

Spousal Abuse in Fourteenth-Century Yorkshire: What can we learn from the Coroners' Rolls?

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Since the publication of Philippe Ariès' *Centuries of Childhood* in the early 1960's, historians of the family have been intrigued by the prospect of a history of change in familial sentiment.¹ Ariès' study of attitudes about children from the Middle Ages to the eighteenth century, based primarily on art and material evidence, demonstrates powerfully to historians that we can no longer merely assume the existence of parental love: human emotion is not an historical constant.² While Ariès did not explicitly address marital affection, the implications of his study are not lost on historians interested principally in the study of marriage and marital relations. Today, almost forty years later, Ariès' research remains the touchstone for historians' debates centred on the study of medieval families. In part, the inability of historians to reject altogether his findings reflects the nature of the study: a couple's behaviour towards each other belongs to the inner workings of the home, a sphere of life from which few written records would ever have been created, let alone have survived.

In order to surmount the difficulties presented by a paucity of source materials, historians have been forced to examine the topic of familial affection in a variety of interesting ways. One area which historians of marriage have chosen to focus on in particular as a measure of love within marriage is spousal abuse. Two approaches have been employed in this respect. The first is a literary approach, an examination of letters and literature extant from the period in order to ascertain approximate levels of marital affection in the Middle Ages. Lawrence Stone was the first to engage with vigour in this area of research, in a study founded largely on surviving letters of families from the years 1500 to 1800. Stone extends his findings back into the later Middle Ages,

concluding that married life was “brutal and often hostile, with little communication, [and] much wife-beating,”³ and noting that, “a great deal of casual wife-beating or child-battering, which today would end up in the courts, simply went unrecorded in medieval and Early Modern times” (95). Marriage in the Middle Ages was a gendered hierarchy, and any transgression of this hierarchy was severely punished, according to Stone. This bleak perspective of medieval marriage has not been adopted by all, or even most, historians of letters and literature. Roberta Bosse, in her study of the Pastons and Margery Kempe, reached a quite different conclusion. In place of Stone’s grim vision, she found that medieval marriage was actually based on a principle of “partnership between the sexes.”⁴ She suggests, however, that this equality within marriage waned in the early modern era, only to be replaced by hierarchical notions which correlated more closely with the political, religious and economic views of the post-Reformation age, and which are often erroneously projected back onto the later Middle Ages.⁵

The alternative to a literary study of spousal abuse is one that uses as its focus the evidence of legal records. This paradigm has been championed by Barbara Hanawalt, the only medieval historian to have attempted systematic investigation of the subject of violence against spouses.⁶ She focuses primarily on spousal homicide, the most severe form of domestic abuse, using records of the royal courts to produce a statistical analysis of the phenomenon.⁷ Her findings indicate that relationships between husbands and wives generated very few homicides in the Middle Ages, in stark contrast to modern statistics. She posits two explanations for this low rate of intra-familial homicide: either families were so tightly knit that disputes were resolved within the group and not permitted to escalate or, by contrast, families were simply a “loose grouping” of individuals, and tensions rarely developed because relationships were so casual.⁸

Hanawalt’s study laid the groundwork for subsequent studies of domestic violence. Her focus on spousal homicide provides a logical starting point for any study of violence within marriage. Although homicide is an extreme form of spousal abuse, it is the most unequivocal and is generally subject to detection. Bruises and emotional scarring are easily hidden; a corpse is not. As Hanawalt herself argued forcefully, moreover, coroners’ rolls, with their focus on death and homicide, are a particularly appropriate source material upon which to base an examination of spousal homicide. A similar approach is adopted here. The county of York has what appears to be a fairly complete series of coroners’ rolls which span the majority of the fourteenth century

running from 1333 to 1393. Moreover, owing to the geographical size of the county, it has a greater quantity of records than most. These records do not lend themselves to an altogether reliable statistical analysis of levels of crime in medieval English society.⁹ Nevertheless, as Barbara Hanawalt and others have shown, statistical analysis can be employed as a tool in the study of these rolls to unearth some dominant trends and general perspectives. Hanawalt herself has shown how coroners' records provide "the intimate view, the vignette, of peasants at their daily routine" and thus offer a window into the lives of the lower ranks of late medieval society.¹⁰ Carrie Smith, too, has found the coroners' rolls to be one of the more useful sources in the study of late medieval society:

[i]n point of fact, since coroners' inquests were held in local communities, dealing with individuals known to people whose memories of events were still fresh, it may be that in their own way they are more reliable than the records, for example, of court hearings such as those before the remote figures of King's Bench justices, whose cases frequently concerned events which had happened several years earlier to individuals with whom few present in the court had any familiarity; and they are certainly more informative than the majority of cases heard before gaol delivery justices.¹¹

Her final words of wisdom, however, must be taken into consideration in all analyses of coroners' rolls. She notes that we must "be realistic in the questions we ask of our records, and stringent in the critical criteria we apply to them. No farmer would dream of allowing his corn to rot in the fields because it is unusable unless the worthless chaff is first winnowed out. Neither should we" (Smith 115).

