Robert Frost once cynically observed that, "[a] jury consists of twelve persons chosen to decide who has the better lawyer." This assessment of the Western legal system, while unfortunate, sometimes seems to be all too accurate. At the very least, today we hope that the deceptions and games of lawyers revolve around the truth—albeit with the occasional omission and reinterpretation, but with a firm grounding in the truth none the less. In this respect, lawyers of the medieval church, or proctors as they were then known, were not all that different than those of today. They, too, were eager to win their cases, perhaps even more so since who was responsible for paying their bills was determined by the outcome of a suit [Woodcock 61]. And, given the clerical background of all proctors, one would assume that they felt a similar moral imperative to plead only those cases in which the accusations reflected some version of reality. However, lawyers of the medieval church were in a unique situation which may have actually lent itself to prevarication. The records of the medieval church certainly suggest that being the better lawyer may have had less to do with ambition than striking a careful balance between two sets of conflicting values. This was certainly the case in those situations where the medieval church set unreachable, maybe even unreasonable, goals for the personal lives of the laity. Confronted with a great disparity between the aims of his clients and those of his employer, the proctor may well have sensed his own values being compromised.

Nowhere is this more apparent than in cases of marital disharmony. Not surprisingly, the medieval church adopted a hard line where marriage was concerned. Canonists argued that marriage was indissoluble. Annulments might be obtained in exceptional circumstances if the plaintiff was able to prove that the marriage should never have occurred in the first place (for example, when bride and groom were too closely related by blood, or one of the two was already married). Even marital separation was rigidly controlled by church officials. Spouses who failed to cohabit without judicial approval were regularly summoned before the courts of the medieval church, required
to resume their marriages and perform public penance to absolve their sin (usually a public procession around the cathedral church wearing the traditional garb of white sheets). Spousal non-cohabitation might even be punished by the courts with cumbersome fines or floggings; although penance of this nature seems to have been more typical of couples who not only separated unofficially, but also initiated new sexual relationships (and thus multiplied the dimensions of their sin). A judicial separation, known as a divorce *a mensa et thoro*, was only granted when the life or soul of a spouse was endangered. Heresy, adultery and cruelty (*sacritia*) were thus the only grounds for a judicial separation; nevertheless, despite the prevalence of the latter two causes as sources of friction in medieval marriages, judicial separations were rarely sought, and even more rarely granted. Where domestic violence was concerned, the difficulty of obtaining a judicial separation lay in the church's understanding of what constituted "cruelty." The courts of medieval Europe were concerned exclusively with physical violence of an extreme nature. They generally agreed that a spouse's behaviour must have escalated to the point of possible fatality before a separation might be granted. Nevertheless, actual cases of judicial separation brought before the church courts suggest a much different story. While the officials of the church anticipated violence endangering the life of the victim, the plaintiff and her representatives generally demanded a separation after a much lesser degree of physical violence had transpired. Moreover, in the eyes of the plaintiff and her witnesses, "cruelty" was not necessarily physical; it might take on a variety of forms, verbal, economic, spiritual and even psychological. Forced to negotiate between competing definitions of "cruelty," a medieval lawyer must have found himself in a difficult situation. Should he have refused to represent his client because the case did not meet the court's requirements and thus would

1. An *ex officio* book from the diocese of Canterbury covering the years from 1469 to 1474 records a total of 42 cases of individuals summoned before the court to answer allegations of spousal non-cohabitation in this six-year period [See Canterbury Y.I.11].


3. The origins of the divorce *a mensa et thoro* specifically on the grounds of cruelty lay in Roman law, and discussion of the subject was not broached in Western Christendom until the twelfth century. Divorce on this basis did not make its way into medieval canon law without some debate, however. Most medieval canonists recognised fornication as the only acceptable premise for a separation from table and bed, and it was not until the sixteenth century at least that canonists in general agreed upon the necessity of separation in abusive marriages. Nevertheless, by the mid-thirteenth century, the church courts of medieval Europe were willing to grant a divorce *a mensa et thoro* on this ground, providing the tales of abuse presented by the litigants was sufficient to be categorised as near fatal. For a good discussion of canonical debate on the subject, see A. Esmein, *Le Mariage et droit canonique*, 2nd edition (2 vols, Paris: Librairie du Recueil Sirey, 1929-1935), 2: 106-113.
most certainly lose? Or, should he have accepted the case, but presented it in such a way that it did meet the court’s rigid standards?

