorists such as Janet Adelman, and Coppelia Kahn, shifted the emphasis from Freudian phallocentric criticism to the maternal aspects of gender construction. But, in turn, the approach attracted the accusation that it was grounded in the very texts that were now being questioned. And it remained a constraining problem for feminist Renaissance literary critics of the 1980s to find female voices in a canon of male-authored texts.[30] Some critics, like Juliet Dusinberre, read the puritan concept of marriage as potentially liberating.[31] Others found their research merely reinforced the overwhelmingly masculine nature of the institution. Kathleen McLuskie's strategy, according to Boose, was one of 'radical resistance' that meant choosing between Shakespeare and feminism. And, from an American liberal feminist point of view, it forced

[29] Lynda E. Boose, 'The Family in Shakespeare Studies; or – Studies in the Family of Shakespeare; or – The Politics of Politics', *Renaissance Quarterly*, 40 (1987), 707-42 (707). The following discussion closely follows Boose's exposition.
[30] *Ibid*., 714-716.
[31] *Ibid*., 719; Juliet Dusinberre, *Shakespeare and the Nature of Women*, third edition (Basingstoke: Macmillan, 2003).

the same contradictions and choice between feminism and Marxism – an ideology with which it was closely allied.[32]

Feminist critics were left with a choice either to seek out the limited number of female-authored works, or to use existing critical approaches to challenge the social order they represented. Moreover, as theirs was a political project specifically aimed at inclusiveness and at breaking down assumptions that the family was female territory, they encouraged male participation. Meanwhile male materialist critics turned the 'new methodologies' back to their preserve of 'power and court politics and effectively reconstructed a 1980s version of the Elizabethan World Picture'.[33] Despite their ostensibly similar ideology of culturally constructed identity, and the representation of authority in literature, 'by means of several […] critical displacements' such as 'race or class' women were 'silently eradicated from the text, leaving only one gender for consideration'.[34] It is a process encapsulated when Brownmiller's narrative of women's oppression became Shorter's theory of men's sexual frustration.

Feminist criticism, Boose explains, was accused of being '"ahistorical" for its failure to recognise the historical specificity of psychic and social structures that produce gender and family'. Critics of (male) materialist and historicist criticism make the same complaint. Brian Vickers, for instance, accuses New Historicists of 'foisting […] modern cultural and political attitudes' on to the past. Regardless of the object of criticism, the major significant question concerns the meaning of 'historical': is it 'the methodological procedure, or the name alone that automatically presumes a "histori*cist*" criticism is consonant with what a histori*an* might define as "historic*al*"'? If history is to be privileged, then history had been claimed by a

[32] Boose, 723-26 (723).
[33] *Ibid*., 727.
[34] *Ibid*., 728, 729.

masculine academy, to fit with the male-authored canon, to serve the continuing discussion of patriarchal power and its reproduction.[35]

According to Boose, 'the feminist privilege of the literary work never assumes that the text is a free agent nor wholly divorced from its historical moment'. She elaborates:

> A historical text is seen as fully approachable through contemporary ideas – nor are those ideas assumed to be projections backward from the present. Even though a social idea may not have been articulated during the historical moment in which the text was produced, such ideas are imagined as being potentially fully present, latent within earlier times […] awaiting […] a discourse, that could articulate them.[36]

Yet, the recourse to the imaginary and the assumptions of transhistorical sisterhood sit uncomfortably with claims to historical credibility.

The difficulties in approaching early modern history and drama from a feminist perspective are compounded in the subject of rape. If not 'divorced from its historical moment', the historical record is scant. Charges of back-projecting, transhistorical perspective, subjectivity and psychological essentialism all have to be negotiated from a present day when the politics surrounding the subject outside the academy are still as tricky as the critical challenges within. And the origins and literary evolution of the Lucretia myth was researched extensively by a man – Ian Donaldson.[37] It therefore may be unsurprising that following the upheaval in academic methodology of the 1980s, rape as a subject – as opposed to rape as the subject of specific drama – remained largely an adjunct to those other dominant and displacing narratives.

The challenge of methodology requires a conscious negotiation between the differing priorities of literary and historical criticism. McLuskie illuminates the unresolved currents of

---

[35] Boose, 'The Family', 733-34; Brian Vickers, *Appropriating Shakespeare: Contemporary Critical Quarrels* (London: Yale University Press, 1993), p. 267. Different contributions to the debate surrounding old and new history methodologies can be found in *The Postmodern History Reader*, ed. by Keith Jenkins (London: Routledge, 1997).

[36] Boose, 734.

[37] Ian Donaldson, *The Rapes of Lucretia: A Myth and its Transformations* (Oxford: Clarendon Press, 1982, repr. 2001). Throughout the thesis the form 'Lucretia' will be used in general discussion; 'Lucrece', is adopted when representing usage in source material.

unease between and within the two, while identifying ways to enable both to approach history with some confidence. Her essay, 'Old Mouse-Eaten Records', looks back to radical debates surrounding Shakespeare studies during the 1986 Berlin Shakespeare Association Conference, in order to describe a specific theatre project – Records of Early English Drama – and its relationship with historical research. She discusses the differences between the 'historicizing criticism' which tended to view culture as a whole 'through the juxtaposition of contrasting texts', and 'the new social history', the practitioners of which 'relished the distinctions provided by region and community […] the fascinating accumulation of and distinction among details'. The new social history apparently left little room for the literary critic. However, post-structural criticism destabilized the relationship between historical sources and historiography raising '"an awareness of the degree to which a reading of the past is an ideological construction mediated by a desire or a drive to position oneself in the present"'. The anxiety produced in historiography does, after all, create a space in which the literary critic can operate as a skilled reader of texts.[38]

Furthering the Debate

Feminist historians writing after Bashar identified the tension between cultural ideology and history. Garthine Walker follows Bashar in emphasising the negligible number of successfully prosecuted cases, observing that 'the social history of rape in early modern England could be described as a non-history, a history of absence'.[39] But, in contrast, she explores cultural barriers that might have deterred women from pursuing prosecution of sexual violence. Miranda Chaytor adopts a psychoanalytic approach to rape in the later seventeenth century; an important facet of her work is the use made of metaphor by women

[38] McLuskie, 'Old Mouse-Eaten Records: The Anxiety of History', *English Literary Renaissance*, 25 (1995), 417, 423.
[39] Garthine Walker, 'Rereading Rape and Sexual Violence in Early Modern England', *Gender and History*, 10 (1998), 1.

presenting accusations of rape.[40] Walker admires Chaytor's 'pioneering' contribution to 'restoring the violence of rape […] to its history', but is concerned at the reliance Chaytor places on today's knowledge and perceptions, and is uneasy at its necessary assumption of rape as an 'ahistorical', or a 'transhistorical' phenomenon.[41] It is a charge that must inevitably afflict the psychoanalytic critic – as it did a decade earlier. It identifies the dangers of privileging nature over culture, and of anachronistic empathy with a different historical time armed with ideology based in the present day. Walker's concern at the absence of historical enquiry into rape itself though, implies sympathy with Bashar's ideological assumption of it as a symptom of transhistorical male indifference. Nonetheless, Walker is among historians, including Capp and Gowing, who have pursued the strategy identified by Cockburn and Collinson to recuperate collateral material and ephemera in order to unearth female narratives of rape. Their methodology, to seek meaning among more apparently prosaic documents, has enriched the opportunities for later literary critics and contributed to a productive dialogue between disciplines.

Nevertheless, not only is the influence of the 1983 piece by Bashar inescapable some twenty years later, but critics also still take elements of their positioning from the very piece with which this discussion begins: Brownmiller's *Against Our Will*. Brownmiller helped to perpetuate a paradigm in which patriarchy, misogyny and female powerlessness accommodate only subversion or victimhood, co-opting the fact of sparse and incomplete historical record to its cause and leaving little obvious space to enrich the discourse of rape. Consideration apportioned to the need for a valid historical sample, the cultural context, and the process of law-making which invariably evolves (often slowly) in the wake of historical circumstances, has been significantly subsumed to feminist ideology in these two works.

[40] Miranda Chaytor, 'Husband(ry): Narratives of Rape in the Seventeenth Century', *Gender and History*, 7 (1995), 378-407.
[41] Garthine Walker, 'Rereading', 2, 3.

In conjunction with the work of contemporary historians, Catty, Bamford, and Baines mark a return to the subject of rape in literary criticism at the beginning of the twenty first century. Prior to their interventions, Bashar's history still appears to have been the only readily accessible source for those seeking legal context.[42] Catty, Bamford, and Baines each devote a section to the interpretation of rape and the law, and use Bashar as a significant source.[43] However, it should be noted that Catty acknowledges the lack of a 'comprehensive study of rape in English literature in the early modern period', contrasting the extent of material on the 'accounts of rape in Medieval French literature'.[44] For subsequent writers, the works of these three critics then assume authority and are regularly cited instead of or alongside Bashar. Other substantial studies remain few. Elizabeth Robertson and Christine M. Rose brought out their collection, *Representing Rape in Medieval and Early Modern Literature*, in 2001. Their introduction notes that '[s]urprisingly few books have been devoted to theorizing rape', and that, despite sociologically based works from the 1970s and1980s, such as Brownmiller's and Porter's, '[l]ittle theoretical work has been done on representations of rape'. Their observation possibly explains why the majority of their collection covers the medieval period, or from the later period, verse and prose.[45] In 2003, Linda Woodbridge and Sharon Beehler's collection, *Women, Violence, and English Renaissance Literature* was published. Again, this book mixes different types of violence and genre so that the combination of rape and drama does not predominate. It also contains

[42] In the meantime, works such as *Erotic Politics: Desire on the Renaissance Stage*, ed. by Susan Zimmerman (London: Routledge, 1992) brought together collections of essays on the performance and 'production of eroticism', (p. 1) and the possibility of historicizing Renaissance sexuality, but without specific discussion of rape or its legal context.

[43] See Chapter 3 for a fuller discussion of Catty, Bamford and Baines, as well as and other critics, and their use of sources.

[44] Catty, p.2.

[45] *Representing Rape in Medieval and Early Modern Literature*, ed. by Elizabeth Robertson and Christine M. Rose (Basingstoke: Palgrave, 2001), 'Introduction', p. 4. Despite there being little space for a full discussion of law in individual essays, two provide useful footnotes on sources of the law: Christopher Cannon, 'Chaucer and Rape: Uncertainty's Certainties', p. 275 n.5, p. 277 n.13-16, and Amy Greenstadt, 'Rapt from Himself: Rape and the Poetics of Corporeality in Sidney's *Old Arcadia*', pp. 344-46 n. 25. (A later version of Greenstadt's essay can be found in Greenstadt, *Rape and the Rise of the Author*, pp. 29-55.)

examples of thoroughly misleading interpretations of rape law in which further authorial interpretation compounds existing errors. These are discussed in more detail in Chapter 3.[46] Lee Ritscher's *The Semiotics of Rape in Renaissance English Literature* (2009) provides an opening chapter on rape law. But from ancient law and the Statutes of Westminster, her coverage leaps to the late sixteenth century omitting important stages in between. Nor does she acknowledge the work of other recent writers in the field such as Catty, Baines and Bamford.[47] The 2011 monograph *Erotic Subjects* by Melissa Sanchez, similarly to Catty's, ranges across genres including hagiography, romance, verse, prose and masque. Sanchez takes as her topic the displacement of love and marriage by erotic narratives in writings by politically attuned authors. She includes one drama: Shakespeare's *Pericles* shares a chapter with his *Lucrece*.[48]

Against this critical background, together with the limited sources concentrating on rape in drama, it cannot be surprising that scholars seeking their own approach continue to struggle with the legal context. Critics whose work is otherwise original and insightful lend credence to Brownmiller and Bashar when they rely on unsafe assumptions – and in doing so, undermines their own research. In particular, the acceptance of Bashar's claim that changes in rape law directly contributed to changed attitudes to the crime in the late 1570s has helped to compound the assertion as fact.

In her 2007 thesis, Lyndsay Croft finds criticism of rape in drama sparse, and lacking either depth, or breadth. She proposes an exploration that offers a 'cultural and historical

---

[46] *Women, Violence, and English Renaissance Literature: Essays Honoring Paul Jorgensen*, ed. by Linda Woodbridge and Sharon Beehler (Tempe: Arizona Center for Medieval and Renaissance Studies, 2003)

[47] Lee A. Ritscher, *The Semiotics of Rape in Renaissance English Literature*, (New York: Lang, 2009). In addition to the comments above: her literary sources for three of her four chapters are almost entirely pre-1990, and only in the fourth, on *Titus*, does she cite 1990's and 2000's critics. See also David Loewenstein's review, 'Recent Studies in the English Renaissance', *Studies in English Literature 1500-1900*, 51 (2011), 199-267 (208), in which, among similar criticism to the above, he puzzles that there seems to be no real connection made between the law (which comprises one full chapter, of four) and semiotics.

[48] Melissa E. Sanchez, *The Sexuality of Politics in Early Modern English Literature* (Oxford: Oxford University Press, 2011). She avoids discussion of rape law with its potential pitfalls, and simply acknowledges other critical arguments, citing brief facts when necessary. She includes brief reference to Bashar, Catty, Baines and Bamford, and historians Chaytor, Walker and Gowing.

framework', and which concentrates on dramatic representations of rape.[49] Julie Sutherland's 2004 thesis aims to foreground less prominent playwrights of the Shakespearean era. It includes rape drama in an examination of how women are represented in drama – although rape is not the main theme.[50] Most recently (2011), Janis Mills considers the influence of literature in law – the 'legal poetics', encompassing rape in her Chapter 1 that concentrates on the myths of Helen, Lucretia, and the Sabine Women in legal writings. Her investigation of the legal background is impressive, but follows the inconsistencies between the assumptions of a legal shift in the late 1570s, and the legal sources.[51] Although the reasons are understandable, in each thesis the works of Bashar and Brownmiller, or sources derived from them, detract in greater or lesser degree from its arguments.

The narrative potential of sexual violence means that rape, or the threat of rape occurs throughout the literary genres. A significant quantity of criticism is written about early modern romance and prose. Although they do not come within the scope of this thesis, narratives written during the 1590s attract particular critical attention for their engagement with sexual violence. These deserve brief mention here. There seems to be a discernible flow from medieval to early modern prose and romance narrative in which overwhelming expressions of violence or passion in pursuit of a desired object, as well as fantasy, distinguish it from drama.

Rape, apparently 'was a stock motif' in a significantly increased number of works of romantic fiction translated or circulating during the last three decades of the sixteenth

[49]Lyndsay Marie Croft, '"Some Women Love to Struggle": A Cultural and Critical Analysis of Dramatic Representations of Rape in the Late Elizabethan and Jacobean Periods' (unpublished doctoral thesis, Loughborough University, 2007), pp. 12-13, also finds cover of the subject limited. She found the criticism of Catty, and Baines in relation to drama interesting and helpful, but that their respective coverage lacked either depth, or breadth of scope in relation to drama.

[50] Julie Sutherland, 'Women Who Wreak Havoc: A New Perspective on Early Modern Drama, 1603-1642 (unpublished doctoral thesis, Durham University, 2004). Sutherland includes chapters on Thomas Heywood's *Rape of Lucrece*, and John Fletcher and others, *The Queen of Corinth*, exploring the possibility that Merione is a dissembler who planned her own 'rape' in order to marry the man of her choice (pp. 32-33, Chapter 4, pp. 137-64).

[51] Janis Jane Darvill Mills, 'Early Modern Legal Poetics and Morality 1560-1625' (unpublished doctoral thesis, University of Sussex, 2011).

century.[52] But despite prominent examples of its threat, the actual rape of a female character within the course of the narrative is much less frequent.[53] For example, Sidney's *Arcadia*, Spenser's *Faerie Queene*, Nashe's *Unfortunate Traveller* are all renowned for their portrayal of sexual violence, however rape actually only occurs unequivocally in *The Unfortunate Traveller*.[54]

Spenser's long poem, *The Faerie Queene*, is located in a supernatural world of fantasy, analogy and allegory. Rape is symbolic, not actual.[55] But 'the threat of rape is extended to virtually every female character'.[56] Florimell and Amoret, both renowned for their beauty, each avoid actual rape. Both women are the object of almost continuous, rapacious intent or pursuit, on land and sea, by men, magicians, monsters, or the proprietary attention of knights. The women in the *Arcadia* as well as *The Faerie Queene* endure grotesque tortures in defence of their chastity. In contrast to the other-worldly locations of Sidney and Spenser, the prose narrative, Thomas Nashe's *The Unfortunate Traveller*, is all too earthly. Jack Wilton, page of the Court and irresponsible prankster, roams Europe. His experiences advance through massacre, plague, gruesome executions, and a rape so gratuitous and brutal it raises question of writer, narrator and audience rather than the victim, or

[52] Catty, pp. 25-30 (p. 25). She also provides a survey of romantic fiction featuring rape or attempted rape at pp. 246-47, n. 2, n. 6, n. 14).

[53] *Ibid*., p. 25, tells us that 'rape was a stock motif in romance', but notes that 'the majority of the rape scenarios (roughly two thirds of them) feature attempted rather than successful rape'. Melissa Sanchez confirms that rape, as defined in early modern law (by force and against the woman's will), 'is conspicuously absent'. On the absence of rape see Melissa E. Sanchez, *The Sexuality of Politics in Early Modern English Literature* (Oxford: Oxford University Press, 2011), p. 20.

[54]Sir Philip Sidney, *The Old Arcadia*, ed. by Katherine Duncan-Jones (Oxford: Oxford University Press, 1985; repr. 1999, 2008 edn); Edmund Spenser, *The Faerie Queene*, ed. by A. C. Hamilton, Hiroshi Yamashita and Toshiyuki Suzuki, 2nd edn (Harlow: Pearson Longman, 2001; repr. 2007); Thomas Nashe, *The Unfortunate Traveller*, in *The Unfortunate Traveller and Other Works*, ed. by J. B. Steane (London: Penguin, 1972; repr. 1985). On versions of the various *Arcadia*, see Catty, pp. 42-43; Jane Kingsley-Smith, 'Cupid, Idolatry, and Iconoclasm in Sidney's *Arcadia*', *Studies in English Literature, 1500-1900*, 48 (2008), 83, note1.

[55] See Andrea Walkden, 'Allegorical Insubordination and the 1596 *Faerie Queene*, *Studies in English Literature, 1500-1900*, 48, (2008), 94. Catty, p. 82, and Frye, 51, respectively identify Amoret's ordeal as 'symbolic', and 'metaphoric' rape.

[56] Catty, p. 74. See also Katherine Eggert, 'Spenser's Ravishment: Rape and Rapture in *The Faerie Queene*', in *Representing Rape*, ed. by Robertson and Rose, p. 382, where she identifies incidents throughout *The Faerie Queene* in which rape is figured or anticipated; Susan Frye, 'Of Chastity and Violence: Elizabeth I and Edmund Spenser in the House of Busirane', *Signs*, 20, (1994), makes reference to the 'rape', of Amoret on numerous occasions throughout the paper. However, she acknowledges the rape as 'metaphoric' (51).

perpetrator. Nashe's writing encourages what might be termed a pornography of violence amongst which Wilton is a voyeur of the rape. Although locked in his room he provides a titillating description of the unfolding events, and the author's use of violence here and elsewhere in the text assumes complicity with the narrator and reader.[57]

Although writers of romance share a common cultural heritage with the dramatists, there is not room in this thesis to include another genre without distracting from the main tenets of law, criticism and drama that are its focus. Even so in challenging the simple paradigm of female victimhood, and examining various components of the rape discourse that contribute to modern critical understandings of rape in early modern drama, the findings should be relevant across the field of early modern literary criticism.

In Part I the thesis considers sources of misinterpretation of early modern rape law in modern criticism. Chapter 1 reviews the legal history; it demonstrates how some commonplace beliefs might have arisen in modern criticism and why they are questionable. Misunderstandings have persisted despite critical references to the legal statutes and commentaries. Much of the confusion is derived from Bashar's arguments and on uncritical reading of *The Lawes Resolutions*. Chapter 2 suggests that *The Lawes Resolutions* was a speculative project aimed at exploiting the emerging print industry. It describes the circumstances giving rise to publication of the treatise and indicates why its legal guidance on rape should be treated with caution. Chapter 3 reviews Bashar's work. It then goes on to survey the resulting widespread misrepresentation of the law by critics; and it demonstrates the extent of prevailing misapprehensions, not only in drama criticism but throughout all genres – and how they expand exponentially.

[57] See Wendy Hyman, 'Authorial Self-Consciousness in Nashe's *The Vnfortvnate Traveller'*, *Studies in English Literature, 1500-1900*, 45, The English Renaissance (2005). She draws attention to the rape of Heraclide as analogous to a preceding massacre. Both scenes build unhurriedly to an inevitable, brutal finale: 'the narrator's concomitant descriptions [...] become increasingly lurid and grandly histrionic', pp. 33-36, p. 30.

As well as legal and ideological barriers, female victims of rape faced social obstacles to bringing appeals of rape. Part II of the thesis, comprising Chapter 4, is devoted to social context. Chastity was the primary determinant of female morality. If, for the aristocracy, the concern was for blood line and inheritance, then loss of reputation or the financial implications of bringing up a child fathered by another impacted throughout society. Lower down the social order, rape was more likely to emerge in the church courts, amidst the social preoccupation with moral conduct, where often it was the woman's reputation under scrutiny. Victims were most often maidservants: the perpetrators, their masters. Law and culture reinforced the power dynamic that disguised the rapist and obscured a crime otherwise acknowledged to be reprehensible. But the exceptional case of the Earl of Castlehaven demonstrates the crucial role identity might play in both disguise and recognition of the rapist, not only among the aristocracy, but throughout society.

Part III turns to early modern drama. Chapter 5 is concerned with the ancient, biblical and medieval background where certain narratives occur. Moral exemplars of the classical world appeared in medieval culture. St Augustine's questioning of the moral bases for rape, suicide, guilt and innocence by means of the Lucretia myth contributed to a European-wide assimilation of Roman ideals into Christianity by means of allegorization. At the same time, romance narratives from the continent circulated in translation in England. Rape was central to a genre that inhabited a chivalric, superhuman and supernatural world from which eventually native fiction emerged, and Chaucer adapted to his own style. Chapter 6 moves on to the end of the sixteenth century when Ovid's mythologies were familiar texts in the schoolroom, and rape a familiar topic. It finds that rapes of the Sabine women and Lucrece are habituated amidst the glorification of Rome's foundation, while his *Metamorphoses*, including the story of Philomela, represents rape as a transformative and therefore a potentially positive act. The rapes of Philomela and Lucrece are central to Shakespeare's

Titus Andronicus and *The Rape of Lucrece* respectively. Shakespeare's *Lucrece* has enduring influence in its lengthy examination of female interiority, while continuing the debate encouraged by Augustine. But Ovid's suggestion, from the *Art of Love*, that women like to be forced, played its part in encouraging rape to be considered a subject for jest. Mockery and satire circulated in the form of libels that played a crucial role in the publicizing of scandal. Doubt, humour, satire and scandal all formed a background to early modern rape drama.

Suzanne Gossett identifies the scandalous behaviour among the aristocracy as a contributory factor to the apparent manifestation of a cluster of rape plays during a brief period between 1616 and 1623. In an influential piece from 1984, she discusses the fact that in these plays, instead of the traditional neoclassical death of the victim, the outcome of rape is marriage.[58] Her work provides a sound platform from which to scrutinize the balance between ideology and history through drama during a period in which rape and marriage particularly coalesced. Chapter 7 takes her piece as the basis from which to discuss rape in drama in the context of the previous chapters. The period of Jacobean tragicomedy encouraged experimentation with the rape story. Similarly to Ovid's juxtaposition of humour and rape, the playwrights recognized genre as crucial to the possibility for articulating a moral or political mood. The chapter looks at a selection of commercial drama throughout the period from 1592 (Shakespeare's *Titus*) to 1631 (Wilson's *The Swisser*), in order to consider the scope for different considerations behind the exploitation of marriage to the rapist as a dramatic device.

Chapter 8 suggests that commercial imperative and the historical coincidence of a specific group of playwrights were at least as significant to the rape canon as the behaviour of a degenerate establishment. John Fletcher, Thomas Middleton and William Rowley, writing at the same time, singly or collaboratively, shared a willingness to test boundaries of

[58] Suzanne Gossett, '"Best Men are Moulded out of Faults": Marrying the Rapist in Jacobean Drama', *English Literary Renaissance*, 14 (1984), 305-27.

sensation and genre, and dominated the rape canon for a decade spanning 1620. Throughout the period the dramatic significance of rape was not confined to the act: it also recurred as a motif – a fear, attempt, or threat. The discussion widens to explore how the rape motif works to intensify drama as a test of morality and as signifier of character in the works of Fletcher, Middleton and Rowley, but also in the works of Philip Massinger.

Law, culture and social mores, as well as the circumstances under which the dramatists produced their work, all contribute to the complex discourse of rape. By focusing in turn on different components that provide the basis for criticism, the thesis attempts to identify and unpick the tangle of assumptions that appear to constrain exploration of the subject. It suggests that attempts to find a simple narrative in which to confine discussion of rape are reductive. The purpose is to return a challenging subject to a fuller context of anomaly, contradiction and uncertainty that better represents the limits of our knowledge and stimulates further investigation.

CHAPTER 1
THE LEGAL FRAMEWORK

There is no comprehensive legal history of rape in early modern England, despite detailed and authoritative analysis of specific medieval statutes from which it evolved.[1] The absence has tempted critics to rely on Bashar's essay and on *The Lawes Resolutions*, and to apply isolated facets of law to texts without adequate legal, political or social context. As a consequence, various misunderstandings have developed and become established in literary criticism.[2] This chapter reviews the legal framework – the ancient law, common law, the statutes and commentary – from which rape derived its meaning in the early modern period. It will revisit the statutes in their full sequences in order to identify how and where misunderstandings and doubtful assertions that have circulated unchallenged in criticism over more than a quarter of a century might have arisen. And it will identify some of the social and political context in which the law operated, suggesting the possibility of a more nuanced picture than that given by the written law alone.

Rape legislation effective in early modern England eventually stabilized during Elizabeth I's reign, but interventions throughout its three-hundred-year evolution contribute to a lack of clarity, as do common law practices surviving from ancient times.[3] It encompassed the various social, financial and sexual possibilities implicit in a woman's removal from the protection of her family. In medieval times the law of rape had also come to

[1] Two historians provide detailed legal analysis of, and commentary on, specific statutes: J. B. Post 'Ravishment of Women and the Statutes of Westminster', in *Legal Records and the Historian: Papers Presented to the Cambridge Legal History Conference, 7-10 July 1975*, ed. by J. H. Baker (London: Royal Historical Society, 1978), pp. 150-164, and 'Sir Thomas West and the Statute of Rapes, 1382', *Bulletin of Historical Research*, 53 (1980), 24-30; and E. W. Ives, '"Agaynst taking awaye of Women": the Inception and Operation of the Abduction Act of 1487', in *Wealth and Power in Tudor England: Essays Presented to S.T. Bindoff*, ed. by E. W. Ives, R.J. Knecht, J.J. Scarisbrick (London: Athlone Press, 1978), pp. 21-44. Barbara Toner, *The Facts of Rape* (London: Arrow, 1977), pp. 85-98, provides a brief history of the law from ancient times to the mid-nineteenth century, but incorporates some of the misunderstandings surrounding the Elizabethan statutes.

[2] Misinterpretations of the law in literary criticism are discussed in more detail in Chapter 3 of the thesis.

[3] The law remained substantially unchanged throughout the seventeenth and eighteenth centuries until the death penalty for the crime was repealed in 1840. See Toner, p. 98.

include elopement and abduction – each potentially causing a loss of marriage prospects, with consequent disadvantage to the family. Later, abduction was treated under a separate series of acts. From the early inception of the written law, and into the seventeenth century, attempts in both law and commentary to define and redefine the offences of rape and abduction militate against clarity. And instances of poor drafting throughout the statutes contribute to obscure the meaning of various clauses. It can hardly be surprising that the interpretation of these laws has been fraught with confusion.

Today it is easy to view the evolving rape law in medieval and early modern times, with its emphasis on a woman's marriage value, as enabling women's autonomy to be subsumed to misogynistic concern for power and wealth. However, in historical terms it represents the tension between the crucial importance of females to the dynastic and material fortunes of the family, and their personal welfare. But, as well as fundamental questions of interpretation and the relationship of rape law with a woman's material value, there were other competing pressures which, at different times, influenced the introduction or drafting of legislation while often adding complexity. For instance, law and order were bound up with the reputation of the crown for whom the law might be a means by which to demonstrate intent at critical moments. The law also offered the sovereign an opportunity to raise revenue by substituting fines for capital punishment, or as in the case of rape, by taking up a suit if the victim or her family failed to pursue it. There are also four examples where it is known or suspected that a statute was written or amended in response to a single high-profile incident.[4] In Tudor times the trade in wardships, prevalent amongst the ruling classes and gentry, made wards vulnerable to abduction for the purpose of exploiting their market value.[5] These practices may not diminish the fact that the law supported the priorities of male public and private power and authority, but they demonstrate the variety of ways in which the status of

[4] The influence of the crown's interest in legislation, and examples of amendments made in response to single events are discussed in relation to the relevant statutes, below.
[5] Wardships are discussed later in the chapter.

the individual was secondary to the interests of family, community, and the acquisition of wealth. The law represented these priorities.

Common Law: Ancient, Medieval, Early Modern

A cultural framework for rape law can be found in the Bible, and elements remain visible in ancient, medieval and early modern rape laws. According to the Old Testament, if a woman was betrothed her rape was punishable by death. But if she was an unattached virgin a fine was paid to her father, and rapist and victim were required to marry. A woman was expected to cry out if attacked in a populated area, or else she was deemed complicit and condemned along with the man. And the penalty for consensual loss of virginity before marriage, or for adultery, was the same as that for a rape: death by stoning.[6]

Rape law extant in Elizabethan England had its origins in ancient law. The mid-seventeenth-century lawyer, Sir Matthew Hale explains the significance of identifying the beginnings of law, and how it is determined. He tells us that Time within Memory begins with the reign of Richard I on 6 July 1191, after which statute law or Acts of Parliament fall within the written law (*Lex Scripta*). Laws made prior to this date are deemed *Lex non Scripta* (unwritten law) and no longer pleadable as Acts of Parliament 'because what is *before* Time of Memory is supposed without a Beginning, or at least such a Beginning as the Law takes Notice of'. However, those laws that were 'now accounted Part of the *Lex non Scripta* being […] incorporated thereinto, and become a part of the Common Law […] obtain their Strength by meer immemorial Usage or Custom'. It seems that the common law (arising from judicial decision, custom or precedent) provided the means by which residual practices

[6] *The Holy Bible*, King James Version (London: Collins, [n.d.]), Deuteronomy 22. 13-27 sets out the laws of rape, adultery and sex outside marriage.

carried on to complement written statute law – adding to the complexity – and therefore scope for confusion – with which the modern critic is required to engage.[7]

Henry of Bratton or Bracton, a thirteenth-century justice, authored the eponymous treatise around the mid-twelve-twenties to early twelve-thirties.[8] *Bracton* is one among several early legal texts that give an account of the ancient law. The anonymous *Fleta*, dated between 1290 and 1300, appears to be based on *Bracton*, but incorporates law passed under Edward I, and was regarded as an authoritative source of reference by Sir Edward Coke, the late sixteenth- and early seventeenth-century chief justice.[9] Lawyers in later centuries also looked back variously to the treatises *Glanvill*,[10] *Britton*,[11] *Liber Horn* and *The Mirror of Justices*[12] for opinion and commentary on the common law. The ancient law of rape is described in the 'Addition' to *Bracton*. The author looks back in history to describe the ancient law of Athelstan. At that time, offences ranged variously from indecorous touching to lying with the victim. The punishments were then graduated proportionately from

[7] Sir Matthew Hale, *The History of the Common Law in England*, ed. by Charles M. Gray (1713; repr. 1739; repr. London: University of Chicago Press, 1971), pp. 3-4 (p. 4). For an explanation of the common law, see also *A Dictionary of Law*, ed. by Elizabeth A. Martin and Jonathan Law (Oxford: Oxford University Press, 2009) <http://www.oup.com/uk/isbn/9780199551248> [accessed 27 November 2012].

[8] Henricus de Bracton, *De Legibus et Consuetudinibus Angliae* (*Bracton*), ed. by George E. Woodbine, trans. by Samuel E. Thorne, 4 vols (Cambridge, Mass.: Belknap Press of Harvard University Press, 1968-77), II (1968). Although in 1977 Thorne argued that Bracton had merely revised the work of an earlier author – probably William of Raleigh whom he had served as clerk – it is also described as 'the most ambitious English legal work of the Middle Ages': see Paul Brand, 'Bratton, Henry of (*d.* 1268),' in *DNB*, online edn <http://www.oxforddnb.com> [accessed 25 February 2013], 'Bratton as clerk and justice' (paragraph 1), 'The treatise known as Bracton' (paragraph 1). Most of the article's subsequent discussion is devoted to the authorship of *Bracton*.

[9] David J. Seipp, 'Fleta (*fl.* 1290–1300),' in *DNB*, online edn [accessed 7 February 2014] (paragraphs 1 and 5).

[10] *Glanvill* is the earliest of the texts, thought to have been completed in the reign of Henry II sometime between 1187 and 1189. John Hudson, 'Glanville, Ranulf de (1120s?-1190)', in *DNB*, online edn [accessed 25 February 2013] ('Glanville and Glanvill: the Law the Book and its Authorship', paragraph 1).

[11] John le Breton (a bishop and a justice), is attributed with the authorship of the treatise known as *Britton*. Alan Harding, 'Breton, John le (*d*. 1275)', in *DNB*, online edn [accessed 25 February 2013] (paragraphs 1and 2).

[12] Andrew Horne, *The booke called the mirrour of justices* (London: Walbancke, 1646); see Jeremy Catto, 'Horn, Andrew (*c*. 1275-1328)', in *DNB*, online edn [accessed 7 February 2013] (paragraphs 1, and 3). Catto tells us that both works are attributed to Horn, who was, predominantly, a chronicler and collector of documents: *Liber Horn* is a comprehensive collection of statutes, supplemented with records of London cases and documents, and Horn retrieved and re-established *The Mirror of Justices* as a legal reference work in about 1313.

compensation via the county court to 'loss of […] life and members'.[13] This ancient law provides context for historical attitudes in *The Lawes Resolutions* and, via both treatises, in modern criticism.[14]

Coming on to his own historical time, *Bracton* explains the equation by which divine authority is vested in the king and delegated down through his representatives: 'all men ought to be subject to the king as surpassing all in virtue and to his ministers as sent from him. Thus divine law agrees to some extent with human'.[15] Although public order serves society in general, the law functions as an instrument to serve the crown's interests above those of its subjects. The raising of funds and the imposition of public order both preoccupied the crown in the Middle Ages, just as they continued to do so into early modern times. Both preoccupations influenced the introduction and drafting of various laws – including, as will be seen in the later discussion of the statutes, that of rape.

Ancient custom and practice which persisted alongside the written law particularly concerned the established process to be followed in an appeal of felony. In his exposition on rape Bracton first sets out the punishment, and how abettors are treated, followed by the process by which a woman should bring her appeal, the wording of it, possible defences to it, and the woman's influence on the punishment. He tells us: 'Among other appeals there is an appeal called the rape of virgins'. The specific reference to virginity in the naming of the crime is particular to its punishment which is:

> Loss of members, that there be member for member, for when a virgin is defiled she loses her member…. Let him thus lose his eyes which gave him sight of the maiden's beauty for which he coveted her. And let him lose as well the testicles which excited his hot lust. Punishment of this kind does not follow in the case of every woman,

[13] *Ibid*., 418. Going even further back in time, Bracton (*ibid.*), explains that 'By the law of the Romans, the Franks and the English', as well as the punishment of the rapist, his horse, dog and hawk he owned should also be brutally mutilated and shamed; and by the king's warrant, any fine of 'land and money […] shall be given to the woman'

[14] *Lawes*, p. 378-79.

[15] *Bracton*, II, 359. Incidentally, earlier in this passage *Bracton* describes rape as one of 'the lighter crimes': one 'who were he present and convicted would lose no more than his members; he sometimes loses his life, on account of his flight'. This is not necessarily to suggest a less than serious view of rape, but that it carries a lesser punishment than death unless, as in his example, the offender absconds.

> though she is forcibly ravished, but some other severe punishment does follow, according as she is married or a widow living a respectable life, a nun or a matron, a recognized concubine or a prostitute plying her trade without discrimination of person, all of whom the king must protect for the preservation of his peace, though like punishment will not be imposed for each.[16]

The passage raises a number of points which are revealing of its contemporary culture: the question of virginity and the equation of a woman's sexual status with the assumed severity of the crime, the assumption that rape is a crime of lust and desire – and that lust is apparently a natural response to female beauty, and the recognition of the law's responsibility to prostitutes. It also confirms the paternalistic relationship between the king and his subjects, and the purpose of the law as a critical tool for 'the preservation of his peace'.[17]

In order to resort to the law, a victim must, in turn, follow a clearly defined process in order to bring an appeal of rape:

> She must go at once and while the deed is newly done, with the hue and cry, to the neighbouring townships and there show the injury done her to men of good repute, the blood and her clothing stained with blood, and her torn garments. And in the same way she ought to go to the reeve of the hundred, the king's serjeant, the coroners and the sheriff. And let her make her appeal at the first county court…. Let her appeal be enrolled in the coroners' rolls, every word of the appeal, exactly as she makes it, and the year and the day on which she makes it. A day will be given [her] at the coming of the justices, on which let her again put forward her appeal before them, in the same words as she made it in the county court, from which she is not permitted to depart lest the appeal fall because of the variance, *as is true in other appeals* [my emphasis].[18]

It should be emphasised that the actions required of the woman in response to a rape follow those generally prescribed for appeals of felony, 'for he who wishes to appeal ought to sue properly'.[19] With no appointed body to enforce the law, hue and cry was a levy placed on 'all [men] who are fifteen years of age and more' in the event of a reported felony. A felon was to be pursued 'from estate to estate and from vill to vill', and if he was not apprehended 'the

---

[16] *Bracton*, II, 414-15.
[17] Post, 'Ravishment', p. 153, points out that prior to the statutes of Westminster, despite *Bracton*, in practice courts did not support appeals brought other than by virgins.
[18] *Bracton*, II, 415.
[19] *Ibid*., 394. See also Glanville, *The Treatise on the Laws and Customs of England Commonly Called Glanvill*, ed. by G. D. G. Hall (London: Nelson, in association with the Selden Society, 1965), Book XIV, chapters 1-8, pp 171-177, which specifies considerations specific to different crimes.

entire township [would] be amerced'.[20] The hue and cry and reporting to officials, signs of injury, the precise recording of the words, and the details of time and place are common to all felonies. Speedy reporting and consistency in the recording of evidence are adduced to support the legitimacy of the appeal. In cases of wounding, clearly the officials would expect to see wounds. But there is an assumption in cases of rape that the crime equates with the use of force or violence. This, in turn, has implications for determining the question of consent, and the establishment over ensuing centuries of the dangerous corollary (for women) that lack of evidence of violence equates with lack of resistance and, therefore, with consent.[21] However, the historical time is particularly important. Elise Bennett Histed points out: 'In an era in history when the population concentrated upon proofs of innocence or guilt such as the ordeals this is quite understandable'.[22] The evidence that officials might expect to see depends on the crime, and *Bracton* indicates the sort of detail that should be recorded.

> If it is an appeal of […] wounding, what kinds of wounds they were, fresh or old, and in what part of the body and of what length and depth. If the appeal is one of robbery, of what goods, and whether his own or another's. If of coined money he must state the number and kind of coins; if of bullion, its value […] if of clothes, their colour and value […] if of an animal, then the kind, the coat and the value. […] If it is an appeal of arson, when it occurred and all the circumstances. If an appeal of rape, then whether garments were torn and whether blood was shed by the ravishment.[23]

The formula for reporting, and examples of evidence given, support a process designed to meet the expectations the court might have of both behaviour and evidence on the part of both appellant and appellee. In the case of rape, the questions take account of exceptions to the appeal that might be brought by the appellee. These include what might be called a technical exception that applied to other crimes: 'that suit was not adequately made'.

---

[20] Bracton, II, 327-28 (327), 350.
[21] The question of consent, or its absence, is implied or specified when defining rape law from ancient times. See *Bracton*, II, 416.
[22] Elise Bennett Histed, 'Mediaeval Rape: A Conceivable Defence?', *Cambridge Law Journal*, 63 (2004), 758-59. Histed, p. 759, note 51, explains: 'The ordeals, physical trials endured by the defendant in an appeal to God to prove guilt or innocence (by, for example, non-corruption after three days of a hand that has been dipped in boiling water) are not the only indicators of the very physicality of the medieval focus'.
[23] *Bracton*, II, 394-95.

There are five other exceptions specified (in addition, says *Bracton*, to 'Many other matters […] though I do not now call them to mind'):

> [1] that he did not deprive her of her maidenhood [...] In that case let the truth be ascertained by an examination of her body, made by four law-abiding women sworn to tell the truth as to whether she is a virgin or defiled. If they say that she is a virgin, the appellee will depart quit of that appeal and the woman will be placed in custody [deemed to have made a false allegation]; if they find that she has been defiled, inquiry must be made as to the guilty party, whether by the appellee or another […]. [2] He may also except against her and say that he has had her as his concubine and *amica* before the day and year mentioned in the appeal […], [3] [or] that he had her and defiled her with her consent and not against her will, and that if she now appeals him it is hatred of another woman whom he has as his concubine, or whom he has married, and at the instigation of one of her kinsmen. [4] He may also except that on the year and day the deed was supposed to be done he was elsewhere [….] also [5] […] on the ground of an omission in the appeal, because she says no more than he lay with her, no mention made of her maidenhood.[24]

There is no separate plea listed in respect of women not claiming rape without loss of virginity. But the severe penalties for rape of virgins, and specific processes required to meet standards of evidence, suggest that within the limits of contemporary social politics the law seeks to achieve a balance for both the woman and the accused. In doing so the guidance on exceptions acknowledges the vagaries of human behaviour, but also makes clear that the woman who brings a rape appeal is vulnerable to imputation of her reputation. It introduces the enduring anomaly between the possibility of a woman making a false claim of rape, and the burden of proof being so onerous that the risk to her reputation makes the law itself a deterrent to an appeal.

Common law provided a conduit by which medieval attitudes and practices persisted into early modern England, alongside the shifting priorities of crown and state, to influence the implementation of rape law. Despite its status as unwritten law, the influence of the rules set out in *Bracton* is clear in the early modern legal compendia of the early seventeenth century. Early modern guides like Michael Dalton's *Country Justice* offered lawyers and officials a succinct version of both the relevant common law and statute law. For instance, in

[24] *Ibid*., 416-17.

all editions of *The Country Justice* published between 1618 and 1630, and still extant in the eighteenth-century editions, remnants of the earlier rules are recognisable. In particular the necessity to raise a hue and cry remains – without specifying that the victim should show bloodied and torn clothing – along with the guidance that a man might successfully plead that a woman was previously his concubine, and that a prostitute is protected by the law.[25]

Some Sources of Confusion

Contrary to their purpose, however, inconsistent terminology throughout both the treatises and statutes, together with the residual medieval common law practices has contributed to modern misunderstandings. Three such topics are worth exploring before progressing to discussion of the statutes. The first is the semantic muddle which surrounds the use of the terms 'rape' and 'ravishment'. Second is the ancient practice of giving a rape victim the option to marry her rapist. The third topic is the assimilation into law of the belief that rape was incompatible with conception.

'Rape' or 'Ravishment'

[25] Michael Dalton, *The countrey justice conteyning the practice of the justices of the peace out of their sessions* (London: Islip, 1618), pp. 247-48; (1619), pp. 256-57; (1622), pp. 256-57; (1626), pp. 281-282; (London: Flesher, 1630), pp. 281-82; (London: Rawlins and Roycroft, 1705), p. 392-93. Dalton (1618), p. 256, for example, also specifies the responsibility on 'every man' to join the hue and cry, or otherwise 'appeare before the Justices of gaole delivery'. Some fifteen editions or imprints of *The Country Justice* were printed from 1618 to the end of the century, and it continued to be published into the eighteenth century. There are a number of examples of guidance commending themselves to justices of the peace in the early modern period. They all quote very similar definitions of the law, and a number are based on the work of a collaborative group of lawyers. For instance, *A manuall or analecta […]formerly styled The complete justice* (London: Flesher, 1641), and *The compleat justice* (London: Flesher, 1656) were published in several editions until 1681, variously identify its main source or authorship as lawyers William Lambarde, Richard Crompton, and Dalton, along with one Richard Chamberlain. (The earliest editions of *The complete justice* (1637 and 1638) are unattributed.) Lambarde had previously authored *Eirenarche, or Of the offices of the justices of peace* (London: Newbery and Bynneman, 1581), also printed in several editions (to 1619). Even earlier, *The boke of justices of peas* (London: Pynson, 1505), and Sir Anthony Fitzherbert's, *The newe boke of justices of peas […] lately translated out of Frenche* (London: Redman, 1538), were printed in various editions to 1546 and 1566 respectively.

It is already apparent from *Bracton* that the words 'rape' and 'ravishment' are both used in the same context. Attempts in criticism to distinguish between the meaning, in law and commentary, of 'rape' and 'ravishment', between the various conjugations of '*raptus*' and '*rapere*', and to align their meanings with the crimes of rape and abduction have compounded various fallacies surrounding the crimes.[26] The confusion is not confined to modern critics. Christopher Cannon finds various late fourteenth-century scholars who assert with respective certainty that 'raptus necessarily meant abduction and contained no connotation of sexual violence […] that rape or forced coitus is the only acceptable translation […] [and] that the word *raptus* was so ambiguous […] that it could mean either'.[27]

Medieval law spans the Statutes of Westminster. Close analysis of its development by medievalists illuminates the background against which terminology and language from pre-conquest and unwritten law adds confusion to statute law. Corrine Saunders traces in detail the complex progress of ancient and early medieval laws of rape and abduction, their European origins and their various linguistic meanings and traditions. She explains that Pre-Conquest Norman law retained elements of Frankish, Gallic, German and Roman traditions. Post-conquest, elements of French feudal law were absorbed into the existing Anglo-Saxon codes; both Anglo-Saxon and early Norman laws distinguished rape and abduction. Common law persisted alongside written law after the Statutes of Westminster. However, under the Normans women began to lose the legal status they had previously enjoyed – particularly in relation to inheritance. The Anglo-Saxon influence remained throughout the Middle Ages to distinguish English law from Continental European law, although in the later medieval period Roman law became more dominant.[28]

---

[26] See Chapter 3 for examples.
[27] Christopher Cannon, '*Raptus* in the Chaumpaigne Release and a Newly Discovered Document Concerning the Life of Geoffrey Chaucer', *Speculum*, 68 (1993), 75.
[28] Corrine J. Saunders, *Rape and Ravishment in the Literature of Medieval England* (Cambridge: Brewer, 2001), p. 27, p. 30, p, 119. On medieval rape law, see also John Marshall Carter, *Rape in Medieval England: An*

Canon law and its commentators defined the word '*raptus*' specifically in relation to abduction and virginity as the emphasis on marriage and property grew. Saunders gives particularly enlightening insight into how usage of the terms 'rape', '*raptus*' and 'ravishment' evolved from the assimilation of legal traditions, language and culture. She shows its relevance to early medieval law, and in doing so, the basis for confusion over terminology for early modern critics. She describes how the situation is further complicated by the moral and rhetorical arguments arising from theology and canon law. And although overlapping in some respects, canon law and secular law differed in others. Later medieval writers were particularly influenced by *summae* – collections of dogma and commentary. A particular interest in sexuality in the *summae* represented the Church's concern about a matter largely overlooked in secular law. Definitions of rape were proposed in relation to what were perceived to be its various manifestations – 'the questions of violence, consent, abduction, status and resistance'.[29]

Contrary to their crucial relevance to the evolution of medieval law, attempts to make either a clear distinction or connection between rape and abduction by means of pre-conquest terminology do not withstand statute law. Saunders's discussion reinforces the point; it also reinforces the suggestion that to propose specific meaning today, for words used inconsistently or ambiguously in early modern texts, is unproductive.

By the 1620s, however, Coke is clear that rape or 'raptus' 'is when a man hath carnal knowledge of a woman by force and against her will'. Any appeal must contain the word 'rapuit', for 'without this word it cannot be expressed by any periphrasis or circumlocution; for *carnilatur cognovit eam* [he had carnal knowledge of me], or the like, will not serve'.[30]

Historical and Sociological Study (Lanham, Md.: University Press of America, 1985); Caroline Dunn, *Stolen Women in Medieval England: Rape, Abduction, and Adultery, 1100-1500* (Cambridge: Cambridge University Press, 2013).

[29] Saunders, pp. 76-87, pp. 33-63, p. 86.

[30] Sir Edward Coke, *The First Part of the Institutes of the Laws of England, or a Commentary on Littleton*, 10th edn (London: Rawlins and Roycroft, 1703), pp. 123-24.

The temptation to distinguish between rape and ravishment in modern literary criticism is compounded by reliance on *The Lawes Resolutions*. The author devotes section XXI to 'Ravishment in two sorts', but apparently contradicts the notion when he elaborates, saying that only one kind of rape is called 'by the common people and by the law itself, Ravishment' – that of rape as sexual violation. He distinguishes, correctly, between rape and abduction and notes that ravishment is borrowed from the Latin 'rapere' (to seize), 'but unproperly, for it is no more but *Species stupri* a hideous hateful kind of whoredome in him which commiteth it': it is rape. Despite the misleading headline, the author makes clear that rape and ravishment are the same crime.[31]

Bracton and Coke, among others, use the words 'rape' and 'ravishment' interchangeably.[32] And in his 1630 edition of *The Country Justice*, Dalton explains that 'Ravishment is here taken in one and the same signification with Rape, which is a violent deflowering of a woman, or a Carnall knowledge had of the body of a woman, against her will'.[33] However, it is the law itself which provides the clearest evidence. The rape statutes themselves use the words interchangeably in respect of all types of rape – including elopement and abduction – until the first Abduction Act in 1487. Subsequently, both terms are applied only to felonies prosecuted under the rape statutes: there is no statutory distinction between rape and ravishment.[34] And *neither* term is used in the abduction acts. Instead, the alternatives, 'defoulled', 'deflower', 'violating', 'defiled' describe the personal consequences

[31] *Lawes*, pp. 377-78.
[32] See for example Coke, *First Part of the Institutes*, p. 123, *The Second Part of the Institutes of the Lawes of England*, 4th edn (London: Brooke, 1797), p. †179, p. 180, p. 181; *Bracton*, II, 414.
[33] Dalton (1630), p. 281.
[34] For the rape / elopement / abduction statutes (in chronological order) see, *Statutes of the Realm*, 12 vols (London: England Record Commission, 1810-1828), I (1810), 29, 3 Edward I, the First Statute of Westminster, chapter 13 (1275); *Ibid.*, 87, 13 Edward I, the Second Statute of Westminster, chapters 34-35 (1285); *Ibid.*, II (1816), 27, 6 Richard II, chapter 6 (1382); *Ibid.*, II, 367, 31 Henry VI, chapter 9 (1453); *Ibid.*, II, 512, 3 Henry VII, chapter 2 (1487); *Ibid.*, II, 538, 4 Henry VII, chapter13 (1488); *Ibid.*, III (1817), 757, 32 Henry VIII, chapter 12 (1540); *Ibid.*, IV, part I (1819), 617, 18 Elizabeth I, chapter 7 (1575); *Ibid*., IV, part II (1819), 910, 39 Elizabeth I, chapter 9 (1597). They are discussed in sequence, below.

of a crime primarily against property and inheritance.[35] It appears that the interchangeable usage of the terms has, at least in part, stimulated an imperative among commentators and critics alike to equate duality in the purpose of the law with a semantic variation. The resulting attention has added further layers to an already confusing subject.

Marriage to the Rapist

Bracton describes the origins of medieval provisions that enable a woman to choose to marry her rapist. After reiterating the penalty of loss of eyes and members for rape, the treatise continues:

> Unless […] the woman thus defiled claims him for her husband, for this lies wholly in her discretion, not in that of the man, for if it lay in his discretion this unseemliness would result, namely, that a villein or common person might bring perpetual disgrace upon a woman of nobility and good family by a single act of defilement and take her to wife to the disgrace of her family. But suppose the ravisher is a noble man and the woman raped a common person; will it be for the defiled woman to exercise a choice and decide whether she will marry a noble man or not […]? [T]he choice and the decision will always rest with the woman, for what is a voluntary act on her part will be a necessary act on his, that he may redeem his members […]. Several maybe accessories, but only one shall be held for the defilement, though the several may be liable for lying with her, for to defile a virgin and to lie with one defiled [are different deeds]. And […] it is evident that the same punishment ought not to follow in both cases.[36]

Although the woman's autonomy is recognized as central, the extent of her family's influence on her decision cannot, of course, be known. The wording certainly demonstrates the fundamental importance of status, throughout the institutional structures, by which a woman might be raised by marriage to a social superior, but reduced by marriage to an inferior (whereas a man's financial prospects, rather than his standing, might be the greater priority). Notably, virginity is again crucial: only *its* loss attracts either the full penalty of the law or the alternative of marriage, and subsequent rape by accessories to the original act is regarded as less serious.

---

[35] Alternatives are used throughout the abduction acts as follows: 'defoulled' in the 1487 act, 'deflower', and 'violating', in the 1557-58 act, and 'defiled', in the 1597 act.
[36] *Bracton,* II, 417.

Although the premium placed on virginity can be identified throughout medieval and early modern written law, authority for the practice of marriage to the rapist is more tenuous. The dispensation of marriage 'nowadays provided', Bracton tells us, 'is not by law but by permission of Holy Church and the king. That permission belongs to the king alone within the realm'. He relates the myth, originating in France at the beginning of the eleventh century, from which provision arose, and ends: 'This arrangement […] grew and became of such high authority that it is now in many places regarded as customary'. His words imply the practice was not a general one, and by acknowledging that practice required permission of 'Holy Church and the king' he indicates some ambivalence about its authority. Even so, there is little doubt that families continued to facilitate such marriages as a pragmatic alternative to the risk of public shame and loss of marriage prospects associated with an appeal of rape.[37] When reviewing the statutes in early modern times, Coke defined the practice as common law prior to the first Statute of Westminster (Westminster I) of 1275.[38] It might have offered a pragmatic accommodation to prevented disgrace for the woman and her family. But it operated in increasing tension with statute law, being effectively outlawed by the second Statute of Westminster (Westminster II) ten years later (1285).[39]

Rape and Conception

Amongst the common law given in Dalton's 1618 edition of *The Country Justice* something appears that is notably different from *Bracton*. It is an assumption that 'If the woman at the time of the supposed rape, doe conceive with child, by the ravisher, this is no rape, for a woman cannot conceive with child, except she does consent'.[40] The assumption, equating conception and consent and therefore precluding rape, can be traced to *Fleta*: 'If however, the

[37] *Ibid*., 418-19.
[38] Coke, *Second Part of the Institutes*, pp. †179-80.
[39] The relevant statute law is discussed later in the chapter.
[40] Dalton (1618), p. 248.

woman should have conceived at the time alleged in the appeal, it abates, for without a woman's consent she could not conceive.'[41] The common law rule was a factor in deciding whether or not statute law has been broken – it was not itself statute law. But *Fleta*'s precept seems to have transmuted into a simple rule which remained extant through the seventeenth and the eighteenth centuries.[42]

The presumption against conception as compatible with rape appears nowhere in *Bracton*, nor does Histed find it mentioned in *The Boke of Justices of Peas* from 1509 onwards.[43] However, *Britton* confirms and elaborates:

> If the defendant confesses the fact, but says that the woman at the same time conceived by him, and can prove it, then our will is, that it be adjudged no felony, because no woman can conceive if she does not consent.[44]

The *Mirror of Justices* also subscribed to the theory, and through its perpetuation in these treatises, it was established doctrine in early modern common law, continuing to appear throughout subsequent editions of *The Country Justice*.[45] The precept betrays beliefs consistent with the thinking and philosophy of the respective periods, and something that had originated in medical theory and dogma re-emerged as legal rule. It demonstrates a specific evidential difficulty for women bringing rape appeals, reinforcing the historical emphasis for women on reputation and chastity.

Histed meticulously traces the idea from its sources in early Greek philosophy into English legal opinion. It was Hippocrates, in the fifth century B.C., who originally proposed that both men and women produced 'seed' which combined at conception. Philosophers agreed 'that as women, like men, produced seed, then clearly they must, like men, experience

---

[41] *Fleta*, ed. and trans. by H. G. Richardson and G. O. Sayles, Publications of the Selden Society, vols 72, 89, 99 (London: Selden Society, 1953-1983), vol. 72 (1953), Book II, chapter 33, p. 89; Histed, 744. The discussion of rape and conception in the following paragraphs closely follow Histed's exposition.
[42] Histed, 766-77.
[43] *Ibid*., 759, citing *The Boke of Justices of Peas* (London, 1506?; repr. Amsterdam 1976). It is not clear why Histed uses the text as evidence relevant from 1509 onwards).
[44] *Britton*, ed. by F. M. Nichols, 2 vols (Oxford: Clarendon Press, 1865), I, chapter 24, paragraph 7, p. 114.
[45] *Mirror* (1646), chapter III, section 21, p. 148.

pleasure in the act of intercourse in order for the seed to be emitted and conception to ensue'.[46] A century after Hippocrates, Aristotle was among those who argued against the two seed theory on the basis that if the female could produce both seed and environment for it to flourish there was no need for male seed: neither then needs the female to take pleasure in the act. However adherents of Hippocrates included the physician Galen in the second century, whose ideas were particularly influential in early Western medicine. The debate continued for centuries.[47] To answer the question of how a raped woman could conceive, followers of the two seed theory proposed the distinction between the body and the mind. Writing in the twelfth century, William of Conches argued in his *Dragmaticon*:

> Even though the action is displeasing to the raped woman in the beginning, nevertheless due to the weakness of the flesh it pleases in the end. […] For that which is pleasing to the flesh, is often displeasing to the rational mind.[48]

Copies of the *Dragmaticon* are known to have been available in learned libraries in England in the early thirteenth century.[49] Histed identifies that Christian theology in the language of 'weakness of the flesh', and 'pleasure "in the end"' equates with familiar ideas of 'temptation of the flesh'. However, despite the fact that Conches's discussion is a purely theoretical one on the nature of conception, she notes that as a consequence: 'This explanation was soon to be stripped of its context and defined as a simple rule within the English legal system […] that conception equated to consent to the act'.[50]

Despite renewed interest bringing Aristotelean philosophy and science to underpin the curricula at Oxford and Paris universities at the beginning of the thirteenth century, it proved impossible to displace the now well-established Hippocratic and Galenic theory. This was the atmosphere in which *Fleta* and *Britton* were written; but the absence of the rule of conception

[46] Histed, 'Mediaeval Rape', 745.
[47] *Ibid*., 745-47.
[48] *Ibid*., 750.
[49] *Ibid*., 750-52: Histed explains that a manuscript, believed to have originated in Hereford and dated around 1200, and which discusses gynaecological questions from the *Dragmaticon*, has been traced to a Stafford priory in the fifteenth century.
[50] *Ibid*., 752.

and consent from *The Boke of Justices of Peas*, and the existence of a small number of records of rape and pregnancy indicate acceptance of the rule was not unequivocal.[51]

Histed finds the few rape appeals involving pregnancy throw no light on the existence or otherwise of the legal rule, 'being either incomplete or mere records of indictment and depositions', with no recorded decision.[52] But she, too, warns that there might be a 'simple, and more usual reason' for the lack of records: 'that they have not survived the distance of centuries'. She emphasises that 'absence of material gives no conclusive evidence […] one way or the other'.[53] On the other hand, the dozens of cases heard at the church courts in the fifteenth and sixteenth centuries and involving moral offences – 'fornication, pre-marital sex, adultery, bearing or fathering a bastard, harbouring an illegitimately pregnant woman', among others – in which the woman described acts of enforced sex, suggest the rule, while not definitive, might have played a part.[54]

The medieval equation of rape and violence, as the extracts from *Bracton* indicate, provided yet another obstacle with which the raped woman had to contend. If visible indications of violence were seen to validate the woman's evidence that the act was 'against her will', it was a simple step to make the converse assumption that lack of visible injury meant no resistance which in turn meant consent and no rape.[55] *The Mirror of Justices*, again, appears to subscribe to the belief: 'on the other hand no presumption arises that he took her against her will since there were no torn clothes, bloodshed, hue and cry, or other evidence of violence'. Coke cites the *Mirror of Justices* when specifying force within the definition of

[51] *Ibid*., 753-54; 754-57, and 759-60.
[52] *Ibid*., 760.
[53] *Ibid*., 755.
[54] Laura Gowing, *Domestic Dangers: Women Words and Sex in Early Modern England* (Oxford: Clarendon Press, 1998), p. 31. See also Histed, p. 760. The topic of women coerced into sex and then accused of moral offences is discussed in detail later, in Chapter 4 of the thesis.
[55] Histed, 758.

rape. And what had started as a mere construct within a theoretical debate about conception became enshrined in legal doctrine.[56]

Hale eventually recorded the authoritative opinion that conception was not a bar to bringing a rape appeal, in his *Historia Placitorum Coronae*.[57] His argument also follows the notion of rape as a yielding, and as such it represents a consent to the act (regardless of menace). He states that consent given in fear or threat of death is 'not a consent to excuse rape', and continues: 'And therefore […] "[a woman who has been overcome by force can conceive]"'.[58] Histed is interested in the presumption created by the word 'therefore' that 'forced consent' disproves the '"no rape with conception" doctrine', and identifies Hale's thinking as founded in the assumed association of violence with rape. She notes that Hale is not arguing with the apparent belief that rape and conception are legally incompatible, since his opinion still assumes the link between the two, but on the basis of legal theory that a forced consent is a rape.[59]

In the absence of statistical evidence, the proportions of recorded and unrecorded rapes resulting in pregnancy can only remain a matter of speculation. But when seeking reasons why rape seems to be little recorded, the long-established legal doctrine equating conception with consent suggests it might be a significant factor.

The medieval legal culture incorporated an almost chivalric perception of rape as a crime of lust and an unseemly failure of respect for norms of behaviour prescribed by gender. And, as Histed points out, it places emphasis on the physicality of both evidence and traditions of ordeal and punishment. A man who failed to respect a woman's physical integrity faced a grisly penalty, but a woman faced with rape was responsible for defending

[56] Coke, *First Part of the Institutes*, p. 123[v]; *Mirror*, p. 37, p. 148, p. 313.
[57] Hale was first called to the bar in 1636. However, the treatise was not published until 1736: see Alan, Cromartie, 'Hale, Sir Mathew (1609–1676),' in *DNB*, online edn [accessed 5 February 2014] ('Major Legal Writings', paragraph 2).
[58] Histed, 762 (Histed's translation from the Latin).
[59] *Ibid*., 762-65 (762).

herself rigorously against assaults on her person and for providing substantial evidence that she had done so. At the same time, through the statutes, the social and political focus moved from the victim to the wider impact on family and property and the early modern preoccupation with wealth and its acquisition. The statutes themselves, and the circumstances giving rise to them, give an account of the meaning attached to the crime of rape and the importance of its punishment and deterrence from the late thirteenth century to the end of the sixteenth.

The Statutes

Rape, Elopement, and Abduction

Statutory rape law began in 1275 with Westminster I, followed in 1285 by Westminster II. The two statutes were amended or consolidated by a further eight, encompassing rape, elopement and abduction. The final (abduction) statute was introduced by Elizabeth I in 1597.[60] From 1487 'An Act against taking away of Women against theire Will', introduced a second, separate sequence of statutes.[61] As a result rape and elopement continued in one sequence, and abduction in another. Abduction, B. J. and Mary Sokol explain, 'defined the offences of forcibly taking away women who had, or were heirs to, property' – in effect the theft of a woman.[62] There was though, flexibility between the two sequences: elopement, like abduction had serious implications for lineage, inheritance and property, and could be pursued under either rape or abduction law.

The progression of statutes represents variations to the definitions and penalties attached to the crimes, and therefore to their perceived importance. No single rape statute can be taken to represent 'the law' at any particular moment. As Hale's explanation of the

[60] *Statutes*, I, 29; *Ibid.*, 87; *Ibid*., IV, part II, 910. On the sequences of statutes, see B. J., and Mary Sokol, *Shakespeare, Law, and Marriage* (Cambridge: Cambridge University Press, 2003), pp. 108-109.
[61] *Statutes*, II, 512.
[62] Sokol, p. 108.

beginning of written law and its relationship with common law suggest, each statute obtains its meaning only in the context of the common law and in relation to existing legislation: in other words, whether it adds to, amends, or supersedes part, or all, of the existing written law. In the case of rape this 'beginning' is Westminster I.

The Preface to Westminster I, made at the first parliament held by Edward I after his coronation, makes it clear that the act represented a reaction by the king to the state of law and order, and moral authority in the country:

> Because the State of the Holy Church had been evil kept, and […] the Peace less kept, and the Laws less used, and the Offenders less punished, than they ought to be, by reason whereof the People [of the Land] feared less to offend .[63]

Rape is the subject of one brief chapter within an extensive statute. The chapter concerns the taking or ravishing of under-age (twelve-year-old) females regardless of consent, and over-age or married women without consent.[64] The penalty was merely two years imprisonment and a fine:

> And the King prohibiteth that none do ravish, nor take away by force, any Maiden within Age, neither by her own consent, nor without; nor any Wife or maiden of full Age, nor any other Woman against her Will; and if any so do, at his Suit that will sue within forty days, the King shall do common right; and if none commence his suit within Forty Days, the King shall sue; and such as be found culpable, shall have Two Years Imprisonment, and after shall fine at the King's Pleasure; and if they have not whereof, they shall be punished by longer Imprisonment, according as the Trespass requireth.[65]

Westminster I extends the law of rape from virgins to include matrons, and introduces a rule which suggests an appeal of rape must be brought within forty days. The rule is still found in late seventeenth-century treatises although it is omitted from *The Country Justice* prior to the 1626 edition, and by the time Hale wrote his *Historia Placitorum Coronae*

[63] *Statutes*, I, 26.
[64] On twelve as the age of consent, see Coke, *Second Part of the Institutes*, p. 18.1However, under subsequent statutes it becomes controversial. The arguments are discussed in relation to the relevant statutes, below.
[65] *Statutes*, I, 29.

(*History of the Pleas of the Crown*), towards the end of that century, his opinion was that 'a year and a day is not allowd in this appeal, but some short time, tho it be not defined in law what time, but lies much in the discretion of the court upon the circumstances of the fact'. Failure to appeal speedily was taken as an indication of malicious prosecution.[66]

A forty-day time limit is significant in two other particular respects. The first appears to have caused relatively little comment during its lifetime: in conjunction with the presumption against rape where the victim conceives it is unlikely that a consequent pregnancy would be apparent in so short a time. Histed allows for the possibility that it influenced reporting of the crime, but with caution; Chaytor is 'not convinced' that the doctrine of conception can account for under-reporting. However, her argument is substantially based on her doubt that many women or rural justices of the peace were aware of the rule.[67] The legal reputation of Dalton and the influence and regular reprints of his *Country Justice*, together with the circulation of innumerable advisory treatises for the benefit of justices (with or without formal legal training), and the regular output of statutes, might suggest otherwise. But also, in view of Hale's indication that, at least by early modern times, the time limit was discretionary the possibility of its limited effect remains.[68] Neither medieval nor early modern treatises of rape discuss this apparent paradox, suggesting it did not provide any significant case history.

The second significant point is more fundamental to the evolving law, and concerns the crown's interest. But it also introduces the question of the woman's moral position. By setting a time within which an appeal must be brought, J. B. Post explains that Westminster I also defined an appeal unprosecuted within that timescale as 'tacit consent'. In such cases, the

[66] Hale, *Historia Placitorum*, 2 vols (1736; repr. London: Professional Books, 1971 –), I, 633.
[67] Histed, 754-55, and 759-60; Chaytor, 'Husband(ry)', 403-404, note 14.
[68] On the widespread use of *The Country Justice*, see D. A. Orr, 'Dalton, Michael (1564-1644)', in *DNB*, online edn [accessed 9 April 2014] (paragraph 3). The numerous editions of Dalton's *Country Justice*, and treatises for justices of the peace by Lambarde, and Fitzherbert are identified earlier in the chapter. The *STC* catalogues over three hundred items between 1560 and 1660 that either commend themselves, or notify statutory obligations or decisions of cases, to justices. Legal education is discussed in Chapter 2.

king would sue. Whether the victim or the crown sued, the penalty of two years imprisonment and a fine was a significant reduction from that of eyes and members, although Post speculates on the imprecision of the term 'common right' should the victim bring the suit within forty days.[69] The statute is unclear, and could be taken to imply that in such cases some more severe punishment, such as mutilation under the earlier law, might still be considered, although he regards it as unlikely. However, this is precisely the meaning assumed by Hale if at 'the suit of the party' concerned, and 'if commenced within forty days'.[70]

Assumed consent, if a woman failed to sue, enabled the crown to levy a fine. It therefore added pressure to the choices available to a victim: whether she should pursue an appeal which she would otherwise have chosen to suppress, whether she colluded in an accommodation with the rapist, or whether she risked the slur of consent should the crown sue in her stead. But regardless of who sued, conviction contributed to a 'developing fashion for buying pardons of Crown suit'. Despite the stated intention of Westminster I to restore public order, the effect on rape was, seemingly, to produce a negligible improvement. Cases rarely reached a proper conclusion: a pattern 'of increasingly meticulous exceptions to increasingly circumstantial appeals' developed. The contribution to this state of affairs made by judges might be attributed either to an attitude of male 'conservatism', or to a wish to help facilitate the increasing trend for the crown to levy fines and sell pardons. At the same time the victim became the object of increased moral scrutiny.[71]

Post tells us that '[t]he terms of Westminster II' make it clear 'that Westminster I, c.13, was considered wholly inadequate'.[72] The second Statute of Westminster made rape a

[69] Post 'Ravishment', p. 158, p. 151.
[70] Hale, *Historia Placitorum*, I, 627.
[71] Post, 'Ravishment', p. 155.
[72] *Ibid*., p. 156.

felony, restoring 'Judgement of Life and of Member'.[73] But it too seems to have been ineffective with only one recorded case attracting the full sentence. Even in that instance the convict was allowed 'to make fine for life and limb' (to pay a fine in lieu of statutory punishment).[74] Evidence of its negligible use suggests the clause was an ill-considered reaction to the event which inspired it. Post believes it was 'almost certainly an afterthought', arising from a verbal addendum after a single case of rape came before the king 'on the first day of the parliament which enacted the statute'.[75] He finds that the statute was 'sloppily drafted', and is confident it was actually 'aimed at the material and familial aspects of a consenting illicit relationship'. Certainly it laid the foundation for controversy that has persisted into the present.[76]

Westminster II begins with the capital clause, as follows:

> if a Man […] do ravish a Woman, married, Maid, or other, where she did not consent, neither before nor after, he shall have Judgement of Life and of Member. And likewise where a Man ravisheth a Women, married Lady, Damosel, or other, with Force, although she consent after, he shall have such Judgement as before said, if he be attainted at the King's Suit, and there the King shall have the Suit.

The effect of Westminster I had been, intentionally or otherwise, to blur the distinction between rape and abduction. By specifically making felonies of rape, abduction, and elopement, Westminster II also made them all capital offences. But, as a result, the property interests became elevated in a way that did not necessarily suit the injured parties. Particularly significant is the reference to a woman having consented 'neither before nor after'. It meant that 'the time-honoured concord by marriage [to which 'consent after' is implicit] was removed' by the statute.[77] In such cases, for the sake of the woman's reputation, marriage was obviously preferable to the imposition of the capital penalty leaving a woman

[73] *Statutes*, I, 87.
[74] Post, 'Ravishment', p. 157.
[75] *Ibid*., This is the first instance of four over the ensuing three hundred years which commentators or historians attribute statutory changes to specific, single incidents of rape coming to the attention of the crown.
[76] *Ibid*., p. 156, 157.
[77] Post, 'Ravishment', p. 158.

(and any resulting progeny) without support and in an invidious position to find another suitor. Nor did a family want their prospective damages go to the crown 'as forfeitures for felony'. It might then be unsurprising that Post's research shows that '[l]itigants subsequently went to some trouble to circumvent [the] implications' of Westminster II.[78] The threat of resorting to the law presumably placed disgruntled parents or guardians in a strong position to bargain for recompense. Of course, the extent to which the woman herself sanctioned any such arrangement cannot be known.

However, the practice of marriage to the rapist increasingly had become suspected of facilitating marriage between a woman and her suitor against the wishes of one or other's family. For the sake of her reputation a woman could not admit to having consented to pre-marital sex. By consenting retrospectively she could both protect her reputation and hope to force her family to accept the man of her choice. Since Westminster I, the notion of 'consent after' had been bound up with the interests of the crown.[79] Now under Westminster II, via 'the King's Suit', the family, too, could override the wishes of the woman who wished to marry the rapist after the event.[80]

Nor was it just the capital clause which caused families to seek alternative remedies. The statute goes on to state that if a married woman is 'carried away' with her husband's goods, then 'the King shall have Suit for the Goods so taken away'. Here again, a successful felony suit meant any restitution would be lost as forfeiture to the crown. The often mutual will of the injured party and offender to avoid the statutory legislation allowed the exploitation of which Post offers several examples.[81]

Just as women were aware of the law's potential to facilitate marriage by forcing the hands of their families, they might also have been aware of its potential to put pressure on

[78] *Ibid*., p. 159, p. 157. Prior to the Statutes of Westminster, Post, p. 152, finds more evidence of marriage to the rapist than of straightforward financial settlement.
[79] *Ibid*., p. 158, p. 160, p. 152.
[80] *Ibid*., p. 158.
[81] Post, 'Ravishment ', pp. 159-60.

reluctant lovers. The impossibility of ascribing patterns of behaviour to limited evidence must be reiterated, but before Westminster II Post finds a 'disparity of status […] apparent in many cases' in which he discerns 'the classic and hopeless plight' of 'ruined peasants' and 'discarded mistresses' seeking 'to salvage honour if not revenge from a social superior'.[82] Whatever degree of coercion was involved in these ostensibly consensual cases, a more generalized male fear and suspicion of exploitation by disenchanted women might well have contributed to a reluctance to convict men for rape.

By subsuming rape, in the sense of sexual violation, to its economic meanings of abduction and elopement, Westminster I and II between them effectively created a capital felony of sexual relations outside wedlock. Post explains how this contributed to the muddle and ambiguity over the term 'ravishment' which had always been used in relation to 'forcible coition'. Although, through Westminster, II the term clearly defined rape, elopement and abduction within the felony clause, it did not eventually prevent confusion between plaintiffs and judiciary on the question of to whom a plea fell – the parent or guardian, or the woman – and whether it should be one of trespass or ravishment. Post describes it as 'a unique paradox which was never satisfactorily resolved'. He concludes that the Statutes of Westminster 'failed to affect [sexual] behaviour'. Rather they 'inhibited the purposes of the woman herself […] and fostered the interests of those who wanted material recompense for the material disparagement wrought by self-willed womenfolk and suitors'.[83]

Further confusion arose from the statute's failure to mention the age at which consent became relevant, allowing offences against girls under age to continue to be treated as a misdemeanour under Westminster I.[84] Despite the intentions behind Westminster II its drafting allowed inconsistency and confusion in its wake. Subsequent statutes were then destined to compound the lack of clarity.

[82] *Ibid*., p. 152. Post lists some dozen or so cases from various court records from the early thirteenth century.
[83] *Ibid*., pp. 158-160 (p. 159, p. 160).
[84] The confusion surrounding age of consent is discussed further, below, in relation to the 1575 statute.

Despite the capital provisions of Westminster II, according to Post, elopement and abduction 'remained far from uncommon' in the fourteenth century.[85] Almost a century later a further statute, 6 Richard II, chapter 6 (1382), was introduced. It refers to 'Offenders and Ravishers […] in these Days offending more violently, and much more than they were wont'. Although it specifically aligns elopement with rape it is exclusively concerned with property and inheritance. It offered protection to 'Ladies, and the Daughters of Noblemen, and other Women, in every Part of the said Realm'. The inclusion of 'other women' does not disguise the reality that it is only realistically relevant to those of means, and it further relegates the interests of the women themselves. It continues:

> Wheresoever and whensoever such Ladies', Daughters, and other Women aforesaid be ravished, and after such Rape do consent to such Ravishers, that as well as the Ravishers, as they that be ravished, and every of them, be from henceforth disabled, and by the same Deed be unable to have or challenge all Inheritance, Dower, or Joint Foeffment after the Death of their Husbands and Ancestors.[86]

It goes on to provide that eloping couples should be treated as dead for inheritance purposes, so completing the 'extension of legal wrong' to the woman's family.[87]

Critically for eloping women, the statute allowed appeals to be brought by fathers, husbands and next of kin. Bearing in mind that at this time judgement might be determined by combat, it also contained a further clause:

> And […] the Husbands […] or […] the Fathers or other next of their Blood, have from henceforth the Suit to pursue, and may sue against the same Offenders and Ravishers in this Behalf, and to have then thereof convict of Life, and Member, although the same Women after such Rape do consent to the said Ravishers. And further it is accorded, That the Defendant in this Case shall not be received to wage Battle, but that the Truth of the Matter be thereof tried by Inquisition of the Country.

The clause ensured the protection of the family so that elderly fathers, for example, were not potentially obliged to fight judicial duels against young suitors or sons-in-law, while tightening the families' control in relation to marriage and inheritance.[88]

---

[85] Post, 'Sir Thomas West', 25.
[86] *Statutes*, II, 27.
[87] Post, 'Sir Thomas West', 25.

Similarly to Westminster II, the catalyst for the introduction of the 1382 statute appears to have been a single case: the abduction of Sir Thomas West's daughter Eleanor, by one of his retinue, Nicholas Clifton. West obtained a commission for the arrest of Clifton. Although no action seems to have been pursued, Clifton obtained a pardon, and despite an 'indictment alleging that he and his friends "treasonably rose against the king and his people"', that too seems to have fallen by the wayside. It seems that the abduction, already a felony under Westminster II, became treasonable by virtue of its proximity to the royal circle, presumably threatening the political order and destabilizing relationships close to the king. At the next parliament the statute was passed. West claimed credit for it, but although he rightly suspected Eleanor had married Clifton he was unsuccessful in his attempt to have it made retrospective.[89]

The circumstances surrounding this event suggest that, whether or not the original event was an elopement or an abduction, Clifton was not an unwelcome suitor to Eleanor. West's objection lay in the policy of 'dynastic aggrandizement' begun by his father. He pursued a military career, increased his estate and married well. The marriage of his son brought the heirs a barony, and he maintained expectations of an advantageous marriage for Eleanor. Clifton was a 'landless younger son' whose escapade with Eleanor was not the only misdemeanour with which he was connected. Yet he could not have been completely 'beyond the pale' since his mother-in-law, Alice, left the couple a 'considerable proportion' of her wealth in her will.[90]

The West incident sharply illustrates the seriousness and priority attached to the issues of property, wealth and political alliance that coalesced around the definition and law of rape.

---

[88] *Ibid*., 27.
[89] *Ibid*., 25-26 (26).
[90] *Ibid*., 28-29. Two months after the abduction Clifton obtained another pardon for unspecified offences. 'He subsequently attached to the king's half-brother, John Holland, earl of Huntingdon. […] Two years later, now apparently knighted, he was named the leader of Holland's accomplices in the murder of Ralph, son of the earl of Stafford' (29).

The 1382 statute's reference to the frequency and violence of the offence suggests the West affair as being the catalyst to deal with a more extensive problem. The provisions of Westminster II had presumably proved either too ambiguous or too easy to circumvent to have given West the satisfaction he demanded – though he was not able to apply the new statute to his case. It is salutary that although an apparently successful marriage ensued from such inauspicious beginnings, had her father had his way Eleanor would have been disinherited and Clifton executed in the cause of West's aspirations for status and wealth.

As the rights to prosecute for elopement, abduction and rape transferred to families, so those wishing to exploit them became more inventive. Henry VI's 1453 statute was concerned with bonds entered into under duress by victims of abduction.[91] Abduction without sexual violation remained outside the definitions of felony, and if a victim was forced to sign away wealth or agree to marriage the bond was 'good in law'. The 1453 statute did not outlaw abduction, but provided for such bonds to be voided.[92]

An act was introduced by Henry VII in 1487 that separated abduction from rape and elopement.[93] It was followed in a separate sequence by a further two acts. Discussion of the 1487 act and the abduction sequence follows the review of rape statutes. In the meantime, refinement to the law of rape and elopement continued.

Rape and Elopement after 1487

Of the remaining three statutes in the rape and elopement sequence none concerned rape and elopement alone: all included rape as one felony alongside others. Until the late fifteenth century rape, as a felony, was a clergyable offence. This meant that a convicted offender who was a clergyman, or able to read a verse from a prayer book, could claim benefit of clergy: he

[91] *Statutes*, II, 367.
[92] Ives, pp. 23-24.
[93] *Statutes*, II, 512.

could escape capital punishment and be branded with a letter 'T' on his thumb instead.[94] Felons with either an education or the wit to memorise the text were therefore at liberty to repeat their crimes. In 'An Act to take awaye the benefytt of Clergy from certayne persons', the statute 4 Henry VII, chapter13 (1488) stipulated that 'Clergie' could only be claimed once before capital punishment was invoked:

> Upon trust of privilege of the Churche diverse persons lettered hath ben the more bold to commit murdre rape robbery thefte and all other myschievous dedys, bicause they have been continuelly admitted to the beneffice of the Clergie as ofte as they did offend.[95]

Henry VIII then abolished sanctuary as a means for those who commit 'Murder, Rape, Burglary, Robbery, Arson, Sacrilege; or their Accessories' to evade the law, in 32 Henry VIII, chapter 12 (1540).[96]

In 1575, in the final statute relevant to the rape / elopement sequence, Elizabeth I removed benefit of clergy from a first offence. Rape was encompassed in the act because of its status as a felony rather than being its sole objective, and the preamble employs rhetoric consistent with the intention to impose order and the authority of the crown. It stated its objective as 'the repressinge of the moste wicked and felonious Rapes or Ravishments […] and of felonious Burglaries, and for the avoydinge of sundrye Perjuries and other Abuses in and aboute the purgacion of Clerkes convicte'.[97] It does not support arguments for a significant change either in the legal relationship to abduction or in attitudes to rape. However, a separate, fourth clause states:

> Yf any person shall unlawfully and carnally knowe and abuse any Woman Childe under the Age of Tenne yeeres, everie suche unlawful and carnall knowledge shall be Fellonye, and the Offender thereof being dewlye convicted shall suffer as a Felon without Alleauwance of Clergie.[98]

---

[94] On 'benefit of clergy', see Sokol, p. 108, p. 165, p. 225, note 9; Sharpe, *Crime in Early Modern England,* p. 95. However, note that Sharpe incorrectly states that 'rape never came within the scope of clergy'.
[95] *Statutes*, II, 538.
[96] *Ibid*., III , 757 (marginal heading).
[97] *Ibid.*, IV, part I, 617.
[98] *Ibid*., 618.

A footnote to the clause tells us that it is 'annexed to the Original Act in a separate Schedule'. Its late inclusion supports the assumption that this was yet another example of a reaction to a particular case that came to the attention of the Queen. Coke cites the incident as material to the amendment. According to *the Lawes Resolutions* the clause arose after a child of six was raped by a 'Scot'. The case did not proceed to judgement because of a legal anomaly.[99] Prior to Elizabeth's 1575 statute, Hale tells us: 'It was doubted whether rape could be committed on a female child under ten years old'. The clause clarified that it could.[100] Here again, however, a clause ostensibly intended to clarify has caused further confusion.

The 1575 Act and the Age of Consent

In the *Second Part of the Institutes* Coke specifically aligns the age of consent with the age of consent to marriage, i.e. twelve. In *The Third Part of the Institutes* he defines rape as applying to 'any woman above the age of ten years against her will, or of a woman child under the age of ten years with her will, or against her will'.[101] He interprets the 1575 clause, not as clarifying an anomaly, but as superseding the centuries-old accepted age of twelve. Hale summarizes Coke's position: 'if were she above the age of ten years, and with her will, it should not be rape.' However, he points out that the clause only takes on that meaning because 'My lord Coke adds the words, *either with her will or against her will* […] but the statute gives no such intimation, only declares that such carnal knowledge is rape'.[102] Coke's interpretation created the perverse situation that a girl of ten or eleven years might consent to

[99] Coke, *Third Part of the Institutes*, p. 60; *Lawes*, p. 401, citing Sir James Dyer, *Reports of cases in the reigns of Hen. VIII, Edw. VI, Q. Mary, And Q. Eliz, Taken and collected by Sir James Dyer, Knt, Some time Chief Justice […]*, 3 vols (London: sold by Butterworth, 1794), III, sig 3Y3, although it should be noted that Dyer does not necessarily make a causal link between the rape of the child and the clause: he simply adds a footnote to his report acknowledging that by Elizabeth's statute such a case is now within the scope of the law.
[100] Hale, *Historia Placitorum*, I, 630 (incorrectly numbered 730).
[101] *Second Part of the Institutes*, p. 181; *The Third Part of the Institutes*, chapter 11, p. 60 (sig. F5^{r}). (In the *Second Part*, in the same paragraph they he affirms the age of consent as twelve Coke alludes to his chapter on rape in *The Third Part* in which he states it to be it to ten.)
[102] Hale, *Historia Placitorum*, I, 630 (incorrectly numbered 730). On the age of consent, see also 631(incorrectly numbered 731).

sex *outside* marriage, but not to sex *within* marriage until she was twelve. Yet it was still apparently followed by courts throughout the eighteenth century.[103] Even under Hale's interpretation, doubt that a child of such a young age could be an effective witness limited the prospect for appeals of felony under Westminster II.[104]

Characterized by lack of clarity and ambiguity, the law had evolved from Westminster I and II so that, theoretically, rape or elopement was a capital offence. But although appeals could be brought by fathers, brothers, or responsible male relatives, a woman who was raped, and did not consent before or afterwards, retained the right to appeal under Westminster II.[105]

The Abduction Acts

The first of the sequence of Abduction Acts makes clear the interests the sequence was devised to protect. Henry VII's 1487 act was drafted exclusively in relation to women 'havyng substaunce […] and sume beying heires apparaunte'. It made a felony of 'Taking awaye Women against their Wills' for their 'lucre', and forcing them into marriage. It also encompassed all those who aided and abetted the abductors.[106] Since abduction involving sexual violation was already a felony and a capital offence, even if the victim consented after, there seems little need for the introduction of a new act. Ives refers to the 'comprehensive code' provided by existing legislation and notes the act was in, its greater part, a restatement

[103] Antony E. Simpson, 'Vulnerability and the Age of Female Consent: Legal Innovation and Its Effect on Prosecutions for Rape in Eighteenth-Century London', in *Sexual Worlds of the Enlightenment*, ed. by G. S. Rousseau and Roy Porter (Manchester: Manchester University Press, 1987), pp. 181-205, (p. 185, p. 200). In the context of the inadequacies of Westminster I and II and the effect of the 1575 statute, Simpson discusses the position of under-age girls. He finds that Coke's interpretation whereby the 1575 clause only protected girls under ten effectively introduced a new offence: 'unlawful and carnal knowledge of children' (under ten), while creating doubt about girls between ten and twelve years. The age of consent to marriage remained twelve years until the last quarter of the nineteenth century (*ibid*., p. 185). See also Laurie Edelstein, 'An Accusation Easily to be Made: Rape and Malicious Prosecution in Eighteenth Century England', *The American Journal of Legal History*, 42 (1998), 352, note 6).
[104] Hale, *Historia Placitorum*, I, 634-35; Simpson, p. 200.
[105] Coke, *Second Part of the Institutes*, p. 433.
[106] *Statutes*, II, 512.

of existing law. He therefore considers it 'a curiosity – in the main superfluous and for the rest impermanent'.[107] It is an assessment consistent with his doubts about Henry VII's reputation as a law-maker, and suggests that other priorities than good governance lay behind the legislation.

The 1487 act added only two details to the existing rape law as it applied to abduction. One was that accessories were now treated as principals (they could be tried without waiting for the main offender to be convicted). The other was more significant, but depended on apparent inconsistency in the wording of the act. The preamble of the act refers to women having 'been oft tymes taken by mysdoers cont'rie to their Will, and after maried to such mysdoers or to other by their assent, or defoulled'. However, the enacting clause refers only to the taking of 'eny Woman soo ayenst her Will'. It does not demand a forced marriage or rape (crimes already punishable under the law) – only an abduction. Ives confirms that 'a handful of indictments' show the act to have been used in this way. The cases most likely to fall within its authority were those of kidnapping of a minor. Ives finds four cases between 1488 and 1497 of which two victims were specified as children, and in three the kidnappers were labourers – one group known to be from the underworld.[108]

It is doubtful though, that the abduction of wealthy women was particularly prevalent. Of fifty-three rape cases in the ten years prior to the act Ives finds only one which might qualify under the preamble; and although abduction had been a problem in earlier times there are no recorded cases after 1466. Eventually the privileging of the enacting clause over the preamble was acknowledged to be a distortion of the act, and a judgement of 1556-57 ruled that felony required the abduction to have been aggravated by rape or forced marriage – a ruling which required further legislation.[109] The first abduction act therefore appears to be an

[107] Ives, pp. 24, 25 (24).
[108] *Ibid*.
[109] The second (1557-58) act, discussed below.

unnecessary intervention in an already complex area of law with established and punitive remedies.[110]

The 1487 act is, in fact, a further example of the crown's response to a single event. Ives's recounts a king's bench indictment of the abduction, in 1487, of the widowed Margery Ruyton from her father John Beaufitz's house by Robert Bellingham and various accomplices. Beaufitz was landed, wealthy and held various public and crown offices. Margery had inherited from her late husband, and was heir to the remaining Beaufitz fortune. Bellingham's precise status was unknown, although he and a main accomplice, Thomas Wodeshawe, held positions in the king's household. The crown's reaction was violent and unprecedented. The chief justice, with other leading judiciary and members of the king's council, assembled on the direct instructions of Henry VII to oversee the issue of indictments against the abductors. Although the five principals surrendered, the prosecution collapsed: no evidence was forthcoming and the crown was left with no case. The likely explanation is collusion between the parties – presumably in their mutual interests. Ives tells us that Bellingham 'certainly married his victim and when Beaufitz drew up his will in 1488, he left Bellingham his best silver cup'.[111] The most significant aspect of the case would seem to be Henry's reaction. The indictment hints that the primary concern was the apparent challenge to the king's authority by members of his own household, and its wider implications: two other statutes passed in the same year concerned 'field assembly rout', and 'a special procedure to investigate suspected conspiracy in the king's entourage'. The real issue had been 'the identity of [Margery Ruyton's] abductors' rather than abduction itself.[112]

Ives analyses the workings of the act through the only sufficiently documented case. Margaret Kebell, like Margery Ruyton, was a widow, wealthy through both marriage and her own prospective inheritance, and also abducted by a member of another well-connected

[110] Ives, pp. 25-26.
[111] *Ibid*., pp. 26-28 (p. 28).
[112] *Ibid*., p. 29.

family.[113] The incident was perpetrated in 1502 by Roger Vernon of Wirksworth, the son and heir of Sir Henry Vernon of Haddon. The 1487 abduction act proved 'useless against the influential', and the king again instigated swift action.[114] In this case though, Henry brought about a negotiated settlement by prerogative, and the Vernons were pardoned on payment of various 'considerations'.[115] But neither statute nor common law had been effective, and the outcome relied in part on Margaret's determined persistence, and part on the king's executive power.

However, the king's interest may represent more than just a threat to his authority. In late Tudor times his feudal role gave him control over a widow's second marriage – unless she bought a licence or paid a fine to compensate the crown for the loss of political influence. A widow's disadvantageous second marriage could therefore also diminish the crown's potential revenue and influence. Some widows even took a vow of chastity to avoid unwelcome pressure to re-marry.[116]

4 & 5 Philip and Mary, c. 8 (1557-58) was the result of a 1556-57 ruling that to become a felony, abduction must be aggravated by rape or forced marriage.[117] If the 1487 act was 'a curiosity' and 'superfluous' it seems the second abduction act is equally anomalous. The heading of the 1557-58 act refers specifically to 'the Punishment of suche as shall take awaye Maydens that bee Inheritoures, being within thage of xvi yeres, or that marrie them without Consent of their Parentes'. The preamble then describes the daughters of 'Noblemen Gentlemen and others, aswell suche as be Heires Apparente' and their inheritance of various forms; two references simply to 'Children' follow. The Sokols apparently take the wording to indicate the inclusion of male as well as female heirs when they say that the statute

[113] The outline of the Kebell case, above, is based on the detailed account by Ives, pp. 31-44.
[114] *Ibid.*, p. 41.
[115] *Ibid.*, p. 42.
[116] Barbara J. Harris, 'The View from My Lady's Chamber: New Perspectives on the Early Tudor Monarchy', *Huntington Library Quarterly*, 60 (1997), 228-29.
[117] *Statutes*, IV, part I, 329-30.

'addressed those who stole heirs and heiresses'; but they do not elaborate.[118]. However, the first enacting clause and all subsequent clauses specify the victim as 'Mayde' or 'Woman Childe'. The same is true throughout the marginal headings: the preamble is summarized stating the act's object as: 'Evil of Abduction and marriage of *Heiresses*, &c. without Consent of their Parents &c' [my emphasis]. Crucially, all five of the relevant enacting clauses specify female children.[119]

The act was aimed at 'persons of lewde demeanour' and 'unthriftie and light personages' who use 'flattery trifling Giftes and faire promises' to lure their victims:

> Either with slight or force oftentymes [to] be taken and conveied away from their said Parentes Freends or Kynnsfolkes, to the highe displeasure of Almightie God, disparagement of the said Children and thextreme contynuall heviness of all their Freendes.

The purpose of the offenders was described as to 'bye and sell the said Maidens and Children', in order 'to contracte Matrimonie'. Victims were assumed to be unwilling, or gullible – even if complicit.

However, despite clarifying the difference between abduction with and without sexual violation, the 1557-58 act seems to have substantially downgraded both crimes from capital felony. The second enacting clause made the penalty for abduction two years imprisonment, or a fine in Star Chamber. If the offender should 'deflower any such Mayde or Woman Childe', or 'contracte Matrimonie' against the will of the father (mother or guardian), the third clause states the penalty will be five years or a fine.[120] Under the fourth clause, 'Starre

---

[118] Sokol, p. 109.

[119] See also the preamble to the 1487 act, and to the final abduction statute, discussed below: 39 Elizabeth I, chapter 9. Both include in their respective preambles various categories if women, referring specifically to the status of some as heirs apparent, but both acts are unequivocally for the protection of females only.

[120] *Statutes*, IV, part I, 329. Notably, this is the first of either sequence of statutes to use the term 'children' in referring to those about whom so much of the legislation is concerned. The words 'Woman Childe' would later specify those under ten years who were protected by the final, 1575, rape statute, otherwise the usual categories of 'women', 'maids', 'maidens', and 'damsels' ignore the youth of those often involved in incidents of rape and abduction. In this case it draws attention to the characteristics of innocence and naiveté the act aims to emphasise in the process of legislating for those under sixteen years. Incidentally, the second clause specifies the age at which the penalty applies to offenders is fourteen. Since the age of consent for girls is twelve it raises a further anomaly about perceptions of age, gender and behaviour. Hale puzzles that 'an infant under the age of

Chamber […] shall have authorite by virtue of this Act to here and determyne the sayd Offences', while 'suche Processe shall bee awarded and lye, as upon an Indictmente of Trespas at the Common Lawe'. Abduction of an heiress under age sixteen, with or without violation or forced marriage, had become a common law trespass with limited penalties.

In attempting to clarify one matter, the 1557-58 act produced three anomalies. First, it apparently contradicts the rape statutes which already defined abduction with sexual violation as rape. (At this stage in their evolution rape and elopement were capital felonies, with only one recourse to clergy, and no protection of sanctuary). Second, if a case for violation is brought under its provisions rather than under rape law, it actually weakens the pre-existing deterrent of felony. Third, if Philip and Mary's act for those under sixteen years was intended to run alongside Henry VII's act this would still leave an anomaly in respect of acts of non-violation against those over sixteen.

It is unclear why the crime which had attracted such anxiety among those determined to protect their opportunities for accumulation of wealth and estates should be diminished by written law in this way. It might simply represent the actuality that common law trespass proved a more successful suit than felony. The act has attracted little comment or analysis from legal historians and, possibly for reasons to do with the known pitfalls associated with the scant legal records of the period, any discernible consequences of the act appear unremarked.

The final act in the abduction sequence, 39 Elizabeth I, chapter 9 (1597), is introduced as 'An Acte for the taking away of Cleargy from Offendors against a certaine Statute made in the Thirde yeare of the Raigne of King Henry the Seaventh, concerning the taking away of Weomen against their Wills unlawfully'.[121] Significantly, the preamble refers directly back to

---

fourteen years is presumed by law unable to commit a rape, and therefore it seems cannot be guilty of it […] as to this fact the law presumes him impotent, as well as wanting discretion'. Hale, *Historia Placitorum*, I, 630 (incorrectly numbered 730).

[121] *Statutes*, IV, part II, 910.

3 Henry VII, chapter 2, with no mention of the 1557-58 act, confirming that the statute of 1487 had not been superseded. This final act refers to the offence as a felony, and similarly to the two previous abduction acts, it includes 'divers Weomen, as well Maydens as Widdowes and Wyves, having Substance […] and some being Heires Apparent'. There is, again, no suggestion that any age-group is either specifically included or excluded, and it can be read to include all females. It is not clear where this leaves the 1557-58 act, but effectively 39 Elizabeth I, chapter 9 (1597) brings abduction back in line with rape law and other felonies for which there was capital punishment without clergy.

In practice, the 1597 act marks a return to the pre-1487 situation when an act of sexual violation *per se*, elopement or abduction each attracted the same penalty. In doing so, however, it provided no greater clarity than before: the range of legislation under which appeals could be brought meant that the opportunities for legal manoeuvring, obscurity and confusion were proportionately enhanced – whether for those embroiled in the system at the time, or for those of us engaging with it historically.

Poor drafting, lack of clarity, anomaly and contradiction characterize the rape and abduction statutes. Combined with the consequent difficulty for interpretation is the temptation to overdetermine the wider meaning of individual statutes. The fact that there were four instances when a single event possibly caused the crown to amend or introduce legislation demonstrates the importance of balancing historical context with assumptions about public attitudes to the crimes.

'History cannot be written from the statute books alone'

Amidst the increasingly objectified status rape law imposed on women, however subjugated it might appear today, the various ways in which women negotiated their position within

those limitations should not be overlooked.[122] Despite the closing-off of means by which they might assert their own choices in marriage, women also exploited the system using their capabilities to form alliances and to gain influence and advantage for their families and themselves.

In the late Tudor period both Henry VII and Henry VIII relied on the exploitation of the king's feudal authority to increase their power and wealth. The crown and the aristocracy alike benefited from developing alliances with members of the court, which also eased the demands for both a bureaucracy and an army. It was a role at which aristocratic women appear to have been particularly effective. Barbara J. Harris notes that hundreds of letters by women survive concerning 'grants of land, annuities, Crown offices, wardships, and places at court; assistance defending their inheritances and dowers or jointures; protection against brutal or neglectful spouses; and exemption from the penalties of forfeiture imposed on their husbands'.[123] In addition to furthering family interests, the evidence shows that women looked to the king's prerogative to redress the inequity they faced in marital disputes, or where their own financial status was threatened, or as in the case of Margaret Kebell, where the law proved ineffective.

Status defined by property value was not, however, only the fate of women. The practice of wardship dated back beyond the mid-thirteenth century and continued until its abolition in 1646. It was, therefore, an important consideration throughout the progress of the rape statutes. Chapter 35 of Westminster II concerns ravishment of wards: 'Children Males or Females, whose Marriage belongeth to another, taken and carried away'.[124] Carrying away a ward was not a felony, but it carried a two-year penalty if the ward was restored, and exile or

[122] The section heading is from Sue Sheridan Walker, 'Punishing Convicted Ravishers: Statutory Strictures and Actual Practice in Thirteenth- and Fourteenth-Century England', *Journal of Medieval History* 13 (1987), 237.
[123] Harris, 222-23 (223). She explains that 'Hundreds of letters […] survive in Henry VIII's State Papers, the Cotton Manuscripts, in the British Library, and other public and private archival collections' (223).
[124] *Statutes*, I, 88.

life imprisonment if not. The detailed and lengthy chapter reemphasises the priority given to inheritance rights.

If a tenant-in-chief of the crown died leaving a daughter under age fourteen as his heiress, the king gained the girl's wardship. This gave him custody of her body and, in such cases, 'the right to arrange [her] marriages and collect the profits from [her] estates'.[125] The same rule applied to males up to the age of twenty-one. Theoretical safeguards protecting young men from abuse of the system were sufficiently costly to deter heirs from taking legal suit against their guardians.[126] There was a fiercely competitive market within the court to buy wardships from the king, and these might be sold-on time and again for profit, or to gain advantage from disposal of the marriage.[127] Henry VIII's papers show that women were active participants in this trade.[128]

Social and legal dependencies between individuals, family, friends, allies and the royal household, and the function of personal relationships as a source of revenue and power for the sovereign help to explain the specific definition in the rape statutes of those at whom they are aimed. Women are carefully categorised to ensure they are given their appropriate values, whether to family, guardian, husband, king. They are, variously, married women, damsels, maidens – within age or under age – widows, heiresses, or wards. The categories create a close relationship with separate laws of property and inheritance, and rape law can only have meaning within that context. But women were not always simply passive victims: they also found ways to participate in the exercise of power within the system. It must also be remembered that statute law represented primarily the concerns of those with the wealth,

[125] Harris, 227. But see also J. Hurstfield, 'Lord Burghley as Master of the Court of Wards, 1561-98', *Transactions of the Royal Historical Society*, 4th series, 31 (1949), 96. Hurstfield gives the age below which girls were liable to wardship as 16.
[126] Hurstfield, 96.
[127] *Ibid*, esp. 95, 96, and 98-100.
[128] Harris, 223, and 241, referring particularly to the activities of Lady Margaret Beaufort in the marriage market – although patronage and / or friendship rather than wardship might describe her interest; Pearl Hogrefe, 'Legal Rights of Tudor Women and the Circumvention by Men and Women', *Sixteenth Century Journal*, 3 (1972), 99.

power and political importance, and with the knowledge and resources to prosecute it. The law takes on a different emphasis for those who did not necessarily enjoy the same privileges.[129]

The statutes define rape not merely in semantic terms, nor those of the direct personal meaning to the victim, but in terms by which it had meaning in that society: social order, the making and consolidating of family fortunes, the crown coffers, the sovereign's authority, the relationship between individuals and the state, and its status as one among other felonies. If it is tempting for us to make judgments about the material focus of the law from a position in the present, we should not forget the nature of the times. In Shakespeare's *The Taming of the Shrew*, Katherina reminds us of a man's lot: he 'commits his body | To painful labour both by sea and land, | To watch the night in storms, the day in cold'.[130] However distasteful we might now find the play, the words are a reminder of the quotidian brutality prevalent during the period in history under consideration: men were obliged to go to war and fight hand to hand with crude and vicious weapons, and to settle legal disputes by physical ordeal, while courts handed down often cruel physical punishments for criminal and social transgressions. Attitudes to the actuality of rape for the victim have to be considered against this background.

Over the three-hundred-year period during which statutory rape law developed, the priorities and culture were also evolving. We cannot assume the proportions in which any abhorrence expressed in the written law of rape can be distributed between its various meanings at any particular historical moment: loss of wealth, loss of honour, disparagement of the actions of the offender, sympathy for the injury of, or disgust at, the now despoiled victim. And it might be perverse from a modern feminist point of view, on one hand to condemn the objectification and commodification of women while, on the other, expressing

[129] That different emphasis is the subject of Chapter 4.
[130] Shakespeare, *The Taming of the Shrew*, ed. by Ann Thompson, The New Cambridge Shakespeare (Cambridge: Cambridge University Press, 1984; repr. 2001), V. 2. 148-50.

dismay that rape was not more frequently redressed by mutilations and hangings. It is today that we should know better.

CHAPTER 2
THE LAWES RESOLUTIONS OF WOMENS RIGHTS

The apparent historical incongruity of the concern for the 'rights' of women expressed in the title of the seventeenth-century *Lawes Resolutions* might hint at the uncertain status of the treatise as a legal authority. Yet the fund of information it contains about the legal position of women – extracts from statutes, commentary, observation – has proved irresistible to those seeking a concise source of information. This chapter argues that it should be viewed with more caution, as a trade book, a product of the burgeoning printing industry.

The Lawes Resolutions of Womens Rights: or The Lawes Provision for Woemen, also carries the running title *The Womans Lawyer*. It is a legal treatise, printed anonymously in 1632, 'which comprehends all our Lawes concerning Women'.[1] The work has attracted scholarship of two types: for one – those concerned with the circumstances of its production or analysis of its content – it is an object of historiography, for the other it is examined as a legal source document in its own right. A sense of ambiguity about the treatise soon becomes apparent from those engaged with scholarship of the first type. Wilfrid Prest wonders at its 'use […] by anyone other than lawyers and law students', involving as it does 'the examination of abstruse theoretical issues arising from […] largely obsolete statute law'. Yet, despite its 'unpromising subject matter and adoption of at least some of the conventions of orthodox legal literature', he nonetheless finds it 'a surprisingly lively, even entertaining book'. On the other hand Doris Stenton finds it 'stiff reading', while admiring the ability and education of those women who might have coped with it (if, indeed, they did). Peter Goodrich sees its theme as 'the defence of women'; at the same time some of its advice at least is 'in part ironic'. Mary Polito describes it as 'produced by legal practitioners for a lay reading public'; by providing 'an extremely thorough summary' of the major legal sources, it

[1] *Lawes*, 'The Epistle to the Reader', sig. a1^{v}.

enables women to 'protect themselves and their estates from duplicitous, land hungry men'. And its perceived stance of offering help to those who were legally disadvantaged by their status as women, was, according to Christopher Cannon, 'provocative'.[2]

Those using *The Lawes Resolutions* as a legal source are inclined to ignore or forgive its sometimes mischievous tone. But a degree of scepticism is advisable for critics who rely on rape law for their context. Although there is some consensus that the treatise is thorough in its scope (if not in detail), critics from all fields of interest struggle to find a coherent voice within it. They inevitably find themselves mediating between its ostensible support for women, and the frequently witty and ironic terms in which it is offered. Whichever voice the reader chooses to hear, the text requires careful scrutiny alongside commentary and analysis by recognized legal sources.

There is much speculation and little certainty about the origins and purpose of *The Lawes Resolutions*, compounded by the question of its authorship. But some anomalies are diminished if, in addition to its apparent ideology or authorial intention, its publication is considered from the viewpoint of commercial opportunism. In this wider context a range of factors collude to suggest how and when it came to be published. These factors can be identified in the background of those involved with the production of the treatise, in the histories of the early modern print trade and of legal education and publishing, and in the structures of and access to the law. Such a review indicates the need for a more critical approach to its reliability as a legal source. However, it does not detract from the role of the treatise as a valuable reference point within a more widely informed exploration of various aspects of early modern law concerning women. This chapter will look at the circumstances

[2] W. R. Prest, 'Law and Women's Rights in Early Modern England', *Seventeenth Century*, 6 (1991), 177, 181; Doris Mary Stenton, *The English Woman in History* (New York: Schocken Books, 1977), p. 61;Peter Goodrich, 'Gynaetopia: Feminine Genealogies of Common Law', *Journal of Law and Society*, 20 (1993), 292; Mary Polito, 'Wit, Will and Governance in Early Modern Legal Literature', *Mosaic*, 27 (1994), 16, and 24; Christopher Cannon, 'The Rights of Medieval English Women: Crime and the Issue of Representation', in *Medieval Crime and Social Control*, ed. by Barbara A. Hanawalt, and David Wallace (London: University of Minnesota Press, 1998), p. 160.

surrounding the production of the *Lawes Resolution* and at how, unless those circumstances are taken into account, it can mislead the unwary.

Authorship

The BL catalogue shows two imprints of *The Lawes Resolutions*, both dated 1632. One is 'printed by [Miles Flesher for] the assignes of John More Esq.', the other 'by the assignment of John More Esquire'. It was never re-printed. The book was entered in the Stationers' register 'under the handes of' Sir Egremont Thynne and Thomas Edgar' on 30 April 1632, and was to be sold by John Grove.[3] The Preface to *The Lawes Resolutions* is signed 'I. L.' (or 'J. L.') in which the writer states that the work was 'long since collected', and the author 'dead'.[4] The Epistle to the Reader is signed 'T. E.', one who also describes having amended and revised the work 'having a Copie thereof lying by me […] within […] a Lent vacation'. This description of T. E.'s involvement, together with Thomas Edgar's name in the Stationers' register, has led to the (probably reasonable) assumption that these are both the same man, and of his association with authorship of the treatise.[5]

T. E. certainly claims editorship, but if his claim is true, speculation must still surround the origins of the manuscript to which he applied his editorial attention – whether it was indeed the work of an earlier, deceased lawyer, or his own. The *ESTC* notes that the work is '[s]ometimes attributed to Sir John Dodderidge', an eminent late sixteenth- and early seventeenth-century lawyer and judge. Dodderidge died in 1628, some four years before its publication, and this timing might fit with the notion of a work updated with the addition of

[3] *STC* (2nd edn), 7437.
[4] *Lawes*, 'Preface', sig. A4^{r}, sig. A3^{v}. A note in the BL catalogue, extant in February 2007, identifying I. L. as possibly Sir Egremont Thynne, has subsequently been deleted. See also Samuel Halkett, and John Laing, *A Dictionary of Anonymous and Pseudonymous Publications in the English Language 1475-1640*, ed. by John Horden (Harlow: Longman, 1980), p. 113, L30. Despite Prest being one of few sources on Thynne, whom he describes as 'a serjeant at law, antiquary and legal bibliophile', he makes no such connection ('Law', 173, and 185, note 15, in which he cites his *The Rise of the Barristers* (Oxford: Clarendon Press, 1986), p. 200, note 39, p. 396 on Thynne).
[5] *Lawes*, sig. a2^{r}. See also Halkett and Laing, p. 254, 'T. E.'.

more recent cases and commentary. However, there is no evidence to substantiate what is a speculative link.[6]

In 1618 John More, by whose assigns *The Lawes Resolutions* was printed, was granted the patent to print law books for forty years from 1628 or 1629. He assigned those rights to Miles Flesher and his partners John Haviland and Robert Young on 1 May 1629 in return for an agreement to pay £60 a year plus one third of the profits. Along with the patent he handed over a stock of type, although there is no record of him ever having printed in his own right.[7]

Prest has produced probably the most thorough scholarship on *The Lawes Resolutions*, and regards not only its 'authorship', but also its 'contents and intended audience' as 'somewhat mysterious'. He begins his enquiry with the question of authorship and, following the BL catalogue's association of T. E. with the name Thomas Edgar, provides a compelling account of a lawyer of that name whose circumstances appear to match those of the putative author too closely for mere coincidence. A 'Thomas Edgar was admitted to membership of Gray's Inn in 1619' and called to the bar in 1625. He was born in 1602, and probably attended grammar school in Ipswich, before Cambridge University. He appears to have been a 'moderately prosperous' provincial lawyer, who served on the Gray's Inn society's governing body from 1650. Whether significant, ironic, or an apposite corollary to his association with *The Lawes Resolutions*, his marriage seems to have been successful: in 1635 he married Mary Poule (or Powell) 'the nineteen year old heiress of a London citizen and merchant tailor, and the grand-daughter of a high-ranking Elizabethan legal bureaucrat'.

[6] *ESTC*, Citation number S 100217; David Ibbetson, 'Dodderidge, Sir John (1555–1628),' in *DNB*, online edn [accessed 23 January 2014].

[7] Henry R. Plomer, *A Dictionary of the Booksellers and Printers Who Were at Work in England, Scotland and Ireland from 1641 to 1667* (London: Bibliographical Society, 1907), p. 76, Fletcher, or Flesher (Miles), p. 131, More, John; See also David Stoker, 'Atkyns, Richard (1615–1677)', in *DNB*, online edn [accessed 18 January 2013], esp. paragraphs 3-7: Atkyns married Martha, the widowed daughter of More. More died in 1638 having bequeathed the annuity to Martha, and the payment later became a matter of dispute and litigation when Flesher tried to evade payment. Although Martha and Atkyns won the case, the victory was Pyrrhic in that his financial incompetence, and her extravagance, led to marital breakdown and Atkyns's ruin.

There were ten children of the marriage and when Edgar died aged ninety, he and Mary had been married for fifty-seven years.[8]

Edgar's credentials and career support his candidature for involvement with *The Lawes Resolutions*, as do the apparent dates and citations included in the text.[9] Prest observes that 'the original body of the text is not clearly distinguished or distinguishable from Edgar's later additions'. However, references to legal reports and notes place the beginning of the original work 'no earlier than the mid-1580s', while those to 'the late Queen Elizabeth', and the claim to 'have […] sailed betwixt the capes of *Magna Charta* and Quadragesima of Queen Elizabeth', point to its completion early in James 1's reign.[10] On the other hand he notes that references to Coke's 1628 publications, *First Institutes*, and the *Commentaries on Littleton*, are likely to represent the work of Edgar. Similarly, 'scattered references' to Coke's *Reports* published between 1600-1615, and various other citations – for example unreported cases from 1632 – must also be attributable to the later editor.[11]

It is a possibility though, as Prest points out, that Edgar was indeed the author of *The Lawes Resolutions*, and that the late, anonymous author was 'a fiction'. By 1632 aged only twenty-nine, Edgar's inexperience would have been at odds with the convention of the legal author as 'venerable sage'. Concern for the book's credibility – and therefore appeal – may well account for the preservation of the author's anonymity.[12] Interestingly though, Prest identifies that the only other work authored by Edgar was published under his initials, T. E. It, too, is prefaced by a disclaimer explaining that the author's initial opposition was put aside

[8] Prest, 'Law', 172- 174 (173, 174).
[9] Subsequent references in this text will assume that Prest's Edgar, and T. E. are one and the same, and editor, if not author of the treatise.
[10] Prest, 'Law', 174-75; *Lawes*, p. 196, p. 389, p. 400, p. 403. But see Polito, 23: her claim that 'evidence suggests [*The Lawes Resolutions*] was written during the latter part of Elizabeth's reign' is misleading.
[11] *Ibid*., 'Law', 175; *Lawes*, p. 187, p. 225, p. 276, p. 322.
[12] Prest, 'Law', 175. If Edgar's coyness were connected with his lack of experience at the bar, the argument for his authorship might be supported by the converse situation: if, for instance Dodderidge, or one of similar status, was responsible for the original manuscript, it might be surprising that his authorship was not acknowledged, even if the editor remained relatively low-key.

'to prevent mistakes in Copies'.[13] The same justification of inexperience to explain the author's coyness cannot be sustained in this case though – a mere thirteen page political pamphlet published some eighteen years later.

Finding a Readership

Regardless of its authorship the contents of *The Lawes Resolutions* have generated persistent interest among those studying early modern culture. Lynne A. Greenberg notes that 'quotations from the text are […] nearly ubiquitous in recent articles discussing the legal status of the early modern Englishwoman'.[14] The law and commentary do provide a remarkably convenient reference for the modern critic. The title page describes the contents: 'A Methodicall Collection of such Statutes and Customes, with the Cases, Opinions, Arguments and points of Learning in the Law, as doe properly concerne Women'. The treatise contains 'the immunities, advantages, interests, and duties of women'. The Epistle tells us those women, might be 'either Children in government or nurture of their Parents or Guardians, Mayds, Wives, and Widowes', and those concerns include 'their goods, inheritances, and other estates'. It commends the contents as 'profitable and usefull Learning to be well knowne'.[15] The treatise is organised to follow the phases of a woman's life and how these are recognised in law, inevitably in terms of their relationship to men. Five 'Books' are ordered first to identify the legal implications of the different stages, then progresses through the contracting of marriage, marriage, widowhood, and remarriage. Rape comprises the final sections of the last book.

[13] *Ibid*.; Thomas Edgar, *Two Charges* (London: Walbancke [1649, i.e.1650]), 'The Stationer to the Reader', sig. A2^{r}. The *ESTC* notes that 'T. E. = Thomas Edgar'.
[14] Lynne A. Greenberg (ed.), *Legal Treatises*, Early Modern Englishwoman, Series 3: Essential Works for the Study of Early Modern Women, Part 1, vols 1-3, general eds Betty S. Travitsky and Anne Lake Prescott (Aldershot: Ashgate, 2005), p. xxxvi.
[15] *Lawes*, title page, p. 3, and sig. a1^{v}.

However, despite its accessibility and extensive use today, there is little evidence to support Greenberg's assertion that 'legal commentators cited the treatise well into the eighteenth century'. The only apparent evidence of its citation as a legal authority is a single example in an early eighteenth-century tract: John Brydall's *Privilegia Magnatum*. In this instance it is offered as one of several sources on a point concerning the remarriage of the widows of noblemen. Greenberg cites Prest as her authority; however his comment that *The Lawes Resolutions* 'continued to be cited into the following century', makes no claim for its legal, as opposed to its commodity, usage.[16] Two of only three other citations Prest finds are in book catalogues.[17] The third is a mention by William Sheppard, in the preface to *The Touchstone of Common Assurances*, to justify publication of his own work.[18] In other words, other than one minor example, the treatise is largely disregarded by the legal profession, although it continued on sale and in circulation.

The apparent absence of *The Lawes Resolutions* from citation in serious legal works of the seventeenth century is one of the anomalies surrounding the work, and one of the cautionary signals to be heeded when encountering its presence in modern criticism. There may be several reasons for its lack of professional status, including the subject matter, and the anonymity of the author. Today's critics though, are torn between the convenient access to the law it offers, the cultural insights offered by its commentary, and the apparent ironies and ambiguities with which they are delivered.

---

[16] Greenberg, p. xxxvi; John Brydall, *Privilegia magnatum apud Anglos* (London, Sawbridge, 1704), pp. 11-12. Greenberg cites Prest, 'Law', 187, note 62 (which, incidentally, erroneously specifies Brydall, p. 1).

[17] The two catalogues cited by Prest are: William London, *A Catalogue of The Most Vendible Books in England* (London, [n. pub.], 1657), 'Books of the Common Law', sig. Bb4^{v}, where it is entitled *The Lawes and Resolutions.[…]* [my emphasis], and John Worrall, *Bibliotheca legum* (London: Worrall, 1756), p. 136. The *ESTC* shows fourteen editions / imprints between 1732 and 1788. In the earliest edition (London: Worrall, 1732), p. 58, for example, it appears under, 'Quarto, W', as '*Womens Lawyer: Or, Laws of Womens Rights*', and is for sale at a comparatively pricey 2s. 6d.; in the last edition (London: Brooke, 1788), p. 215, under 'Miscellanies', as *Women's rights: or, the law's provision for women*, it commands a more modest 2s.

[18] William Sheppard, *The touch-stone of common assurances, Or, A plain and familiar treatise opening the learning of the common assurances or conveyances of the kingdom* (London: M. F., 1648), sig. A5^{v}.

When pondering its intentions, an inescapable feature of *The Lawes Resolutions* is the notion of 'women's rights' created by the title, and the consequent risk of allowing an unhistorical modern emphasis to be placed on it. The *OED*'s definition of 'rights' (extant from 900 A. D.) is: 'a legal, moral, or equitable title or claim to the possession of property or authority, the enjoyment of privileges or immunities, etc.'.[19] Since any 'rights' accruing to women were so limited, the title of Edgar's treatise is an ironic reminder of the lack of 'rights' enjoyed under either code by those whose legal status was limited by virtue of their sex. It is a point the author expands on early in the text:

> Women […] have nothing to do in constituting Lawes, or consenting to them, in interpreting of Lawes, or in hearing them interpreted at lectures, leets or charges, and yet they stand strictly tyed to mens establishments; little or nothing excused by ignorance.[20]

Within the scope of *The Lawes Resolutions* the word 'rights' sits most comfortably with the predominant preoccupations of early modern England with land and property. Polito perceives this in the author's organisation of the work to follow the changing entitlements to property through the different states and stages of a women's life.[21] And rape law is a demonstration of how early modern women are always defined by their place within this dynamic. In this context it is culturally anachronistic to criticise the author of *The Lawes Resolutions*, as Greenberg does, because he 'fails to advocate or to encourage legal reform'. The stance he actually invokes is 'to behave virtuously, to live a modest and chast life at home and to look to God and the next life for comfort'. But he also does indeed propose women 'move for redress' by Parliament for inequitable land laws between man and wife. He entirely reprises social, political and legal understandings about authority and a woman's place within institutional hierarchies, while also perceiving the law's inequity.[22]

---

[19] 'Rights', in *OED*, n.[1], 9. a.
[20] *Lawes*, p. 2.
[21] Polito, 26-27.
[22] Greenberg, p. xxxvi; *Lawes*, p. 146. It is perhaps a further irony that separately under 'Women's rights', defined by the *OED* as 'the rights claimed for women of equal privileges and opportunities with men', it

Before moving too far from the naming of the work, it is worth noting that the title-page bears the subtitle *The Lawes Provision for Woemen*. The *OED* tells us that the usages of 'women' (and its alternatives), '[i]n the 16th and 17th centuries [were] frequently with play on a pseudo-etymological association with *woe*'.[23] T. E. later places this usage in the scriptural context of the creation of woman from man, and its signification 'not the woe of Man […], but with Man […] as a helpe, and a companion'. Whether its use in the subtitle is facetious or not, the fact of his apparent need to explain, in somewhat convoluted terms of semantics and pronunciation, only begs a question of the usage in the first place. Once alerted to the potential irony it is difficult to ignore that possibility in relation to the rest of the text. For example, when the author refers in the Preface to women as 'that sexe generally beloved', how firmly might his tongue be in his cheek? And at whom is his irony directed: at 'that sexe', or at those entrenched in the ideas espoused by the inequitable laws?[24]

Many examples of the author's much-quoted comments and asides throughout the body of the text continue the apparently humorous vein. One of the most regularly cited is on wife beating, in which he advises married women that since they have no legal status:

> Then […] why may not the Wife beat the Husband againe, what action can he have if she doe? […] so the actionlesse woman beaten by her Husband, hath retaliation left to beate him againe, if she dare […] and then if he be beaten the second time, let him know the price of it on Gods name.[25]

Goodrich proposes that 'it was more likely despair than flippancy that motivated the sentence'. Whether or not he is right, his observation exemplifies both the difficulties critics encounter and the general tendency to assume an interpretation which demonstrates sympathy with the female cause.[26]

---

identifies *The Lawes Resolutions of Women's Rights* as the first historical example of the terms usage. Yet at that time any generalised idea of individual 'rights', let alone of female equality, would have been a cultural anathema. Significantly the next usage is not recorded until the nineteenth century.

[23] *OED*, CD-ROM, version 3.1, 2nd edn (Oxford: Oxford University Press, 2004), 'Woman', *n*. I. 1. k.

[24] *Lawes*, p. 4; sig. A4r.

[25] *Ibid*., pp. 128-29.

[26] Goodrich, 'Gynaetopia', 292-93.

On the other hand, in the case of a dower, a woman only becomes entitled to it following consummation of the marriage, she is advised: 'when supper is done dance a while, leave out the long measures till you be in bed, get you there quickly, and pay the Minstrels tomorrow' – a distinctly arch observation.[27] In another example Joan Larsen Klein notes the 'ironic edge' when the author describes a widow's grief:[28]

> Alas, when she hath lost her husband; her head is cut off, her intellectuall part […] gone, the verie faculties of her soule are […] all be[numn]ed, di[mm]ed and dazled, so that she cannot thinke or remember when to take rest or refection for her weake body.

However, this assessment of the widow's state is quickly followed by the author's offer of comfort:

> Time must play the Physitian, and I will helpe him a little: Why mourne you so, you that be widowes? Consider how long you have beene in subjection under the predeminance of parents, of your husbands, now you be free in libertie, and free […] at your owne Law.[29]

For the first time in her life a woman of property may gain personal autonomy and become financially independent in widowhood. We can choose whether these culturally and legally accurate observations are inclined to the sympathetic, the dispassionate, the ironic, or the mischievous – or any combination of them. While not necessarily mutually exclusive they might indicate the need to be alert to whether compromises have been made between the law and entertainment and if so, of what kind.

Whether or not the tone is entirely serious, Prest is convinced that 'the text is clearly not directed towards an exclusively female audience'. In fact he says that it is uncertain 'that any women actually acquired or used the book'. There is little dispute with his conclusion that few women might have read and directly benefited from *The Lawes Resolutions*. And a book with the objective to *benefit* women was not necessarily written *for* women. However,

---

[27] *Lawes*, p. 118.
[28] Joan Larsen Klein (ed.), *Daughters Wives and Widows: Writings by Men About Women and Marriage in England, 1500-1640* (Chicago: University of Illinois Press, 1992), p. 29.
[29] *Lawes*, p. 232.

the arguments of those promoting its feminist credentials depend on an assumption of a relatively wider female readership – either actual or intended.[30]

Scripture is 'the law's ultimate authority': the beginning of *The Lawes Resolutions* explains women's subordinate role to men in terms of the Biblical story of Adam and Eve – an approach, Klein points out, which has more in common with courtesy books for women than with legal compilations. However, within this hierarchical framework she believes the author sees himself 'as an advocate for women'.[31] In addition to the protection it offers women through legal knowledge, Polito describes the text as 'soliciting voluntary acts of self-governance for the good of the whole English realm'. Such a stance 'paradoxically claim[s] to liberate while acting to restrain [its] implied readers'. The knowledge women gain from the text will in turn supposedly encourage them to restrain their menfolk. Similarly to Klein, she aligns the treatise with 'conduct books and pamphlets produced by men for the instruction of women'.[32] Suzanne Hull lists *The Lawes Resolutions* in her 'Basic List of Books *for* Women, 1475-1640' [my emphasis].[33] Stenton interprets Edgar's general expression of thanks to 'woman kind' as evidence of his 'assurance that women would read him'.[34] Goodrich identifies the treatise's style as that of a 'self-help' book. He explains that because the status of women was deemed 'politically suspect' and 'legally uncertain', the *querelle des femmes*, touching all aspects of the place and status of women, had been an increasingly troubling concern across Europe and was now emerging in law. *The Lawes Resolutions* represented an intervention in that debate. In that role he is inclined to see the treatise in terms of 'the defence of women […] and the manipulation of hostile rules to the

[30] Prest, 'Law', 179, 181.
[31] Klein, pp. 27-28 (p. 28).
[32] Polito, 16, and 24.
[33] Suzanne W. Hull, *Chaste, Silent and Obedient: English Books for Women 1475- 1640* (San Marino: Huntington Library, 1982), p. 166. She defines the criteria for eligibility for inclusion in her list at pp. ix-x: books are required to satisfy at least one category. *The Lawes Resolutions* would satisfy her first and third categories: 1. 'Books specifically directed to women' – via title, preface, dedication, introduction, text, etc; and 3. 'books with separate sections on women's duties or roles'.
[34] Stenton, p. 61; *Lawes*, p. 3.

benefit of an oppressed class'. However, his analysis acknowledges the playful ambiguity of the text that leaves room to question whether it is unequivocally sympathetic. Certainly any sympathy for the status of women at the time would not be recognised in the semantic and cultural terms of modern feminism. However, the location of the text within the scope of the *querelle des femmes* is more sustainable. And the possibility it offers to readers, either as a serious legal intervention to aid women or their representatives, or with apparently equivocal and knowing asides about 'the woman question', supports its ostensible appeal to either market.[35]

As far as women were concerned, despite the technical nature of the treatise, Prest tells us that some of the 'conceptual apparatus and terminology', particularly concerning land law, 'however incomprehensible to modern readers, would have been more or less familiar to a great many women in the early seventeenth century'. Nor, apparently, would they necessarily have been deterred by black letter typeface. On the other hand, since 'some […] Latin (notoriously less accessible to girls than to boys)' would have been essential, along with French, 'as well as access to a fairly extensive law library', it seems to exclude easy reference for other than legal professionals. In addition, much of the information it contains concerns statute law – much of which was obsolete by 1632 – or it refers to recent, unreported judgments deriving from the 'wholly masculine' didactic tradition of legal scholarship established in the medieval Inns of Court.[36]

If the style of *The Lawes Resolutions* does not identify a specific target audience, there might be clues in its manner of address. Klein notes that the author 'addresses women usually in the third person but sometimes also in the first and second person', similarly to a lawyer addressing his clients. 'Certainly' she says 'he seems to see himself as an advocate for women'. Polito infers that 'the book, like its implied readers, is gendered female and is

[35] Goodrich, 'Gynaetopia', 291, 279, 292.
[36] Prest, 'Law', 176, 182-83, 176, 177. Greenberg, xxxiv, while assuming a putative female readership, also suggests usage of the treatise to have been predominantly by legal professionals.

similarly in need of protection'. She assumes the faux-modest epistle signifies an expectation that his 'project […] will be scorned', although it is more likely simply to be following the manner of publishing convention.[37] However, despite the claims it makes for its objective to serve women Prest points to the author's concluding address which alludes to 'they which are lesse learned than my selfe in this studie', and which is then defined as 'those, that have but newly taken acquaintance of Littleton': in other words – students who were by definition, male. Unlike Klein he finds the text only 'occasionally' addresses a 'putative female reader', and there is at least one instance in which the usually un-gendered reader 'is revealingly addressed as "Sir"', while on another being directed 'for *his* better instruction' [my emphasis] to Coke's *Commentary on Littleton* – the province of the legal professional. He finds these to be the only beneficiaries of the 'antique obscurities and modern complexities, adopting the brusque style of the legal commonplace book or case report' indulged by *The Lawes Resolutions.*[38]

Nor is there more clarification to be found in the narrative text of the treatise: women are certainly represented as 'legally underprivileged' and 'vulnerable to exploitation', but any sympathy is necessarily reserved for women who have, or will inherit, property since it is with their affairs that *The Lawes Resolutions* is primarily concerned. Yet at the same time Prest observes 'the extent to which *The Lawes Resolutions* remains imprisoned within the traditional framework of inns of court learning', and their focus on the common law and ancient courts. Despite a notable increase between 1560 and 1640, women engaged in relatively little common law litigation. The cultural preoccupation with property law was expressed in the parallel expansion in Chancery 'and other conciliar jurisdictions'. Women were apparently involved in some sixteen to seventeen per cent of Chancery suits as

[37] Klein, p. 28; Polito, 26. See, for example, Randall, J. Anderson, 'The Rhetoric of Paratext in Early Printed Books', in *The Cambridge History of the Book in Britain: Vol. 4, 1557-1695*, ed. by John Barnard, and D.F. McKenzie, with the assistance of Maureen Bell, 6 vols (Cambridge: Cambridge University Press, 1999 –2012), IV (2002) p. 638, where he warns about the difficulty facing those who attempt to 'navigate ironic paratexts'.
[38] Prest, 'Law', 179; *Lawes*, p. 403, p. 79, p. 276.

'principal plaintiffs' in the second half of the sixteenth century, and from 1613 to 1714, up to twenty-five per cent. In view of this emphasis, *The Lawes Resolutions* apparently fails to meet the needs of the most legally active group of women – those seeking to protect their property interests.[39]

*

Playful interventions in the text of *The Lawes Resolutions* accommodate a disparity between its apparent constituency and its actual readership. But, despite the reliance on the work by those critics assuming a female readership, Prest's enquiry makes it difficult to be persuaded of this emphasis. There is little dispute that the purpose of publishing in English, rather than the law French that was still customary for professional legal writings, was indeed to make the contents accessible to the lay reader. But Prest points out that what is known about literacy rates for women at the time suggest that its predominant readership must have been found among 'the exclusively male membership of the inns of court'.[40] And the need for accessibility existed at all levels of the law – it was not necessarily (if at all) equated with female learning – remembering, for instance, that all twenty editions of Dalton's *Country Justice* were printed in English.[41] In these circumstances, in which lack of access to appropriate education and knowledge, and relevance both militate against a wide female readership, it would be mistaken to overdetermine the ostensible female focus of *The Lawes Resolutions*.

If women in any quantity are discounted, the questions still remain of for whom and for what purpose the treatise was published. The lack of citation by commentators, of course, does not necessarily mean lack of use by students or practitioners at lower levels of the law.

[39] Prest, 179, 180, and 181-183 (181). Prest, 182, find a study which suggests that, in the reign of James, the figure might have risen to as much as forty per cent.
[40] Prest, 'Law', 180-181 (181).
[41] *The boke of justices of peas* (1505), and subsequent editions use English in the early sections, as far as setting out the 'fourme and manner of the charge of the Justyces of peas', only (ending at Ci^{v}). Fitzherbert's *The newe booke* (1538) was printed in English in some nine editions between 1538 and 1566.

Possibly more significantly though, publication of *The Lawes Resolutions* coincided with a growing movement to impose some order on the 'bulky and heterogeneous mass […] which constituted the common law of early modern England'. Like the inconsistent legal record-keeping of the period, it seems that documentation of the law was also fairly chaotic: 'English legal literature effectively consisted of little more than collections of case reports, statutes and writs, arranged on a merely chronological or alphabetical basis'. Recognition of this state of affairs led to a strong interest in 'methodising the law […] throughout the first half of the seventeenth century'. The moves both to broaden the readership and to impose some methodology might have influenced publication, although the work still contains examples that comprise 'a formidable barrage of legal authority […] unglossed technical terms and untranslated Latin tags' which expand alongside the length and complexity of the matter under discussion.[42] However, the publishing world, like any other business, was driven by commercial considerations, and evidence for the decision to update and reproduce the work, might well lie outside the text itself, in the book trade.

Law Books and the Print Trade

Law books did not only find a market with legal professionals. The materiality of books and the culture of book buying, as well as their contents, contributed to their popularity. Some, such as bibles, prayer books, and grammars, were commercial staples, but as well as responding to demand, printers and publishers had to anticipate, if not create, the market in order to make a profit and establish an enduring business.[43] The ambiguities of the

[42] Prest, 'Law', 180, 181, 176.
[43] On the economics of the book trade, and the market for profitable books, such as law books, see Zachary Lesser, *Renaissance Drama and the Politics of Publication: Readings in the English Book Trade* (Cambridge: Cambridge University Press, 2004), Chapter 1, 'Speculation in the Book Trade', pp. 26-51 esp. pp. 26-37, ; P. M. Handover, *Printing in London from 1476 to Modern Times: Competitive Practice and Technical Invention in the Trade of Book and Bible Printing, Periodical Production, Jobbing etc.* (London: Allen and Unwin, 1960), Chapter 2, 'The Book Trade in the Seventeenth Century', esp. pp. 50-52; Cyprian, Blagden, *The Stationers' Company: a History*, 1403-1959 (London: Allen and Unwin, 1960), p. 138.

presentation and title of *The Lawes Resolutions of Womens Rights* might than indicate a deliberate attempt to broaden its customer base.

In the early seventeenth century books were among the range of a growing number of consumer products. Lesser explains that books are 'highly symbolic' because of the several and various ways they distinguish their purchasers: not only through quality, price and appearance but, because of their content, by innumerable categories of person such as gender, politics, religion, occupation among many others.[44] From the mid-sixteenth century, and during the seventeenth, book ownership increasingly became a status symbol, and books retained a good re-sale value, often being listed among the effects of the deceased. The interest in books as a consumer product was accompanied by a rapid growth in the use of both public and private libraries, although there is little evidence to suggest women independently owned books to any extent.[45]

The physical form of a book inevitably has the capacity to influence the way it is perceived and read. Within the historically technical constraints of the materials, how it is located in relation to print conventions and the expectations of its readers contributes to its meaning. Maureen Bell identifies how 'author, compositor, printer, publisher, editor […] buyer and reader' contribute either 'singly or collaboratively' to 'choices of paper, format, type, ornament, illustration, binding and page layout'. These observations, when applied to *The Lawes Resolutions*, begin to suggest a wider range of factors bearing on its publication. One particularly important element is the assumed readership of legal practitioners.[46]

---

[44] Lesser, *Renaissance Drama*, p. 45.
[45] Elisabeth Leedham-Green, and David McKitterick, 'Ownership: Private and Public Libraries', in *The Cambridge History of the Book: Vol. 4,* ed. by Barnard and McKenzie, pp. 323-26. On books and consumerism, see also James Raven, *The Business of Books: Booksellers and the English Book Trade, 1450-1850* (London: Yale University Press, 2007), pp. 51-54.
[46] Maureen Bell, '*Mise-en-page*, Illustration, Expressive Form', in *The Cambridge History of the Book in Britain: Vol. 4,* ed. by Barnard and McKenzie, p. 632. See also Lisa Jardine, and Anthony Grafton, '"Studied for Action": How Gabriel Harvey Read His Livy', *Past and Present*, 129 (1990), 32.

The culture of commodification, and the rise of the gentry in Elizabethan England contributed to a correspondingly rapid increase in admissions to the Inns of Court. It endowed an element of 'social cachet': even for those not seeking to pursue a legal career, some time spent at the Inns seemed to have provided an essential part of a gentleman's education.[47] 'In an extremely litigious society men of means had [a …] need for a modicum of legal skill, which […] would enable them better to cope with the suits of avaricious neighbours and troublesome tenants'. The Inns were though, also regarded as the most direct and prestigious path to a professional career. Law was also taught at Oxford and Cambridge, but their intake was generally from those a little lower in the social order, and their numbers greater.[48] Regardless of any prestige attached to the institutions, however, according to Prest, the quality of the legal education provided by both the Inns and the Universities was 'moribund'.[49]

Legal education at the Inns comprised three main elements: 'private reading, court attendance and participation in […] aural learning exercises' (the last of these consisted of 'case puttings, moots and readings'). Prest maintains that 'even before the introduction of printing' reading was probably always the most important means of learning.[50] However, John Baker tells us that libraries at the Inns were 'somewhat inadequate', and students were expected to create their own manuscript books by 'borrowing and transcribing, common-placing, and collecting precedents'.[51] There was a 'proliferation' of law books in the sixteenth century, but no satisfactorily formalised relationship between printing and legal education meant many were of little benefit to the student – either being hugely detailed and

[47] Prest, Legal Education of the Gentry at the Inns of Court, 1560-1640', *Past and Present,* 38 (1967), 21.
[48] *Ibid*., 23, 20. Prest finds that the 'total annual student intake [of the Inns of Court] never rose above two thirds that of either Oxford or Cambridge' (20).
[49] *Ibid*., 38.
[50] *Ibid*., 25, 23, 25.
[51] J. H. Baker, 'English Law Books and Legal Publishing', in *The Cambridge History of the Book in Britain: Vol. 4,* ed. by Barnard and McKenzie, p. 476.

multi-volumed, or insufficiently comprehensive.[52] The general lack of discipline surrounding Inns of Court learning – both as given and received – suggests that all but the most diligent and professionally ambitious acquired only limited benefit from it.[53]

Property was the main expertise of most common lawyers, for which Littleton's *Tenures*, and Perkins' *Profitable Booke* generally offered a sound introduction.[54] Baker confirms that *Littleton* 'was very much a student primer', and that 'the most basic requirements for a law student going to London were some bedding and a Littleton'. He also identifies Christopher St German's *Doctor and Student* as 'useful', aimed at the student rather than the lawyer, and not so much a law book as a discussion 'of selected legal principles'.[55]

Other than property and land law, the only practical interest for the country gentleman would have been 'the law administered by justices of the peace and manorial courts' – neither of which occupied the syllabus at the Inns. By the beginning of the seventeenth century the layman's involvement was largely confined to these minor courts, and several comprehensive manuals, such as Dalton's *Country Justice,* were available to assist him.[56]

Possibly surprisingly, at the other end of the scale access to the statutes had already been transformed during Henry VII's reign by the advent of the printing press, and all copies

---

[52] Prest 'Legal Education', 24, and 32-33.
[53] *Ibid*., 35-36. Sections II, pp. 21-22, and IV, pp. 25-29 of Prest's article discuss the behaviour of students at the Inns of Court.
[54] *Ibid*., 35; J. H. Baker, 'The Books of the Common Law', in *The Cambridge History of the Book in Britain: Vol.3, 1400-1557*, ed. by Lotte Hellinga, and J.B. Trapp, 6 vols (Cambridge: Cambridge University Press, 1999 –2012), III (1999) p. 412. According to Prest, some sixty editions of Littleton's *Tenures* were published between 1481 or 1482, and 1640. See also Baker, 'Common Law', p. 412; John Perkins, *A profitable booke of Maister John Perkins felowe of the inner temple treating the lawes of Englande* (London: Tottell, 1555). The *ESTC* shows some nineteen imprints published between 1555 and 1658.
[55]Baker, 'Common Law', p. 412. After the first (1530) edition of *Doctor and Student*, Baker, note 10, observes that there were a further nineteen editions printed in English before 1600. Incidentally, the notes 'To the Reader' prefacing the editions of *An exact abridgement of that excellent treatise called Doctor and student* (London: More, 1630), and (London: E. C., 1658) are signed with the initials 'I. L.' or 'J. L' at sig. A4^{r} – the same initials as the unidentified writer of the Preface to *The Lawes Resolutions*. Halkett and Laing, *Dictionary*, p. 68, item E118, Saint German's *Doctor and Student*, states the 'editor, who signs pref. as 'I. L.' on A4^{r} has not been identified'. Conversely at p. 250 of the *Dictionary*, its list of pseudonyms identifies 'I. L.' (listed as 'J. L.' and cross-referenced to item E118) as 'Sir Egremont Thynne', presumably referencing its own, now doubtful, entry under *The Lawes Resolutions*. Other publication details do not coincide, but the proximity of dates suggest the possibility that in both cases I. L. is the same person – whether or not it is Thynne. There is though, no evidence to make this a significant factor in respect of the publication of *The Lawes Resolutions*.
[56] Prest, 'Legal Education', 36; Baker, 'Common Law', p. 421.

made after 1500 were printed, ensuring far greater reliability and consistency than that of manuscript texts. Although increasingly subsidiary to common law, they were essential texts for lawyers to consult in conjunction with the Year Books and Reports. Even more surprisingly, they were printed in English, allowing circulation to extend widely beyond the legal profession. More generally, until the 1650s the mystique of the law was preserved from humanist aspirations for accessibility by publishing only 'elementary books' in English, and 'professional' texts in Latin and law French.[57]

Books, by the beginning of the seventeenth century, offered commercial opportunity in an increasingly trade-based economy. However, the English book trade was in a process of development, and operating under legal and institutional constraints. Lesser explains how, unlike other industries, it required high initial capital investment. Publishers – who might speculate on and finance a project – were obliged to protect their investment. The two main vehicles of protection were the Stationers' Company, which was controlled by publishers – whatever their trade – and oversaw rights to copy, and the royal patent which protected 'entire classes of books, like lawbooks or primers'. At around the year 1600 there was a transition in publishing – away from printers to booksellers. At the same time there was an increase in the arrangement whereby a printer might publish a book, but then consign it to a bookseller for wholesale distribution. Printers found publishing less economically viable and the function of publisher-booksellers and trade printers became more polarised.[58]

Printers could generally not sustain themselves as publishers by relying only on Company rights; they needed the additional benefit offered by lucrative royal patents. Lesser speculates that this may have simply been a case of too many printers and too little work.

[57] Baker, 'The Books of the Common Law', pp. 422-23; H. S. Bennett, *English Books and Readers, 1558 to 1603: Being a Study in the History of the Book Trade in the Reign of Elizabeth I* (Cambridge: Cambridge University Press, 1965), p. 156-57; and Bennett, *English Books and Readers, 1603 to 1640: Being a Study in the History of the Book Trade in the Reigns of James I and Charles I* (Cambridge: Cambridge University Press, 1970), pp. 119-20.
[58] Lesser, *Renaissance Drama*, p. 27, pp. 29-30 (p. 30). See also Handover, pp. 53-54.

Certainly the number of master printers, already limited by Star Chamber in 1586, was further restricted by the Company in 1615. However, by also restricting the number of presses each printer was allowed, this further limitation also restricted his potential earnings. And so a trade printer was unlikely to become rich, and as a publisher he faced restrictions on his earning capacity. Crucially 'the book trade as a whole […] depended on successfully predicting and creating the desires of the early modern book-buyers'. The successful publisher needed both drive and imagination, but he also needed capital and the courage to invest it.[59]

A spirit of '"adventure"' was an advantage to the early publishers who entertained the possibility of wealth as 'bespoke publishing' gave way to more speculative printing through the sixteenth century.[60] Investment might be made in the quality of the product – for example, the size and quality of paper, ornament and engravings.[61] A more direct approach might be that of 'title-page marketing' in which layout and font play a part, together with, perhaps, the inclusion of illustrations, a summary of the contents, and reference to previous works by the author.[62] Alongside these early advertising strategies, needless to say, less legitimate practices were alleged if not, in some instances, confirmed. For example a popular author's name might be substituted on the title-page of a lesser known author's work, or a more appealing title given to a subsequent edition of an unsuccessful work. The bookseller might resort to sensationalism by pretending the contents were censorable, or invent a title which bore little relation to the text.[63]

Law books were regulated by royal patent creating a monopoly of their printing. They were generally large, expensive and sought-after, and there was a constant need to maintain stocks of traditional legal texts. The demand, together with their re-circulation value and the

[59] Lesser, *Renaissance Drama*, pp. 31-32, p. 35,
[60] *Ibid*., p. 34; Raven, p. 352.
[61] Bell, pp. 632-33.
[62] Lesser, 'Renaissance Drama', p. 47.
[63] Handover, p. 52.

drive to produce new titles to supersede 'old standards', all contributed to steep price-increases from the 1560s for the ensuing century. Despite the reliable market for law books Baker suggests that its necessarily limited size might have justified their elevated price. Ownership of the patent was clearly a valuable asset, and the 'only' limits that were set were that the printer could own only two presses, and would be 'liable to punishment for corrupt printing'. However, the limit on presses clearly diminished the potential for unfettered wealth.[64]

Publishing *The Lawes Resolutions*

More, by whose assigns *The Lawes Resolutions* was printed, and owner of the royal patent for law books at the time, was not a stationer. The motive for his involvement, therefore, is not immediately apparent. An obvious possibility, of course, is potential financial gain. But on the surface this explanation appears inconsistent with his circumstances. More, and an author friend, John Dickenson, had both held government appointments under Sir Ralph Winwood (appointed commissioner to The Hague in 1603, and Secretary of State in 1614). There is no suggestion that they were themselves other than solvent. However, after his death Dickenson and More undertook to pay Winwood's posthumous debts. In pursuit of this project they apparently engaged in various 'business ventures' together. Both Dickenson and the late Winwood had had some involvement with writing and publishing, and it seems possible that the acquisition of the law patent presented an opportunity.[65] With no direct

[64] Raven, p. 51; Baker, 'Common Law', p. 427, 'English', p. 479 (Raven, p. 51, Baker, 'English', 479). See also Bennett, *1603 to 1640*, p. 118.

[65] See Gavin Alexander, 'Dickenson, John (*c.*1570–1635/6),' in *DNB*, online edn [accessed 18 January 2013], esp. paragraphs 9, and 1-5; M. Greengrass, 'Winwood, Sir Ralph (1562/3–1617)', in *DNB*, online edn [accessed 12 February 2014], esp. paragraphs 6, 10, and 2. In paragraphs 10, 12, and 13 Alexander notes Winwood's connection with a number of scandals: his judgment was questioned in relation to his promotion of Sir Philip Stanhope to Lord Shelford who had twice been charged with sodomy and pardoned for murder. He played a role in the Howard -Carr and the Overbury scandals, as a supporter of the former and a suspected accessory in the latter; and he was implicated in Ralegh's fateful venture, only escaping a similar fate by illness and prior death. The Howard-Carr and Overbury scandals are discussed in Chapter 6.

experience of printing or publishing it is consistent with his assumed objectives that More reached an agreement by means of his arrangement to assign the law patent to Flesher, and so to achieve a predictable income from it.[66] When the patent was assigned it included the right to print some seventy titles to which several new works were added – including *The Lawes Resolutions*.[67] It was therefore Flesher and his partners who were the publishers and printers of *The Lawes Resolutions*. They clearly set out to exploit their opportunities to the full – of which the lucrative law patent was a significant part of their prospects – but by no means the whole.

Flesher was born at Otley in Yorkshire, the son of a wheelwright. Having served an apprenticeship of seven years, he became a journeyman printer in 1611 and later first bought a half share in, and later took over, George Eld's printing house after Eld died in 1624. This gave Flesher two printing presses. He appears always to have been, temperamentally, a businessman rather than a tradesman, developing his opportunity in three directions. One route was to buy copyrights (the preserve of booksellers), another resulted from his partnership with Haviland and Young who brought three other printing houses – and importantly their additional presses – into the business. The third was to secure a lease of the Grammar patent, a lease for a share of the King's Printing Office, and in Young's name, the office of the Royal Printer for Scotland, in addition to law printing.[68] By 1635 the partnership controlled nine presses – 'more than one fifth of the printing presses in London'.[69] However, the business practices of the three partners could be

[66] See Baker, 'English', pp. 483-84, in which he gives details of the arrangement. Flesher and his partners 'were to pay £60 a year rent for the first seven years, and thereafter a rent to be determined by arbitration […]. More was to receive in addition one third of all clear gains, which he covenanted to reinvest in the business'.
[67] Bennett, *1603 to 1640*, p. 119.
[68] Blagden, *The Stationers' Company*, p. 139.
[69] Handover, p. 54.

suspect, and on various occasions they found themselves at odds with the Stationers' Company for attempting to circumvent the rules.[70]

No doubt because of their sometimes unconventional and invariably ruthless methods Flesher and his partners, according to Lesser, became 'remarkably prosperous'. Flesher in particular enjoyed a 'meteoric rise'. Plomer describes him and his two partners as 'the largest capitalists in the trade'.[71] The two main contributory factors in their success seem to have been the enhanced capacity to own presses which the partnership allowed them, and the available capital to buy up patents, presses and various other privileges. What 'remains a mystery' is where Flesher's initial capital came from – or indeed that of any of the three men. However, Handover adds some refreshing colour to their approach: he recognises the achievements of Flesher and co., and their 'exceptional gifts, Young for ruthless economics, Flesher as a skilful negotiator'. But neither skill nor quality, he tells us, apparently went into their printing: 'they were brigands; they were locusts, and they were execrable printers without the least interest in presswork or typography'. He links their work to 'the decline in English printing and typography during the seventeenth century'. If the source of their capital was a mystery 'how they made money afterwards is no secret'. Slashed wages, the employment of 'cheap labour' and 'foreign journeymen' all apparently featured, as well as the cynical hi-jacking of copies belonging to other presses, and exploitation of their monopolies by raising prices. He asserts that they exceeded normal margins by £500 to £1500 on each impression. Other 'tricks' included 'cramming more on each page […] advertising a fine paper edition when it was only less contemptible than

[70] Blagden, tells us: Flesher 'was in trouble' in 1632 'for printing an abridgement of Foxe's *Book of Martyrs*, which belonged to the English Stock'; in 1634 all three were punished by withholding of their dividend 'for printing psalms at their printing house in Scotland'; 'in 1635 there was an argument over the rights to a law book'; and in 1638 the Company seemed set to impinged on their territory when they ordered type to print a Bible. Not only had all branches of their business been in dispute with the Company, 'they had even discovered that the interests of one part of their own empire might clash with those of another' (p. 139-40, p. 140). See also Plomer, *Dictionary*, p. 76: despite the sometimes fraught relationship, Flesher eventually served as Master of the Stationers' Company in 1652 and 1653, and again in 1662 and 1663.