The records for the county of York yield information on some 2212 victims of violent crimes between the years 1333 to 1393.¹² Of this number, 2117 were victims of suspected homicide, of which only 52 were described as victims of spousal homicides. Thus spousal homicide cases amount to 2.5 per cent of all purported homicides in Yorkshire at this time. Comparatively, all other domestic homicides taken together represent only 1.6 per cent of the alleged homicides in this county during the fourteenth century, indicating that the spousal relationship was the most passionate of all family relationships.¹³ It is important to note that these figures represent indictments only. These are not convictions, and thus are not accurate for assessing actual spousal homicide rates.¹⁴ Accordingly, the percentages mentioned above may well present a distorted vision of late medieval crime. Nevertheless, these figures are revealing given the vital role played by members of the community in the indictment

process. These inquests were the result of at least two steps in the investigative process: questioning the neighbours of the victim about their suspicions and any existing witnesses to the crime, and physically investigating the body for any abrasions or wounds. The fact that the community pointed a finger at a spouse in each of these situations suggests these cases represent a history of poor relations and some physical abuse which in turn led neighbours to believe that a domestic spat had spiralled out of control.

The role of the jury in this process was certainly not easy. Medieval jurors were undoubtedly called upon to make fine moral distinctions in a variety of unusual circumstances. For example, in the 1349 death of Alan of Barnburgh of Yorkshire, the jury's reluctance to find in favour of spousal homicide demonstrates just how complex an unexpected death might prove. According to the findings of the Yorkshire presentment jury, Alan of Barnburgh's death was a suicide. The records state that he committed a *felo de se*, the phrase habitually used to indicate this felony. And yet, tacked on to the end of the enrolled entry is the statement that the wife is suspected because she fled after the incident.¹⁵ The suicide was accomplished with the use of a knife, and the wife was recorded as the first finder and thus the only potential witness. Ignoring the option of interpreting the incident narrowly as a husband-killing, the jurors instead chose to describe it as a suicide. What does this tell us? The incident may in reality have been a case of euthanasia; more likely, it bespeaks a coroner's jury hard-pressed to portray the wife as a participant in a spousal homicide despite the suggestive evidence. Presumably, there was no clear knowledge here of prior incidents of spousal abuse or even marital tension that might point to homicide. The jurors' reluctance to implicate a potentially innocent woman suggests that cases in which the husband or wife was blatantly accused of spousal homicide were consequences of a high level of suspicion compounded by a least some evidence. Certainly, many jurors interpreted incidents of husband or wife murder this way.

Of the 52 cases in which a spouse was accused of conjugal homicide, 41 (or 78.8 per cent) were apparently uxoricides, or wife-killings. In these cases, the husband was almost always suspected as the principal offender (the person who actually carried out the crime). A total of 37 of the 41 uxoricides were thought to have been carried out without any assistance, suggesting that wife-killing was a solitary act. In light of J.B. Given's observation that "the most striking feature of medieval homicide [is] its markedly collective character," the predominance of wife-slayers working alone is suggestive, emphasising the power relationship within marriage.¹⁶ In the four cases in

which a wife-killer did enlist the aid of an accomplice, he almost always chose to work with a man.¹⁷ Only one accomplice was actually a family member of the accused. Of the 41 cases of suspected uxoricides, the coroners' rolls include only three verdicts, all acquittals. Interestingly, one of these acquittals involved a man who not only killed his wife, but also his eighteen-week-old son—suggesting that he was most probably acquitted by reason of insanity.¹⁸

These results stand in marked contrast to the details of the cases in which the husband, rather than the wife, was the victim. Only 11 of the 52 spousal homicides that occurred in Yorkshire consisted of husband-killings. Yet, the wife was listed only five times as having committed the crime on her own, and only three times without any accomplices. In six cases, the wife was identified as being only an accomplice to the crime, aiding, abetting and procuring the crime while a male principal actually carried it out. Medieval juries may well have had some difficulty imagining that a wife was capable of committing such a heinous crime without the help of others. The records of felony indictment suggest that at times laying the blame against a wife may not have been easy. For example, in one Yorkshire case the wife is described as the principal in two separate records of her husband's slaying, each noted in two different rolls. In the second entry, however, the name of the wife is omitted.¹⁹ While the two other principals are identified clearly, she is described merely as "the wife of Roger Rudbrade," hinting that perhaps she was not the prime mover in this homicide. In cases that included accomplices, it seems clear that husband-killers demonstrated the same preference for unrelated male accomplices as did wife-killers. All but one of the accomplices in cases of husband-killing were male. Of the 11 cases, only one verdict was recorded—Cecilia, wife of John of Seamer, who acted as a principal in concert with a male whose relationship to her was unknown. She was sentenced to burn for the homicide of her husband while her male accomplice was acquitted.²⁰

What do all these figures tell us? Once again, it is important to remember that stories of spousal homicide were retold when neighbours and members of the community were questioned. They reveal more about beliefs than about what actually happened. Accordingly, these figures suggest that some modern thinking about medieval murderesses may not hold true.