An examination of the records of three cases of judicial separation from the York consistory court of the late fourteenth to early sixteenth centuries demonstrates that lawyers of the medieval English church may have frequently adopted the more insidious approach. Cecilia Wyvell, Margery de Devoine and Joanna Irey all appeared before the archbishop with their proctors to plead for their lives. Their horrific tales of abuse seem more than sufficient to meet the court’s unyielding standards; and yet, when examined collectively, it becomes all too clear that elements of their stories simply do not ring true. Moreover, the image of “cruelty” presented by these plaintiffs and their witnesses is a much more complex depiction than that suggested by the canonists. Blame cannot be laid solely on the plaintiffs for this mismanagement of justice, for as Laura Gowing reminds us,

it was the proctors’ responsibility to make comprehensive legal narratives out of people’s words, selecting relevant evidence, ordering it, and ensuring it made sense to the court. Probably it was the proctors who had the most hand in deciding what details were the basis of a case: the exact words of abuse in defamation suits, the gradations of violence in complaints of cruelty, or the signs of affection and familiarity that could prove promises of marriage [Gowing 45].

Each tale of abuse was “coached” in some respect; lawyers knew what would make or break their cases, and they shaped them accordingly, ensuring that only relevant and useful information be brought forward. In the cases of these three women, their lawyers helped them to create sound defences, knowing exactly how extreme the abuse must be in order to ensure a victory in court.

The case of Wyvell v. Venables (1410) presents a detailed examination of a medieval marriage in crisis. By the time Cecilia’s case came before the archbishop’s officials, she had already been separated unofficially from her husband for seven years. The depositions of her witnesses, however, make it very clear that she had not meant to debase the sacrament of marriage by leaving her husband; rather, separation was her only choice if she wished to continue living. Cecilia’s witnesses recount two memorable instances of cruelty. In the first, not long before the separation, Henry beat Cecilia to the ground with his fist, then punched her eye with such force that it was knocked from the socket and hung on her cheek by a thread. She would have lost the organ completely had her mother not been present to replace it gently in the socket.

4 YB CP, F 56, Cecilia Wyvell v. Henry Venables (1410). This file is not only in exceptionally good shape, but it also appears to be very complete, containing the plaintiff’s libel, the defendant’s response to the libel, the plaintiff’s articles and positions, and witnesses’ depositions for the plaintiff.
Some time after this, another incident of violence occurred when Henry pounded Cecilia to the ground and beat her with a staff. He then took her by the neck, strangling and suffocating her, and Cecilia had to be rescued by her neighbours. Witnesses note that afterwards Cecilia wore bandages around her arm and neck for a period of fifteen days or more. Moreover, the plaintiff’s witnesses argued that these instances of abuse were not exceptional. Agnes, wife of Adam Shafton of York, states that “for ten years […] Henry has been and (still) is a violent, overbearing, adulterous and terrible man […] (and) that Henry was and is accustomed at all times when he has access to Cecilia, his wife, to mistreating Cecilia and greatly beating her and wounding her enormously without cause.” In fact, Henry’s custom of beating his wife with a shortened staff had so tormented her that she was driven to the brink of suicide. She had threatened to throw herself from the window in their highest chamber or drown herself in the river Ouse, and would have, had her mother not intervened.

The mention of an attempted suicide is just one instance in which the definition of abuse seems to transcend the physical. Cecilia Redenes of York, witness for the plaintiff, was graphic and pointed in her description of the beatings and physical abuse suffered by Cecilia Wyvell. She meticulously recounted two of the most violent episodes mentioned elsewhere; in the midst of these accounts she replayed the scene of a desperate Cecilia, driven to suicide attempts by Henry’s incessant abuse. Cecilia’s mental instability was not essential to the legal narrative. Nevertheless, the witness chose to incorporate it into her story. Her inclusion of this incident and her failure to distinguish it in any way from the acts of violence would suggest that the witness perceived the mental abuse as a manifestation of cruelty, and may even have equated it with the physical torment inflicted upon Cecilia by Henry. The decision of the proctor to permit this inclusion in the testimony suggests that he may have shared this perspective, even if psychological abuse did not fall neatly within the canonical definition of cruelty.