[71] Lesser, *Renaissance Drama*, p. 32, note 22; Plomer, *Dictionary*, p. 76.

usual, and so on'. This was the environment created by the men finally responsible for publication of *The Lawes Resolutions*.[72]

Possibly three separate stages were involved in the production of the treatise: first the original manuscript collected and drafted by the 'dead' author, then the updating and editing, and finally the investment in its publication by Flesher. At each stage the decision is likely to have been motivated by a different balance of aims and considerations – although those of Flesher *et al* might now be apparent. In the atmosphere of the print trade several aspects of the treatise fit with what we know or can surmise about the commercial imperative: the anonymity of the author, the deliberate ambiguity of title page, the demand for a more structured and methodical legal canon, the decision to print in English for the lay reader.

Whether its black letter typeface was a pragmatic decision, or another commercial ploy to give *The Lawes Resolutions* greater authenticity – to attract either legal professionals or lay collectors – remains another mystery. Despite its association with low culture ('broadside ballads, chapbooks, romances'), according to Lesser, exceptionally, 'almost all law books were printed in black letter'. He suggests that we should 'hesitate' before accepting the association of roman with higher, and black letter with lower culture.[73] Conversely handbooks produced from the early seventeenth century for the lay reader, such as Dalton's *Country Justice*, are in roman typeface.[74]

---

[72] Handover, pp. 56-58. See also Plomer, *A Short History of English Printing 1476-1898* (London: Kegan Paul, Trench Trubner and Company, 1900), p. 170, in which he refers to 'the history of the best work of the trade in London' as 'practically the history of three men' – Haviland, Flesher, and Young.

[73] Lesser, 'Typographic Nostalgia: Play-Reading, Popularity, and the Meaning of Black Letter', in *The Book of the Play: Playwrights, Stationers, and Readers in Early Modern England*, ed. by Marta Straznicky (Amherst and Boston: University of Massachusetts Press, 2006), p. 99, pp. 103-104 (p. 103). In his chapter overall, he discusses black letter and roman print in a semiotic context: he suggests the typeface is a 'signifier' rather than as a 'simple index to readers' (p. 104).

[74] Dalton's *Country Justice* (1618), and all subsequent editions are printed in roman typeface as, for example, is *The Complete justice* ([London (?): n. pub.], 1637), and *A manuall or analecta* (1641) and their respective later editions to, as well as Horne's, M*irror of Justices* (1646).

However, whatever commercial tactics were employed, we also know that sales of *The Lawes Resolutions* did not justify a second edition. It was not used as an authority by the legal profession, and concentrated on outdated statute law; nor was it recommended for use by students at the Inns of Court. It did not address the most significant area of law relevant to women – Chancery. It is also likely that, of the few women who might have been able to read it, even fewer would have had access to the supporting material to enable its contents to be of practical use. Nor is there evidence of women having read it.

Its lack of functionality, together with the fact that *The Lawes Resolutions* still appears decades later in catalogues of legal works, suggests a project intended by its publishers to have as broad an appeal as possible, but which failed to meet the needs of any – other than those collecting books for their commodity interest, either as a status symbol, or to establish a library. The 'author' and / or Edgar might have anticipated a broadening of legal and lay interest in more accessible works, and they might have perceived a genuine need to illuminate the subject of law as it affects women. However, the most comfortable place to situate the work is, as Goodrich assumes, within the *querelle de femmes* – adding weight to the commercial argument.

Lesser observes that: 'Most scholars […] are generally content to end their analysis of the motives behind publication with a vague claim that a text was popular at its time of printing'. Such a claim clearly cannot be true in this instance. He argues that the dynamic which demanded the publisher anticipate the market contradicts such an assumption. Instead he suggests that the publisher had to make a judgment based on the text itself – a judgment, in the case of *The Lawes Resolutions*, that appears to have been wrong.[75]

[75] Lesser, *Renaissance Drama*, p. 41.

Rape Law and *The Lawes Resolutions*

Regardless of who wrote or read *The Lawes Resolutions* in its own time, the text as a source for the modern critic should be treated with caution. The treatise turns to rape in the final parts of the work. The problems it presents as a sole legal source lie as much in its presentation as its contents. Both style and layout contribute to the potential for confusion. The author resorts to literary conceits and the recognizable stereotypes of classical and popular literature to illuminate an ostensibly legal manual, and so creates space for ambivalence and interpretation. When the treatise turns to discussion of the statutes, the dense black letter print and layout mean that preamble, clauses, and commentary, fact and opinion, are difficult to distinguish. Some commentary is misleading. And, although large sections of the text reproduce the statutes, not all statutes are complete.

> Section 20 introduces the subject 'Of Rape'. It is set out below is in its entirety:
>
> Chuse now whether yee will imagine, that the widdow hath agreed with him which was her husbands bane, or that she hath pursued him to death: She remaineth from henceforth a widdow, giving her selfe to almes and deeds of charitie, and of this good minde are many of our widdowes, which purpose constantly to live out the residue of their dayes in a devout remembrance of their deare husbands departed, to whom perhaps they made vowes never to marrie againe after their deaths. But to what purpose is it for women to make vowes, when men have so many millions of wayes to make them break them? And when sweet words, faire promises, tempting, flattering, swearing, lying will not serve to beguile the poore soule: then with rough handling, violence, and plaine strength of armes, they are, or have beene heretofore, rather made prisoners to lusts theeves, than wives and companions to faithfull honest lovers: So drunken are men with their owne lusts, and the poyson of *Ovids* false precept,
>
> > *Vim licet appellant, vis est ea grata puellis*. [They call force allowed, force is pleasing to girls].[76]
>
> That if the rampier of Lawes were not betwixt women and their harmes, I verily thinke none of them, being above twelve yeares of age, and under an hundred, being either faire or rich, should be able to escape ravishing.
>
> This is therefore a matter concerning maids, wives, widdowes, and women of all degrees and conditions, if either they be, or possesse anything worth the having, and

[76] Translation by Cynthia E. Garrett, 'Sexual Consent and the Art of Love in the Early Modern English Lyric', *Studies in English Literature, 1500-1900*, 44 (2004), 37. There is further discussion of Ovid's precept in Chapter 5.

> because the ignorance of Law may here turne a mollifying heart to harme, I were to blame, if I left my Schollers without warning to take heed.[77]

Regardless of an authorial point of view, and however tongue-in-cheek, these paragraphs are revealing of cultural interdependencies. They introduce ideas about gender stereotypes, the real and perceived balance of power in marriage, and how sexual relationships were understood and transacted, as well as alluding to the legal implications that follow from them. But, in doing so, they also bring rape within the comic narrative surrounding gender relations – a characteristic of the *querelle des femmes* – and they assume the reader's familiarity with Ovid. In this context Goodrich identifies the cultural difficulties with the concept of the feminine, that 'forced the law to mix with other literatures and to search the languages of theology, nature, philosophy, medicine, politics, ethics, and other occult sciences to find some way of characterizing an essentially inessential being'.[78] The author of *The Lawes Resolutions* employs ambiguity and humour to mediate between the law's theory and the actuality to which it might apply.

The extract begins with a vignette of ambiguous female morality; its style is apparently playful. It describes figures recognizable in literature. The seemingly virtuous widow and her indeterminable relationship with 'him which was her husbands bane' might translate to the sexually voracious widow of city comedy infamy.[79] Then there are those chaste heroines who resist the 'sweet words, faire promises, tempting, flattering, swearing, lying' as men attempt seduction, coercion and / or resistible force. They are contrasted to their signified opposites – the women who are besieged and may succumb, with more or less resistance, to the attentions of the men with their 'million wayes' (the abandoned maidens of ballad and complaint). Whether virtuous, or resolute, or neither, women are characterised as

[77] *Lawes*, pp. 376-77.
[78] Goodrich, 'Gynaetopia', p. 294.
[79] The *OED* defines 'bane' variously as 'Murderer'; cause of death, destruction or ruin; poison; 'pernicious to well-being'; harm, or woe.

'poore soule[s]' – probably of weak will, and game for male attention. The language and meaning are imprecise, and the Lucretian debate of life or honour is invoked by that very ambivalence. The fulcrum on which the scale from virtue to seduction and / or rape balances is as vulnerable as ever to male re-positioning. The tone and descriptive style encourage the ambiguity critics find. But it might be argued that the author of *The Lawes Resolutions* simply recognizes the complexity of human behaviours: women might be disadvantaged in law, but he does not pretend they are not without human weaknesses. Unfortunately, recognition of female frailty then, as today, muddies the objective view and definition of rape, to the detriment of the female victim.

But, having introduced the idea of female virtue vested in women by formulaic typecasting (and a prerequisite to a valid appeal of rape), the author of the *Lawes Resolutions* then turns to the nature of men. He describes men as 'drunken' […] with their owne lusts, and the poyson of *Ovids* false precept'. The prominence given to the precept suggests that the notion has familiar currency. This in turn implies a recognized tension between the implied 'natural' impulse for men to assert their sexual desires and the social imperative for women to defend their chastity at all costs.[80] The author alludes to the law in expressing his fear that unbridled male lust is such that without strict laws no females 'being above twelve years of age, and under a hundred, being either fair or rich, should be able to escape ravishment'. The ages introduce a mix of legal fact with humour, exploiting stereotypes familiar from life and drama: on one hand, the age of consent, on the other, the implication that any woman up to the age of a hundred might be vulnerable to male lust.[81] Youth is associated with physical desirability and age with the opposite; but the older woman may, of course, be sufficiently rich and vulnerable to exploitation to outweigh a man's reluctance.

[80] Garrett, 54, credits the author with exposing the precept 'as a fiction circulating among men in a contemporary school of love'.
[81] Despite the controversy (discussed in Chapter 1 of the thesis), the author assumes that the age of consent remained twelve subsequent to 1575.

In Section 21 of the treatise, 'Ravishment in two sorts', the author continues to combine metaphor and moral outrage to give colour to his exposition. He again appropriates examples from literature to enliven his commentary. 'Ovid's false precept' is now fleshed-out into the figures of classical rape mythology: Lucrece, Helen and Paris, and the Sabine Women. Analogy might help to illuminate the laws of rape, elopement and abduction, but the resort to mythical characters reinforces cultural perceptions that elide boundaries between imaginary ideals of women and the temporal reality with which the law is required to deal. It also assumes a universal interpretation of the character and behaviours of mythical figures.

Most importantly though, the narrative style appears to have been one contributing factor in modern critical attempts to seek significance in the alternative use of the words 'rape' and 'ravishment'. The Section reads as follows:

> There are two kindes of Rape, of which though the one be called by the common people, and by the Law it selfe, Ravishment; yet in my conceit it borroweth the name *from rapere,* but unproperly, for it is no more but *Species stupri* [form of rape] a hideous hatefull kinde of whoredome in him which committeth it, when a woman is enforced violently to sustaine the furie of brutish concupiscence: but she is left where she is found, as in her owne house or bed, as *Lucrece* was, and not hurried away, as *Helen* by *Paris,* or as the Sabine women were by the Romans, for that is both by nature of the word, and definition of the matter: The second and right ravishment, *Cum quis leonestae famae foeminam, sive virgo, sive vidua, sive sanctimonialis sit inuitis illis in quorum est potestate, abducit. Neque refert, an quis (volente vel nolente rapta) id faciat, nam vis quae Parentibus vel Curatoribus sit, maxime spectat.* [The passage describes the taking away of a wife, virgin, widow or nun, with or against her will, from the authority of her family or guardian].[82] It seemeth the first kinde of rape deserved alwayes death by Gods Lawes, unlesse the woman ravished were unbetrothed, so that the ravisher might marrie her, as you may read *Deuteronomy, chap. 22. vers. 23.* and by the Civill Law. *Raptores,* in the second kinde, *subjiciebantur poenae mortis rapta si fuent ingenua* [were subject to the penalty of death if kidnapping were of one of nobility]. How hainous they bee both, and have a long time beene, by the Lawes of England, yee shall now perceive.[83]

[82] Karen Robertson (with the assistance of Margaret Fusco), 'The First Captive: The Kidnapping of Pocahontas', in *Women, Violence, and English Renaissance Literature* ed. by Woodbridge and Beehler, p. 86, translates the passage as follows: 'When anyone carries off a woman of good fame, either an unmarried maid, a widow, or a religious woman, against the will of those to whom that power [authority] belongs. Nor is it allowed (whether she is willing or unwilling that he do this) for the violent act which occurs belongs to the kin or guardians'.
[83] *Lawes,* pp. 377-78.

In the first sentence the author acknowledges the interchangeable, common and legal usage of the term 'ravishment', before expressing his personal, moral concern at its euphemistic representation of such 'a hideous hatefull' act. This intervention has been extrapolated to muddle semantic and legal definitions, and has given undue emphasis to what has become for modern critics a major concern, but is, in fact, a superfluous debate. The statutes of rape and abduction, outlined in the two descriptions above, separately define the acts they are designed to inhibit or punish, and they also define the wording in which they must be represented in court documents. Condensing the sequences into two simple definitions, amidst the discussion of terminology, has possibly added to recent confusion. As we have seen in Chapter 1, the interchangeable use of 'rape' and 'ravishment' is largely irrelevant to the meaning of the statutes.[84]

Other comments are careless such as when, in section 21 above, referring to rape as opposed to abduction, the author cites marriage via 'Deuteronomy, chap. 22 verse 23 and by the Civil Law' as an alternative to death for rape of an unmarried woman. As discussion of the statutes in Chapter 1 shows, the notion of marriage to the rapist had become a legal impossibility under Westminster II (1285), with the crime decreed a felony, and the prohibition of 'consent after'. Again, this invites a potential error on the part of anyone relying on the treatise for their understanding of early modern law, leading to the notion that marriage to the rapist was still a legally sanctioned practice (rather than a pragmatic, or useful dramatic device).

After the author's introductory commentary of Sections 20 and 21, *The Lawes Resolutions* moves on to provide a summary first of ancient, then of statute law. However, because of the lack of clarity in presentation, the reader has first to separate comment and opinion from law, and be alert to any truncation of the relevant statutes, before citing the

[84] Examples of critical interventions in the debate are given in Chapter 3.

treatise. Crucially it is easy to see how the commonly perpetuated error generated by Bashar's failure to distinguish between rape and abduction statutes would not immediately be apparent to critics who have relied on *The Lawes Resolutions* as a source. It is not that the treatise itself fails to note the statutory difference, but its presentation obscures important distinctions.

For the uninitiated reader, the treatise does not adequately illuminate the boundaries between rape and abduction. It fails to place sufficient emphasis on the point in historical time at which abduction became separated from rape to be treated under its own sequence of statutes. In *The Lawes Resolutions*, both sequences, sub-divided by statute, are discussed in simple chronological order under the undifferentiating main heading of 'Rape'. To be fair, at the end of his commentary on Richard II's closing of the loophole of 'consent after' and marriage to the rapist, the author introduces a final paragraph saying: 'And now cometh the second rape by abduction': he condemns 'avarice' as being 'as great an agent as carnality', expressing disgust that 'now men turned themselves for loves sake into Centaures first, and tooke on them the shape of Buls afterward'. However the legal significance is easily overlooked amongst the vivid narrative, before the text moves to the next section – Henry VI's 1453 statute to void bonds made by women under duress. The author misleadingly identifies this as the first statute concerned with abduction, without any explanation of the significance of the distinction.[85] The intermingled rape and abduction statutes then continue to be presented in chronological order. However, their meaning is founded on the assumptions and dependencies created by understanding and reading them in their correct sequence. For critics relying on *The Lawes Resolutions* alone, this is not necessarily obvious. An authoritative commentator, such as Coke, for instance, addresses the two crimes under the

[85] *Lawes*, p. 383; *Statutes*, II, 367. The statute does indeed envisage that such women might be abducted or tricked away from their families, and forced to marry 'against their owne liking'. But it does not allude to sexual violation (which, in modern terms, we might assume by definition): it remains at the purely transactional level of redressing the financial loss signed away 'by Obligations'. See Ives, pp. 23-24.

separate headings of 'Rape', and 'Felony for carrying away a Woman against her Will, &c' – i.e. abduction.[86]

Elsewhere the commentary can appear either superficial or mischievous. For example the author dismisses Henry VI's 1453 statute as 'too meek and gentle, something like him that made it' without analysis, before then introducing Henry VII's 1487 abduction act as 'a better complaint'. Ives notes that it is the latter, rather than the former, which is legally superfluous. In fact, without any supporting rationale, the comment might pass as a mischievous aside (possibly, even, privileging Shakespeare's literary view of Henry VI over legal analysis).[87]

It is consistent with the anomalous nature of *The Lawes Resolutions* that, in its own time, its readership was limited, while a wider audience has seemingly been found among modern critics. Scrutiny in the context of ancient law, the statutes and contemporary treatises makes clearer how and why, in isolation, the treatise can be an unreliable source. Two of the three most common misapprehensions the treatise allows are those of a semantic distinction that equates 'ravishment' with abduction (as opposed to rape), and the assumption that there remained a provision for rape to be abated by marriage to the perpetrator. The third is a more subtle implication that *The Lawes Resolutions* is an established source of legal authority: a failure to distinguish authorial comment from legal framework contributes to the assumptions about its status. It can only indeed be because this misconception holds sway that the work is 'ubiquitous' in modern criticism.[88]

Once the reader is alert to the ambiguity of *The Lawes Resolutions* the uncertain status of the treatise can be identified through its language, voice and tone; its format and type face are not compatible with other works of supposedly similar type, nor did it achieve the

[86] Coke, *The Third Part of the Institutes*, 4th edn (London: E. & R. Brooke, 1797), pp. 60-62. See also Ives, pp. 22-24, and B. J., and Mary Sokol, *Shakespeare Law and Marriage* (Cambridge: Cambridge University Press, 2003), p. 109. Both, like Coke, identify the Henry VII 1487 act as the first abduction act.
[87] Ives, pp. 24-25.
[88] Examples of critical reliance on these misapprehensions are discussed in Chapter 3.

repeated editions that distinguished more successful works. Particularly telling is that neither early modern legal professionals, nor modern legal historians, cite the work when discussing rape law or legal works. It appears nowhere in the references of, for example Ives, Post, or Baker. And those who have investigated its origins and purpose, such as Goodrich and Prest, have done so with a view to the exploration of an anomaly.

Despite its capacity to mislead, it is important to keep in mind how useful *The Lawes Resolutions* can be. It has a strong claim as a piece of social history, both as an object, and for its contribution to the *querelle de femmes*. It is a very useful source as an indicator and a starting point for legal enquiry, but it can only fulfil its potential value in conjunction with other material: statutes, commentary, case reports and robust analysis by legal historians. In his assessment of the likelihood that women read or were able to make use of the work we should bear in mind Prest's comment that in order to do so they would need the basics of Latin, as well as French, and 'access to a fairly extensive law library'. What was a true principal for those approaching the text in early modern times, is also true today. If modern critics wish to cite *The Lawes Resolutions* in a legal context with confidence, they must also seek the validation of reliable supporting material.

CHAPTER 3
CRITICISM AND INTERPRETATION

Bashar's essay, 'Rape in England between 1550 and 1700', was breaking new ground in 1983 when a dearth of historical information about rape was intrinsic to feminist concerns about the politics of the subject, and methodologies were untested. Her analysis has provided a ready source for literary critics seeking to cross-reference social history with popular and literary narratives of the period. The significance of her contribution is borne out by its enduring influence. However, both analysis and the interpretations placed upon it have persisted without challenge or corroboration and have encouraged an ideology of gender opposition. Elsewhere, either in conjunction with Bashar or independently, critics have relied on *The Lawes Resolutions*, or cited authoritative sources out of context – often in an attempt to make history fit the narrative her work has established. The result has been a complex of misrepresentation. This chapter examines Bashar's premises and identifies examples of how both her work and *The Lawes Resolutions* can mislead.

Reviewing Bashar

Bashar draws attention to the acknowledged contribution of under-reporting, to the low recorded incidence of the crime of rape, and to the undeniable implications of the function of women as property in a dynamic of male-dominant gender politics. But, when subjected to closer scrutiny, her more specific assertions about the law's contribution to a failure to protect women are vulnerable in three respects: methodology, representation of the law, and social context.

Methodology

In terms of methodology Bashar presents the fact of few recorded prosecutions and convictions for rape, and her analysis of gender politics – that of patriarchy, objectification

and abuse – as a self-evident dependency. She fails to confront the caveats expressed by other historians about the quantity and quality of documented evidence of the crime in early modern England. Instead she finds male academia guilty of 'shun[ning] the subject' of rape. Cockburn comes in for particular criticism for 'dismissing' the crime for yielding too small a sample from which to identify a pattern of offences: 'It seems that rape is too risky, too contemporary, too political a subject, to be dealt with comfortably by the present-day male historian'.[1] Her assertion enjoyed credence even with those adopting a more balanced position in the debate such as Porter who uses her quote to introduce his essay 'Does Rape have a Historical Meaning?'.[2] Yet Ives, among others, also warns against over-reliance on prosecution statistics. He says:

> The evident truth [is] that the incidence of prosecutions is no good measure of law enforcement. 'No prosecutions' may mean one hundred per cent deterrent or, equally, inaction; the explanation could also be an offence out of fashion, misleading statistics or changes in enforcement.[3]

Of course, the idea of an 'offence out of fashion' underpins Bashar's concern. Criticism of her male colleagues may have been apposite in relation to the politics surrounding the relationship between feminism and the various historicist criticisms at the time. However, the discomfort she perceives in them is indeed apt if rooted in their insistence on the statistical validity of evidence – on methodology rather than ideology.

Geoffrey Quaife's monograph, *Wanton Wenches and Wayward Wives*, involves retelling cases involving sexual assault.[4] Bashar's attack on it is somewhat perverse: it might be justified if made simply on the grounds of its prurience. However, she criticises his failure to 'speculate that the historical record may not be a reliable mirror of reality'. Specifically, she is disappointed that, in his work on quarter session records, he makes no attempt to

[1] Bashar, p. 28.
[2] Porter, p. 216.
[3] Ives, pp. 30-31.
[4] G. R. Quaife, *Wanton Wenches and Wayward Wives: Peasants and Illicit Sex in Early Seventeenth Century England* (London: Croom Helm, 1979).

identify the incidence of older women (as opposed to young girls) featuring as rape victims as both an anomaly and as evidence of under-reporting.[5] In addition to assuming another historian should automatically subscribe to her own theory, the perversity of the criticism lies in her converse approach. She proposes something she has already deemed to be merely a source for speculation (the reasons for under-reporting) as evidence to support her overarching ideology of patriarchal misogyny. Nor does she take account of the straightforward provisions of the law: after all, sex with a child under age was *de facto* rape.[6] Such cases were not open to the subjective, or culturally determined judgements about the moral weakness of women or biological misconceptions surrounding pregnancy, and are therefore more likely to appear in the statistics of successful prosecution. These factors provide a contrary explanation to her assumption that Quaife's work reveals a particular proclivity among Somerset men for sexual assault in general, and against children in particular. Indeed his findings might well be applicable more widely should records be available and subject to similar scrutiny.[7]

Bashar's argument relies on her undermining those of colleagues such as Cockburn and Ives since she depends on the very statistics which they have explained are not viable and are, possibly, geographically unrepresentative. And, whether or not it is significant, her statistics are not always presented with coterminous period and geographical area. *In one instance her statistics encompass the whole scope of her research – the five home counties for the period 1558-1700; in others, period or place are selective.*[8] *This provokes the*

[5] Bashar, pp. 28-29.
[6] Age of consent, and the controversy about the definition of the violation of children is discussed in Chapter 1 and below.
[7] Quaife's work is a specific study of Somerset.
[8] While it is entirely accepted that surviving records are limited, those for the home counties are cited by Bashar (as well as Cockburn and others) because of their relative completeness. It is therefore unhelpful that Bashar combines different counties, and different periods of time, to support her arguments. For example, she takes data from Sussex for the period of the reign of Elizabeth I (1558-1603), and Hertfordshire for 1573-1603, pp. 33-34; 1558-1700 in Sussex, p. 34; 'the five home counties between 1558 and 1700', pp. 34-35, p. 37 (p. 34); and Kent for 1558-99, p. 40. Against this background she elaborates particular points, variously discussing indictments, convictions and penalties.

question that since the information is available why is the complete data not tabulated in full for reference throughout her piece? The apparent lack of consistency can only undermine the validity of the evidence*; it also raises the suspicion that ideological partiality has been allowed to get in the way of methodological rigour.*

The statistics of comparative prosecution, conviction and penalty Bashar presents are a revealing example of both what they indicate, and her methodology. She compares Kent burglary and rape figures for 1558-1599, when burglary statistics show 150 tried, of whom [approximately] 80% were convicted. A total of 122 of those convicted were punished: 88 were hanged, and 34 granted benefit of clergy. For rape in the same period she quotes 26 tried, 4 hanged, and 2 granted 'clergy'. We have to assume the 6 either hanged or given 'clergy' represent the total number convicted. The statistics are used in support of her assertion of reluctance by the judiciary to hang a man for a sexual crime against a woman.[9] However, although they are extremely limited they also make a different point. The perceived discrepancy between rape and other crimes is greater between the proportion of those prosecuted who were convicted, than between the proportion, once convicted, who were then hanged. The burglary figures show that the 88 hanged represent 59% of the 150 tried and 73% of the 122 convicted. Assuming a conviction figure of 6 for rape, the statistics for capital punishment are 15% of the 26 tried but 67% of those convicted. Bashar uses data elsewhere in the essay that adds the following information: for the home counties from 1558-1700 she quotes 274 cases of rape, giving 45 convictions, and 31 hangings.[10] This gives a 16% conviction rate, with those hanged representing 11% of the total tried, and 69% of convictions. They follow a similar pattern as those for Kent alone. Based on these figures, the willingness of the judiciary to hang a man for a sexual offence against a woman takes on a different hue. They show that once convicted, the percentages of capital punishments for rape

[9] Bashar, p. 40.
[10] *Ibid*., p. 34.

and burglary are much closer (69% and 73% respectively). The disparity in treatment of the crimes would seem to embody the same controversy that endures today: that of gaining a conviction, rather than of applying a harsh penalty once convicted. The cause might lie in cultural ideology rather than in the law.[11]

Representation of the Law

As a corollary to her interpretation of the statistical evidence, Bashar observes an apparent disparity between what rape law said as opposed to what it did. She points to 'the gap between the law's occasional declarations on the heinousness of rape and its treatment of rape in the courts'. However she chooses a simplistic explanation directly citing a legal double standard symptomatic of the patriarchal exploitation of women as responsible for the low prosecution and / or conviction rates.[12] Precisely who represents 'the law' generally in her assertion is not clear: earlier she lists legal commentators from the medieval Glanvill, to the nineteenth century's Pollock and Maitland to support her perception that the law failed to meet their expectations of it. She asserts that, because rape was considered a serious crime, these lawyers 'assumed that rape […] would be actually punished as a matter of course', and cites Fitzherbert as deeming rape 'to be more important than any property crime' because he considers it 'the most greate offence nexte to murdre'.[13] Her argument muddles several issues: what is relevant here is not the sentiment behind his condemnation of the proven crime, but the definition and determination of the offence. Fitzherbert might place rape next in magnitude to murder but, when returned to their fuller context, his words confirm that his

[11] Without clear caveats there is a danger of being accused of the same abuse of methodology and statistics as Bashar for several reasons: regardless of the inclusion of as wide a range as possible, historians find too few rape cases from which to identify patterns, those above represent an even more limited range of the few, the Kent rape statistics are presumably duplicated in those of the home counties as a whole, and the expanded periods do not coincide. However, as well as indicating an alternative scenario to that of Bashar, the suggestion highlights Bashar's selective and apparently incurious use of data, as well as emphasising its unreliability.
[12] Bashar, p. 41, p. 42.
[13] *Ibid*., pp. 32-33 (p. 32).

concern at the offence against the person ('whiche is to ravyshe a woman agaynst her wyll […] where she dyd not assent before') does not displace that of her status as property ('though she consente after the acte done, yet is it felony').[14] When taking issue with the law, it is inescapable that Fitzherbert, and the other commentators whose texts she cites, themselves had earned their distinction as lawyers and judges before assuming the authority to publish their various treatises. Those who made the pronouncements against the crime are one and the same as those who, at other times, implemented the law. Their condemnation in commentary is consistent with their willingness to hang a man once the offence is proven.

Pronouncements by medieval and early modern commentators cannot be dismissed as inconsistent simply because they did not see rape in the same places that we do. Rather than revealing a double standard, the concerns raised by Bashar are consistent with various social and political pressures on the law. The difficulty seems to be the enduring dichotomy that rape presents: on one hand a concept of unequivocal low thuggery attempting chaste innocence, and on the other, the messy reality it more readily presents.

It is in the concluding section of her essay that Bashar makes her much-quoted statement: 'Rape came to be seen as a crime against the person, not as a crime against property. Statutes of 1555 and 1597 treated abduction separately from rape, and had the indirect effect of establishing rape and abduction as separate offences'.[15] The two sentences have proved particularly beguiling to later critics seeking a comparison between patterns of legislation and social behaviour – to the extent that they are sometimes represented as accepted wisdom, without attribution. They are, in fact, incorrect. As we have seen from the previous chapter, there is no relevant statute of 1555, a fact that might be deemed a mere quibble over transcription, however, neither of the two possibly intended statutes – of 1557 or

[14] Fitzherbert, *The newe boke* (1538), fol. ixx^{v}. He cites Westminster II in support of his statement.
[15] Bashar, p. 41.

1575 – fulfils the designated role either.[16] Bashar fails to specify the precise legislation, or a corroborative source for her assertion, she does not explain how the two sixteenth-century statutes bring about the change she describes, nor is there supporting evidence of the implied causal link between the separation of rape and abduction, and a cultural shift in perceptions of rape as a crime against the person as opposed to property.[17]

Bashar's reading of the statutes leads to her assertion that, 'in the late sixteenth century, the *legal* [my emphasis] view of rape changed'. However, she then attributes to that perceived change the further decline in prosecutions and convictions between 1550 and 1700, via an increased readiness of lower class women to bring appeals of rape. She takes these dependent factors to support her identification of the property value vested in women through marriage as the determinant of the seriousness with which any rape appeal would be treated. All this is circumscribed by her proposal of a direct – if not conscious – link between rape law and 'an intrinsic and powerful part of patriarchy operated for men against women'.[18]

The link between marriageability and the 'value' of females is incontrovertible, but here too the argument can be over simplified. Even were it correct, Bashar's proposal sets up a contradictory dependency between the oppression of women through patriarchy and an apparent cultural change, facilitated by the law, leading to greater recognition of women's personal sexual autonomy. That is not to say that Bashar's general point about the relationship between the material worth of a women and the importance attached to rape

[16] 4 & 5 Philip and Mary, chapter 8 (1557-1558); 18 Elizabeth I, chapter 7 (1575).

[17] Bashar cites no authority for her statement, or for the attribution of meaning to the statutes of 1555 and 1597. However, Toner, *Facts*, pp. 94-5, correctly cites 3 Henry VII, chapter 2 (1486) [*sic*] as seeming 'to indicate a separation of the 'property' interest […] from the sexual interest'. But she goes on to say: 'By the time Elizabeth I considered Rape legislation in 1597, the offence was a purely sexual one'. In this latter statement Toner is incorrect in two respects: first in that abduction eventually joined rape as a felony under its own separate sequences of statutes – albeit with some interchangeability between the two; and, second, in that the 1597 legislation was the final statute in the *abduction* sequence and therefore the offence to which it referred was not only *not* 'a purely sexual one', it was specifically a property one. Toner's assertion may be the source of Bashar's error, with Bashar taking the second, '1555' [*sic*] [1557], statute from the abduction acts to make a similar point: both statutes clearly, variously refer to 'taking away', those women 'having substance' and / or 'maidens that be inheritors'. Nonetheless the connection between Bashar's assertions and Toner's is purely speculative: Bashar does not include any reference to Toner elsewhere in the essay or in her bibliography.

[18] Bashar, pp. 41-42 (p. 41, p. 42).

appeals is false. However, the evidence she offers invites more subtle insight than a simple transhistorical assertion of patriarchy.

Social Context

When the state embraces an overarching system of government there is a danger that criticism of it becomes meaningless if it is merely a restatement of those characteristics by which the system is defined. Patriarchy necessarily prioritises male interests, so it is unsurprising that matters of specifically gendered behaviour – such as rape – become fraught and unbalanced. But that does not preclude a more subtle response than the simple abuse of power by one sex deliberately to disadvantage the other. Nor does it require any contradiction between theory and practice in order for the law to favour the wealthy and the powerful. The law either works, or is amended, according to the perceptions of those very groups, and according to its efficacy in functioning in line with their intentions. Any suggestion of a mismatch between rape by men of women in the sense that we might think of it now, and its apparently low priority betrayed by its treatment in early modern law, assumes it had the same meaning in medieval and early modern times as today. It is anachronistic legally, intellectually and socially to respond with twenty-first-century dismay to practices consistent with understandings and priorities from a different era.

Rather than seeking to force improbable parallels between specific legislative changes and fragile statistical trends in prosecution, it is more profitable to view any developments in conjunction with several factors throughout a prolonged period of significant historical progress. Writing in the specific context of law, both Sharpe and Gray comment on the massive changes taking place. Sharpe reminds us that ‘crime […] must be understood in its social context’, emphasising that early modern England ‘witnessed one of the major

transformations in European history: the transition […] from feudalism to capitalism'.[19] In Gray's introduction to Sir Matthew Hale's *History of the Common Law of England* he refers to the latter as 'a document of the complex intellectual transformation of the seventeenth century'. And that transformation occurs throughout all spheres of knowledge: 'in science and philosophy, religion and political theory'.[20] When the law is considered alongside such a transformation, together with matters of both governance and the genuine beliefs about the nature of men and women, its theory and practice becomes less polarized than Bashar suggests. Instead, it offers a potential position from which to explore competing facets of social history and gain a more nuanced understanding of the gender politics that determined how rape was defined and perceived during a specific historical period.

Influence

Each of the monographs produced by Catty, Baines and Bamford incorporates the work of at least Bashar, if not Brownmiller on the assumption of rape, directly or indirectly, to be a cultural mechanism of social control against women. Catty first examines the Elizabethan and Jacobean portrayal of rape in fiction, poetry and drama; and then, taking female-authored texts, she looks at 'the implications of women reading and writing about rape'. In situating her work, Catty calls on Brownmiller's assertion that 'despite social sanctions against it [rape] is and has been an intrinsic part of Western society's subjection of women'. She notes that recognizing the part literature plays in securing attitudes within the culture 'raises questions about the nature of representation in itself'.[21] Significantly she also wishes to 'reconstruct the cultural context for the representation of female mental and sexual autonomy, and of rape, by women writers'. But in discussing 'cultural context' she puts the focus on

[19] Sharpe, *Crime in Early Modern England*, p. 21.
[20] Hale, *History*, p. xiii.
[21] Catty, p. 5, p. 2, p. 11.

history, on Bashar's misreading of the statutes and her assumed conflict between legal theory and practice.[22]

In her study of sexual violence on the Jacobean stage, Karen Bamford states her 'starting point' as 'a feminist understanding of sexual assault as a function of culture, rather than of nature'. She cites the status of women as property in conjunction with concerns about public disorder as major influences on the dramatic representation of sexual violence.[23] Although primarily interested in representation and how sexual assault is mythologized rather than its actuality, Bamford acknowledges its place in '"understanding the ways in which hierarchical, gendered societies actually operate."'[24] She is obviously aware of potential academic tensions when claiming she avoids 'assigning a single, trans-historical meaning to sexual assault'. Historians though, might still be uneasy that she has 'assumed that modern studies, and in particular feminist theories of sexual violence in the twentieth century, provide a critical vantage point for examining its representation in Jacobean drama'. Those theories which might be necessary to a comprehensive literary reading are precisely those which have been controversial for a historic*al* reading of 'the ways in which […] societies […] operate' in an earlier era.[25] It is an approach that might be perceived as precariously close to the back-projecting so criticised by historians.

To illustrate her argument, Bamford, too, cites Brownmiller – in this case the straightforward correlation between rape and patriarchy. She also relies on both Bashar's data and her claims for the disparity between the law in theory and in practice. And although

[22] *Ibid*., p. 2, p. 11, p. 13, p. 14.
[23] Bamford, p. 3, pp. 19-21. Anxiety about social order and control of women are discussed at length in, for example: Susan Dwyer Amussen, 'Gender, Family and Social Order, 1560-1725', in *Order and Disorder in Early Modern England*, ed. by Anthony Fletcher and John Stephens (Cambridge: Cambridge University Press, 1985; repr. 2007), pp. 196-217; D. E. Underdown, 'The Taming of the Scold: the Enforcement of Patriarchal Authority in Early Modern England', in *Order and Disorder*, ed. by Fletcher and Stevens, pp. 116-36; Martin Ingram, '"Scolding Women Cucked or Washed": A Crisis of Gender Relations in Early Modern England?', in *Women, Crime and the Courts in Early Modern England*, ed. by Jenny Kermode and Garthine Walker (London: UCL Press, 1994), pp. 48-80. Ingram seeks to moderate the polarized 'sociological analysis' of urban / rural, capitalist, elite / poor, dispossessed on which Underdown bases his essay (51).
[24] Bamford, p. 6, citing Porter, p. 235.
[25] Bamford, p. 4.

Bamford, not unreasonably, takes Bashar's statistics to support the accepted thesis that rape was under-reported, she is uncritical in following Bashar's conclusions. She accepts the proportionally higher numbers of convictions for the rape of children, as opposed to adult women, as attributable to ideology rather than acknowledging the exigencies of the law and the limitations of the evidence.[26]

Barbara Baines, too, is caught in the tension between ideology and academic discipline. In her *Representing Rape in the English Early Modern Period*, she states her purpose as an 'interdisciplinary study' with 'relevance for succeeding periods, especially our own'. The historically overarching approach obliges her to take issue with Garthine Walker's statement that '"[t]he meaning of rape is historically and culturally specific"', since she finds it 'difficult to identify what in the ideology of rape is specific to any particular epoch'. Similarly to Chaytor in her psychoanalytic readings of rape narratives, Baines is confronted by the historian's insistence that transhistorical meaning, if indeed possible, requires more than correlation with a past event refocused from the present. If the historical context is irrelevant, her perception of 'a great disparity between the text of the law and its legal practice' similarly risks being coloured by legal and social anachronism.[27] It is, then, unfortunate that in setting out her arguments she follows Bashar in contending that the 1555 [*sic*] and 1597 statutes 'resulted in, or perhaps contributed to, a shift in the way rape was perceived: no longer as a crime against property but as a crime against the person'. However, citing the work of Chaytor and Gowing, she identifies the faultline in Bashar's assertion, recognising that rape at the end of the sixteenth century was still very much a property crime, and that Bashar's hypothesis was not borne-out by the case law.[28]

---

[26] *Ibid*., p. 5, and pp. 164-65, note 14, note 17, note 18.

[27] Baines, *Representing*, p. 1, p. 2. Baines cites Garthine Walker, 'Rereading', 5.The apparently contradictory references to 'the ideology of rape' (p. 1, p. 2) add emphasis to Baines's assumption of rape as a transhistorical wickedness divorced from history and context.

[28] Baines, *Representing*, pp. 62-63, citing Bashar, pp. 37-40; Chaytor, Husband(ry), 378, 375; Gowing, *Domestic Dangers*, p. 75, p. 110.

Baines devotes her second chapter to a history of rape law.[29] In it she makes extensive use of the medieval and early modern commentators, and the common law. However, her exposition lacks recognition of the parallel progress and changes in statute law from the medieval into the early modern periods and the relationship between it and the common law. By denying the various commentators their historical framework, she judges medieval and early modern commentary from the same viewpoint, and, similarly to Bashar, condemns both for failing to share that of the twenty-first-century feminist.[30] For example she frames the attitude of the author of the seventeenth-century *Lawes Resolutions* in terms of modern understandings of 'feminist inclinations' and 'misogynistic assumption'. She wonders that he, like the thirteenth-century Bracton, 'seems oblivious to the humiliation inherent in [the] ordeal' undergone by a woman reporting a rape, or that 'he seems indifferent to the most crucial of issues: what a raped woman's silence about the rape signifies'. They are challenges which might have been appropriate to institutions over the past half-century or so, but are likely to have made little social or legal sense to early modern men or women.[31]

Among the wider community of critics writing about rape, the most common reference to Bashar's work arises in relation to her erroneous claims for the 1555 [*sic*] and 1597 statutes: the overall effect has been to establish them as commonplace, along with various assumptions she has attached to them. Examples of Bashar's influence, too numerous for analysis, are readily identifiable in criticism, but, as the following section explains, they also are compounded by inaccurate reading of historical sources.[32]

---

[29] The chapter substantially reproduces her paper 'Effacing Rape in Early Modern Representation', *ELH*, 65, 69-98 (1998).

[30] Baines, *Representing*, pp. 64-75 (p. 68).

[31] *Ibid*., p. 65, p. 68, p. 69. Baines (pp. 64-70) apparently assumes that *The Lawes Resolutions* carries legal authority. However in p. 82, note 26 she notes the lack of professional interest in it at the time, and is sceptical about the extent of both its professional and female readership, perceiving its advice to women as 'patronizing'. In, 'Effacing Rape', 15, note 19, Baines also points out Bashar's apparently inexplicable bibliographic attribution of *The Lawes Resolutions* to 'Nicholas Brady'.

[32] Critics who have followed Bashar's interpretation of the statutes include: Catherine Belsey, 'Tarquin Dispossessed: Expropriation and Consent in *The Rape of Lucrece*', *Shakespeare Quarterly*, 52 (2001), 333; Barbara Bowen, 'The Rape of Jesus: Aemilia Lanyer's *Lucrece*', in *Marxist Shakespeares*, ed. by Jean E.

The Lawes Resolutions, Criticism and a Complex of Errors

When *The Lawes Resolutions* joins the equation, interdependencies between the historical and contemporary, and source and error, become further enmeshed in criticism of early modern rape literature. The resulting intricacies defy simple categorization. However, the following overview is an attempt to provide insight to the pitfalls awaiting the unwary.

In modern criticism the semantics of 'consent', a word present in rape law from the earliest times, is particularly troublesome. As well as occurring in Bracton's discussion of rape law pertaining to 'ancient times' the word appears in his description of 'the law of the Romans, the Franks and the English', as well as that of his own time.[33] Both Catherine Belsey and Laurie Maguire assert a link between the incorrect interpretation of the statutes and the question of consent. Situating the appearance of Shakespeare's *Lucrece* at a time when rape 'was changing its meaning', Belsey claims that in 1594 rape 'included abduction'. After reprising Bashar's error that 'rape was separated from abduction in statutes of 1555 and 1597', she adds a dependent clause, erroneously asserting that 'for the first time the legal issue began to be seen, however tentatively, as one of consent'.[34] Critically for Maguire she bases a central argument of her 2006 paper about Renaissance representation of Helen of Troy on the incorrect assumption that '[r]ape was a term which was being redefined in the 1590s'. She argues that this 'gave this old mythological story of abduction a newly urgent

---

Howard, and Scott Cutler Shershow (London: Routledge, 2001), p. 116; Lorraine Helms, '"The High Roman Fashion": Sacrifice, Suicide, and the Shakespearean Stage', *PMLA*, 107 (1992), 557; Laurie Maguire, 'Helen of Troy: Representing Absolute Beauty in Language', *Sederi*, 16 (2006), 39-40, note 8; Carolyn D. Williams, '"Silence Like a Lucrece Knife": Shakespeare and the Meaning of Rape', *Yearbook of English Studies*, 23 (1993), 100. Kim Solga, 'Rape's Metatheatrical Return: Rehearsing Sexual Violence Among the Early Moderns', in *Violence Against Women in Early Modern Performance: Invisible Acts* (Basingstoke: Palgrave McMillan, 2009) pp. 34-35 (a revised version of the article first publ. in *Theatre Journal*, (2006), 53-72). Solga, p. 34, citing Post, 'Ravishment', p. 158, also mistakenly attributes the elision of rape and elopement to Westminster I, instead of Westminster II. In addition to the literary critics, Gowing, *Common Bodies: Women, Touch and Power in Seventeenth Century England* (London: Yale University Press, 2003), p. 90, and p. 224, note 40, cites the 1557-1558 act as separating rape and abduction.

[33] *Bracton*, II, p. 418, p. 416.

[34] Belsey, 333, 316, 333. At note 41, she cites Chaytor, Husband(ry), 378-407, on the association between rape and consent. She notes that Chaytor, 'locates in mid-seventeenth-century legal practice a gradual cultural shift towards rape as a crime against consent in the accusations brought by poor women'. Even were Chaytor correct, there is no evidence that such a shift was perceptible at the time of *Lucrece*'s composition.

topicality'. She reiterates the misunderstanding that rape and abduction were separated by the Elizabethan statutes, but within her discussion she also gives weight to the doubtful significance of the naming of the crime (rapere / rape / abduction). She identifies the 1597 statute with the origins of the legal significance of consent in appeals of rape, mistakenly asserting that this final *abduction* act somehow introduced both the concept, and the word 'consent', into the already separate *rape* law. As we have seen, consent was significant throughout the statutes in determining the distinctions between rape, elopement and abduction.[35]

Maguire confuses matters further by redefining elopement and the notion of 'consent after' as 'adultery', and asserting that *The Lawes Resolutions* classifies *adultery* as rape. She claims that *The Lawes Resolutions* devotes a section to it. The word 'adultery' appears nowhere in the twenty-seven page section concerned with rape. The error apparently derives from Catty, whom Maguire cites. Maguire appears to mistake the medieval and early modern legal definitions of elopement (a property crime) with a modern notion of adultery. Adultery – sexual infidelity within marriage – was of interest to the church courts rather than the criminal courts. Maguire's later monograph draws on the legal background explored in her essay. It engages more extensively with source material (*Lawes*, the 1597 statute), but collapses it into the existing canon of critical error – at the same time, reinforcing the tangle of misapprehension around the subject.[36]

In her discussion of consent, Maguire notes that 'it continued to occupy Michael Dalton in *The Country Justice*'. She and Garrett both place an emphasis on Dalton which suggests he is responsible for what is, in fact, a reiteration of statute and common law. Garrett

[35] Maguire, 'Representing', 31, 39, 36-39.
[36] *Ibid*., 39, citing Catty, p. 13, and *Lawes*, p. 390. Elopement was defined as within rape law by 6 Richard II, chapter 6 (1382) – see Chapter 1 of this thesis. The role of the church courts in regulating sexual misdemeanour is discussed in Chapter 4. See also, Maguire, *Helen of Troy: From Homer to Hollywood* (Chichester: Wiley-Blackwell, 2009), p. 84, pp. 97-99 (on rape / *raptus*), pp. 99-100 (on 'adultery'), pp. 100-102 (on 'consent', and the changing of rape in the 1590s, and the 1597 statute).

finds that 'legal handbooks of the period often reinforce the view that female consent may be assumed even when a woman denies'. She identifies Dalton's *Country Justice* as seeming 'at first sight […] to make female consent the decisive factor in determining rape'. It apparently does this by 'stating that rape occurs if a woman "doth neither consent before nor after."' The purpose and contents of this and similar handbooks was precisely an abridgement of existing law, and the statement is, of course, a direct quote from Westminster II. It is not a personal 'endorsement of the medieval concept of *post facto* consent'. Nor is the provision, as Garrett suggests, linked to ideas of female sexuality exploited by Ovid when he legitimises male force by suggesting a woman 'may "at first" resist but will eventually yield willingly'. 'Consent…after', as specified in Westminster II, referring to elopement, represents a different matter from that proposed by Ovid: a public decision rather than a private yielding.[37]

Carolyn Sale contextualizes her discussion of Lavinia's rape in *Titus* in an analysis of how the laws of rape and abduction were deployed and applied by and against women. She takes examples from legal reports and from *The Lawes Resolutions* in an ostensibly authoritative exposition. However, as well as misleading representation of the statutes, her reading of the *Lawes Resolutions* results in further inaccuracies while imposing twenty-first-century critical concerns on the commentary of the seventeenth-century treatise.[38]

The place of consent in relation to the law underpins Sale's argument. She suggests that *The Lawes Resolutions* identifies a direct link between a progressive weakening in rape law and the notion of consent. She claims that the treatise cites the ancient law of Athelstan

[37] Maguire, 'Representing', 39, note 8; Garrett, 41, citing *The Country Justice* (1618), pp. 247-48. Ovid's precept that women want to be forced is discussed more fully in Chapter 5.
[38] Carolyn Sale, 'Representing Lavinia: The (In)significance of Women's Consent in Legal Discourses of Rape and Ravishment and Shakespeare's *Titus Andronicus'*, in *Women, Violence, and English Renaissance Literature*, ed. by Woodbridge and Beehler, pp. 1-27. Sale's discussion, throughout, assumes that *The Lawes Resolutions* is an authoritative work.

as 'precipitat[ing] the devolution of the crime into a "verie small trespasse"'.[39] But *The Lawes Resolutions* actually implies the opposite:

> Was it *Mag. Chart. cap. 29.* Or what was it that made the Law so meeke in *Edward* the first his time that the first Statute against Rape, speaketh of it so mildly, *as if it had beene* [my emphasis] at Common Law a verie small trespasse'.[40]

Nor at any point does *The Lawes Resolutions* attribute significance to the word 'consent'. The treatise simply reprises the ancient laws, of which Athelstan's appears simply to be the earliest recorded version.[41]

The use of the word 'consent', Sale argues, led to the notion of '"consent" to the crime'. She places emphasis on the ideology associated with the word. The question of consent presents political, legal and social conundrums that still appear to perplex us today. Seemingly rape has always been defined, identified and contended in terms of permission, either refused or given, whatever the terminology. For example Sale appears, anachronistically, to assume a modern motivation behind the wording of Westminster I when suggesting that it 'refuses to make […] "consent" the means through which a rapist might seek exoneration'. The history of the statutes suggests more accident than design behind the choice of phraseology, 'against her Will'. Consent can only be an expression of will: the question of was it freely given, or coerced remains.[42]

'William the Conqueror's ruling that no man shall be executed for the crime of rape' according to Sale, is evidence of the weakening law against rape. But *The Lawes Resolutions*

---

[39] Sale, p. 5. Sale follows *The Lawes Resolutions* in using the variant 'Adelstan'. As we have seen from Chapter 1, loss of eyes and members was the penalty prior to Westminster I, and life and members in Athelstan's time.
[40] *Lawes*, p. 380. *The boke of Magna Carta* (London: Redman, 1534), chapter 29, fol. 7, sets out the right of *habeas corpus*: 'No fre man shalbe taken or imprysoned or be dyssesyd of his freholde or lybertees or free customes or be outlawed or exyled or otherwyse dystrayned nor we shall not passe upon hym nor condempne hym but by lawfull judgement of his peers or by the lawe of the land'. *Magna Carta* (1215), apparently post-dates the ancient Athelstan by some 300 years: for respective dates, see Andrew Sanders, *The Short Oxford History of English Literature*, 2nd edn (Oxford: Oxford University Press, 2000), p. 654, and *Lawes*, p. 379.
[41] *Bracton*, II, p. 418.
[42] Sale, p. 5, p. 6. See *Statutes*, I, 29, and Chapter 1. The relevant wording of Westminster I is: 'And the King prohibiteth that none do ravish, nor take away by force, any Maiden within Age, neither by her own consent, nor without; nor any Wife or maiden of full Age, nor any other Woman against her Will'. The privileging of 'consent' as a potential defence, rather than lack of it as the definition of the crime, is Sale's.

reports William's words as: 'I command that from henceforth no man be hanged, or put to death for *any* transgression' [my emphasis] – it is not a specific diminution of rape. The rapist still faced the harshest available penalty of mutilations.[43] Further misunderstanding appears to arise from her confusion between the ancient law and Westminster I. She claims that *The Lawes Resolutions* describes the ancient provision of marriage to the rapist, combined with William the Conqueror's ruling as resulting in 'two "enormities": a proliferation of the crime, and the "mitigation" of the law's power to do anything about it'. This is simply wrong. *The Lawes Resolutions* decries Westminster I which reduced 'eyes and members' to merely two years imprisonment. When introducing Westminster II, it says: 'The mitigation of the old Law [by Westminster I] […] in a few yeeres brought forth so many enormities [crimes], That at the next Parliament' the 1285 statute restored the death penalty.[44]

On the question of Westminster I, Sale also appears to mistake the provision for '"*any* damsel within age"' (Sale's emphasis) as evidence of the law's inclusiveness, regardless of status or worth, whereas it actually specifies under-age girls for whom sex was statutory rape under any circumstances. Nor does she reconcile the restitution of 'life and member' by Westminster II with her assertion of a progressive weakening of the law. The outlawing of marriage to the rapist and the inhibition of a women's intent followed from Westminster II. Her discussion of rape as a property offence does not recognize this shift; and by following *The Lawes Resolutions* in failing to distinguish between the rape and abduction statutes, her ensuing discussion gives misleading interpretations of subsequent statutes.[45]

Despite the popularity of *The Lawes Resolutions* among modern critics, the failure to recognize its lack of status in its own time adds to the layers of critical confusion. Having subscribed to Bashar's erroneous account of the 1555 [*sic*] statute, Barbara Bowen attempts the impossible distinction between rape and ravishment, giving legal authority to the

[43] Sale, p. 5, *Lawes*, p. 379 (see also *Bracton*, II, p. 417).
[44] Sale, *Ibid*., *Lawes*, p. 381.
[45] Sale, pp. 6-8 (p. 6); *Statutes*, I, 87.

semantic choices of *The Lawes Resolutions*. The relationship between property and rape is at the centre of her argument, but she then discusses the 1487 act as a continuation of rape law, therefore confusing rape with the abduction sequence – the sole purpose of which is clearly set out as the defence of property. Her error is compounded by a misquotation from the statute in which she finds that women are describes as '"like Goods, oftentimes taken by Misdoers"'. The phrase 'like goods' does not describe victims in any of the similarly-worded abduction acts (1487, 1557, or 1597), nor indeed any other statute.[46]

In her paper, 'The Need for Lavinia's Voice: *Titus Andronicus* and the Telling of Rape', Emily Detmer-Goebel is led to base a significant strand of her argument on Bashar's misinterpretation of the statutes. She notes 'the culture's ambiguous attitude towards a woman's revelation of rape', and suggests that the dramatic tension created in early modern drama 'might be due, in part, to relatively recent changes in the law of rape'. Within her argument, and citing *The Lawes Resolutions*, she gives credence to the extraneous matter of 'raptus' as relevant in the distinction between rape and abduction.[47] And, like Bowen, in referring to 'how the evolving rape laws were also changing the role of women's authority in the new version of "rape"', she also attempts to elucidate the distinction between rape and ravishment. In her discussion of *Titus* and Saturninus's reference to abduction as rape, she calls it 'an increasingly rare usage'. In the correct context this might be so: abduction, once defined by the separate sequence, from 1487 is not referred to as 'rape' within the abduction acts. However, in *Titus* there is a strong implication that Lavinia is willing and complicit with Bassanius, so that there is a question of elopement (rape) rather than abduction. The

[46] Bowen, p. 116. See *Statutes*, II, 512. The relevant wording of 3 Henry VII, chapter 2 (1487) is: 'Where wymmen as well [Maydens] as Wydowes and Wyfes having substaunce some in goods moveable, and some in landes and tenants, and sume beyng heires apparaunt unto their auncestors, for the lucre of suche substaunce been oft tymes taken by mysdoers […]'.

[47] Emily Detmer-Goebel, 'The Need for Lavinia's Voice: *Titus Andronicus* and the Telling of Rape', *Shakespeare Studies*, 29 (2001), 77, 90, note 11.

abduction acts of 1487 and 1597 insist on the words 'against their will'. Elopement remained vulnerable to rape law.[48]

Karen Robertson is also led by *The Lawes Resolutions* to engage in the confusing discussion about the definitions of 'rape' and 'ravishment' in her essay, 'The First Captive: The Kidnapping of Pocahontas'. She mistakenly cites the author's frustration at the inadequacy of the word 'ravishment' to convey the horror of the crime in his unsuccessful attempt at legal clarification. In addition, she notes one of the 'extraordinary provisions of English rape law in the early seventeenth century: that the death penalties for ravishment could be rescinded should the rape victim subsequently marry her rapist'. She identifies it as evidence of the law's priority of property over the woman's ordeal. However, as we have seen, whatever clandestine arrangements were made, the common law custom was effectively outlawed by Westminster II – although the provision proved a useful early modern dramatic device.[49]

The Lawes Resolutions influences Solga's chapter on *Titus Andronicus,* in which she bases a fundamental strand of her argument on the 'theatricality' of the actions required when a woman reports a rape. Under the heading, of 'Hue and Cry', she argues that a slight difference in the wording between early treatises of Bracton and Glanvill, and *The Lawes Resolutions* indicates a 'shift: it encourages women to body forth the implicit theatricality of – the performance of innocence implied by – the scripts in the earlier treatises'.[50] There are two problems with this argument. The first is factual. Unfortunately it conflates the medieval emphasis on physical display of evidence with the 'hue and cry' – the pursuit of the felon (described in Chapter 1). Both components were essential to the successful prosecution of *all*

[48] Detmer-Goebel, 77-79 (78), 91, note 18.
[49] Robertson, 'The First Captive', in *Women, Violence, and English Renaissance Literature*, ed. by Woodbridge and Beehler, pp. 84-89 (p. 85), citing *Lawes*, pp. 377-78. However, she does recognize the inconsistency in sixteenth-century usage and understanding of the terms 'rape', and 'ravishment'. Drama relying on the device of marriage to the rapist is discussed in Chapter 6.
[50] Solga, p. 38.

cases of felony, not just rape.[51] However, Solga appears to mistake the hue and cry as a required rehearsal and display of evidence by a raped woman. Obviously, the victim had to demonstrate good cause to raise a hue and cry. But although both Granvill and Bracton require the rape victim to accompany the pursuit, as we have seen in Chapter 1, it otherwise comprised men.

Solga's second problem rests with false assumptions about *The Lawes Resolutions*. Chapter 2 explains its very limited circulation and its negligible influence in its own time. Dalton's popular *Country Justice*, on the other hand states simply: 'A women that is ravished, ought presently to levie huy and cry, or to complaine thereof presently to some credible persons as it seemeth'. It does not choreograph a performance. If Solga's argument is applied to Dalton, by early modern times the law required less of a spectacle than in medieval times, not more.[52]

Even when account is taken of historical sources, their context can be crucial. Neither Bashar nor *The Lawes Resolutions* are responsible for the controversy about the age of consent. Garthine Walker rightly points out that rather than resolving an anomaly, the 1575 statute 'created an ambiguity' in relation to the age of consent and rape victims, citing Simpson.[53] Deborah G. Burks also acknowledges that doubt and confusion surrounded the issue, but Williams relies solely on Coke's opinion that the age of consent was amended from

[51] The treatises mention different practical considerations that might pertain in respect of different crimes: for example there might be no immediate suspect on discovery of a murdered body. See *Glanvill*, Book XIV, chapter 3, p. 174; *Bracton*, p. 350. See also *Bracton*, p. 406, p. 407, p. 411 for instances when failure properly to instigate the hue and cry in cases of felony is might provide grounds to avoid an appeal.

[52] Dalton (1618), p. 248. For further examples, among the works cited, that embrace misapprehensions arising from it, or assume or imply that *The Lawes Resolutions* is an authoritative source, see Catty, pp. 13-14, p. 16; Detmer-Goebel, 90, note 11, 91, note 18; Williams, 101.

[53] Garthine Walker, *Crime, Gender and Social Order, in Early Modern England* (Cambridge: Cambridge University Press, 2003), p. 56, note 164, citing Simpson, pp. 181-205. Simpson is concerned with the eighteenth century. Even so, in the period 1730-1830 he finds that during that period courts throughout the country accepted Coke's position 'without reservation' (p. 187). Although he acknowledges that acceptance by eighteenth-century courts of Coke's interpretation 'had an unsound basis in statute and in common law', he none the less finds the 'revision […] implicit in the 157[5/]6 Act'(186). If Coke's view had become well established by that time, it probably had within his own – well before Hale's legal career began. (And although in circulation for decades beforehand, Hale's *Historia Placitorum* was not published until 1736 – see Chapter 1.) See also Chapter 1 on the age of consent.

twelve to ten.[54] Certainly, it is not clear what the intention was of the relevant clause, and we know that two eminent justices at different times disagreed on its interpretation. We also know that there is an absence of relevant case law recorded in the decades of the late sixteenth-early seventeenth centuries. It is, therefore, important that discussion about the age of consent takes account of these issues.

On the other hand Murray Biggs exemplifies the dangers of making reference to neither history nor law with an anachronistic intervention when asking: 'Does the Duke Rape Bianca in Middleton's *Women Beware Women*?'. He takes issue with the very idea of rape. In the process he also cites William C. Carroll's attribution of the term 'rape' to Leantio's theft of Bianca from her parents (who opposed their marriage) before the action of the play begins. Carroll apparently calls this a 'figurative rape'. Accusing him of finding rapes where there are none, Biggs is adamant 'it is rape neither figurative nor literal'. He is wrong: it is elopement, punishable under rape law as rape / ravishment or abduction, depending on where in history Middleton located it.[55]

As the above discussion reveals, however, when rape is discussed in a context of history Bashar and / or *The Lawes Resolutions* have the potential to mislead. The foregoing represents only a sample of criticism. Rather than to deprecate the work of established scholars the intention of the above discussion, and indeed the first part of the thesis, has been to illustrate and confront a cumulative and increasingly complex network of incomplete knowledge, error and misunderstanding. It is, after all, reasonable to assume that

[54] Burks, '"I'll Want my Will Else": *The Changeling* and Women's Complicity with their Rapists', *ELH*, 62 (1995), 768-69; Williams, 100, citing Coke, *Institutes of the Laws of England*, 4 vols (New York and London: Garland, 1979), IV, A3^{r} – a facsimile edition. The citation is puzzling, however: the quotation can be found in *The Third Part of the Institutes*, chapter 11, p. 60 (sig. F5^{r}). *The Fourth Part of the Institutes* in, for example the 4th edn (London: Brooke, 1797), and various others, is concerned with 'The Jurisdiction of the Courts' (sig. A2^{r}).

[55] Murray Biggs, 'Does the Duke Rape Bianca in Middleton's *Women Beware Women*?', *Notes and Queries*, 242 (1997), 97, citing Middleton, *Women Beware Women*, ed. by William C. Carroll (London, Black, 1994), pp. xx-xxx, *passim* (see esp. p. xx, p. xxiv). In an almost comically vituperative piece of character criticism, Biggs also takes issue with both Carroll and Anthony Dawson, '*Women Beware Women* and the Economy of Rape', *Studies in English Literature 1500-1900*, 27 (1987), 304, to dispute their assertion that Bianca is raped rather than seduced by the Duke.

longstanding sources, or commonplace assumptions are reliable. But currently, it is almost impossible to approach the subject of rape in early modern England with confidence.

CHAPTER 4
WOMEN, SOCIETY AND RAPE

If the emphasis of statute law on property assumes that wealth and status are the lot of those it seeks to protect – whether victim or family – social status necessarily contributes to the meaning of rape in early modern England. At the same time, attitudes to public and domestic order, to gender responsibilities and identity, and to morality and reputation, contribute to the social reality in which the law operated. All were underpinned by religious doctrine. In this chapter, which explores the relationship between social hierarchy and the operation of rape law, several discourses intersect.

In theory, statute law applied at all levels of early modern society. Modern critics have particularly noted the discrepancy between the number of instances of what today we might identify clearly as rape, and its recognition then as a crime against a woman. But if there were few successful rape prosecutions in total, the challenges for women from less privileged backgrounds seem particularly daunting. Evidence of this pattern comes from the lower courts: the quarter sessions, petty sessions, and manorial courts, where ostensibly less serious cases were brought, and from the church courts – the bawdy courts – where sexual impropriety and matters of public and private morality were determined.[1]

Most significantly, cases brought at the lower courts, and which we might interpret as rape, are often found not among offences committed by men against women, but as accusations against women: they might be brought against absconding servants, or women charged with fornication, or 'bearing a bastard' – imposing the financial burden of a fatherless child upon the parish – or they might be of a woman sued for slander by a man for

[1] See Sharpe, *Crime in Early Modern England*, pp. 30-40, for a description of the different levels of court and their respective responsibilities. On the functioning of the church courts see Martin Ingram, *Church Courts, Sex and Marriage in England, 1570-1640* (Cambridge: Cambridge University Press, 1987; repr. 1994); on their place in cases of slander, sexual insult and reputation see Gowing, *Domestic Dangers*. On the assizes and quarter sessions see Cynthia B. Herrup, *The Common Law: Participation and the Criminal Law in Seventeenth-Century England* (Cambridge: Cambridge University Press, 1987); Garthine Walker, *Crime*, p. 17.

claiming to have been raped or sexually assaulted by him. Although court records show many instances of an accused woman claiming to have been forced into unwanted sex, the cases rarely translated into an appeal of rape against the man involved. Where aristocracy and wealth prevailed – where the woman lost her reputation and /or marriage value because of rape, abduction or elopement – as we have seen in Chapter 1, such events might have been dealt with discreetly outside the law. In both lower and higher echelons of society, then, the personal violation of the woman occupies seemingly ambiguous ground.

Examples from court records demonstrate several factors which interact to influence social and legal perceptions of rape. Among those factors the chapter will consider notions of social status in early modern social hierarchies. It will then discuss codes of morality among the lower and middling social groupings, their compatibility with women's public and domestic roles, and ideas of public and private order. Standards of public and private responsibility underpin individual reputation, and contribute to the construction of female and male identities. The chapter will finally consider a scandal that emerged from aristocratic circles in 1632 that suggests how those standards and the question of identity played a significant part in the prosecution of rape that could be recognized regardless of social status.

'Sorts' of People

Over the years, historians have debated the validity of and appropriate terminology for discussing population groupings determined by social status in early modern England. One important focus of interest has been whether it is historically possible to recognise a 'middle class' separate from the elite, and from the landless labourers. The implications of social status help to explain what was at stake for women negotiating their everyday business at levels of society outside the aristocracy in relation to the threat of rape and the importance of sexual reputation.

Jonathan Barry tells us that historians have generally opted for 'terms such as "the middling sort"' to distinguish the mass of people who fell between the highest and lowest strata of the population.[2] There was, apparently, a 'conventional hierarchy of "ranks and orders"' – a 'conventional list of "estates and degrees of people"' that defined social status. It was apparently commonplace in Elizabethan and Stuart England and comprised noblemen, gentlemen, yeomen, citizens and burgesses, husbandmen, artisans, labourers.[3] 'Ranks', 'orders', 'estates', and 'degrees' would all be terms recognised at the historical time in question; so too would 'the language of "sorts"' be recognized as 'an authentic contemporary terminology'.[4] It appears that the division between the aristocracy and the rest was readily identifiable, but among the middling and lower sorts there was a disparate range of groupings between which boundaries are blurred by aspiration, emulation, economic interests, and possibly mobility.

The term 'middling sort' recognises the complex of loyalties and groupings which fell between the elite and the labouring ranks: those who had their own property, resources, trades and professions. Critics also employ the term 'ordinary women' to describe those whose sexual experiences have led to their appearance at the quarter sessions and church courts.

---

[2] Barry's introduction, in, *The Middling Sort of People: Culture, Society and Politics in England, 1550-1800* (Basingstoke: Macmillan, 1994), ed. by Jonathan Barry and Christopher Brooks, pp. 1-11 (p. 1, p. 11, p. 9). He explains terminology as part of the socio-political politics of the academy (and beyond). He refers back to 1950 when Jack Hexter deemed the idea of a Tudor middle-class a 'myth'. Barry tells us that it is a model to which historians have generally adhered, while the attribution of the rise of a middle class to the period has been considered as the ground of 'literary critics, politicians and students'.

[3] Barry, p. 9, p. 6; Keith Wrightson, '"Sorts of People" in Tudor and Stuart England', in *The Middling Sort*, ed by Barry and Brooks, pp. 28-31 (p. 28, p. 29). There is a full discussion of 'class', in Wrightson, 'The Social Order of Early Modern England: Three Approaches', in *The World We Have Gained: Histories of Population and Social Structure: Essays Presented to Peter Laslett on his Seventieth Birthday*, ed. by Lloyd Bonfield, Richard M. Smith, and Keith Wrightson (Oxford: Blackwell, 1986), pp. 177-202, in which he explores the relationship between social groups through three different methodological approaches; Anthony Fletcher and John Stevenson, in their introduction to *Order and Disorder in Early Modern England*, ed. by Fletcher and Stevenson (Cambridge: Cambridge University Press, 1985), p. 4, recognise that 'the old pattern of hierarchy and local loyalties at the same time complicated by new forms of association' – for instance economic, religious or occupational. The collection of essays considers both the hierarchical and behavioural implications of the different loyalties and associations. See also Sharpe, *Early Modern England: A Social History 1550-1760*, 2nd edn (London: Hodder, 1987; repr. 2008), 126-29.

[4] Wrightson, '"Sorts"', p. 29, p. 28, p. 31. See also his *English Society 1580-1680* (London: Routledge, 1993; repr. 2002), p. 19. See also pp. 18-21, and pp. 23-38, for a discussion of the complex relationship between wealth, occupation and the possibility for social mobility.

Gowing, for example includes 'servants, labourers, traders, farmers, housewives, midwives' as examples to define the group.[5] 'Ordinary' in this sense appears to encompass those from both the middling sort and servant class: those for whom the outcome of the court experience would depend more on personal reputation and the perception of the community than on family means and influence.

Gender, Sex and Power

It is probably no coincidence that many reports of sexual violence were told by female servants against masters or members of the household. Servants and employers in early modern society were subject to the law when engaging in a contract. In towns and rural communities, annual contracts with three months' notice on either side were usual, although 'pregnant or dishonest servants' were often summarily dismissed. According to Bernard Capp, absconding servants might be liable to 'severe penalties' under the law, yet they faced a gamut of hardship and abuse in the face of which their position left them helpless.[6] Even so, in 1576 when Margery Harding explained to the Bridewell governors that 'her master had attempted to rape her' – an allegation he admitted – they 'ordered him to pay her wages and discharge her'. Jervis Scarborough was a clergyman. In 1603 his young maid, Elizabeth Evans, absconded to get away from his advances. She was tracked down, arrested and presumably returned to him, because he then threatened that he could have her hanged if she would not now consent to him. In this case too, her word impressed the court more than his. The apparent regularity with which such cases appear in the records suggest, however, that if these two women were 'lucky', the disparity in authority, power and physical strength between a young maid and a determined master meant there were many more who were less so. Alice Ashmore's master was a London cook who told her: 'Thou art my servant and I

[5] Gowing, *Common Bodies*, p. 13.
[6] Capp, pp. 129-30 (p. 129, p. 129, note 10). See also Wiesner, pp. 109-110, pp. 113-114.

may do with thee what I please'. His attitude seems not to have been unusual. Age and respectability made little difference: Thomas Rownde from Middlesex regarded it as '"his hard misfortune"' to have caused his maid to become pregnant: 'he pleaded the fact that his wife was 60 and had never borne a child as extenuating circumstances'. Another pregnant servant was ordered by her master, who was responsible for her state, to break the news to his wife: Robert Tailford, a London carpenter, was seventy-years-old in 1603 when the matter came before the court.[7]

Many cases are illustrative of the courts obliging men to account for their actions, and presumably to contribute financially to the upkeep of an illegitimate child. But it was because the female servant reacted against an intolerable situation and ran away, or because her plight became manifestly public because of her pregnancy, that a case first came to the attention of the courts. The often abusive circumstances which brought about the woman's situation were offered in mitigation of the moral offence she had committed, and to determine the identity – and therefore the financial responsibility – of the alleged father. They were not considered as evidence of rape. Despite the examples in which a court might accept a woman's word that she was forced to flee the master's advances, there is an apparent lack of connection between acknowledged attempts at enforced sex and the concept of rape. The court records show it to be symptomatic of a cultural paradox that men expected to meet and overcome physical resistance, and women were expected to defend themselves against unequal odds, of both strength and obligation, if they were to avoid an assumption of willing participation.

From the regularity with which recorded cases are generated by an illegitimate pregnancy or birth it seems likely that attempts and sexual assaults were commonplace, even for female servants who were able successfully to resist or to escape pregnancy. For the less fortunate it fell to the church courts to punish 'the acts of unlawful copulation that these

[7] Capp, pp. 135-36, p. 145.

crimes implied'.[8] Apart from violence, force, or threats, men used flattery, bribery, seduction or the prospect of marriage to achieve sexual relations.[9]

Escape from harassment was not straightforward. Contractual obligations meant that even when a servant could give notice, the master might sequester her clothing, withhold wages, or threaten to accuse her of theft. A wife was unlikely to be sympathetic; she was more likely to blame the servant for inviting a husband's attention. Or if other servants were involved it might be pragmatic for a mistress to blame the girl.[10] Wives would also be anxious to avoid the financial burden which would result from a husband being forced to acknowledge the progeny of a liaison. Threats and accommodations were sometimes made though: a maid's discretion might be exchanged for lodgings and support till the child was born.[11]

Once a pregnant servant had left her position she faced prosecution for bearing a bastard wherever she went, and the prospect of 'public penance, a whipping, possible imprisonment, or destitution', unless she could find shelter and support among friends or family. There were many heart-rending stories of girls abandoned and rejected by the men responsible for their condition, and infants were then also abandoned, or were killed at birth. After a 1624 Act made it a felony, most of those hanged for infanticide were 'young, unmarried servants'.[12] That is, of course, not to say that all destitute, pregnant girls, or those who committed infanticide, were raped: ignorance, naivety, carelessness, false promises and seduction – however each might be defined – would also account for their share.

Ingrained assumptions about either the nature of men and women or the social order became self-perpetuating. In 1600, Jane Lacey, a Sussex widow sought the advice of the

[8] Ingram, *Church Courts*, p. 150.
[9] Capp, p. 144: see the examples, of Sara Adams, *ibid*., Elizabeth Ryse, pp. 144-45; Ingram, *Church Courts*, Mary Mountegne, p. 266. See also Gowing, *Common Bodies*, p. 100, on the subject of the culture of male force.
[10] Capp, p. 146.
[11] *Ibid*.
[12] *Ibid*., pp. 147-48.

rector when she found herself being sued for defamation 'after accusing a local farmer of trying to seduce her with a bushel of wheat'. The rector was apparently 'astonished' when, against his urging, and with no witness, she resolved '"she would speak the truth unto death […] let him do what he will"'. Hers was the reputation at stake rather than that of the man she accused.[13]

Several aspects of the cases reprised above are illuminating when considering the meaning of rape in the period. The most important to reiterate is that only rare examples among the cases described resulted from an accusation of rape. The implication of forced sex was generally subsumed to the accusation of immorality against the woman. However, in order to define what rape was, both legally and socially, it is necessary to determine what it was not. It is equally important to remember that it is impossible for us now to judge the merit or veracity of individual depositions. The women themselves undoubtedly had cause to attempt to mitigate their situation by telling of irresistible force, or to implicate particular men as responsible for their state. Some arranged a 'hasty marriage' to unsuspecting husbands: one, whose husband of two days became aware of her state, 'told him that "whosoever had got it, he should father it"'.[14]

Although women might not always have been entirely innocent, the frequency and regularity of cases similar to those described suggests that sexual violence was an occupational hazard for female servants. But in historical terms their violation cannot be defined as rape. As we have seen from Chapter 1, even where force was alleged, conception was regarded as evidence of consent. But the fact that these cases emerged only when the woman's condition became public suggests that had she not conceived the events leading to her plight would have remained untold – as was probably the case for innumerable others.