None of these murders was thought to have been carried out by a conspiracy between the wife and members of her family or household.²¹ It is possible that many of these unrelated male accomplices with whom husband-killers worked were in fact lovers, and that this relationship was simply not described in the documents. However,

use of the term *amicus* to describe a lover, if not abundant in royal records of indictment, was also certainly not unknown.²² Had the community been aware of any illicit amorous relationship, it probably would have included mention of such a fact in the official records. At the same time, though, these findings do strongly support the belief that women rarely acted alone.

Another common modern conception, this one fueled by medieval literary works, is the belief that murderesses were suspected of compensating for their physical weakness by resorting to the use of poison.²³ Poison has often been represented as the supreme leveller, empowering the physically weak, and allowing wives, in their capacity as preparers of food, the opportunity to execute their designs. Frances Dolan sees husband-poisoning as a representation of the “violated home.”²⁴ Contemporary fears of domestic mutiny celebrated in plays and literature came to life when women abused their position in the household by poisoning their unsuspecting husbands’ food. Despite this apparently widespread perception, the records of royal indictment do not reveal a comparable obsession. Poison was not once listed as a weapon in cases of suspected husband-killers in the entire run of Yorkshire coroners’ rolls. Thus, while poison was popular as a literary device, it does not appear to have been widely used in real life.²⁵

A study of spousal abuse with a purely statistical approach, then, does not generate the firm conclusions one would like about the acceptability of domestic violence. Numbers can be too easily misinterpreted or misunderstood, and they lack the sort of basis from which to draw firm conclusions. A closer examination of these legal documents from another perspective, however, yields some powerful clues about communal attitudes. The inquests, appeals and other entries found in coroners’ rolls are generally terse, unrevealing and exceptionally formulaic. A typical entry runs as follows:

The jury presented on oath that on the Sunday next before the feast of the Nativity of the Blessed Virgin Mary, in the second year of the reign of King Richard the second after the conquest, at Ryther, Roger Uttyng of the same feloniously slew William Medde of Ryther by piercing his head with an arrow so that he immediately died. And the said Roger immediately fled. His chattels are none. Viewed by Thomas of Lockton coroner.²⁶

It is easy to see from this entry how one might dismiss the wording of these rolls as so uninformative as to be of little use to the social historian. And yet, research has

indicated that it would be a mistake to evaluate the evidence contained in coroners' rolls too hastily.²⁷ The formulaic nature of the rolls is not a hindrance, but rather a reliable tool. Precisely because the majority of cases are set out in a prescribed manner, those that do not conform to the set format immediately take on significance. The inclusion of details not normally recorded reveals a great deal about how communal attitudes are represented by the members of the jury. And within the Yorkshire coroners' rolls there are a number of entries that fall into this category.

One such case is that of an inquest held in 1344 on a suicide victim. Like most entries in the coroners' rolls, it is a laconic recording of events, with one important exception. The roll entry states:

the vills [of ...] present that on the Wednesday next before St Thomas Apostle, in the above-mentioned year, Alicia wife of Stephen Souter of Great Broughton went to the river running through Great Broughton and, of her own free will, she drowned herself because of litigious words between herself and her husband.²⁸

Most inquests into cases of suicide do not normally list a reason for the act. They simply present the means of death, the date, the place, and the name of the victim. The few that do contain details of causation usually note that he or she was *non compos mentis* or *extra sensum suum*, without giving any clues to circumstances that exacerbated the victim's mental state. Why, then, the anomalous inclusion of the circumstances surrounding Alicia's suicide? The husband is not named as an accomplice here, because he did not actually aid in her death. But why would his quarrel with her have even been mentioned unless the jury somehow felt that he was partially to blame for her demise? While tentative, this argument suggests that medieval English society may have considered husbands to be responsible for the mental well-being of their wives.

Very few inquests permit an opportunity to understand how the medieval mind interpreted a particular situation. In an inquest from the year 1348, a particularly instructive case opens our eyes about medieval perceptions of the acceptable limits of what today we call spousal abuse. It states:

[T]he jury presents on oath that on the Sunday next after the feast of St Ambrose in the twenty-first year of the reign of King Edward the third since the conquest at Ormesby, an argument arose between Richard Sutor of Ormesby and Cecilia his wife, so that Richard struck the said Cecilia

with his hand. And then the said Cecilia fled, and in fleeing, she fell into the fire over which a brass pot full of water stood (and) which overflowed on her stomach and around the said Cecilia and scalded her, so that she died unconfessed the Sunday next after the Ascension of the Lord then next following. And immediately after the fact, Richard fled.²⁹

Looking at this situation without any modern prejudices or legal perspectives, it is possible to see this death as excusable, rather than culpable homicide. In fact, in a society in which physical abuse of a wife was acceptable and even encouraged, it seems likely that an accident is exactly how such a case would be interpreted. This perspective is reinforced by the omission of the standard phrase which would indicate that Robert “feloniously slew” (*felonice interfecit*) his wife Cecilia. And yet, Richard Sutor was not so convinced that a jury would believe his innocence. After the death of his wife, he immediately fled. The chief reason he would have done so was in fear of execution, a penalty which would have been imposed were he to be found guilty of a felony. Hence, Richard perceived his own situation to be a case of homicide, and not an accident.

