

Literary Law Enforcement: Gender in Crime Ballads in Early Modern England

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“Whatever the act, it was more dangerous when done by women.”¹

The eighteenth-century ballad, “The Berkshire Tragedy, or The Wittam Miller,” relates the story of a miller who promises a woman he will marry her if she will have sex with him. She consents and later becomes pregnant. When she approaches the miller about marriage, he refuses to fulfill his promise. Finally, after much nagging on the part of the woman and her mother, the miller lures his former sweetheart to a private place and beats her to death. He is caught and sentenced to hang. At the end of the ballad the condemned man advises the readers:

Young man take warning by my fall,
all filthy lusts defy;
By giving way to wickedness,
alas! this day i die.²

The heart of the message in this ballad is not “do not murder,” rather it is “do not lust.” In the case of this young man, his lust led him to make a promise and incur an obligation to a woman; a surrender of his power that he was not willing to tolerate. Rather than temporarily relinquish his superior position in the social order, he eliminated his obligation by killing its object. The ballad condemns him most strongly for yielding his authority, not for killing another human being. The portrayal of women in early modern crime ballads is about power and its preservation. Crime ballads depicted women both as victims and as offenders to

¹ Susan Dwyer Amussen, “The Gendering of Popular Culture in Early Modern England,” in Tim Harris, ed., *Popular Culture in England, c. 1500-1850* (Basingstoke: Palgrave Macmillan, 1995), 66.

² “The Berkshire Tragedy, or, The Wittam Miller,” *Bodley Ballad Archive*, Douce Ballads 3 (1b) 18th century.

illustrate the tragedies that transpired when traditional gender roles were undermined. Women play the victim in much early modern English crime literature, but in the rarer case in which a woman is the aggressor her depiction in crime ballads reveals much about the gendered social system. This essay will focus on women as offenders, although as the previous example illustrates, there are similar conclusions to be drawn from the study of female victims. Ballads pertaining to women and crime sought to reinforce gender roles and strengthen the social order by providing an example of deviant women as a deterrent to others.

The sample of ten ballads presented here range in publication date from 1616 to the mid-eighteenth century.³ Nine of the ten ballads are printed in the “black letter” style most accessible to the non-elite public. There are three cases of murder, two include theft, five deal with adultery, and two concern prostitution. Seven of the ballads were published in London, a further two were most likely London works, and one came out of Newcastle-Upon-Tyne. Of the crimes detailed in the ballads, five were committed in London, one in Gloucestershire, one in Essex, one in the “North,” and two are undetermined. While this sample is small and further research is required to confirm any findings, the publication dates of the ballads do coincide with the larger historical narrative.

In her article on women prophets during the English Civil War, Phyllis Mack argues that during the upheaval of war and then the Interregnum, 1642 until 1660, gender roles were slightly relaxed allowing women prophets to gain credibility among certain religious groups. She contends, “Religious radicals viewed the period of the Interregnum (1649-1660) as a ‘world turned upside down,’ and they welcomed prophets of both sexes as a kind

³ “Anne Wallens Lamentation,” *Early Modern Center English Ballad Archive 1500-1700*, 1616; “Truth Brought to Light,” *Bodley Ballad Archive*, Wood 401(191), 1662; “The Careless Curate and the Bloody Butcher,” *Bodley Ballad Archive*, Wood 401(187), 1663; “A Job for a Journeyman Joyner,” *Bodley Ballad Archive*, Douce Ballads 1(106a), 1671-1704; “John the Glover and Jane his Servant,” *Bodley Ballad Archive*, Douce Ballads 1(103b), 1671 & 1704; “The Bak’d Bully,” *Bodley Ballad Archive*, Douce Ballads 1(11a), 1672 & 1696; “Dolly and Molly,” *Bodley Ballad Archive*, Wood E 25(140) 1672 & 1698; “The Bridewell Whores Resolution,” *Bodley Ballad Archive*, 40 Rawl. 566(98) 1674-1679; “The Scolding Wives Vindication,” *Bodley Ballad Archive*, Don. b. 13(82) 1683 & 1696; “The Lady Isabella’s Tragedy,” *Bodley Ballad Archive*, Douce Ballads 3(60a), 1711-1769.