[13] *Ibid*., p. 146. See also the case of Jane Lacey p. 226.
[14] *Ibid*., p. 147.

Even without the negating impact of pregnancy, the attitudes expressed by Jane Allen's neighbour would confirm the wisdom of silence.

The imbalance of power between male and female, master and servant placed female servants in the invidious bind of obligation to the very group most likely to be responsible for any abuse. The situation was likely to be weighed against a similar template of gender and status if a woman was following a trade or occupation in the community. Her word was likely to be thought less reliable than a man's, and even less so if, as seems usual, she was of lower social status. It seems that men took sexual advantage of women in large part because they could. That is not to say such behaviour went unpunished if acknowledged by either the man himself, or by the court. But the punishment falling to the woman was usually greater than to the man, in addition to the loss of her reputation.[15]

Court reports demonstrate there was little more sympathy for victims from other women than from the men who abused them. How those who endured persistent attempts, assaults and rapes regarded their own lot can only be guessed. But stories of mitigation have to be read among those of scapegoating and untruths, and suggest a range of behaviour from innocence to knowing calculation.

Women in Public and Private

Cases from the lower courts show how the theory of the law does not represent the often messy and opaque reality of rape allegations. Similarly the cultural sanctioning of male superiority / female inferiority operated amidst the complex personal, economic and social relationships it governed. Women at all levels of society conducted their business within and without the domestic household: some pursued trades and professions. Church courts dealt with scolding wives, women brawling, slandering, and fornicating. And, despite women's

[15] Gowing, *Common Bodies*, p. 13.

assumed inferiority to men, the church supported the mutual and respectful nature of marriage. In other words, despite the prevailing ideology, whether through economic necessity or personal negotiation, women individually were not necessarily meek nor prevented from robust social interaction – however provisional their status in society. There are many works detailing various aspects of women's lives in early modern times. Without rehearsing a comprehensive social history, the focus in this section is to consider attitudes to women's status and sexual conduct alongside the duties they fulfilled inside and outside the household.

Religion and Social Order

Investigation of the place of women in early modern society usually begins with the biblical account of 'the Fall'; the importance of religion and its ideological underpinning of politics makes the correlation inevitable. Whether or not, in the far reaches of history, religion was essential to establishing the ideology of male superiority over women is a different discussion, but the Judaic and Christian interpretations of the Bible certainly perpetuated it. Eve was created second after Adam. She was formed from him – from his rib, and she was created to be 'an help meet' for him.[16] Her secondary status, Margaret Sommerville points out, is established in the Bible even before she commits the sin of eating the apple and tempting Adam to follow her example. Biblical teaching compounds two strands of thought: man's natural superiority to women (as well as its automatic converse, women's inferiority), and 'evidence' of the specific frailty of the female character. Eve displays susceptibility to temptation, and disobedience both to God's direct command not to eat the fruit, and to the designated order – by leading her husband (astray) rather than following him. According to Sommerville, henceforth 'distaste for subjection was part of the punishment'. Good women

[16] *The Holy Bible*, King James Version (London: Collins, [n.d.]), Genesis, 2. 18

enjoyed obeying their husbands; only a 'sinful' woman found it onerous, and so suffered 'proper punishment for her part in Eve's sin'. Regardless of women's obedience to their husbands, they were afflicted by painful childbirth as a reminder of their sinful heritage.[17]

Classical and medieval learning worked alongside religious belief to confirm the idea of woman as an inferior being to man. Aristotle was particularly influential: according to his version of physiology, the female was a partly formed, inferior, male; 'she was "colder", [and] "moister"', making her system less efficient, and her body weaker.[18] These ideas were adapted for Christianity by Thomas Aquinas in the thirteenth century, and later accepted by early modern physicians. It was also accepted wisdom that women were of lesser intelligence, if indeed truly rational beings. There was though, one aspect of nature in which women were accepted to be stronger than men: that of emotion. Early modern understanding proposed an opposition and constant state of internal conflict between reason and emotion. Needless to say, because a woman's body and her intellect were weak, she was more susceptible to her 'baser passions'. So well embedded were these ideas that they were 'more often asserted as an axiom than defended as a proposition'.[19] The practical result of the combination of religious and scientific doctrines was the assumption that men should rule women. Women are defined in the New Testament as 'the weaker vessel' who, as wives, are

[17] Margaret R. Sommerville, *Sex and Subjection: Attitudes to Women in Early-Modern Society* (London: Arnold, 1995), p. 25, p. 31, p. 24; Genesis, 3. 6, and 16-17.
[18] Sommerville, pp. 9-14 (p. 10), citing Aristotle, *The Complete Works of Aristotle: The Revised Oxford Translation*, ed. by Jonathan Barnes, 2 vols (Guildford: Princeton University Press, 1984), I, 'History of Animals', 948-49 (608), 'Generation of Animals', 1144 (737a), 1186 (766b). Reference to the female as partly formed can be found in 'Generation', 1144 (737a), as 'moister', and 1186(766b), in which there is also reference to 'the cold*ness'* [my emphasis] of the [female] sanguineous nutriment'.
[19] Sommerville, p. 12, p. 10. See also Aristotle, I, 'History', 948-49 (608), Fletcher, *Gender, Sex and Subordination in England 1500-1800* (London: Yale University Press, 1995), pp. 60-82; Lawrence Stone, *The Family, Sex and Marriage in England 1500-1800*, abridged edn (London: Penguin, 1979, repr. 1990), pp. 136-142. Steven Shapin, *A Social History of Truth: Civility and Science in Seventeenth Century England* (London: University of Chicago Press, 1994), pp. 86-91, discusses the perception of women's inferiority in relation to their veracity.

obliged to obey their husbands – a notion reinforced in the Elizabethan *Homily of the state of matrimony*.[20]

Because of the crucial relationship between the family and standards of public order and morality, the family attracted scrutiny from the community – from neighbours and the authorities – particularly the church. The catechism asserted the parallel between the family and the state and, in turn, that between God and man. Susan Amussen emphasises, however, that 'the analogy between the household and the state […] must be understood as an analogy […] not an equation'.[21]

It was a matter for the church courts if householders failed to ensure that servants and children attended a weekly catechisation, as was 'absence from church, working on the Sabbath, and failing to receive Communion'.[22] Amussen finds that instruction of the catechism placed emphasis on the Fifth Commandment, 'honour thy father and mother', and that the implications were universal rather than domestic. Apparently 'everyone […] agreed that the model for relations in the family and the state was the relationship between God and man'.[23] However, it was a model which allowed flexibility in argument, depending on the source, and the audience. Politically, in early modern times, the king was held to represent

[20] *The seconde tome of homilies* (London: Richarde Jugge, 1563), fols 253-263^{r} (fol. 255) [STC 2nd ed. 13666]. Additionally, *The booke of common prayer, and administration of the sacraments and other rites and ceremonies of the Church of England* (London: Barker, 1603), sig. P2^{r}, contains 'The forme of solemnization of Matrimonie' which includes paragraphs on the duties of husbands and wives, to be read instead, 'if there bee no Sermon'. Reference to the wife as the 'Weaker vessel', and her duty to 'submit' and 'to be in subjection' to her husband, follow at sig. P2^{v}. The wording, again, remains virtually unchanged in the modern *Book of Common Prayer*, and the reading borrows from various chapters of the *Bible*. See Fletcher, *Gender*, p. 60. He explains: 'The phrase "the weaker vessel" originated with William Tyndale's translation of the New Testament into English in 1526 and became common usage during the next hundred years or more': the phrase can be found in I Peter, 3. 7.

[21] Susan Dwyer Amussen, *An Ordered Society: Gender And Class In Early Modern England* (New York: Columbia University Press, 1993), p. 37. Amussen provides a full discussion on the ordering of the domestic household and its relationship with political order in her Chapter 2, pp. 34-66, esp. pp. 36-38, and in 'Gender, Family and Social Order, 1560-1725', in *Order and Disorder*, ed. by Fletcher and Stevenson, pp. 196-217. See also Ingram, *Church Courts*, Chapter 4, pp. 125-167, esp. pp. 125-127.

[22] Amussen, *Ordered Society*, p. 35, p. 96, pp. 129-30 (p. 130).

[23] *Ibid*., p. 36; Church of England, *Book of Common Prayer and Administration of the Sacraments and Other Rites and Ceremonies of the Church of England* (Oxford: Oxford University Press [1969 (?)]).It should be noted that the catechism has remained exactly the same into the modern era, and its practical and political interpretation inevitably represents the culture of its historical moment.

God on earth. For those writing conduct books and household manuals the head of the household – usually the father – fulfilled the role. The accepted notion of the household was that of a 'commonwealth' ruled by its male head who had authority over his wife, his children and his servants.[24]

Despite women's deemed intellectual and moral frailty, the church encouraged husbands to treat their wives with kindness and respect, and to share appropriate responsibilities.[25] Much of the guidance and most conduct books emanated from puritan clerics like Gouge. By the early decades of the seventeenth century, Patrick Collinson tells us, puritanism was effectively 'a way of life', imposing a 'system of religious and moral values'.[26] However, Kathleen Davies argues that mutuality in marriage can be traced to pre-Reformation and early Protestant advice on domestic matters.[27] There is though, divided opinion about the extent and depth of religious practice and belief. Collinson discusses the emergence of secularism and the demise of 'traditional Christian society'.[28] But, like other historians approaching the archives of the period, he urges 'extreme caution' when considering their reliability. Sources such as pamphlets and sermons are 'conditioned by a rhetorical convention of exaggerated moral outrage', and records of both detection and punishment are fallible.[29]

But relations between husbands and wives, men and women, were no less complex for all the moral guidance offered in writings and sermons. Amidst the demands of a

[24] *Ibid*., pp. 37-39. See also, for example, William Gouge, *Of domesticall duties eight treatises* (London: Haviland, 1622), sig. A2^{v}, and section 7, pp. 16-32, headed 'Wives submit yourselves unto your own husbands, as unto the Lord'; Richard Brathwait, *The English gentleman containing sundry excellent rules or exquisite observations* (London: Haviland, 1630), p. 155. Amussen discusses the use of violence as a means of correction and control by husbands against wives, in '"Being Stirred to Much Unquietness": Violence and Domestic Violence in Early Modern England', *Journal of Women's History*, 6 (1994), 70-89.
[25] See, for example, Gouge, *Domesticall*, sig. 4^{r}.
[26] Collinson, *English Puritanism* (London: Historical Association, 1983), p. 32.
[27] Kathleen M. Davies, 'The Sacred Conditions of Equality – How Original Were Puritan Doctrines of Marriage?', *Social History*, 5 (1977), 563. In the paper overall she argues that the puritan sermons and literature are an unreliable source of evidence, and the notion that mutuality in marriage arose from puritanism owes as much to the coincidental emergence of the print trade as to any change in attitudes.
[28] Collinson, *The Religion of the Protestants: The Church in English Society 1559-1625* (Oxford: Clarendon Press, 1982) p. 198.
[29] Collinson, *Religion*, p. 199.

sometimes subsistence life, and of family, community and the institutions, men were endowed with authority on one hand, while being exhorted to partnership with wives on the other. It is perhaps unsurprising that the court cases we have seen evinced a gamut of human responses.[30]

Women, Work and Household Order

The emphasis on a woman's 'domestic' role did not mean she was confined to the home, or that the division of duties between men and women was necessarily clear-cut. It has been noted that the examples of sexual violence given have all involved women or girls either in service in an employer's household, or working in the community. But it was not only those from a poor background who worked as servants. It was common for sons and daughters of yeomen and gentlemen to register as apprentices in various trades, and for the offspring of the aristocracy to live and work in the household of relatives or family friends. Those employing servants included poor families who might have a live-in servant for menial work. Among the middling sort female servants were employed in the fields and dairies as well as for domestic duties.[31] Alice Clark explains that 'there was no hard and fast line dividing domestic occupations from other branches of industry', and so it is impossible to apportion a woman's time between the two. Both were essential to maintaining the production on which the family and community relied.[32]

[30] Fletcher, 'The Protestant Idea of Marriage in Early Modern England', in *Religion, Culture and Society in early Modern Britain: Essays in Honour of Patrick Collinson*, ed. by Fletcher and Peter Roberts (Cambridge: Cambridge University Press, 1994), pp. 161-181 (p. 181), argues that the conduct book writers were 'walking a tightrope'. He suggests that 'substantial householders[…] wanted all the reassurance those vested with clerical authority could give them that social and gender order […] would remain […] fully intact. But they also wanted to hear about love, affection and partnership'. He acknowledges that it omits 'any depth of analysis about masculinity and femininity', and its idealism 'rests on a certain simplicity of view, a certain confidence in the old cosmology'.

[31] See Sara Mendelson and Patricia Crawford, *Women in Early Modern England 1550-1720* (Oxford: Clarendon Press, 1998; repr. 2003), p. 94.

[32] Alice Clark, *Working Life of Women in the Seventeenth Century*, 3rd edn, with a new introduction by Amy Louise Erickson (London: Routledge and Kegan Paul, 1992), p. 290.

The textile industry was entirely dependent on fabric spun by women, and in agriculture women were responsible for cows, pigs, poultry, orchard and garden and the produce. Widows continued their late husbands' businesses, worked the retail trade, and trained apprentices. If a business was undertaken in the home it was incorporated into family life and duties shared – similarly to farming. So, although women in general had a smaller range of travel, they moved freely outside the home. And freedom of movement was a factor contributing to anxiety about women's conduct, and to their vulnerability to unwanted attention.[33] Single women were perceived as 'an economic threat' in their capacity to produce illegitimate children, while masterless women posed a perceived social threat to male hierarchy. Urban courts might order such women to be 'retained in service', or to be given work in the public sphere.[34]

Although the husband was head of the household, direct responsibility for the moral and sexual behaviour of the servants and children was held to be that of the wife, as, of course was her own. Conduct had significant, if different ramifications for the reputation of both wife and husband. [35] The correspondence between the political and the domestic meant 'legitimate interest' and intrusion by neighbours, as well as parish and state institutions, into family life.[36] Much of that interest was to do with matters of sexual or gendered behaviour. Evidence reveals the strong bias represented in the myths on which the religious and social ideals were founded: women were weak, led by their passions, and therefore liable to sexual incontinence. Gowing describes several adultery cases from the church courts – almost invariably about women. They were constructed and pieced together from observations by

[33] *Ibid*., pp. 292-94 (292).
[34] Diane Willen, 'Women in the Public Sphere in Early Modern England: The Case of the Urban Working Poor', *Sixteenth Century Journal*, 19 (1988), esp. 561-64. From court records, Willen describes women in Norwich committed to the local Bridewell and assigned to teach impoverished children to read and to spin; in York, certain inmates of the hospital were give menial housekeeping and nursing duties.
[35] See Fletcher, 'Protestant', p. 170, p. 163, p. 175.
[36] Collinson, *The Birthpangs of Protestant England: Religious and Cultural Change in the Sixteenth and Seventeenth Centuries* (Basingstoke: Macmillan, 1988), pp. 60-61(p. 61).

husbands, neighbours, friends, apprentices and servants 'who, alerted by suspicious behaviour, looked through windows, stood in dark corners, or made holes in walls to watch'.[37]

Even relatively poor households employed servants and conditions were often already crowded. Someone was, therefore, always likely to be in the house. Additionally 'walls were thin, keyholes large, and partitions of cloth easy to pull aside'. The need for witnesses to specific acts, rather than a string of circumstantial incidents and suspicions, meant though, that some of the convenient spy-holes and observations might well have been invented to satisfy the appropriate legal conventions. Gowing explains that 'contemporary commentators were apt […] to doubt their veracity'.[38] However, the fact that the local constable was authorised to force entry if he had reason to believe that an act of fornication was taking place inside is a sign of the seriousness with which the matter was regarded.[39] But, whereas adultery might regularly be cited as cause for a man to separate from his wife, it was not usually, on its own, sufficient grounds for a woman to bring a separation suit against her husband.[40]

Marriage

Despite the focus of conduct treatises on the household and the married couple, the ages at which marriages took place and the proportion of the population remaining unmarried were persistently high. The average age for first marriages was about twenty-six or twenty-seven for women, and twenty-eight and twenty-nine for men. Only the aristocracy and the wealthy did economic constraints not prevent the young from setting up their own household when

[37] Gowing, *Domestic Dangers*, p. 189.
[38] *Ibid*., p. 190.
[39] Collinson, *Birthpangs*, p. 61.
[40] Gowing, *Domestic Dangers*, p. 109, p. 188.

they chose. Estimates of those unmarried in the late sixteenth and early seventeenth centuries are as high as twenty-five percent during the worst economic conditions.[41]

In the early modern model of the family, sexual relations were confined to marriage. It was 'a vision', Amussen tells us, 'which early modern villagers struggled to uphold'. Marriage was instituted by divine law, and the only legitimate purpose of sex was procreation.[42] Cases of disputed marriage were becoming increasingly rare from the late sixteenth century.[43] However, the often confusing business of marriage contracts could easily create the circumstance leading to allegations of fornication brought to the bawdy courts. In its least complex form, a marriage could be contracted between two people by saying words of the marriage service in the present tense, in the presence of two witnesses (*per verba de praesenti*). The contract was legally binding, although it was usual to solemnise it later in church. However, Ingram tells us that 'neither solemnisation in church, nor the use of specially prescribed phrases, nor even the presence of witnesses, was essential to an act of marriage'. By the latter part of the seventeenth century church solemnisation had become customary, but the situation was in flux throughout Elizabeth's reign, and into the early part of the 1600s. Uncertainty about the precise status of the various requirements enabled the continuation of '"clandestine" marriages' which remained a valid formation.[44]

In an alternative form, a promise could be made to marry in the future (*per verba de futuro*), but this type of contract could be dissolved by mutual consent. A *conditional* contract was similar: it became binding on the fulfilment of specific conditions such as parental permission or financial settlement. Both types of contract 'became immediately and irrevocably binding' if the couple had sexual intercourse and, conversely, both could be superseded if the participants subsequently entered into a *de praesenti* contract with someone

[41] Eales, p. 61. See also Ingram, p. 129.
[42] Amussen, *Ordered Society*, pp. 95-96; Sommerville, p. 114.
[43] Ralph Houlbrooke, 'The Making of Marriage in Mid-Tudor England: Evidence from the Records of Matrimonial Contract Litigation', *Journal of Family History*, 10 (1985), 340; Ingram, *Church Courts*, pp. 192.
[44] Houlbrooke, 339-40; Ingram, *Church Courts*, pp. 189-90, p. 132, p. 134.

else.[45] In either instance – contract or promise – any ensuing litigation was complicated by the surrounding circumstances: the wording of contracts, the recollection of witnesses, the paraphernalia of rings, tokens, or gifts, the adoption in public of modes of behaviour and address, and evidence of wedding plans, and economic provision. Predictably, of the cases that came to court, women were more likely than men to cite sexual intercourse to support their claim.[46] However, 'consummation' in a legal sense was only relevant in relation to legitimising a pre-marriage contract; otherwise, it was consent to the marriage by two people in front of witnesses, not consummation, which made the marriage. Consummation though, made it 'perfect' and immune to the rare possibility that the Protestant church might later allow a couple to part.[47]

A full binding commitment could be made at age twelve for women, and fourteen for men.[48] A betrothal could be made as early as age seven, but the child had the right to dissent from the union on reaching full age. Since marriage customarily took place in the mid to late twenties, the legal threshold could have been of little direct relevance to the lower and middling order. Ingram notes there was a tacit acceptance 'that matrimony should be reserved for those of the age of discretion'.[49]

In practice there seem to have been differing attitudes about the degree of influence parents should exert over their offspring's choice of husband or wife. An ecclesiastical convocation in 1597 upheld the traditional English principle that '"consent in marriage is the matter specially to be regarded, and credit of kindred, honour, wealth, contentment and pleasure of friends be rather matters of conveniency than necessity in matrimony"'. Yet, under a provision of the canons of 1604, marriage was forbidden without parental consent to

[45] Houlbrooke, 340-41; Ingram, *Church Courts*, p. 190.
[46] Gowing, *Domestic Dangers*, pp. 143-44; Houlbrooke, 344; Ingram, *Church Courts*, p. 197.
[47] Sommerville, p. 177.
[48] Alan Macfarlane, *Marriage and Love in England: Modes of Reproduction 1300-1840* (Oxford: Blackwell, 1986), p. 127 ; Coke, *Second Part of the Institutes*, p. 181; Hale, *Historia Placitorum*, pp. 630-31 (incorrectly numbered 730-31).
[49] Ingram, *Church Courts*, pp. 129.

those under twenty-one, and to those of any age if the marriage was by licence. Further obfuscation arose from the fact that if a marriage was made in contravention of the rules it was not invalidated.[50]

Although the regulations and their application sought to mediate between parental and individual interests there was an overwhelming sense that marriage should only proceed with parental consent. But it was also generally agreed that a disagreeable marriage should not be forced on sons and daughters for reasons of wealth or family advancement: there should be affection and compatibility between the couple.[51] Force or fear was supposed to invalidate a marriage.[52] Yet in practice the situation was open to abuse by both parents and children, as in the infamous case of Sir Edward Coke and his daughter Frances, which is discussed later, along with other scandals, in Chapter 6. Among the aristocracy and nobility, financial settlements and dowries were negotiated in advance of any match, and the laws of rape and abduction alone demonstrate that, for this grouping regardless of ecclesiastic teaching, dynastic considerations were a predominant concern when planning marriage.

Lands and property though, were not absent from consideration when betrothals took place among the middling and lower orders. The various interests of relatives and siblings were a factor, while family and friends who donated goods to the couple might also have expected to be consulted about the chosen spouse. Considerable financial and moral pressures might be brought to bear on children to respect parents' wishes, and in some cases families resorted to physical abuse. However, children were often allowed to seek their own choice of partner with the cooperation of their parents, and affection was a consideration as well as financial means. Generally the lower down the social order, the older the marrying couple were likely to be, and the more freedom the couple had to execute their own plans. They

[50] *Ibid*., p. 135-36 (p. 135).
[51] Ingram, *Church Courts*, p. 136.
[52] Sommerville, p. 183; Eales, pp. 63-64.

might already be relatively independent, and if they had lost parents there were likely to be fewer complications of wealth and inheritance.[53]

Houlbrooke's analysis is concerned with the period 1519 to 1563, during which time the trend towards church solemnisation was growing, and pre-church contracts (and therefore litigation) were in decline. He observes though that 'judges were still ready to uphold contracts, even in the face of opposition from parents and other kinsfolk', but that 'few suits arose from attempts to escape arranged marriages'. At the age at which marriages might be arranged, and in the circles most likely affected, the latter may, of course, simply be a symptom of the lack of autonomy enjoyed by the child. But although 'arranged' marriages might have been rare even among the aristocracy, as Ingram comments, 'parental influence in matchmaking was often very strong'. He also finds that cases of conflict between parents and children were usually settled in favour of the parents. The apparent disparity in the findings of the two studies might be explained by the different time spans they address. Ingram's study follows on from Houlbrooke's, and covers the period from to 1570-1640 during which time numbers of cases decline from 'a fairly low incidence to the merest trickle'. The changing customs and practices over the extended period represent the growing acceptance of church solemnisation as necessary to matrimony, and the decline of marriage contracts – even those confirmed later by a church ceremony. The attitude taken by ecclesiastical judges in contract cases, and in 'punishing antenuptial fornication', demonstrate the gradual change.[54]

[53] Ingram, *Church Courts*, p. 139, p. 138 (see also pp. 194-95.); Houlbrooke, 339-342.
[54] Houlbrooke, 341, 339 (abstract); Ingram, *Church Courts*, p. 138, p. 139, p. 192, p. 193. For a detailed discussion of contract cases see Ingram *Church Courts*, Chapter 6, pp. 189-218, and the reasons for their decline, Chapter 4, pp. 125-167. For another discussion of marriage contracts, and conflicting family interests see Peter Rushton, 'Property, Power and Family Networks: The Problem of Disputed Marriage in Early Modern England', *Journal of Family History*, 11 (1986), 205-19. Rushton's piece covers the Durham consistory over the period 1560-1630, and concentrates on coercion and subsequent failure of marriages.

Sexual Behaviour and Reputation

Court records researched by Gowing and others suggest the struggle to uphold the moral code that confined sex to marriage was not exclusive to the villages, but was represented throughout the population. The implications for a woman centred on her chastity which was itself impugned if those in her care failed to maintain the standards expected by the community. Married women who committed adultery, or single women who indulged in sexual relations, were readily deemed 'whore'. If members of a woman's household transgressed, she risked the insult 'bawd'. A sexual slur was often associated with a more general doubt about a woman's integrity. Amussen cites, for example, a case in 1566 in which a Norfolk man, Thomas Barne, suggested a witness against him was not credible – as a servant, and one who had borne an illegitimate child. Barnes played on the assumption that her damaged sexual reputation would make her appear generally untrustworthy in the eyes of the court. Cicely Lee countered a deposition of '"suspicious living"' with an allegation of rape, claiming "'that she did set as much by her honesty [her faithfulness to her husband] as he did by all the goods he had"'. Her assertion of sexual honesty in relations with her husband was also a claim of a broader commitment to truth and morality.[55]

For women, it seems that honesty was bound up with sexual conduct, whereas for men it was their authority and social responsibility which was judged – albeit often in sexual terms. There was an expectation that if the head of the household was fulfilling his duty the community would not have to intervene in family matters. The close interest taken by neighbours in personal matters was not simply prurience. If sexual relations were confined to marriage, single women would not trouble the parish poor fund. But illicit relationships

[55] Gowing, *Domestic Dangers*, pp. 62-65, pp. 105-138, esp. 105-106. Amussen, *Ordered Society*, p. 100.

between married men and women also undermined the authority of the cuckolded husband, and failed to set an appropriate standard of behaviour to the household and the community.[56]

Public censure of transgressions by married women was generally directed at either sexual infidelity, or failure to observe the duty of obedience and an inferior position in marriage. Sexual reputation was taken more seriously than obedience, but both were also likely to be attributed, at least in part, to weakness on the part of the husband. Part of a wife's fault was her husband's humiliation. Amussen points out that for women whose lives required them to engage in the robust economic activities of the market place, and to toil in agriculture and textile production, the transition to meek obedience at home cannot have been easy. However, wives who were unfaithful, or who beat their husbands, might find themselves, and sometimes also the husband whose lack of authority had facilitated their behaviour, subjected to the ritual charivari, or skimmington ride. Members of the community would arrange a noisy procession in which the victims might ride, sometimes facing backwards, or be driven in a cart, while accompanied by the 'rough music' of banging pans and kettles, and the display of the cuckold's horns. The occasion marked a perceived inversion of the proper order, and was designed to mock a relationship in which the wife acted in a dominant role. It might also occasionally be used to demonstrate hostility to second marriages. A widow might displease her own family or the family of her former husband for reasons of property and inheritance; or single women might resent the bride reducing their own marriage opportunities.[57] Such apparent disapproval might be rationalized, but there seems to have been an underlying social anxiety about sexually experienced women –

[56] Amussen, *Ordered Society*, pp. 97-98, pp. 102-104, and p. 117. But see also Garthine Walker, 'Expanding the Boundaries of Female Honour in Early Modern England', *Transactions of the Royal Historical Society*, 6th ser., 6 (1996), 235-45. Walker argues that female honour comprised more than the simple opposition presented between women's sexual virtue, and the more complex and extensive matters which defined that of men. Honour might also be found in 'women's contribution to the household economy', that gave them a subjective sense of social identity and self-worth, as well as neighbourhood status' (p. 236).

[57] Amussen, *Ordered Society*, pp. 117-19; Miranda Chaytor, 'Household and Kinship: Ryton in the Late 16th and Early 17th Centuries', *History Workshop*, 10 (1980), 43.

particularly widows, who might enjoy both independence and means.[58] However, Ingram indicates that charivari were far from common events.[59]

When public demeanour was so closely observed, reputation was prized and protected. Defamation cases would often arise from an insult, and most often would concern illicit sexual activity: adultery, bawdry, fornication, bastardy, and were therefore heard at the church courts.[60] Although men brought more than half of such cases, throughout the period from 1560 to 1725 the proportion involving women as both plaintiff and defendant increased. Men, though, also remained in the majority as defendants, and Amussen suggests the reason women increasingly sought to rebut their insults is the relative seriousness accorded to men, and therefore to their words.[61] Women were obliged to treat attacks on their sexual reputation seriously because of the possible consequences for themselves, their husbands, or their households if an insult or rumour became established. After all, if a woman was a whore, then her husband was a cuckold and the servants bawds; parents might also be labelled as bawds to their charges. These were all elements of a disordered household. But the means by which they might defend themselves created another bind for women. By accusing a man of a sexual misdemeanour the acknowledgement of their, albeit passive, role as victim put their own reputation at risk should they be unsuccessful. In addition the resort to words was contrary to the ideal of female silence and the modesty it implied: verbal incontinence might suggest a more general lack of feminine virtue.[62]

Depositions demonstrate a marked difference between men and women in the significance of the language deployed against them. Insults against women included ‘whore’,

---

[58] On widows see, for example, Quaife, p. 50, pp. 143-164, esp. pp. 143-45; Sharpe, ‘Plebeian’, 74; Barbara J. Todd, ‘The Remarrying Widow’, in *Women in English Society 1500-1800*, ed. by Mary Prior (London : Methuen, 1985; repr. 1986), Chapter 2, pp. 54-92, esp. p. 77.

[59] Martin Ingram, ‘Ridings, Rough Music and the "Reform of Popular Culture" in Early Modern England’, *Past & Present*, 105 (1984), 110-11. Ingram’s paper, 79-113, contains a detailed discussion of these rituals. See also Underdown, ‘Taming’, pp. 116-36, esp. pp. 126-136.

[60] Gowing, *Domestic Dangers*, p. 60.

[61] Amussen, *Ordered Society*, p. 101.

[62] See Gowing, *Domestic Dangers*, pp. 94-97, and p. 61.

'jade', 'bitch', and 'drab'. With no masculine equivalents these, and other variations all bore a damaging implication of possibility. The language available for insulting men was limited to less damaging epithets such as 'whoremaster', and the non-sexual 'rogue', or 'knave'. Otherwise it focused less on the man's own sexuality and more on their control over a woman's. 'Cuckold', and 'bawd' implied the weakness of a man who had failed to control the sexuality of his wife and signified a disorderly household.[63]

Gowing discusses how the language and idiom of insult contributed both to a 'moral framework', and to the construction of gender that served a male orientated society. It was one in which women were complicit by protecting their own moral status by denouncing other women. She encapsulates a code by which '[w]omen used the words of slander to proclaim their own virtue by defining its opposite'. Women exchanging insults used unfavourable comparisons to counter accusations. Thomasine Hayward prompted this response from Joan Searles: '"I … did never play the whore with John Knight for a wastcoate and holland smocke"'. She implies that Thomasine Hayward had done just that. Winifred Bland told Elizabeth Hollinshed: '"I never rode 12 myles on a bare horseback nor ever carried a payer of sheetes out of dores to Ned Bird … Bes Bes when I have any children I will have but one father to them"'.[64] She, similarly, suggests that whatever insults were aimed against her, her sexual reputation, and therefore her honesty, was more credible than Hollinshed's.[65]

Rape and Reputation

Reputation was crucial to victims of rape. Whether married or single, a woman who had experienced sex outside marriage was open to the label, 'whore'. If a violated woman

[63] Amussen, *Ordered Society*, pp. 102-103; Gowing, *Domestic Dangers*, pp. 62-63.
[64] 'Bes': [Bess] an abbreviation of Elizabeth.
[65] Gowing, *Domestic Dangers*, p. 1, pp. 76-77.

escaped pregnancy, or a pregnancy could be legitimised within marriage, she faced the dilemma of whether or not to make a complaint. The paradox, by which even a violated woman's reputation was ruined through the making public her loss of chastity, was compounded by the risk of a counter-claim of slander from her attacker. The knowledge that women would be reluctant to speak out can only have increased their vulnerability to sexual violation. In one case cited by Gowing, Isabel Burroughs, a servant, was followed to a bedroom by her master, William Gould, who after 'there stryving withe her […] had to deal with her'. In an ensuing court case her 'mother calls her daughter a whore, but had no word for her master: the only articulation she has for her daughter's experience is through the language of sexual insult'. Worse, it was Gould who was suing Isabel, her mother, and a friend of her mother's, Katherine Socklyn, who had discussed the situation with others, and brought in a midwife.[66] That is not, of course, to say that there were not cases of genuine slander in which men were falsely accused for a variety of reasons: mistaken paternity, attempts to facilitate a marriage, blackmail or malice.[67] However, the legal and social risks involved for women were such that those who complained are clear.

Women faced the yet further paradox that a chaste and honest woman was not supposed to have either the knowledge or the vocabulary to describe the sexual attempt against which she was obliged to protect herself. As a result people framed the stories they told at court in terms of plots about sex and marriage which were already well known from popular literature and the stock characters it provided. The danger of over-familiar use of immodest language encouraged the resort to euphemism and analogy.[68]

In Devon in 1612, Margaret Commett, a spinster, explained how William Forde, a carpenter, called her to his house to remove a batch of bread her mother was baking in his

[66] *Ibid*., pp. 75-76.
[67] Garthine Walker, 'Rereading', 4, warns of a variety of motives for the way an assertion of rape was constructed in context 'rarely likely to be transparent to the historian'.
[68] See Gowing, *Common Bodies*, p. 83, *Domestic Dangers*, p. 58.

oven. After she had taken it home, she returned to clear the cinders. As Commett was about to leave, Forde:

> took her suddenly about the middle […] carried her into his hall, and there set her against the wall and forced her against her will and had carnal knowledge of her body, and she saith she cried out and struggled against him as much as she was able.[69]

Commett's deposition details the work she was engaged in, and her part in completing it, the assistance she was providing to both her mother and her neighbour, and the appropriate domesticity of the task. Details of Forde's attack are of the circumstances and actions surrounding it, not of the act itself: in formal, but euphemistic terms Commett defines what he does, but does not describe it. She claims her reputation through her work and her conscientiousness, and attempts to preserve her modesty by limiting the description of the incident and her language. Garthine Walker emphasises that 'the meaning of rape is historically and culturally specific'. Stories such as that of Commett are shaped to conform to contemporary expectations of female virtue.[70]

Garthine Walker suggests another reason for the lack of sexual detail offered by women in their accounts of rape. She argues that legitimate sex is depicted in this period as something in which men are active, women passive. 'Men "solicit", "have their pleasure", "beget", "use", "occupy", "carnally know". In contrast, 'women "submit" to and "suffer" men […], they have children "begotten upon" them, are "used", "occupied", "known"'. As a result, sex ostensibly requires consent, rape implies a submission, albeit forced.[71] Although Walker disagrees with the transhistorical meaning attributed to rape by Chaytor's psychological approach to narratives, Chaytor, too, notes a divergence from the sexual details in the recorded stories on to the activities from which women obtained their sense of worth

[69] *Ibid*., *Common Bodies*, p. 93.
[70] Garthine Walker, 'Rereading', 5. In both 'Rereading', and *Crime*, pp. 55-60, which focuses on sexual violence and language, Walker supports her arguments with numerous court reports from the seventeenth century. Although some date from the early part of the century the majority are later than 1640.
[71] *Ibid*., 'Rereading', 6. (See Chapter 1 of the thesis: the association of submission with consent eventually led Hale to rule that forced consent does not excuse rape).

and identity. In the case of one girl, 'trampled-on clothes and unfinished chores', Chaytor suggests 'depicted her pain' and 'were metaphors for her body'. She finds 'the metaphor appears in story after story […] work was disrupted […] clothing stolen, tumbled, trampled on, soiled' and slit.[72] Chaytor's analysis reinforces Gowing's encompassing observation that virtue lay in an inability to describe the sexual specifics of the event.

Women obliged to defend themselves in court against accusations of various sexual misdemeanours emphasised their virtue and their role as passive respondents to male agency. If they consented to sex it was in the far-from-straightforward legal context of an understanding, expectation, or promise of marriage. If money were given the woman might claim she believed it was a token of intended marriage: the man might suggest otherwise. Some women would admit to accepting material inducements, but not to their own sexual inclination, and claimed to be otherwise unwilling. Their narratives, too, followed a formula which complied with the expectations of female virtue, structured around the disarray of their clothing, the disruption to their work, their resistance, their attempts to summon help: requirements that can be inferred from legal doctrine.[73]

The necessity for a raped woman to have cried out as a means of demonstrating her dissent does not appear in seventeenth-century legal commentaries or compendia. It might be inferred from Hale who suggests that, similarly to Old Testament law, she might fail to summon help if the alleged rape occurred in a place 'remote from people, inhabitants or passengers'. On the other hand, as we have seen in Chapter 1, the raising of a hue and cry

[72] Chaytor, 'Husband(ry), 382-85, (382, 383). Chaytor's cases are all based on evidence from 1640-1700. Although they are not directly within the scope of this thesis there is no evidence to suggest that cases after 1640 do not represent a continuum in terms of social and narrative convention. Chaytor, 404, note 16, addresses the psychological emphasis she places on metaphor, as opposed to alternative and more pragmatic explanations put forward by other critics. See in particular Garthine Walker, 'Rereading', 2-5, in which she sets out her arguments against Chaytor's ahistorical approach.

[73] See Gowing, *Common Bodies*, p. 87.

after the event, and the speedy complaint to someone of repute were specified in *Bracton* and continued through into early modern compendia such as Dalton.[74]

And so the way women learned to tell their experience of rape in public grew from a combination of legal and cultural expectations. But regardless of how convincingly a victim followed these conventions, she had to overcome the beliefs which meant that by virtue of the nature of her sex, and often compounded by her inferior social status, her own credibility was already in doubt. Further, a woman's chastity was so critical to her 'honesty' that by acknowledging its compromise she also undermined her own honesty; in addition, she was prepared to acknowledge her shame in public. As a result, women might be inclined to underplay the very act which constituted their violation, and so undermine their own case. Notably, men less often cited 'consent' in their defence, and were more likely to claim that they were not present at the time and place, or that even if they engaged in horseplay, they had not gone as far as having sexual intercourse with the woman. For men there was little shame in indulging in illicit sex, only in acknowledging responsibility for any untoward consequences.[75]

Rape and Masculine Identity

Although rape might have been facilitated in early modern society by a culture of male superiority, evidence does not suggest it was an expression of masculinity. The majority of incidents occurred where men could take advantage of a woman's situation and isolation, and the respective status of the parties helped to discredit women's evidence. However, Amussen notes that rape was not a feature of masculine identity, but that violence against women was.

[74] Old Testament laws is outlined briefly in Chapter 5; Hale, *Historia Placitorum*, I, p. 633; Bracton, II, p. 415; Dalton, (1618), p. 248.
[75] Capp, p. 237.

Violence featured inside and outside marriage as a means to control women: 'in general' though, 'that violence was not sexualized'.[76]

For both men and women identity and reputation were entwined, and for both, loss of reputation meant loss of honour and led to shame. Controlling their households was an essential component of a man's honour and it meant controlling his wife or the women of the wider 'family', and control was sometimes the apparent motivation for violence. In their study of suicide, MacDonald and Terence R. Murphy find that failure to exert proper control is cited as often leading to male suicide: 'Female insubordination and, above all, sexual infidelity were humiliating affronts that threatened the self-worth and, indeed, the sexual identity of men'.[77] Dishonour and shame, linked to a violation of cultural rules, were recognised as causes of suicides in both sexes. 'Marital problems' were a particularly significant factor. But, they explain, 'it is very difficult to find examples of actual suicide by rape victims'.[78] It is clear though that little rape was recognised as such and the picture might be different if suicides were assessed among those, particularly servants, who were forced or coerced into sex.[79] It can be no coincidence that MacDonald's investigation of the records of Richard Napier, an astrological physician and clergyman, found that maidservants formed a significant majority among the 'disturbed patients' who consulted him, and who had suffered a variety of abuses and exploitation.[80]

---

[76] Amussen, '"The Part of a Christian Man": The Cultural Politics of Manhood in Early Modern England', in *Political Culture and Cultural Politics in Early Modern England: Essays Presented to David Underdown*, ed. by Susan D. Amussen and Mark A. Kishlansky (Manchester: Manchester University Press, 1995), pp. 217-220, (p. 219). See also Amussen, *Ordered Society*, pp. 128-29. But see Elizabeth Foyster *Manhood in Early Modern England: Honour, Sex and Marriage* (London: Longman, 1999), pp. 9-10, and pp. 41-45. Foyster disagrees with Amussen's assertion that masculinity and sexual activity were not interdependent, arguing that they were central to honourable manhood.

[77] Michael MacDonald and Terence R. Murphy, *Sleepless Souls: Suicide in Early Modern England* (Oxford: Clarendon Press, 1990), p. 262.

[78] *Ibid*., pp. 274- 76, pp. 262-62 (262), p. 289. Financial ruin was also a source of male dishonour and suicide. But see Cynthia Herrup, *A House in Gross Disorder: Sex, Law, and the Second Earl of Castlehaven* (New York: Oxford University Press, 1999), p. 45, p. 79: the Countess of Castlehaven is reported to have attempted suicide following rape. The scandal is discussed in more detail below.

[79] MacDonald and Murphy, *Sleepless*, p. 286-87.

[80] Michael MacDonald, *Mystical Bedlam: Madness, Anxiety, and Healing in Seventeenth Century England* (Cambridge: Cambridge University Press, 1981), p. 50, and pp. 87-88.

Basic assumptions about the respective nature and status of the sexes collude in a failure to recognise 'rapist' as an identity which is compatible with men known to the community. If a man's conduct conforms to the expectations of the church and his neighbours or peers, he does not fit the model of heinous and brutish whoredom which defines rape in the legal and religious writings. Such hyperbolic condemnation acts perversely to elevate the crime beyond association with the unremarkable mass of society. The construction of ideas of rape affirms the construction of ideas about gender, and rape was not an act associated with masculinity in general, nor with the men for whom their position in the community or the establishment bestowed unquestioned respectability. The instances where a court believed the servant girls' stories of harassment over their masters', and allowed them to leave their service, concerned household order, authority and contracts, rather than capital felony. Nor did the masters who thought it their right to abuse their female servants appear to conceive such actions as rape. There is an apparent disconnection in the ability to recognise the link between the authorised social model of male desire, authority and physical strength, the crime of rape, and the identity of the rapist. The 'respectable' man who forces himself on a woman is incompatible with the model of heinous felony by which rape is defined. And so the perpetrator is not recognized as a rapist. What is more, he does not necessarily recognise it himself. The identity of the rapist therefore needs to be explained or defined in other terms in order to be visible.

Recognizing the Rapist: Scandal in the Castlehaven Household

Rape and the question of the identity of the rapist might best be illuminated by a scandal which resulted in the trial, conviction, and execution of the 2nd Earl of Castlehaven. His fate suggests that rape more readily found meaning as part of a morally impoverished identity. The events leading to the Castlehaven scandal were alleged to have occurred throughout his

marriage, which took place in 1624. The scandal reached public notice in 1631 via an infamous trial. Herrup found it interesting because historians have previously focused on agendas such as monarchy, aristocracy, or literature. However, when she examined the testimonies and speeches from the trial she noticed that both the Earl and the prosecution 'kept returning to issues of family and betrayal'. She found that 'the trial became […] a constitutional struggle over the meaning of good paternal governance and good legal practice'.[81]

Sodomy, similarly to rape, was a non-clergyable, capital felony which, also similarly to rape, was 'much denounced, but little prosecuted'. Although these were the accusations which eventually caused the downfall of the Earl, complicating factors of family rancour, the nature of relationships with servants, adultery, and potential corruption of the family-blood line established unequivocally his guilt of excessive liberality as head of a debauched household.[82]

The story began when Castlehaven's son, Lord Audley, complained to the Privy Council that he feared he was to be disinherited. Castlehaven had bestowed inappropriately generous gifts of money, property and personal items on a previously impoverished servant, Henry Skipwith. Possibly more worryingly, he apparently arranged and 'rejoiced in' an adulterous relationship between Skipwith and Lord Audley's wife, Lady Audley, which he hoped would result in a son with whom he could displace Lord Audley as his heir. It was also 'common fame' in the household that Skipwith was '"overfamiliar" with the Countess of Castlehaven', Audley's step-mother – to whose promiscuity he also referred.[83] If this were not all disturbing enough, it was alleged that Castlehaven was a voyeur not only when Skipwith visited Lady Audley, but to sexual activities between servants 'and a "whore"

[81] Herrup, p. 45, p. 48, p. 2, p. 4, p. xiii.
[82] *Ibid*., p. 26, p. 27.
[83] *Ibid*., p. 38, p. 40 (p. 38).

named Blandina'.[84] It emerged that a previously favourite servant, who had also prospered, John Anktill, had had a relationship with, and married, Castlehaven's eldest daughter, Lucy. Family relationships were further complicated by the fact that Lady Audley was the Countess's daughter: Castlehaven's daughter-in-law was also his stepdaughter.[85]

In aristocratic terms Castlehaven was of minor importance.[86] Yet, by the time he was questioned for a third time, five privy councillors signed the examination. This represented 'more signatures than on any deposition before or after'. It may be argued that in the eyes of his peers his greatest crime was his attempt to corrupt a noble blood line. However, Herrup's evidence indicates how crucial was the perceived threat to general social order by Castlehaven's failure as an example: as a head of household, as a man, and as a member of the aristocracy whose position implied honour.[87]

Aristocracy and scandal combine to ensure the enduring notoriety of the Castlehaven case, but despite the elevated status of the participants it is instructive of attitudes throughout all levels of society at the time. Its prosecution supports the pattern by which rape becomes part of a discourse about other dominant issues – by definition those of male concern. Although the Earl's conviction defines the court's acceptance of the Countess's role as victim her failure to register any complaint indicates the vulnerability of any woman's position. In accordance with assumptions about women's reliability, neither the Countess nor Lady Audley appeared at the trial, and no female servants were questioned. It was an ideology exploited by the Earl in his defence which relied on assumptions about women's lack of reason and excess of sexual desire and deviousness. Interestingly, the judge admonished the

[84] *Ibid*., pp. 40-41 (p. 41).
[85] *Ibid*., p. 41, p. 17; family trees are supplied at pp. ix-xi.
[86] *Ibid*., pp. 1-20, esp. pp. 14-17.
[87] *Ibid*., p. 45, pp. 20-21, pp. 77-81. See also Fletcher, *Gender*, Chapter 6, pp. 101-125 on the general differences between notions of male and female honour, and Chapter 7, pp. 126-153 on a more specific code of honour assumed by the gentry.

defence, saying 'that a victim's reputation was irrelevant to the crime of rape'. Even so, the social reputations of the two women were tarnished – whether deservedly so or not.[88]

The obverse argument to that of displacement is that rape is overlooked without the supplementary discourse of estate or male dishonour. It supports the commonplace understanding that rape more readily took on its meaning in the context of theft, and where there was no property there had to be another signifier – a more comprehensible wickedness – to make the crime and the criminal intelligible. In the Castlehaven case rape was recognised because it formed a narrative with that of sodomy amidst household disarray under the Earl's stewardship. An additional factor was one of allegiance: he had Irish as well as English heritage, and had flirted with Catholicism, although not seriously. His status as an outsider exposed him to the suspicion of unacceptable political or religious views. Castlehaven fell foul of a persuasive link between rape, sodomy, and excess, in a family at odds with itself and out of sorts with the King. When the argument is turned back on individual acts of sexual violence against women throughout society, cultural assumptions allow a failure to recognise the crime. Perpetrators of rape themselves, let alone others in the community, fail to identify as rapists those who conform to other signifiers of respectability if other associated factors of social or moral irresponsibility are not present.[89]

Yet when rape was recognized, the Castlehaven case demonstrates the seriousness with which it was viewed. As a rare, successful prosecution for rape in the sense of sexual violation of a woman, it serves a purpose here as 'the exception that proves the rule': a rapist recognized, convicted and executed. At the same time it reinforces the difficulties of making coherent both the legal and the cultural circumstances necessary to prove rape that pertained for rich and poor alike.

[88] Herrup, p. 147, p. 148, pp. 100-101. With the 2nd Earl dead and Lady Audley uninterested in a reunion with the now 3rd Earl the two women depended on their mother / grandmother for a home. The Dowager Countess of Derby insisted they repent, sue for pardons and acquire financial support before she would accommodate them. The King brokered the agreement in 1631.
[89] *Ibid*., pp. 15-17, pp. 144-46 (p. 145).

CHAPTER 5
FROM ANCIENT TO EARLY MODERN: MYTH, ROMANCE, NARRATIVE

This chapter examines the ancient rape myths, and their route to neoclassical culture. Raped women from Roman mythology became familiar signifiers of both positive and negative qualities. As we saw in Chapter 1, the Sabine Women, Rhea Silvia and Lucretia who underpin the rise of Rome, are joined by Helen as referents in the *Lawes Resolutions*.[1] Philomela's mutilation and transformation are recalled in the significant Shakespeare works, *Titus* and *Lucrece*. As familiar and significant exemplars the names of these women recurred throughout early modern popular literature, and are the focus of this chapter.

Rape imposed fame on the women and early modern analogies relied not only on the exemplars and their response to rape, but also on an understanding of those mythical events. The chapter suggests that Ovid creates an aesthetic of rape that enables its equation with humour. Later, in the Middle Ages Christianity found ways to accommodate pagan ideology. Although much of medieval narrative writing originated from Europe in languages other than English, translations were increasingly available, and classical learning infused early modern culture with political analogy and mythical ideal.

Myth, Analogy and Genre: Livy and Ovid

Amy Richlin observes that there are in excess of fifty rapes in the fifteen books of Ovid's *Metamorphoses*, while his *Fasti* tells of ten in six books.[2] Both his account of the Lucretia

[1] The form 'Helen' is used throughout; where 'Hellen' is used in source material it is silently amended.

[2] Amy Richlin, 'Reading Ovid's Rapes', in *Pornography and Representation in Greece and Rome*, ed. by Amy Richlin (Oxford: Oxford University Press, 1992), pp. 158-79 (p. 158). Richlin's project is to refocus, from the more usual critical focus on the sources and techniques of Ovid's writing, to the raped female subjects. Her essay spans a selection of rapes from the *Metamorphoses*, the *Fasti*, and the *Art of Love*. The rapes are not listed, but her discussion includes the pursuit of Daphne by Apollo (p. 162) which is an attempt and a transformation, but a rape does not actually occur. It is therefore not clear if there are fifty-plus rapes, or if the number includes the threat or intention to rape. However, the point remains that rape as a subject for aesthetic contemplation is a staple of Ovid's work.

myth, and Livy's history of the tragic encounter between uncontrolled desire and chaste innocence inspired re-tellings among early modern writers and playwrights. Ovid, represents the myths in verse using the intensity of the genre to explore the extremes of passion and emotion, exploiting the supernatural world to challenge moral boundaries. Both Livy's historical account of the triumphant foundation of the Roman republic, and Ovid's verse provided analogies for an early modern world seeking moral examples, and genre played its part in the in early modern reinterpretations.

Livy describes a history in which each significant stage in the founding of the Roman republic is facilitated by the rape of a woman or women.[3] Rhea Silvia was raped by Mars, resulting in the birth of Romulus and Remus; Romulus went on to found, name and rule over Rome.[4] Romulus sought to ensure the future of the state by luring the Sabine Women to an entertainment, in order that his men might rape, then marry them. Finally, the Roman republic was established as a result of the rape of Lucretia by the king's son, Sextus Tarquinius, causing the overthrow of the Tarquins and the monarchy.[5] As Sandra Joshel succinctly summarises, 'the rape of women becomes the history of the state'.[6] She argues that Livy utilized the presence of women to challenge the moral quality of absolute discipline (*disciplina*) which characterised Rome, and which underpinned its success. For women, chastity and goodness are synonymous: women are either good (chaste) or unchaste. The quality of beauty in a good woman, such as Lucretia, threatens the discipline of men. A villain, like Tarquinius, will give way to lust – to a failure of discipline. Once she has played her part as a catalyst for the political actions which follow, the woman is disposed of in the

[3] Donaldson, p. 5, dates the publication of Livy's history as 'between 27 and 25 BC'.
[4] Some texts drop the 'Rhea' and use the abbreviated form, Silvia; others use the variations 'Silva', or 'Illia.
[5] Titus Livius, *The History of Rome*, ed. by Ernest Rhys, trans. by William Masfen Roberts, 6 vols (London: Dent and Sons, 1912), I, I. 1.3-1.4 [Rhea Silvia], 1.9 [the Sabine Women], 1.57-1.60 [Lucretia], *Electronic Text Center, University of Virginia Library*, <http://etext.lib.virginia.edu/etcbin/toccer-new2?id=Liv1His.sgm&images=images/modeng&data=/texts/english/modeng/parsed&tag=public&part=1&division=div> [accessed 29 January 2013].
[6] Sandra R. Joshel, 'The Body Female and the Body Politic: Livy's Lucretia and Verginia', in *Pornography and Representation*, ed. by Richlin, pp. 112-13 (p. 113).

text, or by the text: she becomes superfluous and is either killed or written out of the narrative.[7]

Less convincingly, Joshel suggests that Livy, even so, makes the choice to draw out and embellish rather than to minimize the tragic roles which befall women.[8] Although the objectified and dispensable role of women in these tales might disturb twenty-first-century sensibilities, the detail of Rhea Silvia's experiences is minimal, while ensuring the continuity of the narrative. Livy tells us simply that she was 'was forcibly violated and gave birth to twins'. After subsequent imprisonment she does indeed disappear from the text, but far from dwelling on the rape, her presence is reduced to an essential function.[9] The Sabine women are treated similarly. Livy presents the plot to lure the Sabines to the games as a deserved response to the 'contumely' he perceives in the rejection of Romulus's reasonable request to neighbour-states for intermarriage. Of some 1200 (translated) words, the description of the actual abductions and rapes occupies 185.[10] The only detail offered is that the abducted maidens were 'quite as despondent as indignant'. The overall focus is on the strategies and arguments the Romans employ to achieve their objectives. Again, although Livy's account of Lucretia and the surrounding events is lengthier than that of the earlier rape legends, the proportion of text devoted to the rape is relatively small. From the moment when Tarquin is first 'inflamed by [her] beauty and exemplary purity' via his secretive return to Collatia, to his 'having successfully attacked her honour', occupies approximately a quarter of the account.[11]

Livy assures Lucretia's place as an exemplar of chastity in his report of her resistance to Tarquin's threats and force, and her eventual defeat in the face of an impossible bind. However, details of the evocatively naked sword and Tarquin's left hand on Lucretia's breast

[7] Joshel, pp. 117-20.
[8] *Ibid*., p. 117.
[9] Livy, *History*, 1.4.
[10] *Ibid*., 1.9.
[11] *Ibid*., 1.57-58.

are perhaps surprising embellishments to his historical account.[12] As Joshel suggests, genre dictates expectation, and the historian is not expected to stray into the apparently imaginary detail that Livy employs in this instance: that is the job of the poet and dramatist. When the detail recurs in the interpretations by Ovid, Shakespeare and Heywood they become valid – if titillating – poetic and dramatic imagery.

Livy's genre is history and his viewpoint moral, adding gravitas and authority to his words.[13] It is clear that Livy was familiar to early modern politicians seeking political analogy, rather than poetic interpretation, imagination and metaphor.[14] Appropriation of Livy's history by the writers of the early modern legal treatises is necessarily selective and ambivalent. While the neoclassical texts glorify the greater good rape brings about for Rome the crime is condemned in early modern law. Classical examples are called on to help define written law, taking the various mythical exemplars as analogous to early modern legal distinctions within the crime of rape (violation, abduction, elopement). But it is theory that does not translate into practice. The myths reinforce an ideal of virtue that is unreal, and therefore unattainable for mortal women seeking redress in the early modern courts, which then fail to recognize them as either virtuous, or victims.

Ovid's genre is poetry, inviting an aesthetic response to the rape. He applies artistic wit and lightness of touch to his retellings of the legends, and turns the moral history that Livy describes through actions of virtue and vice, discipline and decadence, into an aesthetic. Of the classical writers only Ovid turns his poetic skills to the rape legends, not only of Helen, Rhea Silvia, the Sabine Women, and Lucretia, and also the stories of the *Metamorphoses*.

---

[12] *Ibid*, 1.58.
[13] Joshel, p. 112. She discusses Livy's moral focus throughout her chapter.
[14] For example, Lisa Jardine, and Anthony Grafton, '"Studied for Action": How Gabriel Harvey Read His Livy', *Past and Present*, 129 (1990), 30-78, is a study of the active engagement between Tudor scholarship and politics.

The theme of metamorphosis – the ever changing nature of gods, earth and its inhabitants – is explicit in Ovid's poem. However, the tales of the *Metamorphoses* originate with earlier Greek and Roman poets and mythographers.[15] Although Ovid's poem follows the conventions of epic in its length, scope (spanning time from the Creation to the rule of Caesar Augustus), and style, E. J Kenney suggests that it is presented as 'high comedy'.[16] But the unconventional use of humour and the number of myths – as opposed to a single narrative – suggest the poem itself is a transformation of the epic form.[17] He finds that contradictory lines in the poem give 'a warning not to take the poet too literally', and deems the work 'without doubt the most witty and ingenious book that has come down to us from the ancient world'. But Richlin finds that even those in his own time found the conjunction of Ovid's wit, and the circumstances to which he sometimes applied it, 'disturbing'.[18]

Critics and audience have to decide for themselves where the balance lies between subject matter and representation: between ethics and aesthetics. The artistry of Ovid's poetry and the graphic nature of his descriptions of rape, mutilation and consequent transformations are not mutually exclusive: appreciation and disgust can co-exist – individually or culturally – as they apparently did in early modern times. Elsewhere this thesis argues against anachronism and back-projecting of twenty-first century ideology, however, Ovid's *Metamorphoses* has been controversial since classical times. Liz Oakley-Brown finds that the

[15] Kenney, Ovid, *Metamorphoses*, trans. by A. D. Melville, with introduction and notes by E. J. Kenney (Oxford: Oxford University Press, 1986). Subsequent references are to this edition unless otherwise stated, and given after quotations in the text. At pp. xxii-xxv Kenney identifies Greek poets Hesiod, Nicander of Colophon, Homer, Theocritus, Euripedes, and fellow Romans Catullus and Virgil as Ovid's sources for the myths, and models for the form adopted in *Metamorphoses* in works by the Hesiod and the Greek poet, Callimachus.

[16] *Ibid*., p. xv, xvii, xvii-xviii, Kenney finds the work 'apparently subscribes to two incompatible poetics': epic and unepic, but the characteristics of epic in the poem's length and heroic hexameters (xv). He also notes that 'Aristotle [… took] it for granted that epic, like tragedy, should be serious (xvii-xviii). John Lennard, *The Poetry Handbook*, 2nd edn (Oxford: Oxford University Press, 2006), p. 66, p. 369 (p. 369) defines epics as 'long narrative poems usually dealing with the heroic or martial exploits of a person, tribe, or race'. On Aristotle and epic, see 'Aristotle: Poetics', Chapters 23, 24, 26, in *Classical Literary Criticism*, trans. by Penelope Murray and T. S. Dorsch, with introduction and notes by Murray (London: Penguin, 1965; repr. 2000), pp. 89-92, pp. 96-97. Richlin, p. 164, also comments on the 'incongruity' of Ovid's 'wit'.

[17] See *Metamorphoses*, xxii: Kenney explains that Ovid assembled individual myths into a '"collective" or catalogue poem' – as opposed to a 'unified narrative such as the *Iliad* or the *Odyssey*'.

[18] *Ibid*., p. xv, p. xiv; Richlin, p. 158.

first-century rhetorician, Quintilian, defines Ovid's work as 'lascivia'.[19] But Leonard Ashley privileges art over ethics when he claims:

> Some exhumations and translations […] have little raison d'etre except the fact that they are minor efforts written by activist (rather than aesthetic) women. […] But men as well as women such as Samuel Pepys' wife have always much loved Ovid's Metamorphoses. That will never change.[20]

Gerard Passannante appears to mock the guilelessness of those who attempted

> (in the long tradition of the Ovid *moralise*) to fashion the scurrilous Latin poet into a kind of Christian gentleman, putting Ovid's metamorphoses to the service of divine morality and even suggesting that the heathen may have been allegorizing the wisdom of Moses.[21]

Mandy Green quotes Leigh Hunt who names Ovid as the 'favourite poet of our great Puritan' (Milton). Green finds that Milton appropriates significant elements of style and structure from Ovid in his 'subtly evolving portrait of Eve'. Despite the opposition between the pagan and the religious, she suggests that through 'Eve's Ovidian resonances' Milton attempts to 'deepen our understanding of Christian salvation'.[22]

Many of Ovid's transformations follow from the physical and sexual overpowering of women by men or gods. Mythical women might be raped, desired, or chastened. Daphne runs in fear from Apollo who is consumed with passion escaping only when her father, Peneus, answers her appeal and turns her into a laurel tree (pp. 14-18).[23] Io is transformed into a heifer so that Jove might hide his adulterous rape from his wife, Juno, but is eventually restored to her form as a nymph (pp. 18-23). Callisto is tricked, raped and impregnated by

---

[19] Liz Oakley-Brown, *Ovid and the Cultural Politics of Translation in Early Modern England* (Aldershot: Ashgate, 2006), p. 28. She tells us that , 'lascivia' can be translated as 'sportiveness', 'playfulness', 'wantonness', or 'lewdness'.

[20] Leonard R.N. Ashley,'Recent Publications on Elizabethan England and Related Fields', *Bibliothèque d' Humanisme et Renaissance*, 70, (2008), 171-72.

[21] Gerard Passannante, 'The Art of Reading Earthquakes: On Harvey's Wit, Ramus's Method, and the Renaissance of Lucretius', *Renaissance Quarterly*, 61 (2008), 800.

[22] Mandy Green, *Milton's Ovidian Eve* (Abingdon, Oxon: Ashgate, 2009), p. 1, p. vii, p. 208. See also Goran V. Stanivukovic (ed.), *Ovid and the Renaissance Body* (Toronto: University of Toronto Press, 2001). Contributors apply poststructuralist theory to discuss how early modern authors utilise Ovid's tales, mainly those of the *Metamorphoses*, in establishing ideas of the body and sexuality. None of the rape myths, nor rape is directly addressed, although in a work that is focused on feminism, sexualities and gender, and the field of eroticism and desire, there is interesting material.

[23] See *Metamorphoses*, trans. by Melville, p. 477: Daphne's father, Peneus, was god of the river of the same name.

Jove: she is banished from Diana's troop and, after the birth of her son Arcas, transformed into a bear. Fearing that Arcas might harm his mother, Jove turns Callisto into the constellation the Great Bear and Arcas the Little Bear (36-40). Scylla is given a monstrous form when, by fleeing Glaucus's unwanted attentions, she attracts the jealous spite of Circe (pp. 322-27). The transformations might either compound an ill, or provide the means to avoid a worse fate, or – as befalls Io and Callisto – successively do both. It is not difficult to see where modern feminist critics might see misogyny in the *Metamorphoses*, but if some fifty women suffer rape, in approximately 200 tales there is no rape, and men as well as other women suffer gruesome or tragic ends. Misgiving lies in Ovid's aestheticizing the descriptions of both. In each of these situations, metamorphoses result from the unruly abuses of power indulged by the gods or other supernatural creatures in whose habitual trickery, violence and revenge, weaker beings – human or otherwise – become instruments.

However, the focus in this chapter is on women, rape, and the familiar and significant exemplars: the Sabine Women, Lucretia, Helen and Philomela. Of their stories only Philomela's appears in the *Metamorphoses*. The others claim historical validity by means of their representations in the *Fasti* and *Heroides*.

Helen, Rhea Silvia, The Sabine Women, Lucretia and Philomela

Among the mythological victims of rape, moral ambiguity surrounds Helen because she eloped with Paris, rather than having been abducted by him.[24] In Ovid's *Heroides* the

[24] See Jane Davidson Reid, *The Oxford Guide to Classical Mythology in the Arts, 1300-1990s*, 2 vols (New York and Oxford: Oxford University Press, 1993), I, 498-99. Helen's entry represents the equivocation and lack

circumstances of Helen's eventual departure with Paris are portrayed as equivocal, and the apportionment of blame, therefore, unresolved.[25] However, through Paris's words that 'beauty and virtue | are in contention' (p. 158) Ovid suggests guilt is a corollary of beauty. Helen's beauty signifies her guilt. Yet her first reaction to Paris's wooing is 'outrage' (p. 167): she deplores the abuse of her husband Menelaus's hospitality. Ovid inverts the expectations of gender so that Helen is endowed with the usually masculine quality of logical reason. She wittily and methodically unpicks the fallacies of Paris's arguments, mocking his display of love-sickness while he displays the feminine weakness of irrational passion and vanity. Desire overcomes Paris's self-discipline and his capacity rationally to analyse the consequences of his actions.

However, Helen is not impervious to Paris's beauty and is apparently prepared to contemplate a dalliance during Menelaus's absence. She makes no promise, but admits: 'I wish that you could compel me with honour | to do what you have so vilely invited' (p. 173). Ovid uses Helen's voice to give validity to the assertion that women want to be forced to submit to what they covertly desire. The admission and the context of humour undercut the possibility of innocence on Helen's part for the ensuing flight with Paris and the tragedy of the Trojan wars that follow.

Rhea Silvia's is the first of the three foundation myths. Despite its tragic end, Ovid's representation is erotic, and in both the *Fasti* and *Amores*, humour still emerges. In the *Fasti*

---

of sympathy the character generates. For a fuller exploration of the contradictions surrounding her culpability, see Maguire, *Helen: From Homer*, Chapter 4, pp. 109-141.

[25] Ovid, *Heroides*, trans. by Harold Isbell (London: Penguin, 1990; repr. 2004), Books XVI and XVII, pp. 146-178. Subsequent references are to this edition unless otherwise stated, and given after quotations in the text. According to Isbell, p. 166, 'in the opening lines of Book XII of the *Metamorphoses*, […] it is said that Paris first seduced and then stole Helen away from her husband'. Neither Melville's modern translation, nor Arthur Golding's, nor George Sandys's, are specific about the process, by which Helen departure was accomplished: whether it involved co-operation, coercion or force. We know, from previous chapters, the difficulties inherent in the use of language to describe the removal of a woman from her husband or family. Describing Paris's actions, Melville, p. 274 refers to 'the wife he stole', Golding, *The xv bookes of P. Ovidius Naso, entytuled Metamorphoses* (London: Seres, 1567), Book XII, p. 148, line 5, to his 'ravisht wyfe', and Sandys, *Ovid's Metamorphoses*, (London: Stansby, 1626), Book XII, p. 237, line 6, to 'his Rape'. Each description can be interpreted, in early modern terms, to imply either innocence or complicity on Helen's part.

her rape by Mars is specific and, as in Livy's account, after the consequent birth of Romulus and Remus, her fate is unmentioned.[26] In the *Amores* Ovid describes her death: the pathos of her state of distraught dishabille as she mourns the supposed death of her sons and the shame of her rape, hair unbound, her 'breast in frenzy bruised and bare, […] tears on cheeks so tender'.[27] It is suggestive of another rape as she succumbs to the seductive bidding of the river Anio – although she refers to it as an offer of marriage (III. 6. 75). When she throws herself in, 'the river, to her breasts his sly hand sliding, | Made her his consort in the stream below' (III. 6. 81-82). The lines add a hint of facetious comedy to the generic mix.

In the *Art of Love* Ovid also treats the story of the Sabine women as comic. He tells it in elegiac couplets, with wit and pace over some forty lines. The *Art of Love* is a didactic poem for the instruction of the young men of Rome. In it, Ovid suggests the theatre as a good hunting ground for love, exemplified by the story of the Sabine women. In the setting of a theatre the women and their rape displace the supposed entertainment. Images of beasts and their prey encourage titillating amusement at the helplessness of the hunted, 'As frightened doves before the eagle fly, | As lambkins that the dreaded wolf espy'.[28] The women are passive or hysterical:

> Some rend their hair, some sit in lost amaze,
> One mutely mourns, one vainly 'Mother' cries,
> One sobs, one faints, one stays, another flies.
>
> (I. 122-24)

In contrast the men are driven by necessity – but with compassion for their infantilised victims:

> And if one strove her captor to deny,
> Clasped to his loving breast he held her high

[26] Ovid, *Fasti*, trans. and ed. by A. J. Boyle and R. D. Woodard (London: Penguin, 2000; repr. 2004), III. 21-22. Subsequent references are to this edition unless otherwise stated, and given after quotations in the text.
[27] Ovid, *Amores*, in *The Love Poems*, trans. by A. D. Melville, with introduction and notes by E. J. Kenney (Oxford: Oxford University Press, 1990), III. 6. 58-59. Subsequent references are to this edition unless otherwise stated, and given after quotations in the text.
[28] Ovid, *The Art of Love*, in *The Love Poems*, trans. by A. D. Melville, I. 117-18. Subsequent references are to this edition unless otherwise stated, and given after quotations in the text.

> ‘Why spoil those tender eyes with tears?’ quoth he,
> ‘Just like your parents you and I shall be.’
>
> (I. 127-30)

The representation of the women suggests affectation and invites amusement, in contrast to the men’s worldly actions.

Imagery that might invite an aesthetic response while also potentially depicting a male fantasy of rape makes the reader complicit with voyeuristic pleasure at the woman’s terror and violation. The setting of the theatre objectifies the women, the trickery pacifies them and the unequal strength ensures their resistance is overcome. The context implies that the force of rape is not so bad and the fear therefore unnecessary. However, although the rape is mythologized as necessary for the greater good it should not be overlooked that Ovid’s purpose is to instruct young men in the art of dalliance for the purpose of personal gratification.

The rape of Lucretia, which leads to the overthrow of the Tarquins and the founding of the Roman republic, completes the myths of rape and foundation. It is told by Ovid in his *Fasti*.[29] His version of the myth remains close to that of Livy. Elegiac couplets as well as active language infect the poem with urgency and anticipation. In a passage of 145 lines (711-856), he tells the rape briefly in eighteen (793-810) at the centre of the piece. Again the terror and helplessness are captured in imagery of beast and prey, hunter and hunted, emphasising Lucretia’s defencelessness. She is lost for speech, ‘she quivers, like a tiny lamb… | When it lies under a vicious wolf’ (799-800). The only explicit description is of Tarquin pressing on her breasts ‘touched for the first time by foreign hands’ (804). Even so, the inclusion of such detail, according to Richlin, is ‘unusual…except in the comic rapes’. However, it is possibly less incongruous than in Livy’s history where there is no suggestion of comedy. The rape itself is dealt with in the five words: ‘the girl surrendered to fame’ (to

[29] *Fasti*, II. 685-856.

preserve her own reputation and therefore that of her husband and family) (810). Once she has told her story to the men of the family, Ovid describes the blood and the wound, mixing generic conventions and small but intimate detail, unlike Livy who simply refers to the dead body.[30]

Unconstrained by history Ovid's imagination is allowed full rein in the tales of the *Metamorphoses*. Tragedy defines the lot of all the characters after Tereus's rape of his wife, Procne's, sister Philomela. Again, gentle creatures and prey are recurrent images, foreshadowing an unearthly transformation. As Tereus broods on Philomela's beauty Ovid likens him to an eagle with a hare in its talons. In the remote cabin where he rapes her she is

> like a little frightened lamb,
> Mauled by a grizzled wolf and cast aside,
> […]
> Or as a dove, with feathers dripping blood,
> Still shuddering in its fear, still dreads the claws,
> The eager claws that clutched it.
>
> (*Metamorphoses*, VI, p. 137)

Eventually, when the sisters wreak their horrific revenge, sacrificing Procne and Tereus's infant son Itys, Procne is 'like | A tigress pouncing on a suckling fawn' (p. 141). As the stricken and enraged Tereus pursues them, Procne and Philomela turn into a swallow and a nightingale, and Tereus into a hoopoe. The merciless women are restored to gentle sweetness, while Tereus's hoopoe is 'swift-swooping for revenge'; he 'bears a crest' and 'for a sword, a long fantastic bill' (p. 142).

Anthropomorphism and metamorphosis provide a shifting balance between distance, horror and sympathy. In the particular instance of the sisters' revenge, the description of brutish frenzy as they stab and joint the still living Itys is particularly nasty. Their revenge is in serving him up for Tereus to eat: the cruelty to Itys seems excessive and unnecessary. The loss of humanity contributes to make their shocking actions comparable with those of Tereus

[30] Richlin, pp. 171-72 (p. 172) notes the difference in Ovid's emphasis, despite generally following Livy's narrative. At pp. 170-71 she identifies the *Fasti*'s comic rapes or attempted rapes as: 'Priapus and Lotis' (1. 391-440), Faunus and Omphale / Hercules (2. 303-58), and Priapus and Vesta (6. 319-48).

and emphasises the extent to which Procne and Philomela had crossed the boundary of inhumanity. The result is to diminish sympathy for Philomela's rape and mutilation, while the moral distinction between undisciplined sexual desire and justifiable desire for revenge become blurred. Richlin notes a shift of sympathies when Ovid compares Philomela's severed tongue to the quivering tail of a mutilated snake attempting to reunite with its mistress (p. 138). She points to the attendance of the Furies at Procne's wedding, to the description of Procne 'frenzied', 'maddened […], the image of a real Bacchanal' (p. 139). The snake-like tongue and the 'snake-haired Furies' coalesce in the text and in the morality they symbolise.[31] Yet the Philomela who emerges in Shakespeare's works, is vested with the simple innocence of the exemplary rape heroine.[32]

Genre and diversity of tone are important to Ovid's representations. Tragedy and comedy sit side by side in the historical myths: the mocking of the self-regarding Paris by the coolly rational and teasing Helen, the sly and predatory Anio, the mischievous stereotypes describing the Sabine women. But Lucretia's centrality to the foundation of the state means that she inhabits the status of a tragic heroine. Ovid represents these rapes within a framework of trickery, violence and mutilation. For Rhea Silvia and Lucretia, the victims' horror is subsumed to a seemingly greater cause. In the case of the Sabine women rape becomes dangerously close to an act of heroism. A mixture of gods, mythical creatures and humans, might lull the reader to view the grotesque and bloody proceedings of the *Metamorphoses* as the normal functioning of another world. Yet in the story of Philomela none of the central characters – Pandion, Procne, Philomela, Tereus, Itys – is other than human. The tale is tragic, but the metamorphosis of humans into birds suggests a

[31] Richlin, pp. 163-64.
[32] In *Titus*, ed. by Bate, Philomela is 'fair' (II. 3. 38), and 'ravished and wronged' (IV. 1. 52); in *The Rape of Lucrece*, ed. by Roe, 1128-48, she is a nightingale descanting songs of languishment and shame; and in *Cymbeline*, ed. by Martin Butler, The New Cambridge Shakespeare (Cambridge: Cambridge University Press, 2005), II. 2. 44-46, by implication, the innocent victim of malign plotting. Subsequent references to these works are to these editions, and are given after quotations in the text.

transcendent and optimistic resolution – akin to comedy. Amidst tragedy, Ovid's rapes provide an opportunity to indulge in voyeuristic pleasure as the rapist sights, stalks and strikes at his prey, and in the overpowering and submission of the innocent, terrorized victim. A sense of inevitability drives Ovid's narratives forward. The denouement – the rape – might be described succinctly, but also with vivid touches of detail that create a coalition between rape and the aesthetic.

Christianity and Pagan Myth

Judeo-Christianity might seem incompatible with the pagan belief systems of Ovid and Livy, yet the Old Testament and pagan ideologies share characteristics of celestial authority, favoured people or peoples, and vengeance on those who cross them. Rape plays its inevitable part in biblical history, and Dinah, Tamar, Esther, Judith and Susanna are all victims of rape or confront sexual danger. These are the women discussed below. But unlike the Roman exemplars, and despite the biblical proscription of sex outside marriage, we will see that it was possible for Old Testament women to be raped or compromised and still be honoured, or given exemplary status.[33] Early modern writers such as Thomas Bentley, Richard Ferrers, and Heywood write of the qualities or significance of these Judeo-Christian exemplars.[34]

The Old Testament describes the separate rapes of two young virgins, Dinah and Tamar. Although both rapes might have been resolved by marriage – with Dinah's rapist

[33] Biblical rape law is summarized in Chapter 1.

[34] Bentley, *The fift lampe of virginitie conteining sundrie forms of christian praiers and meditations, to bee used onlie of and for all sorts and degrees of women, in their severall ages and callings* (London, Denham, 1582); *The sixt lampe of virginitie conteining a mirrour for maidens and matrons: or, the severall duties and office of all sorts of women in their vocation out of Gods word, with their due praise and dispraise by the same: […] either good or bad […]*.Richard Ferrers, *The worth of women* (London: Jones, 1622), is a poem mentioning Tamar, Hester [Esther] and Susanna in verses 42, 57 and 63 respectively; Heywood, *The exemplary lives and memorable acts of nine the most worthy women in the world three Jewes, Three gentiles, Three Christians* (London: Royston, 1640), includes Judeth [Judith], pp.20-43, and Esther, pp. 46-66. Between them all there are hundreds of references to these women throughout early modern religious and moral writing.

willing and Tamar's not – we hear no more from either woman after she is raped. In fact Dinah's entire story is reported: she has no voice at all in the text.[35] When Tamar is first assaulted by her half-brother, Amnon, we hear her attempt to dissuade him from raping her. After the rape she demonstrates her downfall by rending her garments and putting ash on her head, but she too is silent.[36] Marriage to the rapist is unsuccessfully mooted in both cases, but neither victim dies. In each case the rape is avenged by a brother or brothers in ways that could only perpetuate discord and provide a catalyst for tribal conflict over land, authority and ideology.

Whilst Tamar is acknowledged to be an innocent victim, Dinah attracts blame. The Bible simply relates that 'she went out to see the daughters of the land' – without applying judgment.[37] However, some hundred early modern printed prayers, sermons and items of moral advice that mention Dinah almost invariably make her an example of fault, or of the danger of allowing too much liberty to women. She is criticized for her 'roving' or 'wandering eye', her 'curiositie', for 'wandering and straieng abroad', for roaming, 'gadding' and behaving as 'a field-wife' not as 'a house-wife'.[38] The eye itself is deemed 'an unruly

[35] Genesis 34.

[36] II Samuel 13. 12-13. The ramifications of the rape (displacement, rebellion and death) continue to Book 19. Today the rape would also be viewed as incestuous, however, the Bible's account makes no reference to incest. In fact Tamar urges Amnon not to force her but to 'speak unto the king; for he will not withhold me from thee', suggesting the legitimacy of marriage between half siblings (13. 13). But many early modern texts make reference to the act as incest as well as rape. For example see John Donne, *Fifty sermons preached by that learned and reverend divine, John Donne […]* (London: M.F. [Miles Flesher?], Marriot, and Royston, [1649]), p. 157; Thomas Granger, *A familiar exposition or commentarie on Ecclesiastes Wherein the worlds vanity,and the true felicitie are plainely deciphered* (London: Pavier, 1621), p. 61; Thomas Stoughton, *The Christians sacrifice much better then all the legall sacrifices of the Jewes; and without the which, all the said legall sacrifices of the Jewes, euen when they were in force, were not acceptable to God […]*(London: Jones, 1622), p. 96

[37] Genesis 34. 1.

[38] Examples can be found variously in Thomas Adams, *The sacrifice of thankefulnesse A sermon preached at Pauls Crosse, the third of December, being the first Adventuall Sunday, anno 1615* (London: Knight, 1616), p. 32; Richard Brathwaite, *The English gentlewoman* (London: Sparke, 1631), p. 50, p.86; Thomas Ailesbury, *Paganisme and papisme parallel'd and set forth in a sermon at the Temple-Church, upon the feast day of All-Saints, 1623* (London: Becket, 1624), p. 18; Ambrosius Autpertus, *A monomachie of motives in the mind of man: or a battell betweene vertues and vices of contrarie qualitie […]besides sundrie devout praiers necessarilie interlaced[…], Newlie englished by Abraham Fleming* (London: Seres, 1582), p. 138; Brathwaite, *Ar't asleepe husband? A boulster lecture; stored with all variety of witty jeasts, merry tales, and other pleasant passages […]* (London: R[ichard] B[est],1640), p. 203; Donne, *LXXX sermons preached by that learned and reverend divine, Iohn Donne, Dr in Divinity, late Deane of the cathedrall church of S. Pauls London* (London:

member'. Writings warn against its potential to tempt the unwary to 'evil' or wantonness, and against allowing daughters 'overmuch libertie'; and they emphasise the need for 'vigilant discipline'.[39]

Esther's situation, though, *is* regularized by marriage. She is another young virgin, but an orphan and without brothers. She is taken with other young virgins from whom the King Ahasuerus is to choose a Queen after spending a night with each. Esther is chosen subsequently using her influence with the King to protect her race.[40] The biblical narrative concentrates on her role in the protection of her people, and in Bentley's *fift lampe* she is praised for her loyalty to her husband and for her humility.[41] Her apparent cooperation with the process of her selection as Queen attracts no comment in either text.[42] Judith also uses her autonomy – acquired through widowhood – in the Jewish cause. When the Assyrian army is besieging her home city she is encouraged in her plan to exploit her beauty and sexuality to gain access to Holofernes, the Assyrian leader, risking her chastity and her life. The plan succeeds: his intention to attempt to seduce or rape her fails when, through excessive drink, he falls asleep and she cuts off his head. As a consequence the Assyrians are routed.[43]

In a domestic setting, Susanna, a married woman, is forced to defend her chastity against an attempt to coerce her into adultery. In Roman style, she is prepared to die for its

---

Royston, and Marriot, 1640), p. 466; Barnabe Rich, *The excellency of good women The honour and estimation that belongeth unto them. The infallible markes whereby to know them* (London: Dawson,1613), p. 24; Robert Cleaver, *A godly forme of houshold government for the ordering of private families, according to the direction of Gods word […]* (London: Field, 1621) sig. O6^{r}.

[39] Adams, p. 32; Ailesbury, p. 18; Autpertus, p. 138; Brathwaite, *gentlewoman*, p. 86, and , *Anniversaries upon his Panarete continued: With her contemplations, penned in the languishing time of her sicknesse. The second yeeres annivers* (London: Bostock, 1635), sig. B^{r}; S. I., *Bromelion A discourse of the most substantial points of divinitie, handled by divers common places: with great studie, sinceritie, and perspicuitie.[…]* (London: Creede, 1595).

[40] It is left to Bentley's *sixt lampe*, p. 147, to comment that 'the abuse of these countrey and heathen kings was great in inventing many meanes to serve the lusts of Princes, and ordayning wicked lawes, that the king myght have whose Daughter he would'.

[41] Bentley, *fift lampe*, p. 72.

[42] Esther 1-10 (2. 3, 2. 16-17). The remainder of The Booke of Esther, 10 (part)-16, are found in The Apocrypha. It contains the text of some of the letters mentioned in the earlier Bookes; in addition, Booke 15 gives a more romanticized version of Esther's intervention with Ahasuerus described in Esther 5. 1-3. The version in Book 15 is also used in Bentley, *sixt lampe*, pp. 151-53.

[43] Apocrypha, Judith, esp. Bookes 7-15 (9. 2, 10.4, 12. 16).

sake, regardless of what slanders might subsequently sully her reputation. However, her faith and prayers are rewarded when the prophet Daniel intervenes and demonstrates the accusation to be false.[44] The story bears comparison with the New Testament parable of a woman taken in adultery, in which Jesus saves an adulterous woman from her accusers by reminding them of their own sins.[45] Both stories describe male sexual hypocrisy and the dangers, for both sexes, of sexual transgression, although the Old Testament emphasises justice via retributive punishment, while the Book of John teaches compassion and forgiveness.

When Christianity began to assimilate pagan ideology, Ovid's *Metamorphoses* played a significant role in a process of allegorization that appropriated classical myth further to illuminate Christian morality. Although the practice was particularly associated with the Middle Ages, Fabius Planciades had allegorized fifty of Ovid's tales in the sixth century, while 'in the eighth century Bishop Theodulph of Orleans declared that beneath the false exterior of Ovid's tales lay a hidden core of truth'.[46] The tradition of commentary became established in the eleventh century and developed in the twelfth.[47] The poem was popular throughout the Middle Ages, and Caroline D. Eckhardt finds that the transformations described in the *Metamorphoses* 'could be, and were, read in almost infinite ways in the Middle Ages for their moral and allegorical interest'. By the fourteenth and fifteenth centuries it could be found in various forms and languages including Latin and French, in

[44] Apocrypha, Susanna 1. 1-64 (20, 49 and 62). In early modern law, of course, the attempted coercion would be read as attempted rape.
[45] John 8. 1-11.
[46] William D. Reynolds, 'Sources, Nature, and Influence of the *Ovid Moralizatus* of Bersuire' in Jane Chance, ed., *The Mythographic Art: Classical Fable and the Rise of the Vernacular in Early France and England* (Gainesville: University of Florida Press, 1990), p. 84.
[47] *Ibid*., pp 84-85 Arnulf of Orleans was the first of these commentators. He 'also wrote commentaries on the *Fasti*, *Amores* [and] *Remedia Amores*'. Reynolds explains that Arnulf's commentaries included glosses, poetic analysis and genealogies as well as prose allegorizations at the end of each book. Following the sequence of the *Metamorphoses*, he would 'then list a wide variety of possible explanations: moral, historical, or allegorical'. John of Garland's *Integumenta Ovidii* (ca. 1235) emphasises moral interpretation, and in the first half if the fourteenth century Giovanni di Antonio del Virgilio of Cesna claimed a moral purpose for his *Allegoriae librorum Ovidii*, but apparently seems to offer something more akin to 'homey advice'.

'moralizing and non-moralizing summaries'.[48] The last of these was the work of the monk and scholar Pierre Bersuire. Writing between 1342, and his death in 1362, he sought to remedy the lack of visual descriptions of the gods in existing versions of the myths, and wrote the *Ovid moralizatus*.[49] However, possibly the best known of the many allegorizations of the *Metamorphoses* was the anonymously authored *Ovid moralisé*, a French verse interpretation written between 1316 and 1325.[50] However, it has never fully been translated into English.[51]

In the process of assimilation of pagan thought, moral debates embraced by Saint Augustine's *Of the citie of God* in the fourth and fifth centuries AD infused the ancient myths with ideological and religious legitimacy, giving meaning to the rhetorical dilemmas played out particularly in response to Ovid's works. St Augustine strove to interpret the myths of Greece and Rome in a way compatible with the new faith.[52]

Augustine's intervention certainly validated the use of myth as analogy. Lucretia's example became particularly pertinent to the question of suicide that was under discussion throughout Europe in the late sixteenth century.[53] Augustine challenged the logic or morality by which such suicides had previously been justified.[54] For instance, when discussing rape in the context of soldiers abusing their captives he promotes the idea that the mind may remain chaste even when the body is violated. He makes the analogy with examples where it would

[48] Eckhardt "One Third of the Earth? Europe Seen and Unseen in the Middle English Chronicles of the Fourteenth Century", *Comparative Literature* 58 (2006), p. 316, note 8. See also Douglas Bush, *Pagan Myth and Christian Tradition in English Poetry* (Philadelphia: American Philosophical Society, 1968), p. 2.
[49] Reynolds,
[50] Diane Rumrich, ed., *The Middle English Text of Caxton's Ovid, Book 1: Edited from Cambridge, Magdalene College, Old Library, MS F.4.34 with a Parallel Text of The Ovide moralisé en prose II Edited from Paris, Bibliothèque Nationale, MS fonds français 137* (Heidelberg: Universitätsverlag Winter, 2011), p. xii.
[51] Rumrich presents Book I of the earliest English (manuscript) translation of the *Metamorphoses*, by Caxton in 1480, alongside the *Ovide moraliés en prose II*, from the 1470s (p. xiii). She warns against the error of assuming a common source for the French-derived verse translations of the *Ovid moralisé*, and the Latin prose tradition pursued in the *Ovidius moralizatus* and its French translation, the *Ovide moralisate* (before 1480), (p. xii, p. xiii).
[52] St. Augustine, *Of the citie of God* (London: Eld, 1610).
[53] See Donaldson, p. 31.
[54] Suicide is discussed generally in *The citie of God*, Book I, chapters 16, 19, 21, and Lucretia's suicide in chapter 18.

be unreasonable to impugn a woman for a breach of her physical integrity – such as a clumsy examination by a midwife.[55] However, his attempt to take a compassionate if logical approach to save women from an impossible bind – shame or suicide – created yet a further bind.

Augustine challenged Lucretia's need to kill herself, '*if* […] chaste' [my emphasis]. Might she indeed secretly have gleaned sexual pleasure from the encounter? The question refigures the debate as one of her innocence or guilt. Augustine suggests: 'being a *Romain,* and coveteous of glory, she feared, that […] if she lived […] shee […] should be thought to have been suffered with willingnesse'. His rationale further complicates her motivation, suggesting she sought personal glory from the act. And he contrasts Lucretia's pagan response to that of a group of Christian nuns who chose life over suicide.[56] The early modern cultural and legal context might suggest other questions: might she have feared conception (in accordance with the early modern belief that the latter was impossible without the former), and therefore be exposed by the evidence of her culpability? Might she feel guilt at having not resisted as strenuously as she might? Should she have fought to the death regardless of Tarquinius's blackmail? Ian Donaldson acknowledges that such 'legal scrutiny' to which a character of ancient legend is subjected might appear 'excessive and absurd', but it clearly provided a reference point around which wider discussion could coalesce.[57] These ancient controversies, brought out by the fate of a mythical woman, fed the imagination of the poets and dramatists of the early modern period.

The citie of God refers to several other myths from the history of Rome in different contexts. Among them Augustine condemns the deification of Romulus by the Romans for

[55] *Ibid*., I. 17.
[56] *The citie of God*, I. 18. The plight of the Holy Virgins, from which the debates surrounding suicide and Lucretia ensue, is discussed in I. 15. Donaldson, pp. 29-30, explains how the rape of a group of Christian nuns during the sack of Rome in 410 AD gave rise to Augustine's discussion. And, of course, suicide is forbidden by the Christian Church.
[57] Donaldson, p. 29.

the rape of the Sabine women as a 'deed of iniquitie' that allows the event 'to stand as an example for others to follow'.[58] He also alludes to the 'adultery' committed by Paris. He fails to mention Helen; it is the sixteenth-century humanist Juan Luis Vives, in his commentary to the edition who refers to Paris's 'rape' of Helen. Vives represents the medieval legal interpretation of Paris and Helen's actions: as told in the *Heroides* Paris was married to Oenone, so Augustine's reference to his 'adultery' is correct, but Helen's position is ambiguous. Since 'rape' might encompass both compliance with and resistance to the abduction, his reference compounds the moral ambiguity surrounding Helen.[59]

Despite initial 'clashes', Douglas Bush explains that by the time Shakespeare and his contemporaries were writing, the fusion of Christian and pagan ideas had established 'a stable framework of religious, ethical, political, economic, and cultural thought'.[60] The valorisation of figures from classical myth and history, and the aesthetic enjoyment offered by Ovid's texts exist in an apparently easy coalition in early modern thought.[61] In their translations and original works, by interpreting the myths allegorically, and by means of analogy, metaphor and bathos, the early modern writers were apparently able to negotiate the tensions between the two traditions while infusing their works with the moral ideals of both. Latin was 'the language of learning and the professions', while admiration of the ancient culture attributed its society with superiority in 'moral wisdom'.[62] Renaissance humanist thinkers

[58] *The citie of God*, II. 17.
[59] *Ibid*., III. 3.
[60] Bush, *English Literature in the Earlier Seventeenth Century 1600-1660* (Oxford: Clarendon Press, 1945), p. 35.
[61] Discussion of the accessibility and circulation of Ovid's works and ideas follows later in this chapter.
[62] Bush, *Pagan Myth*, p. 2. For an extended discussion of the assimilation of ancient lore into early modern allegory and moral philosophy through the intervening centuries, see Jean Seznec, *The Survival of the Pagan Gods: The Mythological Tradition and its Place in Renaissance Humanism and Art*, trans. by Barbara F. Sessions (New York: Pantheon Books, 1953). See esp. pp. 90-99 on the 'astonishing' rise of allegory in pious writings and its growth through the Middle ages in Europe, when Ovid's *Metamorphoses* found what might be particularly surprising favour as vehicles for religious instruction (90). See also pp. 312-15 on pagan influence on the English Elizabethan poets.

enthusiastically encouraged the activity of translation from the classics so that the wisdom promoted in the ancient texts might be more widely and readily available.[63]

Medieval Writing

It appears that medieval literary critics have taken similar positions to those addressing the historical and legal context of rape in early modern drama. Saunders observes the 'reductive terms' in which some studies have engaged with early rape law – as a crime that was largely ignored, or one addressed 'exclusively in terms of the woman as property' – citing several examples.[64] When the discussion moves on to literature, Evelyn Vitz also takes a challenging view. She rejects the idea that attempts on women are necessarily representations of female oppression, and argues that literature should be read within the context understood by the inhabitants of its historical time. [65]

Crane and Saunders both comment that rape was largely anathema to the medieval tales of English romance and chivalry. Even the beset virgin martyrs could only remain such if they escaped rape – though it meant torture and death. Catty, however, tells us that the continental sub-genres of romance such as the *pastourelles* and *fabliaux*, of which bawdiness and rape are a regular component, were translated into English in the latter part of the sixteenth century. And she finds that rape is a 'stock motif' of chivalric romance.[66] Vitz suggests that it was perfectly possible for medieval women to be entertained by certain rape scenes. In an era when illicit sex was a precarious act for a woman, and the family's choice of

[63] See, for example, Jonathan Bate, *Shakespeare and Ovid* (Oxford: Clarendon Press, 1993; repr. 2001), pp. 5-6; Raphael Lyne, *Ovid's Changing Worlds: English Metamorphoses, 1567-1632* (Oxford: Oxford University Press, 2001), p. 1. Nicholas Mann, 'The Origins of Humanism', in *The Cambridge Companion to Renaissance Humanism*, ed. by Jill Kraye (Cambridge: Cambridge University Press, 1996; repr. 2003), p. 1, defines humanism as 'cultural values that one would derive from what used to be called a liberal education […] the study of […] language, literature, history and moral philosophy in particular'.
[64] Saunders, pp. 19-20 (p. 19). (Medieval law is discussed in Chapter 1.)
[65] Evelyn Birge Vitz, 'Rereading Rape in Medieval Literature: Literary, Historical, and Theoretical Reflections', *Romantic Review* 88 (1997), 1-2.
[66] Catty, p. 25.

husband did not match her romantic ideals, fantasies of rape by handsome knights or heroes might be attractive. Women were patrons of the medieval *pastourelles* – in which shepherdesses were regularly propositioned by knights – and as Catty points out, romances in the early modern period became 'increasingly associated' with a female readership.[67] In fact without the threat of rape, one of the primary purposes of chivalry would be neutralized: defending the honour of the female sex – and if not against rape or abduction, against what? The question of subject matter, representation and readership is the same as that surrounding Ovid's works, and unsurprisingly, his influence is present in the medieval genres.

Romance was the dominant medieval genre. Medieval tales inevitably find their way into early modern narratives either in translation or as a source of refashioned stories.[68] Since the protection and rescue of women is one of the cornerstones of romance it is hardly surprising that the genre is well stocked with tales of beset maidens. The scope of medieval rape texts embraced by scholars generally includes abduction and forced marriage. However, although the threat of rape is a component of romance, many attempts do not conclude with actual rape, even if the tale is tragic. According to Susan Crane, rape 'is hardly typical behaviour of the genre's protagonists'.[69] Presumably, were rape achieved it would be contrary to a woman's honour and to the genre. Saunders tells us that 'actual rape is found only in the margins of romance – in classical legend, in medieval chronicles, in Arthurian pseudo-history and in French non-romance'.[70]

---

[67] Vitz, 'Rereading', 7-18 (12, 16). See also Catty, p. 25; Louise Sylvester, *Medieval Romance and the Construction of Heterosexuality* (Basingstoke: Palgrave Macmillan, 2008), esp. pp. 61-65.
[68] Catty, p. 25.
[69] Susan Crane, *Gender and Romance in Chaucer's Canterbury Tales* (Princeton: Princeton University Press, 1994), p.9, p. 122.
[70] Saunders, p. 187, points out that the French texts have no English counterparts. She identifies '*pastourelles*, the *fabliau*-romance of *Renart* and the prose tale of *La Fille du Compte Ponthieu*. See Kathryn Gravdal, *Ravishing Maidens: Writing Rape in French Literature and Law* (Philadelphia: University of Pennsylvania Press, 1991), ch. 2, pp. 42-71, on Chrétien de Troye's Arthurian romance, ch. 3, pp. 72-103, on *Le Roman de Renart*, and ch. 4, pp. 104-121, on the *pastourelle*.

Medieval romance began to become available in English translation in the late sixteenth century.[71] It is rooted in an era when women had greater autonomy and rape was recognised as a personal assault. Works originate particularly from France, but also from other European sources. They encompassed secular narrative fictions of sex, love, lust, chivalry, and women's honour, while the deeds of knights mix with the supernatural. For women threatened with rape, abducted, or faced with forced marriage, chivalry is constructed around their defence.[72] Yet the knight-saviour of chivalric romance can seem uncomfortably akin to the would-rapist when he expects the rescued woman to reward him with the very sexual favours denied to her assailant. And there were also knights who failed to live up to their chivalric role.[73]

Secular medieval writers also became closely associated with the theological ideology of virginity as a powerful spiritual shield against violation in the face of violence and torture.[74] Hagiography tells of saintly women whose virginity is persistently tested. Attempts to convert a heroine to paganism, seduce, marry, defile through prostitution, or to rape her, eventually can only demonstrably be denied by martyrdom in order to achieve the sainthood available only to virgins.[75] It might be hardly surprising that hagiography, with narratives of sexual pursuit, and imagery of beautiful young, often pubescent virgins, naked and tortured for refusing to submit their virginity, is also associated with eroticism.[76]

Where the pursuit and violation of maidens is a significant component of writing, it may not be surprising to find that Ovid's influence recurs in European romance. The *Ovid moralisé* provides numerous examples of women threatened with rape, and whose transformations are akin to human death, and an influential twelfth-century writer, Andrea

[71] See Catty, p. 25.
[72] Saunders, p. 187, links 'the two facets of *raptus*, rape and abduction', to the threats faced by the heroines of romance.
[73] On the ambivalent role of knights, see Catty, pp. 28-30; Saunders, p. 200.
[74] Saunders, p. 119, p. 124.
[75] Saunders, p. 120-23; Gravdal, p. 22.
[76] Saunders, pp. 125-26; Gravdal, pp. 22-25.

Capellanus, followed the model of Ovid's *Ars Amatoria* in suggesting strategies by which the wooer might satisfy his desire by persuasion or force, in his *De Amore*.[77] The Breton *lais* share with Ovid's *Metamorphoses* a combination of abduction or rape, and the supernatural. Arthur and Merlin are produced after insemination by a supernatural being.[78] In addition, *Sir Degarré* and *Sir Gowther* are founded on faery rapes.

Elements of Ovid and medieval romance are present in both the style and content of the fourteenth-century Chaucer's work. He repeats the paradigm of Ovid's *Heroides* (and Boccaccio's *De Mulieribus*) in *The Legend of Good Women*.[79] The *Legend* describes the cruel treatment of nine women at the hands of men, including two rapes: those of Lucrece and Philomela. He tells both tales as straightforward brutality inflicted on two unsuspecting, helpless victims.[80] Chaucer acknowledges Livy and Ovid, setting his tale in the context of Tarquinius the elder's 'horible doinges', (1681) and his son's 'blynde lust' (1756). Tarquinius and Tereus are both described with images of fire, and Saunders positions both as knight-betrayers of the chivalric code.[81] Lucrece and Philomela are described as epitomes of feminine delicacy and virtue, one weeping for her absent husband while she spins, the other weeping for the sister she has not seen for five years. Lucrece's upholds Roman ideology, on one hand while, on the other, Philomela and Progne call on their Christian God in distress. Chaucer reads 'gret compassioun' (1690) into Augustine's response to Lucrece's suicide, an interpretation not necessarily at odds with Augustine's questioning of the need for it.[82] Yet while describing the impossibility of Lucrece's escape from Tarquinius, he also recalls the sin of pride on which Augustine speculates: 'These Romeynes lovede so here name | At thilke

[77] Saunders, p. 133-34, see also pp. 188-190: persuasion was reserved for the noble or chaste, force for peasants (p. 190).
[78] *Ibid*., p. 212, also points out that supernatural conception 'play[s] on the Biblical narrative of Christ's incarnation'.
[79] *Ibid*., p. 267.
[80] Geoffrey Chaucer, *The Riverside Chaucer*, ed. by Larry D. Benson (Oxford: Oxford University Press, 1987; repr. 1988), p. 471. References to Chaucer's works are to the *Riverside* edition unless otherwise stated, and cited by line number after quotations in the text.
[81] Saunders, p. 270. See also p. 271: she also likens Lucrece to the virgin martyrs.
[82] *Ibid*., p. 268.

tyme, and dredde so the shame' (1812-13). Chaucer omits gratuitous detail of Lucrece's rape, the scene passes directly from threat to aftermath. In Philomela's case he also limits his descriptions of her violation: having expressed concern at the foulness and venom entailed, he reports that Tereus 'reft hire of hire maydenhede' (2325), and silenced her when 'with his swerd hire tonge of kerveth he' (2334). Nor does he include the later part of the tale in which the two sisters take their terrible revenge on Tereus.

The Canterbury Tales follow a similar pattern of storytelling among a travelling group to Boccaccio's *Decameron*. Chaucer adapts several of the same popular, and often bawdy stories as Boccaccio.[83] However, despite the potential of the various *The Canterbury Tales*, only *The Reeve's Tale* and *The Wife of Bath's Tale* contain rape, although *The Physician's Tale*, *The Man of Law's Tale*, *The Franklin's Tale* all find women in sexually threatening situations. The Physician tells a version of *Appius and Virginia*, a virgin martyr play in which Virginia is killed by her father before she can be raped. The Man of Law relays an Anglo-Norman, Christian romance about exile, testing adventure, return and status regained. The Franklin's tale combines the classical idea of suicide as a woman's response to coerced sex, with romance.

The Reeve's Tale is a version of *fabliau*. Chaucer creates comedy from rape via satire, caricature, slapstick and by playing with masculine insecurity about women. He draws on the reputation of millers for stealing grain, and also probably on the haughty and volatile temperament of Robin, the Miller of the pilgrims' company. The tale involves two poor students who plan revenge on Symkyn, a thieving miller. Aleyn and John are obliged to stay overnight at the mill. Aleyn resolves to 'swyve' the Miller's plain daughter as 'esement' – making her object of supposed legal as well as monetary exchange, and nullifying the idea of

[83] Andrew Sanders, *The Short Oxford History of English Literature*, 2nd edn (Oxford: Oxford University Press, 2000), alludes to Chaucer's wish to demonstrate his knowledge of the Italian poets, p. 4, and cites Boccaccio's influence (as well as Dante's), p. 60. However, in *The Riverside Chaucer*, p. 3, Benson notes that there is no evidence that Chaucer either knew, or used Boccaccio's *Decameron* as a direct source, although he must have been aware of the work.

rape.[84] In the subsequent slapstick of darkness and mistaken beds Symkyn's wife and daughter both – with apparent pleasure but without consent – lose the chastity Symkyn had valued in each of them so dearly. The students escape with their goods providing an apt comedy ending. But the daughter is left 'disparage[d]' (4271).

The Wife of Bath's Tale begins with a rape. Through the pleas of the Queen and the women of the court, a rapist-knight is given an opportunity to fulfil a quest in return for his life while the innocent virgin he defiled is mentioned no more.[85] Neither the chivalric code, nor the romantic genre protects the maid, or gives her redress. The knight must, within a year, discover what women most desire. He is again saved at the last moment by a woman – a loathly lady who requires that he marries her. Yet the reality of their marriage horrifies him. Only when he gives her mastery to decide whether she should be ugly and true, or fair and false, is he rewarded with a wife both fair and true. The tale challenges genre and expectations by rewarding the rapist, but also its supposed moral when the narrator tells us that, in their ensuing life of 'parfit joye', (1258) his wife 'obeyed him in every thyng' (1255). It replicates the similar contradiction in the Wife's *Prologue* that, having finally achieved mastery over her husband, Jankyn, she was as kind to him as any wife in the world could be.

Malory's *Morte Darthur* was written in the fifteenth century. Saunders describes it as presenting 'a compelling retrospective of romance and the role of rape within this genre', and as 'a celebration of the chivalric ethic'.[86] Arthur avenges the rapes of two women by a giant, and the episode becomes part of the founding history of the chivalric code. Saunders points out that the story sits better 'with the tradition of history and chronicle and is atypical of romance narratives'.[87] `Similarly to the Roman foundation myths, Arthur's irregular birth and extraordinary life sit culturally between myth and history.

[84] Line 4178, 'swyve', is glossed as 'copulate with'; line 4186, 'esement': recompense.
[85] *Wife of Bath*, line 888, 'rafte' is glossed as 'took'.
[86] Saunders, p. 234.
[87] *Ibid*., p. 209.

Although English romance followed the French *fin' amors*, that drew on Arthurian legend, greater realism in English works – particularly those of the later fourteenth century – represented growing legal concerns over elopement, abduction and marriage, and a 'diminishing legal interest in simple rape'. Middle English versions of Chrétien's *Ywain and Gawain*, and *Sir Percyvell of Gales* as well as *Guy of Warwick*, demonstrate that it was not just the defence of the woman in question that was crucial, but forced marriage and the acquisition of her property and lands.[88] Crane suggests that when women ostensibly test the worthiness of suitors, they are often not partaking in strategies of courtship, deferring indefinitely the acceptance of unwanted sex or marriage, often for the sake of her wealth.[89]

[88] *Ibid*., pp. 188-189; pp. 197-202.
[89] Crane, p. 62, p. 63.

CHAPTER 6
OVID AND HIS INFLUENCE: FROM NEO-CLASSICISM TO LOW-BROW HUMOUR

Classical learning infused early modern culture with both political analogy and mythical ideal. Through literature, raped women, familiar from Roman mythology, became familiar signifiers of both positive and negative qualities: the Sabine women as passive victims, Philomela as a vengeful victim, Lucretia – the vocal epitome of a moral exemplar, and Helen, condemned as vain, immoral and deserving of opprobrium.[1] Coke and the author of *The Lawes Resolutions* cite the Sabine Women, Helen and Lucretia to assist with their discussions of rape.[2] The myths of these women recur in the verse and drama discussed in this chapter. Analogies relied not only on the fame imposed on the women by rape and their response to it, but also on the understanding of those mythical events. The chapter explores how Roman ideals were circulated in early modern England, particularly through admiration for Ovid's poetic skill and imagination. At the same time his status and his wit, together with ideas entrenched in early modern culture, provided an opportunity to exploit the exemplary women of neo-classicism, and rape itself, as titillation and humour. In communities news of local scandal was spread in the form of sexual insults via crude verses and libels. The chapter follows a course that leads from classical exemplars to rape as a subject of humour in early modern culture.

[1] However, Sarah Carter, *Ovidian Myth and Sexual Deviance in Early Modern English Literature* (New York: Palgrave Macmillan, 2011), p. 16, following her wide survey that recuperates Ovidian myths in early modern texts, finds that the poets are more inclined to depict Philomela's transformation to a gentle, singing bird, while dramatists focus on her vengefulness.
[2] *Lawes*, p. 378; Coke, *Third Part of the Institutes*, p. 60†.

Translation and Circulation

Classical texts not only proffered paradigms of character, but also suggested ethical ideals. When the author of *The Lawes Resolutions* condemns 'Ovids false precept' as 'poyson', he is referring to the dictum from Ovid's *The Art of Love*: 'They terme it force, such force comes welcome still, | What pleaseth them, they grant against their will'.[3] Yet the precept found currency in early modern popular literature.[4]

Imitation was characteristic of the Renaissance preoccupation with classical culture. The classical poets were revered 'as imaginative masters of art and style'.[5] Early modern education, literature and drama all relied on ancient pagan sources for example and for inspiration, while operating within a Christian environment. Ovid's style was particularly accessible. His works were printed and circulated in Latin and in English translation. But most significant was their ubiquitous presence in the grammar schools where they featured in exercises of imitation, argument and rhetoric.[6] The *Heroides*, *Fasti*, *Art of Love* and *Metamorphoses* provided a source for myths of rape which recurred throughout the teachings

[3] *Lawes*, p. 377. The verse translation given here is from, *Loves schoole Publii Ovidii Nasonis de arte amandi, or, The art of love* (Amsterdam: Visscher, [1625]), p. 29, lines 13-14. In *STC* (2nd edn), 18935.5, the translation is attributed to T[homas] Heywood. Subsequent references are to this edition unless otherwise stated, and given after quotations in the text. The brief form, *Loves schoole* is used when citing this edition in footnotes; the Anglicized, version, the *Art of Love*, is used in the main text of the thesis. See also Cynthia E. Garrett, 'Sexual Consent and the Art of Love in the Early Modern English Lyric', *Studies in English Literature, 1500-1900*, 44 (2004), 38 on the publication and circulation of Heywood's translation. Circulation of Ovid's precept is discussed later in the chapter. Garrett, 37, and 55, note 2, points out that the *Lawes* quote '*Vim licet appellant, vis est ea grata puellis*' is a variant. She gives Ovid's original lines as '*uim licet appelles: grata est uis ista puellis*'. Printed and modern sources variously use the title forms *Loves schoole*, *Ars Amatoria*, *de amandi*.

[4] The spread and circulation of Ovid's precept is discussed later in the chapter.

[5] Bush, *Pagan Myth*, p. 2.

[6] The centrality of Latin, imitation and rhetoric to early modern grammar school teaching, and Ovid's place in the curriculum is well recorded. See: Bate, *Shakespeare*, pp. 21-22; Kristian Jensen, 'The Humanist Reform of Latin and Latin Teaching', in *The Cambridge Companion to Renaissance Humanism*, ed. by Kraye, p. 74; J. W. Binns, *Intellectual Culture in Elizabethan and Jacobean England: The Latin Writings of the Age* (Leeds: Cairns, 1990), pp. 291-92; Charlton p. 105, pp. 109-119; Peter Mack, 'Humanist Rhetoric and Dialectic', in *The Cambridge Companion to Renaissance Humanism*, ed. by Kraye, pp. 90- 91; Lynn Enterline, *The Rhetoric of the Body from Ovid to Shakespeare* (Cambridge: Cambridge University Press, 2000), p. 165. On arguing the credibility of myth and legend see DeWitt T. Starnes and Ernest William Talbert, *Classical Myth and Legend in Renaissance Dictionaries: a Study of Renaissance Dictionaries in Their Relation to the Classical Learning of Contemporary English Writers* (Chapel Hill: University of North Carolina Press, 1955), pp. 24-25. For details of the provision and foundation of the schools, their funding, the pay of the masters, and the preparation of the younger pupils, as well as the curriculum and texts see Charlton, Chapter 4, 'The Grammar Schools', pp. 89-130.

and writings of early modern culture. And Ovid's invitation to the reader to indulge in pleasure at the violation of women was clearly not disagreeable to early modern scholars and teachers, nor to the wider readership. He combines descriptive techniques with wit and titillating or suggestive detail, and particularly humour, to belie the objectification his representations encourage.

By the early seventeenth century, classical writings that had previously been available only in their original language were becoming more extensively circulated in English. There were few complete translations, but dictionaries offered extracts from the myths and legends, and popular print promoted moral exemplars. The lack of a uniform system of spelling meant that dictionaries served an explanatory function rather than performing their later role in the standardization of language. Their explanations played a significant role in establishing the mythical characters and the qualities they represented in the conscious of the public.[7] Earlier dictionaries had been available in Latin, but towards the end of the century Thomas Cooper's 1565 *Thesaurus linguiae Romanae and Britannicae* was the generally accepted authority, and English versions were becoming available.[8]

Cooper seems unbeholden to either Livy or Ovid. The nature of the work demands brevity, and he appears to seek to explain the characters' actions. He is unequivocal about defining the fortunes of Helen. He tells us she 'for hir wounderfull beautie, was twyse ravyshed. First at the age of nyne yeres by Theseus: afterwarde by Paris the Troyane'. He is equally uncompromising when describing the lot of Rhea Silvia. Where Livy is non-committal about her status and fate, and Ovid states her rapist as Mars, Cooper is clear that it

[7] On the role of the dictionaries as a source of classical myth and legend for writers of the early modern period, see Starnes and Talbert, *passim*. On their use in education, see Kenneth Charlton, *Education in Renaissance England* (London: Routledge & Kegan Paul 1965), p. 102, pp. 121-23; Starnes and Talbot, Chapter 2 (pp. 11-28). Nicholas Orme, 'Schools and Schoolbooks', in *The Cambridge History of the Book in Britain. Vol.3, 1400-1557*, ed. by Lotte Hellinga, and J.B. Trapp, 7 vols (Cambridge: Cambridge University Press, 1998 –), III (1999) pp. 449-69, provides a background and variety of early texts in circulation within and between schools. Binns, *Intellectual*, p. 293, identifies several of the grammars available to cater for the needs of students of Latin.

[8] Starnes and Talbert, p. 4.

was *not* Mars but her uncle Amulius who ravished her and fathered Romulus and Remus. He represents Mars's intervention as a self-serving Roman invention. Having already murdered her father, Amulius made Rhea Silvia a vestal virgin to ensure there could be no issue. He then raped her to have cause to put her to death: 'accordyng to the lawe of the Vestales, to be buryed quicke'. Unlike Ovid, Cooper does not dwell on the lot of the Sabine women, telling us simply that Romulus: 'procured wyves for his people, by rape of all the maydens of the countrey, resortynge thither to solemne games and playes'. But in his account of Lucretia he is careful to explain that it was Tarquin's threat of the murdered slave, and her fear of shame rather than of death which caused her to suffer the rape. He also draws attention to her insistence on suicide to ensure her name 'shoulde never be a cloke for light women to excuse the unfaithfull breach of wedlocke'.[9]

Philomela's entry in the dictionary is, in comparison to Ovid's representation, also matter-of-fact. The description of the rape is succinct: 'Tereus […] did ravyshe, and that shee myght not disclose his vilanie, cut out hir tongue, and cast hir in pryson'. Both the ceremonial cover under which Procne effected her sister's rescue, and the murder of Itys follow the same sparse pattern: Procne 'did deferre the revengement, untill the solemne sacrifices of Bacchus. At which tyme, beyng accompanied, as the maner was, with a great number of other women, she taketh hir sister out of pryson, and bringeth hir into the palaice'. Even the killing of Itys spares Ovid's graphic detail: 'by hir counsayle she killed hyr yonge sonne Itys, and served hir husbande with it at supper, and […] in the ende, brought in the childes heade in a dishe'.[10]

---

[9] Thomas Cooper, *Thesaurus linguae Romanae and Britannicae* (London: Wykes, 1565), 'Dictionarium Historicum and Poeticum', sig. J4^{r} (Helen), sig. P2^{v} (the accounts of Rhea Silvia, and the Sabine women are included within the entry for Romulus), sig. L2^{v}-L3^{r} (Lucretia).

[10] *Ibid*., sig. O2^{r}. According to Jane O. Newman, '"And Let Mild Women to Him Lose Their Mildness": Philomela, Female Violence, and Shakespeare's *The Rape of Lucrece*', *Shakespeare Quarterly* 45 (1994), 304-26, Cooper's version of the Philomela story is altered from that of Ovid 'to emphasise the Bacchic elements'. She argues that details of ritual celebration and feast under cover of which Philomela and Procne effect their revenge, cruelly murdering Itys, and serving his body to Tereus in a pie, are emphasised to 'associate the sisters' behaviour with orgiastic Bacchic rites' based on 'careful consideration of a still earlier tradition of Ovid commentary' (315). Newman constructs a detailed argument around the inter-relationships between various

Pagan morality merged with religion as the exemplary characters of classical literature began to populate conduct books and miscellanies. According to *The Chariot of Chastitie*:

> Dame Chastnesse is a gift most rare,
> wherein God most delightes.
> For Chastitie doth purchase fame,
> And heavenly place above.[11]

Lucretia is the primary exemplar in a conjunction of Christian and pagan imagery: 'firmly did her faith observe, | till life did her refuse' (p. 35). She is described in heaven, having chosen chastity over the temptations offered by the pagan deity, Cupid. Lucretia's name is appropriated in Simon Goulart's 'A Miserable Rape', taken from his *Admirable and memorable histories containing the wonders of our time*.[12] In this piece the word 'rape' is used in terms of elopement. There is no physical rape, but events brought about by the injudicious actions of the two lovers end tragically when Galeas stabs Lucretia to death, before killing himself as a result of unjustified sexual jealousy. William Painter's *Palace of Pleasure*, on the other hand, follows Livy's Lucretia narrative very closely, but the author chooses to make some subtly different choices. Whereas Livy describes Tarquin as having 'formed the vile project of effecting her dishonour' (I. 57), in Painter's version he was 'attached and incensed with a libidious desire, to construprate and defloure Lucrece'.[13] He then, though, avoids the prurient reference to Tarquin's hand on Lucrece's breast, referring only to Tarquin's 'kepying her doune with his lefte hande' (p. 5). But while as an "exemplar

---

early modern texts and commentaries. However, it might also be argued that the emphasis in Cooper's dictionary entry is dictated, at least in part, by the process of synopsis.

[11] James Yates, *The castell of courtesie whereunto is adjoyned the holde of humilitie: with the chariot of chastitie thereunto annexed* (London: Wolfe, 1582), p. 35.

[12] Simon Goulart, *Admirable and memorable histories containing the wonders of our time* (London: Eld, 1607), pp. 515-19.

[13] William Painter, *The palace of pleasure* (London: [Kingston and] Denham, 1566), p. 5.

of chastity" Lucrece's virtue make her a familiar inhabitant of early modern texts, there are relatively few retellings of the rape of Lucrece.[14]

A notable exception to the lack of complete translations of classical works was Golding's version of Ovid's *Metamorphoses* (1567). Possibly to validate its explicit content, Golding included a 'lengthy preface in verse' that 'expounded the moral lessons for young and old' found in the tales.[15] It was another century before Sandys's 1626 translation appeared. Bush describes the latter as more 'sophisticated'. A commentary was added to Sandys's work in 1632 'with a much wider allegorical range than Golding's, based on interpreters from Plato to Bacon'.[16] But for Shakespeare and those writing before Sandys, Golding's was the translation on which they were obliged to rely – even though it attracted some mockery at the time for its style. As a puritan, Golding might be assumed to distrust role-playing and the overtly lewd immorality represented. However, he overcame any reservations with allegory – the generally accepted rationale – and the insistence that the inner characters were 'far removed' from their outward appearance.[17]

Both Golding's translation of all fifteen books of the *Metamorphoses*, and that of the *Heroides*, by George Turberville, were published in 1567. The *Fasti* was much later, but many myths and characters would have been familiar to those who explored the dictionaries and miscellanies.[18] The availability of the *Metamorphoses* in English translation obviously widened its reach, but whether accessed in Latin or in English, Ovid's representation of the tales was ubiquitous among those who had received a formal education.

---

[14] Sarah Carter, p. 53.
[15] Bush, *Pagan Myth*, p. 10.
[16] *Ibid*., pp. 10-11.
[17] Madeline Forey, '"Bless thee Bottom, bless thee! Thou Art Translated": Ovid, Golding, and *A Midsummer Night's Dream*', Modern Language Review, 93 (1998), 324, and 321. See also Caroline Jameson, 'Ovid in the Sixteenth Century', in *Ovid*, ed. by J. W. Binns (London: Routledge & Kegan Paul, 1973), pp. 210-42, who recognises the practical value of Golding's translation to other writers of the period; Lyne, pp. 27-29, defends Golding finding greater merit and complexity in the translation than many allow; rather than it being clumsy and unsophisticated, he sees Golding's work as a deliberate attempt to 'relocate' Ovid's 'masterwork' into England as something recognisably English (p. 28).
[18] Publication details from the *ESTC* shows the date of the earliest translation of the *Fasti* as John Gower's in 1640. See also Bate, *Shakespeare*, p. 24.

The *Art of Love* containing Ovid's precept that women welcomed force was printed in England, in Latin, in 1583. An unauthorised version of Heywood's translation was in circulation between 1590 and 1610, although it officially did not appear in English probably until between 1609 and 1613, when it was 'published anonymously in Amsterdam'. It proved 'one of the most popular Ovidian texts in seventeenth-century England'. During the period of its premature publication Garrett tells us the notions expressed in the precept were gaining 'popular currency'. Apparently, 'prior to the 1590s, the notion that force pleases women appeared rarely in English literature, popular or elite'. In fact she suggests that Heywood's translation became something of a '"cultural taboo"', lacking the '"humanist apparatus" that accompanied other early modern translations of Ovid'.[19]

Heywood was less coy about his authorship of *An Apology for Actors* which was printed separately in 1612. It includes his translation of the Sabine rape which appeared later in his full translation of the *Art of Love*. It is therefore difficult to separate Ovid's approach from Heywood's, but it also true to say that both Heywood's *Apology* and his *Rape of Lucrece* indulge the mischievous titillation which might be associated with Ovid's work.[20]

Shakespearean Re-Interpretations

Ovid's tale of 'Tereus, Philomela and Procne', from the *Metamorphoses* provides a template for Lavinia'a rape and mutilation in Shakespeare's *Titus Andronicus,* and is mentioned as a symbolic reference in his *Lucrece* and *Cymbeline*.[21] Helen occurs as a palimpsest behind the fantasy figure summoned in Christopher Marlowe's *Doctor Faustus,* and is invoked in

[19] Garrett, 'Sexual Consent', 38, 40.
[20] The three works cited in this paragraph are discussed later in the chapter.
[21] Reid, II, 'Philomela and Procne', 896.

Shakespeare's *All's Well That Ends Well* and *Troilus and Cressida*.[22] Shakespeare, Heywood, and Thomas Middleton all explored the Lucretia myth in their writings.

Shakespeare's interest in rape coincides with the circulation of provocative ideas and their availability in print. Discussion of the morality of suicide, and Ovid's precept was circulating at the end of the sixteenth century, and printers and publishers were seizing their opportunities to offer an expanding range of works. At the same time, a 'vogue for blood and guts revenge drama' had marked the beginning of the 1590s.[23] Shakespeare's *Venus and Adonis*, with the goddess's attempted seduction, or comically inverted 'rape', of Adonis was written in the same period as his *Titus* and *Lucrece*. Venus's attempt does not, however, constitute rape either legally or culturally (then or now), and *Titus*, and *Lucrece* are the works under review in this section.

[22]*Ibid*., I, 'Achilles, Afterlife', 15, 'Helen of Troy', 500, II, 'Paris and Helen', 833; Heywood, T*he iron age containing the rape of Hellen: the siege of Troy* […] &c. (London: Okes, 1632); *Doctor Faustus*, in *Doctor Faustus and Other Plays*, ed. by David Bevington and Eric Rasmussen, Oxford English Drama (Oxford: Oxford University Press, 1995; repr. 1998); *All's Well that Ends Well*, ed. by Susan Snyder, The Oxford Shakespeare (Oxford: Clarendon Press, 1993; repr. Oxford: Oxford University Press, 1998). Heywood's dramatic representation of the Trojan war in *The Iron Age* necessarily includes the rape of Helen, however, its source is not Ovid. See *Troilus and Cressida*, ed. by Kenneth Muir, The Oxford Shakespeare (Oxford: Oxford University Press, 1982; repr. 1984). Reid, II, 833, explains that Heywood's *Iron Age* was 'partially derived' from his *Troia Britanica: or, Great Britaines Troy* (London: Jaggard, 1609). However, the source of the *Age* plays seems to have been contentious from before the beginning of the last century – particularly the *Iron Age*. Its source has been variously identified: John S. P. Tatlock, 'The Siege of Troy in Elizabethan Literature, Especially in Shakespeare and Heywood', *PMLA*, 30 (1915), 673-770 favours Caxton's *Recuyell* over Lydgate (686, 721-23), and, in fact, maintains that Lydgate cannot be the source (719, 721-723). He observes borrowings from Virgil's *Aeneid*, book II, (693) and identifies Homer as another important source (723). He also finds that *The Iron Ages* predate *Troia*, (714, 715) and that 'most of act v of Iron Age I, the contention of Ajax and Ulysses for the arms of Achilles, is taken from *Metamorphoses* xiii, 1-381' (723). On the other hand, Hyder Rollins, 'The Troilus-Cressida Story from Chaucer to Shakespeare', *PMLA*, 32 (1917), 383-428, states that 'Heywood probably got most of his material from Lydgate', (418) but goes on to acknowledge that he took his Thersites from the Iliad, and 'has a number of remarkable deviations from Lydgate's narrative, […] due, no doubt, to his knowledge of Homer'. Another opinion comes from Allan, Holaday, 'Heywood's *Troia Britannica* and the *Ages*', *The Journal of English and Germanic Philology*, 45 (1946), 430-439, although he argues for Caxton over Henslowe for the first three *Ages*, he tentatively believes Henslowe to be the source of the *Iron Ages* (439). There is a fuller summary of the debate in Ernest Schanzer, 'Heywood's Ages and Shakespeare', *Review of English Studies*, n. s., 11 (1960), 18-28.

[23] Bate, *Shakespeare*, p. 101.

Although there may not be a specific single traceable source for *Titus*, there is evidence for Shakespeare having combined several incidents from Roman mythology and history. Following Kyd's *Spanish Tragedy* and Marlowe's *Jew of Malta*, the play might also be seen as Shakespeare's contribution to the fashion for revenge drama.[24]

The Philomela myth patterns Lavinia's rape and determines the course of the tragedy. It is manifested in the form of the book which substitutes for Lavinia's lost speech and for Philomela's needlework. Shakespeare inverts the triangular relationship so that, in *Titus*, two brothers rape an only daughter. Demetrius and Chiron signal their knowledge of the story from the *Metamorphoses* by not just cutting out Lavinia's tongue but lopping off her hands to prevent her identifying them. And they taunt Lavinia with imagery suggestive of Philomela's weaving. Chiron suggests she hangs herself and Demetrius adds: 'If thou hadst hands to knot the cord' (II. 3. 10).

Yet rape is not the initiator of revenge in *Titus Andronicus*. Bodies begin to pile up from early in the first scene when Titus grants Lucius the rite of sacrifice – unprecedented in Roman custom and in Christianity.[25] Gratuitous murder and mutilation follow in steady order. The actions of the war-weary Titus resonate with the Roman virtue of *disciplina* portrayed in Livy's history. Livy describes 'tales of discipline instilled by floggings, sons executed by fathers to preserve *disciplina* for the state, and men hardened to fight both the enemy without and the weakness within themselves'. It is a model visible in Titus who sacrifices the life Mutius, one of only four remaining of his original twenty-five sons, to his code of familial and paternal honour, privileging the politically expedient claim of Saturninus for Lavinia over any prior understanding with Bassanius.[26]

[24] Bate, *Titus*, pp. 85-86, and, *Shakespeare*, pp. 101-108.
[25] Bate, *Titus*, p. 6, suggests that in Roman ritual animal rather than human sacrifice was the norm.
[26] Joshel, p. 118.

Lavinia's rape is foreshadowed in her abduction by Bassianus, or were she already betrothed, by Titus's presentation of her to Saturninus – the recurring motif in rape drama whereby failure to follow conventions of betrothal and marriage leads to a woman's rape.[27] Titus's revenge for Lavinia's rape follows Philomela's pattern, and Lavinia appears a willing accomplice in the gory deaths of her assailants, and their disposal in a pie served to Tamora. The final round of killing begins with Titus's swift dispatch of his daughter after Saturninus's unknowing invocation of a father's duty to slay a daughter who had been 'enforced' (V. 3. 38). It serves as 'A pattern, precedent, and lively warrant' (V. 3. 43) for Titus who briefly finds relief in the Roman code of honour, vesting all the shame of rape in Lavinia: 'Die, die, Lavinia, and thy shame with thee, | And with thy shame thy father's sorrow die' (V. 3. 45-46). The play incorporates and competes with the worst Ovidian cruelties. But without the supernatural intervention of mythical gods, death is the only way to effect the mortal Lavinia's transformation from mutilated victim to memorable heroine and exemplar.

Shakespeare's 'Rape of Lucrece'

While as an "exemplar of chastity" Lucrece's virtue make her a familiar inhabitant of early modern texts, there are relatively few retellings of the rape of Lucrece.[28] Shakespeare's interpretation of the myth, confronts the challenges raised by the opposing pagan and religious codes and the dilemmas rape engenders. Modern critics generally concur with T. W Baldwin that, in exploring the sources for his *Lucrece,* Shakespeare was sufficiently competent to have read Ovid and Livy in the original Latin. However, it is equally likely that Shakespeare referred to other available sources. He is believed to have used a version of Ovid's *Fasti* that incorporated notes by Marsus, 'who had correlated most of the other Latin

[27] Abduction, or elopement, of course both fell within the remit of rape law.
[28] See Sarah Carter, p. 53.

sources', and possibly accessed Dionysius.[29] Other critics agree that he appears to have used Painter, in conjunction with Livy, and Cooper's *Thesaurus*, the 'standard' Latin-English dictionary at the time – bearing in mind that there was not yet an English translation available.[30]

Acknowledging Baldwin's analysis, Bate identifies Ovid as Shakespeare's main source for *The Rape of Lucrece* and finds that by privileging Ovid's account over that of Livy, Shakespeare's primary interest was not in the political history. Rather, the work is unusual in exploring the inward despair felt by a victim of rape. Bate finds that Shakespeare's principal interest is the psychology of desire'. Shakespeare's focus is inward, on the thoughts and feelings of the characters. The poem displays the methods of argument seemingly derived from rhetorical skills Shakespeare admired so much in Ovid, and would have practised in exercises at grammar school. [31]

The structure of the poem supports the argument for personal rather than political analysis. Shakespeare's *Lucrece* omits the initial boasting contest and visit to Rome described by Livy and Ovid, hastening straight to Tarquin's lust-driven flight. In a poem of 1855 lines, within 119 Shakespeare has described his journey and arrival, and has him settled in bed as a respected guest at Collatium. Tarquin tosses and turns, his mind disputing ''Tween frozen conscience and hot burning will' (247). His advance on Lucrece's bed-chamber employs Ovidian suspense and erotic anticipation till she is woken by his hand on her breast (442-46).

---

[29] T. W. Baldwin, *On the Literary Genetics of Shakespeare's Poems and Sonnets* (Urbana: University of Illinois Press, 1950), p. 99, pp. 105-106, p. 109, p. 153. Throughout Chapters 4, and 5 (pp. 97-153), Baldwin provides the evidence for the various Latin sources, commentaries, and their interrelation. He discerns rhetorical techniques probably learned at grammar school at pp. 117-19. For a detailed discussion of Ovid in the classroom, Shakespeare's education and classical sources see Baldwin's *William Shakspere's small Latine and lesse Greeke*, 2 vols (Urbana: University of Illinois Press, 1944; repr. 1956). Binns, 'Shakespeare's Latin Citations: The Editorial Problem', in *Shakespeare Survey: An Annual Survey of Shakespearian Study and Production, 35*, ed. by Stanley Wells (Cambridge: Cambridge University Press, 1982), pp. 119-128, points out the problems of missed allusion and humour which ensue when editors underestimate Shakespeare's knowledge of Latin.

[30] Charles and Michelle Martindale, *Shakespeare and the Uses of Antiquity: An Introductory Essay* (London: Routledge, 1990), p. 6, pp. 61-62 (p. 6); Starnes and Talbert, pp. 125-32.

[31] Bate, *Shakespeare*, p. 67, p. 69, draws attention to the antithetical conceits in language and structure which set up the psychological antithesis of desire. See also Donaldson, pp. 40-44, esp. p. 41).

He attempt to persuade; she attempts to dissuade. The rape occurs between only fifteen lines from the moment Tarquin loses patience and 'sets his foot upon the light' (673) to the point where 'she hath lost a dearer thing than life' (687). Lucrece's complaint occupies about a half of the remaining thousand or so lines. Only in the final six stanzas does Brutus turn the minds of the grieving husband and father to politics and the banishment of Tarquin.

Virtue and beauty are placed in contention early in Shakespeare's poem, and even in the face of Lucrece's purity Tarquin blames her beauty for his act, claiming:

> The fault is thine,
> For those thine eyes betray thee unto mine
> […]
> Thy beauty has ensnared thee to this night.
> (482-485)

Beauty and fault enjoy a proximity which is deemed to defy innocence, and Lucrece, like Tarquin, locates its disruptive power in the eyes – not the eyes of the lustful beholder, but the eyes of the beholden. Afterwards, awaiting the return of her husband, Lucrece observes characters familiar from Ovid while musing upon a painting of Troy. She directs her anger at Helen blaming 'her beauty', her 'heat of lust' (1472, 1473), and claiming 'thy eye kindles the fire' (1475), inspiring Paris's rape and bringing about the wrath that led to the destruction of Troy. Apparently unaware of the irony of her words, Lucrece ventriloquizes the attribution of blame and guilt to 'the strumpet that began this stir' (1471). By perpetuating the contention between virtue and beauty familiar from Ovid's depiction of Helen and Paris Lucrece gives legitimacy to Tarquin's attempt to transfer guilt to her.

The religious and moral debates which adhered to the Lucretia myth through Augustine's questions haunt the text. Lucrece's claim to guiltlessness rests on the argument first set out in Livy's account and reprised by Augustine, asserting the spotlessness of her mind over her stained blood (1655-56). Yet she still insists that 'no dame hereafter living | by my excuse shall claim excuses giving' (1714-15). And Shakespeare is careful to account for

the necessity of her suicide. He rationalizes her need to follow the Roman fashion of self-sacrifice for the honour of the family name. There is no hint in Shakespeare's language or narrative that the myth is other than one of exemplary virtue overcome by unbridled lust, and Lucrece's virtue is reiterated in the occluded aftermath of the rape: 'O that prone lust should stain so pure a bed!' (684) But having once been voiced, Augustine's questioning of the need for suicide and the doubt it casts on the victim's integrity is indissoluble.

Shakespeare's use of animal imagery and metaphor closely resemble those used in Ovid's myths of both Philomela and Lucretia. Tarquin is 'as the grim lion [that] fawneth o'er its prey (421) and 'the full-fed hound or gorged hawk' (694). She is 'like to a new-killed bird' (457), and in her 'trembling fear [is] as fowl [that] hear falcon's bells' (511). As he rapes her, 'the wolf hath seized his prey, the poor lamb cries' (677). Tarquin's assault on her breast follows Ovid's in the explicit description: earlier as he watches her sleeping, his veins 'swell in their pride, the onset still expecting' (432). As has already been observed, both the metaphors and the explicitness, in Ovid's work, are associated with comedy. But in the context of Shakespeare's focus on the interiority of the characters, unlike Ovid's, his descriptive devices are compatible with a sympathetic exploration of his characters' mood, rather than equivocation and prurience.

Doubt and Humour

Lucrece and Middleton's Ghost

In *The Ghost of Lucrece*, Middleton summons the ghost from her 'virgin paradise of death' between life and eternity.[32] In his introduction to the poem, Shand identifies Ovid's, Livy's and Shakespeare's influences, and in particular the style of several other late sixteenth-century, works of 'complaint'.[33] The ghost and the poem together occupy a no-man's-land of doubt and opposition between classical and early modern ideology, sympathy and disgust, pagan and Christian imagery. The text is awash with blood, tears, sweat, slime and melted wax: imagery that embodies in Lucrece early modern disgust for women as moist, 'leaky' and sexually incontinent.[34] Augustine's questions hang in the air. The ambiguous expression of Lucrece's shame for her lost chastity (73-79) allows 'The root of fiery blood and luxury' (77) planted in her to be either hers or Tarquin's; her 'blood' is 'oil', 'his lust […] fire' (79). And she hints at guilt for being beguiled by his 'flattering voice' (457). She laments and pleads to be allowed to redeem her chastity, and 'for the haven of heaven' (543). But it is her 'Tarquin-death' (654) that determines her fate. The poet gently interrupts her pleas: 'Lucrece, alas' (556). He makes clear that whichever god she prays to the Christian faith determines entry to heaven. Christianity proscribes suicide and, therefore, redemption: 'Lucrece, I say, how canst thou Lucrece be, | Wanting a god to give a life to thee?' (561-62). With enormous pathos, he describes how her objectified beauty, 'Now stained by death' (652), dissolves as she is called to 'the hall of hell' (597) to endure eternity with Tarquin.

[32] Middleton, *The Ghost of Lucrece*, ed. by G. B. Shand, in *Thomas Middleton: The Collected Works*, ed. by Gary Taylor and John Lavagnino (Oxford: Oxford University Press, 2010), line 64. Subsequent references are to this edition, and given after quotations in the text.
[33] Shand, *ibid.*, pp. 1987-88.
[34] See Gail Kern Paster, *The Body Embarrassed: Drama and the Disciplines of Shame in Early Modern England* (Ithaca, New York: Cornell University Press, 1993), esp. pp. 82-83. In each of her various chapters, Paster deals with a different form of incontinence and the gendered implications: those of menstruation and lactation, obviously, being exclusively female. See also Gowing, *Common Bodies*, pp. 22-26.

Heywood's Lucrece

Doubt legitimizes humour – especially if linked with the Ovidian suggestion that women want to be forced, and Heywood's *Rape of Lucrece*, published in 1608, took a far less reverential approach to the subject than Shakespeare's.[35] Heywood introduces the convention of feigned female resistance, enabling the event itself to be performed as titillation. As the Roman men seek relief from their woes under the oppression of Tarquin, Valerius sings a bawdy song containing the lines:

> She that denies me, I would have,
> […]
> That crafty Girle shall please me best
> That No, for Yea, can say,
> And every wanton willing kisse
> Can season with a Nay.[36]

The villainous Tarquin's misogyny is notably scathing, and already pointed at Lucrece: 'What's Lucrece but a woman, and what are women | But tortures and disturbance unto men?' (p. 207).

Heywood also archly mocks his fictional Lucrece's chastity self-reflexively through the character of the mythical Lucrece herself: Brutus refers teasingly to 'the chastity of divine Lucrece' (p. 196), while she humourlessly berates her servants with her 'reputation | Which is held precious in the eies of Rome' (p. 197). She upbraids the clown and her maid for wanton flirting and unbecoming immodesty. After all, she claims, her 'owne experience testifies' against the servants' behaviour (*ibid*.). This 'experience' is contrary to the naiveté she shows in the face of Tarquin's attention on his unexpected return. It is, in fact, more in keeping with the suggestiveness in her earlier plea that 'my husband repose this night with me' (p. 214). Lucrece does not deny Tarquin a good-night kiss and ignores the prospect of any threat to her

[35] Sarah Carter, p. 60, tells us that 'texts that use Lucrece as an example of noble suicide are all pre-1604'. Even so Heywood's comical interpretation is anomalously early (p. 66). She notes the possibility that the decline in reverence for Lucrece might be a symptom of the intensification in the suicide debate in texts after 1620 (p.60).
[36] Thomas Heywood, *The Rape of Lucrece*, in *The Dramatic Works of Thomas Heywood*, ed. by Richard Herne Shepherd, 6 vols (London: John Pearson, 1874), V, p. 194. Subsequent references are to this edition unless otherwise stated, and given after quotations in the text.

virtue. Yet she is sufficiently discomforted to commit her 'chastity and honour' to Jove as she goes to sleep (p. 220). It is difficult to believe that Heywood is not mocking the idea of female chastity in Lucrece's confused and unconvincing naiveté.

Heywood uses an argument suggested by Aretino when Tarquin assures Lucrece that if she submits to him no one will know.[37] Tarquin intimidates, cajoles and threatens her with a shameful death. Lucrece refuses and pleads, eventually exclaiming, 'Jove guard my innocence' (p. 225), before he carries her out. The audience is left to imagine whether she ceases to resist in the face of Tarquin's superior strength, whether he overcomes her resistance, or whether she gives in to the threat of public shame. It is a dramatic conundrum which facilitates facetious speculation about whether rape is defined simply by refusal, or by the expectation of resistance to the death. Where might the point be where submission and complicity merge, and where is Lucrece located in the debate?

In the aftermath of the rape, the song sung by Valerius, Horatius and the Clown confirms the mischief Heywood releases in his portrayal of female virtue. These are the friends of Collatine and supposedly respectful admirers of Lucrece's qualities. To both satisfy the salacious speculation of the friends and maintain the discretion entrusted to the Clown by the violated Lucrece, they sing of the events they imagine in the form of a bawdy catch. Each line extends a further stage up Lucrece's anatomy from her toes, plotting Tarquin's progress, and is affirmed with the Clown's refrain: '*Ha ha ha ha man*' (pp. 232-33). Donaldson's analysis is that 'Heywood's intermittent humour reveals the stresses and strains which he evidently felt to inhere in the original story', however, he suggests that the purpose is to relieve tension in the audience.[38] Rather than being confined to the source, Heywood possibly gives vent to the unease that adheres more generally to the question of female chastity.

[37] See Donaldson, pp. 89-95. He relates that Aretino suggested an alternative scenario for the Lucretia story in which the heroine enjoyed the encounter and then kept her counsel. Machiavelli's version of the plot, *Mandragola*, follows Aretino's direction, relying on the stereotypes of cuckolded husband and unfaithful wife.
[38] *Ibid*., pp. 86-7.

Verse Miscellanies

The myriad Ovidian references throughout early modern writing indicate that accessibility to a widening audience through print and translation engenders recognition, familiarity, and experimentation. Once rape transfers from myth and legend to the sphere of early modern culture, the distancing tricks of metaphor and allegory blend with, or are displaced by, those impulses. And questions ensuing from Augustine's intervention give credence to doubt about women's honesty and allegations of rape.

In the 1590s Ovid's precept became part of the teaching in English verse miscellanies. Two linked verses attributed to Sir Walter Raleigh from the 1593 *Phoenix Nest*, an unattributed poem from *The Passionate Pilgrim* (1599), and some ten of Robert Jones's songs, written between 1600 and 1609 all treat the notion of force as comic and women as hypocritical.[39] Raleigh's 'A Counterlove', for instance, includes the lines:

> Fained resistance then she will begin,
> And yet unsatiable in all the rest,
> And when thou doost unto the act proceede,
> The bed doth grone, and tremble at the deede.[40]

They appear in a poem of nearly three hundred lines of cynical warning about the torments and regrets awaiting those who capitulate to feelings of love, of which women's disingenuousness in resisting men's sexual advances is but one aspect. His 'A Description of Love' (p. 90) is more brief and playful in tone. Comprising five six line stanzas including the line, 'The Lasse saith no, and would full faine' (line 17), it claims love is a game of contradictory frustrations and rewards – of which the woman's feigning is a standard tactic.

[39] Garrett, 38, and 43 (38); on the question of authorship of *The Passionate Pilgrim*, see *Poems*, ed. by Roe, pp. 54-60.
[40] *The phoenix nest 1593*, A Scolar Press Facsimile (London: Scolar Press, 1973), p. 81, lines 5-8.

Describing two possible outcomes, poem number 18, 'When as thine eye', from *The Passionate Pilgrim*, suggests either that the woman who successfully deters the advances of her lover 'will repent' that she 'dissembled' and missed her opportunity, or conversely:

> What though she strive to try her strength,
> And ban and brawl, and say thee nay,
> Her feeble force will yield at length,
> When craft hath taught her thus to say:
> 'Had women been so strong as men,
> In faith you had not had it then'.[41]

The next stanza describes women's 'wiles and guiles', dissembling, 'tricks and toys', and ends by suggesting 'A woman's nay doth stand for nought'. Garrett contextualises the poem, drawing comparisons with Heywood's translation of the *Art of Love*, and observing that its axioms are 'as much epistemological as moral'. She notes the premise behind both the *Art of Love* and 'When as thine eye', that there is a code in which men need tutelage, contradicts the simplicity implied by the message that a woman's 'no' means 'yes'. The interplay, she finds, is justified by the emphasis placed on 'women's innate deviousness'. The verses make explicit, as humorous entertainment, what is discernible in the moral codes and practice imposed by communities and courts: that women feign weakness, are usually overcome by choice, and therefore rape is a rare phenomenon.[42]

Jones specialized in setting love lyrics to music, favouring the comic. Many lyrics were anonymous; some were borrowed without consent from authors including Sidney, Sir John Davies, and Thomas Campion. Garrett finds 'at least ten' playing with the presumption that women like to be forced.[43] She discerns the presumption that women from the lower orders – indicated by the familiarity of their names – are fair game for the sexual attentions of men of higher social standing. In each of four songs – 'Sweet Philomel in groves and deserts hunting' (with a more lowly counterpart, 'Sweet Jinny'), 'On a time in summer season'

[41] *The Passionate Pilgrim*, in *The Poems*, ed. by Roe, number 18, lines 27, 28, and 31-36.
[42] Garrett, 45
[43] *Ibid*., 46-47 (46).

(Jenny), 'Sweet Kate of late run away', and 'Think'st thou, Kate, to put me down' – the maidens respectively protest despite their pleasure or intent. Jenny and Sweet Kate both mock their lovers for heeding their disingenuous protestations.[44]

Sharing the Joke: Ballads and Broadsides, Libels and Scandals

There is an obvious difficulty in associating rape with humour, yet, as we have seen, where there is a failure to recognize the crime it can be ridiculed as another sexual misdemeanour.[45] Humour can betray 'fundamental values of past societies', and also provide 'a powerful source of social cohesion'. It can, therefore, be a means of reinforcing stereotypes and cementing prejudices. In early modern England, humour equated more to mockery than to comedy. In puritan ideology laughter was disapproved, while in the second part of the sixteenth and early seventeenth centuries the bishops prohibited jokes about the clergy, and laughter in church. However the church was not unhappy to see mockery employed against the puritans, and ridicule was a component of the rituals of shaming those whose transgressions brought them before its courts.[46] The humour associated with early modern popular verses was, therefore, likely to be intentionally direct and, without the paraphernalia of literary conceit to mediate its effect, it could invoke cruel laughter at sometimes tragic events. There is little extant ballad material describing male insistence / female resistance to equate with contemporary notions of rape. It does though, become more visible later in the century.[47] Instead, the possibility that a woman might be raped disappears amidst tales of

[44] *Ibid*., 48-53.
[45] The failure to recognise rape is discussed in Chapter 4.
[46] Keith Thomas, 'The Place of Laughter in Tudor and Stuart England', *TLS*, 3906 (21 January 1977), 77, 79; see also Indira Ghose, *Shakespeare and Laughter: A Cultural History* (Manchester: Manchester University Press, 2008), pp. 2-5, p. 107.
[47] See for example 'Come to it at Last: Or, The Successful Adventurer', in *Roxburghe III*, ed. by Chappell, pp. 536-40, dated 1681-1684, in Wing (CD-ROM, 1996), C5500, 'The Coy Shepherdess', *ibid.*, pp. 619-22, dated 1665?, in Wing (CD-ROM, 1996), P48, and 'The Beautiful Shepherdess(e) of Arcadia', *ibid*., pp. 451-55, dated 1660?, in Wing (CD-ROM, 1996), B1639.

rueful female complaint, cynical male pursuit, abdicated responsibility and the insidious presence of Ovid's precept.

Unlike the idealized unreality and equivocal morality of classical mythology, the impugning of reputation indulged in popular verse at village level was more akin to the preoccupations of the bawdy courts. Ballads were printed and sold commercially. Tessa Watt explains that they were accessible in price and contemporary sources show that they circulated throughout society from the great houses to peasant cottages.[48] For the illiterate, the educated in the community 'such as a clergyman or a tradesman, an apprentice or a schoolboy' would provide help, or the songs could be learned by ear. Songs were primarily distributed by petty chapmen, but were also performed by troupes of professional 'interlude players' who plied their trade in venues as diverse as rural alehouses and the grand houses of their noble patrons.[49] Watt makes a conservative estimate that some 3000 ballads were in circulation in 600,000 copies in the second half of the sixteenth century.[50]

Circulating ballads included broadsides and libels, while 'crude jingles' ridiculed others in the community. Although common to all levels of society, libelling was most frequently employed by the middling sort. Humour, moral judgment and mockery were all embedded within verses. They might be written down or passed on by word of mouth, and gave vent to gossip and rumour – as well as disapproval. They publicised the perceived misdemeanours of individuals, generating a public consensus of amusement and disapproval, while providing an apparatus of scrutiny and self-regulation to police moral behaviour. Verses which were freely distributed and pinned-up in various public places might also be libellous. In fact, they are most likely to have survived in court records when one neighbour

[48] Tessa Watt, *Cheap Print and Popular Piety, 1550-1640* (Cambridge: Cambridge University Press, 1991; repr. 1996), pp. 11-12.
[49] Adam Fox, *Oral and Literate Culture in England, 1500-1700* (Oxford: Clarendon Press, 2000), p. 39; Watt, p. 13, pp. 30-31.
[50] Watt, p. 11.

took exception to the allegations or innuendo made against them by another, and those records provide a record of contemporary values and attitudes.[51]

Ballads and Broadsides

The apparent absence of rape from the legal record is matched by a comparable lack in the ballads. Open acknowledgement of unwelcome male force is scant.[52] But a smattering of 'complaints' tell similar stories to those found in church court records: they tell of maidens who are seduced or forced and then abandoned by an avowed lover, of pregnancies, and of grief for lost reputations.[53] The Lovely Northern Lasse of the eponymous ballad, 'beguiled' by the shepherd boy's alluring tongue, is pregnant and cast out of her home. The young woman of 'The Maiden's Complaint', who has lost her 'jewel', only to find 'the thiefe is fled', is left to grieve, while the subject of 'The Desperate Damsell's Tragedy' finds suicide the only answer to her disgrace. Rarely is the wronged maid perceived – particularly by herself – as anything but the architect of her own fate.[54]

---

[51] Fox, pp. 42-43 (p. 43), pp. 309-10, pp. 299-302. His Chapter 6 (pp. 299-334), 'Ballads and Libels', discusses the power, function and circulation of libels.

[52] In the ballad, 'As pleasant a dittie as your hart can wish, Shewing what unkindness befell by a kisse', in *A Collection of seventy-nine black-letter ballads and broadsides, printed in the reign of Queen Elizabeth, between the years 1559 and 1597,* (London: Lilly, 1867), pp. 214-16 (dated 1600(?), in *STC* (2nd edn), 6919), the male lover acknowledges using force to achieve a 'kiss' which he assumes, despite resistance, was secretly enjoyed. It is not only unusual for the apparent recognition by the man that his actions were unwelcome, but he bases his consolation in the idea that women want to be forced – even if only for a 'kiss'. A very useful resource is *English Broadside Ballad Archive* <http://ebba.english.ucsb.edu/> The absence of direct reference to rape in the ballads calls for creative word searching.

[53] Amussen, '"Part"', p. 219, notes that 'serious accounts of rape' scarcely feature in popular literature, but people were amused by descriptions of coercive sex. See also Sandra Clark, *Women and Crime in the Street Literature of Early Modern England* (Basingstoke: Palgrave, 2003); she discusses the circulation of accounts of crime via street literature and ballads. The book is concerned with crimes by women, and gives helpful context but does not directly concern rape.

[54] 'Complaints' include: 'A love-sick maid's song', in *The Pepys Ballads*, ed. by Hyder Edward Rollins, 7 vols (Cambridge, Mass: Harvard University Press, 1929-1931), I, 1535-1625 (1929), 90-94 (dated ca. 1625, in *STC* (2nd edn), 17186.5); 'A pleasant song of a maiden fair', *ibid.*, II (1625-1640), 157-61 (dated ca. 1630, in *STC* (2nd edn), 22920.9); 'The deceased Maiden-Lover' and 'The Faithless Lover', in *The Roxburghe Ballads*, ed. by Charles Hindley, 2 vols (London: Reeves and Turner, 1873-74) I (1873), 339-44 (dated 1628, in *STC* (2nd edn), 16862.1); 'The Desperate Damsell's Tragedy', *ibid.*, 345-51 (dated 1630?, in *STC* (2nd edn), 19227); 'The Lovely Northern Lasse', in *Roxburghe*, Hindley, II (1874), 225-31 (dated 1632, in *STC* (2nd edn), 15264); 'The Maidens Complaint of her Loves inconstancie', *ibid*., incorrect pagination: pages numbered 298-304, located at 398-404 (dated 1620, in *STC* (2nd edn), 17190); 'The Witty Western Lasse', in *The Roxburghe Ballads*, ed.by

In the introduction to *A Collection of seventy-nine* [Elizabethan] *black-letter ballads and broadsides*, the anonymous commentator describes two main divisions of ballad: the literary (love, romance, stories and facetiae), and the political. Among the facetiae, he tells us, some 'are more or less openly obscene, of which there is one example only in the present volume'. That example is another troubling variation on a theme of supposed female complicity. The title, 'A Ditty […] of Mother Watkins Ale', is a euphemism for the product of ejaculation. The outcome of the sorry tale is inevitably pregnancy – garnered with an apology and a warning to the female audience, while the whole is merely an excuse for ribaldry. The maid is, apparently, at the same time 'afraid to die a mayd', and unaware of what she means. The contradiction enables humour at the expense of both her complicity and her ignorance. Although there is no persuasion implied here – let alone rape – the maid has been taken advantage of, and is, at the very least, naïve.[55]

Attitudes depicted under the guise of arch humour in the ballads are, however, consistent with the understanding that sex relies on a woman's complicity and allowing claims of physical force or coercion to be treated lightly. Together with the emphasis on women's responsibility to resist – despite the apparent taboo surrounding Heywood's translation of the *Art of Love* – the idea that women like force completes a trap. Garrett perceives a growth in the popularity of Ovid's precept, and what was at first a novel idea, she maintains, gained 'rapid naturalization and popularization' through its treatment and circulation.

William Chappell and Joseph Woodfall Ebsworth , 9 vols (London: Ballad Society, 1871-99) III (1880), 47-51 (dated 1631?, in *STC* (2nd edn), 12547.9).

[55] *Collection*, pp. xi-xii (p. xii), and pp. 251-55 (p. 251), (dated [1590?], in *STC* (2nd edn), 25107).

Local Libels, Scandal and Excess amongst the Aristocracy

Libels transform ballads of complaint to polemic, losing the distance and compassion that imagination permits. Despite any underlying humour their satirical cruelty complies with the invective of insult which often led to the courts. They are direct, unmoderated by either wit or compassion – whether knowing or moralizing – and are little more than a vehicle for abuse. Fox describes how, in 1605, a number of inhabitants from Evesham, in Worcestershire, produced and replicated a crudely illustrated, libellous ballad. Over a period of several months it was distributed and pinned up around the town, in the taverns, and sung to passers-by. The object of ridicule was a local dignitary, George Hawkins whom the townspeople believed 'to have fathered a bastard child':

> I can noe more,
> This is the whore,
> Of cowardye George Hawkins.
> He got with childe
> In a place most wilde,
> Which for to name yt is a shame.
> Yet for your satysfactione,
> I will make realtione,
> It was in a privy,
> A place most filthy.
> As a gent you may judge,
> Yet nothing to bade,
> For a knave and a drabbe,
> And soe they praye goe trudge.[56]

The verse represents the familiar theme of a male authority figure taking sexual advantage of a girl of lesser standing. Although ridiculing *him*, the plot automatically labelled *her* a whore ('drabbe') whether she was willing or not. Two years later another three Worcestershire men found themselves before the courts for composing a ballad beginning: 'There is a maide of Moseley towne, | Her leggs be short she will soon be downe'.[57] They apparently describe an illicit, but consensual affair. Both libels though, serve the same purpose of expressing and

[56] Fox, pp. 302-304 (p. 303).
[57] *Ibid*., pp. 322-324 (p. 323).

policing codes of public morality – even though such expression might lead to prosecution of the libellers. And these ballads survive because of their preservation in court documents.

It was through the circulation of broadsides and manuscript libels that a series of scandalous events among the aristocracy, made public through the courts, captured public attention in Jacobean England. The behaviour that was revealed provided material for bawdry, satire and moral opprobrium that perculated across genres – including the stage. The events surrounding four cases of particular interest here had been violent and dramatic. As well as incidents of rape, abduction, and both covert and brutal murder, each case was tinged with allegations of adultery and impotence. Alastair Bellany's collections of printed and manuscript broadsides and libels gives a flavour of how the scandals were interpreted for public amusement, and with implications for the reputation of the establishment.[58] The atmosphere the scandals generated contributes to the discussion of drama in the following chapter.

The first of these cases was that of Frances Howard. Howard was successful in having her seven-year marriage to the Earl of Essex annulled in 1613 on the grounds of his impotence – grounds which stretched the credulity of associates and public alike. The annulment enabled her to marry Robert Carr, Earl of Somerset, in 1615. Howard and Carr were later suspected of involvement in the murder of Sir Thomas Overbury while he was imprisoned in the Tower. Overbury was a former friend of Carr who disapproved of the marriage.[59] The circumstances of the Overbury affair ensured that the subsequent murder trial

[58] *Early Stuart Libels: An Edition of Poetry from Manuscript Sources*, ed. by Alastair Bellany and Andrew McRae, *Early Modern Literary Studies* Text Series I (2005) <http://www.earlystuartlibels.net/htdocs/index.html> [accessed 7 February 2013]. Ballads are organised according to the various scandals.

[59] Bellany, *The Politics of Court Scandal in Early Modern England: News Culture and the Overbury Affair, 1603-1666* (Cambridge: Cambridge University Press, 2002), and David Lindley, *The Trials of Frances Howard: Fact and Fiction at the Court of King James* (London: Routledge, 1993), are both full length studies of the scandal from the point of view, respectively, of the politics and circulation, and of cultural assumptions surrounding Francis Howard. See also Edward Abbott Parry, *The Overbury Mystery: A Chronicle of Fact and Drama of the Law* (London: T. Fisher Unwin, 1925).

attracted intense public attention, ridicule and satire.[60] For example, the following ballad extract suggests that Howard induced Essex's impotency through witchcraft:

> Letchery did consult with witcherye
> how to procure frygiditye
> upon this ground a course was found
> to frame unto a nullatye.[61]

Inevitably, in terms of both her sex and the language of insult available, Howard attracts particularly vicious invective. Most libels concerning the nullity, and a significant proportion on Overbury's death, express their opprobrium in the form of sexual innuendo and sometimes vicious bawdy.[62] The ballad 'On Sir Tho Overbury' though, condemns both murder and its circumstances:

> o cruell slaughter! tymes unbred
> will say, who dies that is untymely dead,
> by treachery of lust, or by disgrace
> in frendship twas but Overburyes case.[63]

The vicious language of some of the material forges a link between immoral behaviour and representation. A violent end is identified as a real consequence of debauchery in the following fantasy about the Earl of Somerset's fate:

> art thou to be racked
> And piecemeal in some fearful engine torn
> That men may say behold such was his end
> That for his whore's sake murdered his dearest friend.
> Die therefore imp […].[64]

Ironically, in the second aristocratic scandal, Frances Coke was the daughter of the same Sir Edward Coke who, as Lord Chief Justice, had presided in the Overbury case prior to a fall from grace. His dismissal was undoubtedly connected with the complex and corrupt

[60] Bellany, *Politics*, pp. 282-83 lists seventeen printed works – verses and pamphlets – circulating about the Overbury case and the related activities of the participants.
[61] *Early Stuart Libels*, F2, 1-4.
[62] Six of eleven, such libels are particularly aimed at Howard: in addition to 'Letchery did consult with witcherye' (above), see *Early Stuart Libels*, F1, F3, F4, F5, and F10. One libel in the collection, F9, was probably written about a different scandal, and one F6, appears sympathetic. For examples of sexual insult and implied complicity with Overbury's death, of twenty-eight libels, H1, H5, H6, H8, H11, H17, and H21are focused on Howard, and H2, H9, H12, and H18 give greater emphasis to Carr.
[63] *Ibid*., H24, 17-20
[64] Bellany *Politics*, p. 237.

court politics, but a 'curmudgeonly' reputation and an antagonistic relationship with his ex-colleagues added to the general glee with which events were received. Those events were a very public dispute in 1617 between Coke and his wife, Lady Elizabeth Hatton, over their daughter's marriage. Coke planned to marry their younger daughter Frances to the mentally unstable Sir John Villiers in order to secure the family connection, and during the dispute first Lady Hatton, then Coke, carried off the unfortunate daughter into their respective control. The eventual marriage was later dissolved amidst further scandalous tales of insanity, alleged impotence, and disputed legitimacy.[65] Allusions to the affair are confined to ballads commenting more generally on Coke's career, but the family relations and marriage are mocked in the following lines written on his appointment as Sheriff of Buckinghamshire:

> your wife and frends will all bee gladd to heare
> that yow are made highe sheriffe of the sheire
> P your sonne in lawe that roareinge boye
> will now growe madd againe for very joye
> his wife will wishe, shee hathe beene often trickt
> her husband were like to her father prickt
> But shee will have it all by night or daye
> if it bee Inter quatuor Maria
> And throughe this great Alliance sure it came
> that yow was prickt highe sheriffe of Buckingham.[66]

Resonances of both the Overbury and Coke cases infected the Roos scandal – a tangle of generations, family relationships and feuds. The affair began with a property dispute between Lady Lake, wife of Sir Thomas Lake, and her son-in-law, William Cecil, Lord Roos, in which the earl and countess of Exeter, Roos's grandparents, also became involved. It quickly degenerated into an exchange of scurrilous sexual allegations of impotence, and of incest between the 'youthful' countess of Exeter and her step-grandson – together with an

[65] Burks, 759-62 (760); Allen D. Boyer, 'Coke, Sir Edward (1552-1634)', in *DNB*, online edn [accessed 29 January 2013], 'King's bench and chancery', paragraph 7.
[66] *Early Stuart Libels*, Oi9, 37-46. The editors explain that the appointment automatically excluded Coke from the 1626 parliament. Five others were similarly excluded – hence the title of the ballad, 'There was some pollicie I doe believe'. In line 39, 'P' refers to Villiers who was also entitled Viscount Purbeck.

alleged poisoning.[67] The following ballad boasts the title 'A Lybell uppon the Ladie Rosse'. In the preamble Bellany and McRae tell us that 'this obscene attack on Anne Cecil, Lady Roos' contains 'the charge that Lady Roos wore fake pudenda or pubic hair' – a 'mirkine'.

> Waste not a signe that courtlye Rosse should fall
> when that her Mirkine lost his Coronall
> what tricke in dancinge could the devill produce
> to fitte her too a haire and make it loose
> Twas no Caper. for she hath ofte bene boulder
> when she advancte her legge on one mans shoulder
> Sure some crosse poynte: for in open waye
> her Mirkine nere was foundered or made straye
> who had the harder chance I praye you reade
> the Page that founde or she that lost her bearde.[68]

The fourth scandal was that of the infamous Dr Lambe who, although not a member of the aristocracy, found favour with the Duke of Buckingham and his mother. Buckingham in turn was a favourite of the King, was loathed by the public, and was the younger brother of the insane Sir John Villiers to whom Frances Coke had been unwillingly married. Dr Lambe was as unpopular as his sponsor. His notoriety involved astrology and supposed magical powers. In 1623 and 1624 he was alternately convicted of and then pardoned for the rape of an eleven-year-old girl. He eventually met his death at the hand of a mob in 1628.[69] The verses dedicated to Lambe are confined to five very brief epitaphs which do not dwell on his misdemeanours but refer to him variously in terms of conjurer, glutton, devil, knave, and imposter, and wish his soul to hell.[70]

The later downfall of the earl of Castlehaven under Charles I (described in Chapter 4) apparently did not directly generate a significant quantity of satirical or moralising literature. Only five verse libels ensued: Herrup suggests that the Earl's otherwise unknown status and his repudiation by the King might have reduced the motivation for sustained public mockery. One of the verses became known as his epitaph. Written in the voice of the Earl, it accuses

[67] Bellany, *Politics*, p. 253.
[68] *Early Stuart Libels*, J1. 'Coronall' (line 2) is also glossed in this context as 'presumably, pubic hair'.
[69] Anita McConnell, 'Lambe, John (1545/6–1628),' in *DNB*, online ed. [accessed 29 January 2013].
[70] *Early Stuart Libels*, Oiii, 6-9.

the Countess of adultery and malice.[71] Two more verses, a 'responsio', and an answer, in the voice of the Countess, asserted her innocence saying he only has himself to blame because of his 'odious' behaviour. The extent of direct involvement in their composition by either party is not known, but certainly those on behalf of the Countess are thought more likely to have had male authorship.[72] The remaining two verses respectively praised the judicial system which condemned him, and mocked the proceedings and the participating judiciary.[73]

The epitaph reads:

> I need no trophies to adorn my hearse
> My wife exalts my horns at every verse
> And places them so full upon my tomb
> That for my arms there is no vacant room
> Who will take such a Countess to his bed
> That first gives horns and then cuts off the head?

The responsio:

> Tis true you need no trophies to adorn your hearse
> Your life being odious and below all verse
> Nor was it your wife who came chaste to your bed
> That did you horn; your own hands horned your head
> Twas fit your head should of then most men censure
> That you lived so, should die a monster.

Whatever the truth about life in the Castlehaven household, it is notable that the epitaph attempts to present the Earl's innocence in the context of the Countess's adultery and marital disharmony, while the surrounding accusations of sodomy, pandering, rape, sullying a noble line and misdirection of family inheritance are conveniently displaced behind the stereotype of an unchaste, scheming woman. The responsio returns the focus to matters of honour and responsibility, amongst which rape is elided. The doubt about the verdict and conduct of the trial to which sympathisers adhered, and which was expressed in one of the longer verses,

[71] Herrup, pp. 120-21, p. 188, note 13. The epitaph has variants in two forms in which additional verses either precede or follow the stanza, above. Herrup reproduces a full version of each of the five verses in Appendix B, pp. 160-164. The libels with variants can also be found in *Early Stuart Libels*, Q1-7.
[72] *Ibid*., pp. 121-22.
[73] *Ibid*., pp. 122-23.

indicates the actual as well as the perceptual problems in upholding an allegation of rape.[74] It seems that only the accumulation of circumstances and evidence of deviation from standards associated with masculine identity enabled a rape allegation to succeed.

Other than the five verses, although manuscripts of the trial were circulating even before the Earl's execution, commercial pamphleteering did not begin in earnest until 1643 when its political significance for the anti-Catholic, anti-royalist presses came to the fore. The residual presence of the Earl, Herrup argues, is more subtle: 'an unnamed example, an inexplicable reference, an expected but absent presence'. She points out that the *ESTC* shows 1632 to have given rise to more new editions and reprints of texts whose subject is rape or family than any other year in the period. They include: Claudius Claudianus's *Rape of Proserpine*, Heywood's *Iron Age*, Shakespeare's *Rape of Lucrece*, and the anonymous *The Nightingale Warbling Forth* (or *Philomel*). William Prynne's *Histrio-mastix*, which emphasises that sodomy is a capital offence, was published in 1633, and Milton's *Comus* in 1637.[75]

The scandals involved familial links which perhaps unsurprisingly extended widely throughout the aristocracy. Those links might raise further questions about whether such behaviour was an inevitable abuse of power, a symptom of the corrupt Jacobean court, or a familial infection. But oral transmission and the availability of cheap print ensured the matter of the scandals was already familiar to a wide audience.

Notably, the opprobrium and ridicule directed at the misdeeds of the aristocracy are of a different order from the prurient amusement aimed at women forced or coerced into sex. Early modern notions that women were unreliable in matters of chastity and desire were

[74] *Ibid*., pp. 122-23, 'My Lord High Steward his grace', Appendix B, p. 162-64.
[75] *Ibid*., p. 123, p. 126, p. 117-18 and p. 187, note 5 (p. 117). The relationship between the Castlehaven affair and *Comus* is disputed among literary critics: Nancy Weitz Miller, 'Chastity, Rape, and the Ideology in the Castlehaven Testimonies and Milton's Ludlow *Mask*', *Milton Studies*, 32 (1997), 153-68, mediates between two camps, suggesting that the scandal influenced Milton's thinking on the subjects of chastity and rape, but did not produce the masque as a direct response to it.

reinforced by neoclassical reverence for the impossibly idealized heroine; and, since only the rarest of women might be acknowledged to be chaste, rape must be rare. The scepticism associated with female virtue readily accommodated Ovid's 'aesthetic' in which male desire was legitimate sport, female resistance provided titillation, and both were a valid source of humour. But scandals, in the hands of the Jacobean playwrights, provided more than an opportunity for irreverent humour. Suzanne Gossett argues that they provided the atmosphere that led to a change in the dramatization of rape on the Jacobean stage. Her proposition provides the basis for discussion in the next chapter.

CHAPTER 7
RAPE AND MARRIAGE: A SHOCKING INNOVATION?

Suzanne Gossett's 1984 article, 'Best Men Are Moulded out of Faults: Marrying the Rapist in Jacobean Drama', is a notable exception to the simple paradigm of misogyny against which rape criticism was often presented at the time her article was published. This chapter uses her work as a starting point from which to argue that assumptions about legal and social attitudes become even more equivocal when a greater emphasis is placed on historical rather than ethical concerns.

In 'Marrying the Rapist' Gossett contrasts the outcome in four rape plays written between 1592 and 1614 with four written between 1616 and 1623. Her earlier group, and dates, comprise Shakespeare's *Titus Andronicus* (1592), Thomas Middleton's *The Revenger's Tragedy* (1606), Heywood's *The Rape of Lucrece* (1607), and John Fletcher's *Valentinian* (1614). In the later group are Fletcher's *The Queen of Corinth* (*c.* 1617), William Rowley's *All's Lost by Lust* (*c.* 1619), Middleton's *Women Beware Women* (*c.* 1621), and Middleton and Rowley's *The Spanish Gypsy* (1623).[1] In the earlier group of plays the raped heroine suffers the traditional fate of death by her own, or another's hand. In the later group, all but one of the raped heroines marries the rapist. These are the plays under discussion in the first part of the chapter.[2]

[1] Gossett attributes *The Revenger's Tragedy* to Cyril Tourneur. Attributions of authorship and date in the above paragraph differ from those given by Gossett in 'Marrying the Rapist'. The constantly evolving scholarship surrounding authorship / dates is acknowledged where relevant to the discussion. The question of collaboration is addressed in Chapter 8. Elsewhere, the thesis assumes dates based on either Alfred Harbage, *Annals of English Drama, 975-1700: An Analytical Record of All Plays, Extant or Lost, Chronologically Arranged and Indexed by Authors, Titles, Dramatic Companies & c.*, revised by S. Schoenbaum, 3rd edn, revised by Sylvia Stoler Wagonheim (London: Routledge, 1989), or on more recent scholarship. Dates attributed by Gossett are: *Titus* (1594), *Revenger* (1607), Heywood's *Lucrece* (1608), *Valentinian* (1612). At 307, note 6, Gossett observes that '*Valentinian* has traditionally been dated between 1610 […] and December 1614', but that the potential difference does not affect her argument.

[2] Shakespeare, *Titus*, ed. by Bate; Middleton, *The Revenger's Tragedy*, ed. by MacDonald P. Jackson, in *Collected Works*, ed. by Taylor and Lavagnino; Thomas Heywood, *The Rape of Lucrece*, in *The Dramatic Works of Thomas Heywood*, 6 vols (London: John Pearson, 1874), V; John Fletcher, *Valentinian*, ed. by Robert K. Turner, in *The Dramatic Works in the Beaumont and Fletcher Canon*, ed. by Fredson Bowers, 10 vols (Cambridge: Cambridge University Press, 1966-1996), IV (1979); Fletcher, Nathan Field, and Philip Massinger, *The Queen of Corinth*, ed. by Turner, in *Dramatic Works* ed. by Bowers, VIII (1992); William Rowley, *All's Lost by Lust*, in *The Spanish Gipsie* and *All's Lost by Lust*, ed. by E. C. Morris (Boston: Heath, 1908);

Gossett argues that the dramatic outcome of marriage to the rapist is, in significant part, a response to the historical moment when the scandals among the aristocracy, described in Chapter 6, became public through the courts. She deems the transformation of genre from the classical tragic model of death or suicide to tragicomic marriage, as 'shocking […] innovations'. Shock and innovation suggest the unfamiliar, or the previously unacceptable: in dramatic terms, the denouement of plays should challenge expectations. The proposed confinement of these plays to a discrete historical moment between 1616 and 1623 suggests its passing. Her argument is a starting point from which to re-examine the canon, taking a more sceptical view of cultural sensibilities.[3]

This chapter first describes Gossett's argument and examines it in its legal and social context before scrutinising drama. Then, in order to test just how novel and specific the idea of marriage as a dramatic resolution to rape might have been in the period 1616-1623, it considers drama in the periods before, during and after: was it unheard of between 1592 and 1615, were there rape plays without marriage between 1616 and 1623, and what happened from 1624-1632?

'Marrying the Rapist'

In the four rape plays written between 1594 and 1612, *Titus*, *The Revenger's Tragedy*, Heywood's *Lucrece* and *Valentinian*, Gossett discusses, she identifies a number of common factors. She finds that that 'the raped woman is married, virtuous, chaste, and religious', and that '[a]ll four plays follow one of the two classical models, the stories of Lucrece or of Procne and Philomel'. In each, '[t]he raped woman is avenged by her husband or her father', and '[t]he rapist or rapists are regarded as unforgivable, and must be executed in the play'.

Middleton, *Women Beware Women*, ed. by John Jowett, in *Collected Works*, ed. by Taylor and Lavagnino; Middleton, Rowley, Thomas Dekker, and John Ford, *The Spanish Gypsy*, ed. by Taylor, introduction by Gossett, in *Collected Works*, ed. by Taylor and Lavagnino. Subsequent references are to these editions unless otherwise stated, and given after quotations in the text.

[3] Gossett, 'Best Men', 309.

All four heroines also 'accept the patriarchal value system and the inevitability of their own deaths'.[4] Gossett remarks particularly on Fletcher's place as an author within the earlier works because his reappearance in a later group signals a specific and conscious change in the way the rape plot is handled – by him and by others.[5]

Among the 1616-1623 group, Gossett notes that *The Queen of Corinth*, *Women Beware Women* and *The Spanish Gypsy* all abandon the classical Lucrece or Philomel plots. The most significant common factor in these later plays though, is the dénouement of each in which, rather than committing suicide, the heroine 'marries the rapist'.[6] In both *The Queen of Corinth* and *The Spanish Gypsy* the assailant's identity is obscured and the plots are focused not on revenge but on his discovery, followed by 'happy, or at least tragicomic, endings'. In contrast she suggests that *All's Lost by Lust* was a clumsy attempt by Rowley to restore rape to the genre of tragedy and revenge. She argues it may have played a failed part in an attempt at 're-establishing the earlier paradigm' due, at least in part, to Rowley's disapproval of *The Queen of Corinth's* tragicomic resolution. She finds it 'a hodge-podge of motifs' noting that it follows tradition in some elements but not in others. '[W]ith its Moors and mutilations' she recognizes motifs reminiscent of *Titus Andronicus*. But despite references to Lucrece, she points out that by reprising the device of the unmarried heroine from the tragicomic *Queen of Corinth*, Rowley, importantly, removes the 'usual justification for suicide following rape'. She explains that the heroine Jacinta's unmarried status erases analogy with Lucrece's argument for suicide for fear the rape might potentially contaminate her husband's blood line.[7]

---

[4] *Ibid*., 306, 307.
[5] *Ibid*., 309, 314.
[6] *Ibid*., 306, 309. If Middleton (rather than Tourneur) indeed had some responsibility for the earlier *Revenger's Tragedy* it strengthens Gossett's argument for the initiation of 'a dramatically different handling of the rape plot' (309) after 1615. Gossett notes that 'many modern critics see the hand of Ford, at least in the revisions' (p. 321n. 30).
[7] *Ibid*., 309, 318-19 (319), 317. Gossett gives no reference for Rowley's disapproval of the tragicomic resolution. The assertion is not apparent in any of the works concerning Rowley, Fletcher or *The Queen of Corinth* cited in 'Rapist'.

In *All's Lost*, Jacinta is the sexual objective of the lustful Spanish King, Roderigo, who, having sent her father to do battle with the Moors, rapes her. Despite Jacinta's ruined status the victorious Moorish King of Africa (the Moor) offers her marriage, but she rejects him. After both father and daughter have been mutilated by the angry Moor, they are tricked by him so that she perishes at her blinded father's hand. Despite references to Lucrece in the play, in addition to the matter of suicide, Gossett notes several more departures from the classical pattern. There is no ideological underpinning of the characters' actions: no debate about the Christian view of suicide, or of the balance between physical corruption and spiritual innocence of the victim, or whether the contamination of rape renders her unmarriageable. Gossett notes that Jacinta does not commit suicide, and at the end of the play both the rapist-king and the retributive Moor are alive.[8]

Gossett cites the apparent severity of rape law, under which both the offences against the person and against property were felonies, as embodying the social attitudes which would in turn find the dramatic ending of marriage to the rapist a shocking innovation. She also draws attention to the need to set the plays in locations such as Spain or Corinth to circumscribe the audience's understanding of English law under which such a resolution would possibly put the heroine's inheritance at risk, and certainly her reputation. There was a desire on the part of dramatists to experiment with ever more precarious plots, but most importantly, she acknowledges that innovation on the stage was probably due to a combination of circumstances.[9]

Significant among those circumstances, Gossett argues, were the high-profile society scandals described in Chapter 6. The misdemeanours followed an intricate path and revealed the aristocrats as self-serving, corrupt and hypocritical, while female victims tended to be young, or poor, or disparaged. They involved rape – among other crimes – in terms of both

[8] *Ibid*., 317-18.
[9] *Ibid*., 309-11, 314.

the physical and property definitions. The details exposed in court, she finds, provided dramatists with an opportunity to respond via the stage to an unsuspected insight to disreputable behaviour among the aristocracy.[10]

By 1625 Gossett notes that the period of Jacobean experimentation and innovation in rape plays was over. It gave way to the Caroline preference 'for the pure and the platonic', representing the values Charles sought to re-establish in his court.[11] In 1626 Massinger returned the rape plot to its traditional, tragic roots with *The Unnatural Combat*. Rapist, victim and incestuously lustful father all die – the heroine without apparent agency, simply because she has been violated.[12]

Representation of marrying the rapist in drama might though, be a less shocking notion than the crime's status as a felony suggests. The perception is very much dependent on circumstances and point of view, and is part of the complicating and contradictory discourse surrounding rape. Here Gossett meets, from the opposite direction, the usual starting point on which criticism is founded: that rape of either person or property is remarkable for the failure to prosecute it. Placed in conjunction with the suspicion that instances were often resolved discreetly between families, the cases cited were not only notable for their decadent complexity, but for very fact of their prosecution.[13] In fact, it is possible that without the additional colour provided by murder and royal connection they might have stayed out of the public arena. Any shock generated on the stage might indeed be attributable to the acknowledgment of covert practice, and the revelations of fallibility among the high and

[10] *Ibid*., 305, 312-13
[11] *Ibid*., 327. On Caroline preferences, see also Philip J. Finkelpearl, *Court and Country Politics in the Plays of Beaumont and Fletcher* (Oxford: Princeton University Press, 1990), p. 51. Finkelpearl refers to the direct interest, if not interference, of Henrietta Maria and Charles in to ensure plays 'that conformed to their personal taste'.
[12] Massinger, *The Unnatural Combat*, in *The Plays and Poems of Philip Massinger*, ed. by Philip Edwards and Colin Gibson, 5 vols (Oxford: Clarendon Press, 1976), II. Subsequent references are to this edition unless otherwise stated, and given after quotations in the text.
[13] The conflict between the interests of the crown, and the social and financial advantages to families circumventing rape law, is discussed in Chapter 1.

mighty. After all, in effect, all premarital sex could be defined as rape or whoredom, and the historical record does not suggest sex outside marriage was unusual.[14]

It would also be overdetermining their influence if the events of the scandals alone were attributed with inspiring innovative change to the dramatic treatment of rape. Gossett identifies particularly that the Coke case 'mocked any pretense that marriage was not a property arrangement'.[15] One wonders though, in the circumstances, just who might have been persuaded by such a pretence in the first place. The clear footprint of statute law, and cultural and familial structures had for centuries been predicated on marriage as a mechanism for controlling family name and fortune. And rape law was most acutely critical to those of means and influence.

But it is also important not to *under*estimate the influence of aristocratic licentiousness in conjunction with other social conditions. The uninhibited outbreak of dysfunctional morality among the-great-and-the-good, and its detailed and very public dissection before the courts of law, offered unprecedented opportunities to playwrights. Along with the wider population, writers were suddenly able to scrutinise and satirize the vulnerabilities and frailties of those who held power and, at the same time, to observe the operation of the law in practice. Meanwhile, the ever-growing print industry was eager to spread news of latest developments and their interpretations of events as libels and ballads. It is possible that these opportunities provoked interest in previously hidden realities of the institutions and their supposed upholders, in respect of both dramatic potential and political significance. Adding to the atmosphere, rumours of papistry and the threat of Spain, and of sympathisers to the cause within a sexually degenerate and corrupt Jacobean court, circulated

[14] E.g. Ingram, *Church Courts*, p. 157: 'about a fifth of all brides were pregnant by the time they got married in church'. See also Sharpe, *Early Modern England*, p. 43.
[15] Gossett, 'Best Men', 312.

freely.[16] Those steeped in the dissolute activities exposed among the aristocracy by the courts might readily transpose to the tyrant-rapist on the stage. One becomes a signifier of the other: a ruler capable of rape is a potential tyrant, and a tyrant is a potential rapist.

Certainly, in addition to the scandalous revelations, dramatic experimentation and innovation are evident in the work of the Jacobean playwrights. In this context Gossett quotes Fletcher's definition of tragicomedy, to 'want deaths […] yet bring some near it' – a fitting description of rape. However, Gordon McMullan and Jonathan Hope point out that Fletcher's statement originated in 1610, several years earlier than the plays under discussion, and in the specific context of using the supernatural in pastoral tragicomedy. The term 'tragicomedy' did not come into general use until several decades later.[17] And so tragicomedy had not yet emerged as a recognised genre in the context of the Jacobean rape plays in which the writers continued to challenge the established limits of their art. The experimentation and innovation in drama that encompassed the denouement of marriage between rapist and victim is therefore likely to have contributed to defining the tragicomic genre as much as conforming to it. Such a marriage, by deflecting tragedy through compromise or accommodation of adversity, or by redeeming wicked intent though a seemingly virtuous act, widens the scope for imagination. At the same time, public exposure of the machinations of the great and good legitimised the representation of excess on the stage.

[16] On the response in drama to the atmosphere of scandal, Gossett, 'Best Men', 312, cites Stone, *The Crisis of the Aristocracy 1558-1641* (New York: Oxford University Press, 1967), p. 300 (the reference correlates with the unabridged edition, (Oxford: Clarendon Press, 1965), p. 667). More than to passing dramatic prurience, however, in, *Crisis,* (1965) pp. 500-504 , and in his *The Causes of the English Revolution 1529-1642* (London: Routledge and Kegan Paul, 1972), pp. 85-91, Stone does partly attribute first the failure of public confidence in the aristocracy and court, and then the eventual revolution and regicide, to the unchecked atmosphere of scandal. But both works discuss the wider political failings of the aristocracy and monarchy that led to Charles's downfall. Contributory factors, for example, included the failure of the monarchy to manage an effective system of patronage (*Crisis* (1965.) p. 504).

[17] Gossett, 'Best Men', 314. Fletcher's words can be found in his epistle 'To the Reader', in *The Faithful Shepherdess*, ed. by Cyrus Hoy, in *Dramatic Works*, ed. by Bowers, III (1976), p. 497; Gordon McMullan and Jonathan Hope, *The Politics of Tragicomedy: Shakespeare and After*, ed. by Gordon McMullan and Jonathan Hope (London: Routledge, 1992), pp. 1-7.

Rape Drama and the Marriage Resolution

1592-1615

Shakespeare's *Titus*, Heywood's *Lucrece* and Fletcher's *Valentinian* all adhere to the classical pattern by which the rapist must die at the hand of a male family member and, if not already dead by her own hand, so must the rape victim. Although Gossett places four rape plays of the period in this bracket, and traces of Lucretia are unavoidably present whenever a notably chaste heroine becomes a victim of rape, other influences are at work in Middleton's *Revenger's Tragedy*. And while Roman politics prevail at the conclusion of *Titus* and *Lucrece*, *Valentinian* does not provide any apparent resolution.

Events leading to rape are not dramatized within *The Revenger's Tragedy*. Yet rape prior to the action of the play is the apparent motivation and catalyst for Vindice's desire for revenge on the Duke. It is the crime which necessitates the trial of the Duchess's youngest son Junior who, it is reported out of the blue, 'has play'd rape on Lord Antonio's wife' (I. 1. 110). The motif lurks as a threat to the assiduously virtuous Castiza – Vindice's sister – who symbolises all the chaste qualities that seem irresistible to the stage rapist. (In accordance with convention, all three victims of the actual or signified rapes in *The Revenger's Tragedy* are renownedly virtuous). The multiplying tragedy unfolds from Vindice's quest to avenge the honour of his late betrothed, Gloriana, who was raped by the Duke after rejecting his sexual advances, and subsequently poisoned by him to ensure her silence. We can only speculate about why Vindice has waited nine years to seek vengeance.

By introducing poison into his victim via a sexual act, Vindice perpetuates a symbolic rape on the Duke to bring about his death in a suggestively equivalent manner. Antonio is similarly relieved of potential shame and embarrassment by his wife's suicide. And in a similar pattern to the Lucretia myth, revenge converts into political unrest via the rape of Lord Antonio's wife, resulting in the eventual overthrow of a ruling family.

The Revenger's Tragedy is generally accepted to follow the genre of revenge tragedy established by Thomas Kyd's *Spanish Tragedy*, and repeated in *Hamlet*. Possibly, like Hamlet, the delay and brooding is symptomatic of melancholy which develops into the recklessness of Vindice's widening moral crusade.[18] Despite their presence, the classical patterns are attenuated in the model of revenge tragedy, and the progression of the Hamlet-like delay, melancholy and increasing recklessness. Middleton is clearly drawing on a combination of sources and influences in a revenge tragedy behind which looms complicating madness and uncertain virtue.

Valentinian might be regarded as Fletcher's *Lucrece*: Maximus loses at dice to provide the lecherous tyrant Valentinian with the ring by which he lures Maximus's wife, Lucina, to court. Valentinian rapes her. Only the experienced general, Aecius, makes the argument that her mind is pure despite the violation of her body – to no avail – and she goes off to die (in an indeterminate manner) with her husband's encouragement. The play then gets on with the business of male bonds, divine loyalty due to Caesar, military honour and love of a Roman death, ending with a suitably tragic pile of bodies.

Characteristically of Fletcher though, Lucina demonstrates her chaste qualities, not by shunning social pleasure for domestic endeavour, but by rejecting the temptations of wealth, power and aggressive persuasion at the hand of practised bawds.[19] And rather than initiating the decisive, honourable rebellion by which the house of Tarquin pays for Lucretia's rape and suicide, Maximus becomes increasingly dysfunctional and divisive, causing others to be torn between loyalties to person, moral code and state. He expresses little in the way of love, sentiment or regret for his wife's demise. And his revenge is about male pride and honour:

[18] On the genre of revenge tragedy, and a comparisons between *Revenger* and *Hamlet* see, for example Middleton, *Revenger's Tragedy*, ed. by Jackson, pp. 543-44.

[19] Bawds also work hard to no avail in Fletcher and Massinger, *The Custom of the Country*, ed. by Hoy, in *Dramatic Works*, ed. by Bowers, VIII (1992); Fletcher, *The Humorous Lieutenant*, ed. by Hoy, in *Dramatic Works*, ed. by Bowers, V (1982); Fletcher, *A Wife for a Month* ed. by Turner, in *The Dramatic Work*, ed. by Bowers, VI (1985). Subsequent references are to these editions unless otherwise stated, and given after quotations in the text.

his first reaction as he dares contemplate the truth is: 'I am ruind', before he encourages Lucina to kill herself (III. 1. 156). After Aecius and Valentinian die in the cross-plotting, Maximus is declared Caesar. He claims Valentinian's widow, Eudoxa, maintaining he has contrived the whole scenario – including Lucina's rape – with the sole purpose of winning her – the reasons for which are entirely unclear. She is (rightly) sceptical and poisons him.

These departures from the source reveal Fletcher's impulse to innovate at work, together with his individual style. Motifs that recur through Fletcher's work are evident in the combination of classical ideology and colourful stereotypes, but he refuses the resolution by which rape and female sacrifice are resolved by the overthrow of an evil regime by representatives of good.[20] Here the scheming Eudoxa is declared a saint by the senators who resolve to wait and consider before appointing a new Caesar. Roman ideology does not provide a solution to the dishonour of rape.

Incontrovertibly, the four plays identified by Gossett dating from before 1616 do all follow the classical convention whereby the raped woman dies. The question remains as to whether, if these are not the only rape plays in the period under discussion, are any others resolved by marriage?[21] An examination of works in the period reveals four other items of interest: Thomas Dekker and Middleton's *The Patient Man and the Honest Whore* (1604), *The London Maid* (1606-16), and the controversially authored *Double Falsehood*, alleged by the eighteenth-century Lewis Theobald to be his adaptation of Fletcher and Shakespeare's lost *Cardenio* (1612-13), and Fletcher's *The Night Walker* (1614). Each of these plays contains, if not an actual rape, an attempt or an allusion to events that the text allows to be

[20] Recurring motifs in Fletcher's work are discussed in Chapter 8.

[21] Gossett has specifically selected four plays that follow the Roman ideal of the dead raped heroine. Other pre-1616 plays that end with the death of the victim are George Peele's *The Love of King David and Fair Bethsabe* (1594) ed. by W.W. Greg, Malone Society (London: Islip, 1599; repr., 1907), and Thomas Heywood's (1609) *The Golden and Silver Ages: Two Plays*, introduction and notes by John Payne Collier (London: Shakespeare Society, 1851). In addition, drama in which rape figures as a threat, or takes place in the pre-history of the play are Fletcher's *Bonduca* (1613), in *Dramatic Works*, ed. by Hoy, IV (1979), and Fletcher, Field, and Beaumont's *Four Plays in One* (1612-1619), in *Dramatic Works*, ed. by Hoy, VIII (1992). Although interesting within the general subject of rape, none of these plays contribute to the focus in this chapter which is the element of originality in the solution to rape of marriage.

interpretable as rape, dependent on unknowable extra-dramatic events, and that resolves in marriage.[22]

Bellafront the heroine of Dekker and Middleton's *Honest Whore* is to marry Matteo, the man who took her virginity. He is unwilling and only complies at the paternalistic insistence of the Duke. Bellafront had surrendered her chastity under obscure circumstances and her willingness or otherwise is part of the pre-history of the play. However, in the final scene, which takes place in the asylum, while feigning madness she tells the Duke that Matteo 'stole' her maidenhead; Matteo admits he 'rifled her of some such paltry jewel' (15. 439-41, 452). Both use language implying something taken without the permission of the one to whom it belonged: in the case of Bellafront's virginity the words hint at some degree, at least, of coercion or force. It is then entirely compatible with social norms that she, as well as Matteo and the rest of society, would hold her culpable regard her as a whore. Even Bellafront ventriloquizes the misogyny that 'Women at best are bad' (9. 114), and compounds it later, undermining her own claim to new-found honesty: 'But from a strumpet to turn chaste: that sound | Has oft been heard, that woman hardly found' (10. 208-09). But since Matteo clearly had no intention of marrying her of his own volition she has been left little option about how to earn a living. Matteo was not simply the one to take her virginity; he was the first to pay her for sex.

> You were the first
> Gave me money for my soul. You brake the ice,
> Which after turned a puddle.
>
> (9. 98-100)

[22] Thomas Dekker and Middleton, *The Patient Man and the Honest Whore*, ed. by Paul Mulholland, in *Collected Works*, ed. by Taylor and Lavagnino; T. W. [*Thorney Abbey*, or *The London Maid*, in] *Gratiae theatrales, or, A choice ternary of English plays composed upon especial occasions by several ingenious persons* (London: R.D., 1662); Lewis Theobald, *Double Falsehood or The Distressed Lovers*, ed. by Brean Hammond, The Arden Shakespeare, third series (London: Arden Shakespeare, 2010); Fletcher, *The Night Walker*, ed. by Hoy, in *Dramatic Works*, ed. by Bowers, VII (1989). Subsequent references are to these editions unless otherwise stated, and given after quotations in the text.

Matteo is now angry at the loss of this irresponsible facility: 'Thou'rt damned: for alt'ring thy religion' (9.125). The circumstances are suggestive of the later play, *The Spanish Gypsy*, in which, in much the same vein, Roderigo proposes to compensate for his actions by giving Clara money after raping her. Clara though, refuses. Bellafront's plea to her abuser to marry her, like Clara's, is rejected with cruel distaste by Matteo: 'How, marry with a punk, a cockatrice, a harlot? | Marry, faugh, I'll be burnt thorough the nose first' (9. 119-20).

As is clear from the cases recorded by the church and minor courts, Bellafront's plight is unlikely to have been deemed rape in reality. But the play represents her loss of chastity as equivocal, and her character as sympathetic, concluding with a promise of marriage to the man who took her virginity in dubious circumstances. In some specific respects *The Honest Whore* presages *The Spanish Gypsy*, and Middleton has a hand in both plays. Parallels between *The Honest Whore* and *The Spanish Gypsy* occur particularly in the misogyny and abdication of responsibility demonstrated by the sexually feckless anti-heroes, and in the reaction of both women who plead for marriage in order to restore their honour. The acceptance of money seals Bellafront's downfall in contrast to Clara's appalled refusal: 'I need no wages for a ruined name' (I. 3. 28).

The London Maid provides an ostensible history behind the building of Thorney Abbey by Anne's father, Old Thorney. It is another play that leaves events imprecise, but implies seduction rather than rape. Although tricked with her father's ring into attending the Prince alone, Anne later refers to her virginity as 'a jewell […] | Have I then lost', hinting at agency, before claiming Edmund 'robd' her of it (p. 18). But shortly afterwards she acknowledges: 'I yielded up my virgins name' (p. 19), and the two characters speak of the event in the context of a marriage promise or contract. Anne's father rejects both her and the son resulting from her seduction, despite her eventual marriage to Edmund and his accession.

The events are suggestive of rape resolved by marriage, but there is no parental approval and reconciliation to provide a happy ending.

The recent publication of Brean Hammond's edition of the Arden *Double Falsehood* has reignited the interest and controversy which surrounds the potential involvement of Shakespeare in its authorship. That controversy remains, and the play attracts comment here only as the object of brief speculation. The plot of *Double Falsehood* is derived from the story of Cardenio in Cervantes *Don Quixote*, first published in 1605, and its English translation (by Thomas Shelton) published in 1612. A play 'probably entitled *The History of Cardenio* and presumed to have been lost', written by Shakespeare and Fletcher, was performed in 1613. In 1728 the *Double Falsehood* was published with the title page stating the play was 'written originally by W. Shakespeare' and 'revised and adapted' by Theobald. There is general agreement among scholars that Theobald made some contribution to it – as indeed the title page suggests. The question of authorship is relevant here in so far as it helps determine when and what version of the play, adapted and published in the eighteenth century by Theobald, was originally performed as *Cardenio* in 1613.[23]

Many scholars who have investigated the subject are happy to attribute much of the play to Fletcher.[24] What remains obscure is the specific relationship between the texts and works. In Cervantes's original version a young woman, Dorotea, succumbs to an elaborately contrived seduction after a sham betrothal ceremony, all accomplished with the help of a traitorous maid. In Theobald's adaptation seduction is replaced by rape, and resolved by the marriage between victim and rapist. If we start with the assumption that these are indeed all versions of the same work we still cannot say with confidence at what point seduction transmuted to rape. Whether the 1613 play followed the *Cardenio* narrative of seduction, or

[23] Hammond, pp. 1, 19, 1-3.
[24] *Ibid*., pp. 95-105. See also Peter Holland, 'Shakespeare, William (1564–1616)', in *DNB*, online edn [accessed 29 April 2014], 'Plays for the Blackfriars, paragraph 2'. He observes that '*The Double Falsehood* (1728) […] shows strong traces of Fletcher in its style'.

provided Theobald's rape, will probably remain as frustratingly obscure as that of authenticity and / or authorship. If rape superseded seduction in the 1613 *Cardenio* then it was an example of a play resolved by marriage to the rapist which pre-dated the public interest in the aristocratic scandals and *The Queen of Corinth*. As it is, the possibility remains mere hypothesis.

Fletcher's *The Night Walker, or The Little Thief* is the final play to consider among the pre-1616 group in which rape and marriage are in close, if equivocal, proximity. It is a play which reinforces public questioning of the practice of 'arranged' marriage for material advantage – the practice Gossett suggests became associated with immoral behaviour among the nobility when the Jacobean scandals became public. Although it pre-dates those events, the tension between an incompatible marriage for the sake of familial interest, and a companionate union, is the catalyst for potential disaster over which the shadow of rape also looms. When the heroine, Maria, appears to have died, her mother rues her 'misery' (I. 8. 31): 'Would I had wed thee to thy owne content | Then I had had thee still' (I. 8. 36-37). Similarly to the later *The Queen of Corinth*, it is a play by Fletcher in which a woman is given by a *female* authority figure to one she does not love when there is already an established understanding between the younger woman and another suitor. But in *The Night Walker*, rape is a motif if not a fact.

Maria and Hartlove are in love. But Maria has been contracted by her mother to Justice Algripe, an older, miserly misogynist who had previously been contracted to Lurcher's sister, Alathe. Algripe spurned Alathe while also managing to trick Lurcher out of some land. Lurcher is attended by an invaluably clever and artful 'Boy' – the 'Little Thief' of the alternative title.

Maria's cousin Wildbraine persuades (the very drunk) Hartlove to attempt to take her virginity rather than Algripe. It is not specified whether either man anticipates complicity,

persuasion, or force – Wildbraine is aptly named, and Hartlove is drunk and distraught. The idea is to prompt Algripe immediately to divorce his new bride without consummating the union. When Maria is discovered in Hartlove's company she faints and apparently dies. Algripe denounces Maria and claims the substantial dowry, while Maria makes a secret recovery, and out of shame disguises herself as a Welsh serving maid. Amidst the ensuing high-jinks there is an apparently comical same-sex 'rape' by Wildbraine of the groom, Tobie, caused by mistaken identity in the dark. After being kissed by Wildbraine, we leave them as Wildbraine convinces himself that Tobie's whiskers are his paramour's muffler and urges: 'Gently my sweet girle'. Tobie replies: 'Sweete Devill be good to me' (II. 3. 78). Later he reports to the Lady: 'Madam, simply though I stand here, | I had beene ravish'd too' (III. 1. 32-33). Funds and lovers are eventually restored to their rightful places via a series of wild plots and capers. The 'Boy', disclosed as Alathe, accepts Algripe, Lurcher's land is restored, and Maria can now marry her original betrothed, and would-be rapist, Hartlove.

Notably missing in *The Night Walker* is certainty about the crucial event. In its dramatization, the play is an analogue of a rape narrative. The alternatives of rape, and attempted rape or seduction are close, and what actually happens between Maria and Hartlove in the cloisters remains unclear. But significant to the analogy is that the planned seduction, or rape, takes place offstage – a device which usually signifies rape. If no rape was to occur there is no reason why the events could not take place before the audience. Much of the text is equivocal: Maria threatens Hartlove 'if you offer but another violence' (I. 8. 3), and he seeks forgiveness for his 'follies', acknowledging his 'wickednesse | And what a monstrous shape it puts upon me' (I. 8. 7, 8-9). When discovered she claims: 'A plot upon my honour | To poison my faire name'. Yet she immediately declares: 'I am honest' (I. 8. 15-17), and Hartlove calls her 'Sweete Virgin Rose' (I. 8. 26). But Algripe threatens Hartlove with the law and the penalty of hanging – that for rape or elopement (I. 8. 24), and refers to Maria's

'fornication' (III. 3. 33). Maria claims 'shame forbids me' (III. 5. 74), and Tobie's 'I had beene ravish'd *too*' (III. 1. 33, my emphasis) suggests a second ravishment. All these positions though, are consistent with the needs of the narrative and the various dramatic understanding of events, motivations and characters of those expressing them. However, in his introduction, Hoy quotes Sir Henry Herbert, Master of the Revels as recording in 1634 that it was '"likt as a merry play"'.[25] And the title page of the first edition (Quarto 1640), designates the play a 'comedy'.[26] Tobie's encounter may, of course, represent a device by which, because we believe Maria chaste, we can also be assured that Tobie is exaggerating his experience – which then permits us to laugh at it. If the text is equivocal the jolly mood and happy conclusion suggest the less sinister interpretation. The proximity of the two possibilities creates an overarching suggestion, however, that, if going no further than an attempt, even rape might have a lighter side.

Although this section is looking for marriage following rape, before leaving the period it is worth mentioning the tragedy, *Alphonsus Emperor of Germany*, which is unusual in featuring a bed-trick that is an actual rape. Usually the trick is either a means to avert rape, or it is the man who is deceived.[27] *Alphonsus* is a play in which murderous tyranny and conspiracy prevail, and the rape victim is marginalized and silenced by the device that she speaks no English. Following a German tradition, she 'escapes' the marriage bed on the first night, and mistakenly believes it is her new husband, Edward, who finds her and 'consummates' the marriage. Instead, it is Alphonsus's page, in a plot to destroy the marriage alliance. Hedewick's fallen state and her resultant child are left further to facilitate violence

[25] Hoy, p. 515.
[26] *Ibid*., p. 516.
[27] Marliss C. Desens, *The Bed-Trick in English Renaissance Drama: Explorations in Gender, Sexuality, and Power* (London: Associated University Presses, c1994), p. 116, asserts that 'all bed-tricks are forms of rape'. However, rape, in early modern terms, was only recognized as a crime against women, and in bed-tricks it is usually the man who is entertained by a different partner from the one he thinks. Bed-tricks, as a means for a woman to escape rape are crucial to Shakespeare's *All's Well* and *Measure for Measure*. Even in tragedy or tragicomedy, the ploy itself might be represented as a comedic interlude, as in the 'rape' of Syphax by the witch Erichtho in John Marston's *The Tragedy of Sophonisba*, or *The Wonder of Women*, in *The Malcontent and Other Plays*, ed. by Keith Sturgess (Oxford: Oxford University Press, 1997).

and confrontation between the male parties. Following tradition, the victim, as well as her infant, is killed by her father, before he finally discovers the extent of Alphonsus's trickery.

1616-1623

This is the period in which Gossett identifies the emergence of rape plays in which the raped victim marries the rapist, which she sees as a corollary, in part, to the circulating scandals. She cites *All's Lost by Lust* as a pivotal and disapproving aberration, borrowing from the traditional pattern and trying, unsuccessfully, to re-establish it. However, the differences in handling the rape plot between this play and those exemplified in her earlier group appear greater than any similarities, despite the classical allusions and the heroine's death.

Gossett notes the absence of a religious or moral framework, in addition to Jacinta's unmarried state, the lack of Lucretian imperative to protect a husband's blood line and therefore motive for suicide. But, significantly, Jacinta seeks neither suicide nor death, offering only invective against the Moor before, Philomela-like, she loses her tongue. Nor does her father wish for her death; he is blinded and tricked into killing her by the Moor. And in a sub-plot, another bed-trick leads to the murder of the substitute instead of the intended victim. The play is only a 'hodge-podge' if it is assumed that Rowley's aim was to conform to a particular paradigm. Consistent with the specific period, his intention could simply have been experimentation, or to exploit the problem of the woman who refuses the option to marry contrary to her choice as a means to assuage the shame of rape.[28] The differences serve as challenges to which the playwright had to find alternative dramatic solutions. For example, the heroine Jacinta's unmarried state might erase direct analogy with the married Lucretia's

[28] David Nicol, '"My little what shall I call thee": Reinventing Rape Tragedy in William Rowley's *All's Lost by Lust*', *Medieval and Renaissance Drama in England*, 19 (2006), 175-93 (175), argues that with this play and its 'startling and unusual revisions to the genre [rape tragedy]', Rowley was consciously participating in the spirit of experimentation as fully as any other playwright (175).

dilemma, but it creates another: in conventional terms, she would not only be unmarriageable, but would also be deemed a whore, and bring shame on her family.

If one of the dramatist's jobs is to offer a resolution, the option of a rape victim who lives, with the added complication of a husband-hero who is 'other', might indeed have been deemed a step too far. It seems that the sensibilities of the early modern audience might be persuaded to tolerate the notion of a ruler who is 'other'. Where the drama depicts Roman ideals, conquest, or power struggles within the ruling elite the outsider can be allowed credit for his valour and leadership. But respect has its limits. For example, in Dekker, William Haughton and John Day's *The Spanish Moor's Tragedy* – or *Lust's Dominion* – (1600) the Moor of the title is at the same time admired, feared, honoured and loathed in varying measure. Although he is a captive of the Spanish, he is married to Maria, daughter of a nobleman, but is also the Queen's lover.[29] Rape is used as both a false accusation and a threat. Insatiable self-interest is the predominant motivation for the wickedness of nearly all the characters, but amidst the lust, ambition, hatred and tragic deaths, the equally wicked Queen is forgiven, while Eleazar, the Moor must be punished. His treatment bears comparison with *Titus*'s gratuitously malign Moor, Aaron, who was eventually condemned to a horrid death. Neither were Othello and Desdemona allowed to transcend the rules by which race separated the valorised passion of the warrior from the irrational pride and sexual jealousy of a husband: the idea of happy marriage as an acceptable resolution apparently remained beyond the pale.[30]

Race certainly provided an original resort by which to acquit Jacinta of the temptation to marry after rape in a way both culturally legible and therefore, presumably, satisfactory to the audience. Her recoil from the idea of marriage to a Moor provides the device which

[29] The play is variously entitled *The Spanish Moor's Tragedy*, *Lust's Dominion*, or *The Lascivious Queen*. Reference here is to Thomas Dekker and others, *Lust's Dominion*, in *The Dramatic Works of Thomas Dekker*, ed. by Bowers, 4 vols (Cambridge: Cambridge University Press, 1953-1961) IV (1961).
[30] Shakespeare, *Othello*, ed. by E. A. J. Honigmann, The Arden Shakespeare, third series (Walton-on-Thames: Nelson, 1997).

enables Rowley to avoid a 'happy' ending with a married rape victim. Whether significant or not, had he allowed such an ending it would be the only rape play in which the victim survived willingly to marry one other than her rapist.

Another possibility is that instead of failing to recognize the 'clear logic and morality of the older plays', Rowley's variation might have been representing in drama the evolving changes in public attitudes and understanding generated by developments in Renaissance learning.[31] Both playwrights and public were seemingly eager to gratify the interest inspired by the misdeeds of the aristocracy: an interest which consciously or unconsciously provoked engagement with real human dilemmas and paradoxes presented by rape, rather than re-cycling myth and ancient ideology.

The extent of the differences between *All's Lost* and the earlier plays suggests that the play was as much a contribution to the more imaginative experimentation underway in the dramatic representation of rape, as it was a reaction against the direction the experimentation was taking. We cannot know whether experimentation with the idea of fear of the outsider within a rape drama led to an inevitably tragic fate of the heroine, or whether the outsider provided Rowley with the means to have the raped heroine die. If indeed Rowley 'disapproved of the tragicomic solution proposed in *The Queen of Corinth*' – to which *All's Lost* supposedly reacts – the strength of that argument must be mediated by the dénouement of his next rape play.[32] If the tragicomic solution was distasteful to him when he wrote *All's Lost*, he certainly overcame his distaste four years later when he collaborated on *The Spanish Gypsy* with Middleton, Ford and Dekker.[33] Gossett acknowledges that, as a collaboration

[31] Gossett, 'Best Men', 317.
[32] *Ibid*., 318.
[33] In *Collected Works*, p. 1723, Gossett accepts that there were four authors involved in writing the play, with Ford 'probably responsible for the rape plot'(and with Rowley and Dekker completing the complement). Middleton though, probably plotted the overall outline of the play. But see also David Gunby, 'Rowley, William (1585?–1626)', in *DNB*, online edn [accessed 24 January 2013], 'Later works', paragraph 2, who cites various attributions to Dekker, Ford, Rowley and Brome, but not Middleton. The thesis follows Gossett's argument that Middleton most likely composed the overall plot of *Gypsy*, and then assigned and linked the resulting contributions into a coherent whole.

between Fletcher, Field and Massinger, *The Queen of Corinth* was produced by 'collaborators [whose] attitudes to rape may have varied'. She continues 'that Massinger writing alone was or became conventional – but they wrote as part of Fletcher's atelier and he was their leader'.[34] If the dominant writer determines the framework, by extension the observation suggests that Rowley, writing with Middleton, might be excused responsibility for the ending of *The Spanish Gypsy*. Of course the question cannot be properly addressed without knowing his specific objection.

However, the ending of *The Queen of Corinth* was not the original idea of either Fletcher or his collaborators, Field and Massinger: it had a specific classical source. It is a dramatization of the Senecan dilemma of the man who rapes two women. One asks for his death and, as allowed in English law before 1285, one pleads for his life and to marry him.[35] In *The Queen of Corinth* there is no dilemma because a bed-trick has been effected to avert tragedy and Theanor has (conveniently) raped the same woman twice. Merione was his original betrothed before she is given to Agenor to seal a peace alliance by Theanor's mother, the Queen of the title. After a 'trial' in which Beliza, whom he thinks he has raped, asks for, and is awarded his capital punishment, all is revealed and Merione forgives him. He is reprieved and redeemed by their marriage. The balance for the audience between the shock and satisfaction offered by the tragicomic, as opposed to the tragic alternative, can only be a matter of surmise.

Unlike Theanor in *The Queen of Corinth* whose intended has been given to another, Roderigo, the rapist in *The Spanish Gypsy*, is not allowed any catalytic excuse of jealousy or revenge for his actions – merely lust and distain for womankind. There are believed to be several sources for the play, but the rape plot is apparently based on Cervantes's *La Fuerza*

[34] Gossett, 'Best Men', 315, note 25.
[35] Coke, *Second Part of the Institutes*, p. 180.

de la Sangre.[36] Roderigo dismisses his friends' misgivings about his design: 'For a wench, man,' he says, 'any course is honourable' (1. 1. 32). Yet, despite the fact that his unrecognized victim, Clara, was the beloved of Roderigo's friend, Luis, it is Roderigo to whom she is finally married. The marriage not only expiates the 'stain' of rape afflicting both rapist and victim (1. 3. 12), but it also removes the potential for pollution from a different bloodline. The solution is pragmatic rather than moral, and it is dramatically unsatisfactory because those competing pressures cannot be reconciled. However it is consistent with attempts to exploit genre – particularly tragicomedy – as part of the experimental repertoire. It is also consistent with the playwright's task of illuminating the possibilities available given a conjunction of circumstances. And where pragmatism is at odds with morality, so is the play's potential for prurient pleasure.

Women Beware Women is not a clear-cut fit either when considering marriage to the rapist as a 'shocking innovation'. Potential moral dismay at the marriage might be assuaged by Bianca's eventual death. But although the corrupted heroine chooses suicide, in doing so she is borrowing the recourse more usually associated with, and therefore dangerously suggestive of, the chaste heroine. Although we might argue that Bianca is responsible for the corrupt and murderous direction she chooses, and she had shown herself to be headstrong and dissatisfied, we must also remember that she was unwillingly corrupt*ed*. Her death might on one hand be seen as a just outcome and a penalty for a tainted marriage; it might also be seen as the fitting end to a raped heroine. Middleton artfully creates equivalence in the manner of her death as in her life. Culturally, too, it can also be read as reinforcing the bad end which, in drama, often threatens a female who asserts her own will in defiance of her father's choice of husband. The marriage to the rapist is uniquely unsanctioned by family, and in spite of the Cardinal's religious objections, in this case it provides no resolution.

[36] Gossett, *Collected Works*, p. 1723. She discusses sources for other facets of the play in pp. 1724-25.

The play certainly fits with the pattern of experimentation as Middleton mixes equivalence of character and fate, weakness and wilfulness. Bianca is first raped by, then complicit with the Duke. They are only two of the many characters who succumb to selfish desire, lust, love and revenge. Livia's unhealthy love for her brother Hippolito inspires her to entrap Isabella, her niece, into an incestuous relationship with him. In return, prompted by the Duke, Hippolito is incensed at the illicit passion Livia indulges with a social inferior. He kills her lover Leantio (Bianca's husband), and her sororial love turns to vengeful hatred, leaving the Duke free to marry Bianca. Although the Duke's lust and Bianca's pragmatism turn to love, for all the characters personal gratification overcomes humanity and morality. And after all the significant characters die, the play ends bleakly with no authority figure left to rule – only the Cardinal is still alive. Whereas marriage to the rapist might facilitate tragicomedy while drama is in temporal mode, the overbearing presence of the Cardinal in the last two acts of the play confronts the audience as well as the characters, articulating the moral implications with religious force:

> Must marriage, that immaculate robe of honour
> That renders virtue glorious, fair, and fruitful
> To her great master, be now made the garment
> Of leprosy and foulness? Is this the penitence
> To sanctify hot lust?
> […]
> If that be comely, then Lust's offering are
> On Wedlock's sacred altar.
>
> (IV. 3. 14-24)

> Is it enough to use adulterous thefts
> And then take sanctuary in marriage?
> […]
> when you leave this body,
> Man's only privileged temple on earth
> In which the guilty soul takes sanctuary,
> Then you'll perceive what wrongs chaste vows endure
> When lust usurps the bed that should be pure.
>
> (IV. 3. 36-46)

The Cardinal describes the Duke and Bianca's marriage as a device to cloak and sanctify lust. He identifies it as a reward, but not a perverse reward for Bianca's rape, of which his knowledge cannot be assumed, but for a union mutually tainted by adultery and connivance against sacred laws.

Unlike *The Queen of Corinth* and *The Spanish Gypsy*, *Women Beware Women* differs in making the female eventually complicit in plotting an outcome devoid of redeeming guilt and repentance. Middleton further varies the experiment, declining the tragicomic resolution that marriage to the rapist offers, and undermining its moral basis. Like Lucretia, the corrupted Bianca is a married woman, but in all other ways Lucretia's antithesis. She refuses to complain of her violated status, contriving neither pity nor need to sacrifice herself, and then with bitter pragmatism accommodates and exploits her situation. Immorality cannot be allowed as the foundation for happiness: marriage can only be allowed after rites of confession and repentance by the rapist, and forgiveness and acceptance by the victim. The unchaste marriage cannot be allowed to endure and the perpetrators must die. Usually an inversion of the tragic denouement of rape, in this instance marriage is re-inverted to return rape to its traditional genre of tragedy.

But in addition to the four plays already discussed in the period 1616-1623 there were actually five plays written in which rape occurs. The remaining play is Middleton and Rowley's *The Changeling* (1622).[37] Narratives taken from the Overbury case are discernible in the heroines of both *Women Beware Women* and *The Changeling*; Middleton's interest is probably unsurprising since he had been a fellow student of Thomas Overbury at Queen's College, Oxford.[38] But critics cite *The Changeling* more extensively than *Women Beware*

[37] Middleton and Rowley, *The Changeling*, ed. by Douglas Bruster, in *Collected Works*, ed. by Taylor and Lavagnino. Subsequent references are to this edition unless otherwise stated, and given after quotations in the text.
[38] Taylor, 'Middleton, Thomas (bap. 1580, d. 1627)', in *DNB*, online edn [accessed 8 April 2014], paragraph 4.

Women as most obviously and closely borrowing from the scandals.[39] Rape, and a perverse and ambiguous complex of symbiotic and antipathetic sexual accommodation does not lead to marriage for *The Changeling's* Beatrice-Joanna, but to an on-going sexual disgust and complicity possibly more shocking than marriage.[40] Her extraordinary downfall and demise creates another aberration in the pattern proposed by Gossett. Beatrice's death is ambiguous – whether suicide or another submission to her lover's desire. It fits neither the pattern of marriage to the rapist, nor honourable death in the form of either retributive punishment, or as an attempt to redeem her honour. Instead, it is another act of sordid complicity between the two lovers as they defy the righteous horror and retribution awaiting them. And a bed-trick causes the murder of the substitute, Diaphanta. It is a far more morally shocking play than those displaying repentance and redemption. It is devoid of a dramatically contrived and apparently 'happy' marriage to the rapist, or the grief stricken and comparatively noble suicide inspired by Bianca's dissolute love for the poisoned Duke in *Women Beware Women*.

Two further plays in the period suggest less clarity in the pattern surrounding the dramatic deployment of rape. The first, again by Middleton, also betrays the influence of the Overbury scandal. Written in 1620, *Hengist, King of Kent* enacts an abduction resulting in a supposed 'rape'. The circumstances make its definition as a rape play equivocal. In this case the rape to which the Queen, Castiza, believes herself to be subject is, in fact, carried out by her disguised husband, Vortiger. He intends to brand her an adulteress, so that he can divorce

[39] For a full discussion of the interplay between historical evidence and the scandals in relation to the literature of the time, see Lindley. In addition, critics citing *Changeling* include: Dawson, 'Giving the Finger: Puns and Transgression in *The Changeling',* in *Elizabethan Theatre 12: Papers Given at the Twelfth International Conference*, ed. by A. L. Magnusson and C. E. McGee (Toronto: Meany, 1993), pp. 93-112 (p. 106) ; Judith Haber, '"I(t) could not choose but follow": Erotic Logic in *The Changeling*', *Representations*, 81 (2003), 79-80; Lisa Hopkins, 'Beguiling the Master of the Mystery: Form and Power in *The Changeling*', *Medieval Renaissance and Drama in England*, 9 (1997), 149-61; Lindley, pp. 67-68, Chapter 3 (pp. 78-122); Christina Malcolmson, '"As Tame as the Ladies": Politics and Gender in *The Changeling*, *English Literary Renaissance*, 20 (1990), 320-39; J. L. Simmons, 'Diabolical Realism in Middleton and Rowley's *The Changeling*', *Renaissance Drama* 11 (1980), 154-63; Paul Yachnin, 'Scandalous Trades: Middleton's *The Witch*, the 'Populuxe' Market and the Politics of the Theater', *Medieval and Renaissance Drama in England* 12 (1999), 227, and note 18; Burks, 759-62, focuses on the Frances Coke scandal to underscore her discussion of *The Changeling*. Several of the critics mentioned also make reference to *Women Beware Women* in the context of forced or arranged marriage.

[40] Dalton, *Country Justice* (1618), p. 248, defines consent given under duress as rape.

her and marry another. Rape within marriage, of course, would not have been defined as rape at all, but as far as Castiza and those around her is concerned the experience is precisely that. And, for the purposes of her husband she can be condemned as no longer chaste. Having dismissed her confession of ravishment as a 'cunning texture to enclose adultery!', Vortiger claims: 'she can ne'er go | For perfect honest that's not always so'.[41] The play subverts the Lucretia model in that there has been no rape by early modern standards, and unlike the menfolk who insist on the purity of her mind, Vortiger insists that her physical violation cannot be mitigated and is proof that she is unchaste. Although the play has a historical source Middleton makes free with it. Certainly it is possible to make claims for the timing of its appearance, if not for the playwright's selection and treatment of the narrative. In many ways *Hengist* shares behaviours exposed by the contemporary scandals, including dubious claims about the sexual behaviour of a spouse to enable marriage to another, murder, abduction, and rape within, rather than before, marriage.

Rowley and Fletcher wrote the second of the two plays that flirt with marriage and rape in 1623. *The Maid in the Mill* takes place against a background of revels. The characters are enacting the judgment of Paris in which Venus, played by Florimell, the maid of the title, is acclaimed most fair by Paris, played by Bustofa, her not-very-bright brother. Mars suddenly appears in an apparently unrehearsed coda, and abducts her amidst her cries for help. Mars is actually Gerasto, servant of Otrante who intends to ravish her. When she first dissuades Otrante, he and his retainer call on the Ovidian stereotype of resistance: Gerasto implies that her protestations are part of the usual disingenuous display of modesty employed by such girls, and that she 'longs to be ravished'.[42] Otrante favours coercion, but Florimell

[41] *Hengist, King of Kent*, ed. by Grace Ioppolo, in *Collected Works*, ed. by Taylor and Lavagnino, IV. 2. 158, 190-91. Subsequent references are to this edition unless otherwise stated, and given after quotations in the text. Ioppolo discusses the context of Overbury scandal in her introduction to the play, pp. 1449-50.
[42] Fletcher and Rowley, *The Maid in the Mill*, ed. by Bowers, in *Dramatic Works*, ed. by Bowers, IX (1994), (III. 3. 124). Subsequent references are to this edition unless otherwise stated, and given after quotations in the text.

then circumvents his attempts with a seductive display of wantonness, and by falsely admitting her claim of chastity had been a device to entice him. Perversely, once confronted with the kind of girl he originally assumed her to be, Otrante loses interest – for long enough to allow her rescue. Otrante repents and she asks for, and is granted, his hand in marriage. (For the sake of social equilibrium it also transpires that she is, in fact, the lost daughter of the noble Julio).[43]

Before leaving *The Maid in the Mill* it is worth noting the extent of evidence it reveals that the playwrights, if not their audience, were familiar with the provisions and process of rape law. From the outset of the abduction, there are references to specific legal processes. When Florimell realizes she is being carried off she cries out. Bustofa recognises that a 'Hue and cry' should be raised (II. 2. 180), while Julio promises to 'fill the Countrey' in her pursuit (II. 2. 214). Franio, the Miller, wanting judgment for all involved in the plot, notes correctly that the law will 'hang 'em all who had a hand in it' (III. 1. 55). And once Florimell is rescued, King Philippo's question, 'Maid, were you stolne?', seeks to determine whether abduction or elopement caused her disappearance (V. 2. 160). In a parallel plot two pairs of would-be lovers from feuding families are confused against the backdrop of the revels, darkness, illicit meetings, and secret marriage. Julio and Bellides, the two patriarchs have privately settled a longstanding feud and, after a little pretence of anger, the confusion is undone and parents, children and spouses reconciled. But the law of rape also applies in the plot of the confused lovers, which includes many references to the legalities of and breaches caused by the young people marrying against the will of their parents. In the comic plotting and confusion between the couples and their fathers there are various references to fathers'

[43] In relation to *The Maid in the Mill*, Gossett, 'Best Men', 321, notes that marriage is an unusual conclusion, even when rape is attempted rather than executed.

blessings and powers of prohibition, of the priest and the bedchamber, and of an unsanctioned marriage as theft.[44]

After 1623

Massinger's *The Unnatural Combat* is an unmitigated tragedy. But although rape and its resolution by marriage remained infrequent in drama during the decade after 1623, it did not entirely disappear. The (sometimes illogical) narrative of *Dick of Devonshire* (1626) contains a rape that concludes with marriage.[45] It takes place against a background of the war between England and Spain. Eleanora is left with only the protection of her betrothed, Henrico, when both their fathers have to go to fight. Almost immediately she expresses intangible fears that convey the dramatic certainty of fulfilment. She urges her father, Don Fernando, not to leave:

> *Eleanora* I feare if you goe hence all will not long be well.
>
> *Henrico* Distrust you me Elionora?
>
> *Eleanora* no indeed,
> you ever had with me th'opinion
> of a most noble gentleman.
>
> (I. 3. 93-96)

Her instinct proves unreliable: all, indeed, is not well, but Henrico is not 'a most noble gentleman'. When he eventually gives way to lust; she is vocal and eloquent in her resistance, calling on honour, family, heaven and hell, but to no avail. Afterwards, she surprises even Henrico by informing both fathers of her rape. But rape can only be part of a corrupt identity, and Henrico has now embarked on a course of potential fratricide, patricide and robbery of his brother's inheritance. Reminded that it is 'her choice | to have you marry her, or to have you hangd' (V. 1. 8-9), Henrico first rejects Eleanora in favour of death, but when confronted by a witness he confesses and agrees to marry her. Since he first found death preferable, she

[44] See for example IV. 1. 163, 182; IV. 2. 183-99; IV. 3. 19-21; V. 1. 1-3; V. 2. 266-86; 316-17; 344-49.
[45] Robert Davenport (?), *Dick of Devonshire*, ed. by James G. and Mary R. McManaway, The Malone Society reprints, vol. 103 (British Museum Ms Egerton 1994, folios 30-51).

now rejects him, eliciting the comment that she might be persuaded to be merciful as 'the Crime is not so Capitall' (V. 1. 256). When all his sins are finally revealed and he is confronted by his father, she is merciful and agrees to marriage. The depth of Henrico's inhumanity must make this the most unsatisfactory of conclusions by marriage.[46]

Arthur Wilson's *The Swisser* was performed at Blackfriars by the King's Men in 1631, although it was not published until 1904.[47] It contains many of the characters and devices familiar from the works of Fletcher and Massinger: a background of war, a young and immature King, an exiled General (Arioldus), an exiled nobleman in disguise (Andrucho), a cross-dressed heroine and long-lost daughter (Eurinia), and the King's sister, Panopia, who is promised to Arioldus. The sub-plot contains an undefined feud between two older noblemen, the forbidden love between their offspring, a suggestion of incest, and an averted double suicide. In fact, few dramatic possibilities are omitted.

Eurania, Andrucho's lost daughter, had previously been disguised as Arioldus's 'Boy', and secretly loved him. Later, as herself, Arioldus takes her into his protection after a battle. The King hears of her, sees her and carries her off. When she proves immune to his attention he rapes her. Both Andrucho and Arioldus are torn between vengeance and loyalty to their uncharacteristically tyrannous sovereign. The plot is resolved by Eurinia's marriage to the rapist-King when her noble birth is acknowledged, while Arioldus and Panopia are also free to marry.