Naomi Hurnard, in her study of the king’s pardon, has demonstrated that culpability for homicide was sometimes misunderstood during the Middle Ages, and that even bystanders now and then fled out of fear of judicial penalty.³⁰ Were this the only account of Cecilia’s death in the records, Richard’s flight would have to be questioned on these grounds. However, like many cases in the coroners’ rolls, Cecilia’s death appears more than once. A second entry in a later roll, while much less descriptive, is enlightening in its lack of detail. All the events leading up to Cecilia’s death are absent from the record. Instead, it states merely that Richard Sutor of Ormesby feloniously slew his wife Cecilia.³¹ Clearly, Richard was not the only one who interpreted Cecilia’s death as a homicide; so, too, did the royal courts.

A study of deviance from the norm is not the only method of illuminating common attitudes towards spousal abuse. Formulaic language itself provides insight into the communal perspective represented by the members of the coroners’ inquest jury. It has long been recognised that juries did not play a passive role in the royal courts of the later Middle Ages. However, it is only recently that the extent of jury control in criminal cases has even been explored.³² The discovery of what Thomas Green has dubbed “merciful nullification” by the jury demonstrates that, in many respects, petty juries held the upper hand in the courts of later medieval England. It was up to these juries to acquit or convict, and sometimes they were entirely willing to acquit even when evidence pointed straight to the accused. Of course, as much

recent research confirms, the goal of a trial was not necessarily to convict the accused, or even, for that matter, to reach a verdict. Indictments were often a reaction by the community to flagrant transgressions of the communal belief structure; the trial was thus intended to frighten the miscreant into proper and legal behaviour. John Bellamy's latest work, *The Criminal Trial in Later Medieval England*, takes all these ideas about medieval juries a step further.³³ Bellamy remarks that, apart from observing an occasional overlap in personnel, historians have essentially ignored the relationship between the indicting jury and the trial jury. Consequently, communication between the two has been under-appreciated. This is an important argument, because some recent studies into medieval juries have challenged the notion that the trial jury was composed of witnesses to the crime. In his study of the Lincolnshire Trailbaston proceedings of 1328, for example, Bernard McLane notes that trial jurors were rarely drawn from the ranks of those who lived closest to the scene of the crime, and thus could not have been self-informing.³⁴ J.B. Post and Edward Powell have made similar observations.³⁵ If juries were not in fact self-informing, then they must have looked for evidence in other venues.

In the context of such a discussion, Bellamy turns to the verbal formulas used in felony indictments. He argues that indicting jurors manipulated protocol for their own purposes, inserting a specialised vocabulary of key words and phrases into their indictments in order to communicate apprehensions and opinions to petty jurors. In egregious cases of felony in which jurors of presentment wished to convey a high level of suspicion in respect of the accused and to emphasise the heinousness of the crime, they deliberately included these signals, or phrases of "afforcement" as Bellamy calls them,³⁶ to incline the petty jurors towards a verdict of guilty. Noting specifically that a crime took place by night (*noctanter*), on the king's highway (*in regia via*), or that the accused was common or notorious were clues intentionally embedded in the indictment to alert petty jurors that this was a crime committed by stealth, and thus worthy of death.

If the grand jury was anxious to communicate to the trial jury its opinions about the appropriate fate of the accused, why should we assume that members of the coroners' inquest jury were not equally likely to voice their perspectives? Indeed coroners' inquest juries may have had a greater interest in seeing the accused punished, chiefly because inquest juries were composed of friends, neighbours and relatives, all of whose lives were affected most tangibly by the conviction or acquittal of the defendant. This perception finds strong support in the evidence of the coroners' rolls.

For example, despite the small number of husband-killings found in the coroners' rolls for the county of York, it is interesting that four of the eleven cases were described as having occurred by night, while only one out of 41 uxoricide indictments included this phrase. Of the seven daylight husband-killings one was supposed to have occurred on the king's highway, while none of the uxoricides was so described. Bearing in mind Bellamy's contention, it would seem that almost half the inquests involving husband-killings in the county of York appearing in the coroners' rolls were recorded in a manner that would incline the petty jury towards a conviction, while only 2.4 percent of those for uxoricide received the same treatment. This number increases if we take into account Thomas Green's observation that indictments for petty treason often noted an accused person's attempt to conceal evidence of his or her actions by hiding the body of the deceased. He maintains that this detail was included in order to highlight the deceitful nature of the crime and to convince the trial jury that the defendant had committed a crime worthy of capital punishment.³⁷ The records of husband-killings for Yorkshire reveal at least one case of a homicide followed by burial of the evidence. When William Storour of Hirst was slain by his wife, she buried him under the stable before fleeing.³⁸ The inclusion of this detail in the indictment communicated the grand jury's opinions of the amoral character of the defendant. If we include the wife of William Storour in the number of cases of husband-killing employing phrases of *afforcement*, the total reaches six out of eleven indictments phrased in order to secure a conviction.³⁹

Despite the widespread use of specific tactics in cases of felony, phrases of *afforcement* in felony indictments did not guarantee a conviction. Still, Bellamy's statistical analysis shows that the inclusion of these terms in an indictment substantially increased the likelihood of conviction. For example, in cases from the early fifteenth century in which the accused was described as a common felon, Bellamy observes a conviction against acquittal ratio of one to three, while in cases in which the accused was not so described it was merely one to eight (Bellamy 30). Unfortunately, none of the verdicts for the Yorkshire cases was recorded in either the surviving coroners' or *gaol delivery* rolls; consequently, the effectiveness of this tactic in spousal homicide cases remains unclear. However, Bellamy's argument opens a small window into the minds of the jury members, and helps us to understand their perspectives on domestic violence.

The tendency of juries to employ phrases of *afforcement* in cases of husband-killing more often than they did in cases of uxoricide suggests a number of tentative

conclusions. First, later medieval England had a higher tolerance for abuse of wives than of husbands. This finding is not surprising. It has long been argued that there existed “strong social and cultural inhibitions against the use of force by women as a means of settling disputes” (Given 137). Given also observed, in his study of violent crime in thirteenth-century England, that this widespread sentiment is apparent in the kinds of verdicts handed down to women accused of homicide. A woman stood a much greater chance of being sent to the gallows for homicide (33.3%) than did a man (18.3%). The frequent use of suggestive vocabulary in indictments for petty treason strengthens this argument. Second, these findings indicate that jurors were not outraged or shocked by the nature of wife-killings in general. Nor were they so incensed by these crimes that they sought to ensure the spouse’s conviction. The more frequent inclusion of these key phrases in inquests for husband-slaying suggests the reverse. Jurors were more scandalised by cases of wives killing their spouses than by wife-killing, and often sought to ensure that husband-killers would not escape punishment. These findings, then, substantiate what other historians have posited about contemporary social perspectives. Wife abuse was not regarded as exceptional; husband abuse broke all the rules.

Such beliefs were, moreover, reflected in the separate categorisation of these crimes under the law. While uxoricide was perceived as merely a homicide, husband-killing was viewed as petty treason, for which the penalty was death by burning—a much more painful and prolonged manner of execution than simple hanging. Nonetheless, the Yorkshire juries were more willing to press for death in husband-killings than in uxoricides, a factor which should suggest the outrageousness of this crime in medieval society.

Bellamy’s theory of encoded communication between juries points to more than just the development of a standard of signs and symbols. It also helps to explain why some cases in the royal records of felony indictments were recorded in unusual detail. The coroners’ inquest jury fully appreciated the shock value of the particulars of such cases, and realised that their inclusion might be utilised more effectively than stock phrases to ensure conviction. Why write simply that the crime took place by night to indicate stealth, when the accused had been even more deceptive than that? For example, in a case from the year 1393, the coroners’ rolls recount that John Thorpe of Sharleston not only beat his wife to death with a staff, but also threw her body into the river afterwards to hide the evidence of his crime.⁴⁰ Including the actual description of his actions in this case was more convincing than any formulaic phrase.

Inclusions that otherwise might seem minor are brought into a whole new light in view of these ideas. In the year 1363 in the town of Rillington, William the servant of John Smith of Rillington, Emma daughter of Thomas of Rillington, and Johanna wife of Roger Rudbrade worked together to murder Johanna's husband. This crime took place at night, while Roger was lying in his bed (*iacenter in lecto suo*).⁴¹ To include the location of the crime not only points to the deceptiveness and conspiratorial nature of the felony, but it also emphasises the heinous violation of the solemn bonds of marriage. A couple's bed is idealised as a place of trust and intimacy; to murder one's husband in bed is the ultimate transgression of this bond.

Some case entries are even more detailed than that of John Thorpe or Johanna Rudbrade and her confederates. In a homicide from 1346, we are told the story of John of Bingham. While he was kneeling and praying before the altar in the church of Aberford in Yorkshire one day, three men entered the church and struck him with a sword and two knives in the chest, head and back so that he immediately died. The records go on to declare that his wife Hawysia not only abetted the felony, but also procured the men who carried it out.⁴² Had the inquest jury reported that this crime took place by night, on the king's highway and had been committed by a common, notorious felon, they might not have been assured the same judicial response that a full-length entry of the actual details of this crime would produce. The inclusion of the shocking details of this vile conspiracy and sacrilegious bloodshed was the closest the inquest jurors could come to actually tying the noose themselves.