Cecilia’s witnesses obviously knew what was expected of them. Not only did they paint Henry’s violence as the actions of a troubled and deeply disturbed man, they were very careful to note that these beatings were unprovoked. William Constowe of York declared that Henry’s near blinding of Cecilia was without cause (sine causa), while other witnesses referred to Hen-

5. “Per decem annos […] Henricus fuit et est vir austerus ferox adulterinus et terribilis […] quod dictus Henricus solebat et solet omne tempus quo habuit constanter accesum ad Cecilian uxorem suam predictam tandem Cecilian male tractare ac ipsum enormiter et sine causa verberare et vulnerare,” Ybl CP F 56/7 (all the depositions in this suit appear on this membrane and will not be specifically noted after this).
ry’s character alternately as severe (austerus), terrible (terribilis), demented (de-
mens), and lunatic (lunaticus). Cecilia, on the other hand, was described by the
same witnesses as a decent, humble, and kind woman (mulier honesta humilis
et benigna). The implication, of course, is that Cecilia had in no way provoked
his anger through disobedience or shrewishness; this violence was not exces-
sive chastisement, but instead a manifestation of Henry’s mental instability. In
light of the witnesses’ depositions, Henry’s response to the allegations seems
overstated at best. He is self-described as a decent, mild, sombre, pious, kind,
quiet, peaceful and humble man.6

Cecilia also felt it prudent to include adultery, the other acceptable pre-
mise for a divorce a mensa et thoro, in Henry’s list of moral failings. Her
witnesses attested that Henry had been involved in a serious relationship
with Mabota Don over the past four years, and that Henry had fathered three
illegitimate children by her. Their adultery was well-known throughout the
dioeceses of York, Lichfield, and Coventry and in the vil of Westchester where
he sometimes cohabited with Mabota, and he is described by one witness as
treating the latter “as if she were his wife.”7 His behaviour, then, was not only
in flagrant disregard of both Christian teachings and communal ethics, it also
bordered on bigamy.

It may come as no surprise that Cecilia’s suit for judicial separation was
successful. Yet, what is most shocking about this case is how much she was
willing to endure before applying for separation: not only general maltreat-
ment, but one near blinding, one homicide attempt, pseudo-bigamy, and
being driven to the brink of suicide. And it was only at that time that she be-
lieved her case to be sufficient for an application of judicial separation. Could
the requirements for separation have possibly been so strict that such an
outrageous situation was key to a successful plea? Or, rather, do these allega-
tions represent something even more deceitful? Is it possible that these allega-
tions were just that, allegations trumped up to obtain a judicial separation
knowing that the church could not possibly ignore violence and adultery of
this extreme nature?

The atrocity of the marriage described in these documents leads us to
one important query: what exactly was Henry’s defence? In what would
otherwise appear to be an exceedingly complete file, there are no extant de-
positions from counter-witnesses called on Henry’s behalf. Is it possible that
Henry did not appoint any? With such a powerful case for the plaintiff, it

6. “Vr honestus, mansuetus, sobritus, pius, affabilis, quietus, pacificus, humilis,” YMB CP F56/1. This description is taken from Henry’s response to Cecilia’s libel.
7. “As si fuitet uxor sua,” YMB CP F 56/7. From the deposition of Alexander Johnson of
Newcastle-upon-Tyne.
would have been foolhardy for Henry not to have done so. The only surviving
evidence of Henry’s position is his response to Cecilia’s libel. In this
document, he not only denied vehemently the beatings, terrors, and ferocities
imputed in the plaintiff’s libel and positions, he chose instead to describe his
marriage to Cecilia as both honest and praiseworthy (honeste et laudabiliter). If
there were any problems in the marriage, he said that Cecilia was entirely to
blame. While he treated her modestly and amicably (modeste et amicabiliter),
she was “disobedient, hard-hearted, horrible, terrible, abominable, unsettled,
overly-vocal, and noisy, and nearly a virago.”8 Forced to live with such an
unpleasant woman, it is perhaps even more striking that Henry had made
only two attempts on her life.

Clearly, there are some major difficulties with Henry’s strategy in
pleading this case. Not only was he too zealously denying any culpability
whatsoever, but to say at once that his marriage is praiseworthy, and his wife
is a virago and difficult to live with, is simply too contradictory. The marriage
could not be healthy if his wife was truly as he says. Furthermore, despite his
self-fashioned portrait as Henry the Venerable, he fails to address the issue of
adultery at all, not even to issue a feeble denial. This response can only be un-
derstood as a tacit admission to the contrary. Finally, the complete failure of
his response to mention or refer to counter-witnesses who might corroborate
his story suggests that Henry actually may have intended to stand his case on
his word alone. Henry’s defence, then, consisted of an inconsistent and im-
plausible account teeming with perfidy, denial and self-glorification, and noth-
ing more. When faced with five credible witnesses for the plaintiff,
testifying to numerous instances of extreme violence as well as behaviour that
skirts the limits of bigamy, this defence appears not only ridiculous, but pitiful.
One is forced to wonder what Henry’s strategy might have been with this
obviously flawed approach. The most logical conclusion to be drawn from
this scenario is that Henry wanted to lose. Cecilia’s witnesses have painted
a picture of a terribly unhappy marriage. Maybe after thirteen long years,
Henry had finally decided to call it quits. Why else would he have chosen
such a senseless and irrational path? Cecilia’s case was successful then, not
only because of her own skilful pleading and obvious distress, but because
Henry chose to opt out of his own defence.9

Perhaps one of the most important questions is, was Henry’s decision
to lose made independently, or was Cecilia herself involved? Such a rash de-
"Inobediens, crudelis, horribilis, terribilis, abominabilis, inquieta, vociferox, et cla-
mosa, et quasi virago,” YB1 CP, F 561.
and Henry were unhappy and probably desired to bring an end to their marriage. A case of extreme violence brought before the church and poorly defended would have been a fair resolution for both. It is not hard to imagine, then, that Cecilia and Henry might have colluded to deceive the courts. Cecilia’s tale of ocular displacement and psychological torment coupled with Henry’s arrogance and incoherence provided the ideal court case to transform an unhappy marriage into a very happy separation.

Cecilia was not the only plaintiff to stack the deck in her favour by appending allegations of adultery to her application for a divorce a mensa et thoro. The case of Devoine c. Scot came before the archbishop of York in his consistory court in the year 1349. Margery de Devoine and her husband Richard Scot had a very tempestuous relationship at the best of times. According to Peter de Walworth of Benwell, who appeared in court for the plaintiff, the marriage had long since deteriorated to the point of exceptional hostility. Eight years before the suit, on a date that neither he nor the other witnesses could recall, but in the town of Newcastle-upon-Tyne in the Devoine/Scot household, Richard beat Margery with a staff about the head and shoulders, wounding her severely and knocking one of her eyes from the socket. Margery was in such a pathetic state that neighbours immediately fetched a doctor to their home in order to treat her wounds. Richard was so infuriated by this intrusion that he told the doctor in no uncertain terms to leave, threatening to break both his arms and legs. Margery’s injuries were left to heal unattended. Another witness for the plaintiff, John de Halighton, added that Margery later fled to a hospital on her own, dressed only in her underwear. Because of the cruelty and harshness of her husband, and out of fear for her life, she refused to return to her husband. None of the witnesses chose to disclose how this issue was resolved (or even if it was), and at least one witness seemed to believe the two were no longer married, subtly implying that an

9. In this respect, it is essential to keep in mind the dynamics of litigation. If Henry was prepared to abandon the marriage when Cecilia filed her suit, he may not have wished to concede to all her allegations, fearing the damage it might inflict upon his reputation. He may then have simply hired a proctor to contest the case, regardless of consistency, with the single goal of maintaining what little communal standing remained to him, but without any intention of actually hoping to win the case.

10. YB 1 CP. E 257, Margery de Devoine c. Richard Scot (1349). Unfortunately, the sentence for this case did not survive the medieval period, and thus we have no way of knowing whether or not Margery was successful in her plea.

11. "Vidit dictum Ricardum prefatum Margaretram verberare cum uno baculo tam in humeris quam in caput eiusdem et [sic] Ricardus occulum extraxit." I am indebted to Frederik Pedersen for this transcription of the events. While I was unable to read clearly the damaged portion of Peter de Walworth of Benwell’s testimony, Pedersen had less difficulty. See his Marriage Litigation and the Ecclesiastical Courts in York in the Fourteenth Century (Ph.D. dissertation, University of Toronto, 1991), 144.
This tale of abuse was repeated by five other witnesses with only subtle deviations in the particulars of the event, and it was depicted as the only instance of extreme violence between the two. Yet, this example was not treated as an unprecedented occurrence. They all agreed that Richard generally mistreated his wife, that his behaviour was well-known in the community, and that Margery did not dare cohabit with her husband out of fear for her life. As Peter de Walworth de Benwell suggests, Richard may even have been disciplined for his actions on a prior occasion. When called before the official of the archdeacon of Northumberland to respond to allegations of ill conduct, Richard had gone so far as to declare publicly that it was his right to beat his wife. Peter’s decision to include this detail would seem to suggest that, at least, this witness did not concur.13

Clacking one’s wife in the head with a staff and grievously wounding her should have been abundant evidence to demonstrate a dangerous marriage. Yet Margery’s approach to litigation suggests that neither she nor her proctor was assured of her chances of obtaining a separation on these grounds alone. Astutely, she doubled her odds by adding an allegation of adultery. Her witnesses testified that Richard not only had adulterous relations with as many as seven women, but as tangible proof of his depravity they noted that these unions had produced manifold illegitimate children, all of whom he supported and recognised as his own. The question of why women in Margery’s situation included allegations of adultery in their requests for separation is one that has been the source of much debate by historians.14 Perhaps the answer to this question is in the process itself. As James Brundage has noted, the court Christianised what is known as the “clean-hands rule”: one adulterous spouse might not charge the other with adultery, regardless of how public the affair [Brundage 67]. In this situation, Margery might have been attempting to safeguard her reputation by being the first to bandy about accusations of infidelity.15 Margery’s case, however, is revealing in the

12. When recounting the tale of abuse, Margery is referred to as his “then wife” (tunc uxorem), suggesting that while she had been married to him at the time of the incident, she was no longer. This formulation is actually a fairly common inclusion in the court records for both provinces and would seem to confirm Helmholz’s belief that self-divorce was a popular resolution to marital disharmony.
combination of separate accusations. Her need to claim both would tend to suggest that this level of abuse (or adultery, for that matter) was not deemed by Margery, or her proctor, adequate on its own to fulfill the ecclesiastical requirements for separation. Because the court's sentence to this case does not survive, the effectiveness of this strategy remains a mystery.

The final case in this grouping again supports the notion that abuse was about much more than the physical. In Ireby c. Lonesdale (1509), witnesses for the plaintiff recount the tale of a marriage gone awry. The most memorable incident of abuse retold in elaborate detail by five of the seven witnesses was that some time ago, on the Wednesday after Palm Sunday when Robert Lonesdale, with a flushed expression on his face (feci ardentii), struck his wife Joanna on the cheek and the eye and wounded her gravely. One of the witnesses notes that this beating was accomplished with such force that her eye hung defective on her cheek. This was not the only beating endured by Joanna at the hands of her husband. Joanna Fleschawer of York, servant to the couple during their tumultuous marriage, remembered distinctly a time when Robert beat his wife so that he broke her head (fregit caput eius) while they sat together at the table. Over a year later, on a date the witness could not recall, Robert was so determined to kill his wife that he had to be prevented by the witness and her fellow servant Alicia, relative of Robert. They were not able to stop Robert's relentless beating, however, before Joanna suffered a broken arm and shinbone, and it was on this occasion that Robert was required to find sureties to guarantee that he would not repeat this performance. Joanna, wife of John Potter of York, remembered a time when Robert brandished a dagger and tried to kill his wife with it; William Scoburngh Potter of York recalled an incident in which Robert threw his wife on a bed and then attacked her with a knife. Because of her husband's erratic and dangerous behaviour, Joanna was forced to withdraw from Robert's home. All the witnesses agreed that Joanna did not dare live with her husband out of fear for her life or mutilation to her body, and that Robert was entirely at fault in this situation. As John Potter of York recounted, throughout their

15. It is noteworthy that medieval husbands were not inclined to sue their wives for separation on the grounds of adultery. In this study, no cases of this type were discovered, although Charles Donahue, Jr. has suggested to me the possibility that YBI CP. E 110 may be a case of divorce a merito et thoro on the grounds of adultery. The exceedingly poor condition of the record, however, makes it difficult to determine its cause with any certainty. The lack of cases of this type may well suggest that, although canon law allowed separations on the basis of adultery, the courts themselves may not have considered it sufficient grounds on its own.


marriage, Joanna had been nothing but obedient (obediens), while Robert behaved cruelly.

Once again, the case of Ireby c. Lonesdale demonstrates that plaintiffs and witnesses understood cruelty in a much larger sense than merely the physical. For a case of divorce on the grounds of cruelty, Joanna Ireby’s witnesses dwell far more on the issue of money than one might expect. Witnesses for the plaintiff noted that before she married Robert, Joanna owned extensive lands and tenements worth twelve marks a year and goods worth forty pounds. Since their marriage, Robert had taken full possession of his wife’s property. Without her permission, he sold all her goods, with the exception of some of her clothes, and refused her access to the profits. After Joanna left Robert out of fear for her life, she became so impoverished that she was forced to borrow money so that she might bring her case to court. Joanna’s deponents clearly saw Robert’s actions as not only unlawful, but despicable. In an accusing tone, they recount how Robert was seised (occupavit) of Joanna’s own property, and how he still has possession of it (the inference is that he holds this property despite their current separation). The fact that each witness dwelt extensively on the issue of property and to whom it properly belonged suggests that the deponents saw this transgression as both an infraction of marital property practices and as definitive proof of Robert’s cruel and immoral behaviour. In the minds of these witnesses, cruelty was not only physical, but economic.