of supernatural intrusion into a society which had repudiated reason and tradition.”⁴ Mack explains that with the end of the Interregnum came the end of the period of gender role relaxation. There followed a campaign to reassert traditional gender roles as society became more stable. She writes, “Masculine symbols of the patriarchal family were increasingly appropriate as models for a society whose priorities were political stability and disciplined economic activity furthered by rational self-interest; feminine symbols of diffuse, inchoate power clearly were not.”⁵ Mack’s identification of a reassertion of patriarchal authority after 1660 is supported by fact that seven of the ten sample ballads concerning deviant women were published between 1660 and 1679.

A second point of connection between the ballads and the larger historical narrative occurs with the Reformation of Manners in the 1690s. In *Sources and Debates in English History*, Newton Key and Robert Bucholz point to the Reformation of Manners’ campaign against alehouses, accused of being centers of prostitution, as well as other vices, as a clash between the reforming culture and a traditional popular culture.⁶ Although he contends that a prominent concern with manners was not confined to this period, Martin Ingram asserts, “Sexual offences were always prominent among the ‘ill manners’ that were targeted [by reformers].”⁷ The sample ballads reflect this concern with sexual morality, and their publication dates reveal a possible influence of the Reformation of Manners. As mentioned above, of the ten ballads, five deal with adultery and two with prostitution. In addition, three adultery ballads and one on prostitution were initially published in the 1670s and 1680s and then were republished during the 1690s at the height of the Reformation of Manners.

Key and Bucholz, along with Ingram and Susan Dwyer Amussen, point to a significant tension during this period. Not

⁴ Phyllis Mack, “Women as Prophets During the English Civil War,” *Feminist Studies* 8, no. 1 (Spring 1982): 38.

⁵ Ibid.

⁶ Newton Key and Robert Bucholz, *Sources and Debates in English History, 1485-1714* (Malden, MA: Blackwell, 2004), 117.

⁷ Martin Ingram, “Sexual Manners: The Other Face of Civility in Early Modern England,” in Peter Burke, et al., eds., *Civil histories: essays presented to Sir Keith Thomas* (Oxford: Oxford University Press, 2000), 90.

only was there a growing concern with manners, but there was a particular elite anxiety over the conduct of the lower classes. There has long been debate among historians over elite culture and popular culture and where or if these two cultures intersect. Amussen makes clear her own position, “Elite and popular cultures are not separate, and the theological, political and social ideas expressed in literate culture undoubtedly shaped the experience of all people.”⁸ The crime ballads of early modern England are one point of connection between elite and popular cultures. The ballads, often composed, paid for, and published by members of elite culture, were designed to educate not only elite readers, but also non-elites about the virtues of proper behavior.

Non-elites could have access to these documents when they were displayed in public venues such as taverns and inns and also through oral transmission. These ballads were meant not only to be read privately, but also to be sung and read aloud. In his book, *Popular Cultures in England 1550-1750*, Barry Reay emphasizes the widespread popularity of cheap print even among the non-literate population. He explains, “Reading aloud was one of the main bridges between literacy and orality. Those who could not read had ballads pasted to their cottage walls so that they could get literate visitors to convert print to the spoken word.”⁹ As one of the least expensive forms of print and one that most easily lent itself to memorization and performance, the ballad was a significant line of communication between elites and the larger culture. Ballads, then, could be an effective tool for the elites to impose their values on the rest of society. The maintenance of order was of great importance to elite culture and this was partially achieved through adherence to the traditional gender roles illustrated in ballads and broadsides.

The broadside “The Husband’s Instructions to his Family: or, Household Observations” detailed the proper roles of the wife, child, and servant as dictated by the husband. The illustration and Roman style type are clearly elite, but as Reay points out, printed material such as ballads and broadsides were often accessible to a

⁸ Amussen, “The Gendering of Popular Culture,” 49.

⁹ Barry Reay, *Popular Cultures in England, 1550-1750* (London: Longman, 1999), 61-62.

larger audience than the literate upper class. The instructions begin:

Since You're my Wife by Holy Nuptial State,
Such You shou'd be as these few Lines relate:¹⁰

The husband instructs his wife to be modest, "saving, though not penurious," soft-spoken and uncritical of her husband, trusting, and a caring mother who does not fail to discipline her children.¹¹ These virtues, along with others such as chastity and honesty, were characteristics of women who played their proper gender role and aided in the perpetuation of an ordered society.

It is important to note, however, that issues of gender were not only an elite concern, though they may have originated there. In his work on manners and civility in early modern England, Martin Ingram points out the dispersion of anxiety over proper behavior, especially sexual behavior. Ingram writes of his work:

The survey reveals that, far from civility's being an exclusively elite commodity concerned with polite behavior, versions of the concept had resonance much further down the social scale and had a hard moral edge...In the early modern period the morals of everyone were very much a public concern and subject to official censure. Adultery and fornication were not only sins but also crimes.¹²

Adultery was a uniquely complicated offence that was considered a particularly deviant act for a woman. While both elite and non-elite cultures discouraged adultery, the punishment of the transgression provides a clear example of the idea of "two concepts of order."¹³ In the elite world, adulteresses could expect legal action and occasionally capital punishment, while in popular culture women who committed adultery and/or their cuckolded

¹⁰ "The Husband's Instructions to his Family: or, Houshold Observations," *Bute Broad-sides*, B41, 1685.

¹¹ *Ibid.*

¹² Ingram, "Sexual Manners," 88.

¹³ Keith Wrightson, "Two concepts of Order: Justices, Constables, and Jurymen in Seventeenth-Century England," in John Brewer and John Styles, eds., *An Ungovernable People? The English and their Law in the Seventeenth and Eighteenth Centuries*, (New Brunswick: Rutgers University Press, 1980), 21-46.

husbands were often subjected to a public shaming ritual such as a skimmington or a charivari rather than official censure.

Not only did contemporaries find adultery morally reprehensible, but they believed that it often led to more serious crimes. Frank McLynn explains, "It was a hardy perennial of conservative and reactionary social thought...that the roots of crime were to be located in immorality, especially of the sexual kind."¹⁴ This fear of an escalation of violence was founded in actual incidents, especially cases in which the husband discovers his wife's indiscretion. The ballad "The Careless Curate and the Bloody Butcher" illustrates such an incident and also explicitly articulates the connection between women, adultery, and murder. The ballad opens:

Black Murther and Adultery
Are two such sworn Brothers,
That who-soere their fathers be
Hot passions are their Mothers¹⁵

The author then relates the tale of a butcher's wife who is seduced by her parson. She eventually gives in to his overtures and while they are "in the midst of all their sport," her husband walks in on them. In a rage, the butcher castrates the curate with his knife and the parson soon bleeds to death. The butcher is immediately apprehended by neighbors and sent to jail to await trial. Though apparently unpunished, the wife feels responsible for the entire affair, and the author, by implication, seems to think this designation of blame is appropriate. He rhymes:

His wife is full of sorrow frought,
To think that she (by courses nought)
Hath such a sad confusion brought
Upon three Souls at once.¹⁶

¹⁴ Frank McLynn, *Crime and Punishment in Eighteenth-Century England* (New York: Routledge, 1989), 96.

¹⁵ "The Careless Curate and the Bloody Butcher," *Bodley Ballad Archive*, Wood 401 (187), 1663.

¹⁶ *Ibid.*

At the same time that he condemns the butcher's wife for her transgression, he implores the readers to forgive the parson for his actions. The ballad continues:

I hope ther's none will be to rude
To judge the Clergy for't:
They are but Men as well as we,
And subject to infirmity:
God keep us from Adultery,
Malice, Revenge and Bloud.¹⁷

The ballad of "The Careless Curate" illustrates the concern that adultery could lead to further crimes, and offers this unfortunate threesome as an example of the consequences of such actions. It is important to note that the woman, though not the instigator of the adulterous liaison nor the murderer, is held responsible for the tragedy. The author points to her weakness to resist the parson's invitation as the cause of everyone's downfall. Her failure to uphold her social role as an obedient wife led to two deaths and her own disgrace.

Another reason for adultery's exalted position in society's concerns was its potential economic effect. If an unmarried woman became pregnant she was initially faced with three choices: claim responsibility for the child, give birth in secret and kill the baby (infanticide was a capital offence), or abandon the child on the steps of a church or at a marketplace. The bastard child was a financial liability to the local community. If she abandoned the child he or she had to be taken in and raised either by a charitable family, or by an institution. In either case, the community paid. If the mother kept the child, in theory both she and the father were financially responsible. Frank McLynn contends that most women were not fortunate enough to have the father take responsibility. He writes, "In reality, because of the difficulty of proving paternity, only the woman paid. If she was not employed (as was most likely after the public admission of an illegitimate birth), and the bastard child was chargeable to the parish, the mother would be put in a house of correction."¹⁸

¹⁷ Ibid.

¹⁸ McLynn, *Crime and Punishment*, 112.

One rare example of both parents taking responsibility of a bastard child is found in the ballad "John the Glover, and Jane his Servant."¹⁹ In this song, an "antient" man has a baby boy by his young maid-servant, barely twelve years old. The man's wife cares for the baby. The man wants his servant to bear him another child and eventually convinces her that his wife will care for both children. Yet even when finances are not of concern and the incident does not lead to further crime, adultery is still discouraged. The maid-servant in the above ballad is held as a negative example for young women. The ballad concludes:

You damsels in Suburbs or City,
Let this be a warning to all,
For indeed it is very great pitty,
That you by temptations should fall.²⁰

The problem with adultery, then, goes beyond practical concerns of money and escalating violence.

Above all else, adultery seriously violated the social order and society normally blamed the woman as illustrated by the ballad "The Careless Curate." Men, however, also were responsible for accepting their dominant position in the gender order. The cuckold, a man whose wife has committed adultery, is the most ridiculed example of a man who is unable to hold his authority. In the ballad "The Scolding Wives Vindication: or, An Answer to the Cuckold's Complaint," a first person female narrator justifies her scolding and adulterous actions on the basis of her husband's refusal to play his role. She explains:

'Tis true I his Ears did cuff,
and gave him a kick or two;
For this I had just Cause enough,
Because he would nothing do.²¹

¹⁹ "John the Glover, and Jane his Servant," *Bodley Ballad Archive*, Douce Ballads 1(103b) 1671 & 1704.

²⁰ Ibid.

²¹ "The Scolding Wives Vindication: or, An Answer to the Cuckold's Complaint," *Bodley Ballad Archive*, Don. b. 13(82), 1683 & 1696.

She further accuses him of not making any attempt to sexually satisfy her, and so she turns to lovers. Though the wife has committed several violations of the social order, the ballad does not condemn her. In its tone, it seems to place more blame on the husband who refuses his rightful place in the social order.

Another type of deviant female was the prostitute. Women who were prostitutes were vilified not only for enticing men to sin, but also because they denied their natural role as defenders of sexual morality. Frank McLynn explains, "It was supposed to be the responsibility of women to maintain a universe of sexual order and propriety."²² One female criminal stereotype identified by McLynn and by Paula Humfrey in her work on criminality among female servants²³ is that of "Moll." According to McLynn, Moll King was a notorious London pickpocket who was apprehended and transported to the colonies. When she returned, she continued her life of crime and even worked with the infamous thief-taker Jonathon Wild.²⁴ It should, therefore, come as no surprise that in the ballad "Dolly and Molly" Molly is the woman who falls into prostitution while Dolly remains pure. Dolly and Molly are two country girls who try to make their way in London. Molly finds success in prostitution and tries to convince her friend to join her. Dolly adamantly refuses, which wins her the approval of the author. Dolly warns her friend:

Oh Molly you'l wish you had never been born;
Those immodest pleasures which you so commend,
Will bring you to sorrow and shame in the end.²⁵

Dolly's adherence to proper behavior is rewarded when she marries a good husband, but an unrepentant Molly is eventually stricken with the clap. The author concludes:

Now Molly's distressed, and the pain must endure,

²² McLynn, *Crime and Punishment*, 102.

²³ Paula Humfrey, "Female Servants and Women's Criminality in Early Eighteenth-Century London," in Greg T. Smith, et al., eds., *Criminal Justice in the Old World and the New: Essays in Honour of J.M. Beattie* (Toronto: University of Toronto, Centre of Criminology, 1998), 58-84.

²⁴ McLynn, *Crime and Punishment*, 127-128.

²⁵ "Dolly and Molly or, The Two Countrey Damosels Fortunes at London," *Bodley Ballad Archive*, Wood E 25(140) 1672 & 1698.

She flies to a Quack her distemper to cure;
But Dolly lives bravely, and her will I commend,
For honesty always will thrive in
The End.

This ballad reinforces gender roles by presenting contrasting examples of behavior and rewarding the "honest" woman while illustrating dangerous consequences for the deviant woman. The use of the "Moll" stereotype prevents any confusion on the part of the reader as to which woman is the negative example.

The ultimate violation of the order imposed by gender roles was for a woman to kill her husband. A woman found guilty of murdering her husband was punished not for murder, but for petty treason. Frank McLynn explains the significance of this designation:

The murder of a husband by a wife, whatever the circumstances, was held to strike at the very principles of natural order. . . . These crimes were thought to have a kinship with high treason because they violated the implicit contract between ruler and ruled. Whereas the murder of wife by husband was simple murder, punishable by hanging, petty treason carried the penalty of hanging and burning.²⁶

This was the fate that befell Anne Wallen after she murdered her husband during an argument. The ballad "Anne Wallen's Lamentation" is a first person account (it was common for authors to adopt the voice of one of the characters) detailing her crime and sentencing. Wallen and her husband had an argument in the course of which she scolded him and, after he tried with no success to calm her down, he cuffed her. She responded by grabbing one of his tools and stabbing him in the abdomen. She was discovered by neighbors, tried at the twice-yearly assize court, found guilty, and burned at the stake one week later. "Anne Wallen's Lamentation" contains several interesting messages to the readers. In the beginning of her story, Anne laments the shame her actions have brought upon all women:

Ah me the shame unto all women kinde,

²⁶ McLynn, *Crime and Punishment*, 119-120, 121.

To harbour such a thought within my minde;
That now hath made me to the world a scorne,
And makes me curse the time that I was borne.²⁷

She further advises:

A woman that is wife should seldome speake,
Unlesse discretely she her words repeat.²⁸

The ballad of Anne Wallen illustrates the serious consequence for a woman who commits the gravest of gender order violations and serves as a warning to other women against similar actions.

The recurrent theme in these crime ballads is the concern with proper gender roles. In “The Taming of the Scold: the Enforcement of Patriarchal Authority in Early Modern England,” David E. Underdown discusses community action against scolding women before 1640. He contends that distinct gender roles were crucial for the patriarchal system of order, and that deviance from these roles was perceived by the community as a threat to order. Underdown writes:

Women who defied the authority of their husbands...and even the more culpable husbands who tolerated this, threatened the entire patriarchal order...Unruly women who beat their husbands usually could not [be taken to court], so they had to be dealt with by unofficial community action, by shaming rituals like charivari.²⁹

Ballads, like shaming rituals, were a way in which society clearly articulated a violation of social norms. In addition, ballads and shaming rituals similarly served as deterrents to deviant behavior and encouraged members of the community to conform to the existing social order.

²⁷ “Anne Wallen’s Lamentation,” *Early Modern Center English Ballad Archive 1500-1700*, 1616.

²⁸ Ibid.

²⁹ David E. Underdown, “The Taming of the Scold: the Enforcement of Patriarchal Authority in Early Modern England,” in Anthony Fletcher and John Stevenson, eds., *Order and Disorder in Early Modern England*, (Cambridge: Cambridge University Press, 1985), 127.

Amussen also argues for the importance of gender roles in popular culture and the maintenance of order. In her article, “The Gendering of Popular Culture in Early Modern England,” Amussen identifies women’s subordination to men as a significant contributor to the ordering of Early Modern England. She writes, “Subordination...was necessary to ensure good order in the household....Since the household in patriarchal political theory was compared to the state, order in it was of critical importance.”³⁰ By identifying hierarchical gender roles at all levels as important to the maintenance of order, Amussen helps explain the concern of contemporaries with such seemingly private transgressions as adultery. Amussen further asserts the difference between women’s violence and men’s violence: violent women were a threat to order, violent men were not. She expounds:

Men beating their wives was less threatening than the rarer cases of women who beat their husbands; the disorder represented by such violence by women is connected to women’s disorderly sexuality....People were more comfortable with women as victims than as aggressors. Women could and did do the same things men did, but when they did, the actions carried different meanings.³¹

Thus, when a man killed his wife it was murder, but when a woman killed her husband it was treason.

Why was there such anxiety over gender roles during this period? In his article, Underdown not only asserts the importance of gender roles to the maintenance of order, he also suggests a reason for their being so crucial to the early modern period in particular. Underdown argues that the rise in community concern over deviant women was a result of the breakdown of neighborly ties and traditional gender roles brought on by the development of capitalism. After comparing the frequency of shaming rituals in arable versus town/wood-pasture regions he finds that such displays of community action against gender role violations were more common in town/wood-pasture areas. Underdown connects this finding with the diffusion of capitalist practices and writes of the town/wood-pasture regions, “These were the communities

³⁰ Amussen, “The Gendering of Popular Culture,” 51.

³¹ Ibid., 66.

most subject to the destabilising effects of economic change, and to the decline of old habits of neighborliness.”³² Underdown further explains that the responsibilities of the wife of a dairy farmer, a common occupation in wood-pasture regions, allowed her greater independent interaction in the marketplace. In addition, women in these regions were more likely to be involved in clothmaking and were sometimes charged with running the business while their husbands were away. Underdown concludes, “The growth of a market economy may thus have given more women a greater sense of independence, making men liable to retaliate when they encountered instances of flagrant defiance of accustomed patriarchal order.”³³

In “Female Servants and Women’s Criminality in Early Eighteenth-Century London,” Paula Humfrey studies the high incident of theft reported among female domestic servants in London. She finds that the number of thefts and the increasing anxiety over women servants was a result of the emergence of wage labor. Humfrey contends that wage earning female servants were more mobile and assertive than their predecessors who had been more dependent on their employers. By affecting the relationship between master and servant and giving greater independence to the servant, wage labor presented a challenge to the traditional patriarchal social system. Humfrey writes:

The bond between employers and domestics was becoming contractual rather than affective. The erosion of the old traditions of service, the old paternalistic safeguards of an intensely patriarchal institution, must indeed have been worrisome for employers and especially for employers of women.³⁴

Humfrey, therefore, agrees with Underdown’s assessment that the rise of capitalism undermined the established patriarchal system of order and the ensuing anxiety resulted in an increased effort to reassert traditional gender roles.

Crime ballads reaffirming traditional gender roles were one method by which authorities sought to deter deviant behavior.

³² Underdown, “The Taming of the Scold,” 135.

³³ Ibid., 136.

³⁴ Humfrey, “Female Servants and Women’s Criminality,” 84.

Deterrence was the major crime-fighting weapon of a justice system that lacked an effective police force. The English people were customarily opposed to the presence of standing armies and state forces that they saw as infringing on their rights as free Englishmen. According to John Langbein’s interpretation of the thesis articulated by Leon Radzinowicz in his 1948 multi-volume work *History of English Criminal Law*, this tradition, combined with the hesitation of the government to construct the necessary administrative apparatus, led to the late development of effective policing. Langbein writes, “They had to put so much weight on deterrence because they had so little chance of catching and convicting the undeterred.”³⁵ The crime ballad illustrating proper gender roles and castigating those who violated them was a crucial weapon of state’s law enforcement efforts. The order of the English state was based on a complex system of Herrschaft in which each individual occupied an assigned position and owed deference to others based on gender and social status. The female offender’s deviation from her ascribed role, therefore, was not only an offence against an individual, but a serious threat to the entire system of order.

³⁵ John Langbein, “Albion’s Fatal Flaws,” *Past and Present*, 98 (February, 1983): 97.