

# HOMOSOCIALITY, SEXUAL MISCONDUCT AND GENDERED VIOLENCE IN ENGLAND'S PRE-MODERN LEGAL PROFESSION

Recent sexual misconduct scandals involving lawyers and lawmakers in the United Kingdom, Australia and elsewhere have fuelled fierce debate about why gender inequity and sexual harassment remain pervasive in the entwined fields of law and politics. Legal scholars have critiqued the entrenched masculine culture of law firms, law schools and other legal institutions, seeing this as key to the tendency to dismiss problems as the result of individual 'bad actors' and thus of failing to address systemic causes.<sup>1</sup> Historians have explored the evolution of this gendered culture since women were admitted to the profession in the nineteenth century, as explicit restrictions were replaced by social and cultural barriers that marginalized women practitioners and still exclude many from senior ranks.<sup>2</sup> Scholars have also asked how particular raced, sexed and classed models of masculinity have shaped legal thinking and practice in the

<sup>1</sup> Kate Galloway, 'The Law is a Man's World. Unless the Culture Changes, Women Will Continue To Be Talked Over, Marginalised and Harrased', *The Conversation*, 25 June 2020, <<https://theconversation.com/the-law-is-a-mans-world-unless-the-culture-changes-women-will-continue-to-be-talked-over-marginalised-and-harrased-141279>> (accessed 16 May 2022); Richard Collier, *Men, Law and Gender: Essays on the 'Man' of Law* (New York, 2010); Clare McGlynn (ed.), *Legal Feminisms: Theory and Practice* (London, 2018).

<sup>2</sup> Anne Logan, 'Professionalism and the Impact of England's First Women Justices, 1920–1950', *Historical Journal*, xlix (2006); Eva Schandevyl (ed.), *Women in Law and Lawmaking in Nineteenth and Twentieth-Century Europe* (Farnham, 2014); Ren Pepitone, 'Gender, Space, and Ritual: Women Barristers, the Inns of Court, and the Interwar Press', *Journal of Women's History*, xxviii (2016). For continued under-representation, see OECD, 'Women in the Judiciary: Working towards a Legal System Reflective of Society', Mar. 2017, <<https://www.oecd.org/gender/data/women-in-the-judiciary-working-towards-a-legal-system-reflective-of-society.htm>> (accessed 16 May 2022).

modern era.<sup>3</sup> However, our knowledge of how the law came to be conceived of as a masculine domain, and the lingering impacts of this history, remains incomplete because research on lawyers and gender has largely neglected the profession's pre-modern past.<sup>4</sup>

Drawing on evidence from the formative fifteenth and sixteenth centuries, this article argues that sexual misconduct and violence against women were structural features in the making of the common law profession, becoming embedded in its roots as it consolidated into a distinctive all-male community in late medieval England.<sup>5</sup> It may not surprise historians to find law students and younger unmarried practitioners engaging in brothel-going, sexual assault and similar activities that typified pre-modern male youth culture.<sup>6</sup> However, by exposing evidence for senior practitioners' toleration of and occasional participation in these behaviours, I demonstrate that sexual misconduct and gendered violence cannot be dismissed as an aberration or the product of young men not yet fully disciplined into their professional community. Instead it must be confronted as a structural feature of legal culture, which helped to forge homosocial bonds and shape lawyers' sense of collective masculine identity. Most lawyers came from the 'middling'

<sup>3</sup> A. Mark Liddle, 'State, Masculinities and Law: Some Comments on Gender and English State-Formation', *British Journal of Criminology*, xxxvi (1996); Michael Grossberg, 'Institutionalizing Masculinity: The Law as a Masculine Profession', in Mark C. Carnes and Clyde Griffen (eds.), *Meanings for Manhood* (Chicago, 1990); Katie Barclay, *Men on Trial: Performing Emotion, Embodiment and Identity in Ireland, 1800–45* (Manchester, 2019).

<sup>4</sup> Exceptions include: E. Amanda McVitty, 'Engendering Erudition: Masculinity and Legal Authority at England's Medieval Inns of Court', *Gender and History*, xxxii (2020); Joanne Conaghan, 'Transmissions through Time: Gender, Law and History', in *Law and Gender* (Oxford, 2013).

<sup>5</sup> The profession dates to the thirteenth century with key institutional features emerging over the later Middle Ages: Paul Brand, *The Origins of the English Legal Profession* (Oxford, 1992). Women's participation in the administration of justice was always restricted but the rise of a recognized legal profession brought with it their explicit exclusion from acting as advocates or in other formal capacities: Gwen Seabourne, *Women in the Medieval Common Law, c.1200–1500* (New York, 2021), 56–62.

<sup>6</sup> Ruth Mazo Karras, *From Boys to Men: Formations of Masculinity in Late Medieval Europe* (Philadelphia, 2003); Alexandra Shepard, *Meanings of Manhood in Early Modern England* (Oxford, 2006), esp. ch. 4 and 5; Rachel E. Moss, 'An Orchard, A Love Letter and Three Bastards: The Formation of Adult Male Identity in a Fifteenth-Century Family', in John H. Arnold and Sean Brady (eds.), *What Is Masculinity?* (Basingstoke, 2011); Elizabeth A. Foyster, *Manhood in Early Modern England: Honour, Sex and Marriage* (London, 1999), ch. 2 and 3.

classes of prosperous yeomen, urban burgesses or minor gentry.<sup>7</sup> They embodied a distinctive mode of masculinity, which balanced the need for reasoned self-governance with acceptance of violence when it was perpetrated to defend rights or in the name of domestic or public order.<sup>8</sup> Through their participation in an expanding secular machinery of moral regulation, lawyers in turn helped to legitimize and reproduce the gendered violence — both corporeal and ideological — of the judicial system that evolved within the patriarchal social and political order of pre-modern England.<sup>9</sup>

Unlike canon and civil lawyers, who took university degrees, the first generations of English common lawyers learned on the job and, by the fourteenth century, London's Inns of Court and Inns of Chancery, along with the royal courts at Westminster, had become a national hub for legal education and career development.<sup>10</sup> Men built professional and social networks through their inns, and carried these connections into public life as office-holders and agents within the judicial system. Historians and literary scholars have detailed the ways that life-long bonds between individual men, as well as a sense of collective professional identity, were cultivated through participation in educational activities including moots, readings and oral learning exercises; common dining, drinking and festive

<sup>7</sup> Anthony Musson, 'Men of Law and Professional Identity in Late Medieval England', in Travis R. Baker (ed.), *Law and Society in Later Medieval England and Ireland* (New York, 2017); E. Amanda McVitty, 'Strange Bedfellows: Lawyers' Social Identity and the Politics of Space at the Premodern Inns of Court', *Law & History*, vii (2020).

<sup>8</sup> See further, McVitty, 'Engendering Erudition'.

<sup>9</sup> On moral regulation, see Martin Ingram, *Carnal Knowledge: Regulating Sex in England, 1470–1600* (Cambridge, 2017); Frank Rexroth, *Deviance and Power in Late Medieval London* (Cambridge, 2007); Shannon McSheffrey, *Marriage, Sex, and Civic Culture in Late Medieval London* (Philadelphia, 2006). For the Continent, see, for example, Jamie Page, 'Masculinity and Prostitution in Late Medieval German Literature', *Speculum*, xciv (2019); Carol Lansing, 'Gender and Civic Authority: Sexual Control in a Medieval Italian Town', *Journal of Social History*, xxxi (1997).

<sup>10</sup> J. H. Baker, 'The Third University of England', in *The Common Law Tradition: Lawyers, Books, and the Law* (London, 2000); J. H. Baker, 'The Third University, 1450–1550: Law School or Finishing School?', in Jayne Elisabeth Archer, Elizabeth Goldring and Sarah Knight (eds.), *The Intellectual and Cultural World of the Early Modern Inns of Court* (Manchester, 2011); E. W. Ives, 'The Common Lawyers', in Cecil H. Clough (ed.), *Profession, Vocation, and Culture in Later Medieval England: Essays Dedicated to the Memory of A. R. Myers* (Liverpool, 1982); A. W. B. Simpson, 'The Early Constitution of the Inns of Court', *Cambridge Law Journal*, xxviii (1970).

revels; and public rituals that marked the beginning of law terms and the promotion of men to the law's top ranks as serjeants-at-law and justices.<sup>11</sup> However, while histories of the profession occasionally mention lawyers' involvement in sexual misconduct, this dimension of legal culture has yet to receive sustained analysis. For example, John Baker's classic study found lawyers and law students committing violence against each other and other men but it said nothing about violence against women.<sup>12</sup> Baker used the legal records left by these encounters to date the origins of the inns so whilst his is a valuable descriptive account, its intent was not to investigate deeper causes. Elsewhere, sexual misconduct is explained as the work of 'bad apples' or the over-exuberance of privileged youth. Wilfrid Prest's view is characteristic: noting the proximity of London's legal quarter to Southwark and other locales associated with gambling, drinking and prostitution he concluded, 'it was little wonder that many young gentlemen, with money in their purses and swords by their sides for the first time in their lives, succumbed fairly rapidly to metropolitan temptations and vices'.<sup>13</sup> Hannes Kleineke and James Ross take a more nuanced approach, concluding that violence was intrinsic to the sense of institutional identity that was developing within the first generations of common lawyers, although their focus is on violence between men.<sup>14</sup> Comparing the legal inns to university colleges and guilds, they argue that the inherent 'tribalism' of all-male communities, exacerbated by fierce competition within the early legal profession, made lawyers especially prone to aggression.<sup>15</sup> Additionally, lawyers retained by noble and gentry families worked within an aristocratic milieu in which violence

<sup>11</sup> Wilfrid R. Prest, 'Readers' Dinners and the Culture of the Early Modern Inns of Court', in Archer, Goldring and Knight (eds.), *Intellectual and Cultural World of the Early Modern Inns of Court*; Will Tosh, *Male Friendship and Testimonies of Love in Shakespeare's England* (London, 2016), esp. 95–134; Sir John Baker, 'Christmas in the Inns of Court and Chancery', in *An Inner Temple Miscellany: Papers Reprinted from the Inner Temple Yearbook* (London, 2004).

<sup>12</sup> Baker, 'Third University of England', 12–19.

<sup>13</sup> Wilfrid Prest, 'Legal Education of the Gentry at the Inns of Court, 1560–1640', *Past and Present*, no. 38 (Dec. 1967), 28.

<sup>14</sup> Hannes Kleineke and James Ross, 'Just Another Day in Chancery Lane: Disorder and the Law in London's Legal Quarter in the Fifteenth Century', *Law and History Review*, xxxv (2017).

<sup>15</sup> *Ibid.*, 1018, 1033–6, quote at 1034. For guilds and university colleges, see Karras, *From Boys to Men*, ch. 3 and 4; Alexandra Shepard, 'Student Masculinity in Early Modern Cambridge, 1560–1640', in Barbara Krug-Richter and Ruth-E.

and litigation were equally acceptable strategies to defend honour or property.<sup>16</sup>

Whether sexual misconduct and violence is dismissed as an aberration, seen as an unfortunate but inevitable consequence of privileged youth, or approached as a manifestation of institutional tribalism, these explanatory models remain incomplete without an analysis of gender and attention to the place of homosociality in creating and perpetuating masculine institutions and intergenerational hierarchies of power.<sup>17</sup> There is a wealth of evidence demonstrating that for unmarried males aged in their teens to late twenties or early thirties, shared participation in sexual misconduct and gendered violence was integral to the performance of masculinity, allowing them to 'prove' their manhood to each other in the precarious life-stage before they could claim adult male status as married men and masters of their own households; as business owners and professionals; and as holders of public office.<sup>18</sup> As part of a spectrum of behaviours that included heavy drinking and fighting, to engage in brothel-going, sexual assault and gang rape was a normative part of the male life cycle.<sup>19</sup> This 'youth culture' existed across geographies and social groups, operating alongside other forms of homosociability, such as participation in civic rituals and sporting contests, to forge a sense of collective

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Mohrmann (eds.), *Frühneuzeitliche Universitätskulturen: Kulturhistorische Perspektiven auf die Hochschulen in Europa* (Cologne, 2009).

<sup>16</sup> On gentry violence, see further, Philippa C. Maddern, *Violence and Social Order: East Anglia, 1422–1442* (Oxford, 1992).

<sup>17</sup> Homosociality bonds men horizontally and operates vertically to produce difference and hierarchies based on factors including class, age, race and sexuality. See further, Kim M. Phillips, 'Masculinities and the Medieval English Sumptuary Laws', *Gender and History*, xix (2007).

<sup>18</sup> In addition to works cited in n. 6 above, see, in particular, Michelle Armstrong-Partida, 'Precarious Manhood: Adolescence and Group Rape in Late Medieval Europe', *Medieval Feminist Forum*, lvi (2021). On age of first marriage, see Maryanne Kowalski, 'Singlewomen in Medieval and Early Modern Europe: The Demographic Perspective', in Judith M. Bennett and Amy M. Froide (eds.), *Singlewomen in the European Past, 1250–1800* (Philadelphia, 1999).