The issue of property in this case was not merely about abuse. Joanna came to the marriage endowed with a substantial amount of property, the value of which was repeated by each witness in turn. By focusing on the actual worth of the property, Joanna’s witnesses achieve two goals. First, they demonstrate just how flagrant was Robert’s transgression and abuse. Second, they provide the value of Joanna’s property going into the marriage, and accordingly, what is owed to her upon leaving the marriage. It is clear that without maintenance, Joanna was unable to survive properly. Those lands and tenements were an essential source of funding for her lifestyle. If she and Robert were living separately and married in spirit only, what rights should she have to her property?

Joanna Ireby was successful in her plea for separation; without any surviving evidence of the defendant’s position, however, it is difficult to know exactly which elements of her story won the sympathy of the court’s officials. The sentence in her favour raises numerous questions. Would Robert’s violence have been sufficient on its own to gain her a positive verdict? How influential was his mismanagement of her funds? And did the ecclesiastical officials dealing with the case accord with popular perceptions of a married woman’s property rights? Unfortunately, none of these questions may be answered
given the surviving evidence. Ireby's case, more than any other, demonstrates the broad range of issues that an application for judicial separation had to take into consideration.

Individually, these cases tell us a great deal about abuse and communal attitudes; collectively, they reveal much more. It seems clear that a gendered perspective of marital roles laid the base for telling stories of abuse in matrimonial litigation in the church courts of the period. Both witnesses for the plaintiff and for the defendant cautiously recounted their version of events in a way that highlighted each party's ability to stay within the scope of acceptable gender behaviour. Garthine Walker's recent study of rape and sexual violence in early modern England sheds some greatly needed light on this phenomenon and the importance for women, in particular, to plead normative behaviour. In her investigation, Walker argues that victims of rape in the courts of early modern England deliberately shaped their woeful tales to emphasise their passivity. This construction is explained easily by contemporary perceptions of female sexuality. Because the active female in discourses of illicit sexuality is either wanton (and therefore sinful) or a prostitute, women cannot describe themselves in an active role in situations of rape without depicting themselves as willing participants. At the same time, because discourses of consensual sex revolved around the active male/passive female, victims of rape were utterly incapable of describing a sexual encounter that would suggest male criminality. When women told their stories to the courts, then, they were inclined to omit any of the details of the sexual act and to concentrate instead on the physical violence. In this way, they were able to focus on male action rather than female behaviour, and avoid the discursive pitfall of self-implication.

It is difficult to ignore the similarities between rape and spousal abuse. Not only do both involve a hierarchy in which gender defines the relationship, both implicitly involve masculine power over female bodies and as such share many of the same discursive difficulties. Rape may have been more recognisably unlawful than spousal abuse in the context of late medieval England, yet domestic violence was no easier to discuss. An active woman resisting the advances of a rapist was not a victim at all; in fact, she was everything one would expect from a willing, albeit lewd, participant. Likewise, a

18. Ruth Karras Mazo makes an interesting observation about the treatment of single-women in the medieval period that tends to confirm these findings. From an analysis of ecclesiastical court records, she notes that late medieval English society tended to treat all sexually-active single-women as either prostitutes or victims of rape, because female sexuality outside of marriage could not be understood in any other terms. See her "Sex and the Singlewoman," in Singlewomen in the European Past, 1250-1600, edited by Judith M. Bennett and Amy M. Froide (Philadelphia: University of Pennsylvania Press, 1999), 127-144.
wife who returned her husband’s blows was not a victim of abuse; she was a disobedient woman. And the courts were very much aware that a woman who defended herself too vehemently might easily cross the line between self-defence and petty treason.

Bearing this in mind, the most widespread and effective strategy adopted by plaintiffs and their deponents was to offer accounts of violent altercations with a narrow focus on male action, omitting entirely the female reaction. For example, when Margery de Devoine’s husband, Richard Scot, beat her with a staff to the head, seriously wounding her and knocking one of her eyes from the socket, Margery apparently did not raise a hand in her defence. Cecilia Wyvell exhibited the same passive restraint when her husband, Henry Venables, beat her to the ground with a staff and then strangled her. It seems difficult to imagine that either woman meekly accepted her fate without casting a single blow in her defence, particularly when both their lives were clearly in danger. That either woman should have survived this degree of abuse is nothing short of a miracle. And yet, both plaintiffs and their witnesses would have us believe that they submitted themselves willingly to their husbands’ authority, however excessive. The skillful manipulation of the details in the depositions in order to remove all evidence of female resistance paints the perfect picture for a suit of judicial separation: in this situation it is clear that the only transgression of acceptable gender boundaries was a masculine show of tyranny. In the minds of the lawyers for the plaintiff, this was not the case of excessive chastisement, but full-blown spousal abuse.

Female passivity was emphasised further in a number of different ways. Probably the most blatant means adopted by plaintiffs and their witnesses was to describe carefully how the woman narrowly escaped death through the intervention of others. If Joanna Ireby’s servants had not been present at the altercation with her husband, Robert surely would have killed her. If Cecilia Wyvell’s neighbours had not pulled Henry from Cecilia’s body, she too would have joined the ranks of the dead. With such active friends and neighbours a beaten wife was not required to act in her own defence. Even the language of the testimonies supports this interpretation of the events. Tales of abuse were invariably accounts of the active male. Men strike, beat or mistreat their wives; women, on the other hand, are struck, beaten or mistreated. The Latin construction of these tales emphasises the female position as object: the victim is almost always described in the accusative, while the nominative is reserved for the perpetrator of the abuse. Defendants are the actors, plaintiffs are merely acted upon. The formulaic statement included at the end of each libel and deposition captures best the sense of female inactivity the plaintiff and her proctor hoped to convey: the wife “does not dare cohabit” with her
husband out of fear for her life. If she dared return home, she would be a far braver person than her femininity permits.

Of course, the greatest irony of all is that, in effect, the testimonies did not reflect the reality even superficially, and both the litigants and the courts were well aware of this. If any of these women was as passive, submissive and frightened as her witnesses suggested, would she have been capable of suing her husband in court? How does a woman make the transition from cowering victim to plaintiff? The fact that Cecilia Wyvell and Joanna Ireby, at least, were known to have been successful in their pleas suggests that this perceptible gap between discourse and reality may have been inconsequential in the grand scheme of things. Justice, even at this time, had little to do with who was in the wrong; rather, it was meted out to those who told the most convincing story.

Male defendants regularly employed a similar strategy in pleading their cases. Of all the defendants in this grouping, Henry Venables was the only witness to deny the allegations, and thus reject male agency. In the other two cases examined here the husband, or witnesses on his behalf, demonstrated an astonishing aptitude to transform abuse into roughly acceptable, or slightly overzealous, wifely chastisement. Both Richard Scot and Robert Lonesdale argued that it was their legal right to chastise their wives physically. Clearly, these men were manipulating the same model of male/female relations as were their wives. While the plaintiffs used this model to present themselves as victims of excessive male action, the defendants argued the opposite. It was not they who surpassed the limits of their authority, but instead their wives who took active, unsanctioned control of their lives. And, as Walker demonstrates, active femininity is necessarily sinful. Their wives’ transgressions, then, compelled the defendants to exert their authority and force them back into positions of submission. If the discipline was excessive, its objective was none the less admirable.

Together, these three cases from the York court provide an important perspective of the regulation of domestic violence in the late medieval period. Most important, they suggest the existence of an informal system of spousal expulsion and separation among the laity, despite canonical regulations forbidding it. In all three cases of divorce a mensa et thoro, an unsanctioned separation of the couple had occurred prior to its appearance in the archbishop’s consistory. In fact, the depositions indicate that separation had taken place quite some time before litigation. Margery de Devoine and Richard Scot, had been separated eight years; Cecilia Wyvell and Henry Venables, seven years; Joanna Ireby and Robert Lonesdale were simply reported as living separately already while the last instance of abuse took place some time ago. These
lengthy periods of separation suggest a number of points. First, for these couples to appear in court, something must have happened to threaten their current situation. These couples were already separated de facto; a formal recognition of this would not have altered the relationship in any tangible way. For these women to face the high costs of court and reopen old wounds, there must have existed the threat of a forced reconciliation, or perhaps even a desire for maintenance. It seems likely that these women recently had found themselves presented before the lower courts of the church for spousal non-cohabitation, and chose not to abide by the court’s decision.

Finally, most remarkable about these long separations prior to the court appearances is the fact that, despite the amount of time that had passed since the abuse, the witnesses still precisely and vividly recalled the instances of violence. This unusual ability to recollect events long past raises a number of vital questions. Were these memories indelibly etched on their subconscious because these instances of violence were so exceptional and disturbing? Or, is it possible that these were not really memories at all, but fabrications intended to meet the requirements of the court?

The nature of the injuries sustained in all three cases suggests that the latter might actually be closest to reality. All three women suffered an uncommon affliction as a result of beatings to the head: each was struck so hard that an eye burst from the socket and hung on the victim’s check. This tale is repeated by three of Cecilia’s witnesses; we are told that her eye was rescued by her mother, who was present during the altercation and gently replaced it in the socket. Only one of Margery’s witnesses and one of Joanna’s mentioned this detail in their narratives, and neither gave any indications of how this situation was resolved. It is highly unlikely that all three suffered such an unusual impairment, especially when none of them were reported as having subsequent difficulties with their eyesight. Rather, this unusual detail in their tales represents an instance of “fiction in the archives.” All three women are drawing on the same pool of images about spousal abuse or violence against women, influenced heavily by saints’ lives. In particular, each woman is drawing on the life (vita) of the virgin martyr Saint Lucy of Syracuse, the patron saint of the blind in the later medieval period. Saint Lucy was a fourth-century Christian in a time before Christianity was readily accepted in the Roman Empire. Despite her mother’s numerous attempts at match-making, Lucy was an adamant convert, and even went so far as to take vows of celibacy, as had many early Christian ascetics. Her faith was publicly confirmed, however, when her prayers to Saint Agatha helped to cure her mother altogether of her persistent ill health. In appreciation, Lucy’s mother accepted her daughter’s refusal to marry and gave her her dowry to do with it what she wished.
Moved by her faith, Lucy selflessly distributed her dowry among the poor. The intended bridegroom, a Roman consul named Paschatus, was less than pleased with Lucy’s actions. Ostensibly as punishment for adhering to a false faith, he commanded that she be taken by his guards and forced into prostitution (apparently a common penalty for Roman virgin martyrs). When the guards arrived to take her away, however, they found they were incapable of moving her from her place, even with the help of a team of oxen. Their attempts to burn her at the stake were also futile, for the flames would not consume her. In the end, her faith proved defenseless against the blade of a dagger; her throat was cut, and Paschatus’s anger was assuaged.

There are two different legends of the life of Saint Lucy having to do with eyes. In the first, when a suitor complimented her on the beauty of her eyes, she immediately plucked them out of their sockets and had them presented to this unwanted paramour in an effort to dissuade any future advances. In the other, during the tortures inflicted upon her by Paschatus, her eyes were torn from her head. In both cases, her eyes were restored miraculously to their sockets. As a result, Lucy is usually represented iconographically by a statue of herself holding a dish with two eyeballs balanced delicately upon it. David Hugh Farmer notes that this element of her vita was especially prominent in late medieval representations, when she became not only patron saint of the blind, but the foremost authority on eye trouble to whom those with eye ailments prayed for succour [Farmer 404]. Accordingly, her story would have been well known in late medieval English communities, and it was particularly suited to tales of abuse in a courtroom setting. First, while Lucy and Paschatus were not actually married, his position as the rejected betrothed of an arranged marriage placed him in a situation that made his violence analogous with spousal abuse. Second, when it comes to female saints, the most popular in all of Europe in the later medieval period were the virgin martyrs. These gruesome and graphic tales of abuse against women, redolent of overtly sexual imagery and notions of female purity, seem to have held a great appeal for the late medieval masses [Horner 22-43]. Any woman wishing to paint herself the ideal Christian woman would delight in drawing similarities with such a pivotal figure.

The real quandary, then, is why any of these witnesses contrived parts of their tales of abuse when, if their narratives are to be believed, it seems that these women were actually in dangerous marriages and might provide their own stories of abuse? The foregone conclusion is that none of these individuals or their proctors felt assured that what she had suffered would be sufficient for the court’s definition of cruelty. Admittedly, if the tale of ocular displacement is removed from each plaintiff’s account, the level of abuse is
much reduced and most likely would not have been interpreted as near-fatal. Because this *vita* was an important part of church sermons and exempla, medieval English men and women were assured that this was an unacceptable instance of violence against women; what better way to assure success in the courtroom than to replicate this violence?

The fictionalised tales of abuse presented by these three women highlight the gap between lay and ecclesiastical expectations from marriage, and demonstrate that for a medieval lawyer, negotiating that gap was a central aspect of the job description. Clearly, lay communities and ecclesiastical representatives not only differed in perspective where separation was concerned: both understood abuse in different lights. The fact that plaintiffs and their proctors in cases of divorce *a mensa et thoro* felt the need to embellish their tales of domestic violence, sometimes borrowing freely from saints’ lives in order to meet the church’s stringent requirements for abuse, confirms the disparity between lay and sacred understandings of the kind of violence that necessitated separation. While the medieval English church and laity both tolerated substantially higher levels of abuse than today, the expectations of the church were out of step with contemporary values. What was considered abusive among the laity did not necessarily warrant an ecclesiastical separation. At the very least, then, the success of at least two of these cases demonstrates that victims of abuse in the medieval period did not have to remain victims. Women were willing to manipulate the regulations of the court to their advantage in order to leave unhappy marriages, even if it meant endangering their souls.

**BIBLIOGRAPHY**


