Identity and the Prosecution of Interpersonal Violence in Late Medieval Yorkshire, 1340-85

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November 2021

This dissertation is submitted for the degree of Doctor of Philosophy

Declaration

This thesis is the result of my own work and includes nothing which is the outcome of work done in collaboration. It is not substantially the same as any work that I have submitted before for any degree or other qualification. It does not exceed the prescribed word limit of 80,000 words for the PhD degree.

Abstract

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There has been a strong historiographical focus on quantifying medieval crime and profiling criminals. This methodology has often resulted in a failure to consider the intersection between the law and social attitudes. This current investigation is interested in the extent to which legal privileges or social norms shaped criminal statistics. The project has captured evidence on all suspects and victims of homicide, ravishment, and bloodshed, in extant coroner and gaol records for York, the three Ridings of Yorkshire, and in four manorial courts. Unlike previous scholarship, this project does not attempt to calculate crime rates or to create a profile of the 'typical criminal'.[1] Medieval legal sources cannot answer these questions due to missing records, unreliable population data, multiple jurisdictions, the politics of law, and discretionary power. Instead, this doctoral work uses the tools of legal and social identity, defined respectively as how people were treated by the law, and their position in society, to better understand the male prevalence.

The first section of this thesis is a study of those prosecuted for interpersonal violence; the main point is that despite the overrepresentation of lay men, the legal identity of married women and clergy did not shield them from criminal prosecution. The second section is a study of victims and argues that although women were excluded from the formal structures of law, they actively engaged in community 'policing'. The third section focuses on the context of violence, showing that the presentation of murder was highly gendered, with jurors justifying or excusing male defendants, while remaining comparatively silent on female violence. Finally, the impact of identity on judicial outcomes is analysed. It is shown that as self-defence was linked to masculinity and honour, male defendants could be pardoned, whereas women fell into the binary categories of innocent or guilty.[2] However, amercements for bloodshed in the manor court were likely determined based on economic status rather than legal or social identity.

[1] C. I. Hammer, 'Patterns of homicide in a medieval university town: Fourteenth-century Oxford', *P&P*, 78 (1978), pp.3-23; B. A. Hanawalt, *Crime and conflict in English communities, 1300-1348* (Cambridge, Massachusetts: Harvard University Pres, 1979) and J. B. Given, *Society and homicide in thirteenth-century England* (Palo Alto, California: Stanford University Press, 1977).

[2] See K. J. Kesselring, 'Bodies of evidence: Sex and murder (or gender and homicide) in early modern England, c.1500–1680', *Gender & History*, 27, 2, (2015), pp.245-262 and G. Walker, *Crime, gender and social order in early modern England* (Cambridge: Cambridge University Press, 2003).

Content Warning

This thesis considers violence including homicide, sexual violence, and the drawing of blood. The content of this work includes femicide, infanticide, stillbirth, rape, violent death, execution, domestic violence, marital rape, abduction, and weapons. The cases discussed are from the middle ages, but comparisons are drawn with modern criminal statistics. The conclusion also addresses contemporary cases of femicide.

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Acknowledgements

First and foremost, I thank my supervisor, Dr Christopher Briggs. Ever since my first email asking if he would be interested in supervising an MPhil on crime during the Black Death, Chris's support, enthusiasm, guidance, encouragement, and mentorship have been invaluable and unwavering. Whatever the future brings, I will always remember the many happy hours spent in Chris's office discussing my research. I could not have asked for a better supervisor. Thank you, Chris.

This research would not have been possible without the generous funding of the Economic and Social Research Council. Likewise, I am thankful to The James Pantyfedwen Foundation and Murray Edwards College for funding my MPhil, without which I would not have been able to begin an academic career at the University of Cambridge.

I thank Professor Carl Watkins for the engaged and thought-provoking discussion during my Research Assessment Exercise. I extend my gratitude to Professor Manuel Eisner for allowing me to audit his MPhil module on the history of violence at the Institute of Criminology, and to Professor Teresa Webber for her patience in palaeography sessions.

I received a wealth of support from The Cambridge Group for the History of Population and Social Structure. I consider myself very fortunate to be a member of the Group. I am grateful for each and every person that I have met through CAMPOP, and thank, everyone who has shown an interest in my research and those who attended and offered feedback on my 'Brown Coffee' talk. I offer an additional thanks to the occupant the desk opposite mine, firstly Dr Xuesheng You and later Auriane Terki-Mignot, for their conversation and companionship.

Even under normal circumstances, CAMPOP is a fantastic environment for researchers, but given the last couple of years, I am even more appreciative of this support. I am exceptionally grateful to Professor Amy Erickson who has been so generous with her time, knowledge, and expertise. I thank Alexander Tertzakian for coffee breaks and chats on the numerous days where we were the only people working in the CAMPOP offices. Finally, thank you to Drs Romola Davenport and Leigh Shaw-Taylor for opening up their garden, and later their home, for Group coffee meetings, which was a welcome chance to reconnect with colleagues.

I extend a heartfelt thanks to the community of graduate students at Cambridge, this includes but is not limited to, a fantastic group of CAMPOP PhDs and the editorial team at Doing

History in Public. I thank fellow medievalist and graduate rep. Savannah Pine for running the 'Shut Up and Write' sessions where this PhD was completed. I am particularly grateful for those who made my vision of a graduate socio-legal community a reality. Thank you to Dr Laura Flannagan, Christopher Whittell, Ian King, and Emily Rhodes for helping me convene the Legal and Social History Workshop, and thanks to everyone who presented and attended.

My academic career began at Swansea University, where I belonged to a wonderful cohort of medievalists and was taught by many amazing people. A special mention must go to Dr Matthew Frank Stevens to whom I owe my love of late medieval socio-legal history. I am forever grateful for his special subject on medieval law and justice and for the passion with which it was delivered. I thank Dr Rhiannon Sandy, a role model, and a friend. Diolch yn fawr Rhiannon, for everything, from encouraging me to pursue medieval legal history to proofreading my thesis. I remain thankful to Dr Charles Rozier who encouraged me to apply to Oxbridge. Thank you for believing in me, Charlie, and for your continued mentorship.

I am grateful for the times I have been able to share my research, at Cambridge and beyond. Thank you to the convenors of the Late Medieval Seminar at the IHR and the Medieval Economic and Social History Seminar at Cambridge for inviting me to present my research.

This project would not have been possible without the items listed in my bibliography, both primary and secondary. I extend my gratitude to Professor Robert Palmer, and everyone involved with AALT; access to digitised sources became more important than I could have imagined when embarking on this project. Thank you to Drs Philip Slavin and Spike Gibbs for generously sharing your photographs of manor court rolls with me. Finally, thank you to all of the historians whose work has inspired me.

I would like to offer a special thanks to my examiners, Professors Gwen Seabourne and John Arnold, giving up their precious time to be a vital part of my doctoral journey. I hope you enjoy reading this thesis as much as I enjoyed writing it. I look forward to discussing it with you.

Outside of academia, I thank Liam Kelly for his love, unconditional support, and for sharing in my ambitions. Thanks for listening to me talk about gaol delivery. Thank you to the Kelly family, especially Janet and Billy, for their unwavering support of our dreams. Gyda chariad a diolch i Georgia and Quinton Scriven, my sister and nephew, whose teatime phone calls ensured that each day finished on a high. Heartfelt thanks to my father, Alastair Brown, for passing on his love of history, and to my gran, Jasmine Tregent, for childhood trips to historic sites and museums, and to all of my family for their love and support.

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List of Abbreviations

AALT	Anglo-American Legal Tradition digitisation project http://aalt.law.uh.edu/AALT.html
Bracton	Woodbine, G. E., and S. E. Thorne eds. *Bracton on the laws and customs of England,* 4 vols. (Cambridge, Massachusetts: Harvard University Press, 1968-77).
c.	chapter
DA	Doncaster Archives, Doncaster
Glanvill	Hall, G. D. G., ed. *The treatise on the laws and customs of the realm of England commonly called Glanvill* (London: Nelson, 1965).
H.M.S.O	Her Majesty's Stationery Office
IAHCCJ	The International Association for the History of Crime and Criminal Justice
IHR	The Institute of Historical Research
IMG	Image number on AALT
JUST 2	Coroners' rolls and files – available online at AALT
JUST 3	Gaol delivery rolls and files – available online at AALT
m.	membrane
LHR	*Law and History Review*
MOJ	Ministry of Justice
MOPAC	The Mayor's Office for Policing and Crime
ONS	The Office for National Statistics
P&M	Pollock, F., and F. W. Maitland, *The history of English law: Before the time of Edward I,* Vols I and II (Cambridge: Cambridge University Press, 1895-1898, Vol. II, reissued in 1968).
P&P	*Past and Present*
PROME	The Parliament Rolls of Medieval England
Stat.	Statute
TNA	The National Archives, Kew.
WYAS	West Yorkshire Archive Service, Leeds
YAHS	Yorkshire Archaeological and Historical Society, Leeds

Introduction I: Identity and Violence

There has long been a strong historiographical focus on quantifying medieval crime and profiling criminals. This methodology is highly problematic because it has the tendency to treat criminal statistics as a perfect representation of the reality of crime. By their very nature, court rolls can only shed light on the offences that were prosecuted, not those that were committed. While it is acknowledged that there is no doubt an overlap, perhaps even a broad correspondence, between the 'reality of crime' and the picture painted by medieval court rolls, these sources cannot be used to reconstruct crime rates or for criminal profiling due to the offences that were not prosecuted or records which have been lost. Nonetheless, it is argued here that using the rolls to assess the dynamics of prosecution is more fascinating than simply attempting to count crimes and criminals. The latter approach has often resulted in a failure to consider the intersection between the law and social attitudes.

Therefore, this current study departs from the traditional methodology of using court rolls to describe medieval criminality. Instead, this doctoral work asks whether, and how, the law and social norms shaped prosecution. The central aim of this thesis is to better understand the prosecution of violence through the tools of legal and social identity — defined respectively as how people were treated under the law, and how society expected them to behave. Legal and social identity, which are explained fully below, often overlapped and prosecution could be shaped by both of them, by one of them, or by neither. Both of these identities were shaped by biological sex and gender norms for the laity, and for clerics, by their membership of the Church. Therefore, this study concentrates on three groups in Yorkshire during the period 1340 to 1385: laymen, women, and the clergy.

This study has classed lay men and women as those who have 'traditional' male and female names in the legal records, and, in the case of women, by their descriptor. For example, John del Northwod is categorised as a layman, whereas Annabel Hughdoghter and 'the wife of Hugh del Snape' have been treated as women.[1] The legal records used in this study do not allow the historian to see how people may have thought of themselves or chosen to identify. The clergy have been classified based on how they were described in the court rolls, either simply as *clericus* or with a full job title, for instance, the rector of St Edward in Walmgate,

[1] WYAS MD/1/77 m.6 r. and WYAS MD/1/77 m.7 r.

York.[2] It is possible that some clergy may have not been captured because they failed to identify themselves as clerics, and thus this detail went unrecorded in the rolls. However, this study is interested in how experiences of legal and social identity shaped people's experiences of the criminal law. Consequently, if a clerk did not divulge his clerical status in court, then he would have been treated as a layman.

The scope of this thesis is interpersonal violence that was prosecuted by the 'state' rather than private trespass. The offences of homicide, ravishment, and bloodshed are assessed using gaol delivery trials, coroners' rolls, and manor court records.[3] This is a socio-legal study, meaning that it engages with both social and legal history. Each of these approaches are vital in the study of court rolls. Legal history facilitates an understanding of the law and judicial processes, whereas social historians tend to focus more on questions of how legal theory worked in practice. This present investigation is interested in judicial procedure and the law, but also how this functioned and was applied, or overlooked, by people in the middle ages. The central question of this thesis straddles law and society in that this work is equally interested in whether, and how, both the law, and social views, shaped the prosecution of violence. The key aim of this work is to re-engage with the socio-legal approach to the king's courts of common law that was pioneered in the 1970s by Barbara Hanawalt and James Buchanan Given.[4] This present investigation has categorised the work from the 1970s as the 'first-wave' of socio-legal scholarship. Legal historians subsequently criticised this work because the first-wave scholars were too eager to uncritically view criminal statistics as representative of crime. Thus, the approach that they adopted fell out of fashion. Nevertheless, in the last twenty years, a 'second-wave' of socio-legal studies has started to emerge.[5]

This thesis is split into four main sections. The first is a study of those prosecuted for homicide, ravishment, and bloodshed. It presents two major findings. Firstly, the legal status of married women, contrary to civil litigation, did not shield them from criminal prosecution. Secondly, despite the claims that benefit of clergy placed clerics beyond the reaches of royal justice, this work shows that felonious clerks were indicted and tried just like their lay

[2] TNA JUST 3/145 m.55 (IMG 0123).
[3] These offences and jurisdictions are fully explained in the second part of the introduction.
[4] B. A. Hanawalt, *Crime and conflict in English communities, 1300-1348* (Cambridge, Massachusetts: Harvard University Pres, 1979) and J. B. Given, *Society and homicide in thirteenth-century England* (Palo Alto, California: Stanford University Press, 1977).
[5] S. M. Butler, 'Spousal abuse in fourteenth-century Yorkshire: What can we learn from the coroners' rolls?', *Florilegium*, 18, 2 (2001), pp.61-78 and M. Thornton, '"Feloniously slain": Murder and village society in fourteenth-century Northamptonshire', *Northamptonshire P&P*, 67 (2014), pp.46-57. A critique of the previous studies follows in the next chapter.

counterparts.[6] The second section of this thesis is a study of the victims of homicide, 'forced ravishment', and bloodshed. It extends the historiography on the judicial activity and legal knowledge of medieval women, which until recently has been largely limited to civil law.[7] Notable exceptions to the focus on civil law are Teresa Phipps's study of urban women which includes minor violence prosecuted in town courts.[8] Additionally, Gwen Seabourne's recent monograph is a comprehensive study of the legal position of medieval women.[9] The key finding of this present investigation, outlined in Chapter Two, is that although women were excluded from the formal structures of law, they actively engaged in 'community policing' through raising the hue and cry. Furthermore, although they were excluded from juries, women could prosecute homicide and ravishment by bringing an appeal.

The third section of this thesis focuses on the context of violence. While the historiography has been concerned with describing how, when, and where homicide happened, this section evaluates the social and cultural responses to homicide through a qualitative and quantitative assessment of the narratives presented by the jurors. The main finding is that the presentation of homicide was highly gendered, with jurors justifying, excusing, explaining, or even condemning male defendants, while remaining comparatively silent on female violence. This challenges the orthodox understanding that contemporaries saw the use of force by women as aberrant because there is little evidence that jurors strongly condemned female violence.[10] Thus, it is vital to consider the contemporary sources rather than making assumptions about medieval legal and social responses to female violence.

The fourth section examines the impact of identity on judicial outcomes. This is analysed by examining the level of amercements, what would now be called fines, in manorial courts, and verdicts in the trials at gaol delivery. The role of gender in judicial outcomes is poorly understood and historians are still grappling with the reasons for high, but unequal, acquittal rates.[11] As is explained fully below, the only punishment for felonies was a capital sentence. Therefore, the jury had to weigh whether the homicide was so heinous that it

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[6] J. H. Baker, *An introduction to English legal history*, 3rd edn (London: Butterworths, 1990), p.113.
[7] C. Beattie and M. F. Stevens, *Married women and the law in premodern Northwest Europe* (Woodbridge: The Boydell Press, 2013); B. C. Kane, and F. Williamson eds. *Women, agency and the law, 1300-1700* (London: Pickering & Chatto, 2013); and N. J. Menuge, ed. *Medieval women and the law* (Woodbridge: The Boydell Press, 2000).
[8] T. Phipps, *Medieval women and urban justice: Commerce, crime and community in England, 1300-1500* (Manchester: Manchester University Press, 2020).
[9] G. Seabourne, *Women in the medieval common law c.1200-1500* (London: Routledge, 2021).
[10] Given, p.137; and L. Seal, *Women, murder and femininity: Gender representations of women who kill*. (Basingstoke: Palgrave Macmillan, 2010), p.1.
[11] P. King, *Crime and law in England, 1750-1840: Remaking justice from the margins* (Cambridge: Cambridge University Press, 2008), p.186.

warranted death, or if they were prepared to acquit the defendant, or at least present mitigating circumstances to secure a pardon.[12] It is shown that as self-defence was linked to masculinity and honour, male defendants could be pardoned, whereas women fell into the binary categories of innocent or guilty.[13] Despite this, Chapter Four demonstrates that benefit of clergy, the privilege which spared clergymen from execution, was still a clerical privilege in late medieval England rather than a male one. That is to say, benefit of clergy had not yet become a legal fiction available to all men, and it was, in practice, still reserved for the clergy.

Finally, amercements for bloodshed in the manorial court are scrutinised in Chapter Four. This is novel work because an assessment of the level of amercements issued by manorial courts is missing from the historiography. Moreover, this thesis pushes the analysis further by not only examining the amount of the amercement but also comparing amercements assigned to each identity. It is revealed that the distribution of amercements mirrors the gender pay gap – men with the highest, women with the lowest, and an overlap in the middle. Thus, it is argued that amercements are most likely reflective of the economic status of medieval women rather than their legal or social identity. Turning to this current chapter, the aim of the first section of this introduction is to outline the legal identities of men, women, and clergy in late medieval England, exploring their different rights and privileges. Secondly, social identity is discussed through examining social expectations for each group's relationship with violence. Finally, this chapter addresses the historiography on gender and violent crime.

Legal identity

People had the potential to be treated differently when interacting with the law in late medieval England based on their 'legal identity'. A person's legal identity shaped their entire experience of the law from whether they could perform a judicial role or bring a suit, to who could prosecute them and how they could be punished. While 'legal identity' is a modern term, the experiences that it describes would be recognised by contemporaries in late medieval England. As is explained below, laymen, women, and the clergy all had different legal rights and privileges in late medieval England.

[12] As shown in Chapter Four, all defendants tried for ravishment were acquitted.
[13] See K. J. Kesselring, 'Bodies of evidence: Sex and murder (or gender and homicide) in early modern England, c.1500–1680', *Gender & History*, 27, 2, (2015) pp.245-262 and G. Walker, *Crime, gender and social order in early modern England* (Cambridge: Cambridge University Press, 2003), especially Chapter 4: Homicide, gender, and justice.

A free layman would have had virtually unrestricted access to the common law. Medieval men were able to represent themselves in court and initiate legal action. Furthermore, men were responsible for law enforcement in the middle ages. Prior to the epoch of the professional police force, the men in a community played an essential role in reporting and investigating crime.[14] As defined by Miriam Müller, from twelve years old, every lay *male* was sworn into a tithing group where they 'policed' each other's behaviour.[15] Phillipp Schofield explained that every *man* 'both free and servile, over the age of twelve were expected to be members of frankpledge', another name for tithing groups. However, Schofield qualifies this statement by adding that 'wealthy freemen were exempt' and 'women and clergy were also exempt'. A clear explanation is given for why wealthy men were excluded from tithing groups: it was thought that their status was surety for good behaviour. However, Schofield does not explain why women and clergy were not required, or perhaps allowed, to join a tithing group.[16]

Beyond their role in tithing groups, a man could, in theory, hold any legal office, such as coroner, escheator, or sheriff, but there were some socio-economic barriers, like landholding requirements.[17] Nevertheless, the fundamental point is that men in late medieval England dominated local and royal law enforcement; they were often required to participate in a legal role befitting their status. Moreover, the legal identity of laymen granted them access to judicial violence in the form of the ability to pass capital and corporal sentences.[18] Violence, as stated by Philippa Maddern, was 'quintessentially hierarchical'. Maddern explained that 'the power to judge and execute descended from God to kings and knights, and kings in their turn delegated this authority to their judges'.[19] The logical conclusion of this idea was that the right to perform violence is heavily gendered. As summarised by Maddern, 'it was unthinkable that a woman… could lay claim to the knight's godly authority.'[20] Similarly, Maddern advocated that the law 'functioned less to punish violence than to determine who was authorised to use it'.[21]

All of the clerics in this study appear to have been men, as in they have traditional male names. Nevertheless, clergymen had a legal identity distinct from laymen due to benefit of

[14] J. A. Sharpe, 'The history of crime in late medieval and early modern England: A review of the field', *Social History*, 7, 2 (1982), p.192.
[15] M. Müller, 'Social control and the hue and cry in two fourteenth-century villages', *Journal of Medieval History*, 31 (2005), p.40.
[16] P. R. Schofield, 'The late medieval frankpledge system: An Essex case study', in Z. Razi and R. Smith eds. *Medieval society and the manor court* (Oxford: Oxford University Press, 1996), pp.408-409.
[17] R. Hunnisett, *The medieval coroner* (Cambridge: Cambridge University Press, 1961), p.175.
[18] P. C. Maddern, *Violence and social order*: *East Anglia, 1422–1442* (Oxford: Clarendon, 1992), p.72; p.98; p.110 and pp.126-127.
[19] Ibid, pp.228-230.
[20] Ibid, p.110.
[21] Ibid, p.72; p.98; p.110 and pp.126-127.

clergy. The ability to claim benefit of clergy meant that any clerk accused of a felony could request to be transferred to an ecclesiastical court for a trial and any subsequent punishment.[22] Medieval clerical legal identity was theoretically male in its definition because, prior to the seventeenth century, the law did not allow women access to benefit of clergy. [23] Sara Butler argued the male nature of benefit of clergy was due to the cloistering of religious women; 'nuns cannot commit public crimes because they do not lead public lives'.[24] However, this does not explain why monks would have been able to use benefit of clergy nor does it shed light on what would happen to a felonious nun. In contrast to Butler, Sir Frederick Pollock and Frederic William Maitland outlined that while nuns were not technically able to claim clergy under the common law, they were still exempt from temporal jurisdiction. Pollock and Maitland cited an example of a woman being claimed by the ordinary, who was an 'officer' of the Church.[25] Nonetheless, the clerical population in this thesis are all male, hence, the prosecution of religious women is beyond the scope of this study.

Legal scholars have suggested that the privilege of benefit of clergy placed clerics beyond the reaches of royal justice and forced the king to surrender some of his authority.[26] Moreover, it has been argued that the plea of clergy 'encroached upon and mitigated the scope of the Crown's power of pardon'.[27] Benefit of clergy has been defined as 'the exemption enjoyed by churchmen from the criminal jurisdiction of the secular courts'.[28] It has even been suggested that benefit of clergy resulted in a 'clerical immunity' which meant that clerks were 'exempted from criminal responsibility'.[29] C. B. Firth remarked that under Edward II (r.1307-27) the indictment and preliminary inquiry of criminous clerks was held in secular courts and then by the late fifteenth century, even the trial of clergy was conducted in secular courts.[30] However, as this thesis demonstrates, clergymen were tried at gaol delivery in the fourteenth

[22] N. F. Baker, 'Benefit of clergy — a legal anomaly', *Kentucky Law Journal,* 15, 2 (1927), p.85.
[23] Kesselring, p.24; King, pp.179-181; and N. F. Baker, 'Benefit of clergy — a legal anomaly', *Kentucky Law Journal,* 15, 2 (1927), p.109.
[24] S. M. Butler, 'Pleading the Belly: A sparing plea? Pregnant convicts and the courts in medieval England' in S. M. Butler and K. J. Kesselring eds. *Crossing borders: Boundaries and margins in medieval and early modern Britain: Essays in honour of Cynnthia J. Neville* (Leiden: Brill, 2018), p.132.
[25] P&M ii, p.445.
[26] S. Grupp, 'Some historical aspects of the pardon in England', *American Journal of Legal History,* 7 (1963), p.57; and J. H. Baker, p.113.
[27] Grupp, p.57; and J. H. Baker, p.113.
[28] J. E. Miller, 'A history of benefit of clergy in England: With special reference to the period between 1066 and 1377', (Unpublished Ph.D. Thesis, University of Illinois, 1917), p.iii.
[29] J. W. Alexander, 'The Becket controversy in recent historiography', *Journal of British studies,* 9, 2 (1970), p.2; Miller, p.169; C. B. Firth, 'Benefit of clergy in the time of Edward IV', *The English Historical Review,* 32, 126 (1917), p.181; N. F. Baker, p.85; and C. J. Carrick, 'Ancient laws and customs. Benefit of clergy', *Metropolitan Police College Journal,* 1, 1 (Spring 1935), p.68.
[30] Firth, p.176.

century. Thus, the idea of 'clerical immunity' must not be overstated. This thesis shows that clergymen were treated the same as the laity *until* a guilty verdict. Clerics suspected of committing a felony were to be arrested by secular authorities, held in county gaols, tried before royal justices, and finally a lay jury would determine their guilt. Furthermore, as with lay felons, the king's officials would seize the chattels of clerks who were indicted for a felony.[31] Even so, benefit of clergy did allow felonious clerks who invoked this privilege to be transferred to an episcopal gaol after being convicted by a lay jury at the county gaol. The main advantage of this legal right was that the Church could not pass sentences of blood, and therefore a guilty cleric would escape execution.[32] Thus, it did shield them from royal punishment, if not from royal justice.

The legal anomaly of benefit of clergy had earlier caused a clash between secular and religious spheres. It was one of the key disagreements between Henry II (r.1154-89) and Thomas Becket, the Archbishop of Canterbury, culminating in the death of the latter in 1170.[33] Henry thought it unjust that clergymen who were found guilty by his justices were then allowed to escape royal punishment. In contrast, Becket did not see benefit of clergy as an immunity. Instead, he thought it protected clerks from being punished twice - by the bishop and by the king.[34] A key debate is whether the legal identity of clergy had in fact become a legal fiction by the late middle ages, as has been argued for the early modern period.[35] This thesis argues that benefit of clergy was still a clerical right in the fourteenth century; it had not yet become a male privilege. While all clergy were men, not all men could claim benefit of clergy.

Clerical legal identity differed from laymen in that they were completely excluded from judicial violence. As shown above, clerics could claim benefit of clergy to avoid capital or corporal sentences. However, although clergymen could perform official roles within the formal structures of justice, they could not pass sentences of blood. While laymen could freely administer the law and clergymen often had the same rights as long as physical punishments were not involved, medieval women had a very different legal identity. As Pollock and

[31] R. B. Pugh, *Imprisonment in medieval England* (Cambridge: Cambridge University Press, 1968), p.48; and P. D. Clarke, 'The medieval clergy and violence: An historiographical introduction', in G. Jaritz and A. Marinković eds. *Violence and the medieval clergy* (Budapest: Central European University Press, 2011), pp.10-16.
[32] Clarke, p.9 and N. F. Baker, p.101.
[33] For more on the disagreement between Henry II and Thomas Becket see the following works, identified by Peter D. Clarke as the key contributions on this topic: F. W. Maitland, 'Henry II and the criminous clerks', *English Historical Review,* 7 (1892), pp.224-34; C. Duggan, 'The Becket dispute and the criminous clerks', *Bulletin of the IHR,* 35 (1962), pp.1-28; R. M. Fraher, 'The Becket dispute and two decretist traditions', *Journal of Medieval History,* 4 (1978), pp.347-68.
[34] N. F. Baker, pp.87-93
[35] Walker, p.138.

Maitland famously stated, the 'law gives a woman no rights and exacts from her no duties'.[36] The law, as argued by Eileen Power, did not consider a woman to be 'a complete individual'.[37] It is undeniable that women were largely excluded from the formal structures of royal or local justice; they were unable to serve as a justice, sheriff, coroner, attorney, or even as a member of the jury. Women were excluded from juries in England and Wales until the twentieth century.[38] That said, as recently highlighted by Gwen Seabourne in her in-depth study of women and the common law, the legal role of women may have been limited but was far greater than has previously been argued by those such as Maitland. For example, medieval women were able to perform 'law-related functions', such as acting as witnesses or executors and being on a jury of matrons.[39] Chapter Two examines the role played by women in raising the hue and cry and bringing appeals of homicide and ravishment.

The legal identity of medieval women meant that they could not pass sentences of any kind. Although, as outlined above, the 'hierarchy of violence' barred women from legitimate forms of violent actions, such as warfare and passing capital sentences, Maddern's framework acknowledged that 'people of lower status, such as women and servants, tended to be justified in suffering, rather than executing, violence.'[40] Women convicted of felonies would be sentenced to death by hanging just like their lay male counterparts. Additionally, until 1828, mariticide, the killing of one's husband, was classed as petty treason, and until 1790 the punishment for this crime was death by burning.[41] However, as Chapter Four shows, petty treason also extended to laymen who killed their masters and clerics who slayed their spiritual superiors. Nonetheless, the punishment for petty treason did vary by legal identity; laymen would be drawn and hanged, and women would be burned, but clergymen found guilty of petty treason were still exempt from any form of judicial violence, provided that they successfully claimed benefit of clergy.[42]

While medieval women were prohibited from tithing groups and juries, Chapter Two shows that women could play an active role in the reporting and prosecution of violence. Women were able to make an appeal in cases of ravishment or homicide. An appeal was a

[36] P&M ii, pp.482-485.
[37] E. Power, *Medieval women* ed. M. M. Postan (Cambridge: Cambridge University Press, 1975), p.2.
[38] Seabourne, p.121.
[39] Ibid, p.122; and S. M. Butler, 'More than mothers: Juries of matrons and pleas of the belly in medieval England', *LHR*, 37, 2 (2019), pp.353-396.
[40] Maddern, p.110; and pp.228-230.
[41] L. Yetter, ed. *Public execution in England, 1573-1868* (London: Pickering & Chatto, 2010), p.xi; and M. E. Doggett, *Marriage, wife-beating, and the law in Victorian England*: *'Sub virga viri'* (London: Weidenfeld and Nicolson, 1992), pp.49-51.
[42] J. H. Baker, p.600.

private prosecution in the form of an accusation by a victim or, in the case of homicide, by a relative of the victim.[43] Chapter Two demonstrates that it was a common social practice for a wife to appeal the death of her husband and this could result in the right to appeal being denied for male relatives. Likewise, female involvement in hue and cry was not only natural but it was expected.[44] This is because violence had the potential to impact anyone in the village irrespective of identity, either as a victim, or a witness.[45] Chapter Two reveals that women were more likely than men to raise the hue and cry on behalf of somebody else.

Finally, a woman's legal identity could change within her lifecycle; the custom of coverture meant that a husband and wife were one person at law. His legal identity covered hers, and, as a result, all civil litigation of a married woman had to include her husband.[46] As highlighted by Phipps, a wife was unable to answer a civil legal suit without her husband.[47] Moreover, Power summarised the changing legal identity of women through stating that a woman's rights 'slipped out of her hands' during marriage.[48] Consequently, legal historians have only recently started to recognise the judicial activity and legal knowledge of medieval women. Since the turn of the twenty-first century, several pioneering works on medieval women and the law have been produced.[49] It is notable, however, that much of this scholarship has been limited to civil law. A study of the prosecution of violence is crucial to furthering one's understanding of the legal and social status of women in late medieval England. This is because criminal law was beyond the scope of coverture, meaning that even married women were liable for criminal prosecution.[50] Chapter One shows that all women, regardless of marital status, were indicted, tried, or presented for violent crime in late medieval England. Similarly, Chapter Two demonstrates that women brought appeals about the death of their husband or concerning their ravishment. This is hugely important for the perception of the legal agency of

[43] D. Klerman, 'Women prosecutors in thirteenth-century England', *Yale Journal of Law and the Humanities*, 14 (2002), pp.272-277.
[44] Seabourne, p.118.
[45] Müller, p.40; and J. Rodziewicz, 'Women and the hue and cry in late fourteenth-century Great Yarmouth' in Kane and Williamson, pp.87-96.
[46] T. Stretton, and K. J. Kesselring, eds. *Married women and the law: Coverture in England and the common law world* (Montreal: McGill-Queen's University Press, 2013), p.7 and p.14. An exception to this were women with *feme sole* status. This was where a married woman was allowed to trade as a single woman in certain towns See M. K. Dale, 'The London silkwomen of the fifteenth century', *The Economic History Review* 4, 3 (1933), pp.324-335.
[47] T. Phipps, 'Misbehaving women: Trespass and honor in late medieval English towns', *Historical Reflections/Réflexions Historiques,* 43, 1 (2017), p.64.
[48] Power, p.30.
[49] Some notable examples include: Seabourne, *Women in the medieval common law*…; Phipps, *Medieval women and urban justice*….; Stretton and Kesselring, eds. *Married women…;* Kane, and Williamson eds. *Women, agency…*; Beattie and Stevens, *Married women and the law…; and* Menuge, ed. *Medieval women.*
[50] E. Hawkes, '"[S]he will … protect and defend her rights boldly by law and reason …": Women's knowledge of common law and equity courts in late medieval England', in Menuge, p.147.

medieval women as they were able to be prosecuted and litigate alone in some of the most serious offences with the harshest punishments.

Social identity

The law did not operate in a vacuum. An equally important consideration to legal identity is social expectations. Social identity could pertain to many aspects such as, gender, place of origin or nationality, socio-economic position, social networks, occupation, and marital status. While this thesis seeks to adopt an intersectional approach, the central focus is on the gendered identity of lay men and women and the vocational status of the clergy. As conceived by this thesis, legal and social identity derive from the same factors: biological sex and gender norms for the laity, and the clergy's vocational, or occupational, status. Legal and social identity were inextricably linked and could result in comparable effects on prosecution.

However, even though the two identities could, and did, overlap, the fact that the two are not the same is an important conceptual contribution of this doctoral thesis. As shown above, legal identity pertains to the administration of the law, rights to sue or be sued, and methods of punishment. The key modifiers to legal identity which may shape prosecution were coverture and benefit of legal. Alongside legal privileges or constraints, it is vital to consider how social expectations shaped prosecution. The following sections explore the social acceptability of the use of violence by each identity and the historiography on gender and violent crime.

Social expectations and violence

Thirty years ago, Judith Butler outlined the concept of gender performativity, that gender is an act, or performance in line with cultural norms. They maintained that people learn to behave in particular ways to fit into society.[51] There were also social expectations about the clergy's relationship with violence which were shaped both by religious attitudes and living within secular society. In medieval England, there were different expectations for each social identity concerning their relationship with violence. This section reviews each of these expectations in turn starting with laymen, then the clergy, and finally women.

[51] J. Butler, *Gender trouble: Feminism and the subversion of identity* (London: Routledge, 1990).

With no professional army or police force, medieval men were often required by the Crown to use violence to protect and 'police' their communities.[52] From around the age of twelve, or up to sixteen, men had to keep watch over their city, town, or vill every night and be prepared to arrest, and if necessary, to pursue strangers or criminals.[53] This role as protectors of their communities could have consequences for how people viewed male violence and introduce the notion of 'acceptable' violence. In late medieval England, men were required to own, and practice with, arms. Their leisure time was filled with quasi-military sports and training for battles and tournaments.[54] As explained by Henry Summerson, 'since *everybody* was involved in the keeping of the peace, *everybody* must have the arms appropriate to *his* wealth and standing.'[55] This was enacted by the Statute of Winchester, 1285 (13 Edw. I. *Stat. Wynton* c.6) which outlined the weapons that every *man* between the ages of fifteen and sixty were allowed, and indeed expected, to own in order to maintain the peace.[56] This ranged from those with an annual income of over £10 who had to own a hauberk, sword, knife, and horse, to those at the lowest level who should own a bow and arrows. These weapons were to be inspected twice yearly at the view of arms by two constables.[57] However, it remains unclear whether the view of arms actually happened in practice, and if so, whether this was still being done in the fourteenth century.

Despite John Mirk's instruction to priests that *baselarde ny bawdryke were thow non*, the 'everybody' cited by Summerson did include the clergy.[58] Like laymen, clerks were required to own arms in accordance with their wealth, ranging from full armour, helmet, lance, shield, sword, knife, and horse for the clergy with a benefice worth over forty marks, to the lowly cleric who must be equipped as an archer.[59] Just like their lay male counterparts, clerks

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[52] K. Jones, *Gender and petty crime in late medieval England: The local courts in Kent, 1460-1560*. Vol. 2. (Woodbridge: The Boydell Press, 2006) p.68.

[53] 13 Edw. I. *Stat. Wynton* c.6 in A. Luders et al. eds. *The statutes of the realm: Printed by command of his majesty King George the Third, in pursuance of an address of the House of Commons of Great Britain. From original records and authentic manuscripts,* Volume I (London: Dawsons of Pall Mall, 1810), pp.97-98; and M. R. Powicke, *Military obligation in medieval England: A study in liberty and duty* (Oxford: Clarendon Press, 1962), pp.119-120 and D. Allen and Y. Barzel, 'The evolution of criminal law and police during the pre-modern era', *Journal of Law, Economics and Organization*, 27 (2011), p.540.

[54] R. M. Karras, *From boys to men: Formations of masculinity in late medieval Europe* (Philadelphia: University of Pennsylvania Press, 2003), pp.28-32.

[55] Emphasis added. H. Summerson, 'The enforcement of the Statute of Winchester, 1285–1327', *The Journal of Legal History*, 13, 3 (1992), p.232.

[56] 13 Edw. I. *Stat. Wynton* c.6 in Luders et al., pp.97-98; E. Searle and R. Burghart, 'The defense of England and the Peasants' Revolt', *Viator,* 3 (1972), p.367; and Allen and Barzel, p.555.

[57] Searle and Burghart, p.367.

[58] Swords and bucklers you should not have. D. E., Thiery, 'Plowshares and swords: Clerical involvement in acts of violence and peacemaking in late medieval England, c. 1400-1536', *Albion*, 36, 2 (2004), p.205.

[59] A. K. McHardy, *The age of war and Wycliffe: Lincoln diocese and its bishop in the later fourteenth century* (Lincoln: Lincoln Cathedral Publication, 2001), p.36; and Thiery, p.208.

were often expected to own arms in order to participate in war and local 'policing'. There are some examples of clergymen serving in armed watches in York and Durham. On at least three separate occasions in the late fourteenth century, the bishop of Lincoln called the clerics of his diocese to arms, and in 1383, the bishop of Norwich even led an army into Flanders.[60] John Kirkby, 'the militant bishop of Carlisle' had 137 and 154 men under him in the Scottish campaigns of May 1340 and May to June 1342 respectively.[61]

Daniel Thiery argued that 'late medieval layfolk would not have been completely astonished by the spectacle of clerics with swords, daggers, [or] bows'.[62] However, this is not to imply that the medieval clergymen were walking around heavily armed or even that armed clerics would be commonplace. One must be careful not to generalise from a few examples. The key takeaway from this evidence is that clerical access to arms could be similar to that of the laity. It is important to consider that the theoretical position of the Church may not have always reflected reality. The clergy who did participate in war, 'policing', and the view of arms would have very different attitudes towards the use of violence compared to what may have been expected of them by the Church and medieval society.

The medieval clergy were socially responsible for reducing conflict in their communities. In 1973, John Bossy stated that it was the role of 'the parish priest… to assist in the creation of peace in the feud…[their] primary social task… was that of a settler of conflicts'.[63] Thiery echoed this conclusion by arguing that village religion 'aided in the transformation of violence from a normative and often commendable aspect of social practice to a pathology of brutish individuals and societies'.[64] Moreover, in 1139, the Second Lateran Council made clerics a distinct and privileged class in the hierarchy of violence by decreeing that those who 'laid violent hands on clergy or monks' would be excommunicated.[65] It is noteworthy that religious women were not included in this decree.

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[60] Ibid, p.208.
[61] A. King, 'A good chance for the Scots? The recruitment of English armies for Scotland and the Marches, 1337–1347' in A. King and D. Simpkin eds. *England and Scotland at war, c.1296-c.1513* (Leiden: Brill, 2012), p.133, p.139, and p.152.
[62] Thiery, pp.207-208.
[63] J. Bossy, 'Blood and baptism: Kinship, community and Christianity in Western Europe from the fourteenth to the seventeenth centuries' in D. Baker ed. *Sanctity and secularity: The Church and the world* (Oxford: Blackwell, 1973), p. 139.
[64] D. E. Thiery, 'Welcome to the parish. Remove your cap and stop assaulting your neighbor', in D. L. Biggs, S. D. Michalove and A. Compton Reeves eds. *Reputation and representation in fifteenth-century Europe* (Leiden: Brill, 2004), p.265.
[65] Clarke, pp.8-9.

Clerical violence even seems to be a contradiction in terms. The Ten Commandments are explicit in prohibiting murder.[66] A fifteenth-century commentary on the Commandments, *Dives and Pauper*, stated that clergy should reject all violence; they should not engage in wars, armed games, nor sentence people to death.[67] The Church also theoretically disapproved of violence; from the ninth century there was a growing intolerance of clerical bloodshed. For instance, former soldiers were banned from entering holy orders and clergymen who killed, even in war or self-defence, were to be suspended.[68] It may seem unreasonable to prevent the clergy from defending themselves against violence. However, as Thiery has argued, violence was seen as a pollution of the soul. It was not just the clerk's soul that was at stake; a violent priest threatened 'the integrity of the mass and the souls of his parishioners'.[69]

In theory, the clergy were not allowed to engage in violence, but in practice, this seemed unrealistic. The views of the Church were not clear-cut; clerical violence was permitted in exceptional circumstances. Clerks were permitted to carry arms when travelling or when acting as temporal lords. As shown above, clergymen were not excluded from the view of arms. Moreover, killing in self-defence was even excusable, provided an enquiry found that the cleric was unable to flee.[70] This process was exactly the same for the laity. Any killing, even if in self-defence, had to be investigated, firstly by the coroner and his jury, and then, if necessary, tried at a gaol delivery.[71] In the words of Robert Swanson, clergymen were caught 'between two millstones'.[72] Many of those in holy orders, such as parish priests, rectors, vicars, those in minor orders, and unbeneficed clergy, had to negotiate both secular and ecclesiastical spheres. The duality of medieval clerks meant that they were often both townsmen and holy men.[73]

Therefore, one should not be surprised when clerics appear in lay courts charged with violent offences. The secular element of the lives of the medieval clergy caused them to appear as both suspects and victims of violence as shown in Chapters One and Two. It seems that the laity were neither afraid of prosecuting clerks nor were they completely averse to attacking clerics. As argued by Patricia Cullum, clergymen assumed their sacred status later in life, unlike

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[66] Ibid, p.3.
[67] *Dives 2*, 37–46 cited in Maddern, p.104.
[68] Clarke, p.5.
[69] Thiery, 'Plowshares and Swords…', p.205.
[70] Ibid, p.105 and p.205.
[71] TNA JUST 3/78-80; 141A; 143; 145; 165A; 169; 155; and TNA JUST 2/212-242.
[72] R. N. Swanson, 'Problems of the priesthood in pre-Reformation England', *The English Historical Review*, 105 (1990), p.846; and Thiery, 'Plowshares and Swords…', p.202.
[73] M. Armstrong-Partida, *Defiant priests: Domestic unions, violence, and clerical masculinity in fourteenth-century Catalunya* (Ithaca, New York: Cornell University Press, 2017), p.126; and Thiery, 'Plowshares and Swords…', p.203.

in faiths where holy men were sacred by lineage. Therefore, all clergy 'had been socialised as men' prior to entering holy orders.[74] However, this broad conclusion perhaps overlooks primogeniture in England; only first sons would inherit land, so second sons were likely to enter the church instead. Therefore, some younger sons would have been aware of their future in the Church from a young age and experienced religious education. Additionally, young children could also have been placed in religious houses.[75] Thus, studying clerical violence can help to illuminate the social experience of the late medieval clergy.

Finally, the social expectations for women's relationship with violence again differs from that of men, both lay and clerical. Women were not covered by Summerson's 'everyone'; they were not required to partake in war or the watch, nor did they need to own or practice with weapons. As discussed above, the Statute of Winchester outlines the 'view of arms' where two constables were to be elected in each hundred to make inspections of weapons belonging to every *man* between fifteen and sixty years old.[76] Hence women were not required to own weapons in order to defend and protect their country and community. Despite the exclusion of women from legitimate forms of violence, there is not much evidence of didactic material relating specifically to the use of physical force by women. *The Book of the Knight of the Tower* encourages modesty, obedience, calmness, charity, and mercy.[77] Although these values are at odds with violence, there is not a specific warning against violent behaviour. It cautions against drunkenness, being alone with men, and being argumentative or quarrelsome.[78] While this advice may help women to avoid conflict, it again does not explicitly counsel against the use of violence.

How the Good Wife Taught her Daughter, which should be read as an attempt to engineer gender, contains advice in a similar vein. It highlights the importance of modesty and obedience, instructing women and girls to keep respectable company, not to borrow, and not to wander in public.[79] It seems to have been more concerned with controlling female speech rather than violence, advising women not to scold, gossip, or argue. Sandy Bardsley has asserted that there was a legal, social, and cultural turn against women's speech in England following the Black Death. This period, as suggested by Bardsley saw the feminisation of

[74] Thiery, 'Plowshares and Swords…', p.202.
[75] N. Orme, *Medieval children* (Yale: Yale University Press, 2003), p.327.
[76] Luders et al., pp.97-98; Searle and Burghart, p.367; Allen and Barzel, p.555; and Powicke, pp.119-120.
[77] K. M. Phillips, *Medieval maidens: Young women and gender in England, 1270-1540* (Manchester: Manchester University Press, 2003), p.85.
[78] Ibid, p.85.
[79] E. Salisbury ed. *The trials and joys of marriage* (Kalamazoo, Michigan: Medieval Institute Publications, 2002), p.219; and Phillips, pp.83-96.

deviant speech. A discourse emerged which associated disruptive speech 'with evil, with social disorder and with women'.[80]

Moreover, Felicity Riddy suggested that *How the Good Wife Taught her Daughter*'s 'injunctions seem to derive from a social ethic that is concerned with the maintenance of order at a very local level'.[81] This comment is interesting because it highlights that any concerns surrounding a potential breakdown in law and order were connected to women's speech, but not from female violence. While this text could suggest that medieval society felt the need to control female speech, it may, on the other hand, imply a lack of concern surrounding violence perpetrated by women. Additionally, this text also assigns women the role of peacemakers; they are to calm their husband's anger.[82] This is reminiscent of the role of the parish priest as a 'settler of conflicts'.[83] This evidence could suggest that late medieval societies were more worried by male violence than that of women and clergymen. In support of this, Bardsley highlighted an ordinance from the Durham village of Wolveston passed in 1379 which 'warned all women to desist from scolding and repudiating others in words and deeds, while their menfolk were warned against drawing knives or raising cudgels'.[84]

Another piece of evidence used by Bardsley is the court rolls of Yeadon in Yorkshire from 1387 which outline that '*anyone* who drew a knife or sword was liable to a penalty of 40*d*., whereas any *woman* who was "quarrelsome in words" faced a fine of 6*d*'.[85] Examples such as this have led to the gendered conclusion that women's weapons were their tongues, whereas men resorted to using their fists, or actual weapons.[86] It is interesting that the Yeadon entry gendered the verbal offence by directing it at women, which is why it was of use to Bardsley. However, the same entry did not gender the physical offence, directing it at 'anyone'. Modern gendered stereotypes concerning violence often have led historians astray, which has resulted in categorising crimes as 'masculine' or 'feminine' or disregarding women's physical violence to instead concentrate on verbal offences.

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[80] S. Bardsley, *Venomous tongues: Speech and gender in late medieval England* (Philadelphia: University of Pennsylvania Press, 2014), p.3 and pp.24-25.
[81] F. Riddy 'Mother knows best: reading social change in a courtesy text', *Speculum,* 71, 1 (1996), p.76.
[82] Salisbury, p.219; and K. M Phillips, pp.92-93.
[83] Bossy, p.139.
[84] Bardsley, pp.84-85.
[85] Emphasis added. Bardsley, p.85.
[86] D. Hall, 'Words as weapons: Speech, violence, and gender in late medieval Ireland', *Éire-Ireland,* 41, 1&2 (2006), pp.122-141; T. Dean, 'Gender and insult in an Italian city: Bologna in the later middle ages', *Social history,* 29, 2 (2004), pp.217-231; and Bardsley, p.65.

Gender and violent crime

A key area of interest for social historians and criminologists has been the sex ratios of criminals. This led to the emergence of a shared observation that violent crime, in virtually all times and places, is more characteristic of men than of women.[87] In his pioneering study on eighteenth-century English crime, J. M. Beattie found that most criminals were male. David Taylor confirmed this observation asserting that from the mid-seventeenth century to the outbreak of World War I, eighty per cent of criminals were male.[88] Moreover, modern crime statistics also present a male prevalence.[89] In criminological studies of long-term violent trends, it has been argued that from the thirteenth to the twentieth century the proportion of female criminals has consistently averaged between five to twelve per cent. Therefore, although the same studies argued for a colossal decline in violence during this period, 'female involvement in violent crime has been much less susceptible to social change.' This is perhaps a little paradoxical, as female violence has declined at the same rate as the overall levels of violence. Hence, it could be argued that female violence has been equally affected by the 'social change' that caused the decline of violence. Nevertheless, it seems that Manuel Eisner was suggesting that because levels of female violence followed the overall pattern, they were therefore less affected by the changes to the legal and social status of women.[90]

Accordingly, when one returns to the medieval scholarship, this hypothesis is also present; Thomas Green described homicide as a 'predominantly male phenomenon'.[91] Equally, all socio-legal studies of violent crime in medieval England, including this thesis, have found that the majority of victims and suspects were men.[92] Thus, gender must be central to any assessment of the prosecution of violence. However, the question of gender has often been side-lined in studies of medieval crime. Hammer concluded that homicide was 'a man's affair' but failed to provide any further analysis, simply stating that the number of female killers 'was

[87] B. Godfrey and P. Lawrence, *Crime and justice 1750-1950* (Cullompton: Willan Publishing, 2005), p.230.
[88] J. M. Beattie, 'The pattern of crime in England 1660-1800', *P&P*, 62 (1974), pp.47-95; and D. Taylor, *Crime, policing and punishment in England, 1750-1914* (Basingstoke: Macmillan Education UK, 1998), p.65.
[89] N. Stripe, *Homicide in England and Wales: Year ending March 2020* (London: ONS, 2021); M. Elkin, *Homicide in England and Wales: Year ending March 2018* (London: ONS, 2019); and B. A. Hanawalt, 'Reviewed Work: *Society and Homicide in Thirteenth-Century England* by James Buchanan Given' *Journal of Social History*, 12, 3 (1979), pp.466–471.
[90] M. Eisner, 'Long-term historical trends in violent crime', *Crime and Justice*, 30 (2003), p.109.
[91] T. A. Green, 'Review of *Society and Homicide in Thirteenth-Century England*, by J. B. Given', *Speculum*, 54, 1 (1979), pp.137-140.
[92] C. I. Hammer, 'Patterns of homicide in a medieval university town: Fourteenth-century Oxford', *P&P*, 78 (1978), pp.3-23; Hanawalt, 'Reviewed work…', p.468; Given, p.134; Butler, 'Spousal abuse…', pp.64-65; and Thornton, p.49.

exceedingly low for whatever reasons'.[93] Hanawalt attempted to tackle potential explanations for the male prevalence but was unable to provide a 'conclusive answer' as she was writing at a time where 'no systematic or exhaustive study [had] yet been done on women in medieval society'.[94] The last forty years have seen enormous progression in the work on women's and gender history.[95]

Despite this, the second-wave of socio-legal studies have failed to advance the debate. Mike Thornton argued that homicide was gendered; his study demonstrated that males were the archetypal perpetrators and victims. He provided an overview of the homicides which involved women yet did not analyse this pattern further.[96] Similarly, Sara Butler drew on the theme of gender in her article on spousal homicide and again found that most culprits were male. She mentioned that a trope in medieval literature was that women compensated for their physical disadvantage by using poison. Nonetheless, Butler quickly dismissed it as a possibility because the coroners' rolls contained no evidence of poisoning.[97] This study shares the view that 'no amount of anecdote should distract' from 'the many tons of parchment from the courts of law'.[98] However, it is equally important to understand the records within their social, political, and historical context. As Butler concedes, albeit in an endnote so not to detract from her argument that spouse-murderers were usually male, medieval coroners lacked the technology to detect poison.[99] This highlights the dangers of assuming that the evidence contained within the plea rolls is representative of all violence.

Due to the prominence of male suspects, there has been a tendency to accept that criminality is a masculine category, and this leads to the assumption that male violence is 'normal'.[100] Martin J. Wiener described it as a 'cliché of criminology' that men were more likely to be violent than women.[101] In the face of numerous studies all concluding that men are

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[93] Hammer, p.14.
[94] Hanawalt, *Crime and conflict*…, p.116.
[95] See C. Beattie, *Medieval single women: The politics of social classification in late medieval England* (Oxford: Oxford University Press, 2007); Beattie and Stevens, *Married women…;* Kane and Williamson, *Women, agency..;* Seabourne, *Women in the medieval…;* Phipps, *Medieval women…;* J. M. Bennett, *Women in the medieval English countryside: Gender and household in Brigstock before the plague* (Oxford: Oxford University Press, 1987); J. M. Bennett, 'England: Women and gender', in S.H. Rigby, ed. *A companion to Britain in the later middle ages* (Oxford: Blackwell, 2003); P. J. P. Goldberg, *Women, work, and life cycle in a medieval economy. Women in York and Yorkshire c.1300-1520* (Oxford: Oxford University Press, 1992); and S. H. Rigby, *English society in the later middle ages: Class, status and gender* (Basingstoke: Macmillan, 1995).
[96] Thornton, pp.49-50.
[97] Butler, 'Spousal abuse…', p.66.
[98] J. B. Post, 'Crime in later medieval England: some historiographical limitations', *Continuity and Change,* 2, 2 (1987), p.212.
[99] Butler, 'Spousal abuse…', p.76.
[100] Walker, p.4.
[101] M. J. Wiener, *Men of blood: Violence, manliness, and criminal justice in Victorian England* (Cambridge: Cambridge University Press, 2004), p.1.

more likely to be prosecuted for violent crime, it could appear that little remains to be said on gender and violence. However, as noted by Garthine Walker, the link between masculinity and criminality has scarcely been addressed. While it is statistically true to state that men are more likely to be prosecuted for violent crime than women, this statement raises more questions than it answers.[102] The study of crime can be best described with John Tosh's observation that 'masculinity is everywhere but nowhere'.[103]

Maddern's reassessment of violence and social order argued that there was a hierarchy of violence which made a distinction on the basis of sex.[104] The existence of a 'peaceable' clergy disrupts the notion of traditional gender roles and the assumption that violent behaviour is part of masculinity. Clergymen do not easily fit the binary model of gender. However, instead of the clergy acting as proof that the connection between men and violence was flawed, scholars adopted one of two solutions. Firstly, some scholars adhered to the binary categories of gender arguing that as the clergy were prohibited from masculine reactions to violence, they had to adopt feminine responses. For example, in 1268, it was decreed by the Legatine Council in London that clerics were not allowed to use violence. As an alternative, the clergy were to 'fight wickedness with the spiritual weapons of "prayers and tears"'.[105] This decree has been interpreted by Thiery as 'a notable contrast with normative masculine behaviour', limiting clerks to '"womanly" measures of language and lamentation'.[106] However, by 'removing' the clergy from the category of masculinity one is perhaps too ready to accept not only the Church's theoretical position on clerical violence, but also the connection between masculinity and violent crime.

Indeed, for other scholars, the relationship between masculinity and violence had become so entrenched that they chose to 'remove' the clergy from the binary gender structure. After all, the theoretical 'exclusion' of the clergy from war, violence, and sexual relations disqualified them from 'the most fundamental aspects of medieval masculinity'.[107] Over twenty years ago, Swanson suggested 'emasculinity' as a 'third' or 'clerical gender'.[108] However, this approach disguises the point that the masculinity/femininity binary is problematic as an

[102] R. Gartner, and B. McCarthy, eds. *The Oxford handbook of gender, sex, and crime*. (Oxford: Oxford University Press, 2014), p.202.
[103] J. Tosh, 'What should historians do with masculinity? Reflections on nineteenth-century Britain', *History Workshop,* 38 (1994), p.181.
[104] Maddern, p.72; p.98; p.110 and pp.126-127.
[105] Thiery 'Plowshares and swords…', p.205.
[106] Ibid, p.205.
[107] R. Swanson, 'Angels incarnate: Clergy in masculinity from Gregorian Reform to Reformation,' in D. M. Hadley ed. *Masculinity in medieval Europe* (London: Routledge, 1999), p.168; and Thiery, pp.205-206.
[108] Swanson, pp.160-177.

analytical tool. It prevents this model from being updated, or even rejected.[109] The emergence of a new 'third gender' was attractive to scholars who have continued to expand this category with new and diverse groups. As a consequence, when a category becomes all-encompassing, it is no longer useful. Furthermore, the answer to the problems presented by rigid gender binaries is not to place those who do not fit into the traditional versions of male and female into a box labelled 'third gender'.[110]

Another problem with Swanson's theory is that in 'removing' the clergy from masculinity it privileges the 'lay version' of manliness and assumes that it is the default, and sole, definition. Christopher Fletcher has outlined the problems with using modern terminology such as masculinity, especially for the medieval clergy. Instead, manhood, was suggested by Fletcher as this focuses on strength and honour rather than sexuality.[111] As highlighted by Kirsten Fenton, many clergymen may have thought of 'clerical masculinity' as ideal.[112] Additionally, any historicization of gender must carefully consider how medieval people thought of themselves or identified. The creation of a 'clerical gender' has prompted some scholars to assert that many medieval clerks actually saw themselves as masculine.[113] Therefore, this thesis treats the clergy as a vocational rather than a gendered identity.

Finally, traditional concepts of gender have led modern commentators to conclude that female criminality was viewed as aberrant; if violence is part of masculinity then it follows that a violent woman 'violates norms of femininity'.[114] Consequently, if one accepts the idea that violence is not a female trait, there is a tendency to suggest that the offences of women are so atypical and abnormal that they require explanation, rather than recognising that all genders are capable of violent behaviour.[115] This has resulted in the modern labelling of female offenders as 'mad or bad'.[116] Studies of nineteenth and twentieth-century female killers show

[109] Hadley, p.4.
[110] J. Murray, 'One flesh, two sexes, three genders?' in L. M. Bitel and F. Lifshitz eds. *Gender and Christianity in medieval Europe: New perspectives* (Philadelphia: University of Pennsylvania Press 2008), pp.34-51.
[111] C. Fletcher, 'The Whig interpretation of masculinity? Honour and sexuality in late medieval manhood', in J. H. Arnold and S. Brady eds. *What is masculinity?: Historical dynamics from antiquity to the contemporary world* (Basingstoke: Palgrave Macmillan, 2013), pp.66-69.
[112] K. A. Fenton, *Gender, nation and conquest in the works of William of Malmesbury*. Volume 4, (Woodbridge: Boydell & Brewer, 2008), p.5.
[113] Ibid, p.5.
[114] Seal, p.1.
[115] Walker, p.4.
[116] S. Weare, '"The mad", "the bad", "the victim": Gendered constructions of women who kill within the criminal justice system', *Laws*, 2, 3 (2013), 337-361; M. S. Noh, M. T. Lee, M. T., and K. M. Feltey, 'Mad, bad, or reasonable? Newspaper portrayals of the battered woman who kills', *Gender Issues*, 27, (3-4) (2010), pp.110-130; E. Comack and S. Brickey, 'Constituting the violence of criminalized women', *Canadian Journal of Criminology and Criminal Justice, 49*(1) (2007), 1-36; and A. Wilczynski, 'Images of women who kill their infants', *Women & Criminal Justice*, 2:2 (1991), pp.71-88.

that their victims are often their husbands or children, which challenges their 'traditional' roles as wives and mothers.[117] These transgressions were said to have been so heinous that they could only be explained as the act of a cruel *femme fatale*, or as a result of insanity.[118] However, as shown in Chapter Three, these moralising narratives typical of later centuries do not appear in medieval court rolls.

Contemporary feminist analysis has reversed the 'mad or bad' narrative by presenting female criminals as the victims of a patriarchal legal system and society. Susan Edwards argued that 'most violent crimes committed by women are not an exercise in power but an exercise in helplessness'.[119] An alternative to the evil husband-murderer is an act of 'self-defence against an abusive partner'; a woman with few legal rights may have had no other option. Suddenly the blame has shifted from the violent woman to the 'society that would drive them to commit such terrible a crime'.[120] Nevertheless, by holding society responsible for female violence, it not only removes their accountability and agency, but offers a modern tolerance that is not afforded to their male counterparts. In reverse, Chapter Three reveals that such mitigations are largely absent for female suspects in medieval court rolls. In fact, when narratives attempting to justify the violence appear they typically do so in cases with a male suspect and victim.

An alternative perspective to the 'victimised' or 'helpless' female criminal is the argument that women actively involved themselves in scolding and gossip. Since the legal identity of women excluded them from performing judicial roles inside the structures of the law, it has been argued that they sought to exercise power within their community. Bardsley highlighted that speech was not dependant on education; anyone could access power through speech.[121] Moreover, Bardsley maintained that the ability to raise the hue and cry was empowering for medieval women. Through rising the hue and cry on behalf of another person, women in late medieval England were able to form and maintain kinship bonds.[122] Similarly, Suzannah Lipscomb, in her work on Languedoc, suggested that women 'appropriated responsibility for defending the physical, social, moral and sexual boundaries' which gave

[117] D. Johnson, 'Incarcerating the poor: Interpreting poverty and punishment in British prison museums', *SOLON Law, Crime and History,* 8(1) (2018), pp.91-107 and Seal, p.1.
[118] P. Mathieson, 'Bad or mad? Infanticide: Insanity and morality in nineteenth-century Britain', *Midlands Historical Review*, Vol. 4 (2020), pp.1-44; Seal, pp.44-47; and Weare, pp.337-361.
[119] S. M. Edwards, 'Neither bad nor mad: The female violent offender reassessed', *Women's Studies International Forum*, 9, 1 (1986), 79-87.
[120] Johnson, pp.91-107; and S. M. Butler, 'A case of indifference?: Child murder in later medieval England', *Journal of Women's History,* 19, 4 (2007), p.60.
[121] Bardsley, p.3.
[122] Ibid, p.75.

them ‘a distinctive social role’.[123] However, when one chooses to study women in isolation, as with Lipscomb’s study, the consequence is to exclude men charged with the same crime. This is methodologically problematic because there is a risk that the study is forced into a vacuum. Excluding male suspects, both lay and clerical, means that there is nothing with which to compare the conclusions about female behaviour. It can be unclear if legal or social identity is the determining factor, or whether similar characteristics would be observed for both male and female suspects. It is crucial that men and women receive equal attention because the recurrent gender imbalance highlights the gendered character of criminal statistics.

There are many studies of what has been labelled as ‘female’ crime, such as scolding, infanticide, and witchcraft. However, by labelling some offences as ‘feminine’, the remaining crimes are implicitly ‘masculine’. As shown by Walker, women were more likely to participate in ‘male’ rather than ‘female’ crimes. For example, for every woman indicted for infanticide or scolding in early modern Cheshire, ten women were charged with assault.[124] Nevertheless, a perennial problem for the study of crime is the imbalance of gender in criminal statistics. There are many more men, as both suspects and victims, than women in this study.[125] Around four per cent of the total suspects and nine per cent of the total victims in this study were women. Sandy Bardsley has suggested that ‘late medieval English men may have outnumbered women by a significant margin, perhaps as high as 110 to 115 men for every 100 women’.[126] Even so, this skewed sex ratio does not fully account for the low numbers of female suspects and victims of violent crime.

A higher number of men is a common characteristic of criminal statistics. Thus, unequal datasets are a feature of all studies of violent crime. In order to avoid the sex disparity in criminal statistics, it may be preferable to look at all suspects and victims together, without dividing them by sex. However, it is vital to study crime through the lens of gender because lay male suspects and victims generally dominate the statistics. Therefore, when these works use quantitative methods to form conclusions, in reality, they usually only tell the story of laymen and crime. This is because the numbers of women and clergy are so small that if one were to remove them from the data, the overall picture would look the same. Therefore, in

[123] S. Lipscomb, ‘Crossing boundaries: Women's gossip, insults and violence in sixteenth-century France’, *French history*, 25.4 (2011), p.408 and p.412.
[124] Walker, p.4.
[125] There are also many more laymen than clergy, which is discussed below.
[126] S. Bardsley, ‘Missing women: Sex ratios in England, 1000–1500’, *Journal of British Studies*, 53, 2 (2014), p.273.

failing to analyse by identity, studies unconsciously universalise the lay male experience and normalise the 'male version' of violent crime.

The problem of small numbers

When studying women and crime, the issue of small numbers is inescapable. This study has attempted to mitigate the problem of small numbers by using a long time period, a variety of legal sources, and different types of violence. In total, there were 168 female suspects and 299 female victims in gaol delivery and the coroners' rolls. Of these two record sets, the coroners' rolls contain the fewest women with only twenty-five suspects. However, the second-wave of socio-legal works which used medieval coroners' rolls and discussed gender had fewer female suspects than this thesis. In a twenty-five -year study of the Northamptonshire coroners' rolls, Thornton found just seven female suspects.[127] Likewise, Butler's assessment of spousal homicide only featured five female suspects.[128] Finally, Hammer found no women accused of homicide in his review of the Oxford coroners' rolls.[129] Therefore, although the numbers of women in this present study are low, and caution must be applied to any conclusions that are based on limited data, because women are present in the Yorkshire rolls, it is possible to analyse them and the cases in which they feature.

On the other hand, the number of female suspects in the Yorkshire gaol delivery rolls is dwarfed by those in the substantial monographs produced by the pioneers of socio-legal history. With their impressive sample sizes, Hanawalt and Given found 198 and 299 female homicide suspects respectively. However, these studies covered five counties each, and Given's data also includes the cities of London and Bristol. Perhaps a closer comparison is Kathleen E. Garay's 1979 article on women and crime, which was based on 8,879 entries from gaol delivery rolls drawn from all six circuits. However, despite this wide geographical scope, only thirty-six violent female suspects were uncovered, compared to the sixty female defendants from the Yorkshire gaol delivery rolls used by this study.[130]

Early modern scholars have similarly found low numbers of female murder suspects. In his study of Surrey and Sussex from 1663 to 1802, Beattie included just thirty-four female

[127] Thornton, p.49.
[128] Butler, 'Spousal abuse…', p.65.
[129] Hammer, p.13.
[130] K. 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, 1 (1979), pp.87-109.

killers.[131] In a monograph covering a sixty-year period in the seventeenth century Essex assizes, James Sharpe had a sample of fifty women accused of murder.[132] Even in studies which focus on women and violent crime, the numbers of women are still small. Anne-Marie Kilday's *Women and violent crime in Enlightenment Scotland* only included fifty-seven women suspected of homicide.[133] This issue is not limited to historians, modern criminologists also have to contend with small numbers of violent female offenders, especially when compared to men. Despite a huge demographic and geographic expansion, there was an average of fifty-seven women per annum indicted for homicide and manslaughter over the last decade in England and Wales.[134]

The key focus of this study is to assess how identity impacted on the experiences of each group during the prosecution of violence. While this will be done by looking in turn at each identity, in order to make conclusions about one group, it is inevitable that comparisons will be made with the other identities. After all, the more one can say about the experience of laymen can in turn facilitate a greater understanding of other, less documented identities. Nonetheless, it must be acknowledged that the percentage of a small number is not as statistically significant as that of a big number. There will also be times where the percentage of female, or clerical, suspects is too small to make any quantitative arguments. However, this can be mitigated by comparing the results of this study to other socio-legal works. If trends are replicated across multiple studies the problem of small numbers reduces. On the other hand, when differences appear this is equally interesting, and may represent temporal or local variations, however, this analysis must be cautious if the proportion of suspects or victims is too small.

The clergy are yet to be the focus of a socio-legal study of crime, but due to their presence in village life, role as temporal lords, and relationships with their parishioners, clerks regularly appear in secular legal records. The discussion of clerics in previous studies has largely been limited to a section on the prevalence of different occupational groups in cases of violent crime.[135] However, thirteenth and fourteenth century court rolls rarely include occupational data because it was not a requirement to record a man's 'estate, degree or trade'

[131] J. M., Beattie, 'The criminality of women in eighteenth-century England', *Journal of Social History*, 8, 4 (1975), p.83.
[132] J. A. Sharpe, *Crime in seventeenth-century England: A county study* (Cambridge: Cambridge University Press, 1983). p.124.
[133] A, Kilday, *Women and violent crime in enlightenment Scotland* (Woodbridge: The Boydell Press, 2015).
[134] M. Elkin, *Homicide in England and Wales: Year ending March 2018* (London: ONS, 2019), Appendix table 19.
[135] Hanawalt, *Crime and conflict*…, p.134; and Given, p.82.

in royal legal documents until the Statute of Additions, 1413 (1 Henry V, c.5).[136] This has prevented scholars from drawing any meaningful conclusions and thus, discussions of occupation and crime, when present, are limited.

However, this problem does not affect the clergy; due to their distinct legal identity, one can recognise clerics in the rolls from the fourteenth century. As shown in Chapters One and Two, the clergy make up between two and four per cent of the suspects and victims of felonious violent crime in late fourteenth-century Yorkshire. The clergy accounted for approximately three per cent of the male population, conceivably around two per cent of the total population.[137] Unlike the number of women featured in this study, the proportion of clergymen in criminal records is the same as in the general population, if not slightly greater. Consequently, despite the small numbers of clerks in this study, one can be more comfortable that clerical identity is represented in the legal records. Nonetheless, the caveat of caution when comparing big and small numbers still applies, and all results must be viewed in comparison with other studies of ecclesiastical offending. Yet, as the number of the clerical and female felons in this study are roughly equal, there is an opportunity to compare these groups.

[136] 1 Henry V, c.5 in A. Luders et al. eds. *The statutes of the realm: Printed by command of his majesty King George the Third, in pursuance of an address of the House of Commons of Great Britain. From original records and authentic manuscripts,* Volume II (London: Dawsons of Pall Mall, 1816), p.171; and Hanawalt, *Crime and conflict*…, p.134.

[137] J. C. Russell, 'The clerical population of medieval England', *Traditio*, 2 (1944), p.179; and R. H. Hilton, *A medieval society: The West Midlands at the end of the thirteenth century* (London: Weidenfeld & Nicolson, 1966), p.65.

Introduction II: Historiography and Sources

The purpose of the first section of the introduction was to outline the theme of this dissertation, and fully explain the key concepts of legal and social identity. The aim of this second introductory section is to broaden out to consider the wider historiography of the history of crime. In doing this, the critiques of the first-wave of socio-legal history are fully considered. The secondary goal of this chapter is to set this doctoral study in its political and legal context. These sections explore the key events of the period and how these affect criminal statistics and provide a comprehensive overview of the offences, the jurisdictions in which they were prosecuted, and the resulting sources.

Historians and crime

Within the discipline of English legal history, there has been a tendency to disregard crime because it 'has never been quite respectable'.[1] S. F. C. Milsom dismissed the study of criminal law stating 'the miserable history of crime in England can shortly be told. Nothing worthwhile was created. There is no achievement to trace.'[2] Pre-modern criminal trials have failed to capture the interest of legal historians because an accused felon was rarely allowed to employ counsel.[3] Thus, criminal jurisprudence was not shaped by skilful pleading and argumentation.[4] As most of the accused stated that they were not guilty, trials could only produce one single substantive question, which would be decided upon by the jury, not the legal professionals.[5] No great judicial skill was required to hear a general denial, ask for the jury's verdict, and to acquit or pronounce the prescribed sentence.[6] All of this led to a lack of new precedent and hindered the development of legal doctrine and substantive law.[7]

[1] W. H. Dunham, 'Criminal procedure: the advent of modernity', *The Yale Law Journal*, 84, 2 (1974), p.394.
[2] S. F. C. Milsom, *Historical foundations of the common law*, 2nd edn (London: Butterworths, 1981), p.403.
[3] Exceptions to this include when the king was not a party, such as in appeals, and when there was a point of law arising from the indictment. See J. H. Baker, *An introduction to English legal history*, 3rd edn (London: Butterworths, 1990), p.550.
[4] L. Farmer, 'Reviewed work(s): *Lawyers, legislators and theorists: Developments in English criminal jurisprudence, 1800-1957* by K. J. M. Smith', *LHR*, 19, 2 (2001), p.447; and Dunham, pp.394-404.
[5] Baker, pp.570-581.
[6] Milsom, pp.413-414.
[7] D. Klerman, 'Women prosecutors in thirteenth-century England', *Yale Journal of Law and the Humanities*, 14 (2002), pp.271-319.

Social historians, albeit to a lesser extent, have also been accused of disregarding the study of violent crime.[8] In a 2004 article and subsequent monograph on masculinity and Victorian violence, Martin J. Wiener observed that it was only recently that historians had accepted homicide as a worthy subject; all the same, 'historians of Britain… cautiously held back, leaving this topic to more venturesome… historians of America.'[9] Equally, in 2006, Shani D'Cruze et al. identified that there is 'surprisingly little written' on the history of homicide 'from a criminological perspective'.[10] These claims overlook the pioneering studies on medieval crime that emerged in the 1970s. This 'first-wave' of socio-legal history included James Buchanan Given's monograph on *Society and homicide in thirteenth-century England* which quantitatively engaged with eyre rolls from five counties: Bedfordshire, Kent, Norfolk, Oxfordshire, and Warwickshire, and two cities: Bristol and London, to complete a sociological study of homicide.[11] Two years later, in 1979, Barbara Hanawalt built on this with her book, *Crime and conflict in English communities, 1300-1348,* which used similar methods to study various types of felony at the gaol delivery trials in Essex, Herefordshire, Huntingdonshire, Norfolk, Northamptonshire, Somerset, Surrey, and Yorkshire.[12]

Both of these works sought to uncover patterns of crime and to profile the 'typical' medieval criminal. For the first time the rolls of common law courts were used within their historical context as a source for social and economic history to study the lives of ordinary people. This new set of research questions meant that fresh methodologies were needed. As a consequence, these studies borrowed concepts, methods, and techniques that were first developed in the social sciences.[13] Quantitative methods and statistics combined with criminological, anthropological, or sociological perspectives enabled socio-legal historians to contribute to the growing trend of 'history from below'. However, this led to hostility within the field of medieval law. Proponents of traditional legal history rejected the new socio-legal scholarship stating that it used 'radical approaches' which were perceived as a threat to the rigour of the discipline. The new methods were labelled somewhat dismissively as 'fun' and

[8] Dunham, p.394.
[9] M. J. Wiener, 'Murder and the modern British historian', *Albion*, 36, 1 (2004), p.1.
[10] S. D'Cruze, S. Walklate and S. Pegg, eds. *Murder: social and historical approaches to understanding murder and murderers* (Cullompton: Willan Publishing, 2006), p.1.
[11] J. B. Given, *Society and homicide in thirteenth-century England* (Palo Alto, California: Stanford University Press, 1977).
[12] B. A. Hanawalt, *Crime and conflict in English communities, 1300-1348* (Cambridge, Massachusetts: Harvard University Pres, 1979).
[13] E. Powell, 'Social research and the use of medieval criminal records', *Michigan Law Review,* 79, 4 (1981), pp.967-978.

'fashionable', and their scholars were dismissed as 'playing with computers'.[14]

Contemporaneously, David Phillips used a criminological approach in his monograph on Victorian crime. In contrast to the criticisms received by medievalists, Phillips' study was recognised as an important contribution to the historiography.[15] Almost a decade later, George Rudé advanced the work on the history of crime by extending a quantitative approach to the study of nineteenth-century victims, in addition to the traditional focus on criminals. His book was praised for asking important questions and providing empirical answers; it was felt that statistical analysis strengthened his arguments.[16] Over the past thirty years, the history of crime has become of fundamental importance to social historians working on many periods and locations. Yet, due to the early criticisms of borrowing from the social sciences, medieval scholarship, once at the forefront, now lags behind. The study of early modern crime somewhat stalled as the pioneering studies were left behind with the rejection of Marxist historiography.[17] Nonetheless, there has been considerable interest in the study of early modern crime for the last few decades.[18]

Since the 1970s, work on medieval crime has largely shied away from measurable and analytical study of the legal material, instead drawing on literary and anecdotal evidence.[19] Nevertheless, since the turn of the century, there has once again been a growing interest in quantitative methods and perhaps even a second-wave of socio-legal history. Sara Butler has really led the way with her thesis, article, and monograph on marital violence in late medieval Essex and York.[20] Likewise, Mike Thornton's article on murder and society in fourteenth-

[14] J. B. Post, 'Crime in later medieval England: Some historiographical limitations', *Continuity and Change*, 2, 2 (1987), p.220.
[15] D. Phillips *Crime and authority in Victorian England* (London: Croom Helm, 1977) and R. L. Boostrom, 'Reviewed work: *Crime and authority in Victorian England* by David Philips', *The Journal of Criminal Law and Criminology*, 70, 2 (1979), pp.272–273.
[16] F. Morn, 'Reviewed work(s): *Criminal and victim: crime and society in early nineteenth-century England* by George Rudé', *The Journal of Criminal Law and Criminology*, 78, 2 (1987), pp.456-458.
[17] D. Hay, P. Linebaugh, J. G. Rule, E. P. Thompson and C. Winslow, *Albion's fatal tree: Crime and society in eighteenth century England* (New York: Random House, 1976).
[18] Notable works include: A. Kilday, *Women and violent crime in enlightenment Scotland* (Woodbridge: The Boydell Press, 2015); P. King, *Crime and law in England, 1750-1840: Remaking justice from the margins* (Cambridge: Cambridge University Press, 2008); T. Hitchcock and R. Shoemaker, *Tales from the hanging court* (London: Hodder Arnold, 2006); G. Walker, *Crime, gender and social order in early modern England* (Cambridge: Cambridge University Press, 2003); and M. Gaskill, *Crime and mentalities in early modern England* (Cambridge: Cambridge University Press, 2000).
[19] T. Dean, *Crime in medieval Europe* (London: Pearson Education Limited, 2001); J. G. Bellamy, *The criminal trial in later medieval England: Felony before the courts from Edward I to the sixteenth century* (Stroud: Sutton Publishing, 1998); and T. A. Green, 'Review of *Crime and public order in England in the later middle* ages by J. Bellamy', *The American Journal of Legal History*, 18 (1974), pp.350-355.
[20] S. M. Butler, 'The language of abuse: Marital violence in later medieval England' (Unpublished Ph.D. Thesis, Dalhousie University, 2001); S. M. Butler, 'Spousal abuse in fourteenth-century Yorkshire: What can we learn from the coroners' rolls?', *Florilegium*, 18, 2 (2001), pp.61-78; and S. M. Butler, *The language of abuse: Marital violence in later medieval England* (Leiden: Brill, 2007).

century Northamptonshire has gone some way to reviving sociological methodologies with a quantitative study of medieval homicide.[21] Yet, there still remains the need for a new comprehensive socio-legal study on late medieval crime. This thesis aims to address that gap, in part, through the study of the prosecution of violence, from homicide to bloodshed. This present work has been inspired by the scholarship on nineteenth-century criminality and seeks to place itself within the second-wave of socio-legal approaches to medieval crime.

Criticisms of medieval socio-legal history

The first criticism that historians of pre-modern criminality face is that even the use of the word 'crime' has been deemed problematic. This is because the modern usage of the word was unfamiliar to pre-modern people.[22] The Latin word *crimen* could mean an offence, but also has other meanings, such as a verdict or a judgment.[23] Moreover, it is not used in the sources in the way in which one would now use crime. Yet, the terms 'felony' and 'trespass' are less of a problem for the medievalist because these are words and concepts that contemporaries would have understood. The word felony is derived from old French, meaning wicked or treacherous. In the middle ages, a felony was an offence against the king, liable to 'public' punishment. In contrast, in cases of trespass, damages would be paid to the victim, rather than punishment exacted by the Crown, as in felony. The meaning of trespass extended far beyond its modern sense of 'entering without consent' and could include a range of offences against the person or against property. If one returns to the Latin, *transgressio*, meaning transgression, and later translated as 'misdemeanour', the broad scope of this category is clearer.[24] Nevertheless, the line between felony and trespass is often blurred in late medieval England. Some offences could be treated as either a felony or a trespass. For example, women had the ancient right to bring an appeal of ravishment; it would be prosecuted as a felony and would carry a capital sentence. An alternative option was codified via the first statute of Westminster (3 Edward I, *Stat. Westm.*

[21] M. Thornton, '"Feloniously slain": Murder and village society in fourteenth-century Northamptonshire', *Northamptonshire P&P*, 67 (2014), pp.46-57.
[22] J. A. Sharpe, 'The history of crime in late medieval and early modern England: A review of the field', *Social History*, 7, 2 (1982), p.188.
[23] *Crimen* in C. T. Lewis and C. Short, *A Latin dictionary* (Oxford: Clarendon Press, 1879).
[24] T. Phipps, 'Misbehaving women: Trespass and honor in late medieval English towns', *Historical Reflections/Réflexions Historiques*, 43, 1 (2017), p.64; Dean, p.6; and S. F. C. Milsom, 'Not doing is no trespass: A view of the boundaries of case', *The Cambridge Law Journal*, 12.1 (1954) pp.105-117. Also see Milsom, *Historical foundations*…, Chapter 11, The rise of trespass and case, for a full explanation of trespass.

Prim. c.13), with the ability to bring ravishment as a trespass case, where the punishment was imprisonment and monetary compensation.[25]

James Sharpe maintained that it is unfeasible to study medieval crime. The offences frequently referred to as 'crime' could actually encompass anything from felony, trespass, tort, or sin.[26] This thesis tries to avoid using the word 'crime' when presenting its findings. Nonetheless, sometimes it is unavoidable especially when engaging with historiography. When the word 'crime' is used, this study adopts its modern meaning; 'an action which constitutes a serious offence against an individual or the state and is punishable by law'.[27] Besides, the diverse nature of crime, as outlined by Sharpe, is by no means a phenomenon unique to pre-modern societies. Currently in England and Wales, crime can include various offences such as homicide, fly-tipping, drug trafficking, tax evasion, 'upskirting', ticket touting, hate crime, fraud, and firework misuse. There is little to be gained from amalgamating these offences and attempting to study twenty-first century crime. To avoid the illogical grouping of divergent offences, the focus of this thesis is interpersonal violence. This study reviews two of the most serious categories of violence. Firstly, this thesis studies homicide, which, in the fourteenth century, covers both murder and manslaughter.[28] Secondly, ravishment is examined, which includes sexual violence and abduction.

Subsequently, this thesis turns to minor violence in the form of bloodshed, the violent shedding of blood by one person from another. Lords who held the right of frankpledge had the power to hear cases of petty crime including bloodshed.[29] As noted by Chris Briggs and Phillipp Schofield, due to the fact that bloodshed had to be presented to the view of frankpledge, this helps to provide 'an indication of the incidence of physical violence within the village'.[30] While this thesis is not concerned with attempting to quantify violence, the manor court rolls illuminate the prosecution and punishment of minor violence via presentments of bloodshed. This is important as there is a major lacuna in the historiography of violence in late medieval village society. This is conceivably because those interested in peasant society were not

[25] 3 Edward I, *Stat. Westm. Prim*. 1275, c.13 in A. Luders et al. eds. *The statutes of the realm: Printed by command of his majesty King George the Third, in pursuance of an address of the House of Commons of Great Britain. From original records and authentic manuscripts,* Volume I (London: Dawsons of Pall Mall, 1810), p.29.
[26] Sharpe, p.188; and Post, p.217.
[27] 'Crime' in C. Soanes, and A. Stevenson, *Concise Oxford English dictionary*, 11th edn (Oxford: Oxford University Press, 2008).
[28] Suicide, although a felony in England and Wales until 1961, it is not an interpersonal crime. Baker, p.572.
[29] M. Müller, 'Social control and the hue and cry in two fourteenth-century villages', *Journal of Medieval History*, 31 (2005), p.34.
[30] C. D. Briggs and P. R. Schofield, '"Understanding Edwardian villagers" use of law: Some manor court litigation evidence', *Reading Medieval Studies*, 40 (2014), p.136.

necessarily interested in law or crime, whereas legal historians have tended to focus their efforts on royal sources. As such, Richard Helmholz categorised manorial courts as the 'stepchild of English historiography'.[31]

Another criticism of the previous socio-legal studies is the attempt to apply quantitative techniques to pre-modern sources. While this issue is not limited to the medievalist, it is mitigated if one is working with standardized documentation and consistent methods. Hanawalt's monograph received condemnation as her database varied between chapters. Furthermore, she reported percentages without any reference to the sample size. Only after scrutiny does it become apparent that one of her main arguments can only be applied to a third of her period due to a change in recording practices.[32] In all likelihood the lack of clarity arose due to the fact that the concept of 'data' cannot be readily applied to medieval legal records. Each entry in the court rolls is unique; some contain a wealth of information while others are agonisingly brief.

The following two sections provide some further criticisms of previous socio-legal studies. In addition, they examine the legal and political context of late medieval England because a contextual understanding of these areas is vital for this thesis. It is argued that a socio-legal study of the years 1340 to 1385 is viable but the legal and political context must be fully understood. Firstly, the politics of law in the fourteenth century is discussed, including the fact that Hanawalt failed to acknowledge the complex nature of her chosen period. Secondly, despite Hanawalt's assertion that the latter fourteenth-century is too complicated, it is demonstrated that there was less judicial experimentation in the post-plague era than in the early fourteenth century.[33]

Government and law in late medieval England

Hanawalt ended her study in 1348 because she wanted to avoid the disruption of justice during the Black Death.[34] On the other hand, Mark Ormrod maintained that the impact of the plague has been exaggerated because any administrative panic was only temporary.[35] Yet, it must be noted that there were no parliaments held during the Black Death due to the dangers of the

[31] R. H. Helmholz, 'Independence and uniformity in England's manorial courts', in L. Bonfield, ed., *Seigneurial jurisdiction* (Berlin: Duncker & Humblot, 2000), p.216.
[32] Powell, p.969.
[33] Hanawalt, p.8.
[34] Ibid, p.8.
[35] W. M. Ormrod, 'The English government and the Black Death' in W. M. Ormrod, ed. *England in the fourteenth century.* (Woodbridge: Boydell Press, 1986), p.175.

disease.[36] Parliament and the administration of justice were inseparable in the late middle ages because chief justices were always summoned to Parliament, and many others in attendance had served as coroners, sheriffs, or on legal commissions.[37] From 1345 to 1385, Parliament was called thirty-six times. On eleven of these occasions it was explicitly stated that it had been called for the maintenance of law and order.[38] When Parliament reconvened in February 1351 following the pestilence, it was reported that the 'peace of the land is not well kept' and that there had been 'defective operation of law and order'.[39] After the second pestilence of 1361 to 1362, Parliament was charged with ensuring 'that the peace can best be preserved, and the people of [the] realm can live in ease and quiet' in response to 'all sorts of felonies, trespass and excesses'.[40]

Levels of judicial activity could be altered by many factors. Despite Hanawalt's measures to avoid the disruption of the plague, her chosen period saw famine, foreign and domestic wars, rioting, forced regime change, and a minority government. The political crises of the early fourteenth century undoubtedly led to poor law enforcement and Edward III (r.1327-77) inherited the criminals that his father could not bring to justice.[41] Although Hanawalt made an attempt to show an awareness of these events and the effects that they could have on crime in a separate chapter, there was little consideration of the politics of law enforcement when presenting her findings on crime rates and criminal profiles.[42] This current investigation avoids this problem through asking different questions of the rolls.

Hanawalt's chosen period also includes the outbreak of the Hundred Years War in 1337. A medieval ruler had two key responsibilities, defence of the realm and the maintenance of law and order.[43] In times of war, the balance between these two areas could shift towards foreign policy. Additionally, wartime saw the pardoning of felons in return for service overseas. If necessary, ordinary people were expected to defend the realm. Therefore, they needed to be armed and Edward III encouraged weapons practice.[44] Armed and trained men

[36] Ibid, pp.175-177; and C. Given-Wilson, P. Brand, S. Phillips, W. M. Ormrod, G. Martin, A. Curry, and R. Horrox eds., *Parliament rolls of medieval England* (Woodbridge: Boydell Press, 2005).
[37] M. McKisack, *The fourteenth century 1307-1399* (Oxford: Clarendon Press, 1959), p.187.
[38] PROME, 'Edward III: September 1346' – 'Richard II: October 1385'.
[39] PROME, 'Edward III: February 1351'.
[40] PROME, 'Edward III: October 1362'.
[41] A. Verduyn, 'The politics of law and order during the early years of Edward III', *The English Historical Review*, 108, 429 (1993), pp.842-845.
[42] Hanawalt, *Crime and conflict*…, pp.222-260.
[43] W. M. Ormrod, *Political life in medieval England 1300-1450* (London: Macmillan Press, 1995), p.65.
[44] McKisack, p.203; and 13 Edw. I. *Stat. Wynton*, c.6 in A. Luders et al. eds. *The statutes of the realm: Printed by command of his majesty King George the Third, in pursuance of an address of the House of Commons of Great Britain. From original records and authentic manuscripts,* Vol. I (London: Dawsons of Pall Mall, 1810), pp.97-98.

were a potential threat to law and order.[45] Conversely, a period of peace also falls within the scope of this thesis. In 1357, the Treaty of Berwick brought an end to the Second War of Scottish Independence.[46] Likewise, the cessation of the Hundred Years War was achieved with the Treaty of Brétigny in 1360.[47] In times of peace the state can turn inward and focus more attention on domestic law and order. Moreover, post-war periods were equally problematic as soldiers returned, some of them pardoned criminals, now experienced fighters, potentially suffering from what might now be diagnosed as post-traumatic stress disorder.[48] All of these aspects could affect the cases and suspects which appear, or fail to appear, in the rolls.

Moreover, because the king was responsible for law and order, his absence due to foreign campaigns could lead to a real, or at least perceived, increase in crime. In 1372, Parliament gathered due to 'the various crimes, dangers, outrages and misfortunes… which could by chance occur in [the king's] absence'.[49] These concerns were also raised in times of ineffective or minority rule. May McKisack classified the 1370s as a 'disastrous decade'. Edward III was old and senile, plus all confidence in the government had been lost.[50] Complaints about crime and disorder exploded under the new rule of Richard II. In 1378, Parliament lamented it was as if the land was at war; bands lay in wait to 'assault, maim, murder and kill the people' and ravish their wives. Furthermore, the offenders had 'no thought for the law of the land' and rejected 'all legal process'; 'the justices [were] so intimidated that they dare not enforce the law'. It was 'greatly and overwhelmingly feared that discord and riot will arise within the kingdom'. Grievances about crime and disorder continued to be raised in Parliament right up to the Great Revolt of 1381.[51]

Politics and law enforcement cannot be separated; the rise and fall of crime rates, especially short-term fluctuations, are often a result of increased judicial activity, either local or central, rather than any real increases in crime.[52] Therefore, although inspired by the pioneering works of Hanawalt and Given, this study does not attempt to quantify crime rates or construct a profile of the 'typical criminal' because it could produce misleading results. James Sharpe criticised Hanawalt, and the quantitative studies of crime by Joel Samaha and J.

[45] McKisack, p.205.
[46] PROME, 'Edward III: October 1362'.
[47] Ibid and PROME, 'Edward III: May 1360'.
[48] McKisack, p.205.
[49] PROME, 'Edward III: November 1372'.
[50] McKisack, pp.384-388.
[51] PROME, 'Richard II: 'October 1378' - 'November 1380'.
[52] Sharpe, p.201.

M. Beattie, because 'no single set of court documents can be used to portray crime in its entirety'.[53]

Criminologists interested in long term trends in violent crime have disregarded this advice. Manuel Eisner and Ted Robert Gurr, heavily influenced by Norbert Elias and Steven Pinker, both argued for high homicide rates throughout the middle ages, followed by a decline in violence from the seventeenth to the twentieth century.[54] However, Eisner acknowledged that the precise moment that violence declined cannot be identified due to 'the lack of records between the late fourteenth and the mid-sixteenth centuries'.[55] Gurr likewise saw this period as problematic due to the changing legal administration; it falls between the general eyre and the advent of the assizes under Elizabeth I (r.1558-1603).[56] This did not prevent Gurr from proposing that 'there was probably a surge in violent crime in fourteenth-century England.'[57] Philippa Maddern's excellent monograph on violence and social order successfully challenged the previous impression of the 'lawless' fifteenth century in England.[58] While this book is an important contribution to the debate on 'bastard feudalism', it is less a study of the prosecution of violence.[59] Due to the political nature of law enforcement coupled with questions of record survival from the responsible courts, it would be naïve to use legal records to quantify violence or to create a profile of the typical criminal in late fourteenth-century Yorkshire.

A further complaint against socio-legal scholarship by J. B. Post was that historians 'can have little confidence in guessing what proportion [of criminal cases] were genuine'.[60] The truthfulness of indictments has been called into question due to the high acquittal rate in medieval felony trials, which was typically between seventy to eighty per cent.[61] Hanawalt and Given were condemned because their work did not distinguish between an indictment and a conviction.[62] On the one hand, it would be foolhardy for any historian to ignore up to eighty per cent of the contents of their extant records. Conversely, including people who were

[53] Ibid, p.190.
[54] T. R. Gurr, 'Historical trends in violent crime: A critical review of the evidence', *Crime and justice*, 3 (1981), pp.295-353; M. Eisner, 'Long-term historical trends in violent crime', *Crime and Justice*, 30 (2003), pp.83-142; and M. Eisner, 'From swords to words: Does macro-level change in self-control predict long-term variation in levels of homicide?', *Crime and Justice*, 43, 1 (2014), pp.65–134.
[55] Eisner, 'Long-term historical trends…', p.101.
[56] Gurr, p.307.
[57] Ibid, p.314.
[58] P. C. Maddern, *Violence and social order*: *East Anglia, 1422–1442* (Oxford: Clarendon, 1992), pp.6-8.
[59] B. A. Hanawalt, '*Violence and social order: East Anglia, 1422-1442* by Philippa C. Maddern', *Speculum*, 69, 4 (1994), pp.1215–1216.
[60] Post, p.213.
[61] Ibid, p.213; and R. W. Ireland, 'Theory and practice within the medieval English prison', *American Journal of Legal History*, 31 (1987), p.64.
[62] Powell, p.969; and Post, p.213.

acquitted in a study of the socio-economic backgrounds of criminals can only lead to disingenuous results. Just as legal records contain people who did not commit a crime, they almost certainly fail to include everyone that did. An acknowledged challenge for historians of crime is that their statistics are 'hopelessly inadequate of providing a full… picture of crime'.[63] It has been argued that a severe limitation of studying crime in a quantitative fashion is that such studies are limited to criminals who were discovered. Legal records only allow the historian to study unsuccessful criminals; Post maintained 'the typical medieval criminal was never caught'.[64] Furthermore, 'moral panics' and campaigns to tackle certain types of offender can distort the stereotypical image of criminals.[65] In his seminal book on crime and society, Clive Emsley maintained that an essential component in his definition of crime is that the offence was detected.[66] While the word 'detected' does not have much purchase in a medieval context, the sentiment is the same if one were to replace 'detected' with 'reported' or even 'recorded'. The two methods of prosecuting crime in late medieval England are explained below, but for now the crucial point is that this study is not concerned with quantifying levels of violence.

Characteristics of criminal law structures in late medieval England

Due to the multifaceted nature of the late fourteenth century English legal system, this period has received less scholarly attention than the pre-plague period. The fourteenth century was a period of great judicial experimentation. While the previous century was dominated by the 'all-powerful' general eyre, the legal administration was perhaps now more fragmented.[67] Nevertheless, all serious violence was handled by common law courts such as gaol delivery, or royal officials like the coroner or sheriff, because the king had a monopoly on the prosecution of felony cases.[68] Hanawalt's second reason for avoiding the latter half of the fourteenth century was that from 1351 the 'justices of the peace siphoned off an unknown

[63] G. Rudé, *Criminal and victim: Crime and society in early nineteenth-century England* (Oxford: Clarendon, 1985), pp.2-3; and V. A. C Gatrell and T. B. Hadden 'Criminal statistics and their interpretation', in E. A. Wrigley, ed. *Nineteenth-century society* (Cambridge: Cambridge University Press, 1972), pp.336-340 and 361-362.
[64] J. B. Post, 'Criminals and the law in the reign of Richard II, with special reference to Hampshire', (Unpublished D.Phil. Thesis, University of Oxford, 1976), p.15.
[65] Sharpe, p.199.
[66] C. Emsley, *Crime and society in England 1750-1900,* 3rd edn (New York: Pearson Education Limited, 2005).
[67] Verduyn, p.843.
[68] M. Bubenicek, and R. Partington, 'Justice, law and lawyers', in C. Fletcher, J. Genet, and J. Watts eds. *Government and political life in England and France, c.1300–c.1500* (Cambridge: Cambridge University Press, 2015), p.152.

number of cases formerly heard exclusively in gaol delivery'.[69] In addition to this, Hanawalt felt that the paucity of records of the justices of the peace left the problem of quantifying late fourteenth-century crime irreconcilable.[70] Hanawalt's hesitation surrounding the post-plague period was undoubtedly based on the traditional view pioneered by Bertha Putnam that the justices of the peace triumphed in the struggle for judicial control in the localities.[71] The outdated view of a failing judicial system marked by 'devolution' and 'privatization' has now been rejected by historians.[72] Revisionist scholarship has shown that the justices of the peace and their so-called 'rivals', the justices of *oyer et terminer,* trailbaston, gaol delivery, and King's Bench, actually performed very different roles. As argued by Richard Partington, instead of a power struggle, the various commissions worked together to form a 'super-network', each with varying judicial responsibilities.[73]

In addition, Anthony Musson maintained that the commissions complemented each other rather than competed and were a united judicial front. The crucial difference between the justices of the peace and gaol delivery was that the peace commissions dealt with 'exceptional and extraordinary disorder', what one could categorize as 'political crime': rebellion, tax evasion, corruption, or conspiracy.[74] Violence does appear within the rolls of the justices of the peace, nevertheless, this study is less concerned with political violence, and attacks on officials, instead the focus is 'ordinary' interpersonal violence. Post described the peace rolls as a 'gentleman's-eye view' of lawlessness. Due to the political nature of this jurisdiction, some of the presentments were for offences committed up to sixteen years prior to the indictment.[75] Mark Bailey's recent monograph provides a useful illustration of the incredibly varied nature of the scope of the justices of the peace. While justices of the peace were 'empowered to deal directly with the myriad of social and economic challenges' of the post-plague period, there is little to no overlap with the work of the commissions of gaol delivery.[76]

The first half of the fourteenth century saw far more experimentation in the prosecution of crime than the period following the Black Death. From 1328, commissions of trailbaston

[69] Hanawalt, *Crime and conflict…,* p.8.
[70] Ibid, p.8.
[71] B. H. Putnam, 'The transformation of the keepers of the peace into the justices of the peace 1327-1380', *Transactions of the Royal Historical Society*, 12 (1929), pp.19-48.
[72] Musson, p.53.
[73] Bubenicek and Partington, pp.154-155 and p.178.
[74] Ibid, p.155; and Musson, p.53.
[75] J. B. Post, 'Some limitations of the medieval peace rolls', *Journal of the Society of Archivists,* 4, 8 (1973), pp.633-639.
[76] M. Bailey, *After the Black Death: Economy, society, and the law in fourteenth-century England* (Oxford: Oxford University Press, 2021), p.199.

which had the power to try offenders were extensively employed by Edward III.[77] In 1339, the Commons complained that these trailbastons did more harm to the innocent than the guilty.[78] The keepers of the peace became involved in criminal matters in the 1320s, and by 1329 they were given the power to hold trials and 'became true justices of the peace for the first time'.[79] Musson identified that by 1338 the keepers of the peace were a 'major judicial force'.[80] The eyre, though revived in 1330-31, had become unpopular and fallen out of use. By the late fourteenth century judicial circuits made regular tours of counties, again having direct contact with the localities.[81] Musson argued that these fourteenth-century changes 'produced the first permanent royal presence in the countryside'.[82] Gaol delivery, which is discussed in detail below, had increased in regularity. A statute of 1330 stated that gaols were to be delivered three times per annum. Moreover, gaol deliveries were now the primary route for the prosecution of felonies in the localities.[83]

Post stated that the sociological and quantitative methodologies used by Given and Hanawalt should not be applied to the middle ages due to the complex nature of pre-modern reporting mechanisms. Today, it is possible to report a crime without any requirement to bring charges against a named person.[84] However, except when a body was found, in order to 'report a crime' a suspect needed to be identified. This study views the decision on whether to report, or prosecute, crime as an opportunity, not a problem. This is because this study is interested in the dynamics of prosecution, not calculating crime rates. When using court records, it must be considered that there is discretionary power, whether to use the law against the suspect, at all stages. Discretion can be used by the victim, witnesses, the jury, or even coroners, bailiffs, sheriffs, and the king's justices. Once it is accepted that due to discretionary power not all criminals appear in the legal records, and of the people that did appear some were innocent or acquitted, suddenly the extant material is much more fascinating. Instead of using court rolls to reveal the socio-economic backgrounds of criminals, it is far more interesting to unearth trends within the records and question the possibility of over, or under, representation based on identity.

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[77] Verduyn, 'The politics of law…', p.843.
[78] McKisack, p.206.
[79] Verduyn, p.843
[80] Musson, p.49.
[81] McKisack, p.199.
[82] A. Musson and W. M. Ormrod, *The evolution of English justice. Law, politics and society in the fourteenth century* (New York: Macmillan Press, 1999), pp.181-191.
[83] Ireland, p.65; and R. B. Pugh, *Imprisonment in medieval England* (Cambridge: Cambridge University Press, 1968), p.281; Bubenicek and Partington, p.155; and Hanawalt, *Crime and conflict…,* p.5.
[84] Post, 'Crime in later medieval England…'p.213.

There were typically two methods to prosecute homicide and ravishment in late medieval England. The first and older process was via an appeal. The appellor was responsible for raising the hue and cry, followed by an oral complaint to the sheriff or the coroner.[85] Appeals could be brought for any felony and were not limited to the principal offender, but also those 'who commanded, counseled, aided, or harbored' the lawbreaker. Although appeals continued throughout the middle ages, their heyday coincided with the general eyre.[86] At the turn of the thirteenth century, roughly one-third of homicide cases were brought by appeal; this dropped to one in ten by the end of the century.[87] Not only did the appeal process decline, but there was also a transformation from oral to written appeals. By the late fourteenth century, approximately half of all appeals were initiated in written form.[88] With the decline of appeals, presentment of felony, by a male jury, became the 'most common method of initiating criminal cases' in the localities.[89] This created a method of proto-public prosecution as it removed the requirement for a victim to bring the plaint; now an offender could be tried at the king's suit.[90] Representatives from each vill were summoned to appear before the sheriff or the justices to report crimes and to name suspects. This process continued in gaol delivery and the sheriff's tourn just as it had under the eyre but, yet again it evolved from an oral process to a written bill of indictment.[91]

The fourteenth century is a fascinating, yet understudied, period for the study of the legal action of women. Due to their right of appeal, women had always been involved in criminal law. Nevertheless, if presentment was replacing appeal, then it could be argued, as it has been by John Marshall Carter, that this change was a great factor in lessening a woman's legal identity.[92] There is a wider debate on whether appeals gave women a legal voice or forced them into an unfamiliar environment. Corinne Saunders argued that there was a legal marginalization of women when their right to appeal was removed. At the same time, Saunders also viewed appeals as a complex and humiliating burden for women, which could even lead

[85] Baker, p.574; C. Winter, 'Prisons and punishments in late medieval London', (Unpublished Ph.D. Thesis, University of London, 2010), pp.203-204; R. F. Hunnisett, 'The origins of the office of coroner', *Transactions of the Royal Historical Society*, 8 (1958), p.89; and A. Musson and E. Powell, eds. *Crime, law and society in the later middle ages* (Manchester: Manchester University Press, 2013), p.139.
[86] R. F. Hunnisett, *The medieval coroner* (Cambridge: Cambridge University Press, 1961), p.55.
[87] Klerman, p.289.
[88] Baker, p.574.
[89] Klerman, p.273.
[90] D. J. Seipp, 'The distinction between crime and tort in the early common law', *Boston University Law Review*, 76, 1 & 2 (1996), p.72.
[91] Baker, p.576.
[92] J. M. Carter, *Rape in medieval England: An historical and sociological study* (Lanham, Maryland: University Press of America, 1985), p.128.

to fines, or imprisonment, for inconsistent testimony, dropping their suit, or failing to appear in court.[93] Chapter Two engages with this debate further, but for now, this chapter outlines the sources underpinning this thesis. It begins with an explanation of why Yorkshire was chosen as the location of study and then describes the three key sources used in this dissertation.

Yorkshire

The geographical focus of this thesis is Yorkshire. Given and Hanawalt both studied multiple counties in order to generate larger samples.[94] When employing a quantitative methodology, it is often assumed that large samples from which one can create statistics are highly desirable.[95] Nevertheless, while hefty datasets appear attractive, and perhaps even necessary for statistical analysis, the arbitrary combination of counties that are far removed in terms of their socio-economic conditions can produce misleading evidence. It is imperative that legal records are viewed within a precise historical context and thus local studies are more appropriate.[96] Moreover, the study of a northern county departs from the traditional focus on southern and central England.[97]

In fact, medieval Yorkshire is ripe for quantitative analysis due to its combination of administrative uniformity with its large size and geographical diversity. Rural populations are captured with records from the North, East, and West Ridings. Yorkshire also provides data on urban communities. In a recent monograph, York was described as a 'second capital' of England that experienced a 'golden age' in the wake of the Black Death.[98] York had become a 'well-established commercial and industrial centre' because of its unrivalled position on a tidal river. Additionally, the town of Beverley, the second largest urban centre in Yorkshire, had thirty-eight guilds by 1390.[99] Due to record survival and variation in detail, as is explained fully below, this study does not attempt to draw urban/rural comparisons. Moreover, because Yorkshire is such a large county, it has a greater quantity of records than most. Crucially,

[93] C. J. Saunders, *Rape and ravishment in the literature of medieval England* (Woodbridge: Boydell & Brewer, 2001), p.62 and Carter, p.110.
[94] Powell, 'Social research…', p.689.
[95] Hanawalt, *Crime and conflict…;* and Given, *Society and homicide*....
[96] C. Hammer, 'Patterns of homicide in a medieval university town: Fourteenth-century Oxford', *P&P,* 78 (1978), pp.3-4.
[97] P. Larson, 'Village voice or village oligarchy?: The jurors of the Durham halmote court, 1349 to 1424', *LHR*, 28, 3 (2010), pp.679-680.
[98] D. Palliser, *Medieval York, 600-1540* (Oxford: Oxford University Press, 2014), pp.181-198.
[99] McKisack, pp.380-381; and C. C. Fenwick, ed. *The poll taxes of 1377, 1379, and 1381*, Part III (Oxford: Oxford University Press, 2005), p.160.

Yorkshire has more extant legal records for the period in question than any other county in England.[100] Despite its vastness, Musson argued for a distinct regional identity in Yorkshire in the middle ages.[101] It was an administrative and judicial centre both in the minds of the Crown and of its subjects, which had effectively served as the capital during the Scottish campaigns. Furthermore, Mark Ormrod suggested that Yorkshire men and women were especially litigious, which must be beneficial to a study on the prosecution of violence. Nevertheless, it should be recognised that the findings may not be 'typical' of medieval England, but that is a consideration for all regional studies, even those using multiple counties.[102]

The offences

The focus of this investigation is interpersonal violence, that is, violence committed by one person against another person. Hanawalt received criticism for restricting the meaning of crime to felony.[103] Therefore, this thesis endeavours to focus on violence in a broad sense, in order to capture different levels of severity. As a result, this study has chosen three key sources: coroners' rolls, gaol delivery records, and manor court rolls. These sources are fully explained below, but the point at this moment is that these records have been chosen because they all include cases of violence. Additionally, these jurisdictions are all forms of proto-public prosecution. This means that the violence was largely prosecuted by the 'state' rather than an individual private action. The decision to focus on 'public prosecution' was made in order to capture the cases which people were technically required to prosecute, rather than suits which people freely chose to bring. This thesis is interested in the intersection between the law and social attitudes and thus it is more fruitful to concentrate on cases which required legal action. This methodology also prevents the inclusion of trespass cases which include the formulaic 'force and arms' (*vi et armis*) but do not provide any details of the violence which occurred and in fact the violence itself may even have been a legal fiction.

As outlined above, this study focuses on three types of violence: homicide, ravishment, and bloodshed. These are the offences found in the chosen sources which can be categorised

[100] Butler, 'Spousal abuse…', pp.61-78; TNA JUST 3/78-80; 141A; 143; 145; 155; 165A; 169; and TNA JUST 2/212-242.
[101] A. Musson, 'Attitudes to royal justice in fourteenth-century Yorkshire', *Northern History*, 39, 2 (2002), pp.173-185.
[102] W. M. Ormrod, 'York and the Crown under the first three Edwards', in S. Rees Jones ed. *The government of medieval York: Essays in commemoration of the 1396 Royal Charter* (York: Borthwick Institute of Historical Research, 1997), p.28.
[103] J. A. Sharpe, 'Reviewed work: *Crime and conflict in English communities, 1300-1348* by Barbara A. Hanawalt', *IAHCCJ Newsletter*, 3 (1980), pp.12-14.

as, in themselves, types of violence. Suicide also appears in the royal documents, however, as it is not an interpersonal offence it has been excluded from this investigation. The offences covered by this thesis allow for a range of violence to be studied and facilitates comparisons with previous studies. As these offences include felony and trespass, and some that could be prosecuted as either, for simplicity all acts covered by this study will be referred to as 'violence' or 'violent crime'. The following sections now address each of these offences in turn.

Homicide

The late middle ages is a significant point in the history of homicide in England. This is because the separate crimes of murder and manslaughter did not exist in law. There was no legal distinction between murders committed by stealth and with malice aforethought or those where the perpetrator had killed openly in self-defence.[104] The later fourteenth century has many extant records, but as shown above has been dismissed by historians of crime due to its complex legal jurisdictions, unstable political climate, and disruptions due to pestilence which make the calculation of crime rates and the construction of criminal profiles difficult.[105] Consequently, the current understanding of homicide prosecution is deficient in several key areas. Chapters Three and Four show that that despite the absence of a legal distinction, the difference between 'cold', premeditated murder and 'hot', reactive slaying was part of the social consciousness.

Although in fourteenth-century England there was no legal distinction between murder and manslaughter, it should not be assumed that the law had never allowed for differences in severity of homicide. Prior to the Norman Conquest, there was a clear distinction between heinous murder which usually carried a capital sentence, and open homicide which was emendable by *wergild*.[106] In other words, this meant that the perpetrator was able to make amends for their crime with a financial payment to the victim or their family. Death was only deemed necessary for the evildoer, who killed through secrecy or stealth.[107] After the Conquest, he *Leis Wilhelmi* outlined *murdrum* and *homicidium* as two distinct crimes, although the death penalty was forbidden.[108] In *Leges Henrici Primi*, murder was made one of several unemendable offences, which meant that it should be punished by death. Nonetheless, it was

[104] Baker, p.589.
[105] Hanawalt, *Crime and conflict…,* p.8.
[106] T. A. Green, 'Societal concepts of criminal liability for homicide in mediaeval England', *Speculum*, 47, 4 (1972), p.686.
[107] T. A. Green, 'The jury and the English law of homicide, 1200-1600,' *Michigan Law Review*, 74, 3 (1976), p.416.
[108] Bellamy, p.57; and E. F. Henderson, ed. and transl., *Select historical documents of the middle ages* (London: George Bell and Sons, 1905), pp.7-9.

still not a synonym for homicide as that appeared separately. Neither of these post-conquest texts made any attempt to define murder or homicide.[109] Glanvill was more precise in outlining the two types of homicide: murder was secret slaying and *simplex homicidium* was most likely killings not amounting to heinous murder.

Yet, it was probably at this moment that any legal distinction between murder and homicide disappeared.[110] Thomas Green stated that until the twelfth century there was a difference between slaying openly or by stealth.[111] Milsom also reasoned that a change probably occurred circa the twelfth century, but he added that the mechanism is unclear.[112] Frederic William Maitland argued that murder was absorbed into homicide in the twelfth century when all slayings were made capital offences. Therefore, this removed the right of the kin of the victim to compensation.[113] This seems probable as Henry II wanted to forcefully prosecute serious crime.[114] If *wergild* survived into Henry's reign, it had disappeared, at least officially, within the first decade.[115] Therefore, although these categories had disappeared from law, they could still remain in the social consciousness of fourteenth-century England. Green suggested that recommending a pardon was a 'way out in cases where the community did not believe the defendant deserved to be hanged'.[116]

Krista Kesselring has suggested that the distinction between 'hot' and 'cold' killings could not be separated from 'assumptions about male and female bodies and behaviours'.[117] This is supported by William Lambarde, an Elizabethan legal writer, who stated that quick temper and ready violence was associated with manhood.[118] Yet, these are not early modern concepts, in fact they can be traced back to the Roman Empire and Ancient Greece. Galen's humoural theory outlined that women had an abundance of cold and wet humours, compared to the 'hot' and 'dry' temperament of men. Galen built on the Aristotelian principle that men and women were polarised – hot and cold, active and passive. These views were still circulating in the late middle ages; the thirteenth-century friar, Bartholomew the Englishman, drew on

[109] J. Hudson, *The Oxford history of the laws of England. Volume II: 871-1216* (Oxford: Oxford University Press, 2012), p.163; and Bellamy, p.57.
[110] Bellamy, p.57.
[111] Green, 'The Jury…', p.416.
[112] Milsom, *Historical foundations…,* p.422.
[113] Bellamy, p.57; and P&M ii, p.486.
[114] Hudson, p.182.
[115] N. D. Hurnard, *The King's pardon for homicide before A.D. 1307* (Oxford: Oxford University Press, 1969), p.9.
[116] Green, 'Societal concepts…', p.670.
[117] K. J. Kesselring, *Making murder public. Homicide in early modern England 1480-1680*. (Oxford: Oxford University Press, 2019), p.24.
[118] Ibid, p.24.

Aristotelian thought in his encyclopaedia.[119] Walker suggested that manslaughter was a masculine form of homicide. She argued that 'societal concepts of honour and violence had become conflated with legal ones', which made manslaughter an accepted, if not acceptable, fact of male culture.[120] Chapter Four shows that due to the connection between masculinity and excusable homicide, men could be pardoned, but in practice, women in late medieval Yorkshire were either guilty or innocent.[121]

Ravishment

Ravishment is an extremely complicated category with which historians have struggled.[122] Due to the Statutes of Westminster, 1275 and 1285, which sought to tackle abduction, there was a conflation of the issues of sexual violence, forced abduction or marriage, and even elopement.[123] This was exacerbated by the Statute of Rapes, 1382 (6 Ric. II. *Stat.* 1 c.6), which disregarded female consent due to the fact that legal action could now be initiated by the family of the victim.[124] It has been demonstrated by J. B. Post and Sue Sheridan Walker, among others, that many cases of ravishment were actually consensual elopements, marriages, affairs, or relationships, brought by a disappointed party or disapproving family.[125] Those cases are not the concern of this thesis. To mitigate against the inclusion of consensual affairs in a study of violence, all entries which do not elaborate beyond the word *raptus* have been excluded. The cases included in this study meet at least one of the following criteria: they were against the will of the victim, *contra voluntatem suam*; there is a suggestion of violence with words such as *vulneravit* or *violavit,* wounded or violated; or the case was brought at the suit of the victim via an appeal. Such cases are referred to as 'forced ravishment'; this is modern terminology, but it is a useful category as it focuses on cases of violence.

[119] J. Cadden, *The meanings of sex difference in the middle ages: Medicine, science, and culture* (Cambridge: Cambridge University Press, 1995), p.24 and pp.183-184.
[120] Walker, pp.124-125.
[121] Argument has also been expressed by Garthine Walker for early modern Cheshire. See Ibid.
[122] G. Seabourne, *Imprisoning medieval women the non-judicial confinement and abduction of women in England, c.1170-1509* (Farnham: Ashgate, 2011), p.91.
[123] C. Dunn, 'The language of ravishment in medieval England', *Speculum,* 86, 1 (2011), p.69; Saunders, p.58; and J. B. Post, 'Ravishment of women and the Statutes of Westminster', in J. H. Baker ed. *Legal records and the historian* (London: Royal Historical Society, 1978), pp.150–160.
[124] 6 Ric. II. *Stat.* 1. c.6 in A. Luders et al. eds. *The statutes of the realm: Printed by command of his majesty King George the Third, in pursuance of an address of the House of Commons of Great Britain. From original records and authentic manuscripts,* Volume II (London: Dawsons of Pall Mall, 1816), p.27.
[125] A. Musson, *Boundaries of the law: Geography, gender and jurisdiction in medieval and early modern Europe* (Aldershot: Ashgate, 2005), p.92.

Raptus was seen as a uniquely male offence. Men were the perpetrators and women the victims.[126] The twelfth century treatise on English law known as Glanvill defined rape as 'that in which a woman charges a man that he has violated her by force'.[127] In a Year Book case from 1304, it was outlined that a woman cannot ravish another woman.[128] The gendered perception of the perpetrators of rape has endured until the present day. Although modern society may accept the theoretical concept, and even reality, of a female perpetrator of rape, this is still not technically possible in law. A cisgender woman cannot be charged with rape as defined in the Sexual Offences Act (2003). Furthermore, although a woman can be charged with assault by penetration or sexual assault, this Act contains gendered language within the legal definitions of those crimes. Both definitions use the word 'he' to describe the perpetrator. Therefore, the Act 'infers that only males can commit such crimes'.[129]

Bloodshed

Petty violence has been dismissed as 'the small change of illegal behaviour', but it is more common than felonious violence; hence, to exclude lesser forms of violence is to misrepresent the overall picture of prosecution.[130] The manor court records are a particularly useful source because they list cases of bloodshed. Mark Bailey found that each vill was required to present 'whether blood has been shed… how and by whom, and whether the parties have been attached'.[131] The result is that each of the court rolls contains a list of bloodshed presentments. While these are invaluable in facilitating a study of the prosecution of violence at village level, bloodshed presentments usually consist of enigmatic one-line entries. Each case of bloodshed in these Yorkshire rolls is typically a single sentence stating the attacker, the victim, and the level of the amercement, in other words the financial penalty.

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[126] J. S. Loengard, 'Legal history and the medieval Englishwoman: A fragmented view', *LHR*, 4, 1 (1986), p.166. Thirteenth-century statutes did change this, both boys and girls could be victims of ravishment in its broader sense. However, this thesis is focusing in on 'forced ravishment'. Males could not be victims of sexual violence, while they could be abducted no cases with male victims were found in the Yorkshire rolls. See Seabourne, Chapter 4, ''Countless ravishments of women'? Legislation and other royal initiatives'.

[127] Glanvill cited in J. M. Carter, *Rape in medieval England: An historical and sociological study* (Lanham: University of America Press, 1985), p.6.

[128] A. J. Horwood, ed. and transl. *Year Books of the reign of Edward the First: Years 1304-1305*, Vol. 4 (London: Longman & Co.,1864), pp.316-321.

[129] N. L. Fisher and A. Pina, 'An overview of the literature on female-perpetrated adult male sexual victimization', *Aggression and Violent Behavior*, 18, 1 (2013), p.55.

[130] W. J. King, 'Untapped resources for social historians: Court leet records', *Journal of Social History*, 15, 4 (Summer, 1982), pp.699-705; and Sharpe, 'The history of crime…', p.192.

[131] M. Bailey, ed. *The English manor c.1250-c.1500* (Manchester: Manchester University Press, 2002), p.223.

The presentments do not expand beyond the standard phrase *traxit sanguinem* and thus it is not possible to assess the severity of each attack.[132] Yet, based on the requirement for the vill to present 'whether blood has been shed' Rosalind Russell convincingly argued that the shedding of blood was a 'genuine threshold at which an assault became the court's business'.[133] In other words, while the severity or location of the injury is unknown, the attacker literally shed the blood of the victim. This hypothesis is supported by the fact that many European law codes also focused on the drawing of blood.[134] The concern with blood, rather than the severity of the attack, tells us something about the prosecution of violence, and the cultural significance of blood, in medieval Europe. As highlighted by Bettina Bildhauer, it is a literary trope to be saved by the prohibition of bloodshed. The most famous example, of which there are many medieval antecedents, is Shakespeare's Shylock who is unable to take a pound of flesh due to the law against drawing blood. Likewise, miracle tales often contain examples of potential victims saved by the ban on spilling blood, and those who decided not to shed blood rewarded. From these examples Bildhauer concluded that the presentment of bloodshed was not necessarily to prevent violence but rather to preserve the wholeness of the body.[135]

It could be argued that rather than cultural significance, the focus on bloodshed could be connected to the severity, and evidence, of the injury. However, an attack which did not shed blood could be much more serious than a small cut or scratch. Severe bruising to the face, or even broken limbs would have attracted far more attention than a small cut. There are only a few examples of violence brought by the victim, rather than as a presentment in the manor court rolls, and thus they have not been included in the scope of this study because they are too few in number for quantitative analysis. Also, they normally do not elaborate beyond standard terminology such as with force and arms, *vi et armis*, which could be a legal fiction. Nonetheless, there is a case with some detail which supports the argument that if presentments were limited to bloodshed, this is because it was culturally significant, rather than a more serious injury. For example, on the manor of Wakefield in 1316, Agnes, daughter of Geoffrey de Newebyggyng was appealed by Margery the Wrythe 'for assaulting her and breaking her head with a shingle'.[136] This attack was not a presentment, so one may assume that it did not result in blood being shed. Nevertheless, it appears to be a serious injury. Thus, it is unlikely

[132] He/she drew blood.
[133] R. Russell, 'Violence in the manor courts of Wakefield, 1300-1350' (Unpublished M.Phil. Thesis, University of Cambridge, 2016), p.11.
[134] B. Bildhauer, 'Blood in medieval cultures', *History Compass* 4, 6 (2006), pp.1050-1054.
[135] Ibid, pp.1050-1054.
[136] J. Lister, ed. *Court rolls of the manor of Wakefield. Vol. III: 1313-1316 and 1286* (Leeds: Yorkshire Archaeological Society, 1917), p.145.

that bloodshed was presented because it was more serious than other types of violence. However, it is important to caveat that the rolls contain no details on how the blood was shed.

Furthermore, blood had particular cultural meanings for women and the clergy. Female blood was considered inferior; it was thought that menstrual blood 'seeped out' because of a woman's inability to 'concoct blood to the same degree of cohesion as men'.[137] For the clergy, they were deemed to be so sacred that the Fourth Lateran Council banned them from all contact with blood, other than the blood of Christ.[138] The clergy were in turn prevented from shedding blood. The most famous illustration of this is from the Bayeux Tapestry where Bishop Odo wields 'a mace rather than a sword to circumvent canonical prohibitions against the shedding of blood'.[139] Nonetheless, it is possible to study the prosecution of the drawing of blood by, and against, women and the clergy through the use of manor court rolls. Although, as outlined by Phillipp Schofield, women and clergy were 'exempt' from membership of a tithing group, the manor court rolls contain presentments of bloodshed involving women and clergymen.[140] In other words, while women and clerks were not members of tithing groups and thus could not make presentments, attacks by and against them were still presented in the manor court.[141]

It has been argued that women were more likely to be prosecuted for minor violence than homicide. George Rudé found that in the nineteenth-century assizes, which heard the most serious, and all capital, crimes, only five per cent of suspects were female. However, in the quarter sessions, where lesser offences were heard, twelve per cent of suspects were women.[142] Hanawalt's figures are surprisingly similar; only five per cent of homicide suspects were female compared to eleven per cent in cases of assault. Hanawalt argued for the lack of female criminals by stating that the assault rate was 'just slightly higher' than that of homicide.[143] While it is undeniable that female suspects were still very much a minority, the work of both Rudé and Hanawalt suggested that women were two times more likely to be prosecuted for assault than homicide.[144]

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[137] Menstrual blood was also seen as dangerous, men who came into contact with it could be infected with leprosy and other incurable diseases. Bildhauer, p.1051.
[138] Bildhauer, pp.1049-1050.
[139] D. R. Bates, 'The character and career of Odo, bishop of Bayeux (1049/50-1097)', *Speculum*, 50, 1 (1975), p.6.
[140] P. R. Schofield, 'The late medieval frankpledge system: An Essex case study', in Z. Razi and R. Smith eds. *Medieval society and the manor court* (Oxford: Oxford University Press, 1996), pp.408-409 and Bradford TNA DL/30/129/1957; Conisbrough DA DD/YAR/C1/17, 20, 21, and 23; Methley WYAS MX/M6/1/3-15; and Wakefield YAHS MD/225/1/71-91.
[141] Bradford TNA DL/30/129/1957; Conisbrough DA DD/YAR/C1/17, 20, 21, and 23; Methley WYAS MX/M6/1/3-15; and Wakefield YAHS MD/225/1/71-91.
[142] Rudé, p.41.
[143] B. A. Hanawalt, 'The female felon in fourteenth-century England', *Viator*, 5 (1974), pp.257-258.
[144] Ibid, pp.257-258; and Rudé, p.41.

On the other hand, there has been very little written on minor violence committed by the clergy in manorial society. As shown above, the clergy were expected to be peaceable and perform a 'civilising' role in their community.[145] Unlike felonies, clergymen who were perpetrators or victims of lesser violence could be dealt with by the church courts. If a member of the laity attacked a clergyman, the punishment was excommunication, unless it was in self-defence or if the clerk was in lay clothing.[146] However, as shown in Chapters One and Two, the tithing group took it upon themselves to present cases of bloodshed involving clergy, as suspects and victims, to the leet court rather than allowing ecclesiastical authorities to handle the matter.

The sources

This study rests on a foundation of three types of legal record. The first source is the coroners' rolls, which facilitate the study of the most serious type of interpersonal violent crime, homicide. The second source is the gaol delivery rolls which provide an insight into medieval felony trials, and this thesis concentrates on cases of homicide and forced ravishment. Unlike the coroners' indictments, gaol delivery provides an insight into judicial outcomes. Finally, this thesis seeks to avoid the criticisms faced by Barbara Hanawalt of restricting 'crime' to felony cases through the inclusion of manorial courts.[147] These rolls provide details of the raising of the hue and cry and cases of bloodshed. This section now provides an overview of each of these three sets of records.

Coroners' rolls

The rolls of the coroner have been recognized by historians as a valuable source and they have underpinned the second wave of socio-legal research.[148] These records are unmatched in value because they captured the first judicial event after a murder was thought to have been committed. The coroner, coming from the Latin *corona* meaning crown, was a royal official.[149] This office is still familiar to us today. Nevertheless, the remit of the medieval coroner was far-

[145] D. E. Thiery, 'Charitable constraint: The sacred obligation of charity as a protective force in late medieval England', in T. B. Lambert and D. Rollason eds. *Peace and protection in the middle ages* (Durham: Centre for Medieval and Renaissance Studies, Durham University, 2009), p. 144.
[146] R. H. Helmholz, *The Oxford history of the laws of England: The canon law and ecclesiastical jurisdiction from 597 to the 1640s* (Oxford: Oxford University Press, 2003), pp.505-506.
[147] Sharpe, 'Reviewed work: *Crime and conflict…',* pp.12-14.
[148] Butler, 'Spousal abuse…' pp.61-78; and Thornton, pp.46-57.
[149] J. Masschaele, *Jury, state, and society in medieval England* (Basingstoke: Palgrave Macmillan, 2008), p.49; and S. M. Butler, *Forensic medicine and death investigation in medieval England* (London: Routledge, 2015), p.6.

reaching. Their duties covered an extensive range of felonious matters, and they played a crucial role in bringing criminals to justice. The office of the coroner was accountable for holding inquests, assembling juries, keeping records, and many other administrative or inquisitorial responsibilities. In addition to this, the coroner also heard appeals of approvers, which were criminal accusations of one felon against another, and they received abjurations of the realm. Moreover, the coroner attended, kept records of, 'pronounced', and thereby legalised outlawries in the county court. Coroners were responsible for valuing and collecting *deodanda,* which were objects that had caused a person's death, and they sometimes completed other duties such as inquiries concerning treasure trove and wreck of the sea. Finally, coroners also attended franchisal and other local courts when the death sentence was passed and executed.[150]

However, this study will concentrate on their most familiar obligation, holding inquests when a death had been sudden, unnatural, or occurred in gaol. It was the duty of the coroner to investigate all violent or suspicious deaths; he was required to determine the cause, and if necessary, identify the killer.[151] Although the coroners' rolls contain details of all sudden and unnatural deaths, as this study is concerned with interpersonal violence all cases said to be suicides or accidents will be excluded. The entries of homicide usually contained the phrase *felonice interfecit* but, as outlined above, this could cover the modern crimes of murder or manslaughter.[152]

When a body was discovered in late medieval England, it was the duty of the first finder to raise the hue and cry. After this the coroner was summoned and he convened a jury. The members of this jury were from the *vicini,* usually drawn from four neighbouring vills or parishes.[153] Unlike the modern jury, the members were not impartial. On the contrary, they were meant to be self-informing, knowledgeable of the people involved and circumstances that led to the death of the victim. Medieval jurors were perhaps closer to expert witnesses than modern jury members.[154] The coroner and his jury conducted an inquest, a proto-post mortem, over the body, in the place that it was found. It is for these reasons that Carrie Smith stated the coroners' rolls were one of the more useful sources in the study of late medieval society. The inquests were held locally and soon after the crime had been committed. Smith argued that this made coroners' rolls 'more reliable than' courts presided over by 'remote figures'.[155] Likewise,

[150] Winter, pp.203-204; Hunnisett, 'The origins…', p.89; and Musson and Powell, p.139.
[151] Hanawalt, 'The female felon…', p.254; Butler, *Forensic medicine…,* p.1; and TNA JUST 2/212-242.
[152] Feloniously killed.
[153] Butler, *Forensic medicine…*, p.2; and TNA JUST 2/212-242.
[154] Butler, *Forensic medicine…*, p.64.
[155] C. Smith, 'Medieval coroners' rolls: Legal fiction or historical fact?' in D. E. S. Dunn ed. *Courts, countries and capital in the later middle ages* (New York: St Martins' Press, 1996), p.115.

Carl Hammer argued that coroners' rolls were the most accurate source for studying medieval homicide because they are the closest in both time and space to the crime.[156]

Despite the praise from Smith and Hammer, the disjuncture between the original purpose of the rolls and the questions asked of them by historians must be addressed. Although the coroners' rolls have mainly been used for socio-legal research, they were primarily fiscal records. There are three reasons why a murder could be profitable for the Crown. Firstly, felons' chattels were forfeit to the Crown and their land was confiscated for a year and a day. It was the responsibility of the coroner to assess the value of chattels and then the escheator would collect and sell them. Secondly, *deodanda* were valued by the coroner and then sold by the escheator. Lastly, failure to comply with criminal investigations would result in a fine. This included, but was not limited to, failure to raise the hue and cry or the removal of a body prior to a coroner's inquest.[157] This is not to say that these rolls cannot be used to study the prosecution of violent crime; after all, they are full of slayings. However, as only the financial sources remain, they are not as fruitful as socio-legal historians would often like them to be. This can sometimes lead to over-speculation in an attempt to fill the gaps left by this source.

Turning now to the Yorkshire rolls, it is vital to firstly assess how much of the source material has survived. In his ground-breaking study on the coroner, Charles Gross found that there were usually four coroners per county, however there could be three or two.[158] Almost seventy years later, R. F. Hunnisett stated that there were usually three or four coroners per county.[159] Yet, it is difficult to reconstruct how many coroners were supposed to serve in medieval Yorkshire. The calculations of Gross and Hunnisett would suggest that there were between two and four coroners in each county at any one time. However, for a county the size of Yorkshire, this estimate is a little conservative. The coronership was typically for life, so a county could arguably see little turnover in a forty-year period. The extant rolls, on the other hand, show that at least thirty-two coroners served in Yorkshire from 1345 to 1385. This is because there were coroners for the city of York, the county of York, the three Ridings, and several liberties. This would mean that Yorkshire could have as many as fifteen coroners serving at once. Moreover, the extant rolls reveal that there were at least ten coroners active in Yorkshire in 1377.[160]

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[156] Hammer, p.4.
[157] Butler, *Forensic medicine…*, p.4.
[158] C. Gross, 'The early history and influence of the office of coroner', *Political Science Quarterly*, 7, 4 (1892), pp.660-661.
[159] R. F. Hunnisett, 'The medieval coroners' rolls', *The American Journal of Legal History*, 3, 2 (1959), p.108.
[160] TNA JUST 2/212-242.

The amount of material that survives varies for each of these different areas. The North Riding, which covered the Moors and part of the Dales but also the town of Scarborough, is the best represented Riding with twelve years of rolls surviving for the period concerned. In most of these years there is evidence of two coroners serving the Riding. Likewise, for the West Riding, covering the rest of the Dales and many rural settlements, there are extant rolls for eleven years of this study, with one or two men serving the area. However, for the rural East Riding, only the rolls of Thomas of Burton survive, covering five years. In addition, there was one coroner in each of the liberties of St Peter, St Mary, Holderness, and Whitby. In contrast to the poor coverage for the Ridings and liberties, rolls for the city and the county of York are more complete. There are surviving coroners' rolls for the city of York for all forty years covered by this study. Furthermore, in most years three coroners were named as having responsibility for the city. The county of York also has extant rolls for thirty-three out of the forty years, where between one and three coroners were named. The county coroners covered many rural villages as well as urban centres such as Doncaster, Tickhill, and Sheffield.

Assuming that there were permanently three active coroners in the city of York, then approximately eighty-five per cent of the rolls appear to have survived. However, this drops to around fifty-five per cent for the county; twenty-five per cent for the North Riding; twenty per cent for the West Riding; fifteen per cent for the East Riding; and between twenty and seventy per cent for the liberties.[161] Despite the uneven survival of this source, it still offers a unique insight into the investigation of homicide in late medieval England. Even so, the entries of *felonice interfecit* vary in terms of the information that they include. Some entries, particularly those from the Ridings, are very terse. Often these entries simply name the victim, the suspect, if known, and perhaps names of the jurors and coroner, and the date of the inquest. However, from this the gender of the victim, and if named, the suspect can be garnered. The more comprehensive entries, especially those from the city of York, provide the aforementioned details plus the murder weapon, occupation and place of origin of the suspect or victim, location of the murder, the date of inquest and of the attack, how long it took for the victim to die, the valuations of the weapon and the suspect's chattels, whether the suspect fled or the name of the gaol to which they were taken.

The Yorkshire records are not as detailed as the rolls in some other parts of the country. For example, the Northamptonshire coroners' rolls allowed Hanawalt and Thornton to engage

[161] This is a rough-and-ready estimate which assumes that the same number of coroners were in office through the period, and that one man was not responsible for multiple areas. For the smaller areas, this is also assuming that a sudden and unnatural death occurred every year.

in discussions of motive.[162] For the most part the Yorkshire rolls lack any description of the circumstances leading to the crime and rarely comment on motive aside from some cases of self-defence. However, this study would prefer to avoid making bold claims concerning motivations for violence for two reasons. Firstly, these 'motives' are often inferred by the historian rather than explicitly stated in the source, even in the more detailed entries. Secondly, coroners' rolls should not be used in an attempt to explain the reasons why the suspect decided to kill because that person may well be exonerated at gaol delivery. It is vital to remember that all suspects indicted by the coroner were exactly that, suspects.

At best the Yorkshire rolls contain details of the suspect and victim, including their place of origin and their status, which is an occupation for men and marital status for women. In addition, the rolls could also contain details of the weapon, including its valuation, the wound, the time between injury and death, the location and time of the slaying, and the chattels of the suspect. Some entries also contain a 'narrative' from the jury; this is typically not a full story, but rather a categorisation of the way in which the suspect acted, such as with malice or in self-defence. At their worst, the rolls only give the names of both the suspect and the victim, the fact that it was a case of homicide, and perhaps a location or a date of the offence. Even in the worst-case scenario, the rolls almost always given enough detail to extract the identity of both the suspect and the victim.[163]

In isolation, it could seem that one cannot glean much from an entry in the coroners' rolls. However, after reviewing thousands of entries, the nuances become clear. While the entries, like in any legal documents, are highly formulaic, it is the differences which are significant. For instance, why did the jury state this killing happened at night when they did not usually report on the time of day, or why does this entry state that the slaying happened *in regia via*, when so few cases include a precise location? Chapter Three explores the nuances of the coroners' rolls and argues that these details are not accidental. The jury are making specific judgements about the offence, which can only be analysed with the hybrid quantitative-qualitative approach adopted by this thesis.

[162] Thornton, p.48; Hanawalt, 'The female felon…', p.254; and Butler, *Forensic medicine…*, p.1.
[163] TNA JUST 2/212-242.

Gaol delivery

In addition to the coroners' rolls, the data from the trials at the Yorkshire gaol deliveries has been collected. This study represents a significant new contribution as there has been comparatively little analysis of the late medieval gaol delivery rolls, with Hanawalt's monograph concluding prior to the Black Death.[164] Having said that, the first-wave studies relied on trial records and serve as a useful comparison to the findings of this present investigation. Since then, the use of gaol delivery rolls has somewhat fallen out of fashion. As outlined above, Smith and Hammer placed more value in the coroners' rolls. Hammer thought that a local inquest was much more valuable than a trial held weeks, or even years, after the fact. He argued that the further removed that the records were from the crime itself, the less accurate they were likely to be.[165] There is some truth in the idea that the further from the crime the less reliable the record. However, this is not a problem unique to the middle ages. Furthermore, due to the framing of the methodological questions, this thesis is less concerned with the 'accuracy' of the details of the offence. The focus is more on how the violence was conceptualised by the jury and presented in the rolls.

After the decline of the general eyre, gaol delivery became increasingly important because it was now the principal method for prosecuting crime in the localities.[166] The point of gaol delivery was to try, or 'deliver', all of the prisoners and thus empty the gaol.[167] Consequently, gaol delivery rolls are an invaluable source for this thesis because it is a study of the dynamics of prosecution, rather than another attempt to quantify crime or profile criminals. The gaol records also allow for the study of ravishment in addition to homicide. However, as will be shown below, most of the violent crime they heard was homicide. The gaol delivery rolls are often painfully brief with many entries simply listing multiple offences and then providing the verdicts.[168] This brevity is no doubt a key reason why recent studies of medieval crime have gravitated towards the coroners' inquests. Regardless, the records of gaol delivery are crucial for this current project because they provide something that is characteristically missing from the coroners' rolls, the judicial outcome. The gaol rolls outline whether the defendant was acquitted. If they were not acquitted, then the rolls state whether the felon was sentenced to death, pardoned, or claimed benefit of clergy. Our understanding of

[164] Hanawalt, *Crime and conflict...*, p.8.
[165] Hammer, p.4.
[166] Ireland, p.65; E. G. Kimball, ed. *A Cambridgeshire gaol delivery roll, 1332-1334*, Vol. 4 (Cambridge: Cambridge Antiquarian Records Society, 1978), p.1; and Pugh, p.281.
[167] Kimball, p.19.
[168] TNA JUST 3/78-80; 141A; 143; 145; 155; 165A; and 169.

the high acquittal rates in late medieval England remains poor, as is our understanding of gender and judicial outcomes.

Prisons have often been considered as an archetypally modern institution.[169] While it is true that the prison that we recognise today was shaped in the eighteenth and nineteenth centuries, Henry II established the first national network of prisons in 1166. The Assize of Clarendon ordered that a gaol was to be built in every county 'from the money of the king' in order 'to guard those who shall be arrested'.[170] In this year, gaols were constructed by the sheriff of Yorkshire in the castles of York and Tickhill, yet Ralph Pugh stated the latter was not maintained.[171] Scarborough supplemented the county gaol at York castle, however it fell out of use as a gaol in the mid-fourteenth century, possibly due to its military role in the Hundred Years War.[172] There was also a town gaol in York, probably from 1248, which is referred to in the rolls as *Ebor' Ville* or *Ebor' Civitatus.*[173] From the reign of Edward I (1272-1307), gaols had to be sanctioned by the Crown. In practice this means that the right to have a gaol now had to be granted by royal charter. As outlined by Pugh, the aim of the king granting gaols was in order to restrict these rights and is linked to the Crown's new domination over the prosecution of crime. As a result, this reduced the number of prisons in private hands and moved towards a royal monopoly on imprisonment.[174] During the *quo warranto* proceedings, where Edward tested the rights of those claiming a franchise or privilege, some liberties, such as Blessed Mary, and St Peter, successfully held the right to a gaol, although they had to be delivered by the king's justices.[175] Furthermore, the Archbishop of York asserted his right to gaols at Beverley and Ripon. There is a delivery in Ripon in 1402, but no rolls for the period covered by this study. It is possible that there were no deliveries prior to 1402, or the bishop delivered the gaol himself.[176]

With the emergence of these gaols and the centralisation of royal power, there was a need to try, or 'deliver', all of the prisoners. As stated above, the fundamental aim of gaol delivery was to empty the prison.[177] A key conceptual difference between a medieval prison

[169] A. Sheridan, transl. *Discipline and punish: The birth of the prison by Michel Foucault* (Harmondsworth: Penguin Books, 1991), p.231.
[170] Henderson, pp.16-19; and C. Harding, et al., *Imprisonment in England and Wales: A concise history* (London: Croom Helm, 1985) pp.4-5.
[171] Pugh, p.84.
[172] Ibid, p.85; TNA JUST 3/78-80; 141A; 143; 145; 155; 165A; and 169.
[173] Pugh, p.98 and TNA JUST 3/78-80; 141A; 143; 145; 155; 165A; and 169.
[174] Pugh, p.95.
[175] P. M. Tillott, *A history of the county of York: the city of York* (London: published for the University of London, IHR by Oxford University Press, 1961), pp.491-498; and Pugh, p.309.
[176] Pugh, pp.297-298.
[177] Kimball, p.19.

and its modern counterpart is that it was predominantly a site of pre-trial custody rather than post-trial punishment.[178] In 1299, gaol delivery was added to the responsibilities of the justices of the assize, who were already travelling the country to hear possessory matters such as novel disseisin, mort d'ancestor, and darrein presentment.[179] In 1328, the thirty-seven English counties were divided into six circuits by the Statute of Northampton.[180] These circuits would remain largely unchanged until the nineteenth century.[181] Yorkshire was part of the northern circuit along with the counties of Cumberland, Lancashire, Northumberland, and Westmoreland.[182] A statute in 1330 (4 Edw. III, c.2) stated that gaols were to be delivered at least three times per year. However, in practice, Pugh found that in the early years of the reign of Edward III, it was more common for a gaol to be delivered twice each year.[183] A methodological problem arises when attempting to calculate how many gaol deliveries took place in the latter half of the fourteenth century. Bertha Putnam found that 'investigation of this difficult problem is rendered laborious by the omission from the Calendar of Patent Rolls of the normal commissions of Gaol Delivery'.[184] In other words, Chancery clerks now recorded that a commission of gaol delivery had been issued on the dorse of the patent roll only.[185] Therefore, these commissions have been omitted from the printed calendars and the original rolls need to be consulted.[186]

The reverse side of the patent rolls reveal that there were forty-three commissions to deliver gaols in Yorkshire from 1343 to 1363. Of these forty-three instructions, thirty-one can be matched to surviving gaol delivery rolls. It cannot be known whether the remaining twelve did not take place or whether the records of completed deliveries were not returned to the central administration.[187] Matters become more complicated when an extant gaol delivery roll cannot be tied to a commission. Although there were only forty-three commissions from 1345 to 1360, the surviving rolls indicate that there were at least fifty-three gaol deliveries. In 1346, the patent rolls include one commission for Yorkshire. On 7 July 1346, William Basset,

[178] Harding et al., pp.3-5.
[179] A. L. Brown, *The governance of late medieval England 1272-1461* (London: Edward Arnold, 1989), p.120.
[180] Pugh, p.281.
[181] Brown, p.120.
[182] Pugh, p.282.
[183] 4 Edw. III, c.2 in A. Luders et al. eds. *The statutes of the realm: Printed by command of his majesty King George the Third, in pursuance of an address of the House of Commons of Great Britain. From original records and authentic manuscripts,* Volume I (London: Dawsons of Pall Mall, 1810), pp.261-262; and Pugh, p.285.
[184] Putnam, p.20.
[185] Kimball, p.2.
[186] H. C. Maxwell Lyte, ed. *Calendar of the patent rolls* (London: H.M.S.O., 1898-1900), Edward III, Vols IV-XVI, and Richard II, Vols I-III; and TNA C 66/217-268.
[187] Maxwell Lyte, Edward III, Vols IV-XVI; and TNA JUST 3/78-80; 141A; 143; 145; 155; 165A; and 169.

Thomas Fencotes, and Richard of Blaykeston were commissioned to deliver the town gaol at York.[188] This gaol was delivered by these men on 11 September 1346.[189] However, even though there was only one commission for Yorkshire in 1346, the gaol of the liberty of St Peter and the gaol at York castle were delivered two and three times respectively in this year. There are clear examples of gaols being delivered without a commission recorded by Chancery. This seems to suggest that either the commissions recorded on the patent rolls were extra, or special commissions, or that once a commission had been issued it continued to run for several years.

Therefore, the best way to reconstruct a picture of gaol delivery in Yorkshire from 1345 to 1385 is to use the extant delivery rolls, the records of the trials themselves. This method is problematic for questions relating to the total quantity of business heard in gaol delivery because one is unable to assess how many, if any, rolls are missing. However, as identity and prosecution are the focus of this study, reasonable coverage of the county will suffice. General patterns can be teased out of a collection of rolls from different years and locations. If all the rolls from one gaol were lost that would be unfortunate, but one must accept if that were the case then that gaol would be beyond the scope of this, or indeed any other, socio-legal study.

Turning to the extant gaol delivery rolls, in the first twenty years covered by this study, York castle was delivered at least twice every year except for 1349, 1351, and 1362.[190] It is possible that plague was responsible for this disruption, however it cannot be known whether there was no delivery or whether the records did not survive. In 1351 and 1362, the justices of gaol delivery visited once. There are no extant rolls for York castle from 1367 to 1374. After this, the castle is delivered once or twice in most years up to 1385.[191] However, this does not mean that there were no deliveries in the county when the castle was not visited. While York castle was the main county gaol, smaller gaols appear in the delivery rolls every so often. *Ebor Ville* or *Civitatus,* was delivered in at least twenty-seven out of forty years. Although Scarborough fell out of use there is one delivery in this period of the gaol of Scarborough *Ville.*[192] In addition, the liberties of Blessed Mary and St Peter were delivered ten and nine times respectively.[193] The Archbishop's gaol at Beverley was delivered twice by royal justices in this period, but there are no rolls for Ripon until 1402.[194]

[188] TNA C 66/217 m.7.
[189] TNA JUST 3/78 m.46.
[190] TNA JUST 3/78-80/1; 141A; 143; 145; 155; 165A; and 169.
[191] TNA JUST 3/78/3; 80/1; 165A; and 169.
[192] Pugh, p.85; and TNA JUST 3/141A.
[193] TNA JUST 3/78; 79/2; 141A; 143; and 145.
[194] Pugh, pp.297-298.

There are also gaols which appear in the coroners' rolls from 1345 to 1385 for which there are no gaol delivery records such as Richmond, Pontefract, Leeds, Pickering, Conisburgh, and Ripon. Despite Pugh's claim that Tickhill gaol was not maintained after it was built in 1166, five suspects from 1345 to 1385 were imprisoned there after being indicted by a Yorkshire coroner. Nevertheless, Pugh's extensive work on gaol delivery likely supports the fact that no deliveries took place at Tickhill, and that those prisoners were, in all likelihood, transferred to another gaol for delivery. York castle was the county gaol for the vast region which surrounded it.[195] It had been the home of the county court since 1212 and was certainly the setting for the assizes from 1360.[196] It is likely that suspects were initially held in other prisons but transferred to the county gaol for trial.[197] There is evidence of people charged with committing violent offences in towns which had a castle gaol, such as Richmond, Leeds, or Pontefract, but their trial was in York.[198] Upon arriving at the gaol, the three or four justices would try each of the prisoners in turn. The business of gaol delivery could be quite diverse as king's justices could hear all felonies, including the 'crimes' of homicide, ravishment, assault, arson, robbery, burglary, and larceny.[199] All of these offences carried the maximum penalty, the loss of life and property. Therefore, as shown above, if any clerics had been appointed as justices of the assize, at the gaol they would then need to be replaced by a county knight because they were unable to partake in the shedding of blood.[200]

The consensus is that pre-modern criminal trials did not last long. Edward Powell found that in the fifteenth century justices were able to visit between six and eight gaols on the Midland circuit in just fifteen days.[201] Typically a delivery at York castle would only last for one or two days.[202] The gaol delivery rolls shed very little light on the process for selecting the jury or on how the trial was conducted. The latter point remains uncertain. However, Post's work on the extant jury lists and writs show that ahead of the justices arriving at the gaol, the clerk of the senior judge would instruct the sheriff to summon twenty-four knights, or other lawful men, who had a landed income of £5 per annum, from the *visne*, or neighbourhood,

[195] Ibid, p.84 and Tillott, pp.521-528.
[196] Pugh, p.308.
[197] Ibid, p.262.
[198] TNA JUST 3/78 m.19 d.; m.29 r.; m.42 r.; m.44 r.; JUST 3/79 m.15 d.; JUST 3/141A m.30 d.; and m.34 d.; JUST 3/141A; 143; 145; 155; 165A; 169; and JUST 3/145 m.6 r; m.19 r.; m.22 r; and m.43 r.
[199] Ireland, p.65 and TNA JUST 3/78-80; 141A; 143; 145; 155; 165A; and 169.
[200] Brown, pp.120-121.
[201] E. Powell, 'Jury trial at gaol delivery in the late middle ages: The Midland circuit, 1400-1429', in J. S. Cockburn, and T. A. Green eds. *Twelve good men and true: The criminal trial jury in England, 1200-1800* (Princeton: Princeton University Press, 2014), p.98.
[202] TNA JUST 3/78-80; 141A; 143; 145; 155; 165A; and 169.

where the crime was said to have taken place.[203] Post explained that the perfect jury list, of which many fall short, or do not even survive, lists the twenty-four men, who each had two pledges. The parchment was pricked with a dot next to the names of those present, with fines or an instruction to attach those who failed to attend. Twelve men were then sworn as jurors, and if fewer than twelve of the twenty-four came, then talesmen were added to the jury to replace the absentees.[204] The request for men with a landed income of £5 per annum may reflect a theoretical desire rather than an actual requirement. James Masschaele suggested that serving on the jury was viewed as a chore not a privilege and that the jurors who did not attend were generally men of higher status.[205]

It is unclear from the gaol records how the jury arrived at their verdict. The defendant could self-incriminate and confess to the crime.[206] However, in capital cases, the overwhelming majority of defendants stated that they were not culpable and put themselves on the country, that is, requested a jury trial.[207] Even if the defendant offered a general denial, the jury could still assess the plausibility of their plea and make judgements based on their demeanour.[208] Sir John Fortescue stated that as the jurors had been drawn from the locality of the crime, this enabled them to assess the credibility of each side.[209] For J. H. Langbein, 'medieval jurors came to court more to speak than to listen'; the verdict was reached before, rather than during, the trial.[210] On the other hand, the jury lists reveal that a major obstacle was that many of the men who had been summoned failed to attend the trial. It appears that in practice the assembly of a jury was 'haphazard' and 'rushed'. In other fora adjournments were common, but at gaol delivery talesmen seem to have been favoured over postponement.[211] This led to what Powell described as a 'clear pattern of repeated service' with officials such as coroners, tax collectors, hundred-bailiffs, and even jurors on other commissions serving on the gaol delivery jury.[212] Although the jury should all be from the same *visne* as the crime, and there have been many assertions that the jury was self-informing, these standards do not seem feasible if the jury was

[203] J. B. Post, 'Jury lists and juries in the late fourteenth century', in J. S. Cockburn, and T. A. Green eds. *Twelve good men and true: The criminal trial jury in England, 1200-1800* (Princeton: Princeton University Press, 2014), pp.65-68; and Powell, 'Jury trial…', pp.82-83.
[204] Post, 'Jury lists…', pp.65-68.
[205] Masschaele, p.135; and p.188.
[206] Ibid, pp.73-76.
[207] TNA JUST 3/78-80; 141A; 143; 145; 155; 165A; and 169.
[208] Powell, 'Jury trial…', p.106.
[209] Post, 'Jury lists…', p.76.
[210] J. H. Langbein, *Prosecuting crime in the Renaissance: England, Germany, France* (Cambridge, Massachusetts: Harvard University Press, 1974), p.314.
[211] Post, 'Jury lists…', pp.65-68.
[212] Powell, 'Jury trial…', pp.89-91.

supplemented at the last minute with talesmen. Ideally, the jury should come from the same hundred, if not the same vill, as the crime. However, it seems that the same county was an accepted catchment area in practice.[213]

Powell established that in the fifteenth century it was unusual to have one jury for an individual case. 'Batch trials' were far more common with one single jury hearing various cases.[214] The published Cambridgeshire gaol delivery roll from 1332 to 1334, on the other hand, suggests that there was one jury for each entry.[215] Nonetheless, this study has found that the gaol delivery rolls from Yorkshire demonstrate that the 'batch' method was employed; a number of cases were listed consecutively, followed by the juror verdicts at the end.[216] Perhaps due to the scale of business, it was impossible to swear in a new jury for each case. An extreme example from the Midland circuit is the session in 1412 that delivered ninety-one prisoners. If twenty-four men had been summoned for each case that would result in 2,184 potential jurors arriving at Nottingham gaol.[217] However, batch trials make the notion of a local and self-informing jury difficult to accept; Powell observed that when more than two suspects were tried by the same jury, the geographical link broke down. Nonetheless, while the jury cannot be described as self-informing, some of its members may have been.[218] Furthermore, in addition to any knowledge of the event or characters involved that the juror(s) may have had, the coroner and his roll containing the inquest would be present at the trial.[219]

As this study is limited to interpersonal violence, all entries that relate to property crime have been excluded from the dataset. Arson is primarily a crime against property; while it is possible that life could be lost, in that event, the rolls would likely state that there had been a murder, and thus it would be within the scope of this study. Another type of property crime is theft, which can be divided into three categories. Firstly, larceny, or the taking of goods, which is typically described in the rolls with the phrase *felonice furatus fuit*. All cases of larceny have been excluded as it is not an interpersonal crime. Secondly, burglary which usually featured the verb *deburgare,* is a theft which was proceeded by breaking into a building. While it is conceivable that this crime could escalate into violence, that is not a key component of the crime, so it has been excluded. Finally, robbery, which appears as *depredavit* or *roberia*, is

[213] Post, 'Jury lists…', p.69.
[214] Powell, 'Jury trial…', pp.82-88.
[215] Kimball, ed. *A Cambridgeshire gaol….*
[216] TNA JUST 3/78-80; 141A; 143; 145; 155; 165A; and 169.
[217] Powell, 'Jury trial…', pp.82-83.
[218] Ibid, pp.88-106.
[219] Hunnisett, *The medieval coroner,* pp.95-98.

theft from a person. There is a case for including it because robbery is an interpersonal crime and theoretically includes violence.

Conversely, the distinction between these three crimes is not as fixed in practice. The terms *depredavit, roberia, deburgare*, or *felonice furatus fuit* seem to have been used interchangeably, even within the same entry. Due to the synonymous nature of these terms, it is difficult to indisputably separate them. Therefore, it is impractical to include robbery but discount other types of theft. Moreover, even in cases of robbery, violence was seldom recorded. In her study of the Cambridgeshire gaol delivery rolls, Elizabeth Kimball only found one case of *roberia* which gave details of injury. Additionally, the jury's verdict did not mention violence; the felon was only guilty of theft.[220] It appears that even in cases of violent robbery, the key concern of the jury was the property offence. Therefore, as this thesis is interested in the prosecution of violent offences, rather than quantifying levels of violence, cases of property crime have been removed from the data. As outlined above, the focus is on homicide and forced ravishment.

An accused felon could be required to stand trial at gaol delivery for two reasons. Firstly, they were facing 'state prosecution', in other words they had been indicted as a result of royal justice such as a coroner's inquest or a sheriff's tourn. Alternatively, the suspect may have been appealed by a private individual, such as the victim or the victim's family. 'Public prosecution' via gaol delivery was extremely accessible; the sheriff only needed to be persuaded that the 'named person(s) likely committed the crime' for them to be arrested or summoned to trial.[221] This is both a strength and a weakness of this source. It is useful as it means that it was available for victims of crime from varying social levels. On the other hand, because the burden of proof was not very high in order to have somebody imprisoned, and the acquittal rate was typically between seventy to eighty per cent, those on trial cannot be described as criminals.[222] However, unlike previous socio-legal studies, this thesis is not a study of 'crime'. It has already been acknowledged that it is not possible to use these records create a profile of the 'typical criminal'.[223] This is instead a study of the interpersonal violence dealt with by the judicial system.

[220] Kimball, p.9; and p.50.
[221] Bubenicek and Partington, p.152.
[222] Ireland, p.64.
[223] Powell, 'Social research…', p.970.

Manor courts

The growth in the popularity of social history in the 1960s and 1970s saw a shift in the questions being asked of manorial records. While Maitland had used manor court rolls to unravel customary law, questions then turned to the everyday experience of the rural population in late medieval England. Nonetheless, although these questions are still of interest to economic historians, the last few decades have seen a renaissance in manorial legal history.[224] Despite this resurgence, there is still a major lacuna in the historiography of minor violence even though manor court rolls are able to provide a window into the punishment of bloodshed in late medieval village society.[225] This thesis draws evidence from four manors in the West Riding of Yorkshire: Wakefield, Conisbrough, Bradford, and Methley. Four different manorial courts have been chosen for this study because, as argued by J. Z. Titow, the idea of a 'typical' manor is a fiction.[226] Although, these manors have all been drawn from the West Riding to mitigate vastly differing local and socio-economic contexts. This study will provide a useful contrast to the traditional focus on manors in central and southern England.[227]

The manors in this study were all gifted to Norman families following the conquest in 1066; Wakefield and Conisbrough to the Warenne family, and Bradford and Methley to Ilbert de Lacy. During the fourteenth century, three of the manors fell into the hands of the Crown. Upon the death of John de Warenne in 1347, all of his Yorkshire estates, which included the manors of Wakefield and Conisbrough, were granted to Edmund of Langley, first Duke of York.[228] Methley had been seized by the Crown but was returned to John de Metheleye on 8 June 1323 when John was pardoned for rebelling against Edward II.[229] In 1327, the Crown took control of the remaining Lacy lands, including the manor of Bradford, and it was incorporated into the Duchy of Lancaster.[230]

All of these manors held the right of view of frankpledge, which was a proto-public prosecution for non-felonious offences. All males over the age of twelve were placed into a

[224] C. Briggs, 'Manor court procedures, debt litigation levels, and rural credit provision in England, c.1290-c.1380', *LHR*, 24, 3 (2006), pp.519-520.
[225] Sharpe, 'The history of crime…', p.192.
[226] J. Z. Titow, 'Some differences between manors and their effects on the condition of the peasant in the thirteenth century', *The Agricultural History Review*, 10, 1 (1962), p.7.
[227] Larson, pp.679-680.
[228] R. Fairbank, 'The last Earl of Warenne and Surrey, and the distribution of his possessions', *Yorkshire Archaeological Journal*, 19 (1906–7), pp.254-256.
[229] H. C. Maxwell Lyte, *Calendar of the patent rolls, Edward II, Volume IV, A.D. 1321-1324* (London: Mackie and Co.,1904), p.294.
[230] B. Duckett ed. *Aspects of Bradford: Discovering local history* (Barnsley: Wharncliffe, 1999), p.9.

tithing group to 'provide mutual surety of good behaviour'.[231] At the leet court, the common name for the view of frankpledge, which was typically held twice per annum, 'villagers had to report themselves and tell tales on one another'.[232] The jurors were the heads of tithings or chief pledges; they had to answer to the 'articles of the view'.[233] Chapter Four shows that women typically received lower amercements for bloodshed, but, this appears to have been shaped by their economic position, rather than legal or social identity.

The second matter dealt with by the manor court which is of interest to this study is the reporting of hue and cry. As outlined above, it was a community obligation to raise the hue and cry when you were a victim or witness to a crime; failure to raise the hue and cry would lead to an amercement for the vill.[234] Moreover, each presented case of hue and cry would lead to an amercement. If the hue and cry was found to be justified, then the wrongdoer would be fined, if unjustified, then the raiser would be amerced. Sandy Bardsley maintained that there was a blurring between the boundaries of false hue-raising and scolding and used this to argue that a suspicion of women's speech had developed by the late fourteenth century.[235] However, Chapter Two argues that although a higher percentage of the hue and cry raised by women was deemed to be unjust, male raisers often received higher amercements. Due to the brevity of the rolls, the historian is left with no understanding of how the court decided whether the hue and cry was justified. A further limitation of the manorial rolls is that the reason the hue and cry was raised is not usually recorded, and many cases of bloodshed are recorded without the hue and cry having been raised.[236] Nonetheless, the study of hue and cry is fundamental to understanding law enforcement and legal identity in rural communities.[237]

This is not the first time that court rolls from the manor of Wakefield have been used. Russell's study of violence at Wakefield concentrated on five published editions for the first half of the fourteenth century, and Hanawalt used some of the same material.[238] Likewise, Helen Jewell, who produced the published edition of the rolls from 1348-50, discussed violence

[231] Schofield, 'The late medieval frankpledge system…', p.408.
[232] P&M i, p.568.
[233] L. R. Poos, 'The rural population of Essex in the later middle ages', *The Economic History Review*, 38, 4 (1985), p.518.
[234] Lister, p.78 and p.120.
[235] S. Bardsley, *Venomous tongues: Speech and gender in late medieval England* (Philadelphia: University of Pennsylvania Press, 2014), pp.75-77.
[236] Müller, p.46.
[237] Sharpe, 'The history of crime…', p.192.
[238] 1306-09, 1312-17, 1322-33, 1338-40, and 1348-50. See Russell, 'Violence in the manor…'; and Hanawalt, *Crime and Conflict.*

in a subsequent article.[239] This thesis has not relied on the published material which is patchy and tends to focus on atypical years; instead the original manuscripts for Wakefield manor court from 1345 to 1365 have been used.[240] A twenty, rather than forty-year period as with the previous records, was chosen because bloodshed and hue and cry were more common than felonious violence. For Methley, which has not been studied for this purpose, there are twelve extant rolls for the same period.[241] The only surviving rolls for the manor of Bradford covering the period of this thesis begin and finish slightly earlier, covering the period 1338 to 1363. While the Bradford rolls begin in 1338, the first case of bloodshed or hue and cry is in 1341.[242] Finally, the only available rolls for Conisbrough are for: 1345-6, 1361-2, 1363-4, and 1380-1, however due to the sheer scale of the manor, there are a large number of bloodshed cases and the second highest rate of hue and cry.[243]

Summary of the introduction

This part of the introduction began with Milsom's infamous assertion concerning 'the miserable history of crime'.[244] This sentiment set the tone for a long time with legal historians paying less attention to pre-modern crime than to civil law. However, as has been shown, there is much to be untangled from the complex nature of homicide and ravishment in this period, through to how, and whether, the legal identity of women was conceptualised in criminal matters. Moreover, due to the lack of legal scholarship, the historiography of medieval crime has been dominated by social historians. There has been much condemnation of the work from the 1970s. While in this period historians of medieval crime did not necessarily ask the wrong questions, they often asked too much of their sources. As a consequence, the field of medieval crime stalled in the face of criticism and now lags behind other periods. This thesis aims to engage with the socio-legal quantitative approach to medieval court rolls. In response to the criticisms, it has evolved the central research questions. The emphasis is now on exploring patterns of prosecution, rather than counting crimes.

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[239] H. M. Jewell, ed. *Court rolls of the manor of Wakefield from September 1348 to September 1350* (Leeds: YAHS, 1981); and H. M Jewell, 'Women at the courts of the manor of Wakefield, 1348-1350', *Northern History*, 26, 1 (1990), pp.59-81.
[240] YAHS MD/225/1/71-91.
[241] WYAS MX/M6/1/3-15.
[242] TNA DL 30/129/1957.
[243] DA DD/YAR/C1/17; 20; 21; and 23. There are five other extant rolls for the period 1340-85, however Doncaster Archives is closed for relocation and there is no way of access any documents until they reopen.
[244] Milsom, *Historical foundations…,* p.403.

There were many criticisms in response to the first-wave of the socio-legal study of medieval crime. Some of these complaints can be tackled, such as the category of 'crime' being too diverse. This thesis addresses the problem of the classification of 'crime' by focusing in on interpersonal violence that was prosecuted by the 'state'. In adopting this framework, it is possible to have a common basis in all offences; the harming of one person by another person. However, it also addresses the criticism of limiting the scope of 'crime' to felony as this work considers various types of violence. Another problem which can be addressed is the application of quantitative techniques to pre-modern sources. The current investigation is primarily quantitative; thus, it takes the position that such methodologies can, and should, be applied to medieval court rolls. As highlighted in the discussion of the coroners' rolls, legal records are often so formulaic that a quantitative approach is vital in order to spot nuances and language which had particular connotations. The value of a combined quantitative-qualitative approach to legal records cannot be overstated; what the two approaches can tell the historian is very different. Quantification of this kind can reveal things that a solely qualitative approach cannot.

That being said, as explained above, the concept of 'data' cannot be readily applied to medieval legal records. A quantitative methodology can result in varying sample sizes for each research question. This is because each entry includes different information. Nonetheless, a study of identity and prosecution is less susceptible, but not immune, to changing reporting practices and the brevity or variation in entries. An indispensable aspect of interpersonal violence is the suspect and the victim. As a result, in the vast majority of the cases used in this study, the identity of both parties is obtainable.[245] Even so, one still needs to be mindful of varying datasets. This study confronts the issue of fluctuating datasets by ensuring that numbers and percentages are given so that the sample size remains transparent.

This work acknowledges the existence of the problem of small numbers. However, this dilemma is absolutely unavoidable for a study of the prosecution of violence which considers gender, due to the prevalence of male suspects and victims. It has been shown that all studies of crime which use the lens of gender encounter this problem and there is no easy solution because an imbalance of sex is characteristic of the data. In order to mitigate this problem, the clergy also serve as a control group within this doctoral work. Additionally, where possible comparisons will be drawn between the results of this thesis and previous studies. As highlighted in the first part of the introduction, a consideration of gender is vital, especially

[245] The few exceptions are cases with an unknown or unnamed perpetrator or victim.

when women are a minority, because failure to do so results in universalisation of the male experience.

As has been shown, there are many reasons why attempting to describe the 'reality' of crime is highly problematic. A key issue is the fact that not everyone in the rolls will have actually committed an offence, and many of those who did are missing from the records. It has been shown that previous studies were too ready to label the people in their sources as 'criminals' or 'murderers', even though the vast majority of these people were in fact acquitted. The low conviction rates make it difficult for historians to discuss 'criminals'. Instead, this thesis uses the language of 'suspect' or 'defendant'. There are two reasons why this distinction matters. Firstly, one cannot know whether the person was really guilty, and if they were acquitted then they are not in fact legally a 'criminal'. Secondly, this shift in languages helps to support the methodological move away from crime to the study of prosecution. The focus of this current work is not whether, or how much, crime was committed. Alternatively, the research questions concern the role that identity played in the dynamics of prosecution.

As this study also considers victims, it was desirable to employ a neutral word, however this proved difficult. 'Alleged victim' was considered. However, this term felt equally loaded, as if saying this *allegedly* happened; it has an air of disbelief. This thesis is not concerned with whether the violence happened, the interest instead lies in how it was conceptualised by the jury and the resulting judicial outcome. This thesis also acknowledges the difficulty of the term 'victim' when discussing sexual violence. Today, the term 'survivor' would be more appropriate. However, this work sought one term for the 'victims' of each offence, and 'survivor' was clearly not appropriate in cases of homicide, nor did it feel quite right for bloodshed. Hence, this study uses the word 'victim' with the caveat that it is not without its problems, but it is the least problematic term available.[246]

The biggest challenge facing those who wish to use legal records to quantify crime is not the cases which are in the rolls, but those which are missing. The 'dark figure' is an inescapable problem within the study of crime. There is no easy solution for this either. It is not possible to reconstruct a picture of the offences that went unprosecuted. Moreover, this study cannot deny that the late fourteenth century was a tumultuous period, which saw pandemic, warfare, and political challenges. Nonetheless, these challenges are not unique to the late fourteenth century. In fact, the first half of the century could be seen as equally

[246] A similar approach was adopted by G. Seabourne, *Women in the medieval common law c.1200-1500* (London: Routledge, 2021).

turbulent. These factors do affect the construction of criminal statistics and lead to problematic results for those seeking to quantify crime and create criminal profiles.

All of these issues support the need for fresh research questions. Chapters One and Two depart from the traditional focus of counting suspects and victims to instead ask whether legal or social identity may have affected the number of men, women, and clergy appearing in the coroners' rolls, gaol delivery records, and manor court rolls. Chapter Three moves away from a description of criminality. As an alternative, it concentrates on how homicide was presented by the coroners' jury and seeks to understand whether this varied by identity. Finally, Chapter Four tackles the important aspect of high medieval acquittal rates. It uses gaol delivery rolls, which have received less recent attention from social historians due to the brevity of the rolls. However, gaol delivery records are crucial in order to attempt to understand the high but unequal acquittal rates in late medieval England. This thesis also investigates whether benefit of clergy was still a clerical privilege or if it had become a legal fiction available to all literate men. Finally, Chapter Four, for the first time, uses manor court rolls to analyse amercements for bloodshed.

Chapter One: Suspects of Violence

Most violence prosecuted in fourteenth-century England was committed by and against men. The objective of this chapter is to better understand this picture through the tools of legal and social identity. It examines the identity of the suspects in the coroners' rolls, gaol delivery records, and presentments in the manor court. The key argument is that despite a male majority, the legal identities of medieval women and clergymen, shaped by aspects such as coverture and benefit of clergy, did not shield them from prosecution. This chapter delves further into the question of identity and prosecution through examining the numbers of suspects in each case and their relationships. It is argued that this is highly gendered, with women mostly appearing as co-suspects or in a subordinate role as an accomplice. This chapter then takes a closer look at the dynamics of prosecution through assessing economic motivations and the potential prejudice of medieval juries. It is argued that although the original purpose of these rolls was as economic documents, wealthy suspects are not overrepresented. Moreover, despite claims that medieval people were suspicious of outsiders, migrants do not appear to be overrepresented as suspects.

Homicide suspects in the coroners' rolls

This study identified 1,580 people listed as homicide suspects in the Yorkshire coroners' rolls from 1345 to 1385.[1] As shown in Table 1.1, an overwhelming majority, ninety-five per cent, of the named suspects were laymen. Owing to the male prevalence in criminal statistics, this finding was anticipated.[2] Moreover, similar results have been observed in all of the second-wave socio-legal studies that have used coroners' records to study homicide. In his work on the 1340s Oxford coroners' rolls, Carl Hammer found that the accused were 'virtually all male'.[3] This result should not come as a surprise, due to the disproportionate male population

[1] Based on surviving, legible rolls.
[2] B. Godfrey and P. Lawrence, *Crime and justice 1750-1950* (Cullompton: Willan Publishing, 2005), p.230; M. Eisner, 'Long-term historical trends in violent crime', *Crime and Justice*, 30 (2003), p.109; D. Taylor, *Crime, policing and punishment in England, 1750-1914* (Basingstoke: Macmillan Education UK, 1998), p.65; G. Rudé, *Criminal and victim: crime and society in early nineteenth century England* (Oxford: Clarendon Press, 1985), p.41; T. A. Green, 'Review of Society and Homicide in Thirteenth-Century England, by J. B. Given', *Speculum*, 54, 1 (1979), p.138.
[3] C. I. Hammer, 'Patterns of homicide in a medieval university town: Fourteenth-century Oxford', *P&P*, 78 (1978), pp.3-23.

in a medieval university town. Nevertheless, high levels of male-perpetrated homicide were also found by Mike Thornton in his study of the fourteenth-century Northamptonshire coroners' rolls. Thornton established that in 240 entries of homicide, there were only seven female suspects or accomplices.[4] Even Sara Butler's study of spousal homicide found that over eighty per cent of the suspects were men.[5] This pattern is not limited to the middle ages; a male bias is typical in criminal statistics from the thirteenth century through to the present day.[6] As outlined in the introduction, medieval men had full legal responsibility; hence, it was not expected that male legal identity would alter the numbers of laymen appearing as suspects.

Table 1.1: Identity of the suspects in the coroners' rolls, 1345-85.

	Total Suspects	Male Suspects	Clerical Suspects	Female Suspects
Number	1580	1509	36	25
Percentage	100%	96%	2%	2%

Source: TNA JUST 2/212-242.
Note: 'Suspects' refers only to those named as a principal suspect, either alone or with another person. This does not include those named as accomplices, which is address separately below. The identity of 10 suspects is unknown as these suspects were either not identified or named by the jury.

As this thesis treats laymen and clergy as separate identities, unlike in the previous studies of crime outlined above, it is possible to assess whether the overrepresentation of male suspects applies to both lay and clerical men. This is important for an examination of prosecution because of the clues that it can provide to answer the question of why more men are prosecuted for violence compared to women. The clergy could help to shed light on whether this is as a result of biological factors or gendered expectations. For medievalists this line of inquiry is particularly important as it begins to fill a lacuna in the social history of the clergy. As displayed above in Table 1.1, of the 1,580 homicide suspects, 36 were members of the clergy. While the number of clergymen appears low, they in fact make up two per cent of the suspects, and, as shown in the introduction, this is roughly in line with the total population of clergy in late medieval England. As a result, despite the Church's views on violence, the idea

[4] M. Thornton, '"Feloniously slain": Murder and village society in fourteenth-century Northamptonshire', *Northamptonshire P&P*, 67 (2014), pp.47-50.
[5] S. M. Butler, 'Spousal abuse in fourteenth-century Yorkshire: What can we learn from the coroners' rolls?', *Florilegium*, 18, 2 (2001), p.65.
[6] T. R. Gurr, 'Historical trends in violent crime: A critical review of the evidence', *Crime and justice*, 3 (1981), pp.295-353; M. Eisner, 'From swords to words: Does macro-level change in self-control predict long-term variation in levels of homicide?', *Crime and Justice*, 43, 1 (2014), pp.65–134; and Eisner, 'Long-term historical…', pp.83-142.

of a peaceable clergy, and the legal identity of clerks, the proportion of clergymen in the coroners' rolls is the same as in the general population, if not slightly greater.

At 25 out of 1,580, women made up a small number of the suspects. Hanawalt suggested that local officials were reluctant to indict women because trial juries were less likely to convict them.[7] Chapter Four investigates the conviction rates and punishments of each identity in order to test this hypothesis. In a further attempt to answer the question of why there were low numbers of female suspects, Hanawalt also suggested that this was because women were better at concealment.[8] This comment was based largely on the notion that women were overrepresented as suspects in early modern infanticide cases, but such cases are generally missing from medieval records. In support of this, none of the female suspects in this present investigation were in cases of infanticide.[9] However, there are two flaws with Hanawalt's conclusion. Firstly, the claim that women are better at concealment can only really be applied to infant deaths. The concealment of infanticide would have been much easier than covering up a homicide, both logistically and socially. Due to its size, the body of an infant would probably have been easier to conceal than an adult. Moreover, if the woman had managed to keep the pregnancy secret, then the community would not miss the baby, as they did not know of its existence. It would be harder to explain the sudden disappearance of an adult.

The second problem is that when comparing criminal statistics from two different periods, one must be sensitive to changes in the law. In 1624, An Act to Prevent the Destroying and Murthering of Bastard Children (21 Jac. 1, c. 2) was passed which introduced a presumption that there had been a homicide if the birth of an illegitimate child had been concealed.[10] As explained by Garthine Walker, 'concealment of death rather than homicide… became the fact to be determined in law'.[11] Therefore, early modern defendants could be charged with murther when all that was known is that they had concealed a birth. Of course, in some cases, a killing may have taken place. However, it is not inconceivable that an inexperienced woman, giving birth alone, perhaps in unsanitary conditions, could lose the child naturally. Romola Davenport outlined that 'first day of life is statistically the most

[7] B. A. Hanawalt, 'The female felon in fourteenth-century England', *Viator*, 5 (1974), p.256.
[8] Ibid, p.255.
[9] TNA JUST 3/78-80; 141A; 143; 145; 155; 165A; and 169; and TNA JUST 2/212-242.
[10] 21 Jac. 1, c.2 ('An Act to Prevent the Destroying and Murthering of Bastard Children', 1624) in A. Luders, et al. eds. *The statutes of the realm: Printed by command of his majesty King George the Third, in pursuance of an address of the House of Commons of Great Britain. From original records and authentic manuscripts*, Volume IV part II (London: Dawsons of Pall Mall, 1828), pp.1234-1235.
[11] G. Walker, *Crime, gender and social order in early modern England* (Cambridge: Cambridge University Press, 2003), p.151.

dangerous'.[12] The decision to conceal a stillbirth or neo-natal death could have been taken in order to avoid shame or suspicion. As a result of changes in the law, one cannot necessarily count the early modern women charged with murther among homicide suspects. It is likely to be much easier to prove concealment of death rather than homicide, hence one would expect to see more cases of 'infanticide' in the seventeenth century compared to the middle ages.

The number of female suspects in the Yorkshire rolls is in line with other studies.[13] Moreover, today women are still a minority among homicide suspects; in England and Wales during the year ending March 2018, women formed just nine per cent of homicide suspects.[14] As medieval women do appear in the rolls, this shows that they were not completely protected by their legal identity. Coverture did not protect married women from criminal prosecution. There is a case of a married woman indicted without her husband. In 1360, Isabella, wife of Nicholas del Werk' of York, was indicted, together with her sister and John of Ottelay, for the felonious killing of a chaplain. Although Isabella is referred to as being married, her husband was not indicted alongside his wife.[15] This is contrary to civil matters where 'a wife could not sue or be sued in her own right, but had to be accompanied in litigation by her husband.'[16] It cannot be known for certain that Nicholas was alive at the time of this indictment, however the entry reports that the crime took place in the house of Nicholas. If he owned the house, that suggests that he was still alive at the time of the homicide.

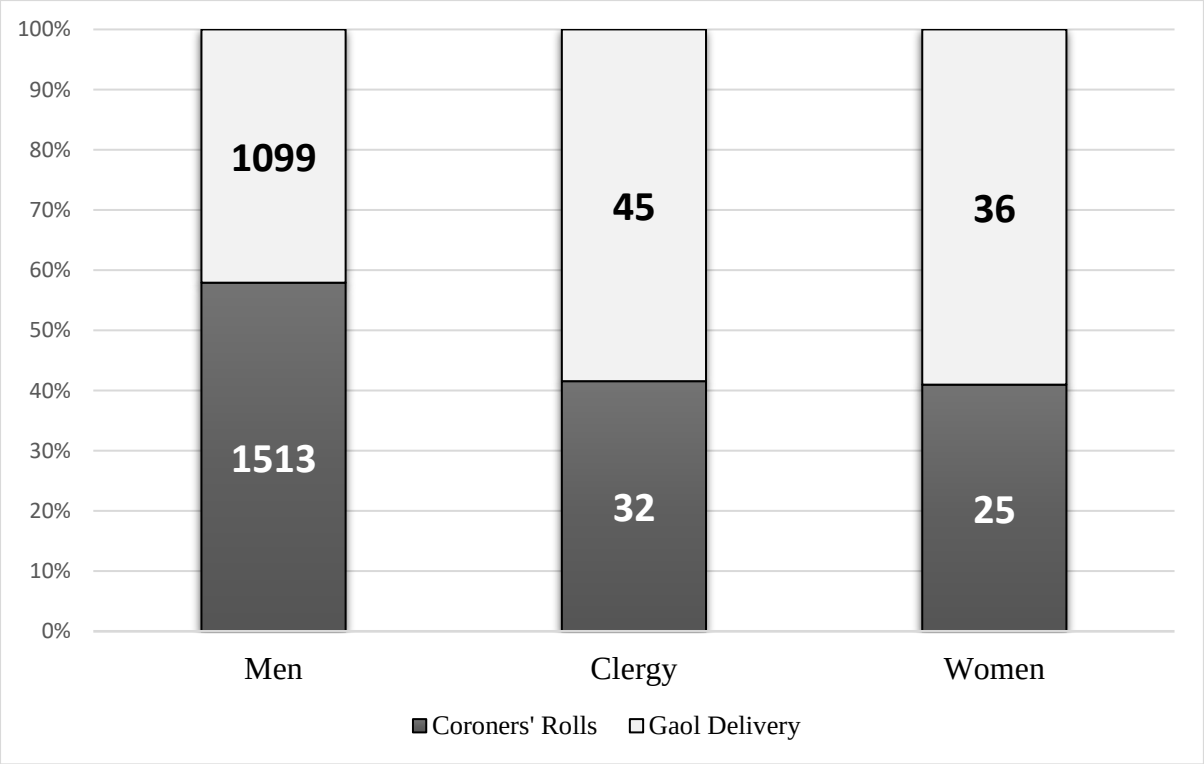
Suspects of violent crime in the gaol delivery rolls

The gaol delivery material presents a similar pattern to the coroners' rolls; most of the homicide suspects were men, with just 45 clerical and 36 female defendants out of a total of 1,180 defendants. Although there are only a small number of women and clergy compared to men, this represents a higher amount compared to the coroners' rolls; from two per cent of suspects to three and four per cent respectively. Likewise, the percentage of men appearing in gaol delivery is lower than the share named by the coroner and his jury. Only ninety-one per cent of the people who stood accused of a violent felony, and ninety-three per cent of those tried for homicide, at the Yorkshire gaol deliveries were male, compared to ninety-six per cent of the named suspects in the coroners' rolls. Nonetheless, this first result is closely comparable to

[12] R. Davenport, 'Urban family reconstitution — A worked example', *Local population studies,* 96, 1 (2016), p.46
[13] Thornton, p.49; and Hammer, p.13.
[14] M. Elkin, *Homicide in England and Wales: Year ending March 2018* (London: ONS, 2019), Appendix table 19.
[15] TNA JUST 2/215 m.9 (IMG 0018).
[16] C. Briggs, 'Coverture', Unpublished chapter for The Selden Society.

Hanawalt's finding that ninety per cent of the suspects in the gaol deliveries of the early fourteenth century were men, both lay and clerical. Hanawalt's data comprised of all of the offences heard at gaol delivery, and thus included non-violent offences.[17] This present investigation is solely focused on cases of violence in the gaol delivery rolls, specifically homicide, and 'forced ravishment'. Nonetheless, the male to female suspect ratio for all offences in the Yorkshire gaol rolls from 1345 to 1385 was collected for comparative purposes. The present study found that ninety-one per cent of those tried for non-violent offences in Yorkshire gaol deliveries from 1345 to 1385 were male.[18] Consequently, this shows that the sex ratios of suspects were roughly comparable for both violent and non-violent crimes.

Figure 1.1: Identity of homicide suspects in gaol delivery and coroners' rolls, 1345-85.



Source: TNA JUST 3/78-80; 141A; 143; 145; 155; 165A; and 169; and TNA JUST 2/212-242.

As the focus of this study is violence, the non-violent offences have been excluded from the rest of the data. All the same, it is important to note that the rolls of the coroner and gaol delivery are not directly comparable. For the purposes of this study, the gaol delivery material also includes those tried for 'forced ravishment'. In light of this, it is perhaps surprising that

[17] Hanawalt, 'The female felon…', p.254.
[18] This figure includes both lay men and clergy. TNA JUST 3/78-80; 141A; 143; 145; 155; 165A; and 169.

the share of male suspects is lower than those found in the coroners' rolls. In fact, one would expect the opposite to be true because, as outlined in the introduction, ravishment was seen as a uniquely male offence.

Table 1.2: Identity of the suspects and accomplices in the gaol delivery rolls, 1345-85.

		Total Suspects	Male Suspects	Clerical Suspects	Female Suspects
Raptus	Number	74	63	11	0
	Percentage	100%	85%	15%	0%
Homicide	Number	1180	1099	45	36
	Percentage	100%	93%	4%	3%
Accomplice	Number	159	130	5	24
	Percentage	100%	82%	3%	15%
Total	Number	1413	1292	61	60
	Percentage	100%	91%	4%	3%

Source: TNA JUST 3/78-80; 141A; 143; 145; 155; 165A; and 169.

Accordingly, as outlined in Table 1.2, it should not come as a surprise that there were no women tried in the seventy-four 'forced ravishment' cases in the Yorkshire gaol deliveries from 1345 to 1385. Hanawalt also observed that no women were charged with *raptus* in the first half of the fourteenth century.[19] Although one would not expect to find female suspects on trial for ravishment at gaol delivery, it is perhaps surprising that only sixteen per cent of suspects, twelve out of seventy-four, were documented as clergy.[20] In his study of the Midland circuit gaol deliveries from 1400 to 1429, Edward Powell observed a 'large number of clergy indicted for rape': 14 out of 49, 29 per cent, in Derbyshire, 50 out of 115, 43 per cent, in Leicestershire, and 80 out of 114, 70 per cent, in Warwickshire.[21] John Marshall Carter's historical and sociological study of rape in medieval England also found that members of the clergy made up the highest percentage of the accused.[22] However, Carter and Powell included all cases of *raptus* in their studies, whereas this thesis has limited its scope to cases which stated

[19] Hanawalt, 'The female felon…', p.258
[20] TNA JUST 3/78-80; 141A; 143; 145; 155; 165A; and 169.
[21] E. Powell, 'Jury trial at gaol delivery in the late middle ages: The Midland circuit, 1400-1429', in J. S. Cockburn, and T. A. Green eds. *Twelve good men and true: The criminal trial jury in England, 1200-1800* (Princeton: Princeton University Press, 2014), p.102.
[22] J. M. Carter, *Rape in medieval England: An historical and sociological study* (Lanham, Maryland: University Press of America, 1985), p.155.

force or violence. Carter attributed the high number of clerical suspects in his findings to economic motivations; he stated that 'literate men were accused more often as they had more money.'[23] There may have been an incentive to target wealthier men because of the higher chance of forcing them into an out-of-court pecuniary settlement. Powell and Anthony Musson ascribed the prevalence of clerks in ravishment cases to a desire to punish and slander immoral priests who were having consensual affairs.[24] Both of these reasons help to explain why, although dominant in cases of *raptus,* which may have been consensual or extortive, there is a smaller percentage of clergy in the most serious cases which purported violence or force.

When removing the cases of ravishment from the data, in order to directly compare homicide in gaol delivery with the coroners' rolls, as shown in Figure 1.1, the higher share of female and clerical suspects is even more apparent. For the same forty-year period, Table 1.2 shows that 1,180 people appeared before the justices of gaol delivery in Yorkshire to be tried for homicide.[25] Ninety-three per cent of the people who stood accused of homicide at the Yorkshire gaol deliveries were laymen. Forty-five of the suspects were clerks, which shows that clerical legal identity did not protect clergy from being tried by the laity at gaol delivery. Similarly, female legal identity did not shield women from trial as thirty-six appeared as defendants. Moreover, coverture does not seem to have protected married women from being tried at gaol delivery. For example, Isabella, wife of John of Northwell, was tried at York gaol on 22 July 1345 for feloniously killing Henry Chapman, and she stood trial without her husband.[26] Even though there are only a small number of women and clergy compared to men, there are forty-four per cent more women and thirty-four per cent more clergy in gaol delivery than in the coroners' rolls. It is argued below that this may be because women and clergy were less likely to flee from justice. However, this chapter first continues with its examination of the identity of suspects, and turns to its final jurisdiction, the manor court.

Suspects of bloodshed in the manor court

Across the four manors of Wakefield, Bradford, Conisbrough, and Methley, there were 885 people amerced for bloodshed. As with all violent offences, laymen made up the vast majority of the perpetrators; the overall breakdown being eighty-nine per cent laymen, ten per cent

[23] Ibid, p.155 and Powell, p.102.
[24] A. Musson, *Boundaries of the law: Geography, gender and jurisdiction in medieval and early modern Europe* (Aldershot: Ashgate, 2005), pp.93-94; and Powell, p.102.
[25] Based on extant and legible material.
[26] TNA JUST 3/78 m.18 (IMG 0047).

women, and one per cent clergymen.[27] As outlined below in Table 1.3, the numbers vary slightly from manor to manor. Nonetheless, it is clear that men are still the majority of those prosecuted for interpersonal violence, albeit a smaller majority than in the coroners' records and gaol delivery rolls. The share of men presented for bloodshed ranged from eighty per cent at Conisbrough to ninety-four per cent at Bradford.[28] At Methley eighty-eight per cent, and at Wakefield eighty-nine per cent, of people presented for bloodshed were men.[29]

Table 1.3: Identity of the people presented for bloodshed in manor court rolls, 1341-81.

	People Presented	Men Presented	Clergy Presented	Women Presented
Bradford	150	141	0	9
Conisbrough	51	41	1	9
Methley	72	63	4	5
Wakefield	612	544	8	60
Total	885	789	13	83

Source: Bradford TNA DL/30/129/1957; Conisbrough DA DD/YAR/C1/17, 20, 21, and 23; Methley WYAS MX/M6/1/3-15; and Wakefield YAHS MD/225/1/71-91.

The percentage of male suspects in previous studies of bloodshed also fall within the range found by this thesis. Miriam Müller found that at the manors of Badbury in Wiltshire and Brandon in Suffolk the percentage of male bloodshed presentments was eighty-six and ninety-one per cent respectively.[30] The published rolls from the manor of Wakefield from 1300-50 reveal that men made up eighty-six per cent of the bloodshed presentments.[31] Previous studies of bloodshed were not interested in clerical identity and therefore they failed to distinguish between laymen and the clergy. This thesis has found that across the four Yorkshire manors, there were only thirteen clergymen presented. At Bradford, there were no clergymen presented for bloodshed, and Conisbrough saw only one clerical presentment.[32] The rolls for the manor of Wakefield contain eight clerics presented for bloodshed.[33] While Methley, with four clerics presented, had half the number of Wakefield, it was a much smaller manor. Clerks made up six

[27] Bradford TNA DL/30/129/1957; Conisbrough DA DD/YAR/C1/17, 20, 21, and 23; Methley WYAS MX/M6/1/3-15; and Wakefield YAHS MD/225/1/71-91.
[28] Bradford TNA DL/30/129/1957; and Conisbrough DA DD/YAR/C1/17, 20, 21, and 23.
[29] Methley WYAS MX/M6/1/3-15; and Wakefield YAHS MD/225/1/71-91.
[30] M. Müller, 'Social control and the hue and cry in two fourteenth-century villages', *Journal of Medieval History*, 31 (2005), pp.40-42.
[31] R. Russell, 'Violence in the manor courts of Wakefield, 1300-1350' (Unpublished M.Phil. Thesis, University of Cambridge, 2016), p.25.
[32] Bradford TNA DL/30/129/1957; and Conisbrough DA DD/YAR/C1/17, 20, 21, and 23.
[33] Wakefield YAHS MD/225/1/71-91.

per cent of those presented at Methley, compared to just over one per cent at Wakefield.[34] The share of clergy appears to be extremely small, however they represent over one per cent of the people presented for bloodshed, and there were likely to be fewer clerics on the manors than there would be in the towns and cities of Yorkshire. Accordingly, the share of clerks presented for bloodshed is in line with expectations. The larger manors of Wakefield and Conisbrough had the highest share of women presented for bloodshed at ten and eighteen per cent respectively.[35] This level is similar to the data in the published rolls for Wakefield from 1300-50 which shows that fourteen per cent of people presented for bloodshed were women.[36] A similar pattern was also found by Müller on the Suffolk manors.[37] Yet, this pattern is not replicated in the Yorkshire manors of Bradford and Methley, where women formed just six and seven per cent respectively of those presented. On average, across the four manors, nine per cent of the people presented for bloodshed were women.

As with the coroners' rolls and gaol delivery, the manor court rolls indicate that married women were presented in their own right for bloodshed. In other words, a husband did not have to be jointly named in a presentment concerning the drawing of blood by his wife. For example, Agnes wife of William Walker was presented at Wakefield in 1349 for drawing blood from William de Pudsay.[38] Agnes's husband was only mentioned here to identify her, as part of her name. He was not presented alongside her and the resulting amercement, which is discussed further in Chapter Four, is assigned only to the wife. Caroline Barron found that both a husband and wife had to be named in civil litigation, even if the action was in practice only against the wife. Nevertheless, Barron uncovered that although a husband had to be jointly named when his wife was accused of trespass in the London courts, 'the wife could be expected to answer the bill on her own if the husband failed to appear.'[39] Barron contended that while assaults upon a wife or the loss of goods were to the husband's damage, 'the wife could prosecute and be prosecuted independently in city courts', but 'the initial bill had to cite both husband and wife'.[40] In contrast, the manorial presentments did not even jointly name the husband and wife. As shown, in the Yorkshire manors, married women were presented alone for drawing blood. Likewise, married women were also presented in the manor court alone for unjustified raisings

[34] Methley WYAS MX/M6/1/3-15.
[35] Conisbrough DA DD/YAR/C1/17, 20, 21, and 23; and Wakefield YAHS MD/225/1/71-91.
[36] Russell, p.25.
[37] Müller, pp.40-42.
[38] YAHS MD/225/1/74.
[39] C. M. Barron, 'The 'golden age' of women in medieval London', *Reading Medieval Studies,* 15 (1989), pp.38-39.
[40] Ibid, pp.38-39.

of the hue and cry, and other offences such as breaching the assizes of bread and ale.[41] Hence, coverture did not shield women from presentment in the manor court.

Hanawalt, also drawing on the published Wakefield rolls, advocated that the instance of women committing petty violence were rare. Moreover, she stated that the rate of female-perpetrated assault was 'just slightly higher' than that of homicide.[42] Even though it is undeniable that female suspects were still very much a minority, Hanawalt's own figures suggested that women were two times more likely to be prosecuted for bloodshed than homicide.[43] Bernard McLane used fourteenth-century trailbaston records to argue that women were more likely to be prosecuted for felonies than petty crime; he suggested that the local community was happy to handle misbehaving women via extra-judicial means and that women only appeared in legal fora when they had committed heinous crimes.[44] However, this study has shown that higher proportions of women were prosecuted for petty violence. Between six and seventeen per cent of the people presented for bloodshed were women. While it is more complicated to find a modern crime equivalent to bloodshed, similar levels of women appear as suspects for petty offences. From April 2019 to March 2020, twelve per cent of the offenders in incidents of 'violence with injury' were female.[45] Likewise, Rudé found that in the nineteenth-century quarter sessions, which heard lesser offences, twelve per cent of suspects were women. This was compared to his finding that five per cent of the suspects in the nineteenth-century assizes, which heard the most serious and all capital crimes, were female.[46] While Rudé's study, and both of these jurisdictions, also included non-violent offences, it is striking that the percentage of female suspects increases in less serious offences.

Marjorie McIntosh advocated that medieval society viewed misbehaving women as more of a problem than misbehaving men. By misbehaving, McIntosh concluded, medieval women were not only committing an offence, but they were also transgressing gender hierarchies.[47] If this were the case then one may expect to find a higher proportion of women prosecuted in the middle ages compared to today. If medieval jurors were troubled by female

[41] Bradford TNA DL/30/129/1957; Conisbrough DA DD/YAR/C1/17, 20, 21, and 23; Methley WYAS MX/M6/1/3-15; and Wakefield YAHS MD/225/1/71-91.
[42] Hanawalt, 'The female felon…', pp.257-258.
[43] Rudé, p.41; and Hanawalt, 'The female felon…', pp.257-258.
[44] B. W. McLane, 'Juror attitudes toward local disorder: The evidence of the 1328 Lincolnshire trailbaston proceedings', in Cockburn and Green, pp.52-53.
[45] 'Violence with injury' includes wounding and assault with minor injury. N. Stripe, *Nature of crime: violence* (London: ONS, 2020), Appendix table 8b.
[46] Rudé, p.41.
[47] M. K. McIntosh, *Controlling misbehaviour in England, c.1370–1600* (Cambridge: Cambridge University Press, 1998).

misbehaviour, then there may have been a greater propensity to prosecute transgressive women. Therefore, the relative stability in the proportions of women suspected of committing petty violence does not suggest that the Yorkshire data was unduly shaped by medieval social identity. Now that the identity of suspects has been examined for each of the three jurisdictions, the rest of this chapter continues to unravel the question of whether, and how, legal and social identity shaped prosecution. It also considers other factors such as economic motivations or xenophobia. This is done by analysing the number of suspects and accomplices, then their occupations and chattels, and finally their place of origin or ethnicity.

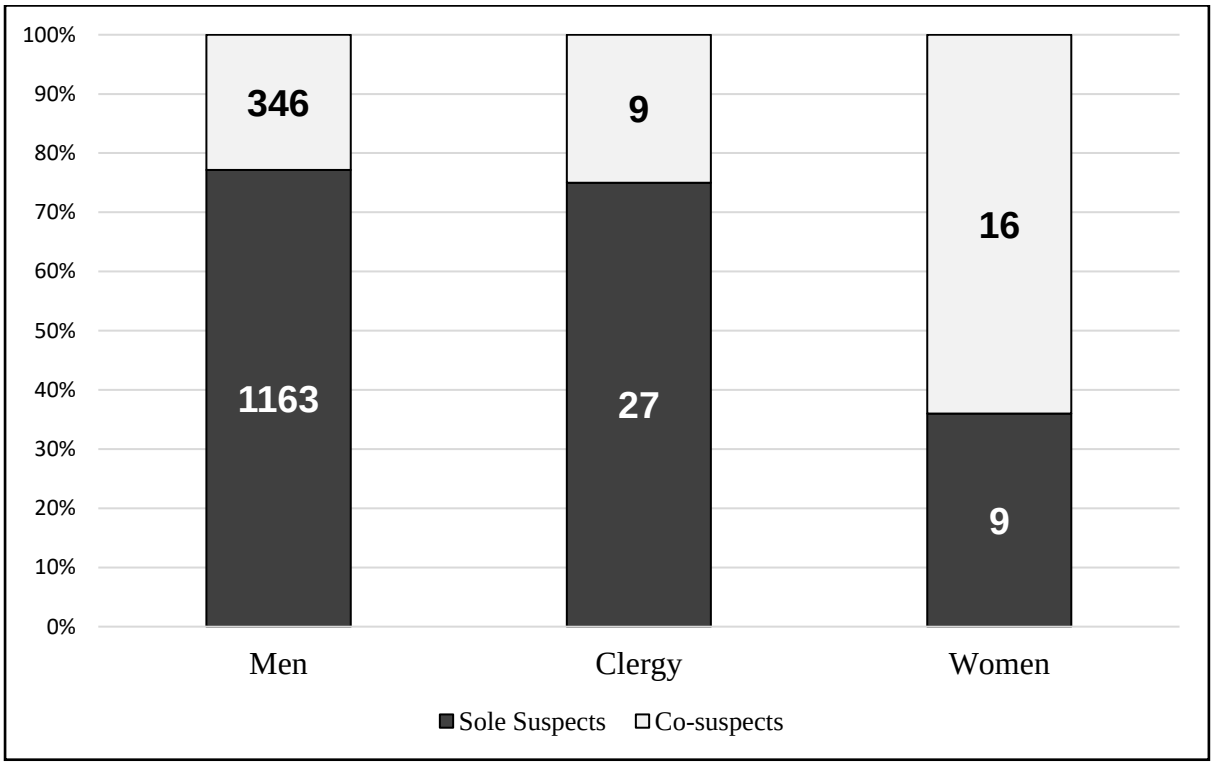
Sole and co-suspects in the coroners' rolls

This section examines whether the number of suspects in one case named varied by identity. Given argued that 'one of the most striking features of medieval homicide [was] its markedly collective character'.[48] This thesis defines people indicted in the same entry, for the same offence, as 'co-suspects'. For example, John son of Thomas of Greatham, and Alice, his wife, were indicted for feloniously killing Lucy Louper of Stokesley on 5 January 1347.[49] Naming more than one suspect could be economically beneficial to the local community, who were able to purchase their chattels at reduced prices. Nonetheless, this study found that out of the 1,570 alleged murderers named by the coroners' juries, 77 per cent were listed as the sole suspect.[50] This shows that homicide was overwhelmingly prosecuted as a solitary act, with over three-quarters of cases listing only one killer.[51] In her study on spousal abuse, Butler found that in ninety per cent of uxoricides the husband was the sole suspect. Butler used Given's conclusion to suggest that uxoricide went against the norm of the 'collective character' of medieval homicide and inferred that 'wife-slayers working alone is suggestive, emphasising the power relationship within marriage'.[52] On the other hand, when looking beyond spousal murder, it appears that singular suspects were characteristic within all types of homicide in the Yorkshire coroners' rolls. Likewise, Hammer also found that collective homicides were the minority in the Oxford coroners' rolls.[53]

[48] J. B. Given, *Society and homicide in thirteenth-century England* (Palo Alto, California: Stanford University Press, 1977), p.41.
[49] TNA JUST 2/213 m.5 (IMG 0019).
[50] As outlined above, the remaining 10 suspects were not named.
[51] NB: Others may have helped in some way, but they alone were said to have committed the violent act which led to the death of the victim.
[52] Butler, 'Spousal abuse…', p.64.
[53] Hammer, p.20.

The question of whether medieval homicide was typically prosecuted as a solitary or collaborative act can be considered further by separating the suspects by identity. Of the 1,199 sole suspects, 97 per cent were men, with the remaining 3 per cent divided between female and clerical suspects. By contrast, the 371 co-suspects can be divided as follows, 93 per cent were men, 4 per cent were women, and 2 per cent were clergy.[54] Unsurprisingly, on account of the male bias in the total number of suspects, most of the accused in both categories were men. Still, even though male suspects dominate both the sole and co-suspect categories, seventy-seven per cent of the male suspects were prosecuted alone. This finding fits with Butler's conclusion that wife-killers typically acted alone, but perhaps it can now be said that a solitary suspect is characteristic of male homicide more broadly, not just uxoricides.

Figure 1.2: Identity of sole and co-suspects in the coroners' rolls, 1345-85.



Source: TNA JUST 3/78-80; 141A; 143; 145; 155; 165A; and 169; and TNA JUST 2/212-242.

It is striking that the majority of male and clerical suspects were indicted alone whereas almost three-quarters of women were listed as a co-suspect. In his study of women and violence in late medieval Cerisy in France, Andrew Finch highlighted that a 'feature of female violence that is markedly different [to male violence] is the numbers of women who chose to attack in

[54] The unknown killers acted in the same case, therefore we cannot know how many unknown people acted, but the plural suggest that it was at least two. There were two victims in this case.

the company of another person.[55] Yet, Butler found that women who were suspected of killing their husband either acted alone or as an accomplice to someone from outside the household. This difference could be because the person that the women in Finch's study were said to have acted with was typically their husbands. Therefore, perhaps this is why the picture observed by Butler was a sole female or as an accomplice to someone outside of the home; they could not act with their husband if he was the victim. While accomplices are assessed below, it has however been shown that a sole woman does not fit the broader pattern of female homicide suspects in the Yorkshire coroners' rolls. Figure 1.3 indicates that when indicted, women were more likely to be named as co-suspects. Out of the twenty-five female suspects, nine were listed as solitary killers whereas sixteen appeared in cases where there was at least one other suspected culprit. Therefore, women were almost twice as likely to be listed as a co-suspect than they were to be named as the sole suspect.

Finch interpreted female collective violence as evidence that women were drawn into conflicts through the 'agencies of men'.[56] This conclusion appears to have been based on the idea that women were usually prosecuted alongside a close male relative. The pattern outlined by Finch has also been observed in other studies. Hanawalt found that two-thirds of women accused of murder were prosecuted with another person. Furthermore, a medieval woman's co-suspect was often a man, or a relative.[57] Given's findings mirror the work of Hanawalt; he also concluded that women were more likely to be tried for homicide with a family member.[58] This doctoral study also found that most women were prosecuted alongside another person. Almost seventy per cent of the women appearing as co-suspects in the coroners' rolls were indicted with members of their family. In the Yorkshire rolls, two of the female suspects were sisters, two women were named as suspects with their father, and seven women were listed as suspects with their husband. In contrast, for eighty per cent of the entries that named male co-suspects, there is no clear relationship between the accused men.[59] However, it is not clear that Finch's argument that female co-suspects were due to women being drawn into male conflicts can be applied to the Yorkshire homicide cases. It could equally be the case that men were drawn into female conflicts, but a closer examination of the cases is needed. The following section investigates if the gaol delivery rolls present a similar picture.

[55] A. Finch, 'Women and violence in the later middle ages: The evidence of the officiality of Cerisy', *Continuity and Change*, 7, 1 (1992), p.30.
[56] Ibid, p.30 and pp.38-39.
[57] Hanawalt, 'The female felon…', p.258.
[58] Given, p.144.
[59] Of the males who were prosecuted with family members the most common relationship was brothers, followed by father/son.

Sole and co-suspects in the gaol delivery rolls

The discrepancy between Butler and Given's findings may reflect that they were using different kinds of record. Butler's study is drawn from coroners' indictments whereas Given used trial records from the general eyre. Hence, gaol delivery rolls make for a better comparison with Given's data. Given found that sixty per cent of suspects were named along with a co-suspect.[60] Conversely, the Yorkshire gaol delivery rolls reveal that only forty-four per cent of those standing trial were co-suspects. Therefore, most of the suspects in gaol delivery were tried as the sole perpetrator. This again appears to speak against the idea that medieval juries thought homicide was perpetrated collectively. Nonetheless, it is clear that the proportion of cases with co-suspects is higher in gaol delivery than in the coroners' rolls. This bigger percentage of co-suspects may reveal the on-going judicial work between the indictment and the trial where additional suspects were arraigned. It could also help to explain the higher number of female and clerical suspects.

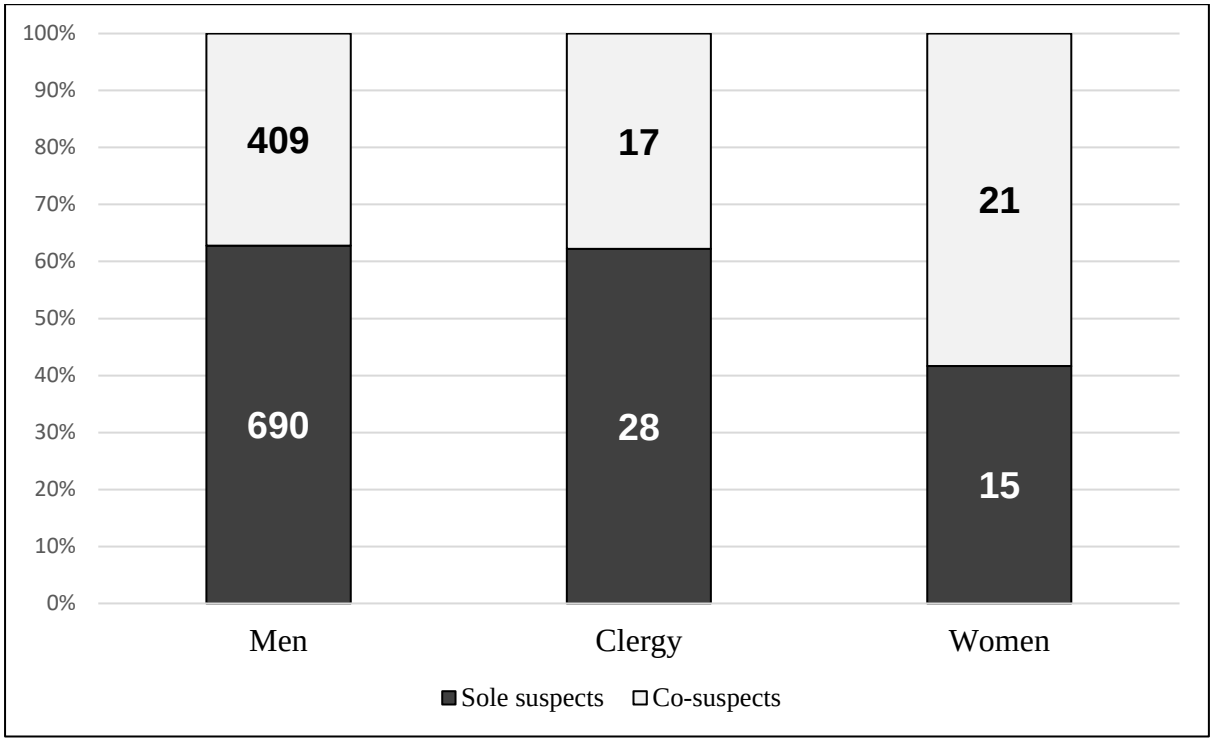
Alternatively, it could reflect that the cases with one suspect were less likely to make it to trial. This could be for several reasons; it was easier for one person to flee, obtain a pardon, agree an out-of-court settlement, or perhaps the authorities viewed these cases as less serious. Unfortunately, court rolls do not provide the historian with details on the cases that disappeared from the judicial process. It must also be considered that the cases in gaol delivery may not have begun with an indictment from a legal official. Instead, the case could have been initiated as a result of an appeal from the victim or their family. Chapter Two explores this further in its assessment of the appeal within a discussion of victims of interpersonal violence.

These rolls are able to shed light on the gender split of sole and co-suspects tried at gaol delivery. Again, they present a similar picture to the coroners' rolls; men and clergy were more likely to be tried alone. Women in both the coroners' and gaol delivery rolls were commonly prosecuted with at least one other suspect. In fact, seventy-three per cent of female defendants in gaol delivery were co-suspects, compared to sixty-four per cent in the coroners' rolls. This is a striking figure. Moreover, while most male and clerical suspects were still prosecuted as a sole suspect, there were many more co-suspects for both of these groups in gaol delivery. The percentage of male co-suspects is almost double at trial compared to the indictments. Likewise, there are a high share of clergy, thirty-eight per cent, appearing as co-suspects in gaol delivery compared to twenty-five per cent in the coroners' rolls. Although this study still cannot

[60] Given, p.41.

subscribe to Given's classification of homicide as collective, it is certain that gaol delivery presents a more collaborative picture than the coroners' rolls.

Figure 1.3: Identity of sole and co-suspects homicide by in gaol delivery rolls, 1345-85.



Source: TNA JUST 3/78-80; 141A; 143; 145; 155; 165A; and 169.

The pattern of women being indicted with a family member was not as apparent in gaol delivery, where only a third of violent female co-suspects were tried with relatives. Even so, out of all the co-suspects in gaol delivery, it was women who were most likely to be tried with a family member. This is compared to twenty-three per cent of male co-suspects in the gaol delivery and coroners' rolls who were tried with relations. Only 74 out of the 409 male co-suspects were prosecuted with family members. Forty-four men were prosecuted with brothers, twenty-three were parents/sons, and seven men were prosecuted with their wives. In contrast, when prosecuted with family, most women appeared with their husband. However, when men were prosecuted with kin, it seems that they were most likely to be tried with their brothers, and then with a parent or child. They were least likely to be prosecuted with their wife.[61] This difference is interesting because it shows that a spouse was not always the obvious co-suspect

[61] Fifty per cent of clerical co-suspects in the coroners' rolls killed with family. However, only a small percentage of clergy acted with a co-suspect, so this number is probably too small for analysis. In gaol delivery, where the proportion of clerical co-suspects increases, the amount that acted with family is only twenty per cent.

when prosecuting people in cases of violence; this appears to have been a gendered decision. Alternatively, this could be a sign of coverture creeping into criminal law. When a wife was suspected of homicide, perhaps her husband was also investigated whereas when the roles were reversed the jury were not as ready to suspect the wife's involvement.

Alternatively, this pattern may have more to do with social identity. It is vital to remember that these are male-voiced sources, recorded in a male environment. McLane suggested that 'women do not necessarily commit fewer violent crimes than men do, but social expectation permits women to evade punishment for their crimes.'[62] This comment is pretty categorical. Likewise, Butler suggested medieval juries may have struggled to believe a woman could commit such a heinous crime on her own and perhaps legal officials often overlooked the 'possibility of a female perpetrator'.[63] Therefore, it is possible that the role of women was underplayed, even if that may have been to their advantage. It is conceivable that if the jury were less willing to accept the notion of a sole female killer that there may be a more comprehensive search for a co-suspect than in the case of a sole male suspect**.** However, one must not be too ready to adopt this view, as it is perhaps an *argumentum ad ignorantiam.* The only evidence to support this claim is a lack of sole female suspects. It also undermines the concept of the medieval jury, which unlike our own was not impartial. Medieval jurors were supposed to be expert witnesses, who were knowledgeable of local people and their affairs.[64] Although one must not fall into the trap of assuming those named in the rolls were guilty, it would be equally rash to completely reject a jury's indictments. An investigation into the identity of accomplices, which may help to shed some light on social views concerning women and violence, follows after the assessment of the manor court rolls.

Sole and co-suspects in the manor court

The possibility of examining collective village violence was overlooked in Müller's article because it was incompatible with her methodology. In Müller's study, a presentment which featured two people drawing blood from one individual, was counted as two suspects but also two victims.[65] The methodology used by Müller is problematic as it leads to the double counting of suspects or victims. In contrast, this thesis does not double count suspects or

[62] McLane, pp.52–53.
[63] Butler, 'Spousal abuse…', p.65; and S. M. Butler, 'Women, suicide, and the jury in later medieval England', *Journal of Women in Culture and Society,* 32, 1 (2006), p.144.
[64] S. M. Butler, *Forensic medicine and death investigation in medieval England* (London: Routledge, 2015), p.36 and p.64.
[65] Müller, pp.40-42.

victims appearing in the rolls. For example, on 11 November 1349, at the manor of Wakefield, the vill of Ossett presented that Walter Maunsel drew blood from Alice, his sister. The next line states that Alice and Elliot Maunsel drew blood from Walter Maunsel.[66] Therefore, there are three suspects, Walter, Alice, and Elliot, but only two victims, Alice and Walter.[67] Nonetheless, the brevity of manorial court rolls makes it very difficult to recreate a picture of collective manorial violence. As outlined in the introduction, the presentments for bloodshed are much shorter than any of the entries in the royal records. The manor court rolls consist of enigmatic lines of brief presentments. The entries are usually limited to one sentence which contains the name of the suspect and victim, that blood was drawn, and the amount of the amercement. The only date that the record provides is the date of the session, detailed in a heading, before the list of presentments. Hence, it is unclear when the bloodshed occurred. In the case of Alice, Walter, and Elliot, it would be reasonable to assume that this was one incident, perhaps Walter attacked first, and Alice and Elliot retaliated. For the purposes of this study, Alice and Elliot, and other such cases, have been categorised as co-suspects. However, a limitation of the manor court rolls is that one cannot be absolutely certain that Alice and Elliot acted together. Their attacks could have taken place on separate days.

Even if one assumes that bloodshed cases such as the example of the Maunsels are evidence of co-suspects, a 'collective character' cannot be applied to the cases of bloodshed presented in the manor court. Across the four manors of Wakefield, Conisbrough, Methley, and Bradford, just six per cent of the people presented for bloodshed were listed along with another person and the same victim. Additionally, a more striking change compared to the coroners' records and gaol delivery rolls is that those presented with a co-suspect in cases of bloodshed were overwhelmingly male; fifty-five out of the fifty-seven of the manorial co-suspects were lay men. Only twenty-three per cent of these men appear to have been related to their co-suspect, which is comparable to the picture found in the coroners' and gaol delivery rolls which showed that male co-suspects were typically unrelated.

The similarity of the level and nature of male co-suspects of both homicide and bloodshed cannot be applied to female suspects. While women dominated the felonious co-suspects, only two of the fifty-seven manorial co-suspects were female. On the one hand, this confirms that there was no obligation for a husband to be co-presented for his wife's bloodshed. This is striking since bloodshed carried a financial punishment and under the doctrine of

[66] YAHS MD/225/1/75. The record does not reveal how, or if, Elliot is related to Alice and Walter.
[67] The alternative methodology would have counted this example as three perpetrators and three victims. Walter is a victim of two people, thus if counting the drawing of blood, he could be double counted.

coverture a husband controlled his wife's chattels.[68] Even though the manor fell outside of the scope of common law, Chris Briggs found evidence to indicate that married women employed coverture in manorial courts in order to avoid litigation.[69] Despite this, the legal identity of village women did not shield them from being presented for bloodshed, and being given a financial penalty, because the overwhelming majority of women were presented alone. On the other hand, pattern is in stark contrast to the female suspects of homicide, who were frequently co-suspects. This could reveal that medieval juries may have struggled to believe a woman could commit serious violence alone, or that the involvement of women in such cases was underplayed. In order to investigate this question further, the following section examines the identity of those named as accomplices.

Accomplices

There are two aspects which need to be considered when evaluating the collaborative nature of violence: the cases with more than one suspect, which have been discussed above, but also entries which featured accomplices. Even if only one person was indicted or tried for a felony, it is possible that they had accomplices.[70] While these people did not do enough to be legally responsible for the violence itself, they were prosecuted for assisting the principal suspect(s) before, during, or after the crime. For that reason, this section now turns to those named as accomplices in the coroners' records and gaol delivery rolls. For example, Richard Spynk of Sitlington was indicted for feloniously killing John Colier, of the same, with a knife. In addition, it was presented that Robert son of Henry del Milne of Sitlington aided and abetted (*fuit auxilians et abbettans*) Richard in the death of John. It is uncertain what Robert did to aid Richard in this murder. However, it is clear that, at least at this stage in the legal proceedings, it was not enough to cause him to be named as a co-suspect.[71]

This thesis defines anyone listed as 'helping' the principal suspect(s) in any way as an 'accomplice'. Notwithstanding, there were very few accomplices in the coroners' rolls. Only 107 suspects, 7 per cent of the total, were prosecuted with an accomplice. Eighty-one of these were sole suspects so the addition of an accomplice changes the picture from a solitary to a collaborative act. However, the remaining twenty-six people were already indicted with a co-

[68] C. Beattie and M. F. Stevens, *Married women and the law in premodern Northwest Europe* (Woodbridge: The Boydell Press, 2013), p.1. Punishments are discussed further in Chapter Four.
[69] C. Briggs, 'Coverture', Unpublished chapter for The Selden Society.
[70] There are no accomplices to bloodshed, the chief pledges only presented those who had drawn blood. Therefore, this section only uses the coroners' and gaol delivery rolls.
[71] TNA JUST 2/218 m.30 (IMG 0059).

suspect, so they have already been counted as 'collaborative' in the preceding discussion on co-suspects. Overall, even when considering accomplices, the Yorkshire coroners' rolls show that in the vast majority of cases the suspect was prosecuted alone, without any co-suspects or accomplices.

Nevertheless, trial records contain a greater number of accomplices. Given stated that a minority of suspects in the eyre were said to have acted completely alone, without any accomplices.[72] Despite the sparse appearance of accomplices in the coroners' rolls, 'intent-based culpability' was a feature of the medieval courtroom.[73] In other words, one could be prosecuted at gaol delivery for being present during the crime, knowing about it, or assisting in some way. In Yorkshire, 154 men, 34 women, and 9 clergy have been identified as suspected accomplices to a violent crime in gaol delivery from 1345 to 1385.[74] It may appear that women are again in the minority compared to men. However, less than ten percent of all male and clerical suspects appeared as co-suspects, whereas in contrast, forty per cent of the women who appeared in gaol delivery for a violent crime were there to be tried as an accomplice rather than a suspect. This is a crucial finding. It reflects a huge disparity; whereas ninety per cent of male and clerical suspects were charged with a violent felony, only sixty per cent of female suspects faced similar charges. A significant proportion of the women in gaol delivery were not the principal offender, they were only thought to have *assisted* a violent felony. Likewise, in his study of Surrey and Sussex from 1663 to 1802, J. M. Beattie also found that the majority of women tried for murder were supporting another suspect; only fifteen out of the thirty-four women who were charged with murder were the principal suspect.[75]

As seen above, Finch saw the high proportion of female co-suspects as evidence of women being drawn into male conflicts. Perhaps this could help to explain the high percentage of women tried as accomplices in gaol delivery. It is plausible that a wife may have had no choice other than to receive her felonious husband, after all her home was in fact his. Yet, this lack of female agency outlined by Finch becomes dubious when their own husband was the victim. For instance, on the Tuesday after Easter in 1352, Ralph Coke of Byrne was sentenced to hang for the murder of John Chapman, a fleshewer from Carleton. Agnes, the wife of the murdered John, was then tried as an accomplice to the killing. She was accused of knowing

[72] Given, p.41.
[73] E. P. Kamali, *Felony and the guilty mind in medieval England* (Cambridge: Cambridge University Press, 2019), p.81.
[74] Accomplices to non-violent crime also appear in the rolls but have been excluded from this study.
[75] J. M. Beattie, 'The criminality of women in eighteenth-century England', *Journal of Social History*, 8, 4 (1975), p.83.

about his death, *concensiens mortem,* although it is unclear whether this was before or after the fact.[76] The record is silent on the nature of the relationship between Agnes and her husband's murderer. Nevertheless, it is reasonable to assume that Agnes chose the side of the murderer at some point. It is not too much of a stretch to imagine that Agnes may well have welcomed her husband's death. Likewise, in Lent 1354, Alice, the wife of William of Thorp, was tried for knowing and helping John of Brigg kill her husband. The cases of Agnes and Alice cast doubt on the suggestion that the violence was not as a result of a conflict involving women because they had a close, if not the closest, relationship with the victim. In fact, Butler found that in the majority of mariticides the wife was named as an accomplice to a male suspect.[77] As a result, it is difficult to accept that women only appear in the records as a result of them being drawn into male conflicts.

The categorisation of women as co-suspects or accomplices can be read in two ways. The first interpretation is that these women were passive victims drawn into the conflicts of their male relatives. However, as shown above this is problematic when they were married to the victim. Moreover, this argument also flounders when considering cases that did not have a man on each side of the conflict. For example, at gaol delivery in 1372, Thomas Knot of Beswick was tried for feloniously killing Margaret, the wife of John Mody of Watton. At the same session, Lucia, the wife of Thomas Knot, was tried for aiding and abetting her husband.[78] As there was only one man involved in this case, it is impossible to state that Lucy was drawn into a 'male' conflict. At the very least Lucy found herself pulled into a conflict between a man and a woman. However, this case also appeared in the coroners' rolls, and this entry reveals more about the wife's involvement, although her name was recorded as Leticia.[79] She was said to have provided strength and support, *vi et auxilio,* to Thomas, and also abetted him. Those words seem crucial and important. The jury also stated that Leticia planned the murder and handed the knife to her spouse.[80]

Leticia's involvement now seems almost Shakespearean, reminiscent of a Lady Macbeth plotting and laying out daggers for her husband.[81] Lady Macbeth pleaded with the spirits to 'unsex' her so that she could carry out the murder herself, implying that femininity

[76] TNA JUST 3/79/1 m.7 (IMG 0054).
[77] Butler, 'Spousal abuse…', p.65.
[78] TNA JUST 3/165A m.17 (IMG 0081).
[79] All of the other details match so one can be confident that it is the same case. The same entry appears in three coroners' rolls, in each one she is called Leticia. As the coroner's jury were mostly to likely have known her, that is perhaps the correct version of her name.
[80] TNA JUST 2/218 m.53 (IMG 0104).
[81] W. Bowyer and J. Nichols, eds. *Macbeth. A tragedy. By William Shakespeare. Collated with the old and modern editions* (London: Bowyer and Nichols, 1773), Act 2, Scene 2.

and violence were incompatible.[82] This imagery of a goading wife can be misogynistic because it blames women for the actions of men.[83] However, a feminist reading of the women in the 'background' of these murders is that they are representative of female power and agency. Instead of being drawn into male conflicts, Dianne Hall found that the words of women in medieval Ireland 'had the power to plunge a group of men into violence'.[84] It could be argued that female co-suspects and accomplices were exercising power with, and through, men in a world where they were excluded from violence.[85]

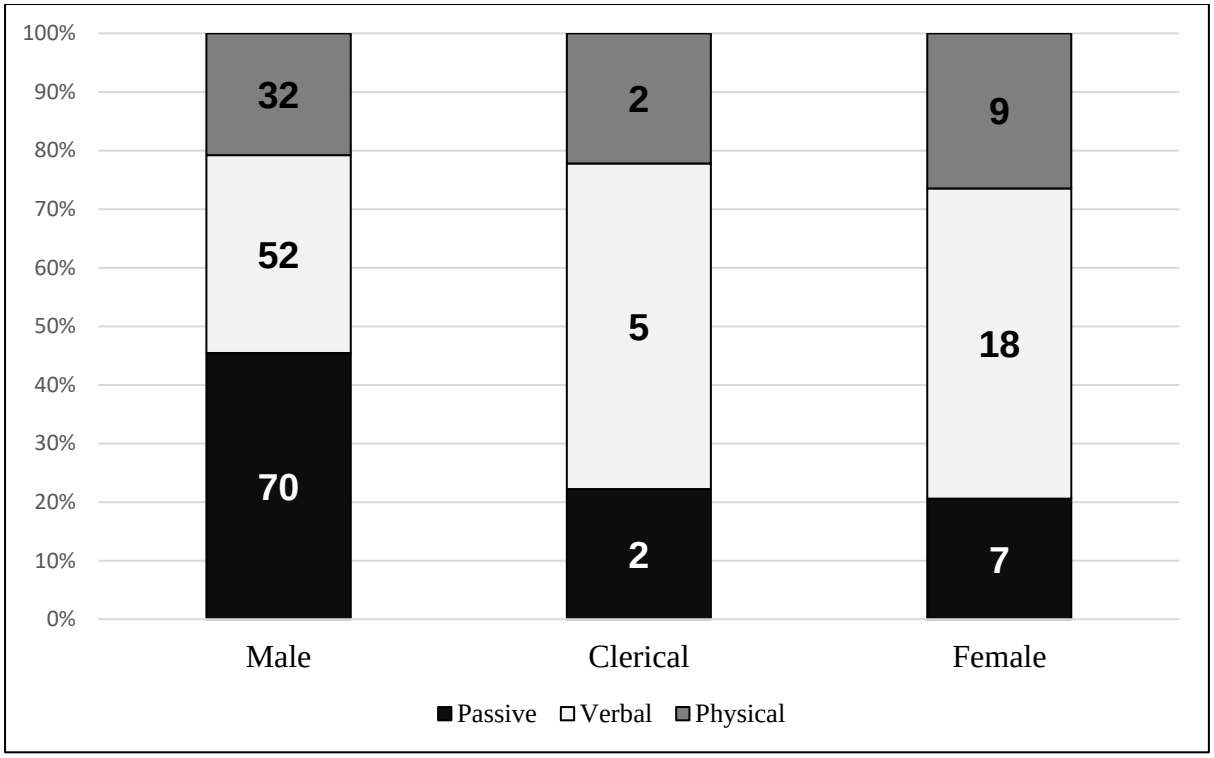
If women were in the background 'pulling the strings' and goading men into violence, perhaps a closer assessment of the nature of accomplices can shed light on this. The accomplices appearing in gaol delivery should not be treated as one coherent category. This modern classification disguises the variation of 'intent-based culpability' expressed within the rolls. Instead, a variety of Latin terms were used to describe the actions of those who played a lesser role in violent felony. In order to facilitate the analysis of different types of accomplices this study has divided them into three categories.[86] The first is the 'passive accomplice' which includes those who knew about the felony, were present, or received the felon.[87] Their only failing was not reporting or preventing the crime. This was described by Elizabeth Papp Kamali as an 'act of omission'.[88] The second category is the 'verbal accomplice'. This group supported, and perhaps even encouraged or controlled the felon, but with their words rather than actions. This ranged from agreeing to or approving the violence, through to planning or even ordering it.[89] The final group is the 'physical accomplice'. They provided strength and support, helped to move or to restrain the body of the victim, or assisted with force in some other way.[90]

If abiding by strict gender roles, one would perhaps expect male accomplices to fall into the 'physical accomplice' category. If women were either goading, or exercising power through, men it would be expected that they would predominantly appear as 'verbal accomplices'. With Lady Macbeth in mind, the term '*consilio*', design, plan, or counsel, seems

[82] Ibid, Act 1, Scene 5.
[83] The goading wife or mother was a feature of Viking culture. See K. M. Holcomb, 'Pulling the strings: The influential power of women in Viking age Iceland', *Student Theses, Papers and Projects (History),* 45 (2015), pp.1-23; and J. Tolmie, 'Goading, ritual discord and the deflection of blame', *Journal of historical pragmatics* 4, 2 (2003), pp.287-301.
[84] D. Hall, 'Words as weapons: Speech, violence, and gender in late medieval Ireland', *Éire-Ireland,* 41, 1&2 (2006), p.123.
[85] P. C. Maddern, *Violence and social order*: *East Anglia, 1422–1442* (Oxford: Clarendon, 1992), p.110.
[86] These are entirely modern categories created by this study to ease analysis.
[87] *Sciens, presentes, receptavit.*
[88] Kamali, pp.81-82.
[89] *consensu, assensu, consilio, precepit.*
[90] *Recussum, vi et auxilio.*

to be particularly gendered. The passive category is potentially gender neutral. On the one hand, cultural views based on gender regarded women as passive then perhaps it would be assumed that they would not act when witnessing interpersonal violence. However, if violence happened in 'male spaces', then men would be more likely to be present.

Figure 1.4: Accomplices by type and identity in the gaol delivery rolls, 1345-85.



Source: TNA JUST 3/78-80; 141A; 143; 145; 155; 165A; and 169.

The rolls show, as demonstrated in Figure 1.4, that the majority of female accomplices did fall into the 'verbal' category. Despite the small number of clerical accomplices, they were also predominantly in this category. However, the highest proportion of male accomplices were 'passive'. There were small numbers of 'physical accomplices'. Perhaps this is to be expected as there is a fine line between providing the murderer with physical support and being accountable for the victim's death. Nonetheless, it is worth highlighting that over a quarter of the female accomplices fall into the 'physical' category. This could suggest that social identity did not shape the prosecution of accomplices. In contrast, it is possible that the high number of female 'physical accomplices' was as a result of jurors underestimating the role of women in violence. It is feasible that a man in the same position would have been prosecuted as a co-suspect. In 1385, the coroners' jury presented that Robert Barde of Welton feloniously stabbed William, also of Welton, who then died. The jury also presented that Robert's wife Isabelle

had aiding and abetted her husband. However, Isabelle certainly cannot be described as a 'passive' or 'verbal' accomplice because the jury said that she stabbed William with a pikestaff. Isabelle appears to have taken a very active role in this murder. This case could support Hanawalt's argument that local officials may have been reluctant to indict women for violent felony.[91] To gain a greater understand of the homicides that were prosecuted as collective, the next section considers the relationship between co-suspects.

Social networks

Finch and Given also suggested that fewer medieval women committed murder, compared to men, because women had less active social roles; they travelled less, had fewer demands and obligations, and belonged to fewer social networks.[92] A network analysis of the co-suspects could help to shed some light on the role of identity in network formation. A limitation of this method is that the network not always evident in the rolls. For example, not all suspects have a place of origin recorded, and few have stated occupations. As shown in Table 1.4, the female and clerical co-suspects typical have network information available. On the other hand, only 270 out of 345, or 78 per cent, of male co-suspects in the coroners' rolls have network information. Likewise, eight-one per cent of men in gaol delivery have information on the network between co-suspects. Nonetheless, the majority of co-suspects provide network information, thus analysis is possible, with the caveat that not all entries can be assessed here.

The easiest network to form, outside the household, is perhaps with others who lived in the same town or village. The coroners' and gaol delivery rolls reveal that between twenty and twenty-seven per cent of male co-suspects were prosecuted with someone who came from the same place as them. For female co-suspects, this was between nineteen and twenty-five per cent. This suggests that men and women had almost equal opportunities to form networks in their home community. The percentage of male co-suspects who acted with individuals from a different village or town is roughly comparable with those were prosecuted with people from their locality. However, just one woman in each set of rolls was said to have done the same.

[91] Hanawalt, 'The female felon…', p.256.
[92] Given, pp.141-142 and Finch, pp.38-39.

Table 1.4: Social networks in the coroners' rolls and gaol delivery, 1345-85.

		Coroners' rolls			Gaol delivery		
		Male	**Clerical**	**Female**	**Male**	**Clerical**	**Female**
Family	**Number**	79	4	11	101	4	12
	Percentage	23%	50%	69%	25%	29%	57%
Same village	**Number**	69	1	4	112	5	4
	Percentage	20%	12.5%	25%	27%	36%	19%
Occupation	**Number**	28	0	0	22	4	0
	Percentage	8%	0	0	5%	29%	0
Different villages	**Number**	94	2	1	99	1	1
	Percentage	27%	25%	6%	24%	7%	5%
Total networks	-	270	7	16	334	14	17
Total co-suspects	-	**345**	**8**	**16**	**409**	**17**	**21**

Source: TNA JUST 3/78-80; 141A; 143; 145; 155; 165A; and 169; and TNA JUST 2/212-242.
Note: 'Percentage' is the percentage of the total number of co-suspects. i.e., for male co-suspects from the same village in the coroners' rolls, this is 69/345, or 20 per cent. 'Total networks' refers to the total number of co-suspects with have network information available, whereas 'total co-suspects' is everyone who appeared as a co-suspect.

An additional network that men could rely on which, at least in the rolls is lacking for women, was their occupation. This is not to suggest that women did not work, there are many studies to show that they did.[93] However, female occupations are almost completely absent for women in the coroners' and gaol delivery rolls. Conversely, thirty-two men were prosecuted with someone with a shared occupation or as a master/servant relationship. Therefore, if one were to use the rolls in isolation, it would appear that medieval women had smaller networks than men. Conversely, it feels a little counterintuitive to pursue a line of argument which suggest that men were more likely to kill because of their social networks when the vast majority of men were prosecuted alone. If anything, collaboration was more characteristic of women who feature heavily as co-suspects and accomplices. Occupations are considered in more detail below to gauge whether economic motivations skewed patterns of prosecution.

[93] See L. Charles and L. Duffin eds. *Women and work in pre-industrial England* (London: Croom Helm, 1985); B. A. Hanawalt ed. *Women and work in preindustrial Europe* (Bloomington, Indiana: Indiana University Press, 1986); J. M. Bennett, '"History that stands still": Women's work in the European past', *Feminist Studies*, 14 (1988), pp.269-283; and M. Kowaleski and J. M. Bennett, 'Crafts, gilds, and women in the middle ages: Fifty years after Marian K. Dale', *Signs: Journal of women in culture and society*, 14.2 (1989), pp.474-501.

Occupations of suspects

There are a number of ways to investigate the question of whether economic motivations shaped the identity of the suspects. The first is to examine their occupation to assess whether wealthier suspects were more likely to be accused than poorer ones. However, as this study focuses on a period prior to the Statute of Additions, 1413, there was no requirement for the occupation of a person to be included in the rolls. Only around 20 per cent, 344 out of 1,580, of the homicide suspects in the coroners' rolls have an occupation recorded. None of the female suspects found in the Yorkshire coroners' rolls had an occupation recorded. However, even the Statute of Additions would not remedy the problem of the under-recording of female occupations, as the requirement to list the condition of a woman was her marital, rather than occupational, status. There are two female suspects in the gaol delivery rolls who were noted as servants and both were tried for the same case as their masters.[94] Therefore, it is conceivable that the scribe deemed their status to be particularly noteworthy. It is possible that criminality was being deconstructed: the master was paterfamilias, a servant could be seen as less culpable as they were just 'following orders'.

Table 1.5: Occupations in the coroners' rolls, 1345-85.

Primary	Agriculture	Animal husbandry			
Total: 18	1	17			
Secondary	Textiles	Food industries	Building	Metal	Other Manual
Total: 162	80	29	20	15	18
Tertiary	Servant	Law/Admin	Religious	Selling	Other Service
Total: 164	88	18	32	11	15

Source: TNA JUST 2/212-242.

As shown in Table 1.5, there is significant evidence of York's importance in the textile trade, with tailors, skinners, glovers, hatters, walkers, and websters all appearing as suspects. While 'textiles' is a large occupational group, the vast majority of suspects did not have a stated occupation. It may be reasonable to assume, as Given did, that the suspects without a recorded occupation were peasants.[95] It is noteworthy that for the vast majority of suspects from outside of the city of York, no occupation was stated.[96] In addition, there is little evidence to support the notion that the wealthiest, or at least highest ranking, members of society were the targets

[94] TNA JUST 3/145 m.44 (IMG 0217). and TNA JUST 3/145 m38 (IMG 0082).
[95] Given, p.82.
[96] TNA JUST 2/212-242.

of indictment. In fact, Given noted that 'members of the nobility do not seem to have frequently involved themselves directly in murderous assaults.'[97] The use of the word 'directly' is interesting; this could be a sign that servants engaged in violence were acting on orders of their superiors. Hanawalt suggested that servants would be prepared to risk would risk 'life and limb for their masters'.[98]

This study has found that there were eighty-nine servants, *servientes*, listed as suspects in the Yorkshire coroners' rolls. These servants were not limited to urban centres; seventeen were involved in killings in York, four in Doncaster, and three in Pontefract, but the rest were found in rural areas of Yorkshire.[99] Furthermore, if one counts 'servant' as an occupational category they are the second largest group in the records of gaol delivery and, with the exception of clergy, are the only employment status repeatedly seen in the manorial court rolls.[100] As outlined above, it is possible that servants were thought to be less culpable as they were acting under the direction of the paterfamilias. Another potential reason for the prevalence of servants is their youth. While servants could be any age, many were adolescents or young adults, in their teens or twenties.[101] The Victorian image of a criminal was young, male, and of low socio-economic status.[102] This pattern persists to today and is explained by criminologists as a reflection of 'decreasing parental controls' and increasing 'peer influence' in adolescence.[103] Although medieval sources do not explicitly state the age of the suspects, the prevalence of servants could potentially reveal that adolescents were also likely to appear in earlier criminal records. In contrast, service was seen as a respectable pursuit and those entering service 'came from a wide range of backgrounds'.[104]

An alternative explanation for the number of servants in the medieval rolls was due to their ubiquitous nature. For most, service was not a permanent career but rather part of their lifecycle. Those who could afford to employ a servant did so.[105] Jeremy Goldberg estimated

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[97] Given, pp.82-83.
[98] B. A. Hanawalt, *Growing up in medieval London: The experience of childhood in history.* (Oxford: Oxford University Press, 1995), pp.174-175.
[99] TNA JUST 2/212-242.
[100] However, technically 'servant' is a labour relationship not an occupation.
[101] P. J. P. Goldberg, 'Masters and men in later medieval England', in D. M. Hadley, eds., *Masculinity in medieval Europe* (London: Routledge, 1999), p.56; and Hanawalt, *Growing up*…, p.173.
[102] S. E. Brown, ''The only consolation is that the criminal is not a Welshman': The foreign-born men hanged in Wales, 1840–1900', in P. Low, H. Rutherford, C. Sandford-Couch, eds. *Execution culture in nineteenth century Britain: From public spectacle to hidden ritual* (London: Routledge, 2020), p.184; and M. J. Wiener, *Reconstructing the criminal: Culture, law, and policy in England, 1830-1914* (Cambridge : Cambridge University Press, 1990), p.17.
[103] D. P. Farrington, 'Age and crime', *Crime and justice*, 7 (1986), p.236.
[104] Hanawalt, *Growing up*…, pp.179-181.
[105] Ibid, pp.173-174.

that one-third of urban households employed non-familial labour.[106] In support of this, the 1381 poll tax for York reveals that servants made up one-third of the taxable population.[107] Therefore, the appearance of servants in the rolls is not necessarily due to their age or status, but rather it reflects that they were omnipresent in medieval society. This deduction can be applied to other occupations appearing in the rolls, and thus it is not possible to identify any occupations which disproportionately appeared among the suspects.

Since Given treated the clergy as an occupational category and found them to be the largest group, it is worth considering the status of the clergy appearing in the Yorkshire rolls. As with laymen, there is no evidence that the coroners' indictments sought to accuse those in the higher levels of the Church. Over three quarters of the clergymen named as suspects were simply described as *capellanus* or *clericus.* This could suggest that the type of clerk most likely to be charged with violence in secular court rolls were the ones that were leaning more towards secular society.[108] On the other hand, as in the case of servants, it is possible that those described as *capellanus* or *clericus* appear more frequently that other higher ranks of the Church because of the sheer numbers of them. David Lepine estimated that 'unbeneficed outnumbered the beneficed by two to one or more'.[109] Many of the late medieval unbeneficed clergy were trapped in a cycle of accepting low-paying, temporary jobs. Many took on additional, secular occupations, which inevitably brought them into closer contact with the laity. A cleric in minor orders was permitted to marry, however that would remove any chance of promotion. Jennifer Thibodeaux has described this predicament as being 'caught between lay manliness and clerical manliness', unable to advance in the Church, but at the same time denied a secular family life.[110] Thus, clerical occupations do not support the idea that prosecution was economically motivated. This question can be further explored by examining the chattels of felons.

[106] Goldberg, p.56.
[107] Hanawalt, *Growing up*…, pp.178-179.
[108] R. N. Swanson, 'Problems of the priesthood in pre-Reformation England', *The English Historical Review*, 105 (1990), p.846.
[109] D. Lepine 'England: Church and clergy', in S. H. Rigby ed. *A companion to Britain in the later middle ages* (Chichester: Blackwell Publishing, 2009), p.371.
[110] J. D. Thibodeaux, *The manly priest: Clerical celibacy, masculinity, and reform in England and Normandy, 1066-1300* (Philadelphia: University of Pennsylvania Press, 2015), p.155.

Chattels

Fourteenth-century parliament rolls suggest that felony forfeiture was open to abuse and led to the seizure of property of innocent men.[111] The Crown was able to seize felons' chattels and neighbours could buy them at knock-down prices. The chattels in the Yorkshire rolls can be analysed in order to measure the wealth of suspects and to test whether indictment may have been economically motivated. If so, then it is possible that economic motivations shaped the identity of the suspects. Laymen may have had the most accessible property, which would not be contested by the Church or a husband.

Table 1.6*:* Valuation of chattels by identity from the coroner's rolls, 1345-85.

		Not Recorded	No Chattels	< £1	£1 - <£5	£5 - <£10	£10+
Men	Number	743	281	345	105	24	13
	Percentage	49%	18.5%	23%	7%	1.5%	1%
Clergy	Number	6	15	7	4	1	0
	Percentage	18%	45%	21%	12%	3%	0
Women	Number	6	13	3	3	0	0
	Percentage	24%	52%	12%	12%	0	0

Source: TNA JUST 2/212-242.

As shown in Table 1.6, men had the chattels with the highest valuations. Nonetheless, for almost fifty per cent of male suspects, there was no information on their chattels; these entries do not say that they had chattels, nor do they state that they did not. Those with no chattels were recorded as *nulla*; almost half of clergy and over half the women fall into this category. This could suggest that identity was connected to the likelihood of owning chattels and this shaped the indictments. However, if the 'not recorded' group actually lacked chattels, hence why they were not recorded, then the majority of men also did not have any possessions. It seems most likely that the 'not recorded' group either lacked chattels or did not have anything worth appraising and recording. In fact, from what can be seen, the Yorkshire chattels are of small value and hence, this does not suggest that prosecution was economically motivated. Likewise, Thornton characterised chattels of suspects in the Northamptonshire coroners' rolls

[111] PROME, 'Edward III: April 1343; April 1354; January 1365; November 1372; and April 1376'.

as ‘low value’. He found that thirty-six suspects had no chattels, thirty-five had less than £1, and only nine had over £1.[112]

It is clear that the legal identity of the clergy did not spare clerical suspects from having their chattels seized. Nevertheless, what is less apparent from Table 1.6 is whether this statement can be as readily applied to women. Sir John Baker explained that by the thirteenth century, ‘any property which a wife had owned as a *feme sole* became the husband’s upon marriage’.[113] English law was unique in this respect, Amy Erickson outlined that in pre-modern Europe a husband *controlled* ‘the property that she brought to marriage, as well as the property that they jointly acquired after marriage. But he did not *own* it’. In England, on the other hand, a husband ‘took ownership’ of his wife’s property.[114] Therefore, as stated by Krista Kesselring, a married female suspect ‘had already lost most of her property to her husband, and thus had less to lose’; as her chattels belonged to her husband they were ‘safe from seizure for her own offence’. However, Kesselring’s article focused solely on male offenders, and so is limited to examples of married women ‘liable to punishment for their husbands’ crimes’, which indeed stripped them ‘of much, if not all, of the familial property’.[115] Yet, whether in practice coverture prevented the seizure of chattels in the case of a married female suspect requires investigation.

To assist with this question, the Yorkshire coroners’ rolls contain six female suspects who were recorded as owning chattels. Firstly, Agnes of Southwell who was indicted for the felonious killing of John of Southwell, at night on the Friday before the feast of Matthew the Apostle 1360. Agnes’s chattels were valued at 10*s*.[116] The record does not shed any light on the relationship between Agnes and John, if there was one. However, Agnes was not described as a ‘wife’, so it could be assumed with some degree of certainty that she was unmarried. A single woman was subject to forfeiture of property when she had committed a felony, just as a man would have been.[117] Therefore, standard legal process was followed when Agnes’s chattels were documented by the coroner. The next female suspect was indicted for the murder of her husband, thus was treated as a single woman like Agnes.[118]

The remaining four female suspects who had chattels were all married, and they were all indicted with their husbands. As both the husband and wife were named as co-suspects,

[112] Thornton, pp.51-52.
[113] J. H. Baker, *An introduction to English legal history*, 3rd edn (London: Butterworths, 1990), p.552.
[114] A. L. Erickson, ‘Coverture and capitalism’, *History Workshop,* 59, 1 (2005), pp.3-4.
[115] K. J. Kesselring, ‘Coverture and criminal forfeiture in English law’, in R. Hillman and P. Ruberry-Blanc, *Female transgression in early modern Britain: Literary and historical explorations* (London: Routledge, 2016), p.192.
[116] TNA JUST 2/215 m.8 (IMG 0017).
[117] Kesselring, p.194.
[118] TNA JUST 2/229 m.1 (IMG 0005).

these entries do not provide a conclusive answer on the question of whether her legal identity would have protected the chattels from seizure. However, it is striking that in all four entries, the scribe assigned the chattels as the property of *both* the husband and the wife, not just the husband. For example, when Robert and his wife Joan were named as suspects for killing John Pryne in 1372, both of their names were recorded in relation to the chattels. The entry reads that the chattels of the aforementioned Robert and Joan were valued at 40*s*.[119] Similarly, in 1363, John del More and his wife Joan were documented as homicide suspects, and when recording their chattels of 24*s*, the plural '*eorum*', was used to refer back to John and Joan, implying that they both owned the goods.[120] In 1364, when husband and wife, Richard and Alice, were named as murder suspects, the scribe appears to have initially assigned the chattels to Richard, but Alice's name was then added in superscript.[121] The fact that Alice was initially forgotten may speak to social attitudes towards women and property ownership. Alternatively, it could simply be an honest scribal error. However, the fact that the record was corrected adds weight to the legal position of married women having partial ownership, but not control, over their possessions. These cases seem to present a contradiction to traditional legal scholarship which maintained that coverture, in the form of a husband owning his wife's possessions, was a social reality.[122]

Nevertheless, there is no way to tell whether these chattels would have been taken if the husbands were not also indicted. The case of Isabella, wife of Nicholas del Werk' of York who was indicted without her husband shows that it was not a legal requirement for them both to be prosecuted. Isabella's chattels were recorded as *nulla*.[123] This could be due to the legal fiction of coverture; conceivably Isabella had no chattels because they 'belonged' to her husband. Alternatively, it is feasible that the couple just did not have any possessions; as shown in Table 1.6, it was not uncommon for a suspect to have no chattels. A firm conclusion on forfeiture and coverture perhaps remains out of reach for this study. It can, however, be said that there is no evidence of a married woman having chattels seized unless her husband was also party to the crime. It remains credible that the legal identity of married women protected 'their' goods from felony forfeiture.

[119] 'their' chattels, not his. TNA JUST 2/225 m.13 (IMG 0033).
[120] TNA JUST 2/217 m.6 (IMG 0016).
[121] TNA JUST 2/218 m.15 (IMG 0028).
[122] P&M ii, p.433; and W. S. Holdsworth, *A history of English law* Vol III 5th edn (London: Methuen & Co., 1942), pp.525-257.
[123] TNA JUST 2/215 m.9 (IMG 0018).

Unidentified suspects and outsiders

By their very nature, there were no unidentified suspects in the gaol delivery or manor court rolls; a defendant must be named in order to stand trial or be presented. If the jury was unsure who committed the crime, then it would not appear in gaol delivery or the manor court as there was no person(s) to try or present. However, the same cannot be said for the coroners' rolls. The process here, as previously outlined, was for the coroner's jury to name a suspect in cases of felonious killing, but it was not guaranteed that they would be able to do so. The case appearing in the roll was driven by the discovery of a body, not of a suspect. Nonetheless, it is remarkable that in almost all cases the suspect was known well enough to the coroners' juries to be named in the roll.[124] In less than one per cent of inquests, the jury were unable to name a suspect. It could be argued that it was economically beneficial to name a suspect, however the chattels and occupations discussed above do not support this motivation. Alternatively, the almost universal identification of a suspect could be seen as a testament to the medieval methods of 'community policing'. As stated by Carrie Smith, 'coroners' inquests were held in local communities, dealing with individuals known to people whose memories of events were still fresh.'[125] Even with a modern police force, forensics, and surveillance, there were still no suspects in almost twenty-eight per cent of homicides in England and Wales for the year ending March 2018.[126]

On the other hand, perhaps this points to the fictive nature of coroners' rolls; the jury either giving a false suspect or providing their best guess at who *may* have committed the crime. It is vital to recognise that just because someone was indicted by the medieval coroner's jury does not mean that they were guilty, and it certainly did not mean that they would be convicted.[127] The jurors' 'best-guesses' could be based on circumstantial evidence or perhaps even on prejudice; it has been suggested that medieval society was automatically suspicious of outsiders.[128] Therefore, when in doubt, a jury may have chosen to pin the blame on someone from outside of their locality.[129] Strangers were present in all medieval communities, some looking for work, charity, or trade, and some travelling as soldiers or preachers. Hanawalt went

[124] TNA JUST 2/212-242.
[125] C. Smith, 'Medieval coroners' rolls: Legal fiction or historical fact?' in D. E.S. Dunn, ed. *Courts, counties and the capital in the later middle ages* (New York: St Martin's Press, 1996), p.115.
[126] Elkin, Appendix table 7a.
[127] Chapter Four assesses conviction rates.
[128] B. A. Hanawalt, 'Obverse of the civilizing process in medieval England', *IAHCCJ Bulletin*, 20 (1995), p.53.
[129] Nineteenth-century Welsh newspapers were keen to distance their community from criminality and often highlighted the fact that the murderer was an outsider. See Brown, pp.177-178.

as far as to state that these strangers were a 'catalyst for criminal interactions'.[130] Thomas Green maintained that strangers were prosecuted more often than those who were from the local community.[131] This study can test that theory because many entries in the Yorkshire coroners' rolls not only list where the crime took place, but also record the origin of the suspect.

Table 1.7: Origin of the suspects in the coroners' rolls, 1345-85.

		Resident	Outsider	Unknown
Men	Number	551	387	573
	Percentage	36%	26%	38%
Clergy	Number	7	7	20
	Percentage	20.5%	20.5%	59%
Women	Number	8	7	10
	Percentage	32%	28%	40%
Total	Number	565	406	609
	Percentage	36%	26%	39%

Source: TNA JUST 2/212-242.

Table 1.7 splits all of the suspects named by the coroner into three categories: residents, outsiders, and unknown. 'Residents' have been classified as people who appear to be from the same location as where the slaying took place. For instance, in 1367, John Fox of Sheffield was named as the suspect for a felonious killing in Sheffield.[132] Those who have been categorised as 'outsiders' by this study were simply recorded as originating from a vill, town, or county other than the location of the crime. For example, in 1376, John Nolson of Askrigg in Wensleydale was named as a suspect by the coroner's jury for a killing in Rygton.[133] The category of 'outsiders' also includes the unidentified suspects, usually referred to as *extraneus* in the rolls.

The remaining suspects fall into 'unknown' for one of two reasons. Firstly, they do not have a locative descriptor after their full name, or that the place of the crime was not recorded; without both pieces of information, it is not possible to assess whether the suspect came from the location of the crime. Secondly, the locative descriptor is different to the murder location

[130] B. A. Hanawalt, *Crime and conflict in English communities, 1300-1348* (Cambridge, Massachusetts: Harvard University Pres, 1979), p.26.
[131] T. A., Green, 'Societal concepts of criminal liability for homicide in mediaeval England', *Speculum*, 47, 4 (1972), p.694.
[132] TNA JUST 2/217 m.61 (IMG 0162).
[133] TNA JUST 2/229 m2 (IMG 0008). While it cannot be known for certain whether John still resided in Askrigg and was visiting Rygton or whether he had relocated, it is that fact that he is recorded as coming from elsewhere which is of interest.

but is part of the suspect's name, and therefore is not necessarily a reliable indicator of the suspect's origin because it may just be an inherited surname. An example of this is John de Bolton who was indicted for a murder in York in 1371.[134] It cannot be known whether this toponymic surname was inherited or whether John was indeed from Bolton. Thus, this group of suspects cannot safely be categorised as either residents or outsiders.

Table 1.7 shows that the number of clerical and female suspects in the coroners' rolls from the location where the crime was committed is roughly equal to those who originated from elsewhere, albeit with small numbers. At thirty-six per cent, there is a higher share of male suspects in the resident category compared to those who have been classed as outsiders. Nonetheless, the number of unknowns could shift the picture either way. The suspects with toponymic surnames could indeed be outsiders. Those with missing information may be well known locally so there was no need to state their origin. Instead, the scribe may not have known from where they originated. Accordingly, a firm conclusion is out of reach. At about one-quarter of suspects this is lower than Carl Hammer's finding that at least one-third of the homicides in the Oxford coroners' rolls involved 'persons having no fixed residence in Oxford', but this was using both suspects and victims.[135] Nonetheless, there is a large share of 'outsiders' in Table 1.7; perhaps this supports the notion that medieval societies were likely to be suspicious of outsiders. Alternatively, this may simply highlight how mobile people were in late medieval England. Rhiannon Sandy has shown that the average distance travelled by apprentices, from parental home to apprenticeship, was fifty miles.[136]

Table 1.8: Origin of the suspects in the gaol delivery rolls, 1345-85.

		Resident	Outsider	Unknown
Men	Number	499	301	491
	Percentage	35%	21%	40%
Clergy	Number	13	11	37
	Percentage	21%	18%	61%
Women	Number	20	7	33
	Percentage	33%	12%	55%
Total	Number	532	319	561
	Percentage	38%	22%	40%

Source: TNA JUST 3/78-80; 141A; 143; 145; 155; 165A; and 169.

[134] TNA JUST 2/219 m.7 (IMG 0016).
[135] Hammer, p.17.
[136] R. E. Sandy, 'Apprenticeship indentures and apprentices in medieval England, 1250–1500', (Unpublished Ph.D. Thesis, Swansea University, 2021), p.120.

In gaol delivery, as shown in Table 1.8, the share and number of male outsiders is lower than in the coroners' rolls. The share of women and clergy is also lower, but in terms of absolute numbers, women are equal, and the number of clerks is higher. This is partly because, as outlined above, there were more women and clergy in gaol delivery than named by the coroner. The smaller percentage of outsiders in gaol delivery may be because they were more likely to flee justice; they have somewhere else to go. This theory is discussed below, but first, non-English suspects are examined in order to fully assess prosecution and otherness.

Non-English suspects

To further test the theory that medieval communities were suspicious of strangers and their presence was a 'catalyst for criminal interactions' non-English suspects must also be considered.[137] The late Mark Ormrod and his team did much to dismiss the myth that late medieval England was lacking immigrant inhabitants. Unsurprisingly, non-English suspects can be seen in the Yorkshire gaol delivery and coroners' rolls.[138] Table 1.9 shows that people who appear to originate from the Low Countries, modern-day France, and other parts of the British Isles including Scotland, Ireland and Wales appeared as suspects of homicide in Yorkshire. The non-English suspects have been identified in one of two ways. The first method of identification is through a topographical surname, such as Henry Brabaner or William Frencheman.[139] Both of these could be inherited surnames, so some caution must be applied. The second method of identification is to use the additional geographical information which sometimes follows the suspect's name. For example, John Falkcosyn Flemyng or David Taillour de Ireland.[140] In these examples, it is clearly stated that they come from elsewhere.

[137] Hanawalt, *Crime and conflict*…, p.26.
[138] W. M. Ormrod, B. Lambert, and J. Mackman, *Immigrant England, 1300-1550* (Manchester: Manchester University Press, 2019), p.259.
[139] TNA JUST 2/218 m.49 (IMG 0096) and TNA JUST 2/233 m.2 (IMG 0007).
[140] TNA JUST 2/219 m.10 (IMG 0022) and TNA JUST 2/215 m.4 (IMG 0009).

Table 1.9: Non-English suspects in the coroners' rolls and gaol delivery, 1345-85.

		Surname	Additional information
Low Countries	Coroners' rolls	10	7
	Gaol delivery	3	0
'France'	Coroners' rolls	2	0
	Gaol delivery	0	0
Scotland	Coroners' rolls	8	0
	Gaol delivery	1	0
Ireland	Coroners' rolls	1	0
	Gaol delivery	0	0
Wales	Coroners' rolls	4	1
	Gaol delivery	0	0

Source: TNA JUST 3/78-80; 141A; 143; 145; 155; 165A; and 169; and TNA JUST 2/212-242.

The aliens appearing as suspects in the coroners' rolls are dominated by those from the Low Countries; there are fourteen Brabanters and three Flemings. It is known that Edward III wanted Flemish cloth makers to help develop the English industry, of which York was an important centre.[141] This is supported by the non-English people in the rolls who have occupations recorded which include Websters, a Fuller, and a Hatter.[142] Foreign labour caused tension with the local population. York is the only place outside of London where there is clear evidence that the locals 'contested the immigration of textile workers from the Low Countries'.[143] Nonetheless, the coroners' rolls highlight that aliens had an ambiguous status; they were living and working in the local community but had originated from elsewhere. For example, in 1381 when John was indicted for a felonious killing, he was described as 'Braban'

[141] H. C. Swanson, 'Craftsmen and industry in late medieval York' (Unpublished D.Phil. Thesis, University of York, 1980), p.27; and Ormrod et al., p.4.
[142] TNA JUST 2/227 m.1 (IMG 0003); TNA JUST 2/219 m.4 (IMG 0010); TNA JUST 2/215 m.4 (IMG 0008); and TNA JUST 2/219 m.4 (IMG 0009).
[143] B. Lambert and M. Pajic, 'Immigration and the common profit: Native cloth workers, Flemish exiles, and royal policy in fourteenth-century London', *Journal of British Studies*, 55, 4 (2016), p.637.

de Hunmanby'. The crime took place in Hunmanby in North Yorkshire.[144] Therefore, despite his immigrant status, John would have been counted as a 'resident' and not an 'outsider' by this study in the previous section.

The next group is much smaller, those from modern-day France; there is only a Breton and one 'Frencheman' in the Yorkshire coroners' rolls and both are based on toponymic surnames.[145] The small number of 'French' immigrants is in stark contrast with the 1440 alien subsidy in which forty-three per cent of immigrants in England were from France.[146] The period covered by this present study overlaps with the Hundred Years War, so one may expect to find fewer French aliens in England, or at least it may be reasonable to assume that they kept a lower profile during this period. It is also possible that French immigration was more concentrated in the South of England. In fact, Ormrod at el. found that the majority of those appearing in the alien subsidy in southern counties were French. For example, eighty-four per cent of aliens in Sussex, seventy-one per cent in Devon, and fifty-eight per cent in Kent were French. In contrast, no one was recorded as coming from France in the counties of Cumberland, Lancashire, and Northumberland.[147]

The remaining immigrant suspects are from Britain and Ireland. The largest of these, and the second largest non-English group were from Scotland. This is to be expected in a county in the North of England. All eight suspects have the surname Scot, so perhaps caution should be applied. Nonetheless, Ormrod et al. found Scottish aliens in the subsidy named in this manner.[148] The Yorkshire rolls also contain a victim called Johanna Scot who was 'de Scotia', so perhaps that can be used to support the others as Scottish, but this study is unable to gauge if they were first-generation immigrants or whether this was an inherited surname.[149] One Irishman appears as a suspect in the rolls, David Taillour de Ireland.[150] David has been included here as this study has not identified any local places called 'Ireland'. On the other hand, there is a village in Yorkshire called Wales, so any suspect with 'de Wales' in or after their name has not been counted here. Most of the Welsh suspects have a form of 'Welshman' in their name, whereas Owynus ap Eynon has the Welsh patronymic.[151]

[144] TNA JUST 2/236 m.3 (IMG 0011).
[145] TNA JUST 2/233 m.2 (IMG 0007) and TNA JUST 2/224 m.7 (IMG 0033).
[146] Ormrod et al., p.95.
[147] Ibid, p.96.
[148] Ibid, p.74.
[149] TNA JUST 2/232 m6 (IMG 0028).
[150] TNA JUST 2/219 m.10 (IMG 0022).
[151] TNA JUST 2/218 m.5 (IMG 0012).

Non-English people make up two per cent of the suspects in the coroners' rolls, which is potentially double the percentage appearing in the 1440 alien subsidy.[152] However, this data is not directly comparable as the Welsh were excluded from the alien subsidies, and the Irish were also quickly exempted. Scottish people, on the other hand, were included in the tax.[153] Nevertheless, even when removing the Irish and Welsh suspects, the aliens still form 1.6 per cent of suspects in the coroners' rolls. This could suggest an overrepresentation of immigrants in the rolls and highlight that when looking for someone to blame for a violent crime an immigrant could have served as a scapegoat. Nonetheless, Chapter Two reveals that this apparent overrepresentation of immigrants is also present among homicide victims.

It is possible that immigrants were overrepresented in the Yorkshire rolls. Alternatively, the level of potential immigrants found could simply highlight the deficiencies of the subsidy. It is perhaps methodologically preferable to look for aliens in other records rather than in a tax that they may have wanted to avoid. The 1440 alien subsidy reveals that eighty-three aliens were taxed in York; but even Ormrod concluded that this figure is too low as a result of the 'deficiencies of registration and record-keeping'.[154] As the second largest English city, and a centre of foreign labour, perhaps 1.6 to 2 per cent is more realistic for Yorkshire's immigrant population. In contrast to the coroners' rolls, there were just four immigrants tried in the Yorkshire gaol deliveries; two Flemings, one Brabanter, and one Scottish defendant.[155] In order to understand the difference in the ratios of suspects in the coroners' rolls and gaol delivery, it is vital to consider the period between indictment and trial. The next section examines the suspects that fled before they could be arrested and tried.

Fleeing suspects

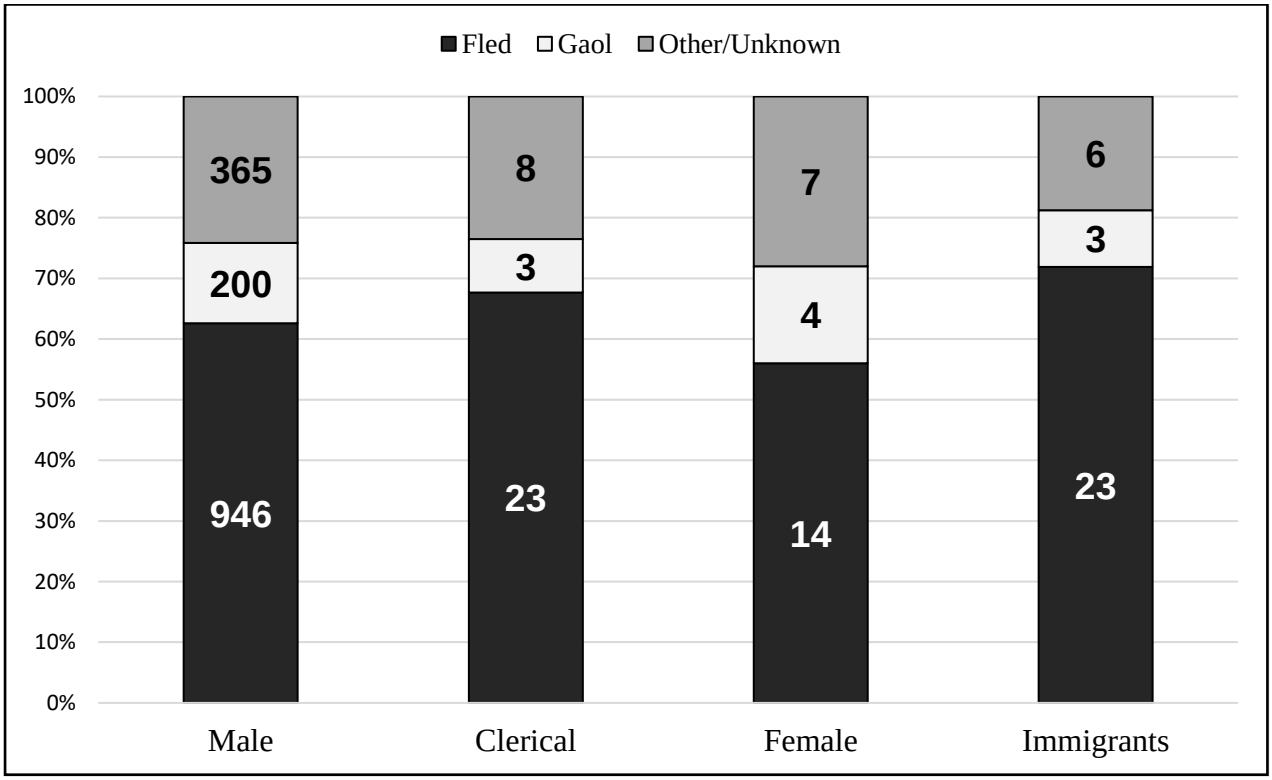
The coroners' rolls and gaol delivery records provide a window onto two very different points in the cycle of prosecution. As previously shown in Figure 1.2, the percentage of male suspects appearing in gaol delivery was lower than in the coroners' rolls. Likewise, the section above found that more immigrant suspects were named by the coroner than tried at gaol delivery. There were generally two options available to a suspect: submit to arrest and then be tried at gaol delivery, or they could decide to flee.[156] If a suspect chose the latter, this could happen at

[152] Ormrod et al, p.259.
[153] Ibid, pp.76-85.
[154] Ormrod et al, pp.248-250.
[155] TNA JUST 3/78 m.13 (IMG 0033); TNA JUST 3/78 m.28 (IMG 0169); TNA JUST 3/169 m.1 (IMG 0103); and TNA JUST 3/79/1 m.7 (IMG 0055).
[156] Butler, *Forensic medicine…*, p.5.

various points, such as before the body had been discovered, or upon hearing that they had been named as a suspect. The Yorkshire coroners' rolls provide details on whether the suspect fled or if they had been arrested and taken to gaol. It is vital to consider propensity to flight as this has ramifications for the patterns of prosecution. The profile of the suspects tried at gaol delivery is shaped by the decisions of those who were indicted; it was only possible to deliver the people who were in the gaol, not those who had been accused and fled.

This question has also been considered by Thornton who suggested that suspected criminals fled with regularity and although he had a very small dataset, there is a tentative suggestion that men were more likely to flee than women.[157] The Yorkshire coroners' rolls support this conclusion. Consequently, it is possible that the contrast in the percentage of male suspects could reflect a gendered attitude towards the decision to flee. It was probably easier for a man to leave his community, travel, and settle somewhere new. Furthermore, the rolls demonstrate that immigrant suspects were the group most likely to flee.[158] Therefore, if migrants often fled, this could also explain why the number appearing in gaol delivery is low.

Figure 1.5*:* Destination of suspects in the coroners' rolls, 1345-85.



Source: TNA JUST 2/212-242.

[157] Thornton, p.50.
[158] TNA JUST 2/212-242.

If a suspected felon fled, they had two options. The first was that they could continue to evade justice and live as an outlaw. Here, immigrant suspects may have had an advantage; they had already left their home and moved into a new community. Thus, the idea of relocating may have been a less daunting prospect. It is also possible that they may have chosen to leave England altogether. Milan Pajic's work has showed how some immigrant textile workers travelled back and forth between England and the Low Countries.[159] Moreover, in a patriarchal society it might have been easier for a man to leave his community and start over elsewhere. This could also be reflective of the power dynamics in a marriage. A wife may have no other option than to follow her fleeing husband, whereas a female felon may not have had the same control over her spouse's actions. Furthermore, a married woman's legal identity could make it very difficult for her to begin a new solitary life. A married woman isolated from her husband would either be barred from using the law or be forced to lie about her status. Coverture prevented a wife from bringing a civil suit without her husband and meant that she had no legal control over property.[160] In the majority of cases where a married woman did choose to flee, she had either been accused of killing her husband, or was named as a co-suspect in a murder with her spouse.[161] In the cases where her husband had been murdered, the fleeing woman was now a widow and thus no longer bound by coverture. Similarly, in the cases where a woman was thought to have been a co-suspect with her husband, when these women chose to abscond, both the husband and wife were recorded as having fled.

Likewise, it was probably difficult for clergymen, especially beneficed clergy, to move to a new location without the support of the Church. In fleeing, a clerk would potentially be giving up their position, status, and ecclesiastical community. Perhaps the most important aspect to consider is that clerics had less reason to flee before trial because they were protected by benefit of clergy. This meant that even if convicted of a felony, a clerk would not have to face execution. Hence, they had less to lose if they decided to stand trial. So, in theory at least, it was less advantageous for clerical suspects to flee. However, the rolls tell a different story. This study has found, as shown in Figure 1.5, that sixty-eight per cent of clerks indicted by Yorkshire coroners were recorded as fleeing. In comparison, sixty-two per cent of male

[159] M. Pajic, 'The migration of Flemish weavers to England in the fourteenth century: The economic influence and transfer of skills 1331-1381', (Unpublished Ph.D. Thesis, University of Ghent, 2016), p.59; and J. Dumolyn and M. Pajic, 'Enemies of the count and of the city: The collective exile of rebels in fourteenth-century Flanders', *Tijdschrift voor Rechtsgeschiedenis/Revue d'Histoire du Droit/The Legal History Review,* 84, 3-4 (2016), p.486.
[160] Beattie and Stevens, p.1.
[161] There is only one case where a married woman may have fled without her husband. We know that she fled with her sister and another man. The record reveals that the murder took place in her husband's house, but it is unclear if the husband also fled. TNA JUST 2/215 m.9 (IMG 0018).

suspects and just fifty-six per cent of female suspects were recorded as having fled. The low proportion of female suspects who fled could reflect the limitations imposed by female legal identity. At least seventy per cent of the women who fled did so with a man, and so this could reflect that it was more difficult for a woman to flee alone.[162] It may seem counterintuitive that a higher percentage of clerics than lay men and women would flee, since they could not be executed. Yet, clergy were subject to the same judicial process until they received a guilty verdict; they could be arrested, imprisoned, and have their chattels seized.

The second option for a fleeing felon was to reach a church and claim sanctuary. This would entitle them to forty days of 'immunity' from prosecution, but it was not theoretically available for clergy.[163] Before the end of this period, the fugitive had to choose whether to stand trial or abjure the realm - a combination of voluntary exile and banishment. If opting for the latter, the felon had to leave England permanently, and prior to departing, they had to admit their guilt and forfeit all possessions.[164] Nonetheless, for the guilty felon, or even those who did not fancy their chances with the jury, abjuration was a chance to avoid execution.[165] Hence, this may seem like a practical option as, if convicted, a felon would forfeit their life as well as their property. However, this strategy was not without risk as seen in the case of Thomas Hayward. On 19 May 1377, John of Leyburn, the sub-bailiff of the city of York tried to arrest Thomas, a known thief. While he was resisting arrest, Thomas drew his knife and fatally struck John. At that point, Thomas was not only a known thief but had also been seen killing the sub-bailiff, so perhaps did not want to take a chance at gaol delivery. Thomas attempted to flee to a church but William of Flasseby tried to stop him. Thomas tried to stab William and then, in defence of his life, William fatally struck Thomas in the stomach with a knife.[166]

Only fourteen of the inquests used in this study stated that the suspect abjured the realm. It is possible, and even likely, that some of the other suspects also chose to abjure, but this detail was not recorded on the inquest.[167] Nonetheless, within the scope of this study, all of the fourteen abjurers were men. However, due to the very small number that abjured, and the fact that they come from a predominately male sample, it is difficult to infer whether gender had an

[162] As there is a much smaller number of women and clergy who were accused of homicide, caution must be applied when attempting to draw any conclusions.
[163] J. H. Baker, 'The English law of sanctuary,' *Ecclesiastical Law Journal*, 2, 6 (January 1990), p.8.
[164] K. J. Kesselring, 'Abjuration and its demise: The changing face of royal justice in the Tudor period', *Canadian Journal of History*, 34, 3 (1999), pp.345-358; and Baker, *An introduction…*, p.585.
[165] Kesselring, 'Abjuration and its demise…', pp.345-358.
[166] TNA JUST 2/219 m.13 (IMG 0028).
[167] This study is based on the homicide inquests in the coroners' rolls and therefore does not include the entries of the abjurations over which the coroner presided. It is possible that some of the people recorded in the inquest as fleeing did in fact later abjure. Nonetheless, those cases are beyond the scope of this study.

impact on the decision to abjure. There is nothing to suggest that women could not abjure the realm. In fact, Hanawalt cited an example found by Hunnisett of a woman abjuring after murdering her husband.[168] This follows the pattern of the Yorkshire women who fled. The women who were recorded as fleeing from justice tended to be the cases where she had been indicted for killing her husband, or she was indicted for killing *with* her husband who had also fled. Therefore, in all of these cases coverture would not have been a factor in the decision of whether or not to flee. Having said that, the cases of women who fled or abjured may just be more representative of the women who were prosecuted because most were co-suspects.

Conclusion

This chapter has shown that the legal identity of clergy did not protect them from prosecution. They could be indicted, arrested, tried, and have their goods seized in exactly the same manner as laymen. Their legal identity also did not seem to affect the likelihood of clerks to flee, although they could not lose their lives, they were still subject to lay justice. Similarly, female legal identity did not shield women from prosecution. Additionally, there was no requirement for a husband to be jointly indicted, tried, or presented alongside his wife for her violent offence. If the husband was named in addition to his wife, this was because the jury also suspected him of committing the offence. Nonetheless, female legal and, indeed, social identity may have shaped the patterns of prosecution at gaol delivery. If both legal and social identity made it practically more difficult for a woman to flee from justice, this could help to explain why the percentage of female suspects was higher in gaol delivery than in the coroners' rolls.

The social identity of clergy does not seem to have shaped prosecution. The share of clerks appearing as suspects is generally in line with the total clerical population in late medieval England. Therefore, views of the clergy as peacemakers who were not supposed to engage in violence did not appear to lead to medieval jurors discounting them as suspects nor did their authority as clergymen prevent their parishioners from prosecuting them. On the other hand, female social identity does appear to have played a role in prosecution. Female suspects differed from male and clerical suspects in that they were more likely to be prosecuted as a co-suspect or an accomplice in cases of homicide. Moreover, proportionately more women were presented for minor violence, and this did not follow the pattern of co-offending seen in felonious violence. This could be as a result of benevolent sexism; the jury did not believe that

[168] R. F. Hunnisett, ed., *Bedfordshire coroners' rolls*, Volume 16 (Streatley: Bedfordshire Historical Society, 1960), p.102; and Hanawalt, 'The female felon…', p.260.

women were capable of heinous violence. Alternatively, perhaps this is internalised sexism; some women may not have felt capable of carrying out homicide alone or sought male assistance, either before or after the act, due to the patriarchal structure of their everyday lives. However, it is apparent that gender played a role in female-perpetrated homicide.

As these rolls were created as economic documents, this chapter also assessed whether prosecution was driven by financial motivations. It was found that this hypothesis is unlikely due to the occupations and chattels of those indicted. Finally, this chapter explored the possibility of the overrepresentation of migrant suspects. However, if one accepts that the immigrant population in Yorkshire would have been higher than the national average, non-English suspects were not overrepresented in the rolls.

Chapter Two: Victims of Violence

When attempting to understand prosecution of interpersonal violence, one must consider the victim as well as the suspect. This chapter tests whether legal rights or social norms shaped the pattern of victims in prosecuted cases of violence. It follows the structure of Chapter One, examining victims of homicide in the coroners' rolls, of homicide and forced ravishment in gaol delivery, and of bloodshed in the manor court. It then explores similar themes, such as the suspect-victim relationship, the origin of victims, and unidentified and non-English victims to further explore the role of identity and assess whether outsiders seem to be the targets of violence. Finally, this chapter investigates the opportunities for victims, relatives of victims, or witnesses to engage with the law in late medieval Yorkshire.

Homicide victims in the coroners' rolls

This study identified 1,375 people who were found by the coroners' juries to have been feloniously slain in Yorkshire during the period 1345 to 1385. The profile of these victims is remarkably similar to that of the homicide suspects examined in Chapter One. As shown in Table 2.1, the majority were again laymen, who formed ninety-three per cent of the victims. The clergy account for two per cent of victims, which is equal to the share of clerks appearing as suspects in Chapter One. This is in line with expectations based on the clerical population in late medieval England. However, there is a higher share of women appearing as victims compared to the number of female suspects seen in Chapter One. Women made up five per cent of homicide victims, while only two per cent of the suspects were female. There are also more female victims in terms of absolute numbers. In the coroners' rolls, twenty-five women appeared as a suspect, compared to sixty-nine as victims. Although this represents a larger quantity of women, it is vital to consider that they are still a small minority within the total number of victims.

Table 2.1: Identity of victims in the coroners' rolls, 1345-85.

		Total victims	Male victims	Clerical victims	Female victims
Homicide	Number	1375	1275	30	69
	Percentage	100%	93%	2%	5%
Accidental death	Number	671	525	-	146
	Percentage	100%	78%	-	22%

Source: TNA JUST 2/212-242.
Notes: One homicide victim was just listed as a servant so their gender is unknown. Clerical victims of accidental death are included under 'male victims'.

Victims of violent crime in the gaol delivery rolls

Table 2.2 illustrates that most victims in the cases of felonious violence heard in gaol delivery were male. Notwithstanding, there is a larger proportion of women in these records than in the coroners' rolls. Women made up five per cent of the victims named in the coroners' rolls compared to twelve per cent in gaol delivery. A reason for this is that the gaol delivery data includes both the crimes of forced ravishment and homicide. Chapter One showed that a woman could not be charged with *raptus* in the middle ages, but conversely a man, lay or clerical, could not legally be a victim of this crime. In the period covered by this study, sodomy fell under the purview of the ecclesiastical courts. Sodomy did not come under common law until 1533; it remained a capital crime until 1861.[1] However, even within medieval ecclesiastical jurisdictions, Ruth Mazo Karras found that cases of sodomy were rare and there were not enough entries for a 'systematic study'.[2] Consequently, all of the victims of forced ravishment in this study are women. It is the gendered nature of this crime which helps to account for the larger share of female victims in gaol delivery compared to the coroners' rolls. In fact, almost half of the women appearing as victims in gaol delivery were in cases of *raptus.*

[1] After 1861, the punishment was imprisonment. Consensual cases were decriminalised in 1967. 25 Hen. VIII, c.6 ('An Acte for the punysshement of the vice of Buggerie', 1533) in A. Luders, et al. eds. *The statutes of the realm: Printed by command of his majesty King George the Third, in pursuance of an address of the House of Commons of Great Britain. From original records and authentic manuscripts,* Volume III (London: Dawsons of Pall Mall, 1810 and 1816), p.441; and P. Johnson, 'Buggery and Parliament, 1533–2017', *Parliamentary History*, 38, 3 (2019), pp.331-335.
[2] R. M. Karras 'The Latin vocabulary of illicit sex in English ecclesiastical court records', *The Journal of Medieval Latin* , 2 (1992), p.3.

Table 2.2: Identity of victims in the gaol delivery rolls, 1345-85.

		Total victims	Male victims	Clerical victims	Female victims
Raptus	Number	54	0	0	54
	Percentage of *raptus*	100%	0%	0%	100%
	Percentage of identity	-	0%	0%	45%
Homicide	Number	971	888	18	65
	Percentage of homicide	100%	91%	2%	7%
	Percentage of identity	-	100%	100%	55%
Total	Number	1025	888	18	119
	Percentage	100%	91%	2%	12%

Source: TNA JUST 3/78-80; 141A; 143; 145; 155; 165A; and 169.

When only concentrating on the cases of homicide in gaol delivery, the ratios now begin to look similar to those in the coroners' rolls. Of the homicide victims whose cases were heard in gaol delivery, ninety-one per cent were male, seven per cent female, and two per cent clergy. Despite relatively equal numbers of suspects, there are over twice as many female victims as clergy in the coroners' rolls and over three times as many in gaol delivery. Nonetheless, the clerical figure is still in line with the population of clerics in late medieval England. The key question remains whether women were underrepresented as homicide victims due to their legal or social identity. This can be investigated in three ways: comparing homicides with accidental deaths, assessing archaeological evidence, and comparisons with other studies.

The coroner and his jury had a duty to investigate all sudden deaths and determine if they were felonious or accidental. It is possible that gendered views concerning women and violence made jurors more likely to conclude that women were victims of accidents rather than interpersonal violence. However, as outlined in the introduction, there is an absence of didactic literature against female violence. While this absence suggests that medieval society was not overly concerned by violent women, there is nothing to suggest that women did not engage in violence or fall victim to it. In the Yorkshire rolls, seventy-eight per cent of the accidental deaths were men and twenty-two per cent were women.[3] Hanawalt also found that women

[3] TNA JUST 2/212-242.

accounted for twenty-two per cent of the victims of accidental death.[4] As a result, it does not appear that female victims were disproportionately represented in accidental deaths. Yet, it has been argued that male social identity means that men are more likely to die in accidents than women. A study of accidental death in the United States for 1960 found that men outnumbered women by four to one. This was attributed to male social identity for example, the connection between masculinity and risk-taking, and the fact that men were more likely to perform more physically demanding or dangerous occupations and recreational activities.[5] Therefore, just because women were the minority in accidental deaths recorded by the Yorkshire coroners does not mean that one can easily rule out the possibility that killings of women were more likely to be presented as accidents than killings of men.

Alternatively, one could use archaeological evidence to shed light on medieval women as victims of felonious or accidental violence. English data spanning the period 1200 to 1500, from fifty-eight sites, including 'the poor parish cemetery of St. Helen on the Walls, York', revealed that fourteen per cent of women's skeletons displayed ante-mortem bone fractures compared to nineteen per cent for men.[6] This suggests that the injury rate for medieval men and women was much closer than the picture of vast difference between the sexes painted by the coroners' rolls for both homicide and accidental death. This could reveal that violent female deaths were under-recorded, or it may simply indicate that the injuries sustained by women were less serious. On the other hand, it must be noted that most bone fractures would not have led to death, the percentages of those with fractures are incredibly low, and the cemetery provides only urban evidence. Therefore, it is difficult to use this archaeological evidence to draw any conclusions about homicide and accidental death.

Considering the historiography, and contemporary statistics, this prominence of male victims should be expected. Over the last twenty years in England and Wales, approximately three-quarters of homicide victims were male.[7] Likewise, in Thomas Green's categorisation of medieval homicide as a 'predominantly male phenomenon', he added that 'women infrequently

[4] B. A. Hanawalt, *The ties that bound: Peasant families in medieval England* (Oxford: Oxford University Press, 1986), p.145.
[5] J. E. Veevers and E. M. Gee, 'Playing it safe: Accident mortality and gender roles', *Sociological Focus,* 19, 4 (1986), pp.349-355; and M. J. Weiner, *Men of blood: Violence, manliness, and criminal justice in Victorian England* (Cambridge: Cambridge University Press, 2004), p.1.
[6] A. L. Grauer and A. G. Miller, 'Flesh on the bones: A historical and bioarchaeological exploration of violence, trauma, sex, and gender in medieval England', *Fragments: Interdisciplinary Approaches to the Study of Ancient and Medieval Pasts,* 6 (2017), pp.41-45.
[7] N. Stripe, *Homicide in England and Wales: Year ending March 2020* (London: ONS, 2021), p.5.

slew or were slain'.[8] This conclusion is reflected in other studies of medieval coroners' records. In a study of the Oxford coroners' rolls from the 1340s, Carl Hammer found that the victims were virtually all men.[9] While as a medieval university town Oxford had a disproportionately male population, Mike Thornton observed that the vast majority of the victims in the Northamptonshire coroners' rolls were men.[10] In contrast, James Buchanan Given's study of homicide using thirteenth-century eyre rolls found that eighty per cent of the victims were male and the remaining twenty per cent were female.[11] Notwithstanding, Barbara Hanawalt found that women only made up seven per cent of homicide victims in the early fourteenth-century gaol delivery trials, which is in line with the results from this present study.[12]

At between five and eight per cent in most medieval studies, there still seems to be a low share of female victims compared to contemporary figures, which is around twenty-seven per cent.[13] Nonetheless, the pioneering Finnish criminologist Veli Verkko formulated two 'laws' in order to explain the male to female ratio of homicide victims. The first was the 'static law'. This stated that female victimisation is lower in societies with high levels of violence. In other words, as the amount of violent crime rises, the percentage of female victims declines. The opposite is also true; societies with low levels of violence will have a higher percentage of female victims.[14] Verkko studied five countries that had high homicide rates in the twentieth century: Bulgaria, Chile, Finland, Italy, and Serbia. Verkko found that women made up seven per cent of homicide victims, similar to the pattern found in medieval England.[15]

The second of Verkko's laws is the 'dynamic law' which focuses on change. When homicide rates increase, the number of male perpetrators and victims also rises. The opposite is again also true; if homicide decreases, so does the number of male suspects and victims. This

[8] T. A. Green, 'Review of *Society and homicide in thirteenth-century England* by J. B. Given', *Speculum*, 54, 1 (1979), p.138.
[9] C. I. Hammer, 'Patterns of homicide in a medieval university town: Fourteenth-century Oxford', *P&P*, 78 (1978), p.13.
[10] M. Thornton, '"Feloniously slain": Murder and village society in fourteenth-century Northamptonshire', *Northamptonshire P&P*, 67 (2014), p.49.
[11] J. B. Given, *Society and homicide in thirteenth-century England* (Palo Alto, California: Stanford University Press, 1977), p.135.
[12] B. A. Hanawalt, *Crime and conflict in English communities, 1300-1348* (Cambridge, Massachusetts: Harvard University Press, 1979), p.118.
[13] Stripe, p.5.
[14] V. Verkko, *Homicides and suicides in Finland and their dependence on national character* (Copenhagen: G.E.C. Gads Forlag, 1951), pp.50–57; Hanawalt 'Violent death…', p.309; and J. Kivivuori, 'Veli Verkko as an early criminologist: A case study in scientific conflict and paradigm shift', *Scandinavian Journal of History*, 42, 2 (2017), p.148.
[15] M. Eisner, 'Long-term historical trends in violent crime', *Crime and Justice*, 30 (2003), p.119; and Verkko, pp.52-57.

is because changes in the 'frequency of homicide primarily affects the male population'.[16] This law could help to explain the difference between the percentage of female victims in the medieval studies and Verkko's work compared to present day statistics. Moreover, the higher percentage of female victims in contemporary homicide statistics may actually reflect a decline in violence, and therefore a decline in male suspects and victims. It is unclear whether these variations were a result of changing female legal or social identity. The next section continues the investigation into whether victim identity shaped prosecution by looking at manorial presentments for bloodshed.

Victims in the manor court

Across the four manors of Wakefield, Bradford, Conisbrough, and Methley, there were 871 people named as a victim in the presentments of bloodshed. At eighty per cent, laymen again made up the majority of victims. However, the share of women appearing as victims of bloodshed is higher than any other female category in this present study. Nineteen per cent of the victims of bloodshed were women. This is compared to homicide, where women made up between five to twelve per cent of the victims. Comparably, women formed just ten per cent of the perpetrators of bloodshed. Clerks made up one per cent of bloodshed perpetrators and accounted for over half of a per cent of the victims.

Table 2.3: Identity of the victims of bloodshed in manor courts, 1341-81.

	Total Victims	Male Victims	Clerical Victims	Female Victims
Methley	70	56	1	13
Wakefield	606	499	4	103
Bradford	139	118	0	21
Conisbrough	56	28	0	28
Total	871	701	5	165

Source: Bradford TNA DL/30/129/1957; Conisbrough DA DD/YAR/C1/17, 20, 21, and 23; Methley WYAS MX/M6/1/3-15; and Wakefield YAHS MD/225/1/71-91.

[16] J. A. Humphrey, R. P. Hudson, S. Cosgrove, 'Women who are murdered: An analysis of 912 consecutive victims', *Omega*, 12, 3 (1981), p.281; Verkko, pp.50-57; and Kivivuori, p.148.

As outlined in Table 2.3, the number of victims varies between manors. Nonetheless, it is clear that men were still the majority of victims of petty violence, albeit a much smaller majority than in felonious cases. The share of male victims in bloodshed presentments ranged from fifty per cent at Conisbrough to eighty-five per cent at Bradford. At Methley and Wakefield, eighty and eighty-two per cent of victims of bloodshed were men.[17] Previous studies of bloodshed uncovered similar percentages of male victims. Miriam Müller found that at the manors of Badbury, Wiltshire and Brandon, Suffolk, the percentage of male victims in bloodshed presentments was sixty-nine and ninety-two per cent respectively.[18] The published rolls from the manor of Wakefield from 1300-50 reveal that men formed eighty per cent of the victims in bloodshed presentments.[19] Unfortunately, none of these works treated the clergy as a separate identity. Consequently, there is no data available to compare with the results of this present investigation. Nonetheless, as shown in the introduction, violence against a cleric could be punished by excommunication. It is striking that any clerical victims appear in the manor court when this could have been dealt with in an ecclesiastical forum. As a result, this demonstrates that the legal and social identity of clergy did not prevent them from appearing as victims of bloodshed in manorial presentments. Thus far, there is no clear evidence to prove that victim's identity skewed prosecution in late medieval Yorkshire. The following three sections consider this question further through examining the victim-suspect relationship and the origin of the victim.

Victim-Suspect Relationship

This section first examines the suspect to victim ratio and considers whether this varies by victim identity. Secondly, it analyses the relationship between the victim and the person(s) suspected of attacking them. Both of these points may help to clarify if the victim's social and legal identity shaped prosecution. Chapter One showed that most entries in the coroners' and gaol delivery rolls listed one suspect, but women were generally listed alongside a co-suspect. As shown below in Table 2.4, in the coroners' rolls a single suspect was named in eighty-nine per cent of cases where the victim was male, sixty-three per cent where the victim was a clerk, and ninety-six per cent of cases with a female victim. In the gaol delivery records, as Table 2.4

[17] Bradford TNA DL/30/129/1957; Conisbrough DA DD/YAR/C1/17, 20, 21, and 23; Methley WYAS MX/M6/1/3-15; and Wakefield YAHS MD/225/1/71-91.
[18] M. Müller, 'Social control and the hue and cry in two fourteenth-century villages', *Journal of medieval history* 31.1 (2005), pp.40-42.
[19] R. Russell, 'Violence in the manor courts of Wakefield, 1300-1350' (Unpublished M.Phil. Thesis, University of Cambridge, 2016), p.25.

shows, a single defendant was named in eighty per cent of the cases with a male victim, seventy-two per cent of cases with a clerical victim, and eighty-six per cent of cases where the victim was female. Thus, while Chapter One outlined female suspects were more likely to be indicted with a co-suspect, here typically only one person was prosecuted in cases with a female victim. This is an important finding. In Butler's study of spousal homicide, it was concluded that wife-killing was a solitary act.[20] While this conclusion is not disputed, due to the wider scope of this present study, it is now possible to see that only one person was prosecuted in the majority of all femicide cases. In other words, the pattern observed by Butler is not limited to spousal homicide but applies to female victims more broadly. The opposite was true for men, and especially clergy. Although these groups were more likely to be prosecuted alone, they were more likely than women to be victims in cases where co-suspects were named.

Table 2.4: Victims with only one suspect in coroners' rolls and gaol delivery, 1345-85.

	Male victims	Clerical victims	Female victims
Coroners' rolls	89%	63%	96%
Gaol delivery	80%	72%	86%

Source: TNA JUST 3/78-80; 141A; 143; 145; 155; 165A; and 169; and TNA JUST 2/212-242.

Just as Chapter One mapped the relationships and social networks between co-suspects, it is possible to interrogate the victim-suspect relationship. This allows one to build a clear picture of the patterns of prosecution. In the coroners' and the gaol delivery rolls, the victim and the suspect were clearly related in only around three per cent of cases. Likewise, Hanawalt maintained that there was a low rate of intra-familial homicide in medieval England.[21] However, this picture shifts when analysed by identity. In the coroners' rolls, twenty-nine of the sixty-nine female victims were in an intimate relationship with the suspect. Most of these 'intimate' relationships were simply husbands and wives. For example, in 1359, the coroner investigated the death of Emma Rose, wife of John de Langethwayt, and the jury named John, her husband, as the suspect.[22] In addition to spousal relationships were the women described

[20] S. M. Butler. 'Spousal abuse in fourteenth-century Yorkshire: What can we learn from the coroners' rolls?', *Florilegium*, 18.2 (2001), p.64.
[21] B. A. Hanawalt 'Violent death in fourteenth and early fifteenth-century England', *Comparative Studies in Society and History*, 18, 3 (1976), pp.309-310.
[22] TNA JUST 2/215 m.8 (IMG 0017).

as *concubina* or *amica*. While the first term translates as 'concubine', Butler outlined that the latter, which could mean 'friend', was typically used in court rolls to describe a lover.[23]

Table 2.5: Victims related to the suspect by identity 1341-85.

		Male victims	Clerical victims	Female victims
Coroners' rolls	Number	12	0	33
	Percentage	1%	0	48%
Gaol delivery	Number	15	0	15
	Percentage	2%	0	25%
Manor court	Number	16	0	9
	Percentage	2%	0	5%

Source: TNA JUST 3/78-80; 141A; 143; 145; 155; 165A; and 169; TNA JUST 2/212-242; Bradford TNA DL/30/129/1957; Conisbrough DA DD/YAR/C1/17, 20, 21, and 23; Methley WYAS MX/M6/1/3-15; and Wakefield YAHS MD/225/1/71-91.

An additional four female victims were related to the suspect; one was a father-daughter relationship and the other three were connected by means of a mutual descriptor. For example, in 1377, the coroner's jury found that Johanna, wife of John, son of Margaret de Epikwyth had been feloniously killed by Thomas son of John son of Margaret de Epikwyth. It appears that Johanna was married to Thomas's father; today one may categorise this as her stepson. Therefore, in almost half of the cases with female victims, the suspect was a partner or relative. In contrast, for less than one per cent of male victims, the suspect was potentially a family member. Four victims were the brother of the suspect, two were husbands, one was a father. A further five had the same surname as the victim, so they may have been related. For instance, in 1345, Richard Burhouth was indicted for the death of Alan Burhouth.[24] None of the clerical victims were recorded as being related to the suspect.

In the gaol delivery rolls, fifteen male and fifteen female victims were related to the suspect. For the male victims, these suspects included eight brothers, four wives, two fathers, and one person with a shared surname. For the female victims, the suspects included twelve husbands, one father, one stepson, and one person with a shared surname. Although the number of familial relationships is equal for men and women, this represents just two per cent of the

[23] Butler, p.66.
[24] TNA JUST 2/213 m.3 (IMG 0012).

male victims, but one-quarter of the female victims. However, a relative being named as the suspect was equally likely for male and female victims, but the males were more likely to be in cases with an unrelated suspect. It is this latter detail which changes the picture overall. Notwithstanding, as shown, even though a higher share of the female victims were in cases where a family member had been named as the suspect, it is important to note that the absolute number of intrafamilial cases was the same for both male and female victims.[25] In fact, the numbers of men and women killed by family members, excluding partners, in modern criminal statistics is roughly equal. Over the last decade, in England and Wales, 383 women were killed by family members, excluding partners, compared to 390 men. The difference occurs when partners and ex-partners are included; over the last decade, 137 men were victims of partners and ex-partners, compared to 894 women.[26]

The Yorkshire data is much smaller, nonetheless, it shows that six men were victims in cases where their partner was named as the suspect, compared to forty-one female victims. Therefore, despite harsh legislation against petty treason, where a subordinate kills their master, such as a wife killing her husband, wives do not feature heavily among the suspects for male victims. In his study, Given drew on thirteenth-century confessional evidence to support his finding that in fact women were more likely to be victims of partners than men were of their children.[27] In the *Summa Confessorum* (c.1216), an instruction manual for confessors, Thomas of Chobham outlined that uxoricides deserved harsher penance than patricides. However, this was not because wife-killing was deemed to be more heinous than father-killing but rather because men were more prone to murdering their wives than their fathers.[28] It is interesting that this pattern was observed at the time; often there is limited evidence that contemporaries were aware of the trends found by historians of crime.[29]

The key question is whether this 'awareness' actually shaped prosecution. It is possible that medieval jurors were more likely to suspect a husband, or less likely to accuse a female relative. The prevalence of women as victims in domestic violence is applicable today. Over the last decade, in England and Wales, seventy-five per cent of female victims of homicide were killed by a partner, ex-partner, or family member. This is in comparison to just sixteen

[25] As above, 15 men and 15 women were recorded as victims of family members.
[26] Stripe, Appendix table 11.
[27] Given, p.56.
[28] F. Broomfield ed. *Thomae de Chobham summa confessorum* (Louvain: Éditions Nauwelaerts, 1968), pp.458-459.
[29] P. King, 'Gender, crime and justice in late eighteenth- and early nineteenth-century England', in M. Arnot, and C. Usborne, eds. *Gender and crime in modern Europe* (London: Routledge, 1999), pp.55-61.

per cent of male victims.[30] Fifty per cent of male homicide victims were thought to have been killed by friends, colleagues, acquaintances, or someone else known to them. Thirty-four per cent of men were victims of strangers, which is more than double the percentage of male victims of domestic homicide.[31] As this pattern is enduring, it does not appear to have been caused by medieval legal identity. However, social identity appears to have an effect. Criminologists such as Shani D'Cruze and historians like Martin J. Wiener suggest that male-on-male violence is typically about honour, and that public violence, such as fighting and sport, was embedded in male culture.[32] When women encounter violence it is often from the men in the household or kinship group, which is likely shaped by patriarchal family structures. This persistent pattern signals the problem of toxic masculinity and violence, both today and in late medieval England.

The victim-suspect relationship in ravishment is a little harder to compare with contemporary criminal statistics. Marital rape was not criminalised in England and Wales until 1994. Prior to this, a legal fiction, that a wife had consented through marriage to 'intercourse with her husband no matter when and where', applied.[33] In the year ending March 2020, forty-four per cent of cases of rape or assault by penetration were victims of partners or ex-partners, while thirty-seven per cent were victims of other people known to them, five per cent were victims of family members, and thirteen per cent were victims of strangers.[34] There is no obvious relationship between any of the suspects and victims in cases of ravishment from both the coroners' rolls and the gaol delivery records.[35] This is in stark contrast with the suspect-victim relationship pattern found in cases of homicide in late medieval Yorkshire. As outlined above, husbands and relatives were frequently named as suspects in cases of femicide. However, legal identity has shaped the prosecution of ravishment; in law, a medieval man cannot rape his wife, and this accounts for the lack of spousal ravishment cases compare to homicide. Ruth Mazo Karras also found that incest was very rare in ecclesiastical court

[30] Cases with no suspect have been excluded.
[31] Stripe, Appendix table 11.
[32] S. D'Cruze, S. Walklate, and S. Pegg, eds. *Murder: Social and historical approaches to understanding murder and murderers* (Cullompton: Willan Publishing, 2006), p,126; and M. J. Wiener, *Men of blood: Violence, manliness, and criminal justice in Victorian England* (Cambridge: Cambridge University Press, 2004), p.42.
[33] A. Williamson, 'The law and politics of marital rape in England, 1945–1994', *Women's History Review*, 26, 3 (2017), p.382.
[34] N. Stripe, *Nature of sexual assault by rape or penetration, England and Wales: Year ending March 2020,* (London: ONS, 2021), Appendix table 1.
[35] TNA JUST 3/78-80; 141A; 143; 145; 155; 165A; and 169; and TNA JUST 2/212-242.

records.[36] Moreover, as outlined above, cases of interfamilial rape are still a small minority in modern criminal statistics.[37]

The following entry is an example of how ravishment cases do not provide details on the suspect-victim relationship. In March 1374, Matilda daughter of William Spaldyng came before the sheriff and coroner of York to appeal John de Stowe of York for ravishing her at Stamford Bridge, a village in the East Riding.[38] During Lent 1375, John Stowe de Ebor was tried for this crime at the suit of Matilda, daughter of William Spaldyng.[39] Neither record comments on the relationship, if any, between Matilda and John, nor does it state that they were strangers. It appears that John was from York, but Matilda's place of origin is not stated. The crime took place in Stamford Bridge; it is conceivable that this was Matilda's home, but that cannot be known for certain.

It may be possible to glean more information about the likelihood of whether the other victims and suspects in cases of ravishment were known to each other by assessing whether they were from the same place. Unfortunately, as in the case above, most entries do not provide enough information because either the origin of at least one party is not stated or the location of the crime is missing. However, seven of the victims in gaol delivery were from the same village as their ravisher compared to eleven from different villages. This is only a small difference, and therefore there is no clear evidence that victims were more likely to appeal ravishment when the suspect was a stranger rather than someone from their community. However, this cannot be known, regardless of the data in the rolls, because one cannot know how many ravishments were in fact committed and by whom. The 'dark figure', cases which are not in the rolls, could completely change the picture. The only thing that can be gleaned here is that women appealed people from their community as well as those from outside. The origin of victims is considered further below but now this section continues its analysis of the suspect-victim relationship.

Across the four manors, ten male and seven female victims were related to the person who was presented for drawing blood from them. A further six male and two female victims shared a surname with the suspect, implying that they were related. Sibling relationships were the most common relationship between the victim and their attacker for both male and female victims; twelve out of the seventeen, or twenty-five if counting those with a shared surname,

[36] Karras, p.3.
[37] Stripe, *Nature of sexual assault…,* Appendix table 1.
[38] TNA JUST 2/227 m.20 (IMG 0044).
[39] TNA JUST 3/165A m.13 (IMG 0072).

familial relationships in bloodshed cases were siblings. This contrasts with the victim-perpetrator relationships in cases of homicide. As shown in this study, which echoes the findings of Given, wives were the most common victims in familial slayings.[40] Butler explained that violence was anticipated in medieval marriages and, as a result, wives 'were more willing to tolerate what we today would see as abuse'.[41] Müller interpreted the lack of domestic violence in bloodshed presentments as a sign of the toleration of the physical 'chastisement' of wives.[42] A case from the Chalgrave manorial rolls could indicate that there was legal permission for domestic violence; Margery Himgeleys was presented as a 'malefactor of corn', but instead of an amercement, her husband was to administer the punishment.[43]

Interspousal violence does not appear to feature in the presentments of bloodshed in the Yorkshire manor courts. A husband was allowed to use reasonable chastisement but was not permitted to kill or maim his wife.[44] This may explain why wives were prominent among homicide victims but absent in bloodshed presentments. Moreover, there was a stigma surrounding male victims of domestic violence; a man who admitted to being beaten by his wife could be humiliated by neighbours. There is evidence of the public shaming of husbands beaten by their wives in fourteenth-century France. The male victim was humiliated by being forced to ride through the streets on the back of a donkey. The earliest evidence of the shaming of men who had been beaten by their wives in England is from the sixteenth century.[45] E. P. Thompson outlined that when a wife had assaulted her husband, 'both parties were satirised in the public disgrace, since the husband had failed to establish his patriarchal authority'.[46] In light of the social expectations of medieval men and the patriarchal structure of the household, it is certainly plausible that a male victim of domestic violence may not want to prosecute his wife because the violence would have become public knowledge. Hence, while a husband may have been too ashamed to admit the violence, a wife may not have found that the law was on her side. Social ideas about gender, marriage, and violence may have prevented presentments of bloodshed for both male and female victims of domestic violence.

Nonetheless, some types of violence which one may expect to have been tolerated did appear in the manor court rolls. For example, in 1354, on the manor of Bradford, Margaret, the

[40] Given, pp.55-58.
[41] S. M. Butler, *The language of abuse. Marital violence in later medieval England* (Leiden: Brill, 2007), p.3.
[42] Müller, p.41.
[43] M. K. Dale, ed., *Court roll of Chalgrave manor, 1278-1313* (Streatley, Bedfordshire Historical Record Society, 1950), p.44.
[44] Butler, *The language of abuse…* p.47; and D. Klerman, 'Women prosecutors in thirteenth-century England', *Yale Journal of Law & Humanities,* 14 (2002), pp.272-275.
[45] Given, p.136.
[46] E. P. Thompson, 'Rough music reconsidered', *Folklore,* 103, 1 (1992), p.11.

wife of William of Whitacres was amerced for drawing blood from Cecilia, William's servant.[47] Likewise, at Wakefield in 1360, Stephen Arkel was presented for drawing blood from his son.[48] The chastisement of servants and children was often tolerated in medieval society, like that of a wife.[49] It is strange that these cases were presented but there is an absence of spousal violence. It cannot be known whether these cases were in public and thus drew attention, or whether spousal abuse was more likely to be considered a domestic matter, even if witnessed. Now that the suspect-victim relationship has been fully considered, the next section examines the geographical origin of those appearing as victims in the coroners' roll and in gaol delivery to assess whether outsiders were overrepresented as victims.

Origin of victims

Chapter One applied the classification of 'outsiders' or 'residents' to the suspects in the coroners' and gaol delivery rolls to gauge whether medieval communities were suspicious of outsiders. The same method can be applied to the victims to assess whether they were from the same location as where the offence took place. Sufficient information is provided for over fifty per cent of the victims from the coroners' inquests and gaol delivery in order to place them into a category. This means that a place of origin and the location of the crime were both recorded. Again, those who have been categorised as 'outsiders' by this study were simply recorded as coming from a vill, town, or county other than the location of the crime. The 'residents' are those originating from the place in which the crime took place. Table 2.6 shows that most of the victims, where enough geographical information is available, fall into the resident category. Moreover, this is the case for all three identities.

[47] TNA DL/30/129/1957.
[48] YAHS MD/225/1/71-91.
[49] Hanawalt, Growing up…, p.160; and R. E. Sandy, 'Apprenticeship indentures and apprentices in medieval England, 1250–1500', (Unpublished Ph.D. Thesis, Swansea University, 2021), p.53 and p.121.

Table 2.6: Origin of the victims in the coroners' rolls, 1345-85.

		Total	Men	Clergy	Women
Resident	Number	465	440	7	18
	Percentage	100%	35%	23.3%	26%
Outsider	Number	270	263	1	6
	Percentage	100%	21%	3.3%	9%
Unknown	Number	640	572	22	45
	Percentage	100%	45%	73.3%	65%

Source: TNA JUST 2/212-242.
Note: Identity of one victim is unknown as they are just listed as a servant.

What can be seen below, in Table 2.7, is that the gaol delivery rolls again contain more resident than outsider suspects for all identities. This contrasts with the suspects in gaol delivery that were roughly split between the two categories. Thus, this suggest that while the suspects in cases of prosecuted homicide could come from anywhere, the victims were more likely to be local. This raises the question as to whether communities were less likely to prosecute violence against strangers. The following sections examine the unidentified and foreign victims whose cases appeared in the coroners' rolls and in gaol delivery.

Table 2.7: Origin of the victims in the gaol delivery rolls, 1345-85.

		Total	Men	Clergy	Women
Resident	Number	308	266	5	37
	Percentage	100%	30%	28%	31%
Outsider	Number	156	139	3	14
	Percentage	100%	16%	17%	12%
Unknown	Number	561	483	10	68
	Percentage	100%	54%	55%	57%

Source: TNA JUST 3/78-80; 141A; 143; 145; 155; 165A; and 169.

Unidentified victims

Chapter One demonstrated that less than one per cent of suspects were unknown to the coroners' jury. Additionally, two of the victims in the coroners' rolls were unidentified.[50] While an unidentified suspect is easily conceivable, an unidentified victim is perhaps more surprising; the suspect might not have been found, but, by the fact that there was an inquest, the body was present. Thus, one may expect the coroner and his jury to have been able to identify the victim. Nonetheless, it is far from certain that the jury or the wider community would be able to recognise and name each victim. This speaks to the mobile nature of late medieval society; people did not remain in one village where everyone knew them.

As explained in Chapter One, it was not possible to try or to present an unnamed suspect; thus, all suspects in gaol delivery and in the manorial courts were identified. Conversely, there were five cases with unidentified victims in the gaol delivery rolls.[51] This again reinforces the point that people travelled to areas where they were a stranger to the community. It also demonstrates that a case would be taken forward to trial even if the victim was a stranger. Even when a named defendant was suspected of murdering a stranger, the law was applied. For example, in 1345, William Boteler of Rydale was tried for feloniously slaying '*quendam extraneium et cuius nomen ignoratur*', an outsider whose name is not known. This case made it to trial despite the admission that the killing happened in William's garden, which could suggest he was defending his home and family against a stranger.[52]

Non-English Victims

Chapter One explored the possibility that immigrant suspects were overrepresented in the rolls. However, if shaped by prejudice, one would expect immigrants to be underrepresented among homicide victims as the local community may feel less inclined to investigate the crime or be more likely to conclude that it was an accident rather than a murder, especially if the victim was killed by an Englishman. Nevertheless, just as Chapter One showed that non-English people made up around two per cent of the suspects in the coroners' rolls, they accounted for 1.7 per cent of victims. As shown in Table 2.8, non-English victims originated from Scotland,

[50] TNA JUST 2/231 m.4 (IMG 0011); and TNA JUST 2/232 m.7 (IMG 0035).
[51] TNA JUST 3/79/1 m.10 (IMG 0023); TNA JUST 3/79/1 m.17 (IMG 0072); TNA JUST 3/169 m.14 (IMG 0126); TNA JUST 3/78 m.15 (IMG 0139); and TNA JUST 3/78 m.46 (IMG 0185).
[52] TNA JUST 3/78 m.15 (IMG 0139).

the Low Countries, Wales, France, and Ireland. There is only one female migrant victim and no clergy, which is in line with expectations given the small number of non-English victims.

Table 2.8*:* Nationality of victims in the coroners' rolls and gaol delivery 1345-85.

	Coroners' rolls	Gaol delivery
Scottish	12	4
Irish	1	3
Welsh	2	2
French	1	0
Brabant	8	1
Total non-English victims	24	10
Total victims	1375	1050

Source: TNA JUST 3/78-80; 141A; 143; 145; 155; 165A; and 169; and TNA JUST 2/212-242.

The share of immigrants is higher than the one per cent suggested by the 1440 alien subsidy, so in fact perhaps non-English victims are overrepresented, being targets of xenophobia.[53] The Welsh and Irish, who were exempted from the subsidy should be removed in order to make the data more comparable. Nonetheless, even with this adjustment, non-English people still account for 1.5 per cent of victims. However, Chapter One highlighted that perhaps 1.5 to 2 per cent was a more realistic figure for the migrant population in Yorkshire, plus this data may also include second or third generation immigrants. Table 2.8 certainly highlights that the coroner and his jury investigated the killing of people who may be considered as foreigners or outsiders. While there were only four immigrants tried in the Yorkshire gaol delivery rolls, there were ten victims. This included four Scottish, three Irish, two Welsh, and one Brabanter. In all the gaol delivery cases with a non-English victim, the defendant appears to have been an Englishman. While there is only a small number of cases, this finding is quite striking. It again highlights that local people were prosecuted for violence against foreigners or outsiders. The following sections investigate victims alerting local officials and seeking justice via the systems of hue and cry and appeal.

[53] W. M. Ormrod, B. Lambert, and J. Mackman, *Immigrant England, 1300-1550* (Manchester: Manchester University Press, 2019), p.259.

Hue and Cry

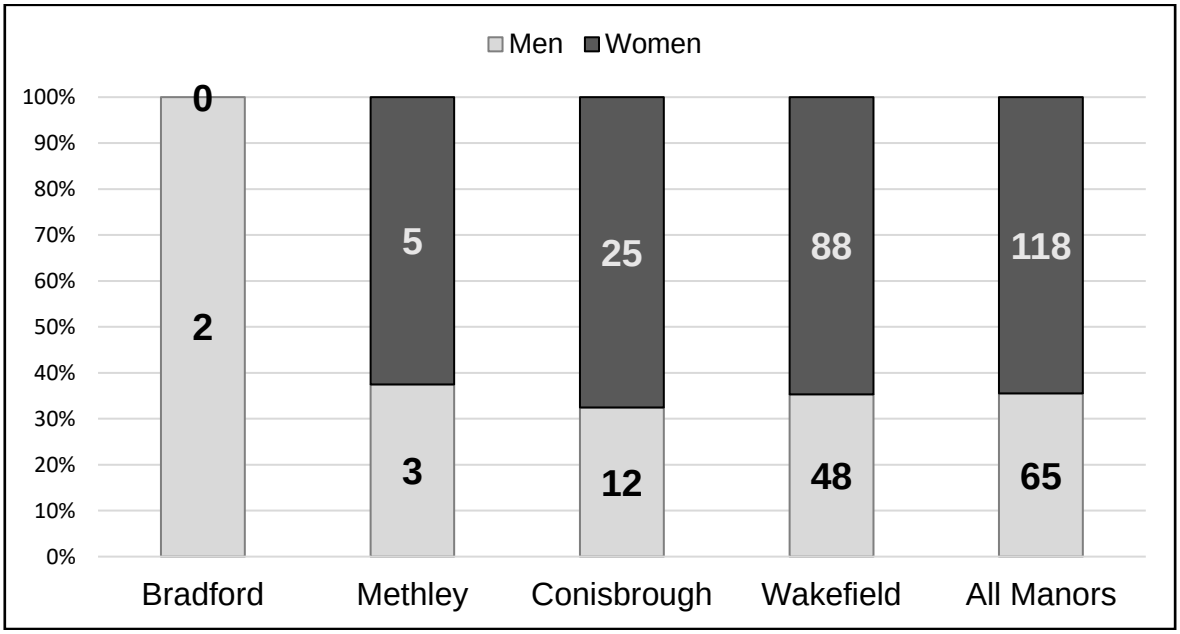
Prior to the epoch of the modern police force, the community was responsible for policing and reporting crime. Typically, the hue and cry should be raised in two situations: as a cry for help from victims or witnesses of crime, or by those who had discovered a crime which had already taken place, such as upon finding a body. Both scenarios involved shouting in order to draw attention to the crime and alert local officials.[54] Sir Frederick Pollock and Frederic William Maitland suggested that the proper cry was 'Out! Out!', then 'neighbours should turn out with weapons', and the hue and cry should be 'horned from vill to vill'.[55] Within the scope of a study on the prosecution of violence, some caution must be applied to the hue and cry. This is because the entries do not state why it was raised. The only details recorded are the name of the raiser, who they raised against, and an amercement. One must not be too ready to assume that the hue and cry was solely raised in cases of violence, as opposed to property crime. However, hue and cries should be raised in cases of immediate danger.[56] Thus, the raiser may have feared for their personal safety if assistance was not called. It is possible that the hue and cry may have been raised in cases that were essentially theft, especially at night. However, if the person felt that they needed assistance, in a case of immediate danger, there is justification for including the hue and cry in a study of the prosecution of violence. The fear of violence was likely present, if not the act itself. In fact, the definition of common assault set out in the Criminal Justice Act 1988 includes making 'person think they are about to be attacked'.[57]

Across the four Yorkshire manors, there were 183 incidences of hue and cry; 118 raisers were women and 65 men. There were no recorded raisings by clergymen at any of the manors covered by this study. As outlined in the introduction, the legal identity of women largely excluded them from the formal structures of law, meaning that they could not serve on juries or as a legal official. Despite this, at sixty-four per cent, women made up the majority of the raisers of hue and cries across the four manorial courts. Furthermore, as shown in Figure 2.1, female raisers were in the majority in three out of four manors. As most of the raisers in Yorkshire were female, this perhaps indicates that women were not excluded from the spaces in which violence took place. The idea of women present in space of violence is also supported

[54] Müller, p.33.
[55] P&M ii, pp.578-579; and Müller, p.33.
[56] J. Rodziewicz, 'Women and the hue and cry in late fourteenth-century Great Yarmouth' in B. C. Kane and F. Williamson eds. *Women, agency and the law, 1300-1700* (London: Pickering & Chatto, 2013). pp.95-96.
[57] Sentencing Council, 'Assault offences explained' 2018 [https://www.sentencingcouncil.org.uk/news/item/assault-offences-explained accessed 24 August 2021].

by the homicide cases discussed above, where women were killed during an argument which seemed to be between two men.

Figure 2.1*:* Identity of the raiser of the hue and cry in the manor court rolls, 1341-81.



Source: Bradford TNA DL/30/129/1957; Conisbrough DA DD/YAR/C1/17, 20, 21, and 23; Methley WYAS MX/M6/1/3-15; and Wakefield YAHS MD/225/1/71-91.

As indicated in Figure 2.1, in the Wakefield rolls, there were 136 entries of hue and cry, 88 were raised by women and 48 by men. At Conisbrough, there were twenty-five female raisers compared to twelve males. Methley saw eight instances of hue and cry, but five of these were raised by women. The only exception is Bradford where all raisers were male, but there were only two hue and cries recorded. Other studies of hue and cry have calculated the number of female raisers at around forty per cent. Miriam Müller found that at the Suffolk manor of Brandon the hue was raised by women in forty per cent of cases. Likewise, Janka Rodziewicz uncovered that in the town of Yarmouth, the female participation rate in hue and cry was forty-three per cent.[58] Although men dominated the offices and formal positions of local law enforcement, the fact that women were able, and in Yorkshire more likely, to raise the hue and cry, may reveal that it was a cultural role for women.[59] Hue and cry, as argued by Müller, gave women an active and integral part in community policing and conflict resolution.[60]

[58] Müller, pp.38-39; and Rodziewicz, p.93.
[59] Rodziewicz, p.96.
[60] Müller, p.52.

While women were able to be raisers, the hue and cry was still subject to legal authorization. A raiser had to be justified in their actions; each hue and cry recorded in the manor court was either deemed to be just or unjust. The person it was raised against would be amerced if the hue and cry had been appropriate. If the hue and cry was deemed to be unjustified, then it was the raiser who would be amerced. Rodziewicz stressed that it is significant that women 'were trusted to make a judgement call on raising the hue' despite their exclusion from formal legal roles.[61] On the other hand, Sandy Bardsley suggested a suspicion of women's speech had developed by the late fourteenth century, which in turn led to a blurring between the boundaries of false hue-raising and scolding.[62] Similarly, Judith Bennett suggested that female raisers were dismissed by a 'male-controlled political process'.[63] However, as shown below in Table 2.9, while more women were deemed to have raised the hue and cry unjustly compared to men, this is because more women raised the hue and cry. Therefore, the Yorkshire data does not support the conclusions of Bardsley and Bennett.

Table 2.9: Identities in cases of hue and cry in the manor court rolls, 1341-81.

	By men against men		**By men against women**		**By women against men**		**By women against women**	
	Just	Unjust	Just	Unjust	Just	Unjust	Just	Unjust
Bradford	0	1	0	0	0	0	0	0
Methley	1	1	0	1	3	2	0	0
Conisbrough	8	2	1	0	20	3	1	0
Wakefield	29	11	7	0	50	18	12	4
Total	**38**	**15**	**8**	**1**	**73**	**23**	**13**	**4**

Source: Bradford TNA DL/30/129/1957; Conisbrough DA DD/YAR/C1/17, 20, 21, and 23; Methley WYAS MX/M6/1/3-15; and Wakefield YAHS MD/225/1/71-91.

This study has found that, across the four manors, a minority of the hue and cries recorded were deemed to be unjust; twenty-three per cent of those raised by men and thirty per cent of those raised by women. This pattern can also be seen at manor level. The rate of unjust

[61] Rodziewicz, p.95.
[62] S. Bardsley, *Venomous tongues: Speech and gender in late medieval England* (Philadelphia: University of Pennsylvania Press, 2014), pp.75-77.
[63] J. M. Bennett, *Women in the medieval English countryside: Gender and household in Brigstock before the Plague* (Oxford: Oxford University Press, 1987), pp. 26-27.

hue and cries for men and women, twenty-three and twenty-four per cent respectively, was comparable at Wakefield. At Methley and Conisbrough, the number of cases of unjust hue and cries were again roughly equal for men and women. Although, women raised the hue and cry more frequently, it was men who were more likely to have been found to have raised it unjustly. At Bradford, there were only two hue and cries, both raised by men, and both deemed to be unjust. Rodziewicz also found that hue and cries raised by men in late fourteenth-century Yarmouth were more likely to be unjust than those raised by women.[64]

All the same, Bennett suggested that female accusations of male violence were dismissed by manor courts. Bennett reached this conclusion based on the evidence that twelve out of the fifteen unjust hue and cries raised by Brigstock women were against men.[65] However, this could merely be reflective of the prevalence of male suspects as outlined in Chapter One. In other words, this may simply be showing that women were more likely to raise the hue and cry against men, rather than a sign that their voices carried less weight when accusing a man. It is possible to test this conclusion by assessing the identity of both the raiser and the person that the hue and cry was raised against, and whether or not this was deemed to be just. Across the four Yorkshire manors, women's use of the hue and cry was mostly judged to have been justified. Furthermore, this did not vary based on whether it had been raised against a man or a woman. Seventy-six per cent of the hue and cries raised by women, against both sexes, were found to have been justified. This is roughly comparable to men raising the hue and cry. Seventy-two per cent of hue and cries raised by men against men were deemed to have been just. While eighty-nine per cent of men who raised the hue and cry against a woman were deemed to have been justified, only a small number of women had the hue and cry raised against them.

Rather than the hue and cry being a cultural role for women, the high number of female raisers could perhaps expose the prevalence of violence against women. The hue and cry was to be raised in cases of immediate danger, and Rodziewicz stated that women were allowed to raise it because firstly, 'maintaining peace was more important than maintaining gender roles' and, secondly, all genders had an equal right to life.[66] In order to assess whether female raisers were indicative of a reporting role for women, or that they were the target of violence, one must review the cases where a hue and cry can be tied to a presentment of bloodshed to see if the raiser was also the victim.

[64] Rodziewicz, p.94.
[65] Bennett, pp.26-67.
[66] Rodziewicz, pp.95-96.

Table 2.10*:* Hue and cry connected to bloodshed presentments, 1341-81.

Raised for	Male Raisers	Female Raisers
Themselves	9	9
Someone else	0	14
Total	**9**	**23**

Source: Bradford TNA DL/30/129/1957; Conisbrough DA DD/YAR/C1/17, 20, 21, and 23; Methley WYAS MX/M6/1/3-15; and Wakefield YAHS MD/225/1/71-91.

Although the rolls do not contain explicit information on why the hue and cry was raised, it can be inferred that thirty-two hue and cries across the four manors were raised in connection with bloodshed. For example, in 1350, when Thomas Antoyn was presented at the manor of Wakefield for drawing blood from Agnes Perkyndoghter, the entry stated that the same Agnes raised the hue justly against Thomas.[67] One can safely assume that the hue and cry was raised in response to Thomas's attack on Agnes. Other connections are more tentative, such as when Roger de Kilnehyrst was presented at Conisburgh in 1361 for drawing blood from Thomas Bullok. It was also presented that Agnes, wife of Thomas Bullok, raised the hue and cry justly against the same Roger. While it cannot be known for sure, it is reasonable to assume these two presentments are linked.

As shown in Table 2.10, of the thirty-two hue and cries that can be connected to a presentment of bloodshed, twenty-three were raised by women and nine by men. In all of the male uses of the hue and cry, the raiser was also the victim. However, while nine women raised the hue and cry when they were the victim, the other fourteen women raised it on behalf of another person. Of the fourteen women who raised the hue and cry for another person, nine women raised the hue and cry for their husband, two for men with whom they shared a surname, one for her husband's servant, and one for a male with no obvious relationship to her. It is striking that when woman raised the hue and cry for another person, it was always for a man. Müller's study also found that women used the hue and cry to protect themselves and their menfolk.[68] As Rodziewicz argued, a female hue raiser could perform the gendered role of a 'weak woman in calling for aid' allowing the man to maintain his masculinity by not seeking

[67] WYAS MD/225/1/75.
[68] Müller, p.52.

assistance during a conflict.[69] The next section continues the focus on access to justice and the reporting of offences by examining the process of appeal. Just as raising the hue and cry appears to have been role for medieval women, the same has also been said about the bringing of appeals. The connection between legal and social identity and ability to make an appeal is now examined using the Yorkshire rolls.

Appeal

As outlined in the introduction, appeal was a form of private prosecution. As with the hue and cry, women had the legal freedom to make an appeal.[70] There were sixty-three appeals of homicide in the coroners' rolls, eleven of which also appear in gaol delivery. There were an additional twenty-seven appeals at gaol delivery which do not appear in the coroners' rolls, making a total of thirty-eight appeals in the gaol rolls. This study found that ninety-five per cent of these appeals were made by women, all widows of the victim. For example, in 1359, Emma, who was the wife of Adam Arowsmyth came before the coroner of York, with two male pledges, to appeal William de Leycestr' of York Spicer, for the death of her husband.[71] All appellors, both male and female, came with two male pledges, so the requirement to have pledges was not reflective of Emma's legal identity. In fact, Daniel Klerman, who found that two-thirds of appeals of homicide in thirteenth-century England were brought by women, maintained that due to the process of appeal female prosecutors had the power to assume a public role in prosecution.[72]

Despite Klerman's attribution of power to medieval women, chapter thirty-four of the final version of Magna Carta (1225) stated that 'no one shall be arrested or imprisoned upon the appeal of a woman for the death of anyone except her husband.'[73] While this does not say that a woman *cannot* make an appeal of homicide unless the victim was her husband, in order to prosecute someone as a result of an appeal they need to be arrested or imprisoned to be tried at gaol delivery. In a Year Book case from 1425, the defendant pleaded that the 'widowed' appellor was not lawfully married to the victim. As a consequence, she was nonsuited. The defendant was still tried, but under the legal fiction of the king's suit, rather than via the

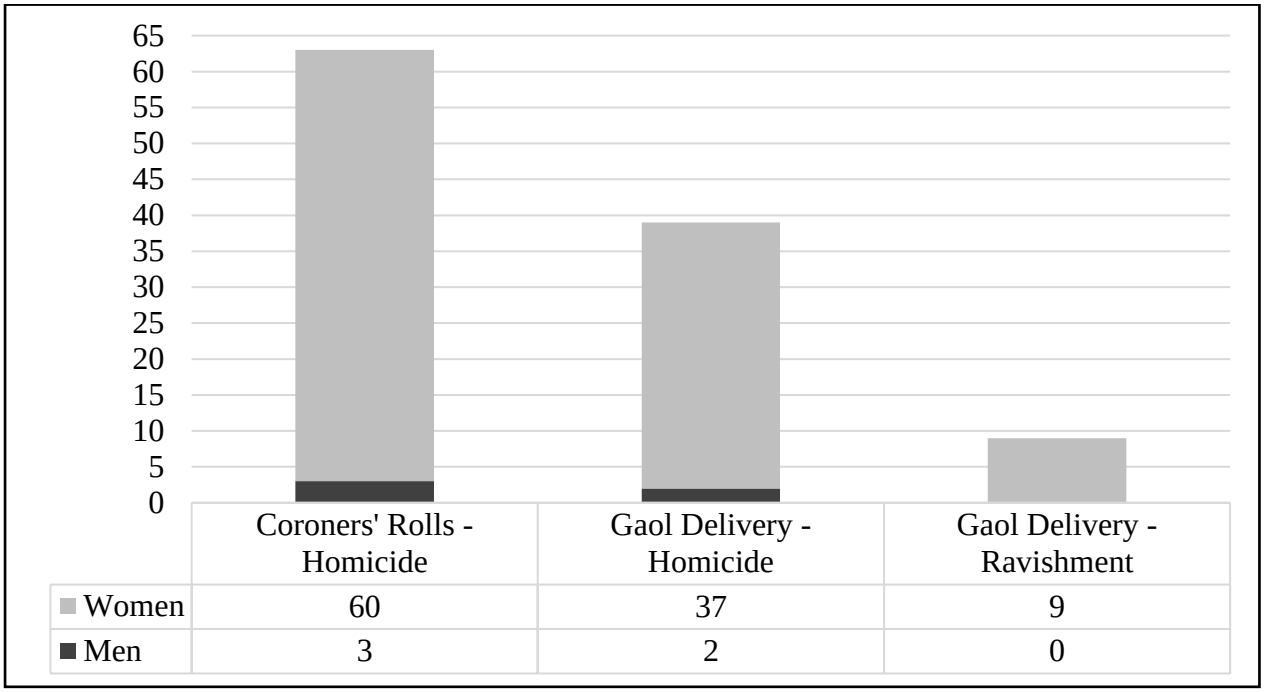
[69] Rodziewicz, p.95.
[70] Klerman, p.271 and p.294.
[71] TNA JUST 2/215 m.8 (IMG 0016).
[72] Klerman, p.274 and p.288.
[73] *Magna Carta*, 1225, in H. Rothwell, ed. *English historical documents 1189-1327*, Volume III (London: Routledge, 1975); and British Library, 'Magna Carta, 1225', British Library, London, [https://www.bl.uk/collection-items/magna-carta-1225, accessed 30 October 2021].

appeal.[74] One cannot know if this was a clever move on the part of 'widow' in order to get the case heard or whether the appellor genuinely though she had the right to appeal. Regardless, this case highlights that the former was a potential option for women limited by their legal identity. Although it could lead to amercement or imprisonment, it was fairly common for the appellor not to attend the trial. For homicide appeals in Yorkshire, eighteen of the thirty-eight appellors did not attend when they case was heard in gaol delivery. Nonetheless, this pattern does not appear to have been particularly gendered.

While the requirement to be the wife of the victim may have been a limitation on the legal rights of other women, it is important to note that men also faced restrictions on their ability to make an appeal. Bracton stated that in order to bring an appeal you must either be the victim, or in cases of homicide, a relative.[75] All of the five men who made appeals of homicide in Yorkshire appear to have been related to the victim. One was the son of the victim, one brother, one cousin, and one had a shared surname. The final one was, *consanguineous*, related by blood.[76] In fact, the right of the widow to appeal could remove this entitlement for men. The Year Books contain a case from 1314 where a man tried to appeal the death of his cousin. The suit was challenged by the defendant who stated that the victim had a widow and the appeal needed to have been brought by her.[77]

[74] Pasch. 3 Hen. 6 pl.3, fol.208 in D. J. Seipp, 'Legal history: The Year Books. An index and paraphrase of printed Year Book reports, 1268–1535', Boston University School of Law [https://www.bu.edu/phpbin/lawyearbooks/display.php?id=17043 accessed 29 September 2021].
[75] Klerman, p.290.
[76] TNA JUST 2/218 m.6 (IMG 0013); and TNA JUST 2/218 m.44 (IMG 0086); TNA JUST 2/236 m.1 (IMG 0006); TNA JUST 3/169 m.6 (IMG 0113); and TNA JUST 3/169 m.16 (IMG 0155).
[77] W. C. Bolland, *Year Books of Edward II: Years 1313-1314*, Volume 16 (London: Quaritch 1922), pp.224-225.

Figure 2.2: Identity of homicide appellors in coroners' rolls and gaol delivery, 1345-85.



Source: TNA JUST 3/78-80; 141A; 143; 145; 155; 165A; and 169; TNA JUST 2/212-242; Bradford TNA DL/30/129/1957; Conisbrough DA DD/YAR/C1/17, 20, 21, and 23; Methley WYAS MX/M6/1/3-15; and Wakefield YAHS MD/225/1/71-91.

Another area of prosecution dominated by women was appeals of ravishment; due to the gendered nature of this crime, all victims, and hence all appellors, were female. In the coroners' rolls there were ten appeals of ravishment. Five of these also appear in the gaol delivery rolls, alongside an additional four appeals, making a total of nine appeals for ravishment in gaol delivery. Bracton stated that all raped women must have legal protection, but in practice the courts did not always apply this principle.[78] For instance, in 1244 a widow's appeal of rape was declined because 'a woman can only appeal concerning rape of her virginity.'[79] In the Yorkshire rolls, only one of the appeals specifically mentioned virginity. In 1365, Agnes de Alkbarow of York came before the coroner of the city of York to appeal that *in virginitate sua* and against her will, John de Alforth *capellanum*, feloniously ravished and laid with her.[80] While the other appeals do not mention virginity, all but one of the remaining women appear to have been unmarried; six were described as daughters, one as a servant, and

[78] Bracton cited in Musson, p.86.
[79] TNA JUST 1/175, m.44 d. cited in J. B. Post, 'Ravishment of women and the Statutes of Westminster', in J. H. Baker ed. *Legal records and the historian* (London: Royal Historical Society, 1978), p.153.
[80] in her virginity. TNA JUST 2/215 m.10 (IMG 0021).

the others, as with Agnes de Alkbarow, were not linked to a man.[81] One appeal was brought by a widow, Margaret who was the wife of Thomas de Pokthorp, which is discussed below.

Corinne Saunders claimed that following the Statute of Westminster I, 1275, English law turned away from 'the issue of real rape' in favour of abduction.[82] However, women still had the option to appeal rape throughout the middle ages. All bar three appeals in Yorkshire appear to have been about rape. While only Agnes de Alkbarow mentioned virginity, twelve of the appeals included reference to sexual violence, *contra voluntatem suam carnalitus cognovit.*[83] Another case described how Cecilia Fairpoynt of Marton was taken and led to, (*cepit et abduxit*), a field where she was ravished, which can surely be interpreted as rape.[84]

The appeal brought by the widow, Margaret who was the wife of Thomas de Pokthorp, does not explicitly allege sexual violence. In 1359, John Wright of Kyrkham was arrested at the suit of Margaret. John was tried for feloniously ravishing and abducting Margaret against the Statute, referring to Westminster II, and for stealing her goods and chattels.[85] As seen in the Year Book case, it may have been difficult for a widow to make an appeal of rape, if this was limited to virginity. The Westminster Statutes have been interpreted as an attempt to control consenting abduction brought by disapproving families.[86] Nonetheless, Amanda Capern has recently challenged the 'chimera of female complicity' wherein historians have been too quick to judge ravishment cases as consensual.[87] It cannot be known whether Margaret experienced sexual violence, or whether this was a case of abduction. Even so, as she brought the suit, the idea of consent must be called into question.

There are two further cases where, due to the brevity of the entry, it is not possible to determine whether the complaint is sexual violence or abduction; nonetheless, a consensual elopement is unlikely as the appeal had been brought by the woman herself. The first case merely stated that the defendant *rapuit* the appellor, with no other details of the crime.[88] In the

[81] TNA JUST 2/212 m.18 (IMG 0089); TNA JUST 2/215 m.10 (IMG 0021); TNA JUST 2/227 m.20 (IMG 0044); TNA JUST 2/219 m.9 (IMG 0019); TNA JUST 2/214 m.2 (IMG 0004); TNA JUST 2/225 m.4 (IMG 0016); TNA JUST 2/236 m.4 (IMG 0013); TNA JUST 2/236 m.6 (IMG 0016); TNA JUST 2/219 m.7 (IMG 0016); TNA JUST 2/236 m.8 (IMG 0026); TNA JUST 3/169 m.29 (IMG 0060); TNA JUST 3/145 m.19 (IMG 0047); TNA JUST 3/145 m.48 (IMG 0107); TNA JUST 3/169 m.19 (IMG 0138).
[82] C. J. Saunders, *Rape and ravishment in the literature of medieval England* (Woodbridge: Boydell & Brewer, 2001). p.58.
[83] against her will he carnally knew her. TNA JUST 2/215 m.10 (IMG 0021).
[84] TNA JUST 2/212 m.18 (IMG 0089).
[85] TNA JUST 3/145 m.2 (IMG 0135).
[86] A. Musson, *Boundaries of the law: Geography, gender and jurisdiction in medieval and early modern Europe* (Aldershot: Ashgate, 2005), p.92; and Saunders, p.60.
[87] A. L. Capern, 'The heiress reconsidered: Contexts for understanding the abduction of Arabella Alleyn', in A. L. Capern, B. McDonagh, and J. Aston eds. *Women and the land 1500-1900* (Woodbridge: The Boydell Press, 2019), pp.105-115.
[88] TNA JUST 3/145 m.48 (IMG 0107).

second case, Isabelle, daughter of William the shepherd, came before the sheriff and the coroner to make an appeal of ravishment. The exact offence committed against Isabelle is unclear, just that it was against the king's peace.[89] While appeals were not immune from family or community pressure, at least we know that the victim was involved in the prosecution unlike in cases brought via an indictment.[90] These three cases highlight that the Westminster Statutes were in fact beneficial to women who had been abducted because previously an appeal of rape could only be brought when there had been sexual violence.[91]

As outlined above, Klerman suggested that the process of appeal gave women power in the courtroom.[92] Musson also stated that appeal empowered women and provided them with a public role.[93] Likewise, Corinne Saunders described the decline of the appeal as the legal marginalization of women.[94] However, caution must be applied; it is important not to evaluate appeals with modern feminist views. A woman bringing an appeal of ravishment could be forced to relive her trauma through recounting the events. She may also face being interrogated by justices, having to expose herself, and having her sexual history scrutinised.[95] As acknowledged by Saunders, appeals could be a complex and humiliating burden for women.[96] Thus, it should not be a surprise that seven of the nine Yorkshire women whose appeal of ravishment was heard at gaol delivery did not come to the trial. In the entries relating to the other two women, the roll does not state whether or not they attended. While Chapter Four contains a full discussion of conviction rates, it is worth stating here that all of these ravishment cases led to acquittal.

Conclusion

The share of male and female victims in late medieval Yorkshire broadly corresponds with other studies. In the case of the clergy, the share of victims is in line with the clerical population. Moreover, non-English victims are roughly comparable to the migrant population. However, it

[89] TNA JUST 2/214 m.2 (IMG 0004).
[90] Klerman, p.274.
[91] C. Dunn, *Stolen women in medieval England: Rape, abduction, and adultery, 1100-1500* (Cambridge: Cambridge University Press, 2012), p.26; and Bracton Online, 'Bracton: De legibus et consuetudinibus Angliae', Volume 2, Harvard Law School Library, 2003, [http://bracton.law.harvard.edu/Unframed/English/v2/415.htm accessed 5 May 2018], p.415.
[92] Klerman. p.274.
[93] Musson, p.95.
[94] Saunders, p.62.
[95] J. M. Carter, *Rape in medieval England: An historical and sociological study* (Lanham, Maryland: University Press of America, 1985), p.107, p.126 and p.153; and Musson, p.94.
[96] Saunders, p.62. As shown by Carter, p.110 The Statute of Gloucester attempted to mitigate false appeals for technicalities; however, this remained an issue throughout the middle ages.

is clear that legal identity had the potential to shape appeals. It was customary for a wife to appeal the death of her husband, thus potentially limiting the legal rights of other male and female relatives, and women who were not lawfully married to their partners. Additionally, the legal 'power' that appeals gave medieval women has been called into question. None of the women who had their ravishment cases heard in gaol delivery were confirmed as attending. It is possible that women did not want to be subjected to reliving their trauma and discussing their sexual history merely to watch the defendant be acquitted. On the other hand, raising the hue and cry, which was also a cultural role for women, seems to have been shaped by social rather than legal identity. When a raising of the hue and cry by a woman can be tied to a bloodshed presentment, it was often on behalf of a male victim, rather than the raiser herself. This is in contrast with the male raisers, who typically raised the hue and cry when they were being attacked. This is a striking observation, prompting questions about the social roles of medieval women, and could suggest that they adopted the role of peacemakers in their communities. It also casts doubt on the suggestion that women were typically passive victims of violence. Women raising the hue and cry for a male victim protected the men of their community from harm and potentially prevented conflicts from escalating. Moreover, it also protected the masculinity of the victim because they were not seen as weak by calling for assistance.

The greatest impact of identity can be observed through the presentments of bloodshed. Domestic bloodshed is completely absent from the rolls, despite family members being the most common suspects in femicide and wives being involved in mariticides. The absence of female domestic victims is due to both legal and social factors; a man had the right to chastise his wife, which could mean both the law and society were too ready to dismiss her complaints of a violent husband. In fact, maybe many women kept silent as they knew they would be dismissed. Male victims could also have been affected by social norms. This is because there was a stigma attached to men who were beaten by their wives. They may have faced community humiliation rather than legal support. It is also worth considering that, as fully discussed in Chapter Four, bloodshed carried a financial punishment. Therefore, a beaten spouse would only suffer further if the case was presented in the manor court because the household was an economic unit, and both the attacker and the victim would experience the punishment.

Chapter Three: Context of Homicide

The construction, or deconstruction, of criminality is shaped by social and cultural ideas concerning violence. This chapter concentrates on homicide because the sources provide the most information on this offence. This chapter uses the inquests in the coroners' rolls which, while still terse, often provide details of the slaying.[1] In its analysis of the context of homicide, this chapter considers three key areas in order to assess the role of identity in shaping prosecution. Firstly, this study evaluates whether these homicides fall into the category of 'hot' or 'cold' killings. This is done by examining the narratives presented by the jurors and the weapons that were used. This chapter then tests the idea that pre-modern women were less likely to be prosecuted for homicide as they lacked the required physical strength. There are three factors which can be used to answer this question: the weapon, type of wound, and the time between injury and death. Finally, this chapter turns to the day of the week and the location in which the homicide took place. It is argued that the context and the jury's presentation of homicide in the coroners' rolls is highly gendered.

Categories of homicide

As shown in the introduction, although there was no legal distinction between 'hot' and 'cold' murder, it had existed in law prior to this period and was still part of the social consciousness. The Yorkshire coroners' rolls provide two pieces of information which can help the historian to discern how the murder was viewed by the coroners' jury. The first is to examine the narrative of the crime, the way that the homicide was described in the records. It has been suggested that the coroners' rolls were used to communicate with the trial jury. While the entries appear to be incredibly formulaic, key differences may reveal how the community felt about the crime.[2] Sara Butler and John Bellamy, among others, have argued that the indicting jury used 'phrases of afforcement' to convey the community's feelings about the killing. The inclusion of key words such as stating the slaying was by night, *noctanter,* or with malice

[1] The manor court rolls and gaol delivery records are more useful for examining the legal process, rather than a description of the circumstances of the offence. Chapter Four concentrates on these sources in its discussion of outcomes and punishments, question with which the coroners' rolls cannot assist.

[2] S. M. Butler, 'Spousal abuse in fourteenth-century Yorkshire: What can we learn from the coroners' rolls?', *Florilegium,* 18, 2 (2001), p.67.

aforethought, *ex malitia precogitata*, would indicate a most heinous crime involving stealth and planning.[3] Equally, the coroners' jury could encourage mercy, even covertly suggesting that the suspect should be pardoned.

The Yorkshire rolls include forty-seven entries, which is less than four per cent of the total number of homicide cases, where the jury seem keen to convey the 'excusable' nature of the slaying. These killings were said to have been committed *in defensione et saluacione vite sue*, in defence and salvation of his life.[4] Barbara Hanawalt found that self-defence was recorded as a motive in seven per cent of cases in the Northamptonshire coroners' rolls but in only one per cent of homicides in London.[5] The Yorkshire rolls fall somewhere in between with self-defence listed in four per cent of the slayings.[6] On the other hand, forty-nine of the Yorkshire murders, again less than four per cent, were *ex malitia precogitata*, with malice aforethought. Hanawalt also included 'malice aforethought' as a 'motive' for homicide. While this thesis categorises 'malice' as a narrative rather than a motive, the proportion of cases citing malice is similar. In the Yorkshire coroners' rolls, malice is mentioned in three per cent of cases. Likewise, Hanawalt found that malice was a 'motive' in between two and four per cent of cases in London and Northamptonshire.[7]

A further seventy-one Yorkshire killings were recorded as taking place at night. While this detail may seem insignificant to a modern reader, merely a comment on the time that the killing took place, it has been reasoned that nocturnal slayers were seen as the most heinous killers.[8] Acting under the cover of darkness was symptomatic of the furtive and deceitful nature of the crime, thus it warranted the harshest punishment.[9] Less than five per cent of the slayings in the Yorkshire coroners' rolls were recorded as being perpetrated at night. In stark contrast, previous studies have shown that eighty-six per cent of Northamptonshire, ninety per cent of London, and ninety-six per cent of Oxford killings were committed in the evening or at night.[10] Hanawalt attributed the high level of night-time murders to drinking in taverns and violence as a result of property crime.[11] A reason for the vast difference is potentially because, unlike other

[3] Ibid p.69; and J. G. Bellamy, *The criminal trial in later medieval England: Felony before the courts from Edward I to the sixteenth century* (Stroud: Sutton Publishing,1998), p.29.
[4] TNA JUST 2/212-242.
[5] B. A. Hanawalt, 'Violent death in fourteenth- and early fifteenth-century England', *Comparative Studies in Society and History*, 18, 3 (1976), p.311.
[6] TNA JUST 2/212-242.
[7] Hanawalt, p.311 and p.320.
[8] Ibid, p.305.
[9] T. A. Green, *Verdict according to conscience: Perspectives on the English criminal trial jury 1200-1800* (Chicago: University of Chicago Press, 1985), p.58; and Butler, pp.69-70.
[10] Hanawalt, p.305.
[11] Ibid, p.305.

rolls, the Yorkshire records did not routinely record the time of day that the murder took place. As outlined in the introduction, despite the vast quantity of extant material, the Yorkshire rolls are relatively low on detail. In fact, in all of the cases where the time of day was noted, it was at night. Therefore, this suggests that the inclusion of *noctanter* in the Yorkshire rolls is significant. If, as other rolls suggest, the majority of killings were in the evening or at night, by choosing to record this detail the jury were singling out these murders.

Table 3.1: Narrative of homicide by identity in the coroners' rolls, 1345-85.

	With malice	At night	Self defence
Male Suspects	46	64	43
Clerical Suspects	3	0	3
Female Suspects	0	7	1
Total Suspects	**49**	**71**	**47**
Male Victims	27	48	45
Clerical Victims	3	4	0
Female Victims	0	3	1
Total Victims	**30**	**55**	**46**

Source: TNA JUST 2/212-242.

This study is interested in assessing how, and if, narratives of homicide varied for each identity. As shown in Chapter One, the vast majority of suspects in Yorkshire were laymen and consequently it is expected that male suspects should dominate all of the narrative categories in Table 3.1. It is striking that none of the cases with female suspects, not even women who were indicted as co-suspects with men, were prosecuted for acting in malice compared to forty-six men and three clerks. This suggests a connection between masculinity and the narrative of malice. The identity of the victims of premeditated murder is very close to that of those who were indicted for perpetrating it. Laymen dominate this category, however, as the number of victims is lower than the number of suspects, malice seems to have been associated with collective homicide. Although, as shown in Chapter One, more women were indicted as co-suspects than as sole killers, women were not present in cases of malice aforethought, neither as suspects nor victims. The numbers of clergy appearing as suspects and as victims of malice are equal. One case was interclerical - the suspect and the victim were both clerks. The other two cases were between laymen and clergy. This appears to reinforce the connection between the narrative of malice and masculinity.

On the other hand, seven women were among those who were indicted for slaying by night. It must be noted that six of these seven female suspects were indicted as a co-suspect with a man. Notwithstanding, as shown in chapter one, more women were prosecuted as co-suspects rather than sole suspects. Hence, this finding is representative of the nature of prosecutions for women, rather than a suggestion that sole women were not thought to have killed at night. Due to the very small number of sole female suspects, the fact that even one of them was noted as killing at night is perhaps significant. Butler's work on spousal homicide found that four out of eleven wives killed at night, compared to just one out of forty-one husbands. In turn, these figures were used by Butler to argue that jurors were more scandalised by husband-killers than wife-killers.[12] However, as shown in Table 3.1, when looking at all cases of homicide, the number of nocturnal male slayers outnumbers the number of women who were prosecuted for killing at night. This is undoubtably because male killers far outnumbered female slayers, but one can no longer state that medieval jurors were more scandalised by female murderers based on the inclusion of *noctanter*.

The clergy, while appearing in malice narratives, were absent from nocturnal slayings. Once again, this is not to say that clerics did not kill at night, just that the clerk or the jury did not feel that this detail warranted inclusion in the roll. The evidence on suspects in Table 3.1 tentatively suggests that while malice was linked with masculinity, both lay and clerical, nocturnal crime was connected with the laity. In contrast, the identity of the victims killed at night alters the suggestion that night-time killings were associated with the laypeople. It is interesting that while no clerks were recorded as killing at night, four were victims of night-time slayings. Although these four clerks were all victims of the laity, the suspects were both men and women. In 1359, Agnes of Southwell was indicted for slaying John of Southwell, *clericus*, at night. The killing was in York, but the record does not provide details on the exact location of the crime nor does it shed any light on the relationship between Agnes and John.[13] Likewise, in 1384, John Johnson Thomasson was indicted for slaying Thomas of Newham, *capellanus,* at night but again the record is silent on the exact circumstances.[14] Alternatively, when Isabella, Alice, her sister, and John of Ottelay were prosecuted for the killing of Walter of Wirthorp, *capellanus*, in 1360, the entry stated that it happened at night in the house of

[12] Butler, pp.70-71.
[13] TNA JUST 2/215 m.8 (IMG 0017).
[14] TNA JUST 2/236 m.8 (IMG 0021).

Nicholas, the husband of Isabella.[15] While this entry may indeed throw up more questions than it answers, it provides evidence of a clergyman in the home of laypeople after dark.

Table 3.1 shows that the number of victims recorded as having been killed at night is lower than the number of suspects recorded as having slain at night. Again, as in the cases of malice, this suggests a connection with collective homicide. The numbers of lay victims, both male and female, killed at night is lower than the number of lay suspects. The majority of male victims killed at night were slain by a sole male suspect or by multiple male suspects. Therefore, this does not necessarily support Butler's conclusion that juries were more scandalised by husband-murder than uxoricide. Butler's argument is built on the idea that more wives were recorded as killing at night than husbands and thus this should be read as a sign that the woman's crime was more serious. However, this study found more men recorded as being killed by other men at night than by wives. As a result, if *noctanter* is a coded message to the trial jury, the community also disapproved of male-on-male violence. Two of the women killed at night were wives, who were victims during the course of burglaries at their home.[16] This seems to support Hanawalt's idea that murders under the cover of darkness were linked to property crime.[17]

The third nocturnal female victim was Agnes wife of John Berier of Bulmer. During an argument between John de Bedford of Bulmer and Richard Stephenson, Agnes was struck with an axe. The roll states that the homicide happened at Hildershelf but provides no details on the exact location.[18] It cannot be known whether this conflict took place in Agnes's home, the house of someone else, in a tavern, or even outside. In Butler's reading of this case, Agnes was a casualty resulting from an argument between Richard Stephenson and Agnes's husband.[19] However, the roll does not indisputably confirm that John de Bedford of Bulmer, the man involved in the argument, and John Berier of Bulmer, Agnes's husband, were the same person. In fact, when referring to John de Bedford a second time, the scribe specifically refers to the 'presaid' John. This helpful signal is not used when John Berier is named, even though he is mentioned after John de Bedford. It is a frequent practice within legal rolls to refer back to someone who has already been mentioned with *predictum* in order to avoid confusion. As this was not done, it seems to suggest that they are in actual fact two different men.

[15] TNA JUST 2/215 m.9 (IMG 0018).
[16] TNA JUST 2/217 m.38 (IMG 0077); and TNA JUST 2/217 m.71 (IMG 0170).
[17] Hanawalt, p.305.
[18] TNA JUST 2/218, m.31 (IMG 0062).
[19] S. M. Butler, *The language of abuse: Marital violence in later medieval England* (Leiden: Brill, 2007), p.216.

Butler used this case to show that women were often killed by their husband's enemies. From that Butler suggested that such cases could reflect a social role for wives as peacemakers in their husband's conflicts. As shown in the introduction, mediating a husband's anger certainly seems to be role expected of medieval wives. However, if Agnes was not married to either of the men in this conflict perhaps this speaks to a wider cultural role of female mediators. Of course, as also suggested by Butler, perhaps Agnes was the cause of the argument rather than a mitigator. Butler suggested that this may be an argument between Agnes's lover and her husband. However, if she was not married to either man, perhaps Agnes played a more active role in the conflict, rather than something to be argued over. Nonetheless, the rolls present Agnes as a mitigator of the conflict as she came between the arguing men, *inter eos.* In the other case of a woman being killed as a result of her husband's conflict, the peacemaker role can be seen more clearly. In 1364, there was an argument between John Gelle of Cold Cotes and John Lanerok of Ormesby. Agnes, wife of the said John Gelle attempted to make peace, *ad pacifcandam,* between the men but was killed.[20] There is a clear pacifier narrative in both of these cases. The most striking thing is that this narrative is not attached to any of the male victims; this presentation of a victim-pacifier is highly gendered.

This present investigation found no explicit evidence to support Hanawalt's attribution of violence at night to drinking in taverns.[21] Hanawalt's conclusion appears largely to assume that homicides at night were linked to alcohol. In fact, in the London coroners' rolls, taverns were only mentioned in seven per cent of homicides, compared to sixty-one per cent in the street.[22] The Yorkshire rolls do not mention drunkenness or taverns. It is hard to say whether taverns are not present because of the rarity of detail on settings in general or whether they were not deemed worthy of recording, compared to some other locations such as homes or the highway. Notwithstanding, it is striking that the connection between alcohol and crime is missing from the court rolls of fourteenth-century Yorkshire and is not overly common in the London rolls. In later centuries, a moralising position emerges which viewed drunkenness as sin that led to more sin, including homicide, and as a threat to the social order.[23] It is possible that one cannot see this in the fourteenth-century due to the brevity of court rolls; this didactic language is perhaps more characteristic of pamphlets. However, if the coroners' rolls contain

[20] TNA JUST 2/217 m.10 (IMG 0024); and Butler, *The language of abuse…* pp.215-216.
[21] Hanawalt, p.305.
[22] R. R. Sharpe, ed. *Calendar of coroners rolls of the city of London, AD. 1300-1378* (London: Richard Clay, 1913); and B. A. Hanawalt, *Crime and conflict in English communities, 1300-1348* (Cambridge, Massachusetts: Harvard University Press, 1979), p.101.
[23] D. Rabin, 'Drunkenness and responsibility for crime in the eighteenth century', *Journal of British Studies,* 44, 3 (2005), pp.457-477.

phrases of afforcement designed to communicate with the trial jury then one would expect to see drunkenness mentioned if this was something that society frowned up and connected to violence or sin.

The final narrative of homicide is self-defence. In opposition to the previous two phrases of afforcement which arguably sought to condemn the suspect, a successfully tailored narrative of self-defence could result in the defendant being recommended for a pardon at gaol delivery. Nonetheless, the parameters of what constituted self-defence seem to have been largely fixed. The story was supposed to contain various aspects, such as, the victim provoking the conflict and dealing the first blow, the defendant attempting but being unable to flee, then the defendant retaliating as a last resort, in order to save his life, and striking with a single blow.[24] The Yorkshire rolls suggest that the narrative of self-defence was associated with masculinity; comparable levels of laymen and clergy were indicted for acting in malice and self-defence. Likewise, as fully outlined in the introduction, Garthine Walker demonstrated the strong connection between male honour and self-defence.[25] Walker also argued that because men were thought to be stronger and better at fighting than women, self-defence was not an appropriate mitigation for female violence. The law of self-defence required equal and proportional force; if a woman was able to overpower a man, she must have used excessive force. Thus, this narrative may have been excluded from the rolls as it could exacerbate rather than mitigate their crime.[26] In Yorkshire, there is only one case which reported a woman acting in self-defence. In 1377, Nicholas Shepherd of Clifton wanted to ravish, *voluisset rapuisse* Isabelle, daughter of John Siant of Clifton. In salvation of her body, *in saluacione corporis,* she drew his knife and struck him to the heart.[27] Unlike the male suspects, Isabelle did not act *in defensione vita* but rather in defence of her body. Thus, even in the only example of a woman using violence as a defence, the circumstances are highly gendered.

This chapter now considers the identity of the victims in cases of self-defence. The 'victim' here is, as discussed in Chapter Two, the person who was slain. Hence, although the conflict resulted in the victim losing their life, in order to fit with the narrative of self-defence, it was them who were said to have initiated the violence. Unsurprisingly, most of the victims who were killed in self-defence were laymen. Unlike for the suspects, the clergy do not appear as victims in narratives of self-defence. Likewise, only one woman was killed as a result of

[24] Green, p.36.
[25] G. Walker, *Crime, gender and social order in early modern England* (Cambridge: Cambridge University Press, 2003). pp.33-39.
[26] Walker, p.141.
[27] TNA JUST 2/232 m.4 (IMG 0021).

someone defending themselves against her. In 1375, John, son of Robert Milner, was indicted for slaying Cecilia, who was the wife of Thomas Hardy. The coroners' jury said that John struck Cecilia in defence with a knife in her right leg and she died fourteen days later.[28] There are no details of Cecilia's attack on John, so it is not possible to gauge whether John's response was measured; in other words, whether he used equal force. Notwithstanding, this case does not seem to fit with the notion that women were seen to be weaker than men.[29] However, based on the lack of detail in this entry, it also means that, in isolation, this case would not meet the requirements for self-defence. For example, there is no mention that Cecilia had trapped John and he was unable to escape. John fled after the crime, so this case does not appear in gaol delivery, and thus no outcome is available. As shown in Chapter One, many suspects fled after a homicide, hence one must be careful not to ascribe too much meaning to this action. Even so, it certainly suggests that John was not hopeful of acquittal or pardon at gaol delivery.

In fact, most cases do not provide the full 'self-defence' apparatus; twenty-one entries do not elaborate beyond that statement that the killing was in self-defence. The remaining twenty-six cases do include the attack by the victim but not all of these appear to be overly convincing. For instance, in 1375 John de Bayton and John de Kynglay came to the house of Thomas Marsshall de Aberforth. Bayton *insultum fecit* Kynglay and then in defence of his life Kynglay drew his knife and held it in his hand and Bayton ran onto the knife.[30] Only five entries actually state that the suspect attempted to flee from the eventual victim. In opposition, some cases which claim self-defence seem to suggest that the suspect could have fled from the victim; for example, in 1379, when John son of William de Ronton *se defendendo interfecit* Peter Brant de Skyrlagh' with an arrow.[31]

In addition to examining the narratives of homicide, one can judge the nature of the crime through evaluating the objects used to commit the act. The coroner was responsible for collecting and valuing *deodanda* which were objects that had caused a person's death. Objects used for homicide were a special type of *deodand* called *bane*, meaning 'destroyer' in Middle English.[32] Due to this, entries in the coroners' rolls frequently contain details of homicide

[28] TNA JUST 2/219 m.11 (IMG 0024).
[29] L. O. Pike, *A history of crime in England: Illustrating the changes of the laws in the progress of civilisation*, Volume 2 (London: Smith, Elder & Company, 1876), p.527.
[30] *insultum fecit* refer to a physical or a verbal assault. TNA JUST 2/230 m.2 (IMG 0011).
[31] He killed in defence of himself. TNA JUST 2/234 m.3 (IMG 0011).
[32] C. Winter, 'Prisons and punishments in late medieval London' (Unpublished Ph.D. Thesis, University of London, 2010), pp.203-204; R. F. Hunnisett, 'The origins of the office of coroner', *Transactions of the Royal Historical Society*, 8 (1958) p.89; A. Musson and E. Powell, eds. *Crime, law and society in the later middle ages* (Manchester: Manchester University Press, 2013), p.139; and S. M. Butler, *Forensic medicine and death investigation in medieval England* (London: Routledge, 2015), p.4.

weapons along with their valuation. This study has identified 1,133 *bane* in the Yorkshire coroners' rolls from 1345 to 1385. The number of *bane* does not align with the 1,580 suspects for two reasons. Firstly, 353 of the entries do not record any mention of *bane.* It could be that a weapon was not recovered in these cases. However, it cannot be known for certain in the cases where weapons are recorded whether these were all recovered or whether they were notional, especially those without a valuation. The second reason for the *bane* being lower than the number of suspects is in some of the cases where there are co-suspects there is only one weapon listed. It is often unclear whether each suspect used the same weapon, or whether some suspects were more active or passive than others. Nonetheless, there is a reasonable amount of data available as in almost three-quarters of the entries, there is at least one *bane* recorded.

The prevalence of 'tools' below in Table 3.2 highlights that many of the homicides appearing in the Yorkshire rolls were 'hot-blooded' murders, committed spontaneously in anger or self-defence with objects that were close to hand. This high occurrence of tools used as *bane* was also noticed by Thornton, who outlined that two-thirds of the weapons in the Northamptonshire rolls were 'plebian tools'.[33] To explore this matter further, this present investigation has divided the Yorkshire *bane* into two categories. The first is 'everyday items'; while these objects were clearly capable of killing, this was not their primary purpose. The diverse range of 'everyday items', which make up seventy-four per cent of the *bane,* includes some knives (*cultellus, thwytel*, *bredknyf, trenchour*), tools, natural objects, and human strength. The remaining twenty-six per cent of *bane* in this investigation have been categorised as weapons 'designed to harm'; to cause harm or to kill was their primary, or even sole, purpose. This category includes the other types of knives (*dagger, baselard, anelace, bidew, longo cultello*), swords, bows and arrows, battle-axes (*sparthe, gisarme, bipennis*), and 'other weapons' which includes lances, a mace, a bill, and spears.

All of the women who were indicted for homicide were recorded with 'everyday items'. This is an important finding. It may reflect real restrictions on the ability of medieval women to access proper weapons that were designed to cause harm. As shown in the introduction, unlike men, women in the middle ages were not typically trained to use weapons from an early age and they do not seem to have partaken in hunting or 'quasi-military sports' such as jousting or archery.[34] Likewise, as explained in the introduction, women were excluded from the view

[33] M. Thornton, '"Feloniously slain": Murder and village society in fourteenth-century Northamptonshire', *Northamptonshire P&P,* 67 (2014), p.52.
[34] J. B. Given, *Society and homicide in thirteenth-century England* (Palo Alto, California: Stanford University Press, 1977), p.136.

of arms; the Statute of Winchester, 1285 stated that every man between fifteen and sixty years old must have their arms inspected.[35] However, it does not explain this pattern completely as the majority of male suspects were said to have killed with everyday items. It is possible that these results may be skewed by the small number of female suspects. The number of clerical suspects is higher and there are five cases that used weapons 'designed to harm'. It is difficult to determine whether the clergy are following the 'male' pattern in regard to *bane,* or whether a higher number of female suspects would produce a different result.

Table 3.2*: Bane* and suspect identity in the coroners' rolls, 1345-85.

Category	*Bane*	Male Suspects	Clerical Suspects	Female Suspects
Everyday items	Tools	276	7	7
	Human force	3	1	0
	Natural	2	0	1
	Knife	529	12	6
Designed to harm	Dagger	136	6	0
	Sword	72	1	0
	Bow	63	0	0
	Other weapons	19	0	0

Source: TNA JUST 2/212-242.

Nonetheless, the prevalence of 'everyday items' over weapons 'designed to harm' for all identities seems to further suggest that most of the homicides in the Yorkshire rolls were spontaneous rather than calculated. This hypothesis is not foolproof; a premeditated murderer may have chosen to use an 'everyday item' rather than a weapon. However, Hanawalt argued that knives were often used in cases of self-defence. Knives feature heavily in the Yorkshire coroners' rolls making up sixty per cent of the *bane*. This frequency of knives not only supports the conclusion that much of the violence was reactive but is also an indication of the omnipresence of knives in medieval society.

Moreover, due to their dual purpose, as a weapon and a tool, knives dominate both of the categories in this current inquiry. Sixty-five per cent of the 'everyday items' and forty-five per cent of the weapons 'designed to harm' were a type of knife. Likewise, Thornton applied this duality to the knives in the Northamptonshire rolls; he also categorised *cultellus* as an

[35] 13 Edw. I. *Stat. Wynton,* c.6 in A. Luders et al. eds. *The statutes of the realm: Printed by command of his majesty King George the Third, in pursuance of an address of the House of Commons of Great Britain. From original records and authentic manuscripts,* Vol. I (London: Dawsons of Pall Mall, 1810), pp.97-98.

everyday item but baselard and dagger as weapons.[36] A large number of knives called *thwytel*, which evolved into 'whittle', appear in the Yorkshire rolls.[37] The Northern connection to this knife was conveyed by Chaucer in The Reeve's Tale: 'a Sheffeld thwitel baar he in his hose.' This line was used to describe the miller. Although, this is not to say that these knives were confined to Yorkshire; Chaucer's miller was from Trumpington near Cambridge.[38] Nonetheless, 'short knives' only account for twenty per cent of the weapons in the London coroners' rolls.[39] Thus, this may suggest greater availability in Yorkshire.

In modern criminal statistics, knives are also dominant in homicide cases. In every single year over the last decade, 'knife or other sharp instrument' has consistently been the most common method of committing homicide in England and Wales. In the year ending March 2020, eight times more people were killed with knives than firearms. The second highest method of killing was "hitting, kicking, etc.", but over twice as many homicides were committed with sharp instruments than by this type of physical force.[40] While over sixty per cent of the Yorkshire cases involved knives, almost eighty per cent of *bane* falls into the wider category of 'knife or other sharp instrument'.[41] Similarly, Hanawalt found that weapons which 'pierce or cut were the most common murder instruments, causing seventy-three per cent of the deaths'.[42]

It seems that knives are problematic for medieval, and modern, law and order. They are, and were, readily available because they have a dual purpose as a tool. Knives are also small and portable, yet capable of inflicting fatal wounds. In the middle ages, knives would have been carried to be used for hunting, in food preparation and consumption, and as everyday tools. The *thwytel* in fourteenth-century Yorkshire were reasonably cheap, usually valued in the court rolls at 1*d*; the only exceptions are four valued at 2*d* and two at 4*d*, compared to a sword which ranged from 4*d* to 40*d*.[43] *Cultelli* on the other hand, had a wider range in their valuations from 1*d* through to 18*d*, which potentially raises questions about the ones with a

[36] Thornton, p.52.
[37] Sharpe, p.52; and TNA JUST 2/212-242.
[38] A Sheffield knife he carried in his hose. L. D. Benson, ed. *The riverside Chaucer* (Oxford: Oxford University Press, 2008), p.78; and A. Thomas, 'Fighting force with force: How the reeve makes his day; or, Chaucer stands his ground among jurists past and present', *Studies in the Age of Chaucer*, 42, 1 (2020), p.62.
[39] E. Manuel, 'Interactive London medieval murder map', Institute of Criminology, University of Cambridge, 2018, [https://www.vrc.crim.cam.ac.uk/vrcresearch/london-medieval-murder-map accessed 1 December 2018].
[40] N. Stripe, *Homicide in England and Wales: Year ending March 2020* (London: ONS, 2021), Appendix table 7a and 7b.
[41] 79.02% The category of staff/instrument has been excluded but is possible that this may contain some sharp objects.
[42] Hanawalt, 'Violent death…', p.310.
[43] TNA JUST 2/212-242.

higher valuation. Perhaps it is a mistake to categorise them as 'everyday items'. However, even if one were to move the fifty-seven *cultelli* valued at 6*d* and over from 'everyday items' to 'designed to harm' the overall picture does not change dramatically. With this adjustment 'designed to harm' makes up thirty-one per cent rather than twenty-six per cent of the weapons. Thus, 'everyday items' still form the majority of *bane.*

Due to their usefulness and affordability knives seem to be a feature of medieval society. However, the aim of this thesis is to question whether patterns of prosecution were shaped by identity. If it was not a social practice for medieval women to carry knives, then did this help to limit their involvement in fatal conflicts and thus shape the number of female suspects in the rolls. Hanawalt stated that 'medieval *men* routinely carried some sort of knife' and Thornton echoed this by saying that '*men* habitually carried knives'.[44] In their assessment of the 1227-1330 eyre rolls, Alice Seabourne and Gwen Seabourne observed that 'the use of sharp objects is an almost exclusively male method of self-killing.'[45] Moreover, knives are often highlighted in descriptions of medieval women dressing as men, as if to suggest that they were male objects.[46] Literary scholars have also made connections between knives or swords and masculinity, including Chaucer's use of 'thwitel' which is said to be a 'phallic symbol' representative of power and virility.[47] The suggestion that knives were a masculine item could help to explain the male prevalence in the suspects and victims appearing in the Yorkshire rolls.

Hammer, whose results for *bane* were also dominated by knives, concluded that the victims often died *because* they carried weapons.[48] Similar arguments are made today by the police, youth support services, and anti-knife campaign groups. Carrying a knife puts you in more danger because it can escalate a conflict or even be used against you.[49] As Hanawalt

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[44] Emphasis added. Thornton, p.47 and Hanawalt, *Crime and conflict*…, p.100.

[45] A. Seabourne and G. Seabourne, 'Suicide or accident–self-killing in medieval England: Series of 198 cases from the eyre records', *The British Journal of Psychiatry,* 178, 1 (2001), p.44.

[46] J. M. Bennett, and S. McSheffrey, 'Early, erotic and alien: Women dressed as men in late medieval London', *History Workshop,* 77, 1 (2014), p.5; and L. H. Lefkovitz, ed. *Textual bodies: Changing boundaries of literary representation* (New York: State University of New York Press, 1997), p.59.

[47] B. Erol, 'Knife and sword imagery in the Reeve's Tale*', Hacettepe Üniversitesi Edebiyat Fakültesi Dergisi*, 1.2 (1984), pp.61-67 and A. G. Miller, 'To "frock" a cleric: The gendered implications of mutilating ecclesiastical vestments in medieval England', *Gender & History,* 24, 2 (2012), pp.271-291.

[48] Stress added. C. I. Hammer, 'Patterns of homicide in a medieval university town: Fourteenth-century Oxford', *P&P,* 78 (1978), pp.20-21.

[49] Metropolitan Police, 'The consequences of knife crime', Metropolitan Police, London, 2021 [https://www.met.police.uk/cp/crime-prevention/skc/stop-knife-crime/the-consequences-of-crime accessed 29 May 2021]; MOPAC, 'Carrying a knife makes it more likely someone will harm you', Greater London Authority, 2021 [https://www.london.gov.uk/mopac/sharpening-your-pocket-knife-will-only-arm-attacker; accessed, 2 September 2021]; Childline, 'Gun and knife crime', NSPCC, London, [https://www.childline.org.uk/info-advice/bullying-abuse-safety/crime-law/gun-knife-crime; 2 September 2021] and #KnifeFree, 'Know the risks. Knife carrying puts your future in danger', Home Office, London, 2020 [https://www.knifefree.co.uk/know-the-risks accessed 3 September 2021].

observed, the 'ready availability of knives becomes apparent in almost all self-defence cases'; this may help to explain the appearance of narratives of self-defence in cases of male rather than female violence.[50] If women did not typically carry knives, then they did not have the means to defend themselves and thus conflicts may not escalate to homicide. The case outlined above of Isabelle killing her ravisher with his knife both suggests that women did not routinely carry knives and those who did carry weapons were unconsciously endangering themselves.[51]

This section now examines the identity of victims and the object which caused their death. As shown below in Table 3.3, most women in the rolls were killed by knives or tools; however, this pattern is consistent for all identities. While no female suspects were indicted for killing with weapons 'designed to harm', six women were victims of these objects. Nonetheless, women and clergy are absent from homicides involving bows and arrows, both as suspects and victims. This could reflect that it was men who were ordered to practice with the bow, so perhaps women were absent from this space, although that cannot necessarily be applied to the clergy. The only category where female victims outnumber male victims is in the use of human force. This raises the question of the level of physical force needed to commit homicide and whether this biological factor shapes the identity of the suspects and victims. This chapter continues with its analysis of *bane* but will now turn to the question of identity and strength.

Table 3.3: *Bane* and victim identity in the coroners' rolls, 1345-85.

Category	*Bane*	Male Victims	Clerical Victims	Female Victims
Everyday items	Tools	232	13	19
	Human force	1	0	3
	Natural	2	0	1
	Knife	515	18	20
Designed to harm	Dagger	135	3	4
	Sword	68	3	2
	Bow	62	0	0
	Other weapons	19	0	1

Source: TNA JUST 2/212-242.

[50] Hanawalt, 'Violent death…', p.310.
[51] TNA JUST 2/232 m.4 (IMG 0021).

Physical strength

Luke Owen Pike was so shocked that medieval women engaged in violence that it led him to conclude that they were 'strong in muscle but hard of heart', almost as much as 'their husbands or their paramours'. Pike surmised that due to the 'masculine strength' required for their crimes, medieval women lacked 'all qualities now considered feminine'.[52] This in itself is an interesting indication of nineteenth-century gender norms. As Pike was troubled by the lack of difference between medieval men and women, then one would expect there to be little distinction in the description of homicide for both male and female suspects in the Yorkshire rolls. Conversely, if medieval jurors assumed that male and female violence differed, then the way in which these cases were presented could look very different. It is also vital to compare the laity with clerks to gauge how medieval society perceived clerical violence.

This section addresses the question of strength and identity in the prosecution of homicide. The Yorkshire rolls do not explicitly describe the amount of force used by the suspects. Nonetheless, there are three pieces of information which can help to shed some light on this matter: the weapon, the time between injury and death, and the wound. These are now reviewed in turn, starting with the murder weapon. As also noticed by Hanawalt, Pike seemed to change his mind regarding the capabilities of medieval women.[53] Contrary to Pike's early observation, he argued that in a world without firearms, homicide required more brute force. Thus, Pike maintained, fewer pre-modern women were able to kill compared to men.[54] However, Chapter One shows that a minority of women in criminal statistics is present in all times and places. Big picture criminological studies of long-term crime rates suggest that the percentage of female suspects has remained consistent from the thirteenth to the twentieth century.[55]

Nonetheless, to test the theory that strength had a bearing on pre-modern patterns of prosecution, one can examine the types of weapons used by each identity. As shown above in Table 3.2, the Yorkshire rolls reveal that the *bane* used by 290 suspects were 'plebian tools' including staffs, forks, spades, hammers, axes, and hatchets. Three of the *bane* were natural objects, such as rocks and a stick, and in another four cases there was no object used other than

[52] L. O. Pike, *A history of crime in England: Illustrating the changes of the laws in the progress of civilisation*, Volume 1 (London: Smith, Elder & Company, 1873), pp.254-256.
[53] B. A. Hanawalt, 'The female felon in fourteenth-century England', Viator, 5 (1974), p.257.
[54] Pike, Vol. 2, p.527.
[55] T. R. Gurr, 'Historical trends in violent crime: A critical review of the evidence', *Crime and justice*, 3 (1981), pp.295-353; and M. Eisner, 'From swords to words: Does macro-level change in self-control predict long-term variation in levels of homicide?', *Crime and Justice*, 43, 1 (2014), pp.65-134.

the hands of the killer. All of these methods would have required a certain amount of physical force in order to commit homicide. A further 155 suspects used weapons that required some training or strength to wield them, such as swords, bows and arrows, spears, and lances. Table 3.2 demonstrates that female suspects were not absent from the cases involving types of *bane* that required physical force. Four women were indicted for committing homicide with a staff, and three with an axe. The same number of clerks as women used tools for homicide including five poleaxes, a staff, and a fork. The number of men who used tools is much higher than women and clergy, given the higher number of male suspects. Notwithstanding 'tools' is the second highest type of *bane* for both lay and clerical men and the highest category for women. It could be argued that as no female suspects were recorded as having used their hands to commit a murder, this could infer limited strength. Nonetheless, the numbers of murders committed solely with physical strength are tiny for men and clergy. Only three laymen were recorded as having killed with their hands; in all cases the victim was their wife. One of these men strangled, *felonice strangulavit*, his wife.[56] In the second, he broke her neck, *felonice fregit collum.*[57] The final entry does not elaborate beyond stating that the murder was with his hands *manibus suis*.[58] Similarly, in 1357, William of Fosseton, *clericus de Honyngham*, used his right arm to feloniously throw (*felonice proiecit*) Simon son of Robert of Partington of York *in aquam*, into water.[59]

On the other hand, as shown in Chapter One, nine female accomplices were in the 'physical' category; they provided strength and support, helped to move or to restrain the body, or assisted with force in some other way. Consequently, it is not clear that women were thought to be too weak to use their physical strength in homicide. However, the theme of women appearing in the background in cases of violence, first raised in Chapter One, may also be telling here. Even though women used force, they acted with other people more often than they did so alone. Notwithstanding, while there were no principal female suspects prosecuted for killing with their hands in 1366, Cecilia was indicted for slaying Alice, daughter of John Wade, with a rock.[60] This case does not seem compatible with the idea that women were seen as being too weak to kill. Despite the higher number of male suspects compared to women, no clergy and only two laymen were recorded as having used natural weapons, one with a rock and one with a stick. Consequently, with the limited information available, there is nothing to suggest

[56] TNA JUST 2/218 m.17 (IMG 0033).
[57] TNA JUST 2/236 m.5 (IMG 0014).
[58] TNA JUST 2/214 m.5 (IMG 0023).
[59] TNA JUST 2/215 m.6 (IMG 0012).
[60] TNA JUST 2/217 m.48 (IMG 0147).

that medieval jurors thought women were less capable of using physical force when they were indicted as a principal suspect.

The second way to assess the level of violence used by each identity is to consider the length of time between injury and death. The indictments for fifteen per cent of the suspects in the coroners' rolls reveal how long it took the victim to die. In some entries, both the date of injury and the date of the victim's death was recorded.[61] For example, on the Friday before the feast of the Annunciation, Thomas son of Robert of Drax struck Richard Charite in the chest with a knife. Afterwards, Richard languished, *languebat*, until he died on Tuesday in the week of Easter.[62] This allows for the calculation of the number of days or weeks between wounding and death. There was a period of three weeks between Thomas's injury and his death. Other cases simply state how long it took the victim to die. For instance, in 1349, John of Langethwayt, a saddler, was indicted for feloniously killing his wife, Emma Rose. It is recorded that she died instantly, *statim moriebatur*.[63] A victim dying immediately, or at least very quickly after the attack would have been pertinent in a Christian society as the victim would have died unconfessed.

Nonetheless, the coroners' rolls also include examples of victims who died after many days. For example, as seen above, Robert Milner stabbed Cecilia, who was the wife of Thomas Hardy. It is likely that Cecilia was a widow, however it cannot be ruled out that the past tense was used as it is her, rather than her husband who is deceased.[64] The jury found that Robert stabbed Cecilia in her right leg with a knife; she languished for fourteen days and then died.[65] When limbs are mentioned in the rolls, it is often stated whether it was the left or the right. It is unclear why this detail was stated, perhaps to identify the mortal wound from any other injuries. From a criminological perspective, if Cecilia was right-handed then this could fit the narrative of self-defence as her right side would be exposed as she moved to attack Robert.

Table 3.4 outlines the time between wounding and death for the 239 cases which contain enough information in order to answer this question. Caution must be applied to these findings as the majority of entries in the Yorkshire rolls do not include this level of detail and, accordingly, those cases may have altered the results. In the majority of cases where a time of death was indicated, the victim was recorded as dying on the same day as the attack. A very

[61] 241 out of 1,580 suspects.
[62] Feast of the Annunciation is on 25 March, while Easter was on 18 April. TNA JUST 2/219 m.4 (IMG 0010).
[63] TNA JUST 2/215 m.8 (IMG 0017).
[64] In other words, she *was* the wife of Robert but now she is deceased, so is no longer his wife. However, this phase normally implies that the woman is a widow.
[65] TNA JUST 2/219 m.11 (IMG 0024).

quick death would have been troubling for the jury because the victim would have been denied the last rites and died unconfessed. Furthermore, these cases were likely to be noteworthy as the violence was fresh in the jurors' minds and perhaps the wound was more severe than in cases of victims who survived for days, or even weeks, after the conflict. In addition to this, the more time that elapsed between injury and death, the less likely the jury were to connect the two events. As outlined by Butler, the 'tenuous grasp on infection' meant that jurors would not automatically connect illness with an existing wound.[66]

Table 3.4: Time between injury and death by suspect identity in the coroners' rolls, 1345-85.

	0 days	1-9 days	10-20 days	20+ days	Total	Total Suspects
Male Suspects	140	65	4	17	226	1511
Clerical Suspects	7	3	0	0	10	34
Female Suspects	2	1	0	0	3	25
Total	**149**	**69**	**4**	**17**	**239**	**1570**

Source: TNA JUST 2/212-242.

To tackle the question of strength, it is conceivable that the victim would survive for longer if they suffered a lesser wound, one which may not have proved to be fatal today. It has been argued that fewer pre-modern women were prosecuted for homicide compared to men because they were thought to lack the physical strength required to inflict mortal wounds.[67] Furthermore, as shown in Chapter One, the proportion of female suspects was higher in petty violence than in homicide. Thus, if one accepts the idea that women were less capable of causing, or even less likely to inflict, serious injury, then it would be expected that the victims of women would take longer to die. However, the figures in Table 3.4, while only three cases, do not appear to support the idea that women inflicted less severe wounds.

Table 3.4 suggests that victims of women and clergy died within ten days of the attack. Notwithstanding this is also applicable to the majority of the victims of laymen; one cannot rule out that this pattern is as a result of the small amount of data available. In other words, if more cases were available then some may fall into the higher categories. At the moment, the victims of women and clergy merely confirm the pattern that most victims died within ten days of injury. Hence, due to the small number of cases available in this present study which allow

[66] Butler, *Forensic medicine…,* p.184.
[67] Pike, Vol. 2, p.527.

the calculation of the length of time to die, coupled with the fact that this research question has been neglected by previous studies, a firm conclusion on this matter remains out of reach.

Table 3.5: Wound by suspect identity in the coroners' rolls, 1345-85.

	Head	Body	Heart	Limbs	Total Wounds
Male Suspects	94	54	81	14	243
Clerical Suspects	7	3	4	0	14
Female Suspects	1	0	2	0	3
Total	102	57	87	14	260

Source: TNA JUST 2/212-242.

Note: Head includes head, brain, eye, under the eye. Body includes body, chest, back, side, neck, shoulder, stomach. Multiple injuries have been categorised under the most serious wound. e.g., 'in the stomach as far as the heart' is under 'heart'

The final method for evaluating the question of strength and identity is to consider the type of wounds inflicted. As shown above in Table 3.5, a total of 260 cases provide details of the wound. Some of these wounds, as one may expect, were grave. For instance, in the case detailed above, when John of Langethwayt was indicted for killing his wife, Emma Rose, the jury reported that the wound to Emma's chest went as far as the heart, *in pectore usque ad cor*.[68] In opposition, the entry above concerning the wound that Thomas son of Robert of Drax inflicted on Richard Charite does not make any mention of the depth, and thus was possibly less serious.[69] Again, the small numbers in Table 3.5 make it difficult to infer any obvious trends. All three identities appear to gravitate towards wounds to the head and the heart, with the clergy also wounding the body almost as much as the heart. Nonetheless, there is no clear difference based on identity. The next section of this chapter turns to the day and the location of homicide to assess whether this varied by identity.

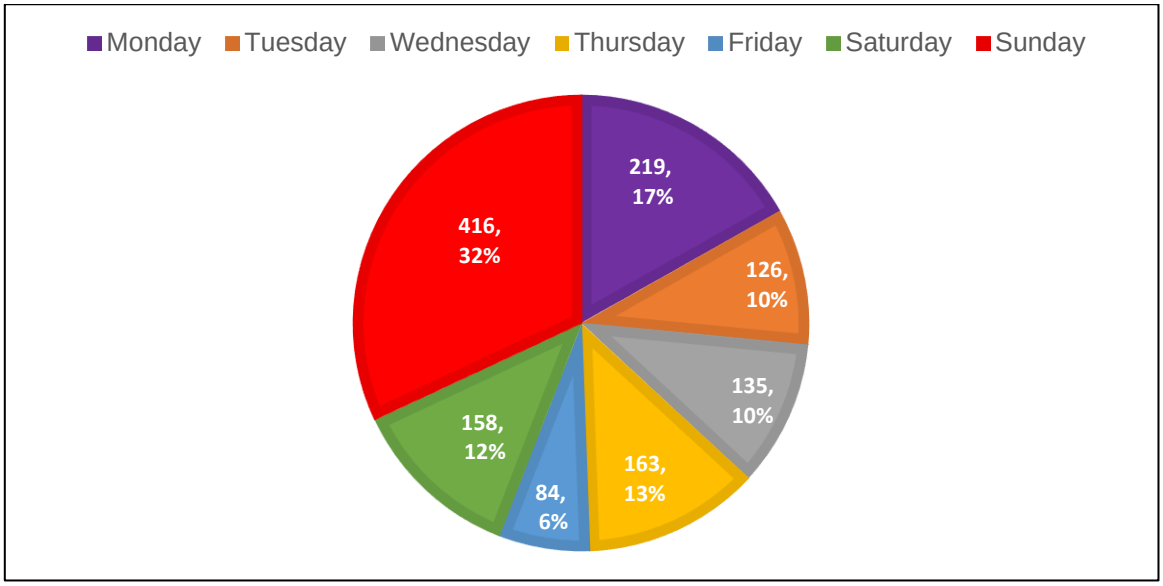
Day and location

The majority of homicide cases, 1,149 out of 1,361, provide the date of the crime. This permits calculation of the day of the week on which the homicide took place. The Yorkshire rolls reveal that almost one-third of these killings, 373 out of 1,149, occurred on Sundays. As shown below in Figure 3.1, the remaining days were divided with relative equality, with between 114 to 140

[68] TNA JUST 2/215 m.8 (IMG 0017).
[69] TNA JUST 2/219 m.3 (IMG 0010).

suspects slaying on Tuesday, Wednesday, Thursday, and Saturday. Whereas Monday with 192, and Friday with 67 murders, sit above and below these levels. Hanawalt also stated that 'Sunday was the day of murder in medieval society' and that Monday was the second highest day. This pattern can be attributed to social factors in medieval society; Sunday was an enforced day of rest, likely filled with 'drinking, sports and fights'. It is possible that Sunday arguments or drinking sessions spilled over into Monday.[70] This also speaks to the phenomenon of Saint Monday, where work was slower, shorter, and there was a holiday feel.[71]

Figure 3.1: Days on which homicides occurred in the coroners' rolls, 1345-85.



Source: TNA JUST 2/212-242.

Despite this medieval evidence, temporal patterns of modern homicide are still poorly understood. Today, in England and Wales, criminal statistics suggest that most murders occur on the weekend, and mostly on Saturdays. However, this reflects a certain type of homicide – those committed by young males who have consumed alcohol.[72] There needs to be more research in order to understand whether this pattern changes based on identity, status, or circumstance. For the medieval period, the Yorkshire coroners' rolls can shed some light on this question. As shown below in Table 3.6, male suspects, both lay and clerical, follow the overall pattern which shows that most prosecuted killings took place on Sundays. Due to the dominance of laymen in the data, it is again expected that they would follow the pattern for the

[70] Hanawalt, 'Violent death…', p.305.
[71] E. P. Thompson, 'Time, work-discipline, and industrial capitalism', *P&P*, 38 (Dec. 1967), pp.73-76.
[72] A. Baird, et al., 'Do homicide rates increase during weekends and national holidays?', *The Journal of Forensic Psychiatry and Psychology*, 30, 3 (2019), pp.367-380.

total number of suspects. Moreover, it is unsurprising that the clergy should be indicted for slayings on Sundays as this is the day where they received most contact with their parishioners. It is noteworthy that the female suspects do not follow this pattern; their killings are split more equally across the week. Now, it is vital to bear in mind that there are a small number of female suspects, compared to laymen. Nevertheless, the numbers of clergy are roughly comparable with the women and consequently, despite the small numbers involved, Table 3.6 certainly indicates a gendered difference. More studies are needed before any final conclusions can be drawn, but there are potentially huge implications for both criminology and medieval socio-economic history. From a criminological perspective, it raises the possibility that assumptions about when violence is committed is skewed by the prevalence of male offenders. While most suspects of violence are and were male, universalising the 'male version' of criminality is still problematic. As a result of failing to analyse by gender, perceptions of female violence are disregarded. Additionally, this calls for further research into the social and working lives of medieval women. Table 3.6 shows that prosecuted female violence is not concentrated on Sunday, so perhaps women did not follow the 'irregular' working pattern outlined by E. P. Thompson. As it is not possible to identify a spike on any other day, this could suggest that female labour was consistent throughout the week.

Table 3.6: Day of homicides by suspect identity in the coroners' rolls, 1345-85.

	Monday	**Tuesday**	**Wednesday**	**Thursday**	**Friday**	**Saturday**	**Sunday**	**Total**
Male Suspect	210	122	131	157	77	151	399	1247
Clerical Suspect	5	3	1	2	2	3	13	29
Female Suspect	4	1	3	4	5	4	4	25
Total	219	126	135	163	84	158	416	1301

Source: TNA JUST 2/212-242.

The final part of this chapter examines the location of the homicide. It is difficult to comment on the urban/rural divide because this is distorted by record survival. As outlined in the introduction, there were different coroners with separate rolls for the city of York, the county of York, and each of the Ridings. Furthermore, it is hard to control for unequal population split, both in terms of absolute numbers, and the imbalance of gender and of distribution of clerics. Nevertheless, some of the cases in the Yorkshire coroners' rolls do provide more specific details on where the murder took place, such as in fields, streets, or

homes. It must be stressed that only a very small number of entries provide this locational information, unlike some of the more detailed records from places like London. However, as expressed above, due to the formulaic nature of these documents, it is revealing when the entry deviates from the norm and includes extra material. As with the narratives of homicide, some of this locative data has also been described as 'phrases of afforcement'. It has been suggested that murders on the king's highway, *in regia via,* were seen as particularly heinous and the inclusion of this term would have been understood by the trial jury.[73] In the case outlined above where John of Langethwayt was indicted for feloniously killing his wife, Emma Rose, it is stated that the crime happened *apud Ebor in Coppergate*.[74] However, it is impossible to tell whether the killing literally took place in the street. Alternatively, the slaying may have happened in a building, maybe even their home, that was located on Coppergate. Furthermore, even if this homicide occurred out in the street in Coppergate, is it questionable whether this description counts as a phase of afforcement in the same way as *in regia via*. A homicide on a main street in the centre of York, close to The Shambles, would suggest an 'open', public killing.[75] This is not comparable with someone hiding at the side of the road, lying in wait, out on the king's highway. In fact, these two locations suggest polar opposites, one public and 'open', the other premeditated and furtive. As a result, cases which give a street name are not included under 'highway' in Table 3.7.

Table 3.7: Location of homicide and identity in the coroners' rolls, 1345-85.

	Field	**Highway**	**House**	**Bed**	**Religious**	**Mill**
Male Suspects	18	12	10	4	6	3
Clerical Suspects	0	0	0	0	0	0
Female Suspects	0	0	2	2	0	0
Total Suspects	**18**	**12**	**12**	**6**	**5**	**3**
Male Victims	17	12	6	4	6	3
Clerical Victims	0	0	1	0	0	0
Female Victims	2	1	5	0	0	0
Total Victims	**19**	**13**	**12**	**4**	**5**	**3**

Source: TNA JUST 2/212-242.

[73] Bellamy, p.129; and Butler, 'Spousal abuse…', p.69.
[74] TNA JUST 2/215 m.8 (IMG 0017).
[75] P. Addyman and G. Darkes, eds. *An historical map of York from medieval times to 1850* (Oxford: The Historic Towns Trust, 2018).

The most common location for homicide, from the entries which include this information, is in fields. This is perhaps expected given that fields were the workplace of a large share of the population. However, it raises the question of why there were no scythes or sickles listed among the *bane*, the latter being a tool which women would have used.[76] Instead the *bane* used in fields were knives, both everyday tools and daggers, staffs, a bow, and a sword. This could suggest that rather than attacking someone while the suspect or the victim were still working, these conflicts may have resulted from arguments that had already interrupted their work.

The second most recorded location was *in regia via.* It has been argued that this phrase was a message to the trial jury that this was thought to be a heinous crime. Hanawalt reasoned that the cases which cited the king's highway were usually robberies.[77] It is possible that this is the real reason that these crimes were seen to be so heinous, because they were committed by people lying in wait to rob and kill, rather than 'hot-blooded' murders which resulted from an argument. This phrase is therefore perhaps not signalling that the location itself is problematic, but instead it was painting a picture of the motive behind the crime. If the jury were commenting on motive, this may explain the prevalence of *in regia via* in the rolls over other non-suggestive locations.

Hanawalt outlined that many social interactions took place in fields or in the street.[78] Hence, it is to be expected that these were spaces where violence occurred. Most of the murders in these two settings were between laymen, and often one on one. There were only three female victims recorded as slain in fields and on the road. Moreover, there were no female suspects noted as killing in these locations. Two of the women slain in these settings, one in a field and one *in regia via,* were victims of unknown suspects. The third woman was killed in a field by her husband. Despite the absence of female suspects, as women were slain in these locations, it confirms that these were mixed gendered spaces. Trevor Dean maintained that violence against women was not restricted to a 'husband's legal right of correction, but part of a pervasive culture of manly aggression towards all women, whether married or not, in both public and domestic spaces'.[79]

[76] M. Roberts, 'Sickels and scythes: Women's work and men's work at harvest time', *History Workshop,* 7, 1 (1979), p.9; and p.18; and J. Whittle, 'Rural economies', in J. M. Bennett, and R. M. Karras, eds. *The Oxford handbook of women and gender in medieval Europe,* (Oxford: Oxford University Press), pp.317-321.
[77] Hanawalt, *Crime and conflict*…, p.101.
[78] Ibid, p.101.
[79] T. Dean, *Crime in medieval Europe* (London: Pearson Education Limited, 2001), p.530.

Houses appear as locations of homicide at the same rate as fields, and even more so when adding together the categories of 'house' and 'bed'. Again, this is logical as this is another space where medieval people would have spent a lot of their time. Equally, by stating that the murder was in a home may be another method of communicating with the trial jury. A murder in a home is a violation of the domestic space and has possible links to property crime as with the king's highway. Hanawalt observed that between a quarter and a third of homicides in the early fourteenth century took place in a house, usually the victim's house.[80] Likewise, six of the ten people slain in a house, plus the four who were killed in bed, were victims in their own properties. The remaining four were in the house of a third party, who was neither the suspect nor the victim.

The key point of interest here is the legal and social response to violence against women in the home. If the social identity of the patriarch permitted him to exercise violence against women in his household, then this could shape prosecution.[81] The limited information available in the Yorkshire rolls seems to corroborate Dean's statement; women were at almost equal risk of violence outside, as well as within, the home. The five cases of female victims killed in the home were similar to the women killed outside in terms of their relationship, or lack thereof, with their attacker. Three of the women slain in the home were victims of their husbands and the other two women were killed during a burglary. Unlike the female victims, all four of the women indicted for homicide, whose entry in the roll included a location, were recorded as acting in a domestic setting. The two women who were indicted for a murder in a house relate to an entry that has already been discussed; the case of Isabella and her sister Alice, who, along with John of Ottelay, were accused of slaying a clerk at night in Isabella's husband's house.[82]

Similarly, the two women indicted for killing someone in their bed also acted together and with a man. In 1368, Johanna, wife of Roger Rudbrade, William, servant of John Smith, and Emma, daughter of Thomas, were indicted for the slaying of Johanna's husband Roger while he was laying in his bed.[83] Although the roll does not provide any insight into the relationship between Isabella et al. and the cleric slain in her husband's house at night, it is clear that the jury stated that Roger was killed by his wife and two others. While one cannot know how William and Emma were connected to Johanna, it is clear that a woman murdering her husband was petty treason. This is compounded by the breach of trust and security of the

[80] Hanawalt, *Crime and conflict*…, p.101.
[81] S. D'Cruze and A. Rao, *Violence, vulnerability and embodiment: Gender and history* (Oxford: Blackwell, 2005), p.5; and J. Hammerton, *Cruelty and companionship* (London: Routledge, 1992), p.15.
[82] TNA JUST 2/215 m.9 (IMG 0018).
[83] TNA JUST 2/217 m.9 (IMG 0021).

nuptial bed.[84] The Westminster Chronicle includes a case of a woman persuading her lover to murder her husband in the middle of its discussion of the 1388 treason trials resulting from the Merciless Parliament. The conflation of a woman asking her lover to kill her husband with high-level political events denotes the serious nature of petty treason.[85] The trope of women manipulating men, often their lovers, into committing violence on their behalf appears in many court rolls.[86]

The four female suspects in Table 3.7 were in a domestic setting, which is distinct from the female victims, who were split between outside and inside the home. Frances Dolan has outlined that court records suggest that women most often killed at home, which was seen as particularly heinous because it was a 'violation of domesticity'.[87] However, it is worth remembering that while the rolls show one husband murdered in his bed, they also contain three wives slain at home by their husbands. Moreover, in the nineteenth century as well as in the present day, women in England and Wales are more likely to suffer violence from partners or ex-partners whereas men are more at risk from acquaintances and strangers.[88] Furthermore, returning to Table 3.7, the other three men killed in bed were the victims of sole male suspects. Hence, if the detail in the rolls was a message to the trial jury, then the local community were as scandalised by a man being killed in his bed by another man as much as by his wife.

There is almost no information available for the location of murders involving clergy. The one case of a clerical victim with a stated location has already been discussed above: the indictment of Isabella, her sister Alice, and John of Ottelay for the murder of the chaplain, Walter of Wirthorp. The jury found that this crime took place in the house of Nicholas, the husband of Isabella. It was stated above that this provides the historian with evidence of clergy in the home of laypeople at night. Now put in the context of no other clerical cases having a location recorded, this is perhaps even more significant. Six people were indicted for killing five victims in 'religious' locations. These include a church, two chapels, outside a church, the palace of the Archbishop of York, an abbey, and the church of the Friars Minor. However, it is striking that all of these suspects or victims were laymen rather than clerks. Thus, even when

[84] Dean, p.533.
[85] Ibid, p.533 and P. Strohm, *Hochon's arrow: The social imagination of fourteenth-century texts* (Princeton: Princeton University Press, 1992), p.121.
[86] Dean, pp.533-534.
[87] F. E. Dolan, 'Home-rebels and house-traitors: murderous wives in early modern England', *Yale Journal of Law and, the Humanities*, 4, 1 (1992), p.8.
[88] Stripe, Appendix table 11; S. D'Cruze, S. Walklate, and S. Pegg, eds. *Murder: Social and historical approaches to understanding murder and murderers* (Cullompton: Willan Publishing, 2006), p,126; and M. J. Wiener, *Men of blood: Violence, manliness, and criminal justice in Victorian England* (Cambridge: Cambridge University Press, 2004), p.42.

prosecuted violence was recorded as taking place in clerical spaces, it was not by or against members of the clergy.

Conclusion

This chapter has revealed the significant gendering of the context of homicide and the way in which jurors presented violence. It is conceivable that social identity played an important role in shaping patterns of prosecution. For example, in the late middle ages women had limited access to, and were often inexperienced with, weapons. This is coupled with the fact that knives appear to have been regarded as 'masculine' objects, thus putting men more at risk of escalating conflicts due to their routine carrying of small knives. Furthermore, the phenomenon of Saint Monday also appears to have been gendered, and perhaps does not reflect the experience of medieval women.

Moreover, the narratives presented by jurors were influenced by gender. Due to the prevalence of male defendants, there is a tendency to suggest that female offenders are so atypical and abnormal that they require explanation, rather than accepting that all genders are capable of violent behaviour. Female murderers in the nineteenth and twentieth centuries were often portrayed as 'mad, bad, or sad'. However, narratives concerning malice to elicit condemnation were absent in cases with a female suspect in fourteenth-century Yorkshire. In fact, women were not present in cases of malice aforethought, either as suspects or as victims. Furthermore, the presentation of self-defence was highly gendered. In the sole case of a woman acting in self-defence, it was said that she was defending her body, rather than her life, which is a phrase not seen in any of the male cases. Likewise, the standard phrase 'in defence of their life' is not present in any of the entries with female suspects. Due to connections between masculinity and honour, court tales alleging self-defence were most commonly seen in cases with male suspects and victims. Chapter Four continues to examine the theme of excusable violence and masculinity in its analysis of judicial outcomes.

Chapter Four: Verdicts and Punishments

There is much debate on how gender affected pre-modern English justice. Some point to a chivalric leniency, which led to a reluctance to execute women, whereas others highlight the existence of a patriarchal legal and social structure which sought to disproportionately punish violent women.[1] In order to contribute to this debate this chapter examines the role played by legal and social identity in judicial outcomes. It begins with an assessment of the verdicts for those tried for violent crime in the Yorkshire gaol deliveries from 1345 to 1385. Here it is argued that while acquittal rates were incredibly high, they were highest for women. Despite this, the two women who were not acquitted received the harshest outcome: execution. It is shown that clergy were protected from this outcome by their legal identity. This chapter argues that benefit of clergy was still a solely clerical privilege rather than a male one. Even so, male social identity could lead to violence being viewed as excusable and result in a pardon. Finally, this chapter examines the amercements for bloodshed in four manorial courts from 1341 to 1381. It is argued that women typically received lower amercements than men. This appears to be due to the economic position of women, rather than because of their legal or social identity.

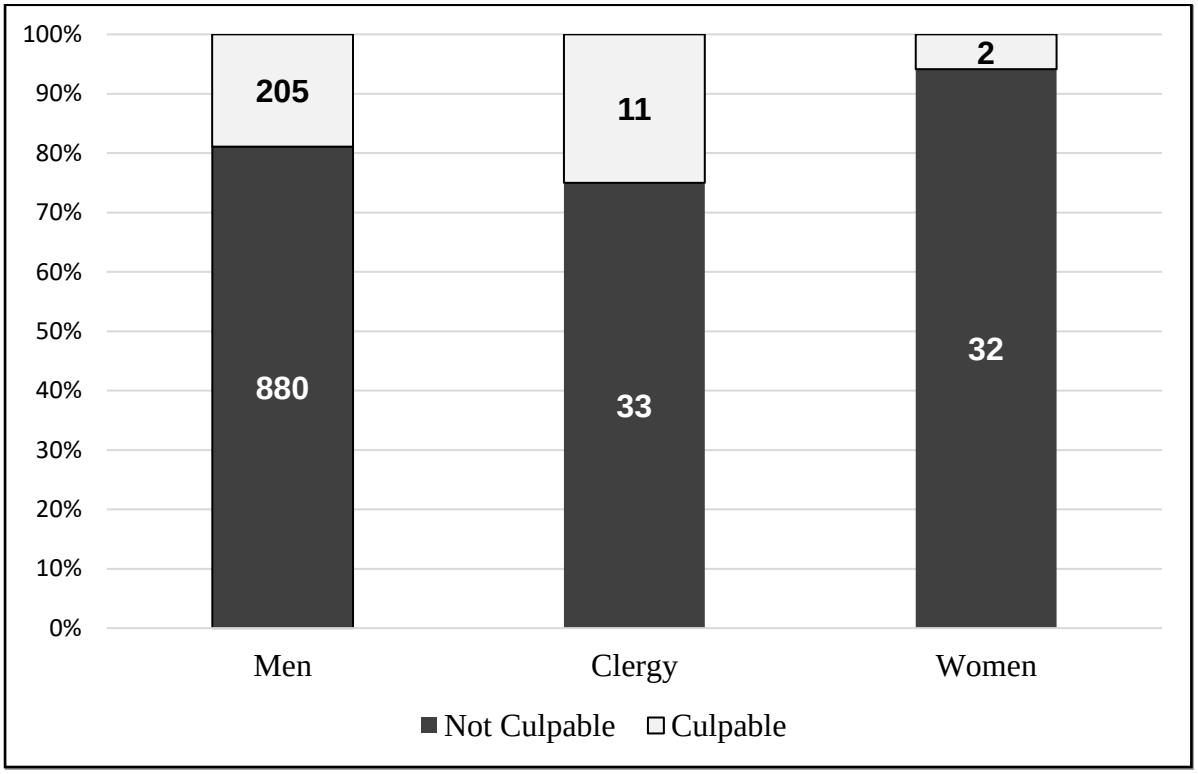
Verdicts for homicide

It has been argued that when tried for homicide women were more likely to be treated leniently than male defendants.[2] The Yorkshire gaol delivery material appears to support this conclusion. As shown below in Figure 4.1, only two of the women tried for homicide were found to be culpable. The jury decided that an overwhelming ninety-four per cent of female defendants were to be acquitted (*quietus est*). By contrast, only eighty-one per cent of laymen and seventy-five per cent of clerics were exonerated.[3] All the same, caution must be applied to the small

[1] P. King, *Crime and law in England, 1750-1840: Remaking justice from the margins* (Cambridge: Cambridge University Press, 2006); G. Walker, *Crime, gender and social order in early modern England* (Cambridge: Cambridge University Press, 2003); B. A. Hanawalt, *Crime and conflict in English communities, 1300-1348* (Cambridge, Massachusetts: Harvard University Pres, 1979); J. B. Given, *Society and homicide in thirteenth-century England* (Palo Alto, California: Stanford University Press, 1977).
[2] B. A. Hanawalt, 'The female felon in fourteenth-century England', *Viator*, 5 (1974), p.256; King, pp.176-186; and J. M. Beattie, *Crime and the courts in England, 1660-1800* (Oxford: Clarendon Press, 1986), p.97.
[3] TNA JUST 3/78-80; 141A; 143; 145; 155; 165A; and 169.

numbers of women who were found guilty; only a small shift in the female verdicts would cause the acquittal rates to become equal.

Figure 4.1: Homicide verdicts for homicide by identity, in gaol delivery rolls 1345-85.



Source: TNA JUST 3/78-80; 141A; 143; 145; 155; 165A; and 169.

Barbara Hanawalt adopted the position that medieval trial juries treated women leniently, finding that at gaol delivery women were acquitted in eighty-three per cent of cases, compared to men in just seventy per cent.[4] However, Hanawalt's figures contained all of the offences heard by the justices of gaol delivery and, as a result, are not an accurate representation of leniency in homicide cases. In her monograph, Hanawalt did analyse the data by type of crime, and this showed that the total acquittal rate for all homicide defendants was eighty-eight per cent.[5] This finding supports the hypothesis of the Yorkshire data, that medieval acquittal rates for homicide were incredibly high. As a comparison, seventy-nine per cent of homicide suspects from the year ending March 2016 to the year ending March 2020 were found or pleaded guilty.[6] Notwithstanding, Hanawalt's monograph failed to differentiate between men

[4] Hanawalt, 'The female felon…', p.256.
[5] Hanawalt, *Crime and conflict*…, p.59.
[6] Homicide includes murder, manslaughter and infanticide. M. Elkin, *Homicide in England and Wales: Year ending March 2018* (London: ONS, 2019), p.19; and N. Stripe, *Homicide in England and Wales: Year ending March 2020* (London: ONS, 2021), p.18.

and women and so, again, it is difficult to draw any firm conclusions on the impact of gender on judicial outcomes for homicide from Hanawalt's work.[7]

On the other hand, James Buchanan Given found that men and women were acquitted in equal proportions at the thirteenth-century general eyre.[8] Given's data showed that sixty-four per cent of men and sixty-three per cent of women were cleared. These rates are very low in comparison with other studies which place the acquittal rate at seventy or eighty per cent in felony trials.[9] However, Given's figures are skewed by his inclusion of cases that could not be tried; this thesis has excluded such cases and calculates the percentage of those acquitted from all cases with a trial and verdict. Since all of the second-wave quantitative studies on medieval homicide have drawn their evidence from coroners' rolls, they do not provide information on acquittal or conviction rates. This is due to the pre-trial nature of coroners' inquests.[10] Therefore, one must turn to early modern studies, which also seem to suggest that women were treated more leniently than men at trial.

Peter King found that in Lancaster from 1798 to 1818, twelve per cent of male murder suspects were convicted compared to just two per cent of women. This pattern, in varying degrees, is present in many studies of crime in early modern England. James Sharpe's work on seventeenth-century murder uncovered that while only twenty-nine per cent of female suspects were found guilty, the conviction rate for men was thirty-nine per cent.[11] Likewise, J. M. Beattie's monograph on the Surrey assizes found that only 50 per cent of the 304 men tried for homicide were convicted. This is compared to twenty-five per cent of the thirty women tried for homicide from 1660 to 1800.[12] This appears to indicate that men were twice as likely to be convicted of a felony as a female suspect, with the caveat of unequal sample sizes. Finally, despite arguing against gendered leniency, a higher acquittal rate for female suspects of

[7] Hanawalt, *Crime and conflict*…, p.59.
[8] Given, p.137.
[9] B. W. McLane, 'Juror attitudes toward local disorder: The Evidence of the 1328 Lincolnshire trailbaston proceedings', in J. S. Cockburn, and T. A. Green eds. *Twelve good men and true: The criminal trial jury in England, 1200-1800* (Princeton: Princeton University Press, 2014), pp.36-64; Hanawalt, *Crime and conflict*…; R. W. Ireland, 'Theory and practice within the medieval English prison', *American Journal of Legal History*, 31 (1987), p.56; and R.B. Pugh, 'Some reflections of a medieval criminologist', *Proceedings of the British Academy*, 59 (1973), pp.83-104.
[10] M. Thornton, '"Feloniously slain": Murder and village society in fourteenth-century Northamptonshire', *Northamptonshire P&P*, 67 (2014), pp.46-57; and S. M. Butler, 'Spousal abuse in fourteenth-century Yorkshire: What can we learn from the coroners' rolls?', *Florilegium*, 18, 2 (2001), pp.61-78.
[11] J. A. Sharpe, *Crime in seventeenth-century England: A county study* (Cambridge, Cambridge University Press, 1983), p.24.
[12] Beattie, p.97.

homicide was even present in Garthine Walker's study of early modern Cheshire. Walker found a female acquittal rate of forty-one per cent compared to a male rate of twenty-six per cent.[13]

Moreover, King suggested that 'continuity is a key theme in the study of the impact of gender in judicial outcomes because this leniency towards women may have survived (albeit with short-term variations)' until the 1990s.[14] The pattern observed by King is present in contemporary criminal statistics. Over the last decade, men indicted for murder and manslaughter saw an average conviction rate of seventy-nine per cent, while women charged for the same crime were convicted at an average rate of seventy per cent.[15] Although this disparity is not as vast as in the early modern data, it appears to still be present today. Nevertheless, one must remain cautious of hidden variables, unrelated to gender. For example, there is an argument that today women are treated more leniently during sentencing compared to men because they tend to have fewer prior convictions. Consequently, the 'gendered' difference in conviction rates is not based on a chivalrous leniency towards women but rather, because women are less likely to offend.[16]

King did not uncover any qualitative evidence to explain why women were favoured by the early modern justice system or even that contemporaries were aware of the patterns.[17] This is also true of the material from fourteenth-century Yorkshire; there is no explanation for any leniency towards women in the rolls, nor confirmation that contemporaries were conscious of its existence. It is often assumed by historians that this apparent leniency was due to chivalric attitudes, a woman's inability to claim benefit of clergy, coverture, or even a modesty which rendered the hanging of women inappropriate.[18] This chapter tests those explanations below in the sections examining execution, benefit of clergy, and pardoning. For now, this chapter now continues with its assessment of the verdicts at gaol delivery by looking at forced ravishment and aiding and abetting.

[13] Walker, p.135. Walker's sample size is a little unclear here as only percentages are provided in the table. Elsewhere 230 principal suspects are mentioned and 49 of which appear to be female. Nevertheless, 31 out of these 49 were cases of infanticide, which although a type of homicide is not legally or socially comparable with the Yorkshire data.
[14] King, pp.176-186.
[15] This includes gulity pleas. Stripe, Appendix table 24.
[16] King, p.187.
[17] Ibid, p.186.
[18] See Walker, pp.113-139.

Verdicts for Forced Ravishment

It has been reported that current rape convictions in England and Wales are at an all-time low.[19] In the year ending December 2017, forty-three per cent of those tried for raping a woman and fifty-two of those tried for raping a man were convicted.[20] The Yorkshire gaol delivery rolls reveal that convictions were even harder to achieve in the fourteenth century; of the sixty-three laymen and eleven clergy who were tried for 'forced ravishment' at the Yorkshire gaol deliveries, all seventy-four were acquitted. As shown in the proceeding chapters, ravishment was thought to be a male-perpetrated crime and there were no female suspects in the Yorkshire data.[21] Other studies also have commented on the slim chances of being convicted of ravishment in late medieval England.[22] Hanawalt, whose monograph covered eight counties and all types of *raptus*, only managed to find eight convictions in the first half of the fourteenth century.[23] The Statutes of Westminster have been blamed for the low conviction rates for ravishment in late medieval England because they were said to have caused attitudes towards rape to fluctuate between passivity and outrage.[24] The first Statute of Westminster 1275 (3 Edw. I *Stat. Westm. Prim.* c.13) stated that the punishment for ravishment was two years imprisonment and a fine.[25] Then, the second statute of Westminster 1285 (13 Edw. I. *Stat. Westm. Sec.* c.31-34) increased the punishment for all forms of ravishment to *vie e de member,* life and limb.[26]

It has been argued that convictions fell as a result of the punishment prescribed by Westminster II, which was deemed too harsh a punishment for cases of abduction, elopement,

[19] D. Shaw, 'Rape convictions fall to record low in England and Wales', BBC, London, 2020, [https://www.bbc.co.uk/news/uk-53588705, accessed 1 August 2021]; and A. Topping and C. Barr, 'Rape convictions fall to record low in England and Wales', The Guardian, London, 2020 [https://www.theguardian.com/society/2020/jul/30/convictions-fall-record-low-england-wales-prosecutions, accessed 1 August 2021].
[20] M. Elkin, *Sexual offending: victimisation and the path through the criminal justice system* (London: ONS, 2018), MOJ Appendix table 5.
[21] TNA JUST 3/78-80; 141A; 143; 145; 155; 165A; and 169.
[22] J. G. Bellamy, *The Criminal trial in later medieval England: Felony before the courts from Edward I to the sixteenth century* (Stroud: Sutton Publishing, 1998), pp.178-179 and C. J. Saunders, 'The medieval law of rape', *King's Law Journal,* 11.1 (2000), p.34.
[23] Hanawalt, *Crime and conflict*…, p.59.
[24] C.A.F. Meekings cited in J. M., Carter, *Rape in medieval England: An historical and sociological study* (Lanham, Maryland: University Press of America, 1985), p.5.
[25] (3 Edw. I *Stat. Westm. Prim.* c.13) in A. Luders et al. eds. *The statutes of the realm: Printed by command of his majesty King George the Third, in pursuance of an address of the House of Commons of Great Britain. From original records and authentic manuscripts,* Volume I (London: Dawsons of Pall Mall, 1810), p.29; and Carter, p.36 and p.154.
[26] 13 Edw. I. *Stat. Westm. sec.* c.31-34 in Luders et al., pp.86-87.

or consensual affairs.[27] However, this thesis is only concerned with the cases which alleged violence or force, the most serious cases. Thus, it is more difficult to take the position that the unanimous acquittal was as a result of a pious jury rejecting the 'new' punishment as it did not fit the crime. Rape had always been subject to blood punishment; this was not a new sentence created by Westminster II.[28] Moreover, just as women were able to bring an appeal of rape prior to this legislation, they continued to have this right throughout the middle ages. All the same, this is not to assume that medieval juries accepted that death was an appropriate punishment for rape. The unanimous acquittal may reflect social views on rape; however, the key argument is that this problem was not created by the Westminster legislation and hence not unique to the late middle ages.

It has been suggested that many ravishment cases were brought to punish and shame adulterous laymen or clergy for breaking their vow of celibacy.[29] However, this study has attempted to mitigate against the inclusion of these 'consensual' cases. The parameters of this study were designed to remove the cases which may have been consensual and instead to focus in on the cases which specifically cited violence. As shown in Chapter One, this methodology did not produce the high levels of clergy present in other studies of *raptus.*[30] In fact, clergy only account for sixteen per cent of suspects tried for 'forced ravishment' in Yorkshire.[31] It seems reasonable to assume that if some of the ravishment cases were engineered to shame adulterers or sexually active clergymen, then these would be among the many brief entries rather than the cases which provided additional detail and specifics on the violence or force.

However, while one could understand an argument being made for high acquittal concerning the 'consensual' cases, it is still harder to apply this to 'forced ravishment'. If the aim was to shame promiscuous men, then that is achieved through a trial at gaol delivery, but this does not explain why the juror would acquit those thought to have committed rape or abduction. The high acquittal rates are perhaps a symptom of the high standards of proof in criminal trials and the complexity involved with attempting to prove rape. The high acquittal

[27] A. Musson, *Boundaries of the law: Geography, gender and jurisdiction in medieval and early modern Europe* (Aldershot: Ashgate, 2005), p.50.
[28] Bracton cited in C. Dunn, *Stolen women in medieval England: Rape, abduction, and adultery, 1100-1500* (Cambridge: Cambridge University Press, 2012), p.26, and p. 69; and Musson, p.90. Appeals of rape had carried a blood punishment since *Leis Willelme,* which stated that punishment should be castration and blinding. Compensation was more common for rape pre-conquest. *Leis Willelme* cited in Saunders, p.47; Bellamy, p.167; and Dunn, *Stolen women…,* p.37.
[29] E. Powell, 'Jury lists and juries in the late fourteenth century', in Cockburn and Green, pp.101-103.
[30] Ibid, p.102; and J. M. Carter, *Rape in medieval England: An historical and sociological study* (Lanham, Maryland: University Press of America, 1985), p.155.
[31] TNA JUST 3/78-80; 141A; 143; 145; 155; 165A; and 169.

rates in medieval England, not only for ravishment, but for all violent felonies could be attributed to the high standards of proof in criminal trials, which even today, are still much higher than in civil cases.[32] While very little is known about the evidential requirements in medieval England, under the *ius commune* to secure a conviction the 'testimony of two unimpeachable eyewitnesses' was required.[33]

Moreover, a factor in the low conviction rate in many modern rape trials is that instead of trying to prove whether or not the defendant carried out the act, the question relates to the circumstances of the action. Both today and in the middle ages, the jury need to be convinced of the absence of consent. Therefore, unlike in other violent offences, physical evidence and even proof that the suspect was involved is not enough for a conviction. As stated by Matthew Hale, Chief Justice of King's Bench from 1671, rape was 'an accusation easily to be made and hard to be proved'.[34] A medieval jury may know, or believe, that sexual intercourse or an 'elopement' had taken place, but they may doubt that it was against the woman's will. It is difficult to tell whether the lack of ravishment convictions is reflective of the effects of the legal and social identity of medieval women. It is possible that women were not believed as they were speaking out in the 'male' world of law or because of social attitudes towards medieval woman made the jury doubt their words or lead them to conclude that the punishment did not fit the crime. Alternatively, it is highly likely that, just like today, it was simply very difficult to prove a consent-based crime. However, Chief Justice Hale also stated that while rape was hard to prove, it was 'harder to be defended by the party accused'.[35] The last part of this dictum is not reflective of the medieval evidence.

Verdicts for aiding and abetting

As outlined in Chapter One, the justices of gaol delivery were also responsible for trying those indicted for assisting a felony. At the Yorkshire gaol deliveries, 154 men, 34 women, and 9 clergymen were tried as accomplices to a homicide. Chapter One further categorised these defendants based on their exact role in the crime, which could range from merely being present, to ordering the murder, to providing physical assistance. Nonetheless, the gaol delivery records

[32] M. Redmayne, 'Standards of proof in civil litigation', *Modern Law Review*, 62, 2 (1999), p.168.
[33] The jury were not impartial but meant to be knowledgeable 'witnesses'. R. Fraher, 'Conviction according to conscience: The medieval jurists' debate concerning judicial discretion and the law of proof', *LHR*, 7 (1989), p.24.
[34] Hale cited in D. R. Flood, *Rape in Chicago: Race, myth, and the courts* (Urbana: University of Illinois Press, 2012), p.10.
[35] Hale cited in M. E. Odem, M. E., and J. Clay-Warner, eds. *Confronting rape and sexual assault* (Wilmington, Delaware: Scholarly Resources, 1998), p.131; and M. Mawson, 'Whores, witches and the lore: Rape and witchcraft, legal and literary intersections', *Australian Feminist Law Journal,* 1, 12 (1999), p.43.

show that all of the people tried as accomplices were released. This figure is quite striking. Despite also using gaol delivery rolls, Hanawalt did not include accomplices in her analysis.[36] In contrast, Given's work on the eyre did extend to co-conspirators and he recognised that the acquittal rate for accomplices was 'substantially higher' than for the principal offender. Given stated that seventy-nine per cent of accomplices were released. Moreover, when applying the same methodology used in this present investigation, which excludes the cases with no verdict, his figure increases to ninety-one per cent.[37]

As shown above, the vast majority of those tried for homicide and all of those tried for forced ravishment were acquitted. Therefore, the chances of being convicted as an accomplice were even slimmer. To be convicted of assisting someone with a felony, the jury first had to find that the suspect had actually committed the crime. For example, at a delivery in York Castle in 1364, Thomas Sadeler was found not culpable of the felonious killing of Thomas Crayke. Two other men had been indicted as accomplices for helping and maintaining Sadeler. However, due to the fact that Thomas had been acquitted, there was now no charge for them to answer so they were released *sine die.* In other words, if Thomas had not committed the murder, they could not have helped him.

Furthermore, even if the jury was convinced that the principal suspect was guilty, this did not automatically mean that they would convict the defendant's alleged accomplices. For example, in 1365, Ralph Coke was sentenced to hang for feloniously killing John Chapman. At the same delivery, Agnes, who was the wife of John Chapman, was tried as an accomplice for knowing about the death, *concensiens mortem.* Likewise, Cecilia, daughter of William Peresson, was tried for receiving Ralph. Despite the fact that the jury found Ralph guilty, both Agnes and Cecilia were acquitted.[38] This perhaps highlights that a jury felt death was too harsh a punishment for assisting a crime, or that it was more difficult to prove the involvement of an accomplice compared to the principal offender. This could be extremely significant for a study of prosecution and identity. As demonstrated in Chapter One a high number of women were tried as accomplices to homicide rather than as a main suspect. If social views on women and violence shaped this pattern, then female defendants would have had a high chance of acquittal at gaol delivery as they were deemed to have played a lesser role in the crime. The following sections now turn to the minority of defendants, those who were not acquitted in gaol delivery.

[36] Hanawalt, *Crime and conflict*…, p.59. A table of crimes includes 'receiving' but the text suggests that this category is limited to receiving stolen goods, rather than harbouring a suspected murder.
[37] Given, p.101.
[38] TNA JUST 3/79/1 m.7 (IMG 0054).

These sections test the argument in favour of judicial leniency towards women, which appears to exist when only considering acquittal rates. However, acquittal only tells part of the story; medieval justice was not a binary choice between conviction and exoneration. The three other outcomes which need to be considered are execution, benefit of clergy, and pardoning.

Non-acquittals for homicide

As shown above eighty-one per cent of the people tried for homicide in the Yorkshire gaol deliveries from 1345 to 1385 were acquitted. However, the outcomes for the remaining nineteen per cent took three forms: execution, pardoning, or benefit of clergy. As shown in Figure 4.2, these outcomes were heavily influenced by legal or social identity. The majority of men escaped the noose via a pardon. Likewise, by virtue of their position, all clerks avoided execution, with most pleading clergy and the rest being pardoned. Although only two women were convicted, they both faced execution – one by hanging and one by burning. The following subsections will, in turn, take a closer look at execution, benefit of clergy, and pardoning.

Figure 4.2: Outcomes for the non-acquittals of homicide in gaol delivery rolls, 1345-85.

Source: TNA JUST 3/78-80; 141A; 143; 145; 155; 165A; and 169.

Execution

In 1445, when a woman was hanged in Paris, it was said that 'a great multitude of people… flooded in, because of the great novelty of seeing a woman hanged for thus had never before been seen in the kingdom of France.' Trevor Dean used this anecdote to conclude that women were rarely hanged in medieval Europe.[39] Furthermore, it has been suggested that most late medieval towns only saw a few executions annually.[40] Following the 1381 Revolt, the Westminster chronicler recounted that people were shocked by the number of gibbeted bodies. James Davis surmised that this report does not suggest medieval people were desensitized to capital punishment.[41] The Yorkshire gaol delivery rolls support the idea that there were few executions carried out in medieval England, at least compared to later periods. Firstly, the high acquittal rate outlined above shows that the majority of defendants were found not culpable and therefore would not have been executed. Due to the mandatory capital sentence for those who were convicted of a felonious killing, defendants, even if guilty, would likely attest their innocence. This contributed to a higher acquittal rate than that of later periods.[42] This investigation has found that eight per cent of those tried for a non-violent crime, were sentenced to death. For homicide, just three per cent of defendants received a capital sentence. As shown above, most homicide defendants were acquitted; the remainder were pardoned or claimed benefit of clergy, both of which are discussed below.

As well as the high acquittal rate, the percentage of capital sentences translates to relatively few executions in terms of absolute numbers. In Yorkshire from 1345 to 1385, only 281 people were sentenced to death, an average of 7 per year. The bulk of these executions were for property crime and accordingly are outside the scope of this study. In fact, only forty-eight people were sentenced to death for homicide in Yorkshire from 1345 to 1385, which is an average of one execution per annum.[43] In Victorian Wales, there was on average one execution every two years, albeit for a much larger population but with fewer capital crimes.[44] In the eighteenth century, 1,644 people were executed after being sentenced to death by the

[39] T. Dean, *Crime in medieval Europe* (London: Pearson Education Limited, 2001), p.124.
[40] J. Davis, 'Spectacular death: Capital punishment in medieval English towns', in J. Rollo-Koster ed. *Death in medieval Europe: Death scripted and death choreographed* (London: Routledge, 2016), p.132; and Dean, pp.128-129.
[41] Davis, p.132.
[42] T. A., Green, 'Societal concepts of criminal liability for homicide in mediaeval England', *Speculum*, 47, 4 (1972), p.671.
[43] TNA JUST 3/78-80; 141A; 143; 145; 155; 165A; and 169.
[44] S. E. Brown, ''The only consolation is that the criminal is not a Welshman': The foreign-born men hanged in Wales, 1840–1900', in P. Low, H. Rutherford, C. Sandford-Couch, eds. *Execution culture in nineteenth century Britain: From public spectacle to hidden ritual* (London: Routledge, 2020), p.177.

Old Bailey whose jurisdiction covered the City of London and the County of Middlesex.[45] This represents an average of sixteen executions a year at Tyburn. Of course, early modern London had a much larger population and as a result the execution rate per capita is likely to be lower. Nonetheless, the point being made here is that people on the streets of eighteenth-century London would have experienced far more executions than those in fourteenth-century York.

However, there has been limited quantitative analysis of medieval executions, particularly in respect to gender. Hanawalt did not fully examine execution in her study of gaol delivery.[46] The literature that has discussed medieval capital punishment has instead tended to focus on the cultural experience of the brutal mutilations of high-status traitors or rebels. The spectacle of suffering inflicted upon those sentenced to be drawn and hanged was highly untypical, and medieval England did not see the range of execution methods that were employed on the Continent such as breaking on the wheel, stoning, boiling, and starvation.[47] Instead, a person convicted of homicide in England would usually be sentenced to death by hanging.[48] All the same, this is not to suggest that the English felon did not suffer nor that it would have been horrific to witness. Until the long-drop was employed in order to break the neck of the condemned in the 1880s, death usually came as a result of slow strangulation.[49]

A reason that medieval capital punishment has probably received less attention than executions in later periods is because the act was carried out shortly after the sentence, most likely on the same day. This left little to no room for a reprieve, time for a crowd to gather, or witnesses to listen to a speech from the gallows. These three aspects have fascinated historians of later periods.[50] It is possible that the only crowd drawn by some medieval felons would be the hangman, a court official, and the sheriff or urban bailiff.[51] The coroner may have also

[45] In fact, the Old Bailey issued 4,231 capital sentences in the eighteenth century, however the vast majority were commuted meaning that only 1,644 sentences were carried out. V. A. C. Gatrell, *The hanging tree: Execution and the English people 1770-1868* (Oxford: Oxford University Press, 1994), p.616.
[46] Hanawalt, *Crime and conflict…,* pp.19-63.
[47] Davis, pp.130-131; and K. Royer, 'The body in parts: Reading the execution ritual in late medieval England', *Historical Reflections/Réflexions Historiques*, 29, 2 (2003), pp.319–339.
[48] The exception is killings classed as petty treason, which are discussed below. L. Yetter, ed. *Public execution in England, 1573-1868* (London: Pickering & Chatto, 2010), p.xi; and M. E Doggett, *Marriage, wife-beating and the law in Victorian England: 'Sub virga viri'* (London: Weidenfeld and Nicolson, 1992), pp.49-51.
[49] Gatrell, pp.53-55 & Davis, pp.142-143
[50] See P. Low, H. Rutherford, C. Sandford-Couch, eds. *Execution culture in nineteenth century Britain: From public spectacle to hidden ritual* (London: Routledge, 2020); V. A. C. Gatrell, *The hanging tree: Execution and the English people 1770-1868* (Oxford: Oxford University Press, 1994); P. Linebaugh, *The London hanged* (London: Verso, 2004); F. E. Dolan, '"Gentlemen, I have one thing more to say": Women on scaffolds in England, 1563-1680', *Modern Philology*, 92, 2 (1994), pp.157-178; J. M. Beattie, 'The royal pardon and criminal procedure in early modern England', *Historical Papers/Communications Historiques*, 22, 1 (1987), pp.9-22; and J. A. Sharpe, '"Last dying speeches": Religion, ideology and public execution in seventeenth-century England', *P&P*, 107 (1985), pp.144-167.
[51] Davis, p.141.

attended because they previously had been required to attend franchisal and other local courts when the death sentence was passed and executed; crimes that carried a capital sentence were now usually tried before royal justices.[52] It cannot be known how many of the death sentences issued in Yorkshire were carried out, but due to the limited time between sentence and execution it is likely that most, if not all, death sentences were executed.

Nonetheless, it is undisputable that few women were executed in terms of absolute numbers. In the Yorkshire gaol deliveries from 1345 to 1385, only two of the forty-eight death sentences were for women. However, the fact that few women were executed is not surprising given the low number of female suspects discussed in Chapter One. If a small number of women were indicted for murder, it stands to reason that only a few could be executed, especially when taking into consideration the high levels of acquittal in the late middle ages. If one uses the absolute difference between male and female death sentences, it would be easy to conclude, as those such as King have done, that there is a gendered bias. When very few women are executed, it can create the impression of gender discrimination and a system that favours female offenders.[53] Elizabeth Rapaport argued that this view prevails in the US because women made up less than three per cent of the executions from the colonial period through to the 1990s. Despite this, Rapaport found that there is 'no credible evidence that women are spared the death penalty in circumstances where it would be pronounced on men'.[54]

There are two ways of interpreting Figure 4.2. Firstly, it shows that forty-six men compared to two women were sentenced to death, thus, women were treated more favourably. Alternatively, it is important to remember that fewer women could receive a capital sentence compared to men as there were fewer female defendants. The two women sentenced to death represent six per cent of the total female homicide defendants, compared to the forty-three men who formed just four per cent of the male defendants. It is difficult to draw conclusions when comparing percentages of two datasets of vastly different size; as there are only two women, this finding is not statistically significant. However, Given, who had a much larger dataset found that thirty-three per cent of all women appearing in the eyre were sentenced to death, compared to just eighteen per cent of men.[55] As a result, perhaps it is reasonable to conclude that convicted women received the harshest outcome. Nonetheless, in order to unravel the role

[52] Few areas, like London, still held the franchise of infangethef. R. F. Hunnisett, 'The origins of the office of coroner', *Transactions of the Royal Historical Society*, 8 (1958) p.89; A. Musson and W. M. Ormrod, *The evolution of English justice. Law, politics and society in the fourteenth century* (New York: Macmillan Press, 1999), p.9; and J. H. Baker, *An Introduction to English legal history*, 3rd edn. (London: Butterworth, 1990), p.573.
[53] King, p.186.
[54] E. Rapaport, 'The death penalty and gender discrimination', *Law & Society Review*, 25, 2 (1991), pp.367-382.
[55] Given, p.137.

of identity in judicial outcomes one must also consider the two remaining options, benefit of clergy and pardoning.

However, before moving on to examine the other judicial outcomes, it is important to highlight that the Yorkshire rolls potentially reveal a gendered difference in the method of execution. Alice, the wife of John Taillour of Tunstall was the only person to receive a death sentence by a method other than hanging. Alice was sentenced to burning during the gaol delivery at York Castle on 27 August 1359 after being arrested by indictment before William of Routh, bailiff of the liberty of Richmond. Alice was convicted of feloniously slaying her husband at Tunstall on Saturday 29 June 1359.[56] While this is not explicitly stated in the rolls, her relationship with the victim is the reason why she received this punishment. Until 1828, mariticide was classed as petty treason, and until 1790 the punishment for this crime was death by burning.[57] Notwithstanding, apart from the method of execution there is no difference in the wording of Alice's case compared to a 'regular' entry of homicide. The word 'treason' does not appear within Alice's gaol delivery entry. Yet, the jurors or justices must have recognised it as a case of petty treason due to the sentence. Alice was indicted for feloniously killing (*felonice interfecit*) her husband which is comparable with cases of other mariticide in the Yorkshire rolls.[58]

Alice's sentence of burning could reveal deep anxieties concerning female violence. Many studies of mariticide use the punishment of burning to highlight the systemic oppression of women and the patriarchal nature of pre-modern English legal systems.[59] However, one must remember that in law these are two different crimes; although mariticide was petty treason, uxoricide was merely classed as homicide, and therefore are not directly comparable. As outlined by Thomas Green, 'petty treason had for centuries been counted among the most reprehensible of homicides'.[60] Rather than female violence per se, the anxiety displayed here is related to violent behaviour against social superiors. The Statute of Treasons, 1351 (25 Edward III *Stat.* 5 c.2) also outlined 'another manner of Treason' was for a servant to kill their master, or a man, secular or religious, to kill his prelate.[61] The only other conviction for a

[56] TNA JUST 3/143 m.3 (IMG 0006).
[57] Yetter, p.xi & Doggett, pp.49-51.
[58] TNA JUST 3/143 m.3 (IMG 0006).
[59] F. E. Dolan, 'Battered women, petty traitors, and the legacy of coverture', *Feminist Studies*, 29, 2 (2003), pp. 249–277; R. Campbell, 'Sentence of death by burning for women', *The Journal of Legal History*, 5, 1 (1984), 44-59; King, p.179-181; Yetter, p.xi; Doggett, pp.49-51; and S. S. Heinzelman, 'Women's petty treason: Feminism, narrative, and the law', *The Journal of Narrative Technique*, 20, 2 (1990), pp.89–106.
[60] Green, p.693.
[61] 25 Edward III *Stat.* 5, c.2 in Luders et al., pp.319-320; and J. G. Bellamy, *The law of treason in England in the later middle ages* (Cambridge: Cambridge University Press, 1970), p.227.

homicide which falls under the category of 'petty treason' was William of Fosseton, a cleric from Hovingham. He was convicted for the murder of his master in 1358 but was able to plead benefit of clergy; he was handed over to the Ordinary to face punishment in the Church court.[62] Nevertheless, there are cases of servants being punished for petty treason in fourteenth century England. For example, in 1390, a Cheapside landlord was murdered by his servants and his wife, who received the traitor's death of drawing and hanging, and a sentence of burning, respectively.[63] Thus, the primary aim of this statute is not necessarily to single out and punish women; it says more about the importance of status and social hierarchy. Having said that, the reason that wives were included alongside servants and other subordinates was because the gendered nature of status and social hierarchies rendered wives subservient to their husbands.

Benefit of clergy

It has been shown in the proceeding chapters that the legal identity of clerks did not in fact shield them from lay prosecution. Clergymen accused of a felony were indicted, imprisoned, had their chattels seized, and were tried at gaol delivery just like laymen. Yet, sentencing is where this comparable treatment ends; benefit of clergy meant that clerks could not be subjected to capital or corporal punishment.[64] This protection from physical punishment provided by benefit of clergy would last throughout the middle ages and accordingly, as shown in Figure 4.2, this study did not find any clerics who were sentenced to death.[65]

Despite having benefit of clergy, most clerks tried for homicide, and all tried for forced ravishment or as an accomplice to a violent felony, did not use this privilege. This is because the clerk would only need to invoke their privilege if they had been found guilty. In stating that they wanted to claim benefit of clergy, it would mean that the cleric was then spared from execution by being transferred to an ecclesiastical prison.[66] Consequently, due to the high acquittal rate in medieval England, most clerical cases followed the regular legal process – that is, trial by jury, a verdict of not culpable, and the release of the defendant – without the need to use their legal identity.

However, as outlined in Figure 4.1, a higher percentage of clerical rather than lay defendants were convicted for homicide at gaol delivery. S. F. C. Milsom suggested that clerics

[62] TNA JUST 3/141A m.50 (IMG 0212).
[63] Davis, 134.
[64] J. Rose, 'Clergy and the abuse of legal procedure in medieval England' in T. L. Harris, ed., *Studies in Canon Law and Common Law in Honor of R.H. Helmholz* (Berkeley: The Robbins Collection, 2015), p.95.
[65] TNA JUST 3/78-80; 141A; 143; 145; 155; 165A; and 169.
[66] J. H. Baker, p.586.

were more likely to be convicted *because* they were able to claim benefit of clergy. In other words, a sympathetic jury may choose to acquit a lay man or woman who they believed to be guilty because they thought the resulting punishment was too harsh, whereas they knew a clerk would escape execution. It has even been said that the 'clerical conviction rate' reflects the 'real' conviction rate. For instance, Milsom attributed the high medieval acquittal rates to juries exonerating 'those who did not deserve to lose their lives'. He explained that 'if the fact cannot shape the law, the law will shape the facts'.[67] This was an age where even 'decent citizens' were involved in fights and most people routinely carried a knife or staff. Moreover, poor medical techniques meant that sometimes deaths could arise from even the smallest of wounds.[68] The argument is that pious juries would spare those whose crimes were understandable as it was felt that they did not deserve to die. Due to the fact that the clergy could not face this outcome, it is argued that the jury may be more likely to convict them.

A key debate that this thesis seeks to engage with is whether benefit of clergy had become a legal fiction by the fourteenth century. That is to say, whether benefit of clergy was still a clerical privilege or if it was now in fact available to all men. If it was open to laymen, then the premise that it was a clerical privilege is fictional. The understanding of how benefit of clergy functioned in fourteenth-century England is vital to this study. One of the primary aims of this thesis is to understand legal identity. As a result, the question of what benefit of clergy meant in this period is essential to assess whether the clergy still had a distinct legal identity. To compare the experiences of men, women, and clergy, it is necessary to understand who could access benefit of clergy.

Walker argued that the early modern English judicial system gave male convicts an advantage over their female counterparts because prior to the seventeenth century only men could claim benefit of clergy.[69] This conclusion cannot be automatically applied to the fourteenth century due to changes in the law. After 1512, if a killing was done with no malice, and it was a first offence, then it was clergiable.[70] In other words, if a layman was convicted of manslaughter, he could plead benefit of clergy. The punishment for an early modern 'cleric' found guilty of manslaughter was branding an 'M' on their thumb with a hot iron.[71] As laymen could claim the privilege for manslaughter after 1512, it is clear that benefit of clergy had

[67] S. F. C. Milsom, *Historical foundations of the common law*, 2nd edn (London: Butterworth, 1981), pp.422-423.
[68] Ibid, p.423; and J. Hudson, *The Oxford history of the laws of England. Vol. II: 871-1216* (Oxford: Oxford University Press, 2012), p.57.
[69] Walker, p.113.
[70] J. H. Baker, p.602; and Walker, p.116.
[71] N. F. Baker, pp.106-107.

largely become a legal fiction.[72] Additionally, Walker argues that, as a result, gender affected judicial outcomes. Walker did not find any women convicted of manslaughter and argues that this is because a woman could not claim benefit of clergy. Due to this restriction, the sentence for a woman convicted of manslaughter would be the same as for murder, thus a mitigation would have made no difference to her sentence.[73] This may explain why a pious jury would not reduce the charge in a case where they sympathized with the female convict but does not fully explain why there were no 'genuine' cases of female-perpetrated manslaughter in Walker's data.

For this present study, the main question that needs to be answered is whether *men* had an unfair advantage in the fourteenth century due to benefit of clergy. In order to argue that women were at a disadvantage, it must be shown that laymen were also able to use benefit of clergy. While, as shown by Walker, this argument can certainly be applied in early modern England, it is not a forgone conclusion that benefit of clergy had become a legal fiction by the fourteenth century. In the Yorkshire gaol delivery rolls, there is a case where a male and female defendant received a different outcome. In 1346, Hugh of Nuttle and Lucy, his concubine, were delivered at York castle. The entry states that Hugh, Lucy, and others had robbed all summer. However, Hugh and Lucy were tried for killing an unknown merchant. The jury decided that Hugh and Lucy were guilty of this crime, yet Hugh entered a plea of clergy and was transferred to the bishop's prison. As Lucy was unable to do the same, she was sentenced to hang.[74] The process of how benefit of clergy was tested and granted needs to be assessed to gauge how easy it was to obtain this privilege. The key question relates to the reason why Hugh received a more favourable outcome than Lucy, because he was male, or because he was a clergyman.

Prior to the period covered by this study, a defendant wishing to claim benefit of clergy would have to appear in the clerical habit and tonsure and then would need to be claimed by a representative of the bishop.[75] It is widely stated that from the mid-fourteenth century, reading became the standard test.[76] Sara Butler argued that during the reign of Edward III (1327-77), benefit of clergy 'was extended *de facto* to all literate men'.[77] It has even been said that the

[72] J. H Baker, pp.587-588; N.F. Baker, pp.110-111; and Walker, p.138.
[73] N.F. Baker, pp.106-107.
[74] TNA JUST 3/78 m.46 (IMG 0187).
[75] N. F. Baker, p.96.
[76] J. H. Baker, pp.586-587; N. F. Baker, p.95; L. C. Gabel, *Benefit of clergy in England in the later middle ages* (New York: Octagon Books, 1969), pp.75-76 and p.132; J. G. Bellamy, Criminal law and society in late medieval and Tudor England (New York: St. Martin's Press, 1984), p.116; and S. M. Butler, 'Pleading the belly: A sparing plea? Pregnant convicts and the courts in medieval England', *Crossing borders: Boundaries and margins in medieval and early modern Britain* (Leiden: Brill, 2018), p.132.
[77] Butler, 'Pleading the belly…', p.132.

reading test was the 'final stage of secularization of the *clericus* plea'.[78] However, this raises the question, if it was so easy to claim benefit of clergy, why did all men not do so. In a forty-year period in fourteenth-century Yorkshire only ten men actually pleaded benefit of clergy. Hence, if this privilege was subject to misuse in fourteenth-century Yorkshire, the abuse does not appear to have been widespread. Eight of these men were recorded as clergy when they were first named in the entry. It is impossible to construct a transcript of the trial, thus it cannot be known when clerical status was first mentioned, but it perhaps seems more credible when it is recorded at the very start of the roll and not only after the person had been found culpable.

The case of Hugh of Nuttle, outlined above, is an example of clergy identity appearing later in the entry. Consequently, the authenticity of Hugh's clerical status could be questioned. At first, he was named simply as Hugh de Nuttle, rather than, for instance, Hugh de Nuttle *clericus.* As above, eight out of the ten men claiming benefit of clergy were identified as such when they were first named in the roll; for example, William de Cotes *cappellanus* and Thomas de Huggte *clericus*.[79] Nevertheless, this is not proof that Hugh entered a false plea, nor does it legitimise the other eight men as they could have lied from the beginning of the trial. It is difficult to know whether the court scribe did not bother to include Hugh's status elsewhere in the entry, or whether this 'clerical status' was an invention when he realised that he would be found culpable.

Even if one were to assume that all ten of these pleas of clergy were fictional, they represent less than one per cent of all homicide cases with a verdict. Likewise, Given found that only one per cent of homicide suspects in thirteenth century England used the privilege of benefit of clergy.[80] It must be stated that these figures are skewed by the high acquittal rate. Therefore, it is more representative to consider those pleading clergy as a percentage of those who were found guilty, rather than comparing them to all suspects. When applying this methodology those pleading benefit of clergy still only made up five per cent of those who were not acquitted in Yorkshire. It is possible that one would not expect to see widespread abuse of benefit of clergy because the defendant was required to pass a reading test in an age where literacy was uncommon. However, while reading was by no means universal, the notion that literacy was limited to clergy and the highest level of society has been rejected.[81]

[78] P. P. Johnstone, 'The secularization of ecclesiastical privileges in medieval England and their subsequent adoption and use in Colonial America 1066-1766' (Unpublished Ph.D. Thesis, Manchester Metropolitan University, 2017), p.67.
[79] TNA JUST 3/78 m.13 (IMG 0033) and TNA JUST 3/79/1 m.6 (IMG 0015).
[80] Given, p.92.
[81] K. L. Bevan, 'Clerks and scriveners: Legal literacy and access to justice in late medieval England', (Unpublished Ph.D. Thesis, University of Exeter, 2013); M. T. Clanchy, *From memory to written record: England 1066-1307*

Moreover, as noted by Alison McHardy, '"literate" is an inexact term'; the minimum skill needed to pass the reading test could have been acquired in prison while awaiting trial.[82] Although justices were able to choose a random section of text, it became customary to ask the prisoner to read the first verse of the fifty-first Psalm, which came to be known as the 'neck-verse'.[83] Therefore, it is indeed possible that prisoners could memorise the wording. It is evident that this was a concern because it was an indictable offence to teach prisoners to read so that they could claim clergy. For example, a vicar from Canterbury was indicted in 1383 for instructing an unlearned criminal.[84]

For further insight on how easy, or not, it was for a layman to claim benefit of clergy one must return to the gaol delivery rolls to examine how this process worked in practice. In the case of Hugh de Nuttle, there was a representative of the archbishop at the trial.[85] It has been argued that the role of this representative was to oversee the reading test answering the question of "*legit ut clericus*?" Newman F. Baker stated that the ordinary must answer with the 'formal words' "*legit*" or "*non legit*".[86] While neither these words nor the specific mention of a reading test appear in Hugh's entry, it is recorded that there was a diligent examination. Nonetheless, the fact that the bishop's ordinary, or another representative, had to approve pleas of clergy appears to suggest that the process was tightly controlled. It could be suggested that the ordinary was merely judging whether the defendant could read rather than vouching that they were a known cleric. However, the representative at the trial of Hugh and Lucy's trial claimed Hugh *tanquam clericum suum,* as his clerk.[87]

Being recognised as a clerk by the bishop's representative was merely one of the hurdles that any layman attempting to claim needed to overcome. Even after passing a reading test and being accepted by the ordinary, the defendant was not yet free to go. Unlike in early modern England where a 'cleric' would be branded and released, claiming benefit of clergy in the middle ages saw the prisoner transferred to the prison of the bishop and then tried by 'the bishop or his deputy'.[88] Newman F. Baker, echoing Maitland, suggested that the procedure

2nd edn. (Oxford: Blackwell, 1993); and R. H. Britnell ed. *Pragmatic literacy, East and West, 1200-1330* (Woodbridge: Boydell Press, 1997).

[82] A. K. McHardy, 'The English clergy and the Hundred Years War', *Studies in Church History*, 20 (1983), pp.176-177.

[83] J. H. Baker p.587.

[84] N. F. Baker, p.97.

[85] TNA JUST 3/78 m.46 (IMG 0187).

[86] N. F. Baker, p.96.

[87] TNA JUST 3/78 m.46 (IMG 0187).

[88] N. F. Baker, p.100.

after a clerk had been transferred to the ecclesiastical courts 'was little better than a farce'.[89] However, that comment seems to be based on the Church's use of compurgation wherein the suspect swore that he was innocent and twelve other men swore that they believed him. While an oral system of oath-swearing rituals might seem unfathomably naïve in the twenty-first century, it was by no means unique to ecclesiastical trials and at this time was still being used in local courts.[90]

In fact, criminous clerks faced a length process after being claimed by the bishop. They would be held in an episcopal prison and the bishop would organise an inquest, made up of clergymen, to investigate the accused clerk's conduct. Those involved in the inquest would have prior knowledge of the man and would determine whether he had committed the crime. If he was found to be innocent, then a proclamation was made asking if anyone objected to the clerk undertaking compurgation; those who did object had the chance to prove that the clerk was guilty, a process known as *accusatio.* If the clerk passed all of the stages, they would undergo clerical purgation where they had to swear an oath that they were innocent along with a number of clerics swearing that they believed him.[91] In order to successfully pass as a member of the clergy, a layman would not only have to successfully complete the reading test but also submit to an ecclesiastical investigation and compurgation, presumably without raising suspicion that they were not a clerk. As Richard Helmholz noted, while 'it would be foolish to ignore the possibility' of 'negligence or corruption', there is certainly evidence to suggest 'vigilance on the part of the ecclesiastical officials to safeguard canonical purgation'.[92]

It seems unlikely that laymen would be able to navigate so many controls and successfully make a fraudulent claim of benefit of clergy. A defendant would need to pass the reading test, be accepted by the ordinary, be transferred to and held in an ecclesiastical gaol, undergo a public trial, and convince twelve clerics to swear an oath for him. This study cannot categorically rule out that this was possible. Peter D. Clarke is currently working on a new study of the people in episcopal gaols after pleading benefit of clergy, which will shed more light on the question of how easy it was for laymen to claim this privilege. However, in the interim, this study offers a caution against the notion that benefit of clergy had become a legal fiction and that it was possible for any literate or coached man to obtain it.

[89] Ibid, p.100.
[90] J. H. Baker, pp.87-88.
[91] R. H. Helmholz, *The Oxford history of the laws of England: The Canon law and ecclesiastical jurisdiction from 597 to the 1640s*, (Oxford: Oxford University Press, 2003), pp.512-513.
[92] R. H. Helmholz, 'Crime, compurgation and the courts of the medieval church', *LHR*, 1, 1 (1983), p.17.

Pardoning

As discussed above, Milsom and others have argued that clerics were more likely to be convicted given that they were able to claim benefit of clergy. The basis of this argument seems to be that because the separate legal categories of murder and manslaughter did not exist until 1512, death was the only available sentence for homicide, whether or not it was done with malice aforethought.[93] Nonetheless, the law did allow for cases of excusable homicide to be pardoned.[94] Thus, a jury did not need to give a false verdict of *non culpabilis* if they were sympathetic to the circumstances of a murder. It is for this reason that pardons for homicide were an essential part of late medieval justice.[95] Naomi Hurnard traced this jury manipulation back to 1294, where pardons suddenly increased.[96]

In total, 145 laymen and 2 clergy received, or were recommended for, a pardon following their trial at gaol delivery. In contrast, the Yorkshire rolls show that no female defendants were pardoned. It is difficult to prove whether this is as a result of the small number of female convicts or whether pardoning was a gendered process. In order to investigate the role played by legal and social identity in pardoning it is necessary to further examine the two main processes for obtaining a pardon in late medieval England. Firstly, 'pardons of grace' were, in theory, available to all of the king's subjects, irrespective of gender or social status. However, royal pardons were politically contentious, and the Commons complained about them throughout the fourteenth century.[97] To obtain a pardon a petition must be submitted to the king, either by the person seeking pardon or someone petitioning on their behalf. There seems to have been a high likelihood that the pardon would be granted.[98] Hurnard argued that this system favoured those with personal access to the king, and those who could afford to buy a pardon.[99] Once in possession of a charter of pardon, the defendant could present it to the justices at their arraignment and then they would not be required to answer the charge.[100] Given stated that many in receipt of pardons would not even bother turning up to the eyre.[101] This

[93] B. A. Hanawalt, 'Violent death in fourteenth- and early fifteenth-century England', *Comparative Studies in Society and History*, 18, 3 (1976), pp.298-299 and J. H. Baker, p.606.
[94] H. Lacey, *The royal pardon: Access to mercy in fourteenth-century England* (York: York Medieval Press, 2009), p.19.
[95] J. H. Baker, p.589.
[96] Green, 'Societal Concepts…', p.683; and N. D. Hurnard, *The king's pardon for homicide before A.D. 1307* (Oxford: Oxford University Press, 1969), p.265.
[97] Green, 'Societal concepts…', p.672.
[98] Lacey, p19.
[99] Hurnard, p.35.
[100] Lacey, p.19.
[101] Given, p.227.

may help to explain why, as shown in Chapter One, the suspects were not drawn from the wealthiest nor most influential groups in society.

Alternatively, a suspected felon appearing at gaol delivery with a pardon could have received it in return for military service.[102] After 1294, due to the needs of military recruitment, royal pardons were issued to homicide suspects in greater numbers than ever before.[103] At the Battle of Halidon Hill in 1333, there were around two hundred pardoned felons serving the English king who were instrumental in the victory.[104] In 1343, Edward III decreed that any man who served with him on campaign for one year, at their own expense, would be pardoned for felonies including homicide.[105] If pardons were being granted to those who had provided military service to the king, this would lead to more men receiving pardons than women, due to the gendered nature of medieval warfare. The connection between military service and pardoning was so well established that in 1348, a man called John joined the king's army under the name of Walter Mast and fought at Crécy in exchange for a pardon. However, the real Walter Mast, John's brother, was in Scarborough gaol after being indicted for homicide. John enlisted under his brother's name in an attempt to secure his brother a pardon.[106] This ploy was uncovered, which is why there is a record of it, but it is possible that other cases were not. Moreover, it highlights that military service prior to indictment could be an attractive option for a felon. A Statute in 1336 (10 Edw. III *Stat.* 1 c.2) even made a direct link between crime and pardoning. The Statute stated that murderers had been 'greatly encouraged to offend' due to the fact that charters of pardon 'have been so lightly granted'.[107]

The second method was to be granted a recommendation for pardon following trial. If convinced that the circumstances of the crime were suitable, the justices of gaol delivery could recommend mercy and apply to the chancellor for a pardon. The chancellor was authorised to act in the name of the king and automatically approved all pardons once the fee had been paid. Alternatively, the suspect may be returned to gaol in order to apply for a pardon themselves. Both of these options ensured that there was a written record of why mercy should be granted prior to the issuing of a pardon.[108] Furthermore, the defendants were not released immediately,

[102] Hanawalt, 'Violent death…', p.303.
[103] Green, 'Societal concepts…', p.670.
[104] A. E. Prince, 'The strength of English armies in the reign of Edward III', *The English Historical Review*, 46, 183 (1931), pp.353-354.
[105] Bellamy, *Criminal law and society*…, p.193.
[106] L. O. Pike, *A history of crime in England: Illustrating the changes of the laws in the progress of civilisation*, Volume I (London: Smith, Elder & Company, 1873), p.295.
[107] 10 Edw. III Stat. 1 c.2 in A. Luders et al., p.275.
[108] Lacey, pp.20-21.

but were *remittitur ad gratiam domini regis*, returned to gaol to await a pardon from the king, which could take months.[109]

In order to secure a pardon at gaol delivery, the jury would have to tell a story of self-defence. Just as trial juries could 'shape the facts' to gain an acquittal, they could also tailor events to fit an accepted case of excusable homicide.[110] Medieval juries knew that if they wanted to recommend a murder suspect for pardon then they needed to tell the normal tale of a homicide *se defendendo*.[111] As also shown in Chapter Three, there are a few aspects which a successful court tale required: that the killing was not felonious or with malice, the suspect tried to flee but was not able, it was not premeditated and preferably initiated by the deceased, and that the force used was not excessive but necessary to save their life.[112] For example, on Sunday 18 September 1373, Robert of Thorp, a wright of Gisburn, killed John son of John Godewyn in Gisburn. Robert was tried at York castle on Monday in the first week of Lent in 1375. The jury said that Robert and John were in the marketplace when John struck Robert with a staff; Robert fled between the butchers' stalls until there was no way forward. Thus, in defense and salvation of his life Robert stabbed John in the stomach with a certain unknown knife. The jury decided that the killing was neither felonious nor out of malice. Robert was returned to prison to await a royal pardon which was granted on 5 July 1375.[113] This is not to imply that the jury were being untruthful; that cannot be known. Nonetheless, this example shows how a jury's court tale perfectly met the requirements for a pardon.

It is striking that not only were none of the female convicts pardoned, but none of the gaol delivery entries with female suspects featured details mitigating their actions. As shown in Chapter Three, self-defence was typically a narrative of homicide cases with male suspects and victims. Given stated that violence was a 'normal mode of behaviour' for men. Consequently, male violence could be excused. While Given found that only three per cent of the suspects in his study were pardoned, all of them were male.[114] He suggested that the verdicts of the eyre reflect the 'strong social and cultural inhibitions against the use of force by women'.[115] Walker put it best by stating that 'women were seemingly completely innocent or wholly culpable'.[116] While Beattie found that men were twice as likely to be convicted of a

[109] T. A. Green, 'The jury and the English law of homicide, 1200-1600,' *Michigan Law Review*, 74, 3 (1976), pp.414-419; and p.424.
[110] Green, 'The jury…', pp.414-419; Green, 'Societal Concepts…', p.670; and Milsom, p.423.
[111] Green, 'Societal concepts…', p.680.
[112] Lacey p.2.
[113] TNA JUST 3/165A m.16 (IMG 0031).
[114] Given, p.96 and p.137.
[115] Ibid, p.137.
[116] Walker, p.143.

felony as a female suspect in early modern Surrey, seventy-eight men were convicted of the lesser charge of manslaughter, compared to two women. This represents around six per cent of women who were convicted but a quarter of male convictions.[117] Beattie's results support the gendered nature of homicide, wherein male violence seemed to be more excusable. In early modern England this excusing of violence committed by men manifests as the lesser crime of manslaughter, whereas in medieval England, the result was a pardon.

Just as the 'pardon tales' were missing from the female cases in the Yorkshire gaol delivery trials, Walker observed that women rarely used self-defence as a mitigation for their crime. In fact, Walker concluded that invoking a tale of self-defence could exacerbate rather than mitigate a woman's crime. If a woman had used a weapon against a man attacking her with his hands, it would be use of unequal force; poison or striking from behind would be premeditation; finally, a wife who killed her husband in response to him beating her could not claim that there had been no provocation because she had initiated the violence by causing him to beat her.[118] Now, this does not completely explain why women did not employ tales of self-defence in court; there are still questions about female to female violence and cases that could fit a narrative of self-defence. However, if one were to accept the notion that self-defence was linked to honour and masculinity, then it is not surprising that all of the pardons in this study were for men.

Outcomes and otherness

Before moving on to examine the presentments of bloodshed in the manor court, it is important to also consider otherness when assessing judicial outcomes. This line of enquiry is valuable because the question of whether outsiders were overrepresented in the rolls was raised in Chapters One and Two. Moreover, associating the construction of criminality with otherness features in the historiography on medieval crime. Thomas Green suggested that medieval jurors were more likely to convict people who were strangers to the community.[119] Similarly, Hanawalt argued that strangers were automatically suspects. Hanawalt also suggested that outsiders who committed theft were 'almost certainly going to be convicted', though this statement does not appear to have a statistical basis.[120] It is possible to test Hanawalt's conclusions through assessing the judicial outcomes for the aliens or non-English suspects tried

[117] Beattie, p.97.
[118] Walker, pp.140-141.
[119] Green, 'Societal concepts…', p.694.
[120] B. A. Hanawalt, 'Obverse of the civilizing process in medieval England', *IAHCCJ Bulletin,* 20 (1995), p.53.

at gaol delivery. As shown in Chapter One, 'outsiders' were much more likely to be recorded as having fled in the coroners' rolls than suspects who came from the same location as where the murder had taken place. As a result, it is likely that far fewer 'outsiders' would have been tried at gaol delivery. Only eight aliens have been identified as being tried for homicide: two Flemings, one Brabanter, and two Scottish defendants. Both of the Flemish and one of the Scottish defendants were found not culpable, the Brabanter was pardoned, and the outcome is illegible for the other Scottish suspect.[121] Therefore, there is no evidence to suggest that aliens were treated more harshly than other defendants at the Yorkshire gaol deliveries. Moreover, only one of the cases involving aliens at gaol delivery had a female defendant. While this case resulted in an acquittal, there is not enough data to assess the combined effects of gender and ethnicity on the dynamics of prosecution. This chapter now continues its analysis of identity and judicial outcomes by examining amercements for bloodshed in the manor court.

Punishment for bloodshed

As shown in Chapter One, women were more likely to be prosecuted for minor violence than homicide. Manor court rolls provide an unrivalled insight into the punishment of bloodshed through the level of the amercement that each perpetrator received. Despite this, there is a lacuna in the historiography on the punishment of bloodshed in the manor court. While some studies have assessed the number of presentments, and even analysed the gender of those presented, there has been no scrutiny of the amount of the amercements for each identity.[122] This section rectifies this omission by firstly outlining the overall picture of amercements, then examining the level of amercements for each identity in four Yorkshire manor courts. It is argued that women typically received lower amercements than men, but this was based on their economic status, rather than their legal or social identity.

As outlined below in Table 4.1, the average amercement for bloodshed across the four manors was 11*d*, with a similar mode of 12*d*. However, there was a wide range of amercements, from 1*d* to 80*d*. Due to the male prevalence in the presentments, it is not surprising that the amercements for laymen is in line with the total figure, with the exception that the lowest amercement for a layman presented for bloodshed was 2*d*. The amercements for clergy have a

[121] TNA JUST 3/78-80; 141A; 143; 145; 155; 165A; and 169.
[122] M. Müller, 'Social control and the hue and cry in two fourteenth-century villages', *Journal of Medieval History*, 31 (2005), pp.29-53; R. Russell, 'Violence in the manor courts of Wakefield, 1300-1350' (Unpublished M.Phil. Thesis, University of Cambridge, 2016); Hanawalt, 'The female felon…', pp. 253-268; and H. M. Jewell, 'Women at the courts of the manor of Wakefield, 1348–1350', *Northern History*, 26, 1 (1990), pp.59-81.

higher average, at 18*d*, and a higher minimum of 6*d*. Nonetheless, the modal amercement for clerks was still 12*d*. There is a noticeable difference in the amercements for women presented for bloodshed, with an average of 8*d* and a mode of 6*d*; it seems that women were amerced less than males, both lay and clerical. Furthermore, the highest amercement for a woman presented for bloodshed was 40*d*, half that of the highest amercement for laymen and clergy. The lowest amercement for women was 1*d*, half that of the lowest amercement for men. Despite this difference, the effect of gender, or identity, on the level of amercements has been overlooked in medieval historiography. However, Peter King has addressed this question for the early modern period; in the Cornwall quarter sessions from 1737 to 1821, women also received lower fines for assault than men did.[123] The next segment examines the reasons why amercements varied by identity through looking firstly at social identity, then legal identity, and finally economic status.

Table 4.1: Amercements for bloodshed by identity in the four manor courts, 1341-81.

	Average *d*	Modal *d*	Highest *d*	Lowest *d*	Total
All amercements	11	12	80	1	857
Male amercements	11	12	80	2	761
Clerical amercements	18	12	80	6	13
Female amercements	8	6	40	1	83

Source: Bradford TNA DL/30/129/1957; Conisbrough DA DD/YAR/C1/17, 20, 21, and 23; Methley WYAS MX/M6/1/3-15; and Wakefield YAHS MD/225/1/71-91.

Social identity

There are three potential explanations of why amercements for women were typically lower than they were for laymen and clergy. The first is society's view of female violence. Marjorie McIntosh argued that misbehaving women were more problematic as they transgressed gender hierarchies.[124] However, the manorial amercements do not support this hypothesis because males, both lay and clerical, typically received higher amercements than women did. Furthermore, as explained in the introduction, clerks were also theoretically excluded from using violence.[125] Nevertheless, even though female and clerical violence could be seen as

[123] King, pp.363-364. King noted that no women were fined more than £1, whereas almost seven per cent of men fined over £1, and two per cent were fined over £20.
[124] M. K. McIntosh, *Controlling misbehaviour in England, c.1370–1600* (Cambridge: Cambridge University Press, 1998); and S. M. Butler, 'Women, suicide, and the jury in later medieval England', *Journal of Women in Culture and Society*, 32, 1 (2006), p.160.
[125] D. E. Thiery, 'Plowshares and swords: Clerical involvement in acts of violence and peacemaking in late medieval England, c. 1400-1536', *Albion*, 36, 2 (2004), p.205.

aberrant, women received lower amercements while clergy appear to have been treated the same as laymen.

In opposition to the view that women's violence was more of a social problem is the idea that the manor court, and medieval society, viewed women's violence as less serious than attacks by men. Historians have been ready to suggest that inferior strength was a reason that medieval women did not engage in violence as much as men.[126] Likewise, Helen Jewell dismissed women's violence on the manor as 'bitchy fisticuffs'.[127] The vill was mandated to present 'whether blood has been shed', yet the bloodshed cases from Yorkshire do not detail the severity of the attack.[128] Nonetheless, civil suits from Wakefield illuminate the diverse range in the severity of women's violence. In one case, a woman drew blood with her nails from Alice, wife of Matthew of Totehill.[129] At the other end of the scale, Agnes, daughter of Geoffrey of Newbiggin, was appealed by Margery the Wrythe 'for assaulting her and breaking her head with a shingle'.[130] These cases highlight the considerable variety in the severity of female violence, and therefore, this evidence does not support the notion that attacks by women were always trivial.

Although women were said to have committed a range of violent acts this does not necessarily mean that the bloodshed perpetrated by women was considered a threat to the social order to the same extent as male violence. To get a sense of how the court may have viewed women's violence, it is worth comparing the amercements for each identity based on whom they attacked. Due to their social identity, one may assume that violence by women, and violence against women, resulted in smaller amercements. For instance, Philippa Maddern argued that 'people of lower status, such as women' were 'justified in suffering… violence', and that it was 'clearly less criminal to offend against inferiors than superiors'.[131] Equally, women were thought to shed blood more easily than men, and so it could be anticipated that violence against laymen and clergy resulted in higher amercements.[132] However, one cannot know how widely, if at all, this idea was present in social consciousness of late medieval England. Moreover, as revealed in Table 4.2, on the whole, the identity of the victim was not the determining factor.

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[126] L. O. Pike, *A history of crime in England: Illustrating the changes of the laws in the progress of civilisation*, Volume II (London: Smith, Elder & Company, 1876), p.527.
[127] Jewell, p.64.
[128] M. Bailey, ed., *The English manor c.1250-c.1500* (Manchester: Manchester University Press, 2002), p.223.
[129] The name of the attacker is faded. J. Lister, ed. *Court rolls of the manor of Wakefield Volume III: 1313-1316 and 1286* (Leeds: Yorkshire Archaeological Society, 1917), p.10.
[130] Ibid, p.145.
[131] P. C. Maddern, *Violence and social order: East Anglia 1422-1442* (Oxford: Clarendon, 1992), pp.98-110.
[132] B. Bildhauer, 'Blood in medieval cultures', *History Compass*, 4, 6 (2006), p.1051.

The modal amercement across all identities holds steady no matter whom they were said to have attacked. The average, and the lowest amercement, for men and women only varies by 1*d*.[133] The only clear variation is the amount of the uppermost amercements. The highest amercements, 80*d*, were given to men and clergy who drew blood from laymen. All the same, the highest amercement received by a woman was, in fact, for drawing blood from another woman. Hence, this does not support the idea that violence against a woman would automatically be deemed less serious. Although the highest amercement for a woman who drew blood from a man was only 12*d*, it is important to note that fewer women attacked men than attacked other women; only twenty-five out of the eighty-three women presented for bloodshed assaulted men. Equally, Jewell commented that at Wakefield 'the occasional Amazon succeeded in battering a man'.[134] On the contrary, Miriam Müller found that at the manor of Brandon more women were presented for attacking men than attacking other women, while the opposite was true for the manor of Badbury.[135]

Table 4.2: Identity of the attacker and the victim and bloodshed amercement, 1341-81.

	Average *d*	**Mode *d***	**Highest *d***	**Lowest *d***	**Total**
Men v Men	11	12	80	2	675
Men v Clergy	12	12	24	3	5
Men v Women	11	12	40	2	81
Men Total	11	12	80	2	761
Clergy v Clergy	12	12	12	12	1
Clergy v Men	20	12	80	6	11
Clergy v Women	12	12	12	12	1
Clergy Total	18	12	80	6	13
Women v Women	8	6	40	2	58
Women v Men	7	6	12	1	25
Women v Clergy	No cases				
Women Total	8	6	40	1	83

Source: Bradford TNA DL/30/129/1957; Conisbrough DA DD/YAR/C1/17, 20, 21, and 23; Methley WYAS MX/M6/1/3-15; and Wakefield YAHS MD/225/1/71-91.
Note: The first identity is the suspect and the second is the victim. i.e., 'men v clergy' is a male suspect and a clerical victim. The 'Total' column refers to the total number of amercements, i.e., 675 men drew blood from other men.

[133] There is more variation in the average amercements for the clergy; however, there are fewer cases.
[134] Jewell, p.65.
[135] Müller, pp.40-43.

Legal Identity

Instead of being shaped by social identity, the lower amercements typically assigned to women in the Yorkshire rolls could be due to coverture, the fiction that a wife's legal identity was 'covered' by her husband.[136] Although the medieval manor was theoretically outside the common law, as outlined in the introduction, there are examples of coverture being cited in manorial court records.[137] Chapter One demonstrated that women who were described as wives in the manor court rolls were presented for bloodshed without their husband being jointly named in the presentment. In other words, if a woman drew blood, she was presented in her own right, regardless of marital status. This in itself is not shocking because even under common law married women were personally liable to answer for their own crimes.

However, unlike for felonies where the punishment would be death, manor courts imposed pecuniary penalties on those presented for bloodshed. The rolls show that married women were also amerced for bloodshed in their own right. This is significant because under coverture a married woman did not own any chattels and therefore would technically be unable to pay an amercement.[138] Consequently, levelling an amercement against a married woman may have resulted in an indirect economic punishment for her husband. Thus, it is possible that the pattern of lower amercements for women was shaped by coverture. It could be argued that manor courts assigned lower amercements to married women to mitigate the impact on her spouse. This thesis is able to test this theory by comparing the amercements for married and single women.

Table 4.3: Amercements for bloodshed by status, 1341-81.

	Highest *d*	**Lowest *d***	**Mean *d***	**Mode *d***	**Total Number**
Married women	24	2	7	6	41
'Unspecified' women	40	2	6	6	42
Daughters	12	2	7	6	11
Servants	24	4	6	6	11

Source: Bradford TNA DL/30/129/1957; Conisbrough DA DD/YAR/C1/17, 20, 21, and 23; Methley WYAS MX/M6/1/3-15; and Wakefield YAHS MD/225/1/71-91.

[136] T. Stretton, and K. J. Kesselring, eds. *Married women and the law: coverture in England and the Common Law world* (Montreal: McGill-Queen's University Press, 2013), p.7 and p.14.
[137] C. Briggs, 'Coverture', Unpublished chapter for The Selden Society.
[138] J. M. Bennett, *Women in the medieval English countryside: Gender and household in Brigstock before the plague*, (Oxford: Oxford University Press, 1987), p. 28; C. Briggs, 'Empowered or marginalised? Rural women and credit in later thirteenth and fourteenth century England', *Continuity and Change*, 19, 1 (2004), p.21; and P&M ii, p.485.

Table 4.3 demonstrates that across the four manors forty-one of the women presented for bloodshed were described as wives. The highest amercement for a married woman was 24*d*. Comparably, there were forty-two 'unspecified' women, that is to say that their name did not contain a connection to a husband, or any male relative. An example of this is Agnes de Dewesbury who was presented for drawing blood at Wakefield in 1359.[139] As Table 4.3 shows, the highest amercement for an 'unspecified' woman was 40*d*. At first glance, this could imply that single women were amerced more than married women and thus support the conclusion that coverture played a role in lowering the amercements. However, this would not be an accurate interpretation of the data. Only one woman was amerced at the highest rate of 40*d*. Moreover, only two women were amerced at the second highest rate of 24*d*, and both were recorded as being married. These high amercements are untypical for women and were not confined to one particular marital status. Thus, a better approach is to assess and compare the average amercements for women of different marital status. The average amercement for married women was 7*d*, and 6*d* for 'unspecified' women. This finding suggests that marital status did not have an influence on the level of the amercement, and therefore neither did coverture, because the amercements for both groups of women are roughly the same.

That being said, the methodology of comparing 'wives' and 'unspecified' women is not foolproof. It has been shown that women listed in the court rolls without the descriptor 'wife of' were not necessarily single.[140] Yet, Judith Bennett suggested that 'women cited as daughters were almost invariably unmarried'.[141] Hence, in order to mitigate this methodological problem, it is possible to compare the women recorded as 'wife of' with those described as 'daughter of'. The level of amercements for 'daughters' is in line with those for the married and 'unspecified' women. Accordingly, marital status and coverture does not seem to have had much, if any, effect on the level of the amercement. It is perhaps not surprising that coverture had little to no effect on the level of a bloodshed amercement. This is because a husband was required to take on all of his wife's debts, even those that she had incurred when she was single (*dum sola fuit*).[142] Caroline Barron stated that a woman's pre-marital debts 'became the responsibility of the husband after marriage'.[143] Barron cited examples from fifteenth-century London where a husband was jointly sued with his wife for a debt that she had incurred before

[139] WYAS MD/225/1/85/2.
[140] Müller, p104; and Briggs, 'Empowered or marginalised?...', pp.28–29.
[141] Bennett, p.73.
[142] Briggs, 'Coverture'; C. M. Barron, 'The 'golden age' of women in medieval London', *Reading Medieval Studies,* 15 (1989), p.38; and K. Pearlston, 'Married women bankrupts in the age of coverture', *Law & Social Inquiry,* 34, 2 (2009), p.272.
[143] Barron, pp.38-39.

their marriage.[144] Therefore, if a husband could be held responsible for his wife's actions before they had married, then it should not come as a surprise that the manorial court would amerce a married woman at the same rate as a single woman. In other words, the amercement for a married woman would not have been lowered because it was her husband who had to pay it. Cases of debt support that a medieval husband was expected to take financial responsibility for his wife's actions.

Economic status

An alternative theory for the difference in the level of amercements between women and males, both lay and clerical, could be a woman's economic status. It is likely that the court considered economic standing when setting the level of an amercement, and thus, it was a woman's economic position, rather than coverture or gender norms, that was responsible for the difference in the amount of the amercement. In his assessment of the Cornwall quarter sessions from 1737 to 1821, King attributed the lower fines for women to the fact that 'the court may have felt women did not have the resources to pay such fines.'[145] This argument has also been made for the middle ages; Alfred May maintained that while the punishment must fit the crime, it must also fit the man.[146] There is evidence that 'the man' was considered when issuing an amercement; for example, on the manor of Wakefield in 1348, John Haust was presented for drawing blood from Alice Walker, but he was not amerced because he was a pauper.[147]

Therefore, if the manor court made allowances for paupers, it is reasonable to assume that they would consider the economic position of women. Jane Whittle outlined two key reasons for the weaker economic position of medieval peasant women. Firstly, due to primogeniture, the principle that an estate passed to the first-born son, medieval women were less likely to own land. It has been estimated that on English manors prior to the Black Death around twenty per cent of tenants were female, and this dropped to less than ten per cent by the sixteenth century.[148] Although one may expect brotherless daughters to inherit more after a

[144] Ibid, p.51.
[145] King, pp.363-364.
[146] A. N. May, 'An index of thirteenth-century peasant impoverishment? Manor court fines', *The Economic History Review*, 26, 3 (1973), p.397.
[147] WYAS/MD/225/1/74.
[148] J. Whittle, 'Rural economies', in J. M. Bennett, and R. M. Karras, eds. *The Oxford handbook of women and gender in medieval Europe,* (Oxford: Oxford University Press, 2013), pp.313-316.

period of mortality, Bardsley highlighted that, in contrast, patriarchal structures persisted with land being passed to other male relatives.[149]

Secondly, it has been argued that medieval women earned less than men did. Judith Bennett suggested that women's wages were between one-half and three-quarters of those paid to men.[150] Nonetheless, there are many anecdotal examples from those such as Simon Penn, R. H. Hilton, Thorold Rogers, and Lord Beveridge, which show male and female labourers receiving equal pay.[151] Sandy Bardsley's quantitative approach exposed that the lowest-paid males overlapped with the highest-paid females, so while one can easily find examples of men and women earning the same, this is not representative of the wider picture. Even though there is some overlap in the middle, the highest earners were typically men and those at the bottom of the pay scale were women.[152]

The pattern that Bardsley described for the gender pay gap is the same as that observed in this study for the level of amercements for bloodshed; some of the men received smaller amercements than some of the women, but overall women received the lowest amercements and men the highest. Thus, economic position seems to be the most likely explanation for the variation in amercements. In order to test the theory that lower amercements were due to a woman's economic status, rather than the social view that women's violence was less serious than the actions of men, or a married woman's lack of legal identity, the amercements of servants and women will be compared. Servants typically earned less than wage-labourers, so if the court was accounting for economic status, their amercements should be low.[153] The data from the four Yorkshire manors shows that the amercements of servants followed the same pattern as women. As shown in Table 4.3, the highest amercement for a servant was 24*d*, the lowest was 4*d*, and the modal amercement was 6*d*.[154] Furthermore, all but one of these servants were male, thus neither views on women's violence nor coverture affected these amercements.

[149] S. Bardsley, 'Peasant women and inheritance of land in fourteenth-century England', *Continuity and Change*, 29, 3 (2014), pp.297-324.
[150] J. M. Bennett, *History matters: patriarchy and the challenge of feminism*, (Philadelphia: University of Pennsylvania Press, 2006), pp.101-103.
[151] S. A. C. Penn, 'Female wage-earners in late fourteenth-century England', *The Agricultural History Review*, 35, 1 (1987), pp.8-9; and Thorold Rogers, Hilton, and Beveridge cited in S. Bardsley, 'Women's work reconsidered: Gender and wage differentiation in late medieval England', *P&P*, 165 (1999), pp.3-29. Bardsley also highlighted that Beveridge's unpublished notes suggest that he rethought this position.
[152] Bardsley, 'Women's work…', pp.12-14.
[153] Bennett, 'Women in the medieval English countryside…', p.83.
[154] Two servants were not amerced but this is because one was out of the county, and one acted in self-defence.

Conclusion

Legal and social identity had a greater effect on outcomes and punishments than on any other aspect of prosecution, or at least, it is here where its impact is most visible. Clerical legal identity provided clerks with an immensely valuable privilege. While clergymen were subject to the common law in all other respects, they would not face execution if they used benefit of clergy. As benefit of clergy became a legal fiction, and with some offences becoming clergiable such as manslaughter where a lay man could be branded and released, it is tempting to conclude that this privilege was also a legal fiction in late medieval England. This appears logical because, as widely stated, it is in the reign of Edward III (1327-77) that the reading test was first used. It could be assumed that, from this time, any literate or coached man could claim benefit of clergy. However, the gaol delivery records do not support this position. Firstly, there simply are not enough pleas of clergy to support the notion that all men could use this privilege and secondly, it seems that the ordinary was judging whether someone was in fact a clerk rather than just if they could read. Nonetheless, laymen did benefit from social ideas concerning which types of violence were excusable. The connection between self-defence and masculinity meant that men, both lay and clerical, were able to secure pardons for their violence.

On the other hand, it has been argued that women were treated more leniently than men, and the Yorkshire acquittal rates support this statement. It is possible that medieval jurors were aware that women did not meet the legal or social requirements for benefit of clergy and pardoning. Consequently, jurors may have 'corrected' this by simply acquitting those women who they thought did not deserved to be executed. Moreover, as shown in Chapter One, a higher number of women were tried as accomplices to homicide rather than as a main suspect. If social views on women and violence shaped this pattern, then female defendants would have had a high chance of acquittal at gaol delivery as they were deemed to have played a lesser role in the crime. Women also typically received lower amercements for bloodshed; in the absence of convincing evidence that this was due to legal or social identity, it seems likely that this was based on economic status

Conclusion

This thesis has broken with the tradition of using medieval court rolls to answer questions concerning the reality of crime, such as how much crime took place and by whom it was committed. Caution has been expressed in this investigation against the misuse of crime rates. Likewise, the dangers of treating criminal statistics as a perfect reflection of criminality have been highlighted. This research project has brought some fresh perspectives to the study of medieval court rolls and, as a result, it has been possible to study the latter half of the fourteenth century. This was a period which, despite its many extant records, has been dismissed by historians of crime due to its complex legal jurisdictions, unstable political climate, and disruptions due to pestilence which make the calculation of crime rates and the construction of criminal profiles difficult. However, the methodological focus in this present study has shifted to assessing the role played by legal and social identity in the dynamics of prosecution. The aim of this concluding chapter is to firstly summarise the findings relating to prosecution and legal and social identity in late medieval Yorkshire. Subsequently, this conclusion explores the broader themes of criminal statistics including gender and violence, the reality of crime, and the fictive nature of medieval court rolls.

Legal identity

As outlined in the introduction, medieval men had full access to the law; they could sue and be sued, and thus it was not expected that male legal identity would shape the prosecution of violence. This appears to be an accurate reflection for the male suspects and defendants of homicide, ravishment, and bloodshed. There is no evidence that legal identity shielded medieval men from any aspect of prosecution. In late medieval England, men were indicted, arrested, tried, presented, and received all available sentences. Nonetheless, legal identity did shape the profile of male victims. Under the common law, men could not make an appeal of ravishment, nor could they have a case of ravishment presented by a jury. This is because the law defined ravishment victims as female. Equally, men could be prevented from appealing the killing of a male relative. This study found that ninety-five per cent of the appeals of homicide and ravishment in the coroners' rolls and gaol delivery records in Yorkshire from 1345 to 1385 were made by women. For the appeals of homicide, all of these Yorkshire cases were initiated by the widow of the victim. This is more a cultural phenomenon than the result

of the law. Nonetheless, as shown in Chapter Two, there is a Year Book case where a male appellor was challenged by the defendant because the suit should have been brought by the victim's widow. Thus, in practice, there is evidence of men having their legal access to the law restricted. It must be stated that men, unlike women, were able to serve on juries, but it is questionable whether this general privilege would have brought much comfort to a man being told that he could not make an appeal. It has perhaps been less 'fashionable' to consider the legal restrictions faced by individual men.

That being said, the constraints on male legal identity pale in comparison to the experiences of medieval women. The discussion of female legal identity has at times been side-lined, generalised, or limited to civil justice and coverture, or women of the higher social status, especially within traditional legal history.[1] However, the concept of a unique legal identity for pre-modern women is very familiar within the historiography. There has always been an awareness that women were treated and viewed differently. The statements by Pollock and Maitland that 'law gives a woman no rights and exacts from her no duties' set the tone for a long time.[2] It has been stated that women ceased to have any legal status upon marriage. Common law lawyers have termed coverture as 'civil death'; the woman became 'Mrs Man' or 'Mrs Him' with his legal identity 'covering' hers.[3] Since the turn of the century, revisionist scholarship has sought to write women back into legal history through studies of female legal knowledge and agency.

Even so, the historiographical focus has overwhelmingly been on civil matters, and it is surprising that more attention has not been paid to women and crime. Due to the fact that this present study did not include trespass litigation, there is a clearer distinction between the scope of this thesis and the 'civil' work previously undertaken. In using civil litigation, rather than studying the prosecution of violence or felonies, historians have made the task of revising the position of women and the law much more difficult. In order to make the case that women possessed legal knowledge, or to search for female voices, historians are often reliant on considering widows, examining married women as co-litigants, highlighting exceptional women, or exploring the status of *feme sole*. However, it is clear from studying the prosecution of violence that, at least under the law, women's words mattered. Upon the words

[1] See the introduction of G. Seabourne, *Women in the medieval common law c.1200-1500* (London: Routledge, 2021) for a full review of the historiography on medieval women and the law.
[2] P&M ii, pp.482-485.
[3] T. Stretton, and K. J. Kesselring, eds. *Married women and the law: coverture in England and the common law world* (Montreal: McGill-Queen's University Press, 2013), p.7 and p.14; A. L. Erickson, 'Mistresses and marriage: or, a short history of the Mrs', *History Workshop*, 78, 1 (2014), p.53; and A. L. Erickson, 'Coverture and capitalism', *History Workshop*, 59, 1 (2005), p.1.

of a woman, via an appeal of homicide or ravishment, a person, usually a man in the case of homicide and always a man in cases of ravishment, could be arrested and held in the county gaol until the next delivery, which could be for months if not years, and tried.

Women brought most of the appeals for homicide and all of the ravishment appeals. The latter is due to the gendered nature of this offence as defined by the law, but the first is as a result of the cultural practice of a widow appealing her husband's slaying. Therefore, this is not as if legal structures had simply neglected to restrict women's rights in this area. In other words, it cannot be argued that women were only technically allowed to bring appeals because there was no official prohibition on this practice like in civil matters. In fact, rather than an oversight, the process of appeal appears to have been largely designed for women to engage with the law. Women who brought appeals were utilising their own method of prosecution, not just engaging with the law 'under the radar'. This is quite remarkable in an age where historians typically speak of a system that rejected women. While the reality of bringing an appeal may be anything but empowering for the appellor, as discussed in Chapter Two, it cannot be denied that medieval women were able to play a role in criminal prosecution. Similarly, women were able to perform the 'law-related' task of raising the hue and cry. Although there is no proof that this system was designed to be utilised by women, it has been shown that women used it more than men, and female use of the hue and cry was often to protect men in their community. Again, women were able to actively engage with the prosecution of violence and their words mattered. The words of a woman could result in an amercement for the person against whom she raised the hue and cry.

Women do not need to be written back into the prosecution of violence; they have always been there, on both sides of the case. There are examples of women recorded as being married in all three sources used by this thesis, as both suspects and victims. When a woman is given the descriptor of 'wife of' in medieval rolls it is not always conclusive proof that she had a living husband, but it is unlikely that all of these women were actually widows. Moreover, there is a case of a woman being indicted for feloniously killing someone in her husband's dwelling, which very much suggests that he was alive at the time of the inquest. On balance, it can be argued that married women were indicted, arrested, tried, and sentenced without the need for their husbands to be jointly named in any action against them. If the husband was named along with his wife, then this was because the jury also suspected him of committing the offence. This is vastly different to the picture painted by studies which have focused solely on civil law.

This thesis has shown that women of any marital status were personally liable for their violent actions. Thus, as coverture did not appear to apply in cases of violence committed by and against women, this has huge ramifications for how historians conceptualise coverture. Recent scholarship has been eager to prove that medieval women did have legal knowledge and were capable of litigating. If one looks at criminal matters, it does not seem that the legal capabilities of women were in question, at least not in the way that it has been framed in discussions of civil cases. Medieval women could be accused of homicide and then indicted, arrested, held in gaol, tried, and executed. These women were expected to defend themselves, not be led by a husband or male relative. Also, the stakes were highest in cases of felony. If someone was found liable in the cases which fell under the purview of coverture, then the consequences were often financial. In opposition, for felonies, the defendant could lose their life. This reminds the historian of the original purpose of coverture which, although this may have been an indirect consequence, was not designed to oppress women. The primary concern behind the doctrine of coverture, as with primogeniture was protecting the wealth of the family. While a woman could lose her life as a result of a felony trial, she could not lose familial land or wealth. However, this makes it quite astonishing that women, of all marital conditions, were amerced in the manor court for bloodshed and hue and cry, among other offences. Even though amercement was a financial penalty, women were liable to it. Although it must be stated that coverture did not technically apply under customary law, Chris Briggs has found evidence of coverture being used by women in the manor court to avoid litigation.[4] Thus, it would not be inconceivable to see a manorial woman citing coverture in order to avoid an amercement for bloodshed. However, women could be amerced for false appeals and failing to come to the gaol delivery after making their appeal. Nonetheless, the system of appeal was perhaps not designed with married women in mind. After all, women were only allowed to appeal the death of their husband, meaning that they were now a widow, not a wife. Additionally, as shown in the introduction, there was some suggestion that ravishment appeals should concern virginity, and therefore would also exclude married women.

An area where one would expect coverture to affect the prosecution of felonies is in terms of forfeiture. Krista Kesselring has argued that a married female felon cannot lose her chattels to the Crown because she had already 'lost' them to her husband upon marriage.[5] In other words when a married woman was indicted for a felony, her chattels could not have been

[4] C. Briggs, 'Coverture', Unpublished chapter for The Selden Society.
[5] K. J. Kesselring, 'Coverture and criminal forfeiture in English law', in R. Hillman and P. Ruberry-Blanc, *Female transgression in early modern Britain: Literary and historical explorations* (London: Routledge, 2016), p.192.

seized because, as outlined by Amy Erickson, these goods were actually *owned* by her husband.[6] This thesis cannot dispute these statements, nor can it conclusively verify them. Due to the nature of the cases involving women, in that they were often prosecuted for killing, or killing with, their husbands, there are no cases of a married female suspect with chattels in the Yorkshire rolls from 1345 to 1385. The married women who were indicted for a homicide which did not involve their husband, either as a co-suspect or a victim, did not have any chattels. This could be taken as evidence of the influence of coverture; the woman did not have chattels because they were owned by her husband. However, as a high share of male defendants also did not have any chattels, this may merely reflect that the woman did not have any goods worth recording and seizing. What is striking is that in cases where a husband and wife were indicted together as co-suspects, the scribe uses the plural *eorum* when recording the chattels. The goods are not *his,* but rather the goods are *theirs.* This evidence contradicts the strict legal position of coverture which states that married women did not own any chattels. It is possible that this evidence highlights that in 'criminal law' women could be seen as possessing movable property. Alternatively, it is equally possible that *legally* these chattels were still owned and controlled by the husband, but instead, the use of the plural represents that society considered such goods to be the property of the couple, not the husband.

Finally, the legal identity of the clergy was considered. This thesis was keen to investigate clerical legal identity in order to rigorously test the repeated notion that clergymen were somehow 'immune' to, or were beyond the reaches of, royal justice. The principle of benefit of clergy, meaning that clerics could not be executed, is well established, but how far did this privilege extend? This thesis has confirmed that benefit of clergy was solely limited to shielding clerks from blood punishments. The Yorkshire rolls demonstrate that clergy were named as suspects by the coroner, an agent of the Crown, and his lay jury. The Crown had rights over the bodies of clerics; clergymen were arrested by the sheriff and imprisoned in, and tried at, the county gaol. Royal power also extended to the possessions of clergymen. Clerks were subject to felony forfeiture, and their chattels were seized by royal officials and valued by a lay jury. Moreover, one of the most significant points to consider is that the laity were able to pass judgement upon the clergy. Lay juries decided whether or not clerics tried for homicide, ravishment, and other felonies were culpable. In addition to this, clergymen appear as victims

[6] A. L. Erickson, 'Coverture and capitalism', *History Workshop,* 59, 1 (2005), pp.3-4.

in the rolls in line with the total clerical population. Thus, even as victims of bloodshed, clerks did not have a right to have their cases handled solely in ecclesiastical fora.[7]

This in itself is not a revolutionary finding. Clergymen, although not treated as a legal identity, are present in the first-wave studies. In the scholarships from the 1970s, the discussion of the clergy was limited to the prevalence of certain 'occupations' rather than recognising the distinct legal status of clergymen. This thesis has spelled out the experience of the 'criminous clerk', and emphasised that, while safe from execution, medieval clergymen did have to engage with both common and customary law. It is vital to fully understand how benefit of clergy worked in practice. A full, and widespread, understanding of benefit of clergy guards against hyperbole concerning clerical immunity and prevents any misunderstandings of the limits of benefit of clergy. Moreover, it has been shown that benefit of clergy did not seem to offer any protection under customary law, even in cases of 'crime' or violence. At village level, tithing groups presented clerks in the manor court for committing bloodshed. It is here that the laity had the right to punish the clergy. Clerics presented for bloodshed received a financial penalty in the form of an amercement.

As well as demarcating the parameters and highlighting the limits of benefit of clergy, this thesis argued that the clergy should be recognised as a distinct legal identity in late medieval England. Legal historians have long acknowledged that women had distinctive rights and access to the law and thus require separate attention, but socio-legal studies have not extended this methodology to the clergy. Despite the limitations of benefit of clergy outlined above, this privilege still provided clerics with an overwhelming advantage over the laity at gaol delivery. A clerk convicted of a felony could not be executed in late medieval England, provided that they claimed benefit of clergy or were claimed by the church authorities. It has been shown that despite changes in the law, in practice this remained a clerical privilege. While it was possible for any literate man or even a man who had been trained to memorise a psalm to escape the noose, the Yorkshire gaol delivery rolls show that the ordinary had to recognise the defendant as his clerk. This evidence speaks against the argument that benefit of clergy had become a legal fiction by the fourteenth century. This finding is crucial for two reasons. Firstly, it highlights the importance of engaging with the source material to assess what the courts were doing in practice, rather than relying on statute law. Secondly, this finding highlights the dangers of a teleological approach. Although benefit of clergy *becomes* a legal fiction in the

[7] While people who assaulted clerics were ipso facto excommunicate, and clergymen could complain to bishop to excommunicate specific assailants, clerics living under manorial jurisdiction could not prevent their cases from being presented in the manor court.

early modern period, this does not mean it should be assumed that this was the position in late medieval England.

Social identity

There are many social factors which have the potential to shape the dynamics of prosecution. This thesis decided to focus on the gendered identity of lay men and women and the vocational status of the clergy. This decision was made because these groups map onto the legal identities outlined above. As a result, legal and social identity are based on common factors - sex or gender and membership of the Church. However, while an understanding of legal identity was necessary to be able to review the privileges or constraints faced within the legal system, social identity was used in order to explore contemporary views on gender and clerical status in line with how acceptable it was for each identity to use violence.

A key question at the outset of this project concerned the overrepresentation of certain groups in criminal statistics. In other words, how was criminality constructed in line with prejudice or social norms. However, what is striking from the medieval rolls is that criminality was often *deconstructed*. While in theory none of the violence covered by this thesis was acceptable, and all were instances of what one would now refer to as criminal acts, it seems that some forms of violence were more acceptable than others. This doctoral research outlined that despite the absence of a legal distinction, the difference between 'cold', premeditated murder and 'hot', reactive slaying was part of the social consciousness.

Moreover, this conception was highly gendered. Self-defence narratives were typically associated with male-on-male violence. This can be seen in the coroners' rolls. Among the brief, formulaic entries are some cases which contain lengthy narratives on how the suspect acted in defence of their life. There is only one case in which a female suspect was said to have acted in self-defence. This in itself does not mean that self-defence was a 'male' narrative as there were fewer women accused of homicide. Nonetheless, it is striking that in contrast to all the self-defence cases which involved men, this entry stated that she acted in defence of her body, rather than her life. The male self-defence narratives appear to have had real consequences. As a result of the connection between male honour and self-defence, male defendants, both lay and clerical, were recommended for pardons at gaol delivery. Women, on the other hand, as aptly summarised by Garthine Walker, fell into the binary categories of

innocent or guilty.[8] While some caution must be applied as again there were fewer female defendants compared to men, it is striking that both this study and Walker's work arrive at the same conclusion; self-defence, and hence the resulting pardons, were highly gendered.

If there is a deconstruction of female criminality, then this happens early in the judicial process. It is incredibly striking that the majority of female suspects in the Yorkshire rolls appear either as co-suspects or accomplices. This could be as a result of benevolent sexism. It is possible that the jury did not believe that women were capable of such heinous violence. This may, of course, reflect, in whole or in part, the reality of female criminality. Nonetheless, it is notable that the majority of female defendants appear in the subordinate role of an accomplice, even in the case of the killing of their own husband. It is also interesting how historians have interpreted this pattern of the regularity of female co-suspects and accomplices as a sign that women were drawn into male conflicts.[9] This casual removal of female agency does not seem to have a basis in the sources and is again especially questionable when the victim was the woman's husband. If the role of women in cases of violence was underplayed, then this has huge implications for the arguments concerning judicial leniency. Walker's appraisal that women were innocent or guilty led her to conclude that men were treated more leniently because they could be pardoned; male violence could be seen as acceptable.[10] However, perhaps jurors were failing to see female violence in the first place. None of the accomplices, male or female, in the Yorkshire rolls were convicted. This could reflect that the jurors thought the punishment did not fit the crime; perhaps death was not appropriate for someone who only assisted a homicide. However, it was no doubt shaped by the high acquittal rates for homicide. If the defendant was found to have not committed the killing, then their accomplices could not have helped them with the offence because legally the suspect did not do it. If an accomplice was less likely to be convicted compared to the principal suspect, and more women appeared as accomplices, then this needs to be factored into any discussions on gender and judicial outcomes.

This thesis was keen to investigate the impact of clerical social identity on the dynamics of prosecution. As outlined in the introduction, the clergy were, in theory, supposed to not engage in violence, were unable to shed or have contact with blood, and were to take on the role as peacemakers in their parish. Thus, one would expect to see fewer clerks appearing in

[8] G. Walker, *Crime, gender and social order in early modern England* (Cambridge: Cambridge University Press, 2003), especially Chapter 4: Homicide, gender, and justice.
[9] A. Finch, 'Women and violence in the later middle ages: The evidence of the officiality of Cerisy', *Continuity and Change*, 7, 1 (1992), p.30.
[10] Walker, pp.124-125.

the rolls, as suspects or victims. This could either be because medieval clergy adopted their prescribed role and did not engage in violence or because their parishes were less likely to accuse them due to the notion that the clergy did not perform violence. On the other hand, the social identity of clergy does not seem to have shaped prosecution. The share of clerks appearing as suspects is generally in line with the total clerical population in late medieval England. Therefore, views on the clergy as peacemakers who were not supposed to engage in violence did not appear to lead to medieval jurors discounting them as suspects nor did their authority as clergymen prevent their parishioners from prosecuting them.

Violence and gender

This thesis used the tool of social identity, rather than gender for a couple of reasons. Firstly, due to the fact that the clergy were being treated as a separate identity, the lens of gender did not feel appropriate since this work does not adopt the view that the medieval clergy should be categorised as a 'third' gender. Additionally, it was the vocational position of clerks which drove the questions concerning how they were treated in the prosecution of violence. This work wanted to consider whether, and how, the views of the Church, the prohibition of bloodshed, and the notion of a peaceable clergy affected prosecution. Nevertheless, the key finding is that there is frequently a dividing line based on gender. The patterns of prosecution explored by this thesis often differ between the sexes. Several patterns have been identified: a higher share of women appeared as co-suspects compared to men; women appeared most often as accomplices whereas most men were sole suspects; both lay and clerical men were suspects in cases which used weapons designed to kill whereas women were absent in these cases; narratives of malice appear for men and clergy but not for women; self-defence appears to have been gendered; and the entries with male and clerical suspects speak to the phenomenon of Saint Monday unlike the female suspects.

Studies of gender and crime always face the methodological obstacle of unequal sample sizes. Throughout time and space, men greatly outnumber women in most statistics of violent crime. Thus, when comparing men and women, one must inevitably compare a large number with a small one. This cannot be avoided. Nonetheless, this thesis has mitigated it by treating clergymen as a control group, in addition to the other advantages of including the clergy. The share and number of clerks is roughly comparable to the women appearing as suspects and victims in the Yorkshire rolls. Consequently, this aids interpretation of the results. It helps to assess whether the patterns for female suspects and victims are different to that of the male

results because the sample is too small, or whether this is because there is a genuine difference. For example, Chapter One outlined that a higher share of women were prosecuted as co-suspects than men. This could reflect a gendered difference or may be due to the fact that there were only a small number of female suspects and this group happened to be co-suspects. When dealing with a small number of cases, if even a few more cases were added, it has the potential to alter the entire picture. However, as the numbers and percentages of clergy were similar to that of the women in the rolls, this provided an extra test. If the differing results from the women were due to small numbers, then the clergy could also present a different picture to that of the lay male patterns. However, despite the numbers and percentages of clergy being dwarfed in comparison to the data for lay males, clergymen typically followed the pattern presented by men. More often than not, the dividing line is based on gender.

The theme of gender and violence is seemingly more relevant than ever because it is central in present day public discourse. The murder of Sarah Everard in March 2021 brought discussions on gender-based violence into every home, and six months later the killing of Sabina Nessa reignited the conversation. There were many concerning discourses in the wake of these cases such as victim-blaming and the types of 'acceptable' behaviour for women. These social views no doubt have an impact the prosecution of other types of violence where victims have a choice on whether to report the crime, both today and in the middle ages. It stands to reason that if a victim thinks they will be blamed, not believed, or have their behaviour condemned, then they will not engage with the legal system. It is likely that these social factors explain why many appellors did not come to the trial at gaol delivery and reminds historians that many other victims did not even make an appeal.

A key concept that is starting to emerge in modern day popular discourse is that violence against women and girls is not a 'women's issue' for female activists or women's groups to fix. It is often a man's issue: one which men need to help solve. The aim of this acknowledgement is not to demonise men, nor does it erase female perpetrators of violence. The recognition of the connection between gender and violence is key to understanding and reducing violent crime. The suspect-victim relationship in criminal statistics for medieval England is similar to today. Statistically speaking, women today are more at risk from husbands and family members, whereas men are more a risk from friends, colleagues, or strangers; the same pattern appears in medieval legal records. The influence of gender can be seen here and is reflected in some of the medieval cases. Chapters Three and Four highlighted the discourse of male honour and the right to defend themselves. Similarly, Chapter Two showed that women were more likely than men to call for help via the raising of the hue and cry. Women also raised

the hue and cry on behalf of men. Thus, it is easy to see how conflicts could have escalated in a context of male honour coupled with a reluctance to seek assistance. In opposition, the patriarchal social structure of medieval England, which tolerated familial correction of women created a climate of domestic violence.

This is not to fall into the trap of categorising domestic violence as a 'male crime' against women. All genders experience violence from partners and family and Chapter One showed that women were indicted for the killing of their husbands. Nonetheless, these wives often appeared in a supporting, or subordinate role, as an accomplice or a co-suspect. It is difficult to unravel the truth in this pattern. However, benevolent sexism remains a factor which shapes modern criminal statistics. A 2019 report highlighted that positive discrimination and social constructs of gender distort female involvement in violence. Despite estimates from the ONS that up to half of the members of criminal gangs are female, the database of the Metropolitan Police listed three thousand male gang members known to the authorities in London, compared to just eighteen females. Anne Longfield, who was the Children's Commissioner for England at that time, said that girls were less likely to be stopped and searched by the police.[11] In addition, the 'Compass Programme' seeks to address the fact the domestic violence against men remains underreported. Research lead Sarah Wallace outlined that this is due to the stigma of appearing 'unmanly' and failing 'to live up to masculine ideals'.[12] Due to gender stereotypes, men are often not believed when they report an abusive female partner.[13] It is clear that the ways in which gender is performed and conceived has huge impacts for both the perpetration of crime and criminal statistics.

Statistics and 'reality'

Many of the cases of violence examined by this thesis no doubt occurred, and probably many happened in the same circumstances as described by the jury. While it is vital to not treat criminal statistics as if they are a perfect representation of the reality of crime, it is also foolish to completely dismiss the information contained in these rolls and to label the entries as

[11] N. Phillips, 'Girls in gangs 'failed by authorities'', BBC, 2019 [https://www.bbc.co.uk/news/uk-47952075, accessed 1 May 2019].
[12] J. Rees, 'Male domestic abuse victims 'suffering in silence'', BBC, 2019 [https://www.bbc.co.uk/news/uk-wales-47252756, accessed 1 May 2019]; and University of South Wales, 'Work by USW researchers guiding support for male abuse victims', University of South Wales, Cardiff, 2019 [https://www.southwales.ac.uk/news/news-2019/work-usw-researchers-guiding-support-male-abuse-victims, accessed 29 April 2019]
[13] D. G. Dutton, and K. R. White, 'Male victims of domestic violence', *New male studies: An international journal,* 2, 1 (2013), pp.5-17.

fictional. The patterns of prosecution are shaped both by the reality of crime and social constructions, or deconstructions, of criminality. The main problem with treating criminal statistics as a flawless depiction of crime and criminality is, in fact, due to the information that was not recorded, rather than the cases in the rolls. One cannot know the 'dark figure' of crime, which refers to the cases that went undetected or unprosecuted. The fact that some crimes are not included in the data is the main reason why it is dangerous to draw statistical conclusions about the amount of crime, the type of person who committed it, or the way in which crime happened, through using legal records. It is impossible to reconstruct a full picture of medieval violence or criminality.

It has repeatedly been stated that homicide is the offence with the smallest 'dark figure'. This thesis broadly agrees with that statement. On the other hand, even when accepting this statement, that still does not give one carte blanche to treat criminal statistics as an infallible representation of homicide. There is still scope for killings to be concealed or to go undetected. This is especially significant for the middle ages due to the limited methods available to investigate a crime. A body with a knife stuck in its chest would probably be more likely to prompt suspicions of homicide compared to a victim who had been poisoned. It is factors such as this, the missing information, which could lead to the misrepresentation of the 'real' picture of criminality. Nonetheless, this is precisely why the study of prosecution, rather than crime, is fascinating. Prosecution is shaped by many factors; this thesis focused on legal and social identity, but there are many other influences which could be considered. Cultural bias concerning who commits crime, and what crime looks like, distorts the dynamics of prosecution. However, due to a strong historiographical focus on counting crimes and criminals, medieval historiography has not fully considered the intersection between the law and social attitudes.

One cannot reconstruct the violence that is absent from the rolls, but it may be possible to spot distortions at the margins. For example, domestic bloodshed is completely absent from the rolls. If one were to treat criminal statistics as fact, then it would have to be concluded that domestic violence did not happen in late medieval England. This is unlikely and it contradicts the evidence in the coroners' rolls and gaol delivery records. Family members, especially partners, were the most common suspects in femicide, and wives were prosecuted in mariticides. As a result, rather than a genuine lack of domestic violence in late medieval England, the absence of such cases is due to legal and social factors. For instance, a man's right to chastise his wife could mean both the law and society were too ready to dismiss a woman's complaints of a violent husband. In effect, it is possible that many women kept silent as they

knew they would be dismissed. Male victims of domestic violence may be missing from the rolls due to the stigma attached to men who were beaten by their wives. Moreover, even if victims of domestic violence felt that despite these legal and social factors, they wanted to pursue prosecution and have the bloodshed against them presented in the manor court, the punishment would also have affected them. As discussed in Chapter Four, a financial punishment for domestic violence likely did much to silence this abuse and to keep it out of the courtroom. This is because the household was an economic unit; consequently, both the attacker and the victim would have experienced the punishment.

Fictive records

This thesis highlights that medieval coroners' inquests should be treated as fictive. There are two reasons why this approach should be adopted. Firstly, the medieval methods of 'policing' and judicial investigation were limited to community knowledge. The members of the jury were guided by what they knew, either first or second hand, about the events. Inquests and trials were based on what people had witnessed. This is an age before modern surveillance and forensics. As outlined in the introduction, often the only people who knew the truth of the matter were the perpetrator and the victim. In felony cases, there was little incentive for the culprit to admit their guilt because the only available punishment was death. The course of action taken by most in the Yorkshire rolls was a general denial, with the hope that the jury would be unable to prove otherwise. In the case of homicide, the victim was unable to tell their story, and therefore the jury needed to find out what happened. While it is commonly said that there are two sides to every story, medieval prosecution often relied on a third side. Many of the details in the coroners' inquests could be based on witness testimony.

On the other hand, there will have been many occasions where there were no witnesses and the jury had to try to piece together what *likely* happened. It is these cases where the rolls may reflect a 'two plus two equals five' situation. The juries' conclusions could be built on circumstantial evidence or influenced by prejudice and suspicion of certain people or groups. Due to the brevity of the rolls, there is no detail on how the jury made their decision. Therefore, it is impossible to tell which inquests were based on witness testimony and which were 'best guesses'. As a result, there is no other option than to consider that all inquests have the potential to be fictive. There is no evidence to suggest that juries lied about the events, purposely indicted their enemies, or that prosecution was economically motivated. Thus, it is vital to draw a

distinction between ‘fictional’ and ‘fictive’. This thesis argues that coroners’ rolls should be treated as the latter, but not the former.

The gaol delivery rolls can also be viewed as fictive. It is striking that the only punishment available for felonies was the death penalty, but only three per cent of homicide defendants and none of the suspects of ravishment received this sentence. This, in part, is likely due to the limited methods of judicial investigation and a lack of witnesses. However, there seems to be another factor shaping execution rates. As famously stated by S. F. C. Milsom, if the facts cannot shape the law, then the law will shape the facts.[14] In other words, pious juries may have presented the case in a certain way in order to secure a pardon. Moreover, the trial jury may have even acquitted those who they, in fact, suspected of committing the offence but did not feel that they deserved to die for it. While others such as Milsom and Thomas Green have discussed the incredibly high acquittal rates typical in medieval felony trials, the subsequent focus on the quantification of crime, has left this avenue of inquiry suspended in the literature.[15] Historians still do not fully understand whether, or how, medieval juries and communities worked around severely punitive laws.

[14] S. F. C. Milsom, *Historical foundations of the common law*, 2nd edn (London: Butterworth, 1981), pp.422-423.
[15] Ibid and T. A. Green, ‘Societal concepts of criminal liability for homicide in mediaeval England’, *Speculum*, 47, 4 (1972), pp.669-694.

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