<sup>19</sup> Armstrong-Partida, 'Precarious Manhood'; Page, 'Masculinity and Prostitution in Late Medieval German Literature'; Karras, *From Boys to Men*, 15–16, 76–80, 128–9; Shepard, 'Student Masculinity in Early Modern Cambridge'; P. J. P. Goldberg, 'Masters and Men in Later Medieval England', in D. M. Hadley (ed.), *Masculinity in Medieval Europe* (London, 1999); Natalie Zemon Davis, 'The Reasons of Misrule: Youth Groups and Charivaris in Sixteenth-Century France', *Past and Present*, no. 50 (Feb. 1971); Jacques Rossiaud, *Medieval Prostitution* (New York, 1996), 11–26, 104–24.

identity within masculine peer groups, age and social cohorts, and between members of all-male communities.

The construct of youth culture is valuable for examining lawyers' sexual misconduct and violence, but it is significant for our broader understanding of the evolution of legal culture that the evidence reveals younger men were not the only participants. Although the profession's senior ranks voiced condemnation in formal rules and regulations, in practice they shielded students and fellow practitioners from consequences and occasionally took part themselves. Their complicity underlines the need to contextualize this phenomenon as one manifestation of the explicit and implicit forms of systemic gender inequity and violence characteristic of patriarchal judicial cultures.<sup>20</sup> A gendered analysis of lawyers' involvement in sexual misconduct and violence against women is therefore vital if we are to properly recognize the ways these behaviours were integral to the homosociability binding together England's burgeoning community of common lawyers. From this perspective, sexual misconduct emerges not as it is conventionally represented, as an occasional aberration, but as part of a continuum from explicit misogyny and oppression through to more routine forms of gender inequity that characterized the pre-modern law.<sup>21</sup>

The evidence to support a gendered analysis includes the inns' internal records, court records, public proclamations, and reports and other material generated by municipal and royal authorities. Drawing on these sources, I begin by examining the relationship between lawyers' performance of masculinity and the strategies they used to exercise coercive moral and legal authority over the bodies and sexualities of women on the social and economic margins. I then explore a pattern whereby senior legal practitioners tolerated and were complicit in their fellows' sexual misconduct, while shifting the blame onto the women

<sup>20</sup> Alexandra Shepard, 'Manhood, Patriarchy, and Gender in Early Modern History', in Amy E. Leonard and Karen L. Nelson (eds.), *Masculinities, Childhood, Violence: Attending to Early Modern Women — and Men: Proceedings of the 2006 Symposium* (Newark, NJ, 2011); Judith M. Bennett, *History Matters: Patriarchy and the Challenge of Feminism* (Philadelphia, 2006).

<sup>21</sup> See, for example, Cordelia Beattie and Matthew Frank Stevens (eds.), *Married Women and the Law in Premodern Northwest Europe* (Woodbridge, 2013); Noël James Menuge (ed.), *Medieval Women and the Law* (Woodbridge, 2000); Jennifer Kermode and Garthine Walker (eds.), *Women, Crime, and the Courts in Early Modern England* (Chapel Hill, 1994).

involved by representing them as ‘whores’ or ‘common women’.<sup>22</sup> This section reveals that men’s participation in sexual misconduct was no hindrance to their legal careers. Rather, it helped to forge homosocial bonds that formed the foundations of enduring professional networks. Finally, I examine the strategies that senior practitioners used to distance themselves and their institutions from the risks of public notoriety, and to shield perpetrators from consequences in the interests of protecting the reputation of the legal fraternity.

The case of Christopher Tropnell, a student living at Lincoln’s Inn in the early 1480s, provides a starting point to explore these themes. In 1484, the inn’s governing body, referred to as the ‘masters of the bench’, disciplined him because he had:

Seized [*capit*] a woman in Chaunceler [Chancery] Lane against her will [*contra voluntatem suam*] and taken her into Fletestrete where the hue and cry was made by the said woman, and thereafter to Fayter [Fetter] Lane to diverse bawds [*promubas*] and suspect places [*loca suspecta*] and from there into his chamber in Lincoln’s Inn, and there they stayed all night.<sup>23</sup>

Tropnell’s friend and fellow law student William Craycroft was likewise sanctioned, ‘because he was present with Tropnell and aided him in seizing the woman and taking her to his chamber’.<sup>24</sup> The woman was never named and the record does not disclose what happened to her during those hours in Tropnell’s room, but it is likely she was sexually assaulted or raped. The clue lies in the description of the men first taking her to several nearby premises where people were said to be engaged in procuring and prostitution, indicating that they expected her to be sexually available despite her resistance.<sup>25</sup>

<sup>22</sup> I examine the significance of this terminology below.

<sup>23</sup> The Honourable Society of Lincoln’s Inn, Black Books (council records), Book II, pt i, fo. 56<sup>r</sup> (hereafter Black Books). Translations are my own. The Black Books comprise multiple codices with independent foliation. In some sections, there are multiple sets of numbering; I have followed the original numbering. For an edited translation: J. Douglas Walker (ed.), *The Records of the Honourable Society of Lincoln’s Inn: The Black Books, vol. 1: 1422–1586* (London, 1897).

<sup>24</sup> Black Books, II, i, fo. 56<sup>r</sup>.

<sup>25</sup> ‘Bawd’ and ‘bawdry’ were the vernacular terms commonly used in legal records to describe brothel owners and pimps, while ‘common woman’ or ‘whore’ applied to women accused of sexual transgressions: Ruth Mazo Karras, *Common Women: Prostitution and Sexuality in Medieval England* (Oxford, 1998), 10–12; Ruth Mazo Karras, ‘The Latin Vocabulary of Illicit Sex in English Ecclesiastical Court Records’, *Journal of Medieval Latin*, ii (1992).

This is the record of a private disciplinary proceeding witnessed only by the fellows of Lincoln's Inn but it used conventional legal rhetoric with its reference to the hue and cry and the formulaic phrase *contra voluntatem suam*. The absence of the term *rapio* might prompt one to ask whether this was a genuine case of sexual violence. However, in the language of medieval common law courts, *rapio* was still often used to express the notion of 'abduction' — that is, of a father or husband's rights over a woman being infringed through adultery or an unapproved marriage — rather than injury to the woman.<sup>26</sup> The absence of this term in the record of Tropnell's assault is therefore unremarkable, while the expression 'seized ... against her will' certainly signals the use of force.

The governors used the disciplinary proceeding to acknowledge the offence but they simultaneously minimized its gravity. As was often the case in prosecutions for prostitution, the woman was unnamed and thus disconnected from her family as a potential source of protection.<sup>27</sup> Although she was not explicitly termed a 'whore', the dehumanizing effect of her anonymity, in combination with the description of her being taken to nearby brothels, worked to imply she was connected to the sex trade. Prevailing societal and legal views of prostitution meant this strategy diminished the offenders' culpability while shifting the blame onto their victim. For economically and socially vulnerable women, engaging in sex work either as a professional or to supplement other work was often necessary for survival. However, ecclesiastical and secular authorities considered sex work a choice driven by women's innate moral weakness, irrationality and lust.<sup>28</sup> Because they had deliberately

<sup>26</sup> Such cases were frequently treated as trespass rather than felony. See further, Caroline Dunn, 'The Language of Ravishment in Medieval England', *Speculum*, lxxvi (2011); Anthony Musson, 'Crossing Boundaries: Attitudes to Rape in Late Medieval England', in Musson (ed.), *Boundaries of the Law: Geography, Gender, and Jurisdiction in Medieval and Early Modern Europe* (Burlington, 2005), 91–3; Kim M. Phillips, 'Written on the Body: Reading Rape from the Twelfth to the Fifteenth Centuries', in Menuge (ed.), *Medieval Women and the Law*.

<sup>27</sup> Kevin Mummey, 'Prostitution: The Moral Economy of Medieval Prostitution', in Ruth Evans (ed.), *A Cultural History of Sexuality in the Middle Ages* (Oxford, 2011), 176; Armstrong-Partida, 'Precarious Manhood', 143–9.

<sup>28</sup> For general studies of pre-modern prostitution, see, for example, Karras, *Common Women*; Rossiaud, *Medieval Prostitution*; Ruth Mazo Karras, 'The Regulation of Brothels in Later Medieval England', *Signs*, xiv (1989); Christopher Paoella, *Human Trafficking in Medieval Europe: Slavery, Sexual Exploitation, and Prostitution* (Amsterdam, 2020), 215–45; P. J. P. Goldberg, