

Putting Women in Their Place: Social and Legal Attitudes towards Violence in Marriage in Late-Medieval England.

ALISON McRAE-SPENCER

In recent years, the law has appeared more ready to intervene in what were previously regarded as 'private' areas of life.¹ A greater public awareness and concern has meant that many of these areas which were taboo are now not only the subject of studies concerning modern life but of historical investigations too. One of these areas, but one which appears to be somewhat neglected by historians, is that of wife battering and the reaction of the legal system and society at large to the problem.

The medieval legal system, whether civil, criminal or ecclesiastical, depended on the co-operation of the layman. The role of the jury in secular matters, or that of witnesses in ecclesiastical cases, would usually provide the most crucial evidence available to those judging the case. Therefore the beliefs, preconceptions and prejudices of those lay men and women are likely to have been instrumental in influencing judgement: the way in which they saw the 'facts' in many cases may have determined the outcome of a particular case. It is submitted here that, in such a legal system, the views of the community in which a couple with a violent marriage lived would in some cases be visible because of the important part played by the community's opinions in the submission of evidence. This article will attempt to gauge some of these opinions by studying petitions for divorce (*a mensa et thoro* (literally a divorce 'from table and hearth'),² and two entries from the court roll of Wakefield Manor.³

Some historians feel that medieval legal documents show a surprising lack of

marital discord. R.H. Helmholtz concludes that men and women not happy in a marriage would have been more likely to simply 'divorce' themselves rather than go through the church courts.⁴ This correlates with David Nicholas' findings in his study of medieval Ghent.⁵ Barbara Hanawalt also notes the absence of cases of marital discord and puts forward the hypothesis that neighbours would not find occasional violence between husbands and wives unacceptable.⁶ It has to be noted that during the later medieval period it was legal to use reasonable force to chastise one's wife. However, exceeding what was perceived as reasonable (one must imagine a variable standard for 'reasonableness' prevailed then as now) was not tolerated by medieval English society.

The principal case to be examined in this context is taken from the cause papers of the Consistory Court at York: *Wyvell v. Venables*. It is a case of divorce *a mensa et thoro* from 1410. It concerns an application for a separation by a wife, Cecilia Wyvett, on the grounds that her husband used (unreasonable) violence towards her and committed adultery with a woman named as Mabot. As it is a case in a church court, those giving judgement would have had access only to written depositions of the evidence rather than it being delivered orally by the witnesses themselves. This means that the documents do not automatically give an accurate account of the precise words of individual witnesses. Moreover, the depositions are clearly translations into Latin. The deposition of Cecilia, wife of William Redeness, contained in *Wyvell v. Venables*, shows that questions were put to her (and presumably answered by her) in the vernacular. This case does not appear to suffer from any disadvantage which might result from such translations in and out of the vernacular; the depositions are consistent with each other and, sometimes, very graphic.

There are five depositions in all: Alexander Johnson of Newcastle-Upon-Tyne, John Kirkby of Newcastle-Upon-Tyne, Agnes wife of Adam Shafton of York, William Constowe of York and Cecilia wife of William Redeness of York. There were eleven questions put to each of the witnesses. The first was to establish the validity of the marriage in question; the second to establish the character of Cecilia Wyvell; the third to establish the character of Henry Venables; and the others to disclose the nature of the abuse and any other wrongs which Venables may have committed. The last question produced two answers: the first was the violence of Venables towards his wife; and the second concerned a long standing adulterous relationship with a woman called Mabot, by whom he had had several children. All the witnesses confirmed the good reputation of Cecilia who was held to be '...honest, humble, kind and sweet in character, behaviour...'. They also agreed that, in the words of Agnes, Venables was '...cold and adulterous and generated terror in his wife. He was accustomed, when he had access to her, to abuse and beat her and wound her all the time'. The witnesses from York outlined two

particular instances of abuse, while the witnesses from Newcastle concentrated on the adulterous relationship with Mabot.

The most memorable act of physical abuse was the time 'seven years ago' when he knocked her to the ground with a club in their house and punched her eye so that it hung on her cheek by a thread; she would have lost it, had not her mother been there to put it back in place again. Venables then seized her neck between his hands and would have strangled her, had he not been stopped by the witnesses and other neighbours who were present and were able to drag him off.⁷ Another witness adds that after this attack Cecilia wanted to jump out of a window or drown herself in the river Ouse, as if she were a woman of unstable mind. She was prevented from doing so by her mother and servants.⁸ It is stated that Cecilia herself had not mentioned anything because of a fear of death or further beating but that particular witnesses had been aware before the court case that she was beaten.⁹

In a modern court case concerning an assault of this nature, especially if it is a criminal rather than a divorce hearing, the oral evidence and the appearance of the victim would be crucial. The medieval church courts when deciding whether or not the alleged events had actually occurred had only the second hand testimony of witnesses to rely upon. What seemed to be important was a general knowledge of the allegations. In other cases as well as *Wyvell v. Venables*, a witness would give an account of an assault or other misdemeanour, such as adultery, and then add that it was 'well known'. An example of this can be seen in the case of *Devoine v. Scott* where, although the exact wording of the witnesses' depositions differed (as one would expect), they were all careful to mention that a doctor was called to attend to the wife after an attack by her husband, but was sent away by the latter before he could treat her. Witnesses in these cases also stated that the characters of the two parties were 'well known' and they talked about a general awareness amongst friends and neighbours of the behaviour of the husband. In addition, the depositions also stated that the person giving the evidence was not the servant or in any way under the control of the petitioner, negating any chance that the evidence might in any way have been given with anything less than free will. The overall picture thus gained is of a witness freely describing an event which was observed by him or her and which fits into a body of common knowledge shared by a wider community: it is gossip known by the whole neighbourhood.

Another aspect of such cases which must be examined is the attitude of the court towards the women alleging such abuse. How seriously were they taken? Is there any hint of gender bias in the decisions? If the law is dismissive of a woman's need to be separated from a dangerous husband, and this becomes well known or is part of the popular culture, this may prevent other women from coming forward with their cases (this point is currently being debated in relation to modern abusive marriages). There do seem to have been genuine attempts made by

the ecclesiastical and secular courts to encourage men to treat their wives reasonably, rather than condoning the abuse. Such an attitude is positive from the point of view of the wife in so far as her complaints are not dismissed out of hand. Most of the York Consistory Court cases seemed to take the problem very seriously and decided in favour of the wife. A form of gender bias may be seen in the case of *Nesfeld v. Nesfeld*. This is the only case out of the four where judgement was found for the husband. It is also significant because it is the only case in this study where the witnesses for the wife and husband divide entirely along gender lines, that is the men upholding the husband's story and the women agreeing with the wife. This may be a reflection of the culture which existed in late medieval England, and indicates that a woman's testimony was viewed as being less reliable than that of a man.¹⁰ If this is so, it may well be that the added weight of male witnesses allowed Nesfeld to win against his wife. All the other wives whose cases are considered in this study used both male and female witnesses to support their version of events. This may show that having male witnesses lent credibility to Wyvell and Devoine, allowing them to win their cases. Whether or not such discrimination existed, the fact that people (be they men or women) chose to be witnesses at all is highly significant. It shows that the violence was considered important or shocking enough to be remembered (sometimes the actual events happened years before the court case) and that the witnesses felt that the behaviour of an abusive husband was serious enough for them to come and testify against him. It would seem, therefore, that not only were the courts willing to listen, but that ordinary people were concerned enough to act as witnesses.

This general concern can be seen even more clearly in two anomalous cases concerning domestic violence which are recorded in the Wakefield Manor court rolls during the fourteenth century. As cases which concern the subject of domestic violence, they must be seen as rare examples, different from the type of work undertaken by the manor courts. However, they provide a fascinating insight into the way in which ordinary people reacted to an abusive marriage. In 1332:

Richard Childe found pledges...that he receive his wife in his house and treat her agreeably and provide for her faithfully and courteously to the best of his ability etc

This case has a precedent in 1327, but apart from that would seem to be unparalleled by any other manor court:

Thomas Assholf sues John del Scoles, saying that they agreed for ½ mark of silver John should...find the said Ellen food and raiment..., but he afterwards drove the said Ellen from his house and beat her, so that she could not remain with him.

John brings a cross suit against Thomas...so that the said Ellen [shall be] removed from his house, with her goods and cattle.

An inquisition to be taken in both matters.¹²

Despite appearing out of place in a manor court roll, these two cases offer some interesting insights into the reaction of a medieval community to two abusive marriages. In the first place, it would seem significant that a court which is designated to deal mainly with property and other civil matters felt that it had competence to encroach on the type of litigation more commonly dealt with by the ecclesiastical courts. Secondly, and more important for the issues here, it shows that the community to which the couples belonged regarded it as their business to sort the matter out in the public forum of the manor court. Richard Childe, from other entries in the court roll, appeared to be an active member of the local community and involved in many legal transactions at around the same time.¹³ It does not seem, therefore, that the community shirked bringing even one of its active members to court, or that a blind eye was turned to his violence against his wife. We cannot know, though, how far the violence had gone in the case of Richard Childe before action was taken, as the source does not tell us. It must also be added that the court rolls suggest that Wakefield was a manor court which encroached upon the jurisdiction of the Church courts in other matters.¹⁴

The second case, concerning the dispute between Thomas Assholf and his son-in-law John del Scoles can be seen as a more conventional matter for a manor court to be concerned with. Although concerning marital violence, the case involves breach of contract. In this, the suffering of the wife could be seen as secondary to the plaintiff demanding that del Scoles keep his side of the bargain. However, it does illustrate that Ellen's father was not willing to sit back and allow his daughter to be treated in such a manner. It may very well be that he used the civil law to frame a case against del Scoles and so achieve a result that may not have been possible by any other means.

It is profitable at this point to return to the church court documents to see what further information can be elicited from them concerning the medieval view towards violence in marriage. Although there appears to be levels of violence which would not be tolerated, and against which people were moved to testify in court, this does not mean that all violence which would now be regarded as wife-battering was considered undesirable behaviour. For example, there is a Consistory Court case concerning one Robert Handenby, in which he and his wife were ordered to try to live together, with the proviso that if he treated her badly in the future, and it could be proved by two legitimate witnesses, his wife could have a divorce.¹⁵ Also, if the violence was seen as reasonable and corrective, the divorce was not to be given. This can be observed in the *Nesfeld* case, where the injuries suffered by the wife (which included a broken arm) were held to be the reasonable chastisement of the wife by her husband.

It is also interesting to note that in two of the four cases from the Consistory Court at York which are examined here, *Devoine v. Scott* and *Wyvell v. Venables*,

adultery is used alongside violence as a reason for divorce. This may indicate that violence was considered as less serious than adultery in terms of providing an acceptable reason for the authorities allowing the couple to separate. In *Ireby v. Lonsdale*, the poverty of Joan Ireby, the battered wife, was discussed. It is alleged that her husband had control over her money and had consequently left her desperately poor: she had to borrow money in order to bring her case. She too was successful. Margery Nesfeld, however, did not succeed in her claim for separation: she is also the only wife in the four cases who did not have some other claim against her husband or further evidence of his mistreatment of her.

Although the four York cases are not a big sample, they could indicate that where a wife is seeking a formal separation from her husband on the grounds of cruelty, her case is greatly helped if the husband can be seen by the court to be blameworthy in another area of his life which is even less defensible than violence towards his wife. This may mean that although extreme violence which was neither reasonable nor corrective was not socially acceptable, there remained a middle range of violence which required other evidence to convince the court of the husband's bad character. Helmholz also notes a tendency to bring other allegations alongside that of violence. His research is more extensive than that contained in this article, and he argues that it was probably a tactic used by the plaintiff to convince the court of the good reputation of the wife.¹⁶

