Women, Agency and the Law, 1300-1700

This well-crafted volume of ten essays is an important contribution to the growing body of research on women and law in England the pre-modern period. Each essay examines a different aspect of women’s interactions with the law (broadly defined and encompassing both secular and ecclesiastical courts) and, as suggested in the title, foregrounds their agency. Given the wide chronological span covered and the many different courts, locations, and legal situations examined, it is a credit to the editors that the collection fits together so well, both thematically and stylistically.

This is an optimistic volume, in the sense that it seeks to uncover the real, lived experiences of women in medieval and early modern England and Wales and is not unduly discouraged by the difficulty of sifting out this elusive information from the source material. Although it acknowledges the challenges faced by historians confronting legal sources and indeed the gulf between language and lived experience, it nevertheless proceeds on the assumption that it is both possible and valuable to learn what we can about women’s actual lives from the traces they leave in the historical record. The sensitivity with which the contributors treat their sources and the convincing conclusions they draw shows that this optimism is justified.

A number of themes unite the essays as a whole. One that features in every essay is women’s agency before the law. The contributors use ‘micro-studies’ to uncover instances of women pursuing their interests and often circumventing the legal disabilities they faced by virtue of their gender. Each contributor approaches
the question of agency in different ways, as befits the different source material they use, but all find compelling evidence that women could exercise considerable agency as plaintiffs and witnesses, as perpetrators of crime, and even as enforcers within their own communities. Chapters by Fiona Williamson, Nicola Whyte, and Amanda Flather show women asserting this agency through disruption of various kinds: defamation; boundary breaking, and violence and ritualised disobedience. Cordelia Beattie and Deborah Youngs discuss female plaintiffs, and emphasise the skilful ways in which they navigated the courts and framed their pleas, while Jeremy Goldberg and Bronach Kane tease out the way in which female witnesses deftly crafted their testimony. Following on from approaches pioneered by John Arnold and Garthine Walker, many of these contributors reveal the ways in which women employed contemporary stereotypes like the dutiful wife, the humble servant or passive victim to their advantage.

The adoption of these different ‘subject positions’ could be both conscious and unconscious, and this is true of many of the ways in which women exercised agency. Indeed Kane and Williamson state in the introduction that the ‘level of self-consciousness present in women’s exercise of agency’ is a key question addressed by the volume. The level of awareness that women had about their own agency is particularly difficult to discern for those most subtle exercises of agency, like some of those discussed in Kane’s exploration of women’s memory in late medieval church courts. Remembrance, she argues, could operate ‘as a form of counter-memory’ and empower women to resist experiences of repression. One interesting example was that of a witness, Sibilla de Hinteworth, who dated her testimony with reference to the date of her ‘deflowering’. The argument that this act of remembering and speaking about this event could be empowering, even if Sibilla may not have been consciously aware of this, is convincing (although the assumption that ‘deflowering’ necessarily entails rape and trauma is less so). Kane also discusses the ways in which women’s testimony about their memories could be used in more patently practical ways, like asserting their social standing. She cites the case of Lady Eleanor Bassett who dated her testimony about possession of a benefice with reference to the battle of Evesham some 26 years earlier. Although her family had been on the losing side of that engagement, their very involvement suggested elite standing. Lady Eleanor was thus able to frame her testimony in a manner that made the most of her social status, which may have in turn given her assertions more weight.

Amanda Flather’s excellent chapter likewise highlights agency as it explores the actions of women who engaged in religiously-motivated disruptive behaviour and ‘choreographed’ violence in their parishes in the years following the Reformation. Flather focuses on what the women did, rather than how these actions were expressed in the documentation, contending that ‘if we move away from words to actions, we restore women’s capacities to make their own meanings’. These actions often related to women’s accustomed roles within the parish church, such as cleaning, tending the ritual clothing of clergymen, and participating in baptism and churcning. They could be extremely provocative and assertive, and included gestures like denigrating the clergyman’s surplice by comparing it to menstrual ‘rags’, and presenting the rear of a child rather than the head to be baptised. The assertiveness characteristic of the women examined supports Flather’s suggestion that women’s influence in their parishes was considerable and increasing after the Reformation. Given that the volume spans the 16th century, but that this is one of the only essays that comments on the way that religious change impacted women’s status, even more comment on this issue would have been very welcome; it could provide an interesting counterpoint to the argument, implicit in the volume’s date range, that medieval/early modern divide may not be appropriate for gender history.

Nicola Whyte’s contribution similarly focuses on the actions, sometimes violent, of women. She asserts that although women could be particularly vulnerable to attacks on the household (in one example, a woman’s home was targeted when her husband was absent for the day), they could also use them to assert their agency, either by protecting themselves or by attacking and violating the boundaries of their neighbours’ properties. Like Williamson and Flather, Whyte asserts that this violence was performative and structured in specific ways for a particular symbolic impact. However, she quite rightly also acknowledges their significant material and physical consequences. Like other contributors, Whyte argues that women performed roles as ‘victim’ in the court and carefully tailored their testimony to reflect this. This fashioning of an appropriate ‘petitioning subject’, as Cordelia Beattie terms it in her essay, is one of the strategies used
by women throughout the period covered by the volume.

Similarly, Deborah Youngs highlights the agency of the 16th-century Welsh female petitioners she discusses, but notes the care they took in constructing the narratives of their abductions to ensure that they appeared sufficiently passive and in line with contemporary expectations of women, while at the same time in no way complicit with their abduction. The testimony from her chosen cases from the court of Star Chamber play on this tension between the assertiveness and agency shown by pursuing their claims all the way to Star Chamber, and the need to appear as humble women in need of the court’s assistance. This necessarily influenced their testimony, and there is evidence that they were familiar with the exact conditions they needed to fulfil for each type of plea and in different courts. Youngs’ petitioners were constrained by the requirements of the court of Star Chamber, and had to show in their testimony convincing evidence that their case could not be tried fairly by a local court and that a mob or crowd was involved in their complaint. Rodziewicz and Kane also note the familiarity of women with legal conventions and requirements, as do Goldberg and Beattie, though the latter stress the influence of lawyers on the wording of pleas and testimony. Kane suggests one pathway through which women may have gained this legal knowledge, as she very cleverly traces women’s understanding of canon law to confessional guides used by parish priests.

Thus legal sources are complex and multi-layered, and using them to access women’s actual words and voices is another ongoing concern in the volume. Court documents were shaped not only by the circumstances of a given case and the requirements of each plea and jurisdiction, but also by the formal nature of legal language and the influence of court officials. Added to this was the distance between women’s actual words and their recorded testimony due to translation; most court records were not written in the vernacular until the 15th century at the earliest. Even then, Welsh-speaking litigants like those examined by Youngs would still have been at a linguistic remove from an English-speaking court in which they pleaded.

Cordelia Beattie’s unpicking of chancery petitions made by women in the later Middle Ages is particularly interesting and skilful, as she contends with the formal language of the court and assesses the occasional instances where women’s voices seem to break through. She aligns herself with the ‘translator’ school of interpreting chancery bills, concerned with the structure and wording of the documents, and she succeeds admirably in elucidating these for the reader, as she adeptly teases out the different influences that shaped these petitions. As already mentioned, she introduces us to the ‘petitioning subject’: the woman’s voice as mediated through a lawyer, but also through her understanding of society’s expectations of her, often as a modest and hardworking wife.

Jeremy Goldberg’s analysis of the church courts of later medieval Canterbury, York and London similarly emphasises the composite nature of the sources and the difficulties associated with finding individual women’s voices. He enumerates the many influences on a given legal account, some of which, like the legal requirements for each plea, the problems of translation, and women’s attempts to cast themselves in certain favourable, stereotyped roles, are mentioned in other chapters. However, his very impressive analysis of the sources also takes into account the rhetorical flourishes that lawyers may have used to dramatise or improve their accounts and gives a detailed account of the process of preparing witnesses for specific questions. Ultimately, however, he argues that although witnesses were well-prepped by lawyers, they drew on their own experiences to create their testimony and were ‘at least an equal partner to the lawyer’.

Another way to contend with the difficulty of locating women’s voices is to use different sources, as Bernard Capp does in his story of Agnes Beaumont. This is unlike any other essay in the collection in that it centres on an account written by Agnes herself in the later 17th century, rather than records generated by a male-dominated and administratively-minded court. Despite this difference, Capp’s chapter fits well into the overall collection, and justifies the broad definition of law used by the editors. Like other contributors, Capp focused on female agency, and Agnes’ courage in going against her father’s wishes and in writing her own account of her ‘travails’. Agnes’ account is immensely valuable, as it was written in a direct and non-referential or formal style, seemingly without much influence from similar confessional accounts. Thus
many of the factors that distance the historian from the author’s personal experience are absent, and it is tempting to see this account as Agnes’ largely unmediated expression. However, it may still be problematic to treat it as her authentic voice, and more could have been said here about other considerations that may have shaped it, such as her intended audience.

Fiona Williamson and Janka Rodziewicz uncover women’s voices using defamation cases in Norwich and the hue and cry in Great Yarmouth respectively. Williamson’s work on defamation reinforces many of the themes that other authors consider, as she draws out the ways in which women used defamation deliberately and strategically. It situates these women in the context of the families, in accord with the volume’s goal of understanding women in their social context, rather than as a homogenous group, unmoored from their local, familial and material condition. This engagement with the varying circumstances of women’s lives apart from gender is a great strength of the collection. Williamson’s accounts of familial relationships, both within families and between them, are well-researched and fascinating, and are especially welcome given that the families are non-elites. Elaboration on the reasoning behind the use of ‘spaces’ rather than ‘space’ would have been welcome, especially in a volume targeted at both medieval and early modern historians, some of whom would not be familiar with the debate about terminology of ‘space’.

Rodziewicz’s fascinating discussion of hue and cry in Great Yarmouth in the later 14th century also foregrounds women’s agency. Hue and cry is shown to have been a way for women to protect themselves and their families while being involved in the enforcement of law: woman raised the hue and cry almost as often as men in the author’s chosen period. Women participating in this form of social policing had to be careful to use it in accordance with legal standards for the hue; they could be prosecuted for raising it unnecessarily. Thus as noted in other essays, these women displayed an understanding of legal practice. The author comments that women’s voices were often distrusted in this period; and yet also notes that more men than women were prosecuted for incorrectly raising the hue. There is a tension here, as there is in the wider historiography, between women’s exclusion from legal processes and silencing (as scolds for example), and the ample evidence of their day to day involvement with law and, in this case, enforcement. This tension is fascinating and further exploration of how patriarchal structures react to practical challenges (like the necessity of allowing women to raise the hue) would have been very interesting here.

Rosemary Horrox’s contribution on women’s inheritance and the case of Jane Stapleton, a widow of an East Anglia gentry family, also seeks to find a woman’s voice. Jane’s is preserved in her testamentary documents, as she used the moral pressure of her dying wishes in an effort to prevail upon her son not to disinherit her other children. Unfortunately, she seems to have been unsuccessful. Horroxs uses testamentary material to great effect, and alongside several other essays, the success of this contribution justifies the broad definition of ‘law’ employed in the volume and the use of sources not generated during legal cases. Despite the focus on a more informal method of seeking redress, the discussion of agency and female assertiveness fits well in the collection as a whole. Moreover, the testamentary documents are not so shaped by legal commonplaces and formulae, and thus according to Horroxx, Jane ‘has left us what seems at times to be her unmediated voice. Had she taken her case formally to law we would not have heard it half so clearly’.

Given the several themes that unite the essays, I would query the division of the volume into three sections. The general readability of the text and the interconnectedness of the themes in all of the essays means they may not have been necessary and may even serve to divide essays that can be usefully read together. This is, like other small quibbles, a minor point, and does not detract from the great value of the collection.

The chronological span of this collection provides an implicit criticism of the division between medieval and early modern, and Kane and Williamson query these constructs in their introduction, citing Walker and Shepard’s arguments that these periodisations are not necessarily useful for gender history. The way that the sources change between the medieval and early modern, necessitating different methodological approaches, is clear in the volume, and the events of the 16th century clearly had a major impact on the activities of the women Amanda Flather considered. And yet there is great commonality in terms of most women’s lived experience, the challenges they faced, and the strategies they used to surmount them. Therefore, overall, this volume justifies its chosen date range and stands to make a useful contribution not only to the debate about
periodization within gender history specifically, but also within history more widely.

This is an important work for any historian of medieval or early modern women, but also will appeal to anyone interested in the use of legal sources, and the methodology necessary to interpret them. Its use of micro-histories, sometimes only discussing a single woman, could have made the collection seem myopic; instead, these well-researched, nuanced and convincing essays greatly inform our understanding of many of major factors that influenced women’s experience at law. Read together they break new ground in the history of women, law and agency in the pre-modern period.

The editors wish to thank the reviewer for their generous and fair assessment of the collection.

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