The play causes similar unease to *The Spanish Gypsy*, with the raped heroine obliged to marry one for whom she had no prior feelings. The preservation of honour and the re-

[46] There are various overt references in the text to medieval English statute law. For example: Pedro remarks that 'the Law yet weares a sword in our defence' (III. 4. 14), alluding to trial by combat, but later, when Manuell requests trial by combat, the Duke reminds him that the law takes account of potential inequity: 'Say he that does accuse | should be decrepitt, lame and weake, or sickly | the other strong and lusty', the law says that when important matters are at stake – like patricide – 'you then must call the law into the field,| but not the man' (V. 1. 133-135, 138-139).

[47] See Harbage, pp. 130-31; Arthur Wilson, *The Swisser*, ed. by Linda V. Itzoe, The Renaissance imagination series, 7 (London: Garland, 1984), pp. 10-11.

establishment of political unity take priority. Despite its familiar tropes, there is less passion and tension than in the Fletcher or Massinger plays. The avenging nobles are unfailingly polite, while the raped heroine is transported from rape to marriage with little dramatic agonizing in between. It is then hardly a surprise to discover in the final resolution that the young lovers' attempted suicide has been averted by the extra-dramatic prescience of one of the fathers. How *Dick of Devonshire*, or *The Swisser*, with their denouements of marriage to the rapist were received in the atmosphere of Caroline sensibilities can only be a matter of speculation.[48] The emergence of *The Swisser* in the year of the Castlehaven scandal may or may not be significant, but the play contains few, if any, parallels to those events.

The Limits of the Marriage Resolution

Drama is obliged to find a resolution which is both fitting and satisfying for the audience among the competing demands of social, moral and religious propriety, natural justice and human sympathy. Experimentation and the unexpected might provide that satisfaction; but the public representation of familiar but furtively practised arrangements, such as marriage as a resolution to rape might also be shocking. Whatever the ethical values of playwright or audience may have been, the plays that conclude with marriage draw attention to the paradoxes and inequities by which a capital crime is apparently rewarded and a woman can readily assume the mantle of love and gratitude towards her assailant.

However, marriage as a supposedly mutually acceptable and lasting solution to rape was not an entirely new concept, having been a feature of romance narratives that were now readily available. In addition, in the period 1616-1623, it in fact only prevails in *The Queen of Corinth and the Spanish Gypsy* – only two of five Jacobean rape plays and both derived from other sources. *Women Beware Women* ends in the death of the rapist and his bride at the

[48] A further rape play, Sir William D'Avenant's, *The Cruell Brother: A Tragedy* (London: Waterson, *1630), is a rape play from the period, but conforms with the traditional pattern of its genre, with the death of the victim.*

wedding celebrations, while both *The Changeling* and *All's Lost* resolve in death without marriage. And it is *The Changeling* that critics most frequently align with Jacobean scandal. There is little doubt that the misdeeds of the aristocracy inspired Middleton's writing in particular, but the connection between plays resolving with marriage to the rapist and the scandals is likely also to be driven by other dramatic imperatives – experimental, individual, or economic, for example.

The potential combination of moral and dramatic challenges and paradoxes set up by the prospect of a woman's marriage to her assailant enriches the background against which to consider the tragicomic resolution to rape. Since genre is a tool of their trade, it is perhaps unsurprising that playwrights utilised its potential. Marriage provided an original dramatic means to avert the tragedy of rape. It avoided the death of at least the heroine, usually the rapist as well, and probably others besides, but in doing so it created the challenging prospect of the hero-rapist. If he is to be allowed to survive and to marry a woman whose qualities excited his desire in the first place, he must be endowed with sufficient redeeming features. There must be an excuse or catalyst for his behaviour (which he will repent), or he must be sufficiently sympathetic to be deemed worthy of redemption. Conversely the raped woman is always required to be forgiving while, even amidst a period of innovation, the idea of a rape victim marrying one other than the man who took her virginity cannot be countenanced. Unlike the rapist, the victims, Clara (*Spanish Gypsy*), and Maria (*Swisser*) were already betrothed to men of their choice. By virtue of rape they were each obliged – with apparent gratitude – to marry men for whom they had no prior knowledge or feelings. This was the only means by which to reclaim a semblance of honour. It is paradoxical that far from being shocking, cultural mores concerning female chastity force the point of dramatic resolution to represent the appropriate female response as gratitude, either spoken or assumed, for, in

effect, being presented as a reward to the rapist. (And it is, of course the *woman's* 'impurity' that limits her options.)

Although a rape victim is allowed both to live and to be acknowledged as honest (in mind if not body), an experiment that endowed the rapist with qualities of the comedy hero, and turned tragedy into tragicomedy, must have its limits. To persist with such an experiment could risk, not only reviving sympathy for the ancient (unlawful, but probably on-going) practice of marrying the rapist but, more importantly, normalising the concept of the rapist as a hero. Even the playwrights' seeming urge to shock and innovate might have been moderated by recognition of the cultural contradictions such an outcome creates. And shock and innovation, by definition, cannot survive excessive use.

Whether or not its resolution was entirely novel or shocking, rape was concentrated on the Jacobean stage in tragic and tragicomic form at a time when the private affairs of a dysfunctional section of the nobility became public. At the same time, popular print widened the circulation of scandal and drama. Rape provided a vehicle via which to represent immorality at a time when the playwrights were reconfiguring the boundaries of genre. Innovation and opportunity emerged amidst this conjunction of historical events. Although analysis from an ideological point of view cannot but highlight the ethical landscape surrounding rape in drama, it can only return a legal and social discussion to a context of male oppression / female victimhood. However *un*ethical it may be, tragicomedy exploited the atmosphere of the time, revelling in rape as a source of dramatic tension and a symbol of depravity. But although experimentation and scandal are two of the influences at play behind the Jacobean phenomenon of rape drama, a third seems possibly more crucial. The impact of scandal on a previously credulous public occurred, not just in the context of a general desire on the part of playwrights to innovate, but as coincidental to the nature of the particular

playwrights to whom the opportunity fell at this specific time in history. They are the subject of the final chapter.

CHAPTER 8
FLETCHER, MIDDLETON, AND THEIR COLLABORATORS

Despite the concentration of rape narratives between 1616 and 1623 noted in the previous chapter, in the period between Shakespeare's *Titus* and Wilson's *Swisser*, they are still relatively few in number. And it is noticeable that the small number of plays is generated by an even smaller number of playwrights. This chapter turns to the playwrights themselves. It suggests that a blend, encompassing personal, artistic and commercial decisions, might be a more fruitful source for criticism than attempts to apply to rape drama a conforming ethic of disgust or outrage, or to limit discussion to specific historical events.

The coincidental careers of Fletcher, Middleton, and Rowley had a significant role in the phenomenon of rape in drama. Fletcher wrote *The Night Walker* and *Valentinian*; he collaborated with Philip Massinger and Nathan Field on *The Queen of Corinth*, and with Rowley on *The Maid in the Mill*. Middleton wrote *The Revenger's Tragedy* and *Women Beware Women*; he collaborated with Dekker on *The Honest Whore*, with Rowley on *Hengist*, and *The Changeling*, and with Rowley, Dekker and John Ford on *The Spanish Gypsy*. Rowley was sole author of *All's Lost by Lust*. It seems that Fletcher and Middleton never worked with one another despite having collaborators in common, but across their full canon of works, in addition to Rowley, they both worked with Ford and John Webster.[1] Rape drama, tragic or tragicomic, came to the fore with the careers of three particular playwrights and subsided, not simply with Caroline politics, but perhaps as critically, with the demise of its main exponents. Fletcher died in 1625, Rowley in 1626, and although Middleton lived until 1627, he wrote no plays after 1624 when he was imprisoned over the apparently scandalous *A Game at Chess*.[2] Between them they either authored or collaborated on nearly

[1] On Middleton's early collaborations see Taylor, 'Middleton', in *DNB*, 'First writings', paragraph 5; Fletcher and the question of collaboration is discussed below.
[2] *A Game at Chess: A Later Form*, ed. by Taylor, in *Collected Works*, ed. by Taylor and Lavagnino, p. 49. Subsequent references are to this edition unless otherwise stated, and given after quotations in the text.

all plays written in which rape is a fact, as well as others in which it is equivocal, in the period from Middleton and Dekker's *Honest Whore* until the end of their writing careers.[3]

The chapter begins with the associations among the group of writers to which Fletcher and Middleton are conspicuously central.[4] Afterwards though, when turning to their works, the notion of comparison between them is complicated in two ways. The first complicating factor, and a direct consequence of the subject matter, is the limited number of rape plays. However, plays where rape lurks as a motif provide an alternative insight to the approach of the authors to their subject. The representation of its fear, attempt, threat, or intent can inflect a play with the intensity of horror the crime generates without having to deal with its aftermath. At the same time, the absence of the act enables the genre to become more flexible, particularly in the form of tragicomedy. While rape in real life might be condemned where it is recognized, and in drama represented as tragedy, the threat without the act is allowed to inhabit drama in comedic form.

Second, and more fundamental, is the practice of collaboration within the writing trade. This is particularly the case with Fletcher whose works are commonly presented within 'the Beaumont and Fletcher canon'.[5] And, as well as occasional collaborations with others including Field, Ford and Webster, he is known to have written some seventeen plays with Massinger.[6] McMullan warns: 'The nature of this canon […] makes the process of writing a biography of any early modern dramatist, and especially that of any of the playwrights

[3] The exceptions to authorship by Fletcher, Middleton and Rowley of plays in which rape occurs are Heywood's *Lucrece*, and his *Iron*, and *Golden Age*s, and Massinger's *Unnatural Combat*.

[4] Despite Rowley's contribution, his sole authorship of only one rape play does not provide sufficient evidence from which to draw particular conclusions. Others of his relevant collaborative works are included in the discussion of either Fletcher or Middleton.

[5] Cyrus Hoy's comprehensive work on Beaumont and Fletcher identifies the various contributors and their contributions to the plays: see Hoy, 'The Shares of Fletcher and his Collaborators in the Beaumont and Fletcher Canon (1-7)', *Studies in Bibliography*, 8 (1956), 129–46; 9 (1957), 143–62; 11 (1958), 85–106; 12 (1959), 91–116; 13 (1960), 77–108; 14 (1961), 45–67; 15 (1962), 71–90. A full list of Fletcher's collaborations is given in McMullan, *The Politics of Unease in the Plays of John Fletcher* (Amherst: University of Massachusetts Press, 1994), Appendix 2, pp. 267-69.

[6] McMullan, 'Fletcher, John (1579-1625)', in *DNB*, online edn [accessed 27 June 2012], 'The King's Company playwright', paragraph 1.As well as being Fletcher's 'regular writing partner […] when Fletcher died, Massinger inherited his role as principal playwright for the King's Company'.

involved in the Fletcher canon, an impossible task'.[7] The resulting complications are particularly pertinent when looking at the wider range of plays in which **rape is deployed as threat**. Against this background the discussion assumes a certain level of compatibility among the group of writers – particularly where collaborators are regular partners. Whatever their precise roles, either Fletcher or Middleton remain a constant presence in the collaborations involving rape. However, the particular dynamic between Beaumont and Fletcher cannot be ignored. For example *The Woman Hater*, a play attributed 'essentially' to Beaumont, but with 'at least five scenes […] revised by Fletcher', establishes characteristics of female chastity under threat. In *Philaster*, too, Beaumont is deemed to have 'the controlling hand'.[8] For ease of reference though, the chapter generally discusses collaborations under the names of either Fletcher or Middleton.

Although the Jacobean fashion for raped heroines coalesces around the works of Fletcher, Middleton, and Rowley, the underlying or overt threat of rape was exploited by others – particularly Massinger. Massinger collaborated with Fletcher on *The Custom of the Country*, *The Little French Lawyer* and *A Very Woman*.[9] In addition he also collaborated with Dekker on *The Virgin Martyr* (1620), a Christian martyr play in which rape is averted by the power of Christian faith and the intervention of divine spirits.[10] On his own he continued to create dramatic tension through the threat of rape in *The Duke of Milan*, *The Bondman*, and

[7] *Ibid*., 'Death and reputation', final paragraph. He places his caution in the context that, 'Hoy's methods, along with sociolinguistic and other means for determining authorship, are subject to many caveats […].See also McMullan, *Unease*, p. x. He observes the complexity of Fletcher's plays noting: 'They are remarkably difficult to locate […] in terms of the professional practice involved in their construction, being almost invariably the unfinished, almost casual product of at least two writers'.

[8] Hoy, 'Shares' (3), *Studies in Bibliography*, 11 (1958), 98-99, 95-96 (95); Beaumont and Fletcher, *The Woman Hater*, ed. by George Walton Williams, in *Dramatic Works*, ed. by Bowers, I (1966); Beaumont and Fletcher, *Philaster*, ed. by Turner, *ibid*. Subsequent references are to these editions unless otherwise stated, and given after quotations in the text.

[9] Fletcher and Massinger, *The Little French Lawyer*, ed. by Turner, in *Dramatic Works*, ed. by Bowers, IX (1994); *A Very Woman*, ed. by Hans Walter Gabler, in *Dramatic Works*, ed. by Bowers, VII (1989). Subsequent references are to these editions unless otherwise stated, and given after quotations in the text.

[10] Dekker and Massinger, *The Virgin Martyr*, in *Thomas Dekker: The Dramatic Works of Thomas Dekker*, ed. by Bowers, 4 vols (Cambridge: Cambridge University Press, 1953-1961), III (1958). *The Virgin Martyr* is hagiography: a work of explicitly Christian didacticism in which rape defines the ultimate threat, demonstrating the irredeemable wickedness of the pagan aggressors, and the devout purity of the heroine who escapes rape in death.

The Bashful Lover.[11] However, it would have been interesting to know how the narrative of his lost Caroline tragedy, *The Forced Lady* (1633), unfolded.[12] Massinger's association with Fletcher might have been expected to generate experimentation with rape itself. However, he appears to have established his own brand, demonstrating the different choices made by writers between act and motif, and about treatment and genre, and commercial appeal. Other than the particularly sordid events of *The Unnatural Combat*, his heroines provide titillating stimulus for male pursuit and dysfunction: they may die, but they avoid rape. Massinger's work is the focus of the final part of the chapter.

A Tightknit Fraternity

If innovation and sensation were characteristic of Jacobean tragicomedy, it seems surprising that the subject of rape was dominated by a limited number of playwrights. It seems particularly so given the confined environment of the theatre industry and its common objective to attract the paying public apparently eager for the sensation that stimulated the tragicomic genre.[13] The world of the playwrights, as Taylor explains, was tightknit: 'the fraternity was small – smaller than a guild – and all of its members must have known each other. More than half the known plays written between 1590 and 1640 were the work of just twenty-two men'.[14]

---

[11] Massinger, *The Duke of Milan*, in *Plays and Poems*, ed. by Edwards and Gibson, I; *The Bondman*, *ibid.* Subsequent references are to these editions unless otherwise stated, and given after quotations in the text.

[12] See Harbage, pp. 132-33.

[13] Taylor, 'Thomas Middleton: Lives and Afterlives', in *Collected Works*, p. 25, juxtaposes an account of Middleton's popular success during his lifetime with a Hogarthian comparison of the lurid subject matter both represented. A flavour of the commercial imperative and vibrancy of the theatre companies can be found in Scott McMillin, 'Middleton's Theatres', in *Ibid*., pp. 74-79. On the public appetite for sensation see also, R. A. Foakes, 'Playhouses and Players', in *The Cambridge Companion to Renaissance Drama*, ed. by A. R. Braunmuller and Michael Hattaway, 2nd edn (Cambridge: Cambridge University Press, 2003), p. 34; Robert N. Watson, 'Tragedy', *Ibid*., pp. 301-11, esp. p. 302, pp. 305-306, pp. 310-11.

[14] Taylor, 'Lives', in *Collected Works*, p. 37. With the fluidity of the production process, might it be that half the plays entered in the Stationers' Register, rather than those written in the period, were the work of twenty-two men? Nonetheless Taylor reinforces the point that the writing community was close, facilitating a ready exchange of ideas.

Collaboration between playwrights might have arisen through personal and professional compatibility, but links were also facilitated by their affiliation with theatre companies and playhouses. Both Fletcher and Middleton wrote for the King's Men: Fletcher as principal writer and Middleton as freelance.[15] Their contributions to the company included four of the rape plays: Middleton's *Revenger* and *Women Beware*, and Fletcher's *Valentinian* and *Queen of Corinth*. Of the remaining rape plays, those involving Rowley were performed by the Prince's Men and Lady Elizabeth's Men. His *All's Lost by Lust* was performed by the Prince's Men, and the later Middleton-Rowley collaborations *Changeling* and *Gypsy* were performed by Lady Elizabeth's Men.[16] The restriction of rape plays to the King's, Lady Elizabeth's, and The Prince's Men might suggest the companies' influence in the choice of material. If that were the case, it might be expected to be represented in both the number of rape plays written and the playwrights writing them. But neither putative company interest, nor the network of relationships that might encourage the spread of ideas within the writing community, seems to have generated many contributions beyond those of Fletcher, Middleton, and Rowley.

Rowley, however, provides a link between various known and suspected dramatic collaborations that indicate he was part of a network of direct and indirect associations which included Middleton, Heywood, George Wilkins, Shakespeare, Fletcher, Massinger, Day, Dekker, Ford, and Webster, and plays of sexual violence. He contributed to works with Dekker, Ford, and Webster; and Heywood, it seems, was his 'mentor'.[17] An associate of Rowley was Wilkins – a sometime playwright and participant in the sub-culture of taverns,

[15] McMullan, 'Fletcher', in *DNB*, 'The King's Company playwright', paragraph 1; McMillin, 'Middleton's Theatres', in *Collected Works*, pp. 77, 78.
[16] See Harbage. Across the whole span of their works Fletcher and Middleton wrote for the King's Men during contemporaneous periods.
[17] Gunby, 'Rowley', in *DNB*, 'Early dramatic collaborations […]', 'Later works', paragraph 1; Taylor, 'Middleton', in *DNB*, 'Thirty-something', paragraph 7.

crime and prostitution which surrounded the theatre.[18] He, in turn, is understood (controversially), to have contributed early parts of Shakespeare's *Pericles*.[19] Both Shakespeare's *Pericles* and *Measure for Measure* contain sexual coercion, against a background of prostitution.[20] The seamy world of taverns, prostitution and the theatre, was also the backdrop to libel proceedings when Rowley, together with Dekker, Ford and Webster were prosecuted in response to their now lost play *Keep the Widow Waking*.[21] Of all these writers, all but Day and Dekker, at some time in their careers, wrote for the King's Men. In fact, over fifty per cent of the plays mentioned in this thesis (and therefore including, or alluding to rape, its threat, or to sexual transgression) were written for that company. However, when other contributory factors are taken into account a direct causal correlation between subject matter and institution remains speculative.[22]

If commercial success was the priority and sensation attracted audiences, it only reinforces the question of the confinement of rape narratives to the province of so few playwrights. With every reason why more playwrights might have chosen to use rape as a dramatic device, but didn't, there seems to be no particular reason why Fletcher, Middleton

[18] Anthony Parr, 'Wilkins, George (*d.* 1618)', in *DNB*, online edn [accessed 24 January 2013], esp. paragraphs 6-7. The associations with immorality are familiar context to early modern theatre: see for example McMillin, 'Middleton's Theatres', in *Collected Works*, p. 75; Taylor, 'Lives', in *Collected Works*, p. 25, pp. 46-47. Finkelpearl, *Court*, p. 48, notes the 'Mermaid Tavern' among likely gathering places for writers.

[19] The arguments about authorship are summarized in Shakespeare, *Pericles*, ed. by Doreen DelVecchio and Anthony Hammond, The New Cambridge Shakespeare (Cambridge: Cambridge University Press, 1998), pp. 8-15. Subsequent references are to this edition unless otherwise stated, and given after quotations in the text. On the relationship between Shakespeare and Wilkins, see Charles Nicholl, *The Lodger: Shakespeare on Silver Street* (London: Penguin, 2008), p. 16 and *passim*. Nicholl investigates the period of Shakespeare's residence in Silver Street for a short period that included events in 1604, which lead to a court case concerning the family with whom he lodged. On the authorship of *Pericles*, see esp. pp. 198-99, pp. 221-23, p. 225.

[20] Shakespeare, *Measure for Measure*, ed. by Brian Gibbons, The New Cambridge Shakespeare (Cambridge: Cambridge University Press, 1991; repr. 2003) II. 4. 30-171; *Pericles*, IV. 5.

[21] C. J. Sisson, *Lost Plays of Shakespeare's Age* (Cambridge: Cambridge University Press, 1936), pp. 80-124 (p. 80, p. 98, p. 102). Although the play is lost, its facetious tone and some details of the plot are apparent from the surviving records of the accounts given in court. Sisson relates the events, and the subsequent trials of the participants and the playwrights.

[22] Analysis of plays / theatre companies is based on Harbage. The predominant contributions of Fletcher and Middleton to the subject, and their association with the King's Men, anyway, skew the balance. These facts alone make meaningful analysis unproductive. Other factors to be considered include evolution of the companies, the timespan over which the works are spread, the relatively small number of playwrights who were involved, the number who weren't, as well as the proportion of the company's repertoire that does not rely on rape or its threat.

and Rowley did. Pressure from neither peers, nor theatre-companies, nor economics seems to account for their choices.

Authorship and Dramatic Representation: Rape and Threat

Although Fletcher and Middleton were the principal exponents of the innovative possibilities of rape, or the threat of rape for the stage, there are significant differences in their treatment of the subject in either form.[23] Those differences support the argument for the determining influence of the playwrights' individuality, regardless of social, political and professional context, as both critical factor and coincidence in the concentration of rape in drama during their careers. Public scandal possibly provided a background for rape as tragicomedy, but, as noted in the previous chapter, although Fletcher might have taken advantage of the political atmosphere, it is Middleton's works that have attracted direct analogy with the scandalous events revealed in the courts – in *Hengist, Women Beware*, and *Changeling*.

In the Fletcher canon stereotypes abound. Rape tests male sexual anxiety about women identified in cultural and legal assumptions discussed in earlier chapters: female tendencies to weakness, unreliability and incontinence in sexual matters, and male preoccupations with estate, property (including women) and martial conflict. The cultural backdrop, together with the distinctive characteristics in Fletcher's works and collaborations, might be thought to facilitate easy comparison with works of other writers. Instead, when turning to Middleton, contrast displaces comparison, and the focus shifts to how rape represents the possibilities of human nature. For both writers, female agency determines the limits of the heroines' response, while human frailty means that the distinction between heroes and villains may not be a clear one: rape is a signifier of the character of perpetrator

[23] Although *Changeling* is jointly authored, Middleton is thought to have been mainly responsible for the main events surrounding Beatrice-Joanna, and Rowley for the sub-plot in the asylum and also the opening and closing scenes. See Annabel Patterson's introduction, in *Collected Works*, p. 1632.

and victim. The act or intent to rape can signify chastity and moral strength through the response it elicits from women; it can differentiate male character, distinguishing the tyrant from the intimidator, the wicked from the misguided or foolish, and the incorrigible from the contrite.

Fletcher's Patterns and Stereotypes

A pattern of features emerges from Fletcher's individual and collaborative works of sexual violence. Character is usually already established at the outset. Goodness, either male or female, might have to be proven, foolishness forgiven, and wickedness atoned, but it is generally clear who is good and who is not.[24] Several plays betray a neoclassical influence with chaste heroines challenged against a background of militarism and conflict.[25] However, experimentation with the subject demands a departure from the Lucretia template of a beset heroine who is sequentially married, raped, and dead. Instead, the text can only indicate a heroine's superior renown before it is proven through the trials of the drama.

Among those who surround or assail the innocent, tyrants are cruel, while bawds are malicious and tenacious. Sexually exploitative male protagonists might be tyrants, misguided but redeemable rulers, or jealous or remorseful youths.[26] In contrast to the exceptionally virtuous heroines, other women are commonly portrayed as sexually voracious and

---

[24] Turner, in his 'Textual Introduction' to *The Little French Lawyer*, in *Dramatic Works*, ed by Bowers, IX, p. 329, refers to Fletcher's 'specialities – a spirited woman […], a chaste woman […], a spirited woman […] reduced to despair […], a rampant lecher'.

[25] As well as in *The Humorous Lieutenant*; *Philaster*; *The Queen of Corinth*; *Valentinian*, there is a military background to, if not on-going conflict in, for example, Beaumont and Fletcher, *A King and No King*, ed. by Williams, in *Dramatic Works*, ed. by Bowers, II (1970); Fletcher, *The Loyal Subject*, ed. by Bowers, in *Dramatic Works*, ed. by Bowers, V (1982); Fletcher and Massinger, *The Double Marriage*, ed. by Hoy, in *Dramatic Works*, ed. by Bowers, IX (1994). Subsequent references to *The Double Marriage* are to this edition unless otherwise stated, and given after quotations in the text. (Hoy finds that 'Beaumont's share is much the greater' in *A King and No King*, Hoy, 'Shares', 3, *Studies in Bibliography*, 11 (1958), 85.)

[26] Tyrants or rulers abuse their power for sexual ends in, for example: Beaumont and Fletcher, *The Maid's Tragedy*, ed. by Turner, in *Dramatic Works*, ed. by Bowers, II (1970); *The Custom of the Country*; *A Wife for a Month*. (Hoy, 'Shares', 3, p. 185, also finds Beaumont to be the major contributor to *The Maid's Tragedy*.) Examples of jealous or remorseful youths can be found in: *The Faithful Shepherdess*; *The Woman Hater*; *Philaster*. Both types of failing occur in *The Humorous Lieutenant*.

untrustworthy. The two stereotypes can be found in opposition to one another in the same play, with bawds specifically employed to tempt the chaste object of desire.[27]

Assailed Heroines

When Fletcher makes rape his subject – as either an act or threat – narratives must depend on the assumed or acknowledged virtue of the heroine. Lucina (*Valentinian*), and Merione (*Queen of Corinth*), for instance, must be renownedly virtuous in order for rape to be of dramatic importance; Florimell (*The Maid in the Mill*), must be believed chaste to make credible both her kidnap and her rescue. The agency of the raped female though, is limited by cultural expectations. Lucina, objectified and dismissed, kills herself – as expected; Merione becomes a nun until agreeing to the bed-trick that enables her to save and to marry her rapist. Only if chastity is compromised rather than lost does the heroine have the opportunity and obligation to retain her agency and prove her innocence. Florimell's choice of her abductor as her husband is made with complete freedom.

Even agency and innocence sometimes rely on the offices of a proxy – a cross-dressed alter ego as in the case of the Boy / Alathe in *The Night Walker*, or Bellario / Euphrasia in *Philaster*. The women who cross-dress are invariably forces for good, but are also touched with pathos. Alathe was abandoned by her betrothed before an enlightened reconciliation, while as Euphrasia, the victim of unrequited love, despite her own feelings helped to bring about the marriage of Philaster to Arethusa. It is as if, by assuming an active part, these women have sacrificed a crucial element of femininity and, in doing so, compromised their route to the fantasy role of the romantic heroine.

In the Fletcher canon misogyny is rife: while playing to early modern mores, the works appear to revel in the sexual vulnerability of women to men's ill thoughts and deeds. It

[27] Examples of chaste heroines juxtaposed with stereotypically lewd or dishonest women can be found in: Beaumont and Fletcher, *Cupid's Revenge*, ed. by Bowers, in *Dramatic Works*, ed. by Bowers, II (1970); *The Faithful Shepherdess*; *Philaster*; *The Maid's Tragedy*; *The Custom of the Country*; *The Double Marriage*; *A Wife for a Month*.

is the necessary lot of the chaste heroine at some stage to be doubted, often to be tested, and inevitably proved to be innocent – but she is, of course, an exception among women.[28] Rape, or a threat to the honour of the heroine, is a determining event for both male and female characters, but whereas its intent defines a villain, its threat without intent – as a test of female resolve – might be represented as judicious and justifiable. The plot of *The Woman Hater* is based on this theme, and the play is the earliest in the Beaumont and Fletcher canon in which the threat of rape occurs.[29] It introduces a number of stereotypes that recur in Fletcher's works.

When, in *The Woman Hater*, the Duke of Millaine declares that Oriana is 'a maide | Would make a Prince forget his throne and state' (I. 1. 37-38), he is making a statement about her virtue as much as about any other of her qualities. Virtue and beauty are inextricable. Once the Duke's has acknowledged his romantic interest, it is almost inevitable that doubt, borne of misunderstanding, will arise. In this case it is as a result of Oriana's innocent naivety in eschewing the protection of her brother and in underestimating the antipathy of Gondarino, the woman hater of the play's title.

In his plotting, Gondarino is able to rely on the double standards which undermine female integrity. Oriana's brother, the Count Valore, is the Duke's confidant. He asserts that 'it is so rare a thing to bee honest among you [women]' (II. 1. 211), although of Oriana he insists: 'I know her chaste' (IV. 1. 126). Of Gondarino's lies and posturing he vows: 'He that confesses he did once dissemble, | I'lle never trust his wordes' (IV. 1. 144-45). Yet, when Gondarino proposes a vicious test to 'put her too'it without hope or pittie' (V. 2. 52), the Duke declares 'we doe beleeve thee: she shall die, and thou shalt see it' (V. 2. 58-59). It is a double standard though, which sustains the narrative and raises the dramatic tension, turning

[28] Virtuous heroines are falsely accused in, for example, *The Woman Hater*; *Philaster*; *The Little French Lawyer*. Their exceptional virtue is noted in *The Woman Hater*; *The Faithful Shepherdess*; *Philaster*; *Valentinian*; *The Custom of the Country*; *A Wife for a Month*.

[29] A parallel plot is interwoven, and gives its name to the subtitle, *The Hungry Courtier*, which concerns the greed and obsessive pursuit of gastronomic delicacies by the courtier, Lazarello.

the play from buffoonery and comedy to tragi-comedy. The impending aversion of tragedy might already be discerned though, by the reassuring inclusion of a ridiculous sub-plot that involves a glutton chasing a fish delicacy around the city, while Oriana's quest to convert Gondarino is pursued with spirited humour, despite the sinister threat building against her.

At the culmination of events Oriana must choose between life in exchange for her chastity, or rape and death. The manner in which the second option is expressed manages to be at the same time suggestive of necrophilia while appearing carefully constructed to avoid implying it. Arrigo tells her: 'I will injoy thee, though it be betweene the parting of thy soule and body. Yield yet and live' (V. 4. 69-70). Oriana's honesty is confirmed by her preference for death, which she asserts with Roman stoicism and without pathos. The listening Duke claims her hand. Valore is merely 'glad' (V. 4. 83), that she has proven her honour – not that she lives. His observation that 'you have done worke above your sexe' (V. 4. 84) implies justification for his doubts and the tribulations she has endured, but also the rarity of such virtue in a woman. On the other hand, Gondarino's 'punishment' for contriving her death is to be forcibly caressed by two women.

In a work entitled *The Woman Hater* an overt display of misogyny may be unsurprising. But the play is far from alone in promoting the contradiction that, although women generally are deemed sexually voracious and unchaste, individual women who are believed not to conform to this expectation must be subject to disproportionate trial and punishment. The more innocent the subject, the greater the retribution proposed. Arethusa, the King's daughter and heroine of *Philaster*, is falsely accused of intimacy with her boy servant, Bellario, by Megra, a lady of the court. Although the King is determined to 'have [Arethusa] cleered or buried' (V. 5. 65), in this case the heroine is cleared without her chastity being 'tested', by the contrivance that reveals the boy as a cross-dressed girl. However, in an inversion of the customary 'testing', the girl / boy, Euphrasia / Bellario,

becomes a proxy for the heroine. When threatened with torture, she reveals her identity, so proving both Arethusa and herself innocent and chaste. But, by virtue of her status, Arethusa's life has been threatened and her servant is terrorized because of Philaster's irrational jealousy. On the other hand, Megra's punishment, for putting Arethusa's life and reputation in peril, is merely to be banished from court – a disparity similar to that between Oriana's and Gondarino's in *The Woman Hater*.

Similarly to *Valentinian* and *The Queen of Corinth*, *The Woman Hater* and *Philaster* both indicate that the higher the order and the more esteemed the reputation of the women involved, the higher the stakes when her reputation is put in doubt. And tragedy lurks until the final revelations. Among the middling orders, where stakes are less high, comedy can prevail, while female agency seems to be in inverse proportion to the woman's place in society. *The Little French Lawyer* is a collaboration between Fletcher and Massinger in which Lamira finds her honesty under scrutiny by both her husband, the watchful, lame, ex-sea captain Champernell, and her ex-suitor, Dinant. Comedy arises from the stereotype of the older husband beset with insecurity, and the arrogance of Dinant who prioritizes sexual vigour as a criterion for a suitable match. Dinant presumes such a requirement can only be fulfilled by a youthful suitor (such as himself). He upbraids Vertaigne, Lamira's father, for failing to have 'aim'd more | At what her youth, and heat of blood requir'd' (I. 1. 157-58), and accuses Lamira of 'Forgetting that unjust commands of Parents | Are not to be obey'd' (I. 1. 196-97), citing the church's promotion of companionate marriage over that made under parental pressures. But the comedy is undercut by Dinant's antagonistic taunting, and by the pathos of Champernell's 'teares of anger' (I. 1. 294) after he falls when attempting to draw his sword. The representation cleverly mediates between sympathy for the lover spurned for an apparently pragmatic match, and for the dignity of the older man.

Yet, relieved of the burden of respectful service to his beloved, Dinant arrogantly casts Lamira as no more than the stereotype of a young married woman with an older husband, who will welcome the opportunity to enjoy a clandestine relationship:[30]

> She is a woman, and […]
> time and opportunitie
> May work her to my ends, I confesse ill ones,
> And yet I must pursue 'em: now her marriage,
> In probabilitie, will no way hurt,
> But rather help me.
> (I. 2. 32-38)

Despite having elicited the confession that Dinant's 'love' is more likely lust, his friend Claremont suggests that marriage is 'a fair protection, | to play the wanton, without losse of honour' (I. 2. 45-46).

Lamira has scope for greater independence than the unmarried Oriana enjoyed in the confines of the court circle. But when Lamira wins Champernell's trust by outwitting Dinant her exercise of independence invites sexual danger, as did Oriana's. In this case though, in what seems to be a dramatically calculated, but ill-judged ploy, she appears to give Dinant hope of success in his dishonourable intentions. She tells him:

> T'is yet within my power
> (I dare not say, i'll put it into act,)
> To reward your love and service.
> (I. 3. 46-48)

In dramatic terms, her indiscretion validates Dinant's eventual revenge on Lamira for her 'tricks', and for presuming on her 'power' over him (V. 1. 223, 225). In parts Dinant's revenge resembles the terrorising of Merione in *The Queen of Corinth*.[31] Lamira and her niece Anabell are kidnapped and beset by various terrifying ruses portending rape. Comedy is

[30] Chapter 4 describes the context for early modern beliefs about women's susceptibility to sexual passion, and identifies cultural anxiety about sexually experienced women.

[31] See Turner's introduction to *the Little French Lawyer*, in *Dramatic Works*, p. 329. A variation of the menacing scene appears in *The Custom of the Country*, IV. 3. 103-179: Zenocia, the chaste heroine, is trapped in Hippolyta's mansion, and is to be strangled unless her husband, Arnoldo submits to Hippolyta's sexual desires. Turner also includes *The Knight of Malta*, ed. by Williams, in *Dramatic Works*, ed. by Bowers, VIII (1992), as containing a similar variation. It, too, is a collaboration involving Fletcher and Massinger, with Nathan Field. All of these plays, as well as *The Queen of Corinth*, are Fletcher-Massinger (and others) collaborations.

suspended between knowledge of the deception, sympathy for the victims' fear and distress, and the potential for impending tragedy. In this atmosphere Dinant uses his contrived rescue further to intimidate the terrified Lamira by directly threatening rape. But there is pathos rather than comedy in Lamira's broken spirit and her confessions of pride and cruelty; and the level of Dinant's intimidation raises the suspicion that dramatic purpose is titillation. The scene provides the opportunity for spectacle which places theatricality in opposition to morality.

From the 1640s up to the middle of the twentieth century critics have condemned Fletcher's works as pornographic or immoral.[32] Certainly the recurrence of women beleaguered by sexual threat suggests that titillation is a part of his repertoire. *The Custom of the Country*, similarly to *The Maid in the Mill*, is an example of a play pretending to little in the way of moral lessons, utilizing sexual predation as straightforward comic entertainment.[33] The plot of *The Custom of the Country* arises directly from the custom of *droit de seigneur* that threatens the will and chastity of the chaste heroine, Zenocia, whereas in *The Maid in the Mill*, Otrante's aristocratic assumption of sexual privilege over the miller's daughter, Florimell, is an indirect use of the device. Zenocia escapes the intentions of the tyrannical Count Clodio after wittily arguing her unworthy status, in a similar manner to Florimell.[34] *Droit de seigneur* is the 'custom' of the play's title, and its initial representation as 'wicked', 'barbarous, most inhumane, damned', recognises it in similar terms and gravity to rape (I. 1. 20-21). But this recognition is compromised in the context of Rutillio's initial comic delight in the idea, calling it 'rare' and 'admirable' (I. 1. 33-34), and Zenocia's father's urging her to

[32] On the condemnation, throughout their history, of Fletcher's works as pornographic or otherwise immoral, see Nancy Cotton Pearse, *John Fletcher's Chastity Plays: Mirrors of Modesty* (Lewisburg: Bucknell University Press, 1973), Chapter 1 (pp. 17-29).
[33] However, see Pearse, pp. 26-28, pp. 210-17, esp. p. 210 and p. 217.
[34] *The Maid in the Mill*, III. 3. 1-31. Kathleen McLuskie, *Renaissance Dramatists* (Hemel Hempstead: Harvester, 1989), pp. 199-200, draws attention to a similar scene between Epicure Mammon and Doll Common, in Ben Jonson, *The Alchemist*, in *Five Plays*, ed. by G. A. Wilkes (Oxford: Oxford University Press, 1981; repr. 1999), IV. 1. 41-57.

accept Clodio's offer of marriage. The first threat is averted early in the play by the simple expedient of Zenocia absconding with her beloved, Arnoldo, and his brother, Rutillio. Whatever gravity there may have been in the representation of a woman threatened by sexual relations against her will is undermined by comedy. Fletcher confirms the comedic mood in large part by devising the remainder of the play around gender role-reversal, reminiscent of Venus and Adonis. Having fled to Lisbon, Hippolyta, a lusty chatelaine, displaces Clodio's role as tyrant and sexual predator, while Arnoldo becomes her quarry, and Rutillio finds work servicing women in a brothel.

Evanthe is subjected to the most intense coercion by Frederick, the usurping ruler in *A Wife for a Month*. After she rejects riches, marriage, and persuasion, and endures a cruel plot to thwart the consummation of her marriage to Valerio, even the bawd, Cassandra, recognises such extreme pressure as rape. But she then suggests Evanthe could justify giving in to Frederick by inverting the argument, usually made for the chastity of rape victims, that mind and body remain separate:

> 'Tis a kind of Rape too,
> That keeps you cleare, for where you will's compell'd,
> Though ye yield up your body you are safe still.
>
> (IV. 3. 14-16)

Having made the analogy with rape, Cassandra goes on to belittle the seriousness of the crime, destabilizing the notion of chastity by indulging the fashion to cast doubt on Lucrece's mythical exemplarity:

> Had *Lucrece* e're been thought of, but for *Tarquin*?
> She was before a simple unknown woman,
> When she was ravish't, she was a reverent Saint;
> And do you think she yielded not a little?
> And had a kinde of will to have been re-ravish't?
>
> (IV. 3. 40-44)

The constant emphasis on persuasion and coercion rather than physical force, even if analogous with rape, invites knowing amusement rather than the dismay inspired by the

scenes of terror and degradation that bring a resolution to *The Little French Lawyer*. But levity cannot disguise the fact that, in any of the plays in which rape is accompanied by titillation, the fortitude of the heroines is imposed by the wickedness of villains or the weakness of hapless heroes.

Heroes and Villains

Rape and murder are crimes accepted in early modern law and society as the most heinous, yet Fletcher's dramatic 'heroes' are free to threaten and contemplate both, without reproof and with only the justification of their own weaknesses.[35] *The Little French Lawyer* plays to the assumption that male pride is a virtue, while female pride is a fault. The anti-hero, Dinant, places his pride at a higher tariff than the effect of both the persistent coercion for which Lamira sought to punish him, and the ordeal of threatened rape he contrived in revenge. In this context, her use of the phrase 'long guarded honour' (V. 1. 265) implies the acknowledgement of vanity in the fame attached to her chastity. The recurrence of the accusation, also made of Lucrece, demonstrates the cultural anomaly by which a woman who promotes her own virtue fails to comply with rules of modest demeanour.[36]

The opening scene of *The Woman Hater* establishes the Duke's romantic interest in Oriana, and the denouement, implying their marriage, suggests a role of romantic hero. But, once put under pressure, the Duke's behaviour resembles that of the tyrant. He is mistrustful, censorious and irrationally cruel, willing to sanction the threat of both murder and rape. The Duke's apology for terrorizing her is one of self-justification: 'My trespas was my love' (V. 4. 79).

In a ruler, ruthlessness might be a necessity amidst political instability, with cruelty and murder resulting. But if he is not already deemed a tyrant he becomes so when he abuses

[35] In addition to the crime's definition as a felony, and the language of its condemnation in *The Lawes Resolutions* (see Chapter 2), see also, for example, Fitzherbert, *The newe boke* (1538), sig. C3^{v}, describing rape as 'The most greate offence nexte unto murdre'.
[36] See Donaldson, pp. 33-37.

power for personal gratification, like the lascivious Valentinian. And although rape plays no direct part in the plot of *The Double Marriage* (a Fletcher-Massinger collaboration), Ferrand's reputation is signalled in 'The List of Persons Represented in the Play' as '*the libidinous Tyrant of* Naples'; he 'Ceaz'd on the government' (I. 1. 81), and his status is reinforced when we are told that 'rapes of Matrons, | And Virgins, are too frequent' (I. 1. 96-97). When women ordered for his 'pleasure' are dismissed because he is not 'apt' (I. 2. 37, 39), he tells the guards to 'Injoy them first', and then ransom them back to their husbands 'for fifty Crownes a peece' (I. 2. 40-42). His casual excess is a means of terrorizing and humiliating the male population, as well as the despoiled female victims.

Sexual excess contributes to the downfall of both Ferrand and Frederick (*Wife for a Month*). But Fletcher allows tyrants who are thwarted and regret their wicked ways to become restored to the side of good. For example, the King, having been shaken by mutiny, willingly surrenders sovereignty to Philaster. *The Humorous Lieutenant* takes place against a background of war; King Antigonus confines Celia, plying her with temptation and a supposed love potion, before threatening rape. But he is turned from lust to virtue when she reminds him of 'who dwels above' and of the punishments awaiting him in the afterlife (IV. 5. 66-76, (68)). *The Custom of the Country*'s Clodio renounces his lustful ways after enduring perils at sea. He is reformed and vows:

> If ere againe,
> I live to see *Zenocia*, I will sue,
> And seek to her as a Lover, and a Servant,
> And not command affection, like a Tyrant.
> (III. 5. 5-8)

The speech acknowledges forced sex, however it is defined, as a component of the tyrant's identity.

Taking rehabilitation a step further, remorseful Fletcherian rapists or would-be rapists might transmute from villain to hero. It is true of his plays which are resolved by marriage to

the rapist or would-be rapist: (*Cardenio*), *The Maid in the Mill*, *The Night Walker*; *The Queen of Corinth*. By dramatic definition the man who wins the woman must be the hero of a play, even if his status is acquired through reformation and remorse for his reprehensible behaviour. Philaster, Demetrius (*Humorous Lieutenant*), Virolet (*Double Marriage*), and Valerio (*Wife for a Month*) might all be deemed dramatic heroes, but each has cause to acknowledge the harm their sexual jealousy or selfish desires have caused before the drama can conclude.

Middleton's Unpredictability

In contrast to Fletcher's works in which sexual misdemeanour underpins narrative, Middleton's characters are complex – constructed through behaviours which evolve or are revealed under the pressure of events. They are less often presented as the stereotypes of chaste female beauty, hot-headed prince, loyal general, or tyrant. The reactions of Middleton's characters might be contradictory or unpredictable, and excessive passions collide from several sources. Love is obsessive, but the excesses of emotion provoke greater diversity than the dispassionate desire of mere lust.

Equivocal Heroines

For Middleton's heroines, agency does not necessarily accord with status, and its exercise contributes to the characters' complexity. But they can display equivocal, and sometimes downright wicked, or amoral natures. He subverts the expectation that beauty and breeding equate to goodness, yet it is possible to comprehend if not sympathize with the emotions that prompt the corrupt reactions of the women to the circumstances in which they find themselves. It is still credible to identify these women *as* heroines.

Of Middleton's earlier collaborations, Bellafront, the *Honest Whore* of the title of the play written with Dekker, and Jane Russell, the heroine of *A Fair Quarrel*, with Rowley, each

challenge expectations of female chastity, but are represented sympathetically. Bellafront's profession alone determines her standing, while Jane is an example of the dramatic opportunities offered by the equivocal status of betrothal. The Physician, whom Jane unwisely trusted with the birth of her love-child conceived with her secret betrothed, Fitzallen, does not threaten force, he demands 'love for love', in return for his discretion (III. 2. 77). Despite the tacit social acceptance of pre-marital sex between betrothed couples, she refers to the loss of her honour as her 'sin' (III. 2. 58, 60, and 94). In this instance though, since the only effect of such a revelation can be to prevent the more advantageous marriage proposed by her father, Jane is safe from both coercion and an unwanted suitor.

Greater dramatic tension lies in the parallel plot in which Lady Ager claims to have been unchaste in order to prevent her son from risking his life in a duel to defend her honour. The drama escalates in the scene between them. Her preparedness to endure the shame and stigma attached to such an admission quantifies Lady Ager's terror at the idea of his peril. Her feelings are balanced by the emotions of her son whose initial wariness ('she's but a woman, | Whose frailty let in death to all mankind' (II. 1. 28-29)), turns from 'the strongest […] reverence' (II. 1. 145), to selfish opprobrium. To moderate her supposed guilt, Lady Ager falls back on the device of being 'betrayed to a most sinful hour | By a corrupted soul I put in trust once' (II. 1. 183-184). But, thinking only of his own pride and lost cause, her son tells her: 'you'd ha' died | Ere you'd ha' yielded, for the sin's hate first' (II. 1. 198-199). The situations of both Jane and Lady Ager represent different aspects of the dilemmas generated by the emphasis on female reputation. But in each instance they become the agents of their own sexual reputations, taking the human and pragmatic course of placing love and life before fortune and mythical ideal.

Both Bianca in *Women Beware* and Beatrice-Joanna in *The Changeling* might have been brought up in similarly privileged and protected circumstances to several of Fletcher's

chaste heroines. And there is no prior hint of the lengths to which they will go when confronted by the extremes of their circumstances and emotions. The 'quiet innocent loves' Leantio claims to share with Bianca in the first scene of *Women Beware Women* (I. 1. 52) accord with her own claim that 'with this man's love, | […] I am as rich as virtue can be poor' (I. 1. 127-28). For the sake of love, she has fled wealth and enraged her parents, and at this stage, her gentle demeanour to Leantio and his mother suggests her elopement is borne of romanticism rather than loss of innocence. Even so, both the flight and her later remark that 'I could wrangle | For what I wanted when I was two hours old' (III. 1. 57-58) suggest underlying wilfulness. Against this emotional landscape, Leantio's mistrust and lack of openness about his immediate departure to resume his duties might be seen as the first betrayal of Bianca. His general anxiety about women leads him to fear that his mother's indiscretion will encourage Bianca to fulfil his female stereotype: 'To rise […] in commotion | Against their husbands for six gowns a year' (I. 1. 76-77). And so she is left a virtual prisoner in his mother's uneasy, watchful company.

A meeting of eyes with the Duke as his procession passes begins, for Bianca, a process of dissatisfaction and awakening to the possibilities around her. Once at court the text leaves little question that she is raped by the Duke.[37] She recognizes that Guardiano is part of a trap set for her and there is no other help at hand; she is made aware of her helplessness, and is threatened with force (II. 2. 316-19, 326-30, 335-337, 343-44). She protests her 'honour' and her 'husband', and she invokes 'religion' and her fear of the afterlife (II. 2. 319, 346, 348, 350-51), but to no avail. Afterwards her disgust at the Duke is expressed in terms of 'Infectious mists', 'mildews', and 'doomsday' (II. 2. 421-22). Nor is there any question of the fury she aims at Guardiano for this second betrayal: 'I'm bound in soul | Eternally to curse thy smooth-browed treachery' (II. 2. 426-27). Disgust and betrayal might have inspired

[37] On the question of whether or not Bianca is actually raped see also the earlier discussion in Chapter 3.

Bianca to take a path, via guilt and shame, to religion, revenge or death. But her elopement and ill-tempered dissatisfaction have already defied exemplarity; she has tasted the life of 'obedience' and parsimony Leantio intends for her (I. 1. 74-79, (75)) and observed the grandeur and sophistication surrounding the Duke. Amidst her disgust and anger at the circumstances of her entrapment and rape, she recognizes her fallen status:

> Yet since mine honour's leprous, why should I
> Preserve that fair that caused the leprosy?
> Come poison all at once.
> […]
> Sin and I'm acquainted,
> No couple greater.
> (II. 2. 423-440)

Bianca's feelings for Leantio have become cold and disparaging, but her choice to leave him suggests calculation and growing self-reliance rather than awakened affection for the Duke. The balance of feelings is less clear in her violent response when the Cardinal condemns her marriage to the Duke as 'sinful' (IV. 3. 4). She resolves:

> He that begins so early to reprove,
> Quickly rid him, or look for little love,
> Beware a bother's envy; he's next heir too.
> Cardinal, you die this night.
> (V. 1. 55-58)

But by the culmination of events when the Duke is mistakenly poisoned instead of the Cardinal, passion displaces calculation. In an act again reminiscent of *The Revenger's Tragedy*, Bianca kisses the Duke's poisoned lips declaring: 'My soul stands ready at my lips, | E'en vexed to stay one minute after thee' (V. 1. 237-38), before drinking more poison to ensure her fate.

Sympathy for Bianca is held in balance between her youth, isolation, rape and resolve on one hand, and her fickleness, calculation and murderous intent on the other. The culmination of revenge and counter-plotting creates the opportunity for dramatic spectacle

that releases tension and renders residual sympathy redundant. But morality triumphs in the shape of the Cardinal.

The Changeling's Beatrice-Joanna also disrupts the expectation that beauty and goodness are synonymous in a dramatic heroine. Middleton introduces a beautiful young woman completing her religious devotions, but Beatrice's descent to outright villainy is more rapid than Bianca's, entrapping her in a spiral of immorality. Unlike the fugitive Bianca, Beatrice's husband-to-be is the choice of her father, but she realizes her mistaken judgement in so readily accepting Alonzo's hand when she meets and recognizes Alsemero as the man 'meant' for her (I. 1. 85). With the marriage to take place within a week, she moves almost directly to engage De Flores to murder Alonzo. Any portent of wickedness has been signalled only in Beatrice's unease in the presence of De Flores:

> I never see this fellow but I think
> Of some harm towards me. Danger's in my mind still;
> I scarce leave trembling of an hour after.
>
> (II. 1. 90-92)

Once his intent becomes clear it establishes an atmosphere that pervades the play, but Beatrice fails to recognize the nature of his intrusive presence. In his asides he acknowledges his compulsive desire for her, but her perception is limited by assumptions of status: 'Belike his wants are greedy, and to such | Gold tastes like angels' food' (II. 2. 126-27). He, though, has recognized her already-fallen state after her encounter with Alsemero: 'I have watched this meeting, and do wonder much | What shall become of t'other' (II. 2 57-58), and also recognizes the opportunity it brings him. Once the murder is done Beatrice's failure leaves her entirely in De Flores's power. Her complaint: 'This fellow has undone me endlessly' (IV. 1. 1) transmits shock and horror. But desperation leads her to repeat the pattern of dependency when she contrives a bed-trick to assure Alsemero of her virginity, enabling De Flores further to compound their enterprise with the subsequent murder of Diaphanta.

For Beatrice corruption and murder lead to rape, for Bianca they follow rape. Beatrice's chance of contentment falls away from the moment she realizes she has made the wrong choice of husband. Once she has instigated murder, Beatrice's agency is subsumed to the malevolence of De Flores and her only chance to regain control is to choose suicide. Bianca's responses to her misjudged marriage and rape bring her within reach of her desires; she retains her agency throughout, and exercises it in her choice to die. In neither play, however, is the Roman solution considered as a response to rape: Bianca's suicide is for lost love, not for shame – and suicide is the noble Roman response of the victim, not the fallen. Although both plays are set within a Christian framework which might prevent their suicides, the women have already demonstrated their capacity to eschew their religion.

But, if *Women Beware* and *The Changeling* allude to Frances Howard and the Overbury scandal, the accumulating crimes and rapes, alternatively as a cause and effect of murder, allow dramatic exploration of different scenarios, and a balance of guilt and sympathy. Bianca evolves from love-struck adolescent to political operator through rape; Beatrice's sexual thrall to De Flores might be due deserts for soliciting Alonzo's murder, but her distress is ensured by the device of his grotesque visage. Both women, in their final moments, acknowledge the depths of their depravity. The dying Bianca recognizes that: 'the deformity in spirit's more foul; | A blemished face best fits a leprous soul' (V. 1. 245-46). Beatrice, finally discovered in hiding with De Flores, warns her father 'O come not near me, sir. I shall defile you', and asking Alsemero's forgiveness says: ''Tis time to die when 'tis a shame to live' (V. III. 149, 179). They welcome their respective deaths knowing their own manifest wickedness. In these two heroines in particular, the blend of shame, guilt, suicide and resignation to their fate is reminiscent of Middleton's *Ghost of Lucrece* providing room for compassion, despite condemnation of their actions.

The women of Middleton's histories, *Hengist*, and *A Game at Chess*, play more formulaic parts, facilitating the ambitions of the men whose business history was. But they retain their agency within the established structures of power. Set against her moral opposite, the devout Castiza, Roxena, daughter of Hengist, is ambitious and determined, and approaches sex as both a pleasure and a transaction. But she is trapped by Hersus's jealousy when she plans to displace Castiza as Vortiger's queen while retaining him as her true, but illicit, lover. Hersus's objection, and his threat to betray their affair to her father, draws from her the observation: 'so are we | First robbed and then left bound with jealousy' (III. 1. 51-52). Eventually Hersus devises the plot for Castiza's supposed rape by the disguised Vortiger, and her consequent disgrace that will clear the path for Roxena's ambition.

Castiza is almost saint-like in her purity, but Vortiger's duplicity presages Roxena's dilemma when he tries to tempt the ascetic King Constantius with the reluctant Castiza, and then expresses jealousy of Constantius's departing kiss. Although she is ultimately untainted by anyone other than her husband she could almost be seen as a double victim of 'rape' by Vortiger. She had no wish to be married at all. In an aside she claims:

> I'll never marry; what though my troth be engaged
> To Vortiger? Forsaking all the world
> I save it well and do my faith no wrong.
>
> (I. 3. 179-181)

Later she tells him: 'I'm bound, my lord, to marry none but you, | […] and you I'll never marry' (II. 1. 11-12). The inevitable marriage, to which she is seemingly 'brought in unwillingly', by her father and uncle, is bound up with Vortiger's usurpation (II. 2. 0.0-0.24, (0.19) *Dumb show*). It might be construed as a first, symbolic, rape foreshadowing later events. The second 'rape' and resulting abandonment of Castiza brings about the overthrow of both Vortiger and Hengist. The two women fulfil the roles of 'saint' and 'whore', but although Castiza is a victim, any perceived passivity is countered by determined faith, and the restitution of her status as queen.

A Game at Chess is a dramatic history describing religious politics. The play, in which the Black House of Spain and the White House of England seek to destroy one another, is allegorical, representing figures apparently readily recognizable to audiences of the 1620s, even if not to the censor.[38] Sexual exploitation and depravity signify the association of corruption with Spain and Catholicism. The assumption of inalienable privilege enjoyed by the church supplants the failings of a flawed hero in its attempt to inflict injustice and violation on the virtuous heroine. Middleton exploits the opportunity with a plot to which the sexual pursuit of the devout Virgin White Queen's Pawn by the Jesuit Black Bishop's Pawn, compounded by suggestive hints of incest, is central. From the outset, the moves to ensnare her are littered with specific or general references to the virgin pawn as 'daughter', and erotic insistence on her obedience to her confessor, the Jesuit pawn. Although an attempted rape is interrupted, the Virgin White Queen's Pawn endures injustice and cruelty – also devised in sexual terms. Forced to fast in discomfort, she is locked away with pornographic art, 'in a room filled all with Aretine's pictures' (II. 2. 248). Her assailed virginity is finally preserved by a bed-trick.

The roles adhere to the conventional stereotypes of the helpless, chaste heroine subjected to an abuse of power by an authority figure, and by her own White King James who privileged the false testimony of the Black house over that of the female victim. She is alternately exploited and aided by the Jesuitess Black Queen's Pawn, who fulfils her opposite stereotype of the sexually experienced, scheming, older woman (the bawd). The Virgin Pawn's eventual vindication is swept up amidst the restoration of the political status quo: the victory of White over Black.

[38] Taylor, in his introduction, in *Collected Works*, pp. 1825-26, suggests that although the play was transparent to audiences of the day, 'if the censor, Sir Henry Herbert, had fully understood the manuscript […] the play would almost certainly never have been licenced for performance' (p. 1826).

Heroes or Villains

'Heroes' of Middleton's rape plays, like Fletcher's, might be flawed, but without always completing a satisfactory cycle of tragic death or enlightenment familiar from Fletcher's works. *The Revenger's Tragedy*'s Vindice does die. But although his delayed quest for revenge against the Duke for the rape and poisoning of Gloriana might elicit sympathy, his mistrust and antipathy towards women does not. The manner in which he describes Gloriana is at odds with his supposed regard for her virtue and honour. He conflates her beauty with the generalized denouncement of female beauty as artifice, and as the source of lust in men:

> 'Twas a face
> So far beyond the artificial shine
> Of any woman's bought complexion
> That the uprightest man – if such there be
> That sin but seven times a day – broke custom
> And made up eight with looking after her.
>
> (I. 1. 20-25)

He treats both his sister's chastity and his mother's life as within his gift. In disguise, he bribes his mother to pressurize Castiza to succumb to Lussurioso's desires – and then threatens her life for doing so. He maintains: 'Were't not for gold and women there would be no damnation (II. 1. 250). His final revenge creates a grotesque pantomime and a second act of bawdry, presenting Gloriana's poisoned skull to the Duke disguised in the artifice he despises – '*dressed up in tires*' (III. 5. 43.2, *stage direction*). Despite occasionally invoking God's name, and his reference to 'damnation', Vindice calls on no moral or religious framework to guide or justify his actions. In fact his methodology is to embrace the moral vocabulary of rape and murder familiar from the corrupt rule of the Duke and his family. His moral sense is so distorted that when arrested after revealing that he and Hippolito are the Duke's murderers he is neither repentant, nor regretful, nor defiant. He is astonished.

In *The Lady's Tragedy* Middleton utilizes the stereotype of the faithful but doubted woman, but inverts expectations which might allow the *un*-raped heroine to survive with the

assistance of the hero. The fact that the hero, Govianus, has been overthrown as ruler casts doubt on his strength and ability, and unlike his beloved, he defies the tragic genre of the play by avoiding death. His actions are hardly heroic. At first he does not have faith in the Lady's love, he faints when he has the opportunity to give her the death she begs to save her from rape by the Tyrant, and after literally utilizing her dead body as a vessel for poison (in the style of Vindice in *Revenger*) he resorts to crowning it as his queen in a scene unpleasantly suggestive of the necrophilic tendencies displayed by the Tyrant.[39] The restoration of his crown and the downfall of the usurping Tyrant are eventually brought about only through the defiance and suicide of his beloved. His failures create a powerfully dramatic polarization between the invitation to laugh his weakness, and the tragic death of the heroine.

There is no question of Roderigo's anti-hero status in *The Spanish Gypsy*. The drama balances Roderigo's remorse for his rape of Clara with his persistent self-regard and immaturity. Immediately after the rape he refuses Clara's plea to marry her, but later he declares: 'A thousand stings are in me. O what vile prisons | Make we our bodies to our immortal souls!' (III. 1. 1-2). Later still though, when his father pretends to insist on his marriage to a rich, virtuous, but ugly maiden, Roderigo's petulance is still manifest. He describes the image he is shown as 'dunghill muck', 'a heap of rubbish' (IV. 3. 207), and:

> A thing
> I shall be ashamed to own, ashamed to bring her
> Before a sunbeam.
>
> (IV. 3. 210-12).

He is capable only of seeing worth in beauty, and even more alarmingly, by claiming beauty as his due, of valuing himself at high worth. He finds humility only when his father confronts him with his 'capital sin' (V. 1. 14) – words which acknowledge both the legal jeopardy and the religious implications attached to his crime. Only the honour of the various fathers brings

[39] Neither heroine nor villain have names and are identified as 'Lady', and 'Tyrant' throughout.

the play to its resolution which, with a marriage fashioned specifically to restore Clara's honour, and Roderigo's enduring superficiality, seems hardly satisfactory.

Without the framework of stereotype, Middleton juxtaposes the possibilities of character and circumstance to demonstrate their contingency and their possibility. He withholds the expectations of both character and genre from these heroes. Only germs of motivation mixed with love and regret separate their actions from those of the villain. And while the heroines might suffer the death or compromise of tragedy, the 'heroes' are denied the glory and regret of noble death or sacrifice.

Moral Seriousness, Camp Excess

Differences between the ways the two playwrights achieve their respective characterization supports difference in the structure of their narratives. Fletcher's use of rape takes a more direct course than that of Middleton. That is not to say Fletcher's plays lack complexity or drama, but the parts of chaste heroine, immature youth, loyal servant, and tyrant, emerge early to perform their predetermined role. Having established his stock characters, the progression of the narratives through set-piece confrontations and crises can appear formulaic or contrived. For example, once *The Woman Hater*'s Oriana expresses a wish to exert her independence events follow a predictable pattern. Her brother asserts the weakness and gullibility of the female will, and the merely conditional reassurance between the Count and the Duke of her innocence leads to a vow to test it. For her part, Oriana espouses the classical rhetoric of innocence and fatalistic surrender to impending death, rather than yield her chastity.

In Fletcher's works both male and female characters are inclined to the moral seriousness bestowed by classical ideals of loyalty and chastity. His rape tragedy, *Valentinian*, crosses no generic lines. His often bawdy comedy (notably *The Custom of the*

Country, *The Maid in the Mill* and *A Wife for a Month*), is generated through narrative as he juxtaposes the high moral tone of the characters with the threat to their lives or honour. But the camp excesses of Middleton's tragic characters spill over to comedic effect: Vindice's deluded sense of justice, the chaotic carnage which concludes *Women Beware*, the malignity of De Flores, and the failure of Govianus's courage. His excesses defy expectation, but paradoxically, sustain the suspended reality of theatre.

The characters that inhabit Middleton's rape plays are less predictable than Fletcher's and, therefore, so is the course of the drama. Middleton invites us to understand how corruption breeds and taints those it touches. Rape might define character or elicit action, but it is not necessarily the entire focus of a drama: it might be a secretive catalyst for contagious wickedness. *Women Beware*, *Changeling*, *Hengist*, *The Honest Whore*, and *Fair Quarrel* generate no identification and pursuit of a perpetrator by outraged supporters. Instead the act or threat is private, only emerging through a broader resolution or, as in the case of *Women Beware* and *Changeling*, knowledge of the rape remains confined to those directly involved.

Massinger's Contribution

After Massinger's collaboration with Fletcher *et al* on the *The Queen of Corinth*, his experimentation with the subject of rape and marriage dissipates. *The Unnatural Combat*, the last of his rape plays, was conventionally patterned with a dead, raped heroine. The circumstances of Maria's fall in *The Bashful Lover* are occluded, but hers was a secondary role to the heroine, Matilda. Yet, despite reverting to more conventional narratives in his own representation of rape, and despite the supposed Caroline propriety, he regularly drew on the potential offered by the threat of sexual violence. Like Fletcher (and with Fletcher), he uses the rape motif in the form of inappropriate sexual desire or intent as a device to reinforce other dysfunctional behaviour. In view of their collaboration it is also perhaps unsurprising

that the pattern of Massinger's plays, with familiar stereotypes of the ruling elite playing out love's anxieties, often against a background of war, reveal Fletcher's influence.

Sexual jealousy combines with the threat of rape as the dominant theme of *The Duke of Milan* (1621), *The Bondman* (1623), and *A Very Woman* (before 1625).[40] *A Very Woman* contains no direct allusion to rape, but a failed kidnap attempt hints at the fate of a helpless woman in the hands of an unscrupulous pirate, and allows the disguised suitor to effect a heroic rescue. In *The Duke of Milan* and *The Bondman* in particular it is not the woman's honour or the man's finer feelings at issue, but the potential for jealousy to humiliate, diminish, and render its object vulnerable. The threat or fear of rape readily brings the emotion into play. In view of Massinger's history of collaboration with Fletcher, it may be unsurprising to find that when employing rape as a threat he presents the recognizable characters of chaste heroines, warrior rulers, and treacherous courtiers in a series of set-piece encounters. His hapless heroes take themselves ever seriously, while his heroines retain a high moral tone.

Roman ideology underpins the Duke Sforza's jealous uxoriousness and the fear of rape in *The Duke of Milan*. His wife, Marcelia, is stereotypically beautiful and chaste. Her idealized qualities invite objectification which distils her to an emblem of her virtues. The courtier Francisco describes her 'as a *thing* Sacred', and Sforza asks: 'Is she not the *abstract* | Of all that's rare, or to be wish't in Woman?' (I. 3. 323, 325-26, my emphases). Sforza dwells on 'Her unsuspected chastity, nere equalled: | Her Innocence, her honor' (I. 3. 330-31). The play takes the Roman model a stage further: Sforza plans that his wife must die, not because she has been raped, but because she *might* be raped if he is overcome in battle. There is a confusing mix of Roman and Christian in his readiness to plan her murder to counter the blight of rape, with the expectation that it will enable her to remain chaste for his

[40] It is also a feature of *The Little French Lawyer* (written with Fletcher).

repossession in the afterlife. But it is Fransisco who assails Marcelia. His words first acknowledge the insincerity that underpins the deference paid to her reputation, before assuming her eventual yielding – gesturing at the Ovidian precept:

> All superstitious reverence lay'd by,
> I love you as a Man, and as a Man
> I would enjoy you. Why do you start, and flye me?
> I am no Monster, and you but a Woman:
> A Woman made to yeeld.
>
> (II. 1. 281-85)

Sforza's anxiety about rape and Francisco's attempted coercion of Marcelia eventually reveal the hypocrisy of both men. Francisco's attentions to Marcelia were not driven by admiration, but as part of a plan to avenge Sforza's seduction and abandonment of his sister, Eugenia. Similarly to the treacherous seduction of Cervantes's Dorotea, Eugenia tells how, on the strength of Sforza's 'hell-deepe oathes' to marry her, she had 'given up' her 'faire name' and her 'mayden honor' to Sforza's 'foule lust' (V. 1. 45, 46, 47). Marcelia, on the other hand, she explains, 'had discretion | Not to deliver up her virgin fort' (V. 1. 38-39) until legitimized by marriage. Sforza's careless ruin of Eugenia, and his obverse, irrational jealousy of Marcelia are both aspects of his moral weakness and vulnerability. But Massinger shifts the balance of sympathy between the female characters. Marcelia is victimized by the secret threat to her life from her husband, but also by the spite of a jealous mother-in-law and sister-in-law, but sympathy is mediated by her demonstration of the haughty pride of which they accuse her. Eugenia's story suggests ambition and calculation in Marcelia's chaste insistence on marriage, while claiming naiveté and innocence on her own part. Notably, although Eugenia was prepared to join Francisco in murderous revenge, she is the only character to be spared – to the confines of a 'religious house' (V. 2. 260).

The Bondman is also about sexual jealousy.[41] Rape provides Massinger with a dramatic tool to differentiate male character within the play, presenting it variously as shocking enough to destabilize individual reason, as comedic, and as a defensible instrument of martial terror. Similarly to Marcelia, Cleora finds herself subject to irrational suspicion because of her chaste renown. Her betrothed, Leosthenes, tells her: 'You were never prov'd', and that without male guidance, her 'weake senses' will leave her vulnerable 'to the violent assaults | of loose temptations' (II. 1. 123, 156, 147-48). Cleora's antithesis is Corsica, 'a proud wanton Lady', whose proclivities invite humour.[42] With the men away at war, she is 'starv'd for want of action' (II. 2. 30). The slaves remain at home, but although 'some great women' have played 'At small game', she is 'used to Dainties' (II. 2.-41, 44, 45), and instead, prefers to contemplate a dalliance with her son-in-law.

As well as being a dramatic indicator of individual character, rape helps define the ethics of the mass. When the slaves revolt and take over the city, any levity at the licentiousness of Corsica has to be leavened with Marullo's exhortation to them, to 'Fall on their Daughters, and their wives' (II. 3. 110). In a degenerate society that is dependent on to their slaves while treating them with cruelty, the characterization of Corsa might suggest rape is an apt fate for the decadent female citizens. The slaves, taunt the returning Syracusans with having 'beene bold with your wives, toy'd with your daughters' (IV. 2. 39), confirming a general fear that is individualized in Leosthenes. Massinger reinforces the moral equivalence surrounding rape when he also presents it as a repercussion of decadence and war.

The final revelations mock and reprove excessive male jealousy. Massinger's device of shaming Leosthenes is reminiscent of *The Duke of Milan*. Marullo is actually Pisander, a Theban gentleman; Leosthenes is obliged to acknowledge Pisander's sister Timandra, whom he previously abandoned, as his bride, enabling the love-match between Cleora and Pisander.

[41] The play fuses various sources of ancient wars with a Senecan controversy. See *Plays and Poems*, I, pp. 302-304.
[42] *Ibid*., 'Actors Names' [p. 312].

But the ‘hero’ Pisander has been shown as tyrannical in exhorting rape and manipulating Cleora with its fear, before contriving to intensify Leosthenes’s irrational suspicions and expose her to the threat of death at the hand of her brother.

Rape: A Passing Fashion?

Rape offered the playwrights a source of dramatic intensity and the opportunity to facilitate a heightened response, but in order to continue to do so it had to remain shocking or sensational, and therefore unusual. However, rape as a dramatic device is not simply sensational: it is a useful signifier of virtue as well as wickedness. The dramatic trials of our worthy but ‘assailed heroines’ are essential in forming or exposing the characters of weak men. Heroes and / or villains, however dysfunctional, might nonetheless be rewarded for their behaviour. Rape makes moral good and evil more legible, and distinguishes the redeemable from the irredeemable more readily than appears to have been the case in actuality. Tyrants, the wicked and the misguided threaten or resort to rape; women who fear rape are chaste women.

Fletcher, Middleton and Rowley took the dramatic potential of rape further and explored the questioning void left when the violation of innocence no longer equates with the death of either victim or rapist. Middleton’s Bianca and Beatrice defy all rules by suffering rape and corruption alternately as cause and effect. The passing of the three playwrights coincides with the decline of rape as tragi-comedy in drama during the decade after *The Spanish Gypsy*. But social and political events which contributed to their innovation had also run their course. Tyrant plays had a particular place in Jacobean drama at a time of particular social and political anxieties. The death, overthrow or rehabilitation on stage of the sexually voracious tyrant might be interpreted as analogous to the restitution of sexual balance, conformity, and good governance. However, the equivocal nature of tyrants, rightful rulers

and heroes suggest that, alone, to be an over-simplistic model.[43] The novelty of the scandals among the aristocracy passed, even though the Castlehaven case had yet to come to court. And, as Gossett suggests, the Caroline atmosphere apparently favoured propriety and the less sensational outcome of a dead, raped heroine.[44]

If a dead heroine is the only acceptable outcome of rape, the drama becomes predictable and limited. If the heroine lives and marries the rapist (and no raped heroine was, in the end, allowed to live – even to retreat to a nunnery – without marrying the rapist) there are difficult dramatic waters to negotiate. Religious adherence and its abandonment underpin the resolution of Middleton's rape plays, but despite the framework of Christian society, redemption, forgiveness, and rehabilitation on stage might test credibility as well as the moral tolerance of a capital crime. Or its fading from the repertoire over the next decade might simply represent the passing of a fashion, or a well-worn *topos*.

Despite the example of Middleton and Rowley, and his collaborations with Fletcher, Massinger writing on his own chose either to conform to the conventional death of a rape victim, or to avoid the dramatic challenges it posed. Rather than experiment with the survival of a raped heroine he promoted dramatic tension through the averted fear and threat of rape. The strategy offers the possibilities of suicide, murder, revenge, survival, marriage, or religious retreat, while being far less confined by the moral dilemmas the act of rape poses.

Rape as a subject appears to have served a particular group of playwrights well at a specific time in history, and while their personal and professional exchanges might have

[43] On theatrical tyrants and political analogy see Rebecca Bushnell, *Tragedies of Tyrants: Political Thought and Theater in the English Renaissance* (Ithaca: Cornell University Press, 1990), esp. Chapter 5, pp. 154-187 which includes discussion of Beaumont and Fletcher's representation of kingship, politics, and James I. See also, Martin Butler, 'Late Jonson', in *Tragicomedy* ed. by McMullan and Hope, pp. 166-188; Andrew Gurr's introduction, in Francis Beaumont and John Fletcher, *Philaster, or Love Lies a-Bleeding*, ed. by Gurr, The Revels Plays (London: Methuen, 1969), pp. li-lviii; McMullan's interpretation of *The Woman Hater*, in *Unease*, pp. 88-92; Lois Potter 'Topicality or Politics', in *Tragicomedy*, ed. by McMullan and Hope, pp. 77-91; Robert Y. Turner, 'Responses to Tyranny in John Fletcher's Plays', *Medieval and Renaissance Drama in England*, 4 (1989), 123-141, esp. 123-27.

[44] Gossett, 'Best Men', 327. However, see Watson, p. 306, who observes 'the decadence of Caroline tragedians, such as John Ford, who aggrandized twisted passions […], but with a kind of resignation'.

enriched its representation, so their individuality diversified it. Ideas were subject to exchange among the community of writers. However, the overriding concern of the theatres for which they wrote was commercial and their obligation and objective was to provide entertainment. The demands of the theatre as much as the political mood seem to have inspired the tragicomic genre and suggested rape as a fruitful topic for dramatization. Tragicomedy might be located in the avoidance of rape: a failed attempt that permits entertainment and titillation. Or it might be located in the avoidance of death for victim or perpetrator through marriage.

The choices between rape and motif, tragedy and tragi-comedy, death and survival represent a balance of influence between personal ideology, professional association, and economic reality from which the playwrights' art emerges. All is, of course, also mediated by the historical moment. Without the confidence of a convincing historical record, the balance of factors is a valid source of academic speculation.

CONCLUSION

The process of writing about rape necessarily engages the writer in a discourse: rape is inextricable from law, law from its historical moment, law and history from interpretation, and interpretation from ideology. It is a route via which the subject has been inflected with modern academic concerns. Debates, particularly within and between the disciplines of history and literature, forced the enquiry back to the legal sources and to follow the widening strands of the discourse. Historical data might retain its validity, but the context that the early chapters have reviewed indicates that there is both need and capacity to refresh the encounter between literary critics and the discourse that embraces early modern dramatic representations of rape.

The near-absence of rape from sixteenth- and seventeenth-century assize statistics, together with the priority given in statutory rape law to the material value of women by the ruling classes, has provided a focus for feminist suspicion of a male-dominant society. It is a paradigm that has become commonplace, and has remained unchallenged over the past thirty years, implying patriarchal objectification of women by men and indifference to rape. When the trail leads to the bawdy courts, social history, natural sciences and religion collude to cloak rape in the guise of female immorality. The church court records also indicate how social, cultural, religious and legal discourses intersect to show how the beliefs and knowledge that set such store by female morality shaped communities and drove behaviour. But although it is a matter of fact and record that women were regarded and treated as inferior to men, a constant emphasis on oppression, objectification or commodification can, itself, undermine their value.

In contrast to the notion of subjugation, women negotiated their position within the limitations society set. It meant that they inevitably participated in a system that oppressed other women. Aristocratic wives traded in wardships, arranged marriages, ran estates and

competed for favour at court. Studies of the middling and lower sorts find women out in the community running businesses, trading, making, farming, labouring and serving. In order to protect or assert their own reputations they brawled, slandered, libelled, and spied on neighbours. Employers blamed and dismissed maids raped by their masters. Women judged other women by the moral standard they claimed for themselves. Despite the inequity of rape laws and the condemnation of raped women as 'whore', these were part of the culture and institutions that ordered women's lives.

Popular print, verse and drama acknowledge contradictions and anomalies in the treatment of women. False accusations, coercion, force, abandonment, shame, might be recognised for what they are and the victims afforded sympathy and compassion – even when they have erred. But we cannot know to what extent these works represent either insight or the artistic drive to inhabit and test the ground between imagination and reality. They describe fantasy women controlled by the pen and the will of the writer.

Through this world of imagination, myths that were transformed into poetry by Ovid and assimilated into early modern learning and culture evolved again in drama. The playwrights invoke Ovid's characters, but rape distinguishes good from bad, and bad from tyrant, and genre becomes the subject of experiment. Yet, when shorn of Ovid's guise of myth and aesthetic, the representation of rape or its attempt in plays such as Fletcher's collaborations, *Custom of the Country* and *Maid in the Mill*, can more easily be perceived as gratuitous titillation. At the same time, Ovid's precept that women like to be forced feeds early modern scepticism about women's honesty. When actual female frailty encounters imagination, satire follows in the shape of Middleton's *Women Beware Women* and *Changeling*. However, we are shown the route that leads to the falls of Bianca and Beatrice-Joanna, and we hear their disgust and self-loathing before they die. Disturbingly though, coercion, force and shame are callously exploited in the lost *Keep the Widow Waking*. As the

court records of that case make plain, a pitiful but real woman was granted none of the understanding afforded to the fallen heroines of the imagination. Although the play provides only one example, it is a reminder of the historical gap between the concept and reality of women and rape.

The vagaries of statutory rape law, complicated by its extension to the crimes of elopement and abduction, add to risks and constraints for real women and the opportunities for creating tension in drama. Rape symbolism in *A Midsummer Night's Dream* initiated this project: symbolism that is particularly relevant at a time when parental authority held sway, despite an increasing emphasis on affection and compatibility within marriage. History is separate from drama, but law, property and marriage are an inextricable part of the rape discourse: they provide a significant background to historical events and an inescapable context for writing about rape in drama. Even when the law is not directly invoked, anxiety surrounds female characters who exercise their own will in choosing a husband, and extends the possibilities even into the comedies. The bed-trick, too, can inhabit all genres. Whether bed-trick, forced marriage, or attempt, fear or threat, the shadow of rape provided the early modern playwrights with a potent device, in either the foreground or the background of drama. For the modern critic, they contribute to discussion of the subject, but that discussion must include awareness of the parameters of the historical time, of any law invoked, and the historical point of view of either critic, or writer, or character.

In its early chapters, the thesis proposes that the basis for writing about rape over the past thirty years is unreliable, that it is forged in outdated ideology, and that context, contradictions and anomalies offer breadth for further exploration. In doing so, it invites others to revise, review and re-engage with the subject. They may well dispute the legal interpretations and criticisms put forward here. That is the point of the process.

BIBLIOGRAPHY

Primary Sources

Adams, Thomas, *The sacrifice of thankefulnesse A sermon preached at Pauls Crosse, the third of December, being the first Adventuall Sunday, anno 1615* (London: Knight, 1616)

Ailesbury, Thomas, *Paganisme and papisme parallel'd and set forth in a sermon at the Temple-Church, upon the feast day of All-Saints, 1623* (London: Becket, 1624)

Augustine, St, *Of the citie of God* (London: Eld, 1610)

Autpertus, Ambrosius, *A monomachie of motives in the mind of man: or a battell betweene vertues and vices of contrarie qualitie […]besides sundrie devout praiers necessarilie interlaced […], Newlie englished by Abraham Fleming* (London: Seres, 1582)

Barnes, Jonathan, ed., *The Complete Works of Aristotle: The Revised Oxford Translation*, 2 vols (Guildford: Princeton University Press, 1984)

Beaumont, Francis, and John Fletcher, *Cupid's Revenge*, ed. by Fredson Bowers, in *The Dramatic Works in the Beaumont and Fletcher Canon*, ed. by Fredson Bowers, 10 vols (Cambridge: Cambridge University Press, 1966-1996), II (1970)

—— *A King and No King*, ed. by George Walton Williams, in *The Dramatic Works in the Beaumont and Fletcher Canon*, ed. by Fredson Bowers, 10 vols (Cambridge: Cambridge University Press, 1966-1996), II (1970)

—— *The Maid's Tragedy*, ed. by Robert K. Turner Jnr, in *The Dramatic Works in the Beaumont and Fletcher Canon*, ed. by Fredson Bowers, 10 vols (Cambridge: Cambridge University Press, 1966-1996), II (1970)

—— *Philaster, or Love Lies a-Bleeding*, ed. by Andrew Gurr, The Revels Plays (London: Methuen, 1969)

—— *Philaster*, ed. by Robert K. Turner, in *The Dramatic Works in the Beaumont and Fletcher Canon*, ed. by Fredson Bowers, 10 vols (Cambridge: Cambridge University Press, 1966-1996), I (1966)

—— *The Woman Hater*, ed. by George Walton Williams, in *The Dramatic Works in the Beaumont and Fletcher Canon*, ed. by Fredson Bowers, 10 vols (Cambridge: Cambridge University Press, 1966-1996), I (1966)

Beaumont, Francis, John Fletcher, and Nathan Field, *Four Plays in One*, in *The Dramatic Works in the Beaumont and Fletcher Canon*, ed. by Cyrus Hoy (Cambridge: Cambridge University Press, 1966-1996),VIII (1992)

Bentley, Thomas, *The fift lampe of virginitie conteining sundrie forms of christian praiers and meditations, to bee used onlie of and for all sorts and degrees of women, in their severall ages and callings* (London: Denham, 1582)

—— *The sixt lampe of virginitie conteining a mirrour for maidens and matrons: or, the severall duties and office of all sorts of women in their vocation out of Gods word, with their due praise and dispraise by the same: […] either good or bad […]* (London: Dawson [and Denham], 1582)

The boke of justices of peas (London: Pynson, [1505 (?)])

The boke of Magna Carta (London: Redman, 1534)

Bracton, Henricus de, *De Legibus et Consuetudinibus Angliae* (*Bracton*), ed. by George E. Woodbine, trans. by Samuel E. Thorne, 4 vols (Cambridge, Mass.: Harvard University Press, 1968-77), II (1968)

Brathwaite, Richard, *Anniversaries upon his Panarete continued: With her contemplations, penned in the languishing time of her sicknesse. The second yeeres annivers* (London: Bostock, 1635)

—— *Ar't asleepe husband? A boulster lecture; stored with all variety of witty jeasts, merry tales, and other pleasant passages […]* (London: R[ichard] B[est],1640)

—— Richard, *The English gentleman containing sundry excellent rules or exquisite observations* (London: Haviland, 1630)

—— *The English gentlewoman* (London: Sparke, 1631)

Britton, ed. by F. M. Nichols, 2 vols (Oxford: Clarendon Press, 1865)
Brydall, John, *Privilegia magnatum apud Anglos* (London: Sawbridge, 1704)

Chaucer, Geoffrey, *The Riverside Chaucer*, ed. by Larry D. Benson (Oxford: Oxford University Press, 1987; repr. 1988)

Church of England, *The booke of common prayer, and administration of the sacraments and other rites and ceremonies of the Church of England* (London: Barker, 1603)

—— *The Book of Common Prayer and Administration of the Sacraments and Other Rites and Ceremonies of the Church of England* (Oxford: Oxford University Press [1969 (?)])

Chapman, George, *The Tragedy of Alphonsus Emperor of Germany*, introduction and notes by Karl Eltz; (London: Moseley, 1654; facsimile repr., Leipzig: Brockhaus, 1867)

Chappell, William, and Joseph Woodfall Ebsworth, eds, *The Roxburghe Ballads*, 9 vols (London: Ballad Society, 1871-1897)

A Collection of seventy-nine black-letter ballads and broadsides, printed in the reign of Queen Elizabeth, between the years 1559 and 1597 (London: Joseph Lilly, 1867)

Cleaver, Robert, *A godly forme of houshold government for the ordering of private families, according to the direction of Gods word […]* (London: Field, 1621)

Coke, Edward, Sir, *The First Part of the Institutes of the Laws of England, or a Commentary on Littleton*, 10th edn (London: Rawlins and Roycroft, 1703)

Coke, Edward, Sir, *Institutes of the Laws of England*, 4 vols (New York and London: Garland, 1979)

—— *The Second Part of the Institutes of the Lawes of England,* (London: Brooke, 1797)

—— *The Third Part of the Institutes of the Laws of England*, 4th edn (London: Brooke, 1797)

—— *The Fourth Part of the Institutes of the Laws of England*, 4th edn (London: Brooke, 1797)

The Complete justice, ([London (?): n.pub.], 1637)

The compleat justice (London: Flesher, 1656)

Cooper, Thomas, *Thesaurus linguae Romanae and Britannicae* (London: Wykes, 1565)

Dalton, Michael, *The countrey justice containing the practice of the justices of the peace out of their sessions* (London: Islip, 1618)

—— *The countrey justice containing the practice of the justices of the peace out of their sessions* (London: Islip, 1619)

—— *The countrey justice containing the practice of the justices of the peace out of their sessions* (London: Islip, 1622)

—— *The countrey justice containing the practice of the justices of the peace out of their sessions* (London: Islip, 1626)

—— *The countrey justice containing the practice of the justices of the peace out of their sessions* (London: Flesher, 1630)

—— *The countrey justice containing the practice of the justices of the peace out of their sessions* (London: Rawlins and Roycroft, 1705)

D'Avenant, William, Sir, *The Cruell Brother: A Tragedy* (London: Waterson, *1630)*

Davenport, Robert (?), *Dick of Devonshire*, ed. by G. James, and Mary R. McManaway, The Malone Society vol. 103 (British Museum Ms Egerton 1994, folios 30-51; repr. 1955)

Donne John, *Fifty sermons preached by that learned and reverend divine, John Donne […]* (London: M.F. [Miles Flesher?], Marriot, and Royston, [1649])

—— *LXXX sermons preached by that learned and reverend divine, Iohn Donne […]* (London: Royston, and Marriot, 1640)

Dekker, Thomas, and Philip Massinger, *The Virgin Martyr*, in *Thomas Dekker: The Dramatic Works of Thomas Dekker*, ed. by Fredson Bowers, 4 vols (Cambridge: Cambridge University Press, 1953-1961), III (1958)

Dekker, Thomas, and Thomas Middleton, *The Patient Man and the Honest Whore*, ed. by Paul Mulholland, in *Thomas Middleton: The Collected Works*, ed. by Gary Taylor and John Lavagnino (Oxford: Oxford University Press, 2010)

Dekker, Thomas, and others, *Lust's Dominion*, in *The Dramatic Works of Thomas Dekker*, ed. by Fredson Bowers, 4 vols (Cambridge: Cambridge University Press, 1953-1961) IV (1961)

Dyer, James, Sir, *Reports of cases in the reigns of Hen. VIII, Edw. VI, Q. Mary, And Q. Eliz, Taken and collected by Sir James Dyer, Knt, Some time Chief Justice*, 3 vols (London: sold by Butterworth, 1794), III

Edgar, Thomas, *Two Charges* (London: Walbancke [1649, i.e. 1650])

Ferrers, Richard, *The worth of women* (London: Jones, 1622)

Fitzherbert, Anthony, *The newe boke of justices of peas* (London: Redman, 1538)

Fleta, ed. and trans. by H. G. Richardson and G. O. Sayles, Publications of the Selden Society, vols 72, 89, 99 (London: Selden Society, 1953-1983), vol. 72 (1953)

Fletcher, *Bonduca*, ed. by Cyrus Hoy, in *The Dramatic Works in the Beaumont and Fletcher Canon*, ed. by Fredson Bowers, 10 vols (Cambridge: Cambridge University Press, 1966-1996), IV (1979)

—— John, *The Faithful Shepherdess*, ed. by Cyrus Hoy, in *The Dramatic Works in the Beaumont and Fletcher Canon*, ed. by Fredson Bowers, 10 vols (Cambridge: Cambridge University Press, 1966-1996), III (1976)

—— *The Humorous Lieutenant*, ed. by Cyrus Hoy, in *The Dramatic Works in the Beaumont and Fletcher Canon*, ed. by Fredson Bowers, 10 vols (Cambridge: Cambridge University Press, 1966-1996), V (1982)

—— *The Loyal Subject*, ed. by Fredson Bowers, in *The Dramatic Works in the Beaumont and Fletcher Canon*, ed. by Fredson Bowers, 10 vols (Cambridge: Cambridge University Press, 1966-1996), V (1982)

—— *The Night Walker*, ed. by Cyrus Hoy, in *The Dramatic Works in the Beaumont and Fletcher Canon*, ed. by Fredson Bowers, 10 vols (Cambridge: Cambridge University Press, 1966-1996), VII (1989)

—— *Valentinian*, ed. by Robert K. Turner Jnr, in *The Dramatic Works in the Beaumont and Fletcher Canon*, ed. by Fredson Bowers, 10 vols (Cambridge: Cambridge University Press, 1966-1996), IV (1979)

—— *A Wife for a Month*, ed. by Robert Kean Turner, in *The Dramatic Works in the Beaumont and Fletcher Canon*, ed. by Fredson Bowers, 10 vols (Cambridge: Cambridge University Press, 1966-1996), VI (1985)

Fletcher, John, Nathan Field, and Philip Massinger, *The Knight of Malta*, ed. by George Walton Williams, in *The Dramatic Works in the Beaumont and Fletcher Canon*, ed. by Fredson Bowers, 10 vols (Cambridge: Cambridge University Press, 1966-1996), VIII (1992)

—— *The Queen of Corinth*, ed. by Robert Kean Turner, in *The Dramatic Works in the Beaumont and Fletcher Canon*, ed. by Fredson Bowers, 10 vols (Cambridge: Cambridge University Press, 1966-1996), VIII (1992)

Fletcher, John, and Philip Massinger, *The Custom of the Country*, ed. by Cyrus Hoy, in *The Dramatic Works in the Beaumont and Fletcher Canon*, ed. by Fredson Bowers, 10 vols (Cambridge: Cambridge University Press, 1966-1996), VIII (1992)

—— *The Double Marriage*, ed. by Cyrus Hoy, in *The Dramatic Works in the Beaumont and Fletcher Canon*, ed. by Fredson Bowers, 10 vols (Cambridge: Cambridge University Press, 1966-1996), IX (1994)

—— *The Little French Lawyer*, ed. by Robert Kean Turner, in *The Dramatic Works in the Beaumont and Fletcher Canon*, ed. by Fredson Bowers, 10 vols (Cambridge: Cambridge University Press, 1966-1996), IX (1994)

—— *A Very Woman*, ed. by Hans Walter Gabler, in *The Dramatic Works in the Beaumont and Fletcher Canon*, ed. by Fredson Bowers, 10 vols (Cambridge: Cambridge University Press, 1966-1996), VII (1989)

Fletcher, John, and William Rowley, *The Maid in the Mill*, ed. by Fredson Bowers, in *The Dramatic Works in the Beaumont and Fletcher Canon*, ed. by Fredson Bowers, 10 vols (Cambridge: Cambridge University Press, 1966-1996), IX (1994)

Ford, John, *The Broken Heart*, in *The Selected Plays of John Ford*, ed. by Colin Gibson (Cambridge: Cambridge University Press, 1986)
Golding, Arthur, *The xv bookes of P. Ovidius Naso, entytuled Metamorphosis* (London: Seres, 1567)

Glanville, Ranulf de *The Treatise on the Laws and Customs of England Commonly Called Glanvill*, ed. by G. D. G. Hall (London: Nelson, in association with the Selden Society, 1965)

Gouge, William, *Of domesticall duties eight treatises* (London: Haviland, 1622)

Goulart, Simon, *Admirable and memorable histories containing the wonders of our time* (London: Eld, 1607)

Granger, Thomas, *A familiar exposition or commentarie on Ecclesiastes Wherein the worlds vanity,and the true felicitie are plainely deciphered* (London: Pavier, 1621)

Hale, Sir Matthew, *Historia Placitorum Coronae* 2 vols, (1736; repr. London: Professional Books, 1971), I

Hale, Sir Matthew, *The History of the Common Law in England*, ed. by Charles M. Gray (1713; repr. 1739; repr. London: University of Chicago Press, 1971)

Heywood, Thomas, *An apology for actors Containing three briefe treatises. 1 Their antiquity. 2 Their ancient dignity. 3 The true use of their quality* (London: Okes, 1612)

—— *The exemplary lives and memorable acts of nine the most worthy women in the world three Jewes, Three gentiles, Three Christians* (London: Royston, 1640)

—— *The Golden and Silver Ages: Two Plays,* introduction and notes by John Payne Collier (London: Shakespeare Society, 1851)

—— *The iron age containing the rape of Hellen: the siege of Troy* […] *&c.* (London: Okes, 1632)

—— *The Rape of Lucrece*, in *The Dramatic Works of Thomas Heywood*, ed. by Richard Herne Shepherd, 6 vols (London: Pearson, 1874), V

—— *Troia Britanica: or, Great Britaines Troy* (London: Jaggard, 1609)

Hindley, Charles, ed., *Roxburghe Ballads*, 2 vols (London: Reeves and Turner, 1873-74)

The Holy Bible, King James Version (London: Collins, [n. d.])

Horne, Andrew, *The booke called the mirrour of justices* (London: Walbancke, 1646)

Jonson, Ben, *The Alchemist*, in *Five Plays,* ed. by G. A. Wilkes (Oxford: Oxford University Press, 1981; repr. 1999)

Lambarde, William, *Eirenarcha, or Of the offices of the justices of peace* (London: Newbery and Bynneman, 1581)

The Lawes Resolutions of Womens Rights: Or, The Lawes Provision for Woemen (London: More, 1632)

Livius, Titus, *The History of Rome,* ed. by Ernest Rhys, trans. by William Masfen Roberts, 6 vols (London: Dent and Sons, 1912), in *Electronic Text Center, University of Virginia Library*, <http://etext.lib.virginia.edu/etcbin/toccer-new2?id=Liv1His.sgm&images=images/modeng&data=/texts/english/modeng/parsed&tag=public&part=1&division=div> [accessed 29 January, 2013]

London, William, *A Catalogue of The Most Vendible Books in England* (London: [n. pub.], 1657)

A manuall or analecta […] formerly styled The complete justice (London: Flesher, 1641)

Marlowe, Christopher, *Doctor Faustus*, in *Doctor Faustus and Other Plays*, ed. by David Bevington and Eric Rasmussen, Oxford English Drama (Oxford: Oxford University Press, 1995; repr. 1998)

Marston, John, *Sophonisba*, or *The Wonder of Women*, in *The Malcontent and Other Plays*, ed. by Keith Sturgess (Oxford: Oxford University Press, 1997)

Massinger, Philip, *The Bashful Lover*, in *The Plays and Poems of Philip Massinger*, ed. by Philip Edwards and Colin Gibson, 5 vols (Oxford: Clarendon Press, 1976), IV

—— *The Bondman*, in *The Plays and Poems of Philip Massinger*, ed. by Philip Edwards and Colin Gibson, 5 vols (Oxford: Clarendon Press, 1976), I

—— *The Duke of Milan*, in *The Plays and Poems of Philip Massinger*, ed. by Philip Edwards and Colin Gibson, 5 vols (Oxford: Clarendon Press, 1976), I

—— *The Unnatural Combat*, in *The Plays and Poems of Philip Massinger*, ed. by Philip Edwards and Colin Gibson, 5 vols (Oxford: Clarendon Press, 1976), II

Middleton, Thomas, *A Game at Chess: A Later Form*, ed. by Gary Taylor, in *Thomas Middleton: The Collected Works*, ed. by Taylor and John Lavagnino (Oxford: Oxford University Press, 2010)

—— *The Ghost of Lucrece*, ed. by G. B. Shand, in *Thomas Middleton: The Collected Works*, ed. by Gary Taylor and John Lavagnino (Oxford: Oxford University Press, 2010)

—— *Hengist, King of Kent*, ed. by Grace Ioppolo, in *Thomas Middleton: The Collected Works*, ed. by Gary Taylor and John Lavagnino (Oxford: Oxford University Press, 2010)

—— *The Lady's Tragedy*, ed. by Julia Briggs, in *Thomas Middleton: The Collected Works*, ed. by Gary Taylor and John Lavagnino (Oxford: Oxford University Press, 2010)

—— *The Revenger's Tragedy*, ed. by MacDonald P. Jackson, in *Thomas Middleton: The Collected Works*, ed. by Gary Taylor and John Lavagnino (Oxford: Oxford University Press, 2010)

—— *Women Beware Women*, ed. by William C. Carroll (London, Black, 1994)

—— *Women Beware Women*, ed. by John Jowett, in *Thomas Middleton: The Collected Works*, ed. by Gary Taylor and John Lavagnino (Oxford: Oxford University Press, 2010)

Middleton, Thomas, and others, *The Spanish Gypsy*, ed. by Gary Taylor, in *Thomas Middleton: The Collected Works*, ed. by Taylor and John Lavagnino (Oxford: Oxford University Press, 2010)

Middleton, Thomas, and William Rowley, *The Changeling*, ed. by Douglas Bruster, in *Thomas Middleton: The Collected Works*, ed. by Gary Taylor and John Lavagnino (Oxford: Oxford University Press, 2010)

—— *A Fair Quarrel*, ed. by Suzanne Gossett, in *Thomas Middleton: The Collected Works*, ed. by Gary Taylor and John Lavagnino (Oxford: Oxford University Press, 2010)

Nashe, Thomas, *The Unfortunate Traveller*, in *The Unfortunate Traveller and Other Works*, ed. by J. B. Steane (London: Penguin, 1972; repr. 1985)

Ovid, *Fasti*, trans. and ed. by A. J. Boyle and R. D. Woodard (London: Penguin, 2000; repr. 2004)

—— *Heroides*, trans. by Harold Isbell (London: Penguin, 1990; repr. 2004).

—— *Loves schoole Publii Ovidii Nasonis de arte amandi, or, The art of love* [trans.by Thomas Heywood] (Amsterdam: Visscher, [1625])

—— *The Love Poems*, trans. by A. D. Melville, with introduction and notes by E. J. Kenney (Oxford: Oxford University Press, 1990)

—— *Metamorphoses*, trans. by A. D. Melville, with introduction and notes by E. J. Kenney (Oxford: Oxford University Press, 1986)

Painter, William, *The palace of pleasure* (London: [Kingston and] Denham, 1566)

Peele, George, *The Love of King David and Fair Bethsabe* ed. by W.W. Greg, Malone Society (London: Islip, 1599; repr., 1907)

Perkins, John, *A profitable booke of Maister John Perkins felowe of the inner temple treating the lawes of Englande* (London: Tottell, 1555)

The phoenix nest 1593, A Scolar Press Facsimile (London: Scolar Press, 1973)

Rich, Barnabe, *The excellency of good women The honour and estimation that belongeth unto them. The infallible markes whereby to know them* (London: Dawson,1613)

Rollins, Hyder Edward, ed., *The Pepys Ballads*, 7 vols (Cambridge, Mass: Harvard University Press, 1929-1931), III, (1930)

Rowley, William, *All's Lost by Lust*, in *The Spanish Gipsie* and *All's Lost by Lust*, ed. by E. C. Morris (Boston: Heath, 1908)
Sandys, George, trans., *Ovid's Metamorphosis Englished by G. S.* (London: Stansby, 1626)

S. I., *Bromelion A discourse of the most substantial points of divinitie, handled by divers common places: with great studie, sinceritie, and perspicuitie.[…]* (London: Creede, 1595)

Saint German, Christopher, *An exact abridgement of that excellent treatise called Doctor and student* (London: More, 1630)

—— *An exact abridgement of that excellent treatise called Doctor and student* (London: E. C., 1658)

The seconde tome of homilies (London: Richard Jugge, 1563), [STC 2nd ed. 13666]

Sheppard, William, *The touch-stone of common assurances, Or, A plain and familiar treatise opening the learning of the common assurances or conveyances of the kingdom* (London: M. F., 1648)

Shakespeare, William, *The Complete Works*, ed. by Stanley Wells and Gary Taylor, The Oxford Shakespeare (Oxford: Clarendon Press, 2005)

—— *All's Well that Ends Well*, ed. by Susan Snyder, The Oxford Shakespeare (Oxford: Clarendon Press, 1993; repr. Oxford: Oxford University Press, 1998)

—— *As You Like It*, ed. by Alan Brissenden, The Oxford Shakespeare (Oxford: Clarendon Press, 1993; repr. Oxford: Oxford University Press, 1998)

—— *Cymbeline*, ed. by Martin Butler, The New Cambridge Shakespeare (Cambridge: Cambridge University Press, 2005)

—— *Measure for Measure*, ed. by Brian Gibbons, The New Cambridge Shakespeare (Cambridge: Cambridge University Press, 1991; repr. 2003)

—— *The Merchant of Venice*, ed. by Jay L. Halio, The Oxford Shakespeare (Oxford: Clarendon Press, 1993; repr. Oxford: Oxford University Press, 1998)

—— *A Midsummer Night's Dream*, ed. by Peter Holland, The Oxford Shakespeare, (Oxford Clarendon Press, 1994; repr. Oxford: Oxford University Press, 1998)

—— *Othello*, ed. by E. A. J. Honigmann, The Arden Shakespeare, third series (Walton-on-Thames: Nelson, 1997)

—— *Pericles*, ed. by Doreen DelVecchio and Anthony Hammond, The New Cambridge Shakespeare (Cambridge: Cambridge University Press, 1998)

—— *The Rape of Lucrece*, in *The Poems: Venus and Adonis, The Rape of Lucrece, The Phoenix and the Turtle, The Passionate Pilgrim, A Lover's Complaint*, ed. by John Roe, The New Cambridge Shakespeare (Cambridge: Cambridge University Press,1992; repr. 2004)

—— *Romeo and Juliet*, ed. by Jill L. Levenson, The Oxford Shakespeare (Oxford: Oxford University Press, 2000)

—— *The Taming of the Shrew*, ed by Ann Thompson, The New Cambridge Shakespeare (Cambridge: Cambridge University Press, 1984; repr. 2001)

—— *The Tempest*, ed. by Virginia Mason Vaughan and Alden T. Vaughan, The Arden Shakespeare, third series (London: Arden Shakespeare, 1999; repr. 2000)

—— *Titus Andronicus*, ed. by Jonathan Bate, The Arden Shakespeare, third series (London: Routledge, 1995; repr. London: Arden Shakespeare, 2003)

—— *Troilus and Cressida*, ed. by Kenneth Muir, The Oxford Shakespeare (Oxford: Oxford University Press, 1982; repr. 1984)

—— *The Two Gentlemen of Verona*, ed. by William C. Carroll, The Arden Shakespeare, third series (London: Arden Shakespeare, 2004)
Theobald, Lewis, *Double Falsehood or The Distressed Lovers*, ed. by Brean Hammond, The Arden Shakespeare, third series (London: Arden Shakespeare, 2010)

Sidney, Philip, Sir, *The Countess of Pembroke's Arcadia*, ed. by Maurice Evans (London: Penguin, 1977; repr. 1987)

——— *The Countess of Pembroke's Arcadia* (*The New Arcadia*), ed. Victor Skretkowicz (Oxford: Clarendon Press, 1987)

——— *The Major Works*, ed. by Katherine Duncan-Jones (Oxford: Oxford University Press, 1989; repr. 2002, 2008 edn)

Spenser, Edmund, *The Faerie Queene*, ed. by A. C. Hamilton, Hiroshi Yamashita and Toshiyuki Suzuki, 2nd edn (Harlow: Pearson Longman, 2001; repr. 2007)

Statutes of the Realm, 12 vols (London: England Record Commission, 1810-1828)

Stoughton, Thomas, *The Christians sacrifice much better then all the legall sacrifices of the Jewes; and without the which, all the said legall sacrifices of the Jewes, euen when they were in force, were not acceptable to God […]*(London: Jones, 1622)

Tourneur, Cyril, *The Atheist's Tragedy*, ed. by Brian Morris, and Roma Gill (London: Ernest Benn, 1976)

Wilson, Arthur, *The Swisser*, ed. by Linda V. Itzoe, The Renaissance Imagination series, 7, (London: Garland, 1984)

W. T., [*Thorney Abbey*, or *The London Maid*, in], *Gratiae theatrales, or, A choice ternary of English plays composed upon especial occasions by several ingenious persons* (London: R.D., 1662)

Worrall, John, *Bibliotheca legume* (London: Worral, 1732)

—— *Bibliotheca legume* (London: Brooke, 1788)

Yates, James, *The castell of courtesie whereunto is adjoyned the holde of humilitie: with the chariot of chastitie thereunto annexed* (London: Wolfe, 1582)

Secondary Sources

Alexander, Gavin, 'Dickenson, John (*c.*1570–1635/6),' in *DNB*, online edn <http://www.oxforddnb.com> [accessed 18 January, 2013]

Amussen, Susan Dwyer, '"Being Stirred to much Unquietness": Violence and Domestic Violence in Early Modern England', *Journal of Women's History*, 6 (1994), 70-89

—— ‘Gender, Family and Social Order, 1560-1725’, in *Order and Disorder in Early Modern England*, ed. by Anthony Fletcher and John Stevenson (Cambridge: Cambridge University Press, 1985; repr. 2007), pp. 196-217

—— *An Ordered Society: Gender and Class in Early Modern England* (New York: Columbia University Press, 1993)

—— ‘“The Part of a Christian Man”: the Cultural Politics of Manhood in Early Modern England’, in *Political Culture and Cultural Politics in Early Modern England: Essays Presented to David Underdown*, ed. by Susan D. Amussen and Mark A. Kishlansky (Manchester: Manchester University Press, 1995), pp. 213-33

Anderson, Randall, J., ‘The Rhetoric of Paratext in Early Printed Books’, in *The Cambridge History of the Book in Britain: Vol. 4, 1557-1695*, ed. by John Barnard, and D.F. McKenzie, with the assistance of Maureen Bell, 6 vols (Cambridge: Cambridge University Press, 1999–2012), IV (2002) pp. 636-44

Ashley, Leonard R.N.,‘Recent Publications on Elizabethan England and Related Fields’, *Bibliothèque d' Humanisme et Renaissance*, 70, (2008), 157-191

Baines, Barbara J., ‘Effacing Rape in Early Modern Representation’, *ELH*, 65 (1998), 69-98

——*Representing Rape in the English Early Modern Period* (Lewiston: Edwin Mellen Press, 2003)

Baker, J. H., ed, *Legal Records and the Historian: Papers Presented to the Cambridge Legal History Conference, 7-10 July 1975* (London: Royal Historical Society, 1978)

—— ‘The Books of the Common Law’, in *The Cambridge History of the Book in Britain: Vol.3, 1400-1557*, ed. by Lotte Hellinga, and J.B. Trapp, 6 vols (Cambridge: Cambridge University Press, 1999–2012), III (1999) pp. 411-32

—— ‘English Law Books and Legal Publishing’, in *The Cambridge History of the Book in Britain: Vol. 4, 1557-1695*, ed. by John Barnard, and D.F. McKenzie, with the assistance of Maureen Bell, 6 vols (Cambridge: Cambridge University Press, 1999–2012), IV (2002) pp. 474-503

Baldwin, T. W., *On the Literary Genetics of Shakespeare’s Poems and Sonnets* (Urbana: University of Illinois Press, 1950)

—— *William Shakspere's small Latine and lesse Greeke*, 2 vols (Urbana: University of Illinois Press, 1944; repr. 1956)

Bamford, Karen, *Sexual Violence on the Jacobean Stage* (Basingstoke: Macmillan, 2000)

Barnard, John, and D.F. McKenzie, with the assistance of Maureen Bell, eds, *The Cambridge History of the Book in Britain: Vol. 4, 1557-1695*, 6 vols (Cambridge: Cambridge University Press, 1999–2012)

Barry, Jonathan, and Christopher Brooks, eds, *The Middling Sort of People: Culture*,

Society and Politics in England, 1550-1800 (Basingstoke: Macmillan, 1994)

Bashar, Nazife, 'Rape in England between 1550 and 1700', in *The Sexual Dynamics of History: Men's Power, Women's Resistance*, the London Feminist History Group (London: Pluto, 1983), pp. 28-42

Bate, Jonathan, *Shakespeare and Ovid* (Oxford: Clarendon Press, 1993; repr. 2001)

Bawcutt, Priscilla: '*Pamphilus de Amore* "in Inglish Toung"', *Medium Ævum*, 64 (1995), 264-72

Bell, Maureen, '*Mise-en-page*, Illustration, Expressive Form', in *The Cambridge History of the Book in Britain: Vol. 4, 1557-1695*, ed. by John Barnard, and D.F. McKenzie, with the assistance of Bell, 6 vols (Cambridge: Cambridge University Press, 1999–2012), IV (2002) pp. 632-35

Bellany, Alastair, *The Politics of Court Scandal in Early Modern England: News Culture and the Overbury Affair, 1603-1666* (Cambridge: Cambridge University Press, 2002)

Bellany, Alastair, and Andrew McRae, eds, *Early Stuart Libels: An Edition of Poetry from Manuscript Sources, Early Modern Literary Studies*, Text Series I (2005) <http://www.earlystuartlibels.net/htdocs/index.html> [accessed 7 February, 2013]

Belsey, Catherine, 'Tarquin Dispossessed: Expropriation and Consent in *The Rape of Lucrece*', *Shakespeare Quarterly*, 52 (2001), 315-55

Bennett, H. S., *English Books and Readers, 1558 to 1603: Being a Study in the History of the Book Trade in the Reign of Elizabeth I* (Cambridge: Cambridge University Press, 1965)

—— *English Books and Readers, 1603 to 1640: Being a Study in the History of the Book Trade in the Reigns of James I and Charles I* (Cambridge: Cambridge University Press, 1970)

Biggs, Murray, 'Does the Duke Rape Bianca in Middleton's *Women Beware Women*?', *Notes and Queries*, CCXLII (1997), 97-100

Binns, J. W., ed., *Ovid* (London: Routledge & Kegan Paul, 1973)

—— 'Shakespeare's Latin Citations: The Editorial Problem', in *Shakespeare Survey: An Annual Survey of Shakespearian Study and Production, 35*, ed. by Stanley Wells (Cambridge: Cambridge University Press, 1982), pp. 119-128

—— *Intellectual Culture in Elizabethan and Jacobean England: The Latin Writings of the Age* (Leeds: Cairns, 1990)

Blagden, Cyprian, *The Stationers' Company: a History, 1403-1959* (London: Allen and Unwin, 1960)

Boose, Lynda E., 'The Family in Shakespeare Studies; or – Studies in the Family of Shakespeare; or – The Politics of Politics', *Renaissance Quarterly*, 40 (1987), 707-42

Bowen, Barbara, 'The Rape of Jesus: Aemilia Lanyer's *Lucrece*', in *Marxist Shakespeares*, ed. by Jean E. Howard, and Scott Cutler Shershow (London: Routledge, 2001), 104-27

Boyer, Allen D. 'Coke, Sir Edward (1552-1634)', in *DNB*, online edn <http://www.oxforddnb.com> [accessed 29 January, 2013]

Brand, Paul, 'Bratton, Henry of (*d.* 1268),' in *DNB*, online edn <http://www.oxforddnb.com> [accessed 25 February, 2013]

Braunmuller, A. R. and Michael Hattaway, eds, *The Cambridge Companion to Renaissance Drama*, 2nd edn (Cambridge: Cambridge University Press, 2003)

Brownmiller, Susan, *Against Our Will: Men, Women, and Rape* (New York: Simon & Schuster, 1975)

Burks, Deborah G., '"I'll Want my Will Else": *The Changeling* and Women's Complicity with their Rapists', *ELH*, 62 (1995), 759-790

Bush, Douglas, *English Literature in the Earlier Seventeenth Century 1600-1660* (Oxford: Clarendon Press, 1945)

—— *Pagan Myth and Christian Tradition in English Poetry* (Philadelphia: American Philosophical Society, 1968)

Bushnell, Rebecca, *Tragedies of Tyrants: Political Thought and Theater in the English Renaissance* (Ithaca: Cornell University Press, 1990)

Butler, Martin, 'Late Jonson', in *The Politics of Tragicomedy: Shakespeare and After*, ed. by Gordon McMullan and Jonathan Hope (London: Routledge, 1992), pp. 166-188

Cannon, Christopher, 'Chaucer and Rape: Uncertainty's Certainties', in *Representing Rape in Medieval and Early Modern Literature*, ed. by Elizabeth Robertson and Christine M. Rose (Basingstoke: Palgrave, 2001), pp. 256-79

—— '*Raptus* in the Chaumpaigne Release and a Newly Discovered Document Concerning the Life of Geoffrey Chaucer', *Speculum*, 68 (1993), 74-94
—— 'The Rights of Medieval English Women: Crime and the Issue of Representation', in *Medieval Crime and Social Control*, ed. by Barbara A. Hanawalt, and David Wallace (London: University of Minnesota Press, 1998), pp.156-85

Capp, Bernard, *When Gossips Meet: Women, Family, and Neighbourhood in Early Modern England* (Oxford: Oxford University Press, 2003)

Carter, Sarah, *Ovidian Myth and Sexual Deviance in Early Modern English Literature* (New York: Palgrave, 2011)

Carter, John Marshall, *Rape in Medieval England: An Historical and Sociological Study* (Lanham, Md.: University Press of America, 1985)

Catto, Jeremy, 'Horn, Andrew (*c*. 1275-1328)', in *DNB*, online edn <http://www.oxforddnb.com> [accessed 7 February, 2013]

Catty, Jocelyn, *Writing Rape, Writing Women in Early Modern England: Unbridled Speech* (Basingstoke: MacMillan, 1999; and revised repr. 2011)

Chance, Jane, ed., *The Mythographic Art Classical Fable and the Rise of the Vernacular in Early France and England* (Gainesville: University of Florida Press, 1990)

Charlton, Kenneth, *Education in Renaissance England* (London: Routledge & Kegan Paul, 1965)

Chaytor, Miranda, 'Household and Kinship: Ryton in the Late 16th and early 17th Centuries', *History Workshop*, 10 (1980), 25-60

—— 'Husband(ry): Narratives of Rape in the Seventeenth Century', *Gender and History*, 7 (1995), 378-407

Clark, Alice, *Working Life of Women in the Seventeenth Century*, 3rd edn, with a new introduction by Amy Louise Erickson **(**London: Routledge and Kegan Paul, 1992)

Clark, Sandra, *Women and Crime in the Street Literature of Early Modern England* (Basingstoke: Palgrave, 2003)

Cockburn, J. S., ed., *Calendar of Assize Records, Essex, Hertfordshire, Kent, Surrey, Sussex: Elizabeth 1 and James 1*, 14 vols (London: HMSO, 1975-95)

—— 'The Nature and Incidence of Crime in England 1559-1625: A Preliminary Survey', in *Crime in England 1550-1800*, ed. by J. S. Cockburn (London: Methuen, 1977), pp. 49-71

Collinson, Patrick, *The Birthpangs of Protestant England: Religious and Cultural Change in the Sixteenth and Seventeenth Centuries* (Basingstoke: Macmillan, 1988)

—— *English Puritanism* (London: Historical Association, 1983)

—— *The Religion of the Protestants: The Church in English Society 1559-1625* (Oxford: Clarendon Press, 1982)

Crane, Susan, *Gender and Romance in Chaucer's Canterbury Tales* (Princeton: Princeton University Press, 1994)

Croft, Lyndsay Marie, '"Some Women Love to Struggle": A Cultural and Critical Analysis of Dramatic Representations of Rape in the Late Elizabethan and Jacobean Periods' (unpublished doctoral thesis, Loughborough University, 2007)

Cromartie, Alan, 'Hale, Sir Mathew (1609–1676),' in *DNB*, online edn <http://www.oxforddnb.com> [accessed 5 February, 2014]

Davies, Kathleen M., 'The Sacred Conditions of Equality – How Original Were Puritan Doctrines of Marriage?', *Social History*, 5 (1977), 563-580

Dawson, Anthony B., "Giving the Finger. Puns and Transgression in *The Changeling*," in *Elizabethan Theatre 12: Papers Given at the Twelfth International Conference*, ed. by A. L. Magnusson and C. E. McGee (Toronto: Meany, 1993), 93-112

—— '*Women Beware Women* and the Economy of Rape', *Studies in English Literature 1500-1900*, 27 (1987), 303-320

Desens, Marliss C., *The Bed-Trick in English Renaissance Drama: Explorations in Gender, Sexuality, and Power* (London: Associated University Presses, 1994)

Detmer-Goebel, Emily, 'The Need for Lavinia's Voice: *Titus Andronicus* and the Telling of Rape', *Shakespeare Studies*, 29 (2001), 75-92

Donaldson, Ian, *The Rapes of Lucretia: A Myth and its Transformations* (Oxford: Clarendon Press, 1982)

Dunn, Caroline, *Stolen Women in Medieval England: Rape, Abduction, and Adultery, 1100-1500* (Cambridge: Cambridge University Press, 2013)

Dusinberre, Juliet, *Shakespeare and the Nature of Women*, 3rd edition (Basingstoke: Macmillan, 2003)

Eales, Jacqueline, *Women in Early Modern England 1500-1700* (London: University College London, 1998)

Eckhardt, Caroline D, 'One Third of the Earth? Europe Seen and Unseen in the Middle English Chronicles of the Fourteenth Century', *Comparative Literature* 58 (2006), 313-338

Edelstein, Laurie, 'An Accusation Easily to be Made: Rape and Malicious Prosecution in Eighteenth Century England', *The American Journal of Legal History*, 42 (1998), 351-90

Eggert, Katherine, 'Spenser's Ravishment: Rape and Rapture in *The Faerie Queene*', in *Representing Rape*, ed. by Robertson and Rose, pp. 381-409

English Broadside Ballad Archive <http://ebba.english.ucsb.edu/>

Enterline, Lynn, *The Rhetoric of the Body from Ovid to Shakespeare* (Cambridge: Cambridge University Press, 2000)

Finkelpearl, Philip J., *Court and Country Politics in the Plays of Beaumont and Fletcher* (Oxford: Princeton University Press, 1990)

Fletcher, Anthony, *Gender, Sex and Subordination in England 1500-1800* (London: Yale University Press, 1995)

—— ‘The Protestant Idea of Marriage in Early Modern Britain’, in *Religion, Culture and Society in Early Modern England: Essays in Honour of Patrick Collinson*, ed. by Anthony Fletcher and Peter Roberts (Cambridge: Cambridge University Press, 1994), pp. 161-181

Fletcher, Anthony and Peter Roberts, eds, *Religion, Culture and Society in Early Modern England: Essays in Honour of Patrick Collinson* (Cambridge: Cambridge University Press, 1994)

Fletcher, Anthony and John Stevens, eds, *Order and Disorder in Early Modern England* (Cambridge: Cambridge University Press, 1985)

Foakes, R. A., ‘Playhouses and Players’, in *The Cambridge Companion to Renaissance Drama*, ed. by A. R. Braunmuller and Michael Hattaway, 2nd edn (Cambridge: Cambridge University Press, 2003), pp. 1-52

Forey, Madeline, ‘“Bless thee Bottom, bless thee! Thou Art Translated”: Ovid, Golding, and *A Midsummer Night’s Dream*’, *Modern Language Review*, 93 (1998) 321-29

Fox, Adam, *Oral and Literate Culture in England, 1500-1700* (Oxford: Clarendon Press, 2000)

Foyster, Elizabeth A., *Manhood in Early Modern England: Honour, Sex and Marriage* (London: Longman, 1999)

Frye, Susan, ‘Of Chastity and Violence: Elizabeth I and Edmund Spenser in the House of Busirane’, *Signs*, 20, (1994), 49-78

Garrett, Cynthia E., ‘Sexual Consent and the Art of Love in the Early Modern English Lyric’, *Studies in English Literature, 1500-1900*, 44 (2004), 37-58

Ghose, Indira, *Shakespeare and Laughter: A Cultural History* (Manchester: Manchester University Press, 2008)

Goodrich, Peter, ‘Gynaetopia: Feminine Genealogies of Common Law’, *Journal of Law and Society*, 20 (1993), 276-308

Gossett, Suzanne, ‘Introduction’ in Thomas Middleton and others, *The Spanish Gypsy*, ed. by Gary Taylor, in *Thomas Middleton: The Collected Works*, ed. by Taylor and John Lavagnino (Oxford: Oxford University Press, 2010), pp. 1723-27

—— ‘“Best Men are Moulded out of Faults”: Marrying the Rapist in Jacobean Drama’, *English Literary Renaissance*, 14 (1984), 305-27

Gowing, Laura, *Common Bodies: Women, Touch and Power in Seventeenth Century England* (New Haven: Yale University Press, 2003)

—— *Domestic Dangers: Women Words and Sex in Early Modern London* (Oxford: Clarendon Press, 1996; repr. 2005)

Gravdal, Kathryn, *Ravishing Maidens: Writing Rape in Medieval French Literature and Law* (Philadelphia: University of Pennsylvania Press, 1991)

Green, Mandy, *Milton's Ovidian Eve* (Abingdon, Oxon: Ashgate, 2009)

Greenberg, Lynne A., ed., *Legal Treatises*, Early Modern Englishwoman, Series 3: Essential Works for the Study of Early Modern Women, Part 1, vols 1-3, general eds Betty S. Travitsky and Anne Lake Prescott (Aldershot: Ashgate, 2005)

Greengrass, M., 'Winwood, Sir Ralph (1562/3–1617)', *DNB*, online edn<http://www.oxforddnb.com> [accessed 12 February, 2014]

Greenstadt, Amy, *Rape and the Rise of the Author: Gendering Intention in Early Modern England* (Farnham: Ashgate, 2009)

—— 'Rapt from Himself: Rape and the Poetics of Corporeality in Sidney's *Old Arcadia*', in Elizabeth Robertson, Elizabeth, and Christine M. Rose, eds, *Representing Rape in Medieval and Early Modern Literature* (Basingstoke: Palgrave, 2001), pp. 311-349

Gunby, David, 'Rowley, William (1585?–1626)', in *DNB*, online edn <http://www.oxforddnb.com> [accessed 24 January, 2013]

Haber, Judith, '"I(t) could not choose but follow": Erotic Logic in *The Changeling*', *Representations*, 81 (2003), 79-98

Halkett, Samuel, and John Laing, *A Dictionary of Anonymous and Pseudonymous Publications in the English Language 1475-1640*, ed. by John Horden (Harlow: Longman, 1980)

Hall, Michael, *The Structure of Love: Representational Patterns and Shakespeare's Love Tragedies* (Charlottesville: University Press of Virginia, 1989)

Handover, P. M., *Printing in London from 1476 to Modern Times: Competitive Practice and Technical Invention in the Trade of Book and Bible Printing, Periodical Production, Jobbing etc*. (London: Allen and Unwin, 1960)

Hanawalt, Barbara A., and David Wallace, eds, *Medieval Crime and Social Control* (London: University of Minnesota Press, 1998)

Harbage, Alfred, *Annals of English Drama, 975-1700: An Analytical Record of All Plays, Extant or Lost, Chronologically Arranged and Indexed by Authors, Titles, Dramatic Companies etc.*, revised by S. Schoenbaum, 3rd edn, revised by Sylvia Stoler Wagonheim (London: Routledge, 1989) (London: Routledge, 1989)

Harding, Alan, 'Breton, John le (*d.* 1275)', in *DNB*, online edn <http://www.oxforddnb.com> [accessed 25 February, 2013]

Harris, Barbara J., 'The View from My Lady's Chamber: New Perspectives on the Early Tudor Monarchy', *Huntington Library Quarterly*, 60 (1997), 215-47

Hellinga, Lotte, and J.B. Trapp, eds, *The Cambridge History of the Book in Britain: Vol.3, 1400-1557*, 6 vols (Cambridge: Cambridge University Press, 1999–2012)

Helms, Lorraine, '"The High Roman Fashion": Sacrifice, Suicide, and the Shakespearean Stage', *PMLA*, 107 (1992), 554-565

Henderson, Katherine Usher, and Barbara F. McManus, *Half Humankind: Contexts and Texts of the Controversy About Women, 1540-1640* (Urbana: University of Illinois Press, 1985)

Herrup, Cynthia B., *A House in Gross Disorder: Sex, Law, and the Second Earl of Castlehaven* (New York: Oxford University Press, 1999)

—— *The Common Law: Participation and the Criminal Law in Seventeenth-Century England* (Cambridge: Cambridge University Press, 1987)

Hill, Christopher, *Liberty Against the Law: Some Seventeenth-Century Controversies* (London: Penguin, 1996)

Histed, Elise Bennett, 'Mediaeval Rape: A Conceivable Defence?', *Cambridge Law Journal*, 63 (2004), 743-69

Hogrefe, Pearl, 'Legal Rights of Tudor Women and the Circumvention by Men and Women', *Sixteenth Century Journal*, 3 (1972), 97-105

Holaday, Allan, 'Heywood's *Troia Britannica* and the *Ages*', *Journal of English and Germanic Philology*, 45 (1946), 430-439

Holland, Peter, 'Shakespeare, William (1564–1616)', in *DNB*, online edn <http://www.oxforddnb.com> [accessed 9 April, 2014]

Hopkins, Lisa, 'Beguiling the Master of the Mystery: Form and Power in *The Changeling*', *Medieval Renaissance and Drama in England*, 9, (1997), 149-61

Houlbrooke, Ralph, 'The Making of Marriage in Mid-Tudor England: Evidence from the Records of Matrimonial Contract Litigation', *Journal of Family History*, 10 (1985), 339-52

Howard, Jean E., and Scott Cutler Shershow, eds, *Marxist Shakespeares* (London: Routledge, 2001)

Hoy, Cyrus, 'The Shares of Fletcher and his Collaborators in the Beaumont and Fletcher Canon (1-7)', *Studies in Bibliography*, 8 (1956), 129–46; 9 (1957), 143–62; 11 (1958), 85–106; 12 (1959), 91–116; 13 (1960), 77–108; 14 (1961), 45–67; 15 (1962), 71–90

Hudson, John, 'Glanville, Ranulf de (1120s?-1190)', in *DNB*, online edn <http://www.oxforddnb.com> [accessed 25 February, 2013]

Hull, Suzanne W., *Chaste, Silent and Obedient: English Books for Women 1475- 1640*(San Marino: Huntington Library, 1982)

Hurstfield, J., 'Lord Burghley as Master of the Court of Wards, 1561-98', *Transactions of*

the Royal Historical Society, 4th series, 31 (1949), 95-114

Hyman, Wendy, 'Authorial Self-Consciousness in Nashe's *The Vnfortvnate Traveller'*, *Studies in English Literature, 1500-1900*, 45, The English Renaissance (2005), 23-41

Ibbetson, David, 'Dodderidge, Sir John (1555–1628),' *DNB*, online edn <http://www.oxforddnb.com> [accessed 23 January, 2014]

Ingram, Martin, *Church Courts, Sex and Marriage in England 1570-1640* (Cambridge: Cambridge University Press, 1987; repr. 1994)

—— 'Ridings, Rough Music and the "Reform of Popular Culture" in Early Modern England', *Past and Present*, 105 (1984), 79-113

—— '"Scolding Women Cucked or Washed": A Crisis of Gender Relations in Early Modern England?' in, *Women,Crime and the Courts in Early Modern England*, ed. by Jenny Kermode and Garthine Walker (London: UCL Press, 1994), pp. 48-80

Ives, E. W., '"Agaynst taking awaye of Women": The Inception and Operation of the Abduction Act of 1487', in *Wealth and Power in Tudor England: Essays Presented to S.T. Bindoff*, ed. by E. W. Ives, R.J. Knecht and J.J. Scarisbrick (London: Athlone Press, 1978), pp. 21-44

Ives, E. W., R.J. Knecht and J.J. Scarisbrick, eds, *Wealth and Power in Tudor England: Essays Presented to S.T. Bindoff*, (London: Athlone Press, 1978)

Jameson, Caroline, 'Ovid in the Sixteenth Century', in *Ovid*, ed. by J. W. Binns (London: Routledge & Kegan Paul, 1973), pp. 210-42

Jardine, Lisa, and Anthony Grafton, '"Studied for Action": How Gabriel Harvey Read His Livy', *Past and Present*, 129 (1990), 30-78

Jenkins, Keith, ed., *The Postmodern History Reader* (London: Routledge, 1997)

Jensen, Kristian, 'The Humanist Reform of Latin and Latin Teaching', in *The Cambridge Companion to Renaissance Humanism*, ed. by Jill Kraye (Cambridge: Cambridge University Press, 1996; repr. 2003), pp. 63-81

Joshel, Sandra R., 'The Body Female and the Body Politic: Livy's Lucretia and Verginia', in *Pornography and Representation in Greece and Rome*, ed. by Amy Richlin (Oxford: Oxford University Press, 1992)

Kermode, Jenny, and Garthine Walker, eds, *Women,Crime and the Courts in Early Modern England* (London: UCL Press, 1994)

Kingsley-Smith, Jane, 'Cupid, Idolatry, and Iconoclasm in Sidney's *Arcadia*', *Studies in English Literature, 1500-1900*, 48 (2008), 65-91

Klein, Joan Larsen, ed., *Daughters Wives and Widows: Writings by Men About Women and Marriage in England, 1500-1640* (Chicago: University of Illinois Press, 1992)

Kraye, Jill, ed., *The Cambridge Companion to Renaissance Humanism* (Cambridge: Cambridge University Press, 1996; repr. 2003)

Leedham-Green, Elisabeth, and David McKitterick, 'Ownership: Private and Public Libraries', in *The Cambridge History of the Book in Britain: Vol. 4, 1557-1695*, ed. by John Barnard, and D.F. McKenzie, with the assistance of Maureen Bell, 6 vols (Cambridge: Cambridge University Press, 1999–2012), IV (2002) pp. 323-38

Lennard, John, *The Poetry Handbook*, 2nd edn (Oxford: Oxford University Press, 2005)

Lesser, Zachary, *Renaissance Drama and the Politics of Publication: Readings in the English Book Trade* (Cambridge: Cambridge University Press, 2004)

—— 'Typographic Nostalgia: Play-Reading, Popularity, and the Meaning of Black Letter', in *The Book of the Play: Playwrights, Stationers, and Readers in Early Modern England*, ed. by Marta Straznicky (Amherst and Boston: University of Massachusetts Press, 2006), pp. 99-126

Levine, Laura, 'Rape, Repetition, and the Politics of Closure in *A Midsummer Night's Dream*', in *Feminist Readings of Early Modern Culture: Emerging Subjects*, ed. by Valerie Traub, M. Lindsay Kaplan and Dympna Callaghan (Cambridge: Cambridge University Press, 1996), pp. 210-28

Lindley, David, *The Trials of Frances Howard: Fact and Fiction at the Court of King James* (London: Routledge, 1993)

Loewenstein, David 'Recent Studies in the English Renaissance', *Studies in English Literature 1500-1900*, 51 (2011), 199-267

Lyne, Raphael, *Ovid's Changing Worlds: English Metamorphoses, 1567-1632* (Oxford: Oxford University Press, 2001)

McConnell, Anita, 'Lambe, John (1545/6–1628),' in *DNB*, online edn <http://www.oxforddnb.com> [accessed 29 January, 2013]

McLuskie, Kathleen, 'Old Mouse-Eaten Records: The Anxiety of History', *English Literary Renaissance*, 25 (1995), 415-31

—— *Renaissance Dramatists* (Hemel Hempstead: Harvester, 1989)

McMillin, Scott, 'Middleton's Theatres', in *Thomas Middleton: The Collected Works*, ed. by Gary Taylor and John Lavagnino (Oxford: Oxford University Press, 2010), pp. 74-87

McMullan, Gordon, *The Politics of Unease in the Plays of John Fletcher* (Amherst: University of Massachusetts Press, c1994)

—— 'Fletcher, John (1579–1625)', in *DNB*, online edn <http://www.oxforddnb.com> [accessed 27 June, 2012]

McMullan, Gordon, and Jonathan Hope, *The Politics of Tragicomedy: Shakespeare and After*, ed. by Gordon McMullan and Jonathan Hope (London: Routledge, 1992)

MacDonald, Michael, *Mystical Bedlam: Madness, Anxiety, and Healing in Seventeenth Century England* (Cambridge: Cambridge University Press, 1981)

MacDonald, Michael and Terence R. Murphy, *Sleepless Souls: Suicide in Early Modern England* (Oxford: Clarendon Press, 1990)

Macfarlane, Alan, *Marriage and Love in England: Modes of Reproduction 1300-1840* (Oxford: Blackwell, 1986)

Mack, Peter, 'Humanist Rhetoric and Dialectic', in *The Cambridge Companion to Renaissance Humanism*, ed. by Jill Kraye (Cambridge: Cambridge University Press, 1996; repr. 2003), pp. 82-99

Magnusson, A.L., and C. E. McGee, eds, *Elizabethan Theatre 12: Papers Given at the Twelfth International Conference* (Toronto: Meany, 1993)

Maguire, Laurie, *Helen of Troy: From Homer to Hollywood* (Chichester: Wiley-Blackwell, 2009)

—— 'Helen of Troy: Representing Absolute Beauty in Language', *Sederi*, 16 (2006), 31-51

Malcolmson, Christina, '"As Tame as the Ladies": Politics and Gender in *The Changeling*', *English Literary Renaissance*, 20 (1990), 320-39

Mann, Nicholas, 'The Origins of Humanism', in *The Cambridge Companion to Renaissance Humanism*, ed. by Jill Kraye (Cambridge: Cambridge University Press, 1996; repr. 2003), pp. 1-19

Martin, Elizabeth A., and Jonathan Law, eds, *Dictionary of Law* (Oxford: Oxford University Press, 2009) <http://www.oup.com/uk/isbn/9780199551248> [accessed 27 November, 2012]

Martindale, Charles and Michelle, *Shakespeare and the Uses of Antiquity: An Introductory Essay* (London: Routledge, 1990)

Mendelson, Sara, and Patricia Crawford, *Women in Early Modern England 1550-1720* (Oxford: Clarendon Press, 1998; repr. 2003)

Miller, Nancy Weitz, 'Chastity, Rape, and the Ideology in the Castlehaven Testimonies and Milton's Ludlow Mask', Milton Studies, 32 (1997), 153-68

Mills, Janis Jane Darvill, 'Early Modern Legal Poetics and Morality 1560-1625' (unpublished doctoral thesis, University of Sussex, 2011)

Murray, Penelope, and T. S. Dorsch (eds) *Classical Literary Criticism*, trans. by Penelope, with introduction and notes by Murray (London: Penguin, 1965; repr. 2000)

Newman, Jane O., '"And Let Mild Women to Him Lose Their Mildness": Philomela, Female Violence, and Shakespeare's *The Rape of Lucrece*', *Shakespeare Quarterly* 45 (1994), 304-26

Nicol, David, '"My little what shall I call thee": Reinventing Rape Tragedy in William Rowley's All's Lost by Lust', *Medieval and Renaissance Drama in England*, 19 (2006), 175-93

Nicholl, Charles, *The Lodger: Shakespeare on Silver Street* (London: Penguin, 2008)

OED, CD-ROM, version 3.1, 2nd edn (Oxford: Oxford University Press, 2004)

Oakley-Brown, Liz, *Ovid and the Cultural Politics of Translation in Early Modern England* (Aldershot: Ashgate, 2006)

Orme, Nicholas, 'Schools and Schoolbooks', in *The Cambridge History of the Book in Britain. Vol.3, 1400-1557*, ed. by Lotte Hellinga, and J.B. Trapp, 7 vols (Cambridge: Cambridge University Press, 1999–2012), III (1999) pp. 449-69

Orr, D. A., 'Dalton, Michael (1564-1644)', in *DNB*, online edn <http://www.oxforddnb.com> [accessed 9 April, 2014]

Ostovich, Helen, and Elizabeth Sauer, eds, *Reading Early Modern Women: An Anthology of Texts in Manuscript and Print, 1550 – 1700* (New York: Routledge, 2004)

Parr, Anthony, 'Wilkins, George (*d.* 1618)', in *DNB*, online edn <http://www.oxforddnb.com> [accessed 24 January, 2013]

Parry, Edward Abbott, *The Overbury Mystery: A Chronicle of Fact and Drama of the Law* (London: T. Fisher Unwin, 1925)

Passannante, Gerard, 'The Art of Reading Earthquakes: On Harvey's Wit, Ramus's Method, and the Renaissance of Lucretius', *Renaissance Quarterly*, 61 (2008), 792-832

Paster, Gail Kern, *The Body Embarrassed: Drama and the Disciplines of Shame in Early Modern England* (Ithaca, New York: Cornell University Press, 1993)

Pearse, Nancy Cotton, *John Fletcher's Chastity Plays: Mirrors of Modesty* (Lewisburg: Bucknell University Press, 1973)

Plomer, Henry R., *A Dictionary of the Booksellers and Printers Who Were at Work in England, Scotland and Ireland from 1641 to 1667* (London: Bibliographical Society, 1907)

—— *A Short History of English Printing 1476-1898* (London: Kegan Paul, Trench Trubner and Company, 1900)

Polito, Mary, 'Wit, Will and Governance in Early Modern Legal Literature', *Mosaic*, 27 (1994), 15-34

Porter, Roy, 'Does Rape have a Historical Meaning?', in *Rape*, ed. by Sylvana Tomaselli and Roy Porter (Oxford: Blackwell, 1986), pp. 216-36

Post, J. B., 'Ravishment of Women and the Statutes of Westminster', in *Legal Records and the Historian: Papers Presented to the Cambridge Legal History Conference, 7-10 July 1975*, ed. by J. H. Baker (London: Royal Historical Society, 1978), pp. 150-64

—— 'Sir Thomas West and the Statute of Rapes, 1382', *Bulletin of Historical Research*, 53 (1980), 24-30

Potter, Lois, 'Topicality or Politics', in *The Politics of Tragicomedy: Shakespeare and After*, ed. by Gordon McMullan and Jonathan Hope (London: Routledge, 1992), pp. 77-91

Prest, Wilfrid 'Law and Women's Rights in Early Modern England', *Seventeenth Century*, 6 (1991), 169-87

—— 'Legal Education of the Gentry and the Inns of Court, 1560-1640', *Past and Present*, 38 (1967), 20-39

—— *The Rise of the Barristers* (Oxford: Clarendon Press, 1986)

Prior, Mary, ed., *Women in English Society 1500-1800*, (London : Methuen, 1985; repr. 1986)

Quaife, G. R., *Wanton Wenches and Wayward Wives: Peasants and Illicit Sex in Early Seventeenth Century England* (London: Croom Helm, 1979)

Raven, James, *The Business of Books: Booksellers and the English Book Trade, 1450-1850* (London: Yale University Press, 2007)

Reid, Jane Davidson, *The Oxford Guide to Classical Mythology in the Arts, 1300-1990s*, 2 vols (New York and Oxford: Oxford University Press, 1993)

Reynolds, William D., 'Sources, Nature, and Influence of the *Ovid Moralizatus* of Bersuire', in *The Mythographic Art: Classical Fable and the Rise of the Vernacular in Early France and England*, ed. by Jane Chance (Gainesville: University of Florida Press, 1990).

Richlin, Amy, ed., *Pornography and Representation in Greece and Rome* (Oxford: Oxford University Press, 1992)

—— Amy, 'Reading Ovid's Rapes', in *Pornography and Representation in Greece and Rome*, ed. by Amy Richlin (Oxford: Oxford University Press, 1992), pp. 158-79

Ritscher, Lee A., *The Semiotics of Rape in Renaissance English Literature*, (New York: Lang, 2009)

Robertson, Elizabeth, and Christine M. Rose, eds, *Representing Rape in Medieval and Early Modern Literature* (Basingstoke: Palgrave, 2001)

Robertson, Karen, 'The First Captive: The Kidnapping of Pocahontas', in *Women, Violence, and English Renaissance Literature: Essays Honoring Paul Jorgensen*, ed. by Linda Woodbridge, and Sharon Beehler (Tempe: Arizona Center for Medieval and Renaissance Studies, 2003), pp. 73-100

Rollins, Hyder E., 'The Troilus-Cressida Story from Chaucer to Shakespeare', *PMLA*, 32 (1917), 383-429

Rousseau, G. S., and Roy Porter, eds, *Sexual Worlds of the Enlightenment*), (Manchester: Manchester University Press, 1987)

Rumrich, Diane, ed., *The Middle English Text of Caxton's Ovid, Book 1: Edited from Cambridge, Magdalene College, Old Library, MS F.4.34 with a Parallel Text of The Ovide moralisé en prose II Edited from Paris, Bibliothèque Nationale, MS fonds français 137* (Heidelberg: Universitätsverlag Winter, 2011)

Rushton, Peter, 'Property, Power and Family Networks: The Problem of Disputed Marriage in Early Modern England', *Journal of Family History*, 11 (1986), 205-19

Sale, Carolyn, 'Representing Lavinia: The (In)significance of Women's Consent in Legal Discourses of Rape and Ravishment and Shakespeare's *Titus Andronicus'*, in *Women, Violence, and English Renaissance Literature*: *Essays Honoring Paul Jorgensen*, ed. by Linda Woodbridge and Sharon Beehler (Tempe: Arizona Center for Medieval and Renaissance Studies, 2003), pp. 1-28

Sanchez, Melissa E., *The Sexuality of Politics in Early Modern English Literature* (Oxford: Oxford University Press, 2011)

Sanders, Andrew, *The Short Oxford History of English Literature*, 2nd edn (Oxford: Oxford University Press, 2000)

Saunders, Corrine J., *Rape and Ravishment in the Literature of Medieval England* (Cambridge: Brewer, 2001)

Schanzer, Ernest, 'Heywood's Ages and Shakespeare', *Review of English Studies*, n.s., 11 (1960), 18-28

Seipp, David J., 'Fleta (*fl.* 1290–1300),' in *DNB*, online edn <http://www.oxforddnb.com> [accessed 7 February, 2014]

Seznec, Jean, *The Survival of the Pagan Gods: The Mythological Tradition and its Place in Renaissance Humanism and Art*, trans. by Barbara F. Sessions (New York: Pantheon Books, 1953)

Shapin, Steven, *A Social History of Truth: Civility and Science in Seventeenth Century England* (London: University of Chicago Press, 1994)

Sharpe, J. A., *Crime in Early Modern England 1550-1750*, 2nd edn (London: Longman, 1999)

—— *Early Modern England: A Social History 1550-1760*, 2nd edn (London: Hodder, 1987; repr. 2008)

—— 'Plebeian Marriage in Stuart England: Some Evidence from Popular Literature', in *Transactions of the Royal Historical Society*, fifth series, 36, (1986), 69-90

Shorter, Edward, 'On Writing the History of Rape', *Signs*, 3 (1977), 471-82

Simmons, J. L., 'Diabolical Realism in Middleton and Rowley's *The Changeling*', *Renaissance Drama* 11 (1980), 135-70

Simpson, Antony E., 'Vulnerability and the Age of Female Consent: Legal Innovation and Its Effect on Prosecutions for Rape in Eighteenth-Century London', in *Sexual Worlds of the Enlightenment*, ed. by G. S. Rousseau and Roy Porter (Manchester: Manchester University Press, 1987), pp. 181-205

Sisson, C. J., *Lost Plays of Shakespeare's Age* (Cambridge: Cambridge University Press, 1936)

Sokol, B. J., and Mary, *Shakespeare, Law, and Marriage* (Cambridge: Cambridge University Press, 2003)

Solga, Kim, 'Rape's Metatheatrical Return: Rehearsing Sexual Violence Among the Early Moderns', *Theatre Journal*, 58 (2006), 53-72, (revised repr. in *Violence Against Women in Early Modern Performance: Invisible Acts* (Basingstoke: McMillan, 2009) pp. 29-62)

Sommerville, Margaret R., *Sex and Subjection: Attitudes to Women in Early-Modern Society* (London: Arnold, 1995)

Spufford, Margaret, 'Puritanism and Social Control?', in *Order and Disorder in Early Modern England*, ed. by Anthony Fletcher, and John Stevenson (Cambridge: Cambridge University Press, 1985, repr. 2007), pp. 41-57

Stanivukovic, Goran, ed., *Ovid and the Renaissance Body* (Toronto: Toronto University Press, 2001)

Starnes, DeWitt T., and Ernest William Talbert, *Classical Myth and Legend in Renaissance Dictionaries: a Study of Renaissance Dictionaries in Their Relation to the Classical Learning of Contemporary English Writers* (Chapel Hill: University of North Carolina Press, 1955)

Stenton, Doris Mary, *The English Woman in History* (New York: Schocken Books, 1977)

Stoker, David, 'Atkyns, Richard (1615–1677),' in *DNB*, online edn <http://www.oxforddnb.com> [accessed 18 January, 2013]

Stone, Lawrence, *The Causes of the English Revolution 1529-1642* (London: Routledge and Kegan Paul, 1972)

—— *The Crisis of the Aristocracy 1558-1641* (Oxford: Clarendon Press, 1965)

—— *The Crisis of the Aristocracy 1558-1641*, abridged edn (New York: Oxford University Press, 1967)

—— *The Family, Sex and Marriage in England 1500-1800*, abridged edn (London: Penguin, 1977, repr. 1990)

Straznicky, Marta, ed., *The Book of the Play: Playwrights, Stationers, and Readers in Early Modern England* (Amherst and Boston: University of Massachusetts Press, 2006)

Sutherland, Julie, 'Women Who Wreak Havoc: A New Perspective on Early Modern Drama, 1603-1642 (unpublished doctoral thesis, Durham University, 2004)

Sylvester, Louise, *Medieval Romance and the Construction of Heterosexuality* (Basingstoke: Palgrave Macmillan, 2008)

Taylor, Gary, 'Middleton, Thomas (bap. 1580, d. 1627)', in *DNB*, online edn <http://www.oxforddnb.com> [accessed 8 April 2014]

Taylor, Gary and John Lavagnino, eds, *Thomas Middleton: The Collected Works* (Oxford: Oxford University Press, 2010)

Tatlock, John S. P., 'The Siege of Troy in Elizabethan Literature, Especially in Shakespeare and Heywood', *PMLA* (1915), 673-770

Thomas, Keith, 'The Place of Laughter in Tudor and Stuart England', *TLS*, 3906 (January 21, 1977), 77-81

Todd, Barbara J., 'The Remarrying Widow', in *Women in English Society 1500-1800*, ed. by Mary Prior (London : Methuen, 1985; repr. 1986)

Tomaselli, Sylvana and Roy Porter, *Rape* (Oxford: Blackwell, 1986)

Toner, Barbara, *The Facts of Rape* (London: Arrow, 1977)

Traub, Valerie M., Lindsay Kaplan and Dympna Callaghan, eds, *Feminist Readings of Early Modern Culture: Emerging Subjects* (Cambridge: Cambridge University Press, 1996)

Turner, Robert, Y., 'Responses to Tyranny in John Fletcher's Plays', *Medieval and Renaissance Drama in England*, 4 (1989), 123-141

Underdown, D. E. 'The Taming of the Scold: the Enforcement of Patriarchal Authority in Early Modern England' in, *Order and Disorder in Early Modern England*, ed. by Anthony Fletcher and John Stevens (Cambridge: Cambridge University Press, 1985), pp. 116-36

Vickers, Brian, *Appropriating Shakespeare: Contemporary Critical Quarrels* (London: Yale University Press, 1993)

Vitz, Evelyn Birge, 'Rereading Rape in Medieval Literature: Literary, Historical, and Theoretical Reflections', *Romantic Review* 88 (1997), 1-26

Walkden, Andrea, ‘Allegorical Insubordination and the 1596 *Faerie Queene*, *Studies in English Literature, 1500-1900*, 48, The English Renaissance (2008), 93-109
Walker, Garthine, *Crime, Gender and Social Order, in Early Modern England* (Cambridge: Cambridge University Press, 2003)

—— ‘Expanding the Boundaries of Female Honour in Early Modern England’, *Transactions of the Royal Historical Society*, 6th ser., 6 (1996), 235-45

—— ‘Rereading Rape and Sexual Violence in Early Modern England’, *Gender and History*, 10 (1998), 1-25

Walker, Sue Sheridan, ‘Punishing Convicted Ravishers: Statutory Strictures and Actual Practice in Thirteenth and Fourteenth-Century England’, *Journal of Medieval History* 13 (1987), 237-50

Watson, Robert N., ‘Tragedy’, in *The Cambridge Companion to Renaissance Drama*, ed. by A. R. Braunmuller and Michael Hattaway, 2nd edn (Cambridge: Cambridge University Press, 2003), pp. 292-343

Watt, Tessa, *Cheap Print and Popular Piety, 1550-1640* (Cambridge: Cambridge University Press, 1991; repr. 1996)

Wells, Stanley, ed., *Shakespeare Survey: An Annual Survey of Shakespearian Study and Production, 35*(Cambridge: Cambridge University Press, 1982)

Wiesner, Merry E., *Women and Gender in Early Modern Europe*, 3rd edn (Cambridge: Cambridge University Press, 2008)

Willen, Diane, ‘Women in the Public Sphere in Early Modern England: The Case of the Urban Working Poor’, *Sixteenth Century Journal*, 19 (1988) 559-75

Williams, Carolyn D. ‘“Silence Like a Lucrece Knife”: Shakespeare and the Meaning of Rape’, *Yearbook of English Studies*, 23 (1993), 93-110

Woodbridge, Linda and Sharon Beehler, eds, *Women, Violence, and English Renaissance Literature*: *Essays Honoring Paul Jorgensen* (Tempe: Arizona Center for Medieval and Renaissance Studies, 2003)

Wrightson, Keith, *English Society 1580-1680* (London: Routledge, 1993; repr. 2002)

—— ‘The Social Order of Early Modern England: Three Approaches’, in *The World We Have Gained: Histories of Population and Social Structure: Essays Presented to Peter Laslett on his Seventieth Birthday*, ed. by Lloyd Bonfield, Richard M. Smith, and Keith Wrightson (Oxford: Blackwell, 1986), pp. 177-202

—— ‘“Sorts of People” in Tudor and Stuart England’, in *The Middling Sort of People: Culture, Society and Politics in England, 1550-1800*, ed. by Jonathan Barry, and Christopher Brooks (Basingstoke: Macmillan, 1994), pp. 28-51

Yachnin, Paul, ‘Scandalous Trades: Middleton's The Witch, the “Populuxe” Market and the Politics of the Theater’, *Medieval and Renaissance Drama in England: An Annual Gathering of Research, Criticism and Reviews,* 12 (1999), 218-35

Zimmerman, Susan (ed), *Erotic Politics: Desire on the Renaissance Stage* (London: Routledge, 1992)