Because of the fragmentary and disjointed nature of the evidence, coroners' rolls for the county of Yorkshire cannot tell a complete story about levels of spousal abuse in the later Middle Ages for the county of York, let alone England. The evidence of too many other court records, both royal and ecclesiastical, must be examined in conjunction with the coroners' rolls before any firm conclusions can be offered.⁴³ Nonetheless, it is important to acknowledge that the silences of extant records can often be just as revealing as their avowals. Most important, the records of felony indictment for Yorkshire do not suggest a high concentration of domestic homicides. Representing 2.5 per cent of all homicides for the entire county over the course of the fourteenth century, spouse-murder was certainly not a frequent occurrence. Despite the sometimes alarming subject matter of these court records, the low numbers offer a positive assessment of the late medieval situation. Spousal abuse, always horrific and sometimes fatal, was nevertheless not widespread in late medieval Yorkshire. Indeed, the fact that some cases made their way into the records of the royal courts confirms

that there were limits to abuse, and that homicide as a manifestation of such mistreatment was discouraged.

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Notes

1 A preliminary version of this paper was presented at the *North American Conference on British Studies in Conjunction with the Western Conference on British Studies, Annual Meeting* in Colorado Springs (16 October 1998). Funding for this research was generously provided by the Social Sciences and Humanities Research Council of Canada.

2 Philippe Ariès, *Centuries of Childhood* (New York: Knopf, 1962).

3 Lawrence Stone, *The Family, Sex and Marriage 1500—1800* (New York: Harper & Row, 1977), p. 117.

4 Robert Bux Bosse, “Female Sexual Behaviour in the Late Middle Ages: Ideal and Actual” *Fifteenth-Century Studies* 10 (1984), 31.

5 Bosse is just one of a number of historians who have reached similar conclusions. In her analysis of the court records of the London consistory court, Shannon McSheffrey makes a similar observation, noting that love was the primary concern in the formation of a marriage, although many other factors were also taken into consideration. See Shannon McSheffrey, *Love and Marriage in Late Medieval London* (Kalamazoo: Western Michigan University, 1995), p. 24. Michael Sheehan’s 1978 article on spousal selection, in many ways, is responsible for this turn towards a more complex understanding of the marital relationship. In particular, with his focus on manuals for confessors, Sheehan demonstrates that marital affection was a very real concern in the late medieval period. See Michael M. Sheehan, “Choice of Marriage Partner in the Middle Ages: Development and Mode of Application of a Theory of Marriage” *Studies in Medieval and Renaissance History* n.s. 1 (1978): 3-33.

6 Hanawalt’s most cogent work on this subject can be found in chapter five of *Crime and Conflict in English Communities 1300-1348* (Cambridge: Harvard UP, 1979); however, this is not the only work she has written on the subject. See also “The Peasant Family and Crime in Fourteenth-Century England” *Journal of British Studies* 13 (1974), 1-18; “Women before the Law: Females as Felons and Prey in Fourteenth-Century England” ed. D. Kelly Weisberg, *Women and the Law*, vol. 1

(Cambridge: Schenkman, 1982), pp. 165-95; and *The Ties that Bound: Peasant Families in Medieval England* (New York: Oxford UP, 1986), chapter 13.

7 Her statistical analysis for all three of the above is based exclusively on gaol delivery rolls from Essex, Herefordshire, Huntingdonshire, Northamptonshire, Norfolk, Somerset, Surrey and Yorkshire, during the period 1300 to 1348. Notably, she also uses examples from coroners' rolls of the same counties and manorial court records from Wakefield to illustrate her conclusions.

8 Hanawalt, "Peasant Family," p. 5.

9 Hanawalt's study demonstrates that statistical analysis, while helpful, cannot be used as a guide to actual rates of spousal abuse in the medieval period. First, it must be taken into account that there is a great disparity between the modern and medieval eras in terms of reliable documentation. While modern criminal records are remarkably comprehensive, we do not know just how complete or incomplete medieval records actually are, and thus should not attempt to generate solid conclusions from fragmentary statistics. Second, the very nature of spousal abuse makes these records problematic for a definitive statistical analysis of society as a whole. Throughout most of the twentieth century domestic violence has been regarded as a private matter, and consequently has been notoriously underreported as a crime. The dearth of evidence extant from the medieval period on this subject suggests that this also may have been the case for the Middle Ages. Any purely statistical study of spousal abuse in this period must therefore be approached with awareness of its limited value. Finally, modern legal perspectives must not be applied to the Middle Ages indiscriminately. Studies of the medieval system of justice have detected a divergence between theory and practice in the functioning of the royal courts. The royal courts were not the only venue assigned to deal with crime in medieval England, and even in the king's courts conviction was not fundamentally the goal. All these factors prevent a conclusive statistical analysis that might allow us to measure real levels of spousal abuse within medieval English society.

10 Hanawalt, *Ties that Bound*, p. 11.

11 Carrie Smith, "Medieval Coroners' Rolls: Legal Fiction or Historical Fact?" in Diana E.S. Dunn, ed. *Courts, Counties and the Capital in the Later Middle Ages* (New York: St Martin's Press, 1996), p. 115.

12 Here I have defined "violence" as anything physical, thus: homicide, suicide, self-defence, assault, rape, abduction, and unlawful imprisonment.

13 This definition of “family” has been construed in the broadest sense possible to include the modern definition of “family” (that is, parents and their children and any in-law relationships that fall within these parameters), as well as all master-servant relationships. Research over the past decade and a half has demonstrated that, owing to the frequency of the practice and the relationship of the master towards his servants, servants or apprentices must be viewed as an integral part of the family. See Barbara Hanawalt, *Ties that Bound*, pp. 90-104; Alan Macfarlane, *Marriage and Love in England 1300 – 1840* (Oxford: Blackwell, 1986), pp. 83-7; and, J.M. Bennett, *Women in the Medieval English Countryside* (New York: Oxford UP, 1987), pp. 54-64. Moreover, I have included here only family relationships specifically identified in the coroners’ rolls. I have made no educated guesses based on surnames or the like, because of the frequency with which some names occur in this period.

14 There are numerous problems with utilising convictions for statistical analysis as well. See Thomas Green’s work on jury nullification in his *Verdict according to Conscience: Perspectives on the English Criminal Trial Jury 1200-1800* (Chicago: Univ. of Chicago, 1985), pp. 1-64.

15 Because the wife appeared as a suspect, this has been counted as a possible husband-killing for the purposes of this study. See PRO JUST 2/215, m. 2.

16 J.B. Given, *Society and Homicide in Thirteenth-Century England* (Stanford: Stanford UP, 1977), p. 41.

17 Only seven accomplices aided in uxoricides. Of these seven, six were identifiable male. The gender of the seventh accomplice, however, remains a mystery. The accomplice is identified as Cassander child of William of Cawood of Bilton. It is possible that “Cassander” is an Anglo-Latinised equivalent of “Cassandra”; and yet, it seems unusual that the habitual feminine ending (“a”) has been omitted in this entry. With such an unusual name, it is too difficult to postulate this accomplice’s gender with any precision. See PRO JUST 2/242, m. 5.

18 PRO JUST 2/227, m. 10.

19 This case appears first as a presentment in PRO JUST 2/217, m. 8. It appears again in an almost identical format, but without the wife’s name in PRO JUST 2/218, m. 5.

20 PRO JUST 2/229, m. 1d.

21 This contradicts findings by a number of other historians of this area. See Andrew Finch, “Women and violence in the later Middle Ages: the evidence of the

officiality of Cerisy” *Continuity and Change* 7 (1992): 23-43, p. 30; Barbara Hanawalt, “The Female Felon in Fourteenth Century England” in *Women in Medieval Society* ed. Susan Mosher Stuard (Philadelphia: Univ. of Pennsylvania Press, 1976), p. 129.

22 There are a number of examples in the Yorkshire coroners’ rolls. One such case is that of William of Sowerby who killed his *amica*, Margaret Spicer of Kendale, and buried her body under his barn before fleeing (see PRO JUST 2/215, m. 15b). However, a case from PRO JUST 2/209, m. 7 demonstrates that other terms were also employed to describe an extra-marital relationship. Here, Robert Brimhand and his *concubina* Johanna Langons worked together in the murder of two men.

23 Lawrence Stone alludes to this belief in his article “Interpersonal Violence in English Society 1300-1980,” *Past and Present* 101 (1983): 22-33, p. 27; Kathleen E. Garay, “Women and Crime in Later Mediaeval England: an Examination of the Evidence of the Courts of Gaol Delivery, 1388 to 1409,” *Florilegium* 1 (1979): 87-109, p. 92, suggests that these views of women and poison have been influenced by the actions of southern European women of the same era, subsequently extrapolated as universal behaviour patterns; Barbara Hanawalt also notes this perspective in “The Female Felon in Fourteenth Century England,” p. 130, but suggests that the connection between women and poison was more popular in later periods; finally, Richard W. Ireland, in his article “Chaucer’s Toxicology” *The Chaucer Review* 29 (1994): 74-92, p. 84, notes an association between women and poison springing from the mid-wife’s monopoly on abortifacients during the Middle Ages.

24 Frances Dolan, *Dangerous Familiars: Representations of Domestic Crime in England 1550-1700* (Ithaca: Cornell UP, 1994), p. 31.

25 While many such accusations may have sprung up in the absence of evidence, proving death by poison was well-nigh impossible given contemporary medical technology. Moreover, coroners were unable to perform autopsies so as to establish poison as the clear cause of death, even if they had had the technology to carry out blood analysis. For many years, the medieval church forbade physicians to engage in post-mortem human dissection because it considered the human body to be analogous to the temple of God, and its desecration endangered the human soul. It was not until the mid-fourteenth century that the church began to relax its strict position on human dissection; even so, only the universities engaged in human dissection in the late Middle Ages. See Renate Blumenfeld-Kosinski, *Not of Woman Born: Representations of Caesarean Birth in Medieval and Renaissance Culture* (Ithaca: Cornell UP, 1990), pp. 30-2.

26 “Jurati presentant super sacramentum suum quod die dominica proxima ante festum Natvitatís Beate Marie Virginis anno regni regis Ricardi secundi post conquestum Angliæ secundo apud Rythe Rogerus Uttyng de eadem felonice interfecit Willelmum Medde de Rythe cum una sagitta percussendum eum in capite unde statim obiit. Et dictus Rogerus statim fugit. Catalla eius nulla. Visus per Thomas de Lokton coronator.” PRO JUST 2/233, m. 5.

27 Hanawalt’s significant study of familial ties in England is based largely on the evidence of coroners’ rolls (see Hanawalt, *Ties that Bound*). More recently, Carrie Smith has offered a number of compelling arguments in “Medieval Coroners’ Rolls” pp. 93-115, for a judicious use of coroners’ rolls in the study of late medieval society.

28 “Magna Broughton Parva Broughton Eseyby & Ingolby non venit presentant quod die mercurii proxima ante festum sancti Thomae Apostoli anno supradicto quedam Alicia uxor Stephani Souter de Magna Broghton ivit ad aquam currentem per Magnam Broghton & sua mera voluntate se ipsam submersit propter verba litigiosa inter se et virum suum.” PRO JUST 2/212, m. 19.

29 “...jurati presentant super sacramentum suum quod die dominica proxima post festum sancti Ambrosii anno regni regis Edwardi tercii post conquestum vicesimo primo apud Ormesby verba contumeliosa movebantur inter Ricardum Sutorem de Ormesby et Cecilia uxorem eius ita quod dictus Ricardus percussit predictam Ceciliam manu sua et tunc predicta Cecilia fugit & in fugiendo cecidit in igne super quo stetit una olla euea aque calide repleta que quidem olla submersit super ventrem & circa predicta Cecilia & eam scaturravit ita quod obiit confessa die dominica proxima post festum Ascensionis Domini tunc proxima sequens Et statim post factum dictus Ricardus fugit.” PRO JUST 2/214 , m. 11

30 This is not entirely surprising given the number of changes effected to the law of homicide throughout the medieval period. For a fuller treatment of persons who fled the scene of the crime see N.D. Hurnard, *The King’s Pardon for Homicide before A.D. 1307* (Oxford: Clarendon, 1969), p. viii.

31 PRO JUST 2/213, m. 7.

32 See note 12 and Thomas Green, J.S. Cockburn, *Twelve Good Men and True: The Criminal Trial Jury in England, 1200-1800* (Princeton: Princeton UP, 1988).

33 J.G. Bellamy, *The Criminal Trial in Later Medieval England: Felony before the Courts from Edward I to the Sixteenth Century* (Toronto: Univ. of Toronto, 1998).

34 Bernard William McLane, "Juror Attitudes towards Local Disorder: The Evidence of the 1328 Lincolnshire Trailbaston Proceedings," in Green and Cockburn, *Twelve Good Men and True*, pp. 36-64.

35 J.B. Post, "Jury Lists and Juries in the Late Fourteenth Century," in Green and Cockburn, *Twelve Good Men and True*, 65-77; Edward Powell, "Jury Trial at Gaol Delivery in the Late Middle Ages: The Midland Circuit, 1400-1429," also in Green and Cockburn, pp. 78-116.

36 See the first use of this term in Bellamy, *Criminal Trial*, p. 29.

37 Green, *Verdict According to Conscience*, p. 58.

38 PRO JUST 2/242, m. 5d.

39 Phrases of afforcement were also used in cases of husband-slaying in the records of gaol delivery for the same county. Their appearance in these records, however, is quite low in proportion to the number of cases. It seems the more local the jurors, the more determined they were to secure a conviction in transgressions of the gender hierarchy.

40 PRO JUST 2/250, m. 1d.

41 PRO JUST 2/217, m. 17.

42 PRO JUST 2/214, m. 5.

43 Richard Helmholz' monumental *Marriage Litigation in Medieval England* (Cambridge: Cambridge UP, 1974) illustrates the need to include ecclesiastical court records in this study. Cases of divorce *a mensa et thoro*, or judicial separations on the grounds of extreme cruelty or adultery, can illuminate communal beliefs about spousal abuse. These cases include witness depositions, and therefore provide direct evidence about communal perspectives of domestic evidence and the acceptable limits of spousal abuse. I am currently at work on a study of spousal violence in later medieval Yorkshire and Essex that incorporates both kinds of evidence, church court depositions and royal records of felony indictments.