If these cases indicate a difficulty which wives experienced in bringing an application for a formal separation in front of the church courts on the grounds solely of excessive violence, they may offer a clue to the two Wakefield cases. If a great deal of financial expense and high levels of evidential proof were necessary to succeed in an application before a church court, it seems sensible to suggest that if a cheaper, more convenient and less formal alternative were available it would be more attractive – even if the outcome is not as official as the church court. This may provide an answer to the mystery of the two cases from the Wakefield Manor Court. Richard Childe's case is unfortunately recorded in too brief a manner to draw much from it, but Thomas Assholf's case could fit this scenario and show him using the civil jurisdiction of the manor court to obtain a better married life for his daughter. It may, of course, merely be that he felt his contract with del Scoles on the marriage of his daughter was not carried out as they agreed; but the problems which would have faced his daughter as a separated wife as well as the high demands of the church courts may well have influenced his action. There was even the case in the Devon Eyre of 1288, where a brother won a case of alleged kidnapping when he took his sister away from a violent marriage.¹⁷ The legal authorities may not have done anything themselves to prevent harm being done to the wife, but they condoned the action of a member of her family trying to help her.

The conclusions which can be drawn from such a limited examination of source materials are necessarily somewhat speculative and they relate to individual documents rather than visible trends or statistics. However, a degree of violence seems to have been acceptable, or even encouraged in late medieval marriages. In *Nesfeld v. Nesfeld*, for example, the wife was, at the very least, struck with a fist and slapped by her husband for disobeying him. Hanawalt mentions a case at Chalgrave Manor Court where a woman was convicted of being a 'malefactor of corn' with the result that 'henceforth her husband shall punish her.'¹⁸ These suggest that the husband had more than nominal authority and that some degree of physical punishment was considered desirable if a wife disobeyed her husband or behaved badly in other ways. Evidence from other sources, such as contemporary literature, suggests that violence within marriage was the rule rather than the exception. Chaucer shows violence by both spouses in *The Wife of Bath's Prologue*. There is a comic element, though, as the wife fakes her death to get her husband near enough to give him the hardest punch in the whole episode.¹⁹ The complete authority of the husband over his wife can also be seen in *The Clerk's Tale*.²⁰ In another area of popular culture, although over 100 years later than Chaucer, fifteenth and sixteenth century German woodcuts and broadsheets have been found to illustrate the issue of the struggle for superiority in marriage.²¹ Many can be seen to advocate controlling an unruly wife with physical punishment. Here is an extreme example from the late fifteenth century, where a young man consults a doctor about his disobedient wife:

The young man is to beat his wife until she bleeds, then rub ashes into her wounds and sew her inside a salted horsehide for three days and nights. Not surprisingly, the wife's attitude is transformed by this treatment, and on being released she promises to respect and obey her husband.²²

It would seem that the control of wives by force was not just a matter of debate for the law, but was of concern and interest to the lay person in late medieval society.

Is it possible for the modern historian with only limited source materials to reach any sort of conclusion as to what the church courts would have considered as 'reasonable' violence? The case of *Nesfeld* may throw some light on this. In the first place, the wife was accused of having behaved in a less than exemplary manner, including shouting in the street and threatening to kill her husband. This may be seen as evidence to mitigate the husband's actions and provide him with a justified motive for his actions. The evidence of the other cases, in contrast, depicted the wife as irreproachable and thus highlighted the cruelty of her husband's behaviour towards her.

It is difficult to establish any relationship between violence and the attitude of a society towards aggression generally. It is too simplistic to say that a ruthless and aggressive society will have a higher rate of abusive marriages because other

factors always come into play. Violence such as child abuse, wife beating or rape seem to contain a need to control another person, rather than merely to express aggressive feelings. Violent marriages also seem to have very deep psychological roots. Because of this complexity, the idea that medieval society was violent and, *therefore*, tolerated violent marriages more than modern western society does not seem to be applicable. The evidence shows that unreasonable behaviour was not tolerated; and 'reasonable' violence was a product of attitudes towards women and the need to keep one's wife under control.

It is shown in the evidence considered here that even though bringing an action for a divorce *a mensa et thoro* could be very difficult for a battered wife, there were other alternatives: the possibility of using the manor courts in some circumstances existed, or the wife's family might intervene, as illustrated by the case from the Devon Eyre. When a case was brought to the church court, however, those deciding the case did not seem inclined to dismiss it out of hand.

The issue of violent marriages, therefore, seems to be one which late medieval society was not prepared to ignore. Even if a husband was encouraged to keep his wife in order and punish her, ordinary members of the community still felt that if he overstepped this the result was serious enough for them to testify in court against him. It can also be seen that the courts themselves took the complaints seriously. This awareness and implicit disapproval of 'unreasonable' violence shows that late medieval society was not, in this area, dismissive of a woman's rights and needs. Keeping women in their place required a degree of reasonableness and moderation; in this as well as other areas, women in late medieval society enjoyed a degree of protection.

NOTES AND REFERENCES

1. I wish to express my gratitude to the Richard III Society for the bursary I received during my research for the M.A. dissertation on which this article is based. I would also like to thank my tutors at York University, Dr. P.J.P. Goldberg, Professor Felicity Riddy, and Mrs. Anne Rycraft, for their helpful comments, guidance and support.
2. The four documents, held at the Borthwick Institute of Historical Research, York, are cause papers from the Consistory Court at York; CP. E. 221 (*Nesfeld v. Nesfeld*); CP. E. 257 (*Devoine v. Scott*); CP. F. 56 (*Wyvell v. Venables*); CP. G. 35 (*Ireby v. Lonsdale*).
3. J.W. Walker, ed., *Court Rolls of the Manor of Wakefield 1322-1331* Yorkshire Archaeological Society Record Series vol. 111 (1944), p.50, and Sue Sheridan Walker, ed., *The Court Rolls of the Manor of Wakefield from October 1331 to September 1333*, Yorkshire Archaeological Society Wakefield Court Rolls Series vol. 3 (1982), p.73.
4. R.H. Helmholz, *Marriage Litigation in Medieval England*, Cambridge 1974, pp.100-107.
5. David Nicholas, *The Domestic Life of a Medieval City: Women, Children and the Family in Fourteenth Century Ghent*, Lincoln Nebraska 1985, p.34.
6. Barbara A. Hanawalt, *The Ties That Bind: Peasant Families in Medieval Britain*, New York 1988, p.214.

7. Document CP. F. 56, *Wyvett v. Venables*, deposition of Agnes, wife of William Shafton of York.
8. *Wyvett v. Venables*, deposition of Cecilia, wife of William Redeness.
9. *Wyvett v. Venables*, deposition of Agnes, wife of William Shafton.
10. P.J.P. Goldberg, in discussion M.A. seminar University of York 1992.
11. Sue Sheridan Walker, ed., *The Court Rolls of the Manor of Wakefield*, p.73.
12. J.W. Walker, ed., *Court Rolls of the Manor of Wakefield*, p.130.
13. Sue Sheridan Walker, pp.18, 36, 73.
14. Sue Sheridan Walker, p.x.
15. Reference to the case is to be found in: R.H. Helmholz, *Marriage Litigation*, p.101.
16. R.H. Helmholz, p.105.
17. Henry Summerson, ed., *The Crown Pleas of the Devon Eyre of 1288* Devon and Cornwall Record Society, vol. 28, 1985, p.xxix.
18. Barbara A. Hanawalt *The Ties That Bound*, p.214, citing Marian K. Dale, ed., *Court Roll of Chalgrave Manor*, Bedfordshire Historical Record Society, vol. 28, 1950, p.44.
19. Geoffrey Chaucer, The Wife of Bath's Prologue from *The Riverside Chaucer*, ed., Larry D. Benson, Oxford 1988, pp.105-106.
20. Geoffrey Chaucer, The Clerk's Tale, *The Riverside Chaucer*, pp.138-153.
21. Keith Moxey, *Peasants, Warriors and Wives: popular Imagery in the Reformation*, Chicago 1989, chapter 5.
22. Keith Moxey, pp.120-121.

Ricardian Indexes

Comprehensive author and subject indexes to articles, notes and reviews in all issues of *The Ricardian*.

1979-1984, volume V and VI

£1

1985-1987, volume VII

£1.25

1988-1990, volume VIII

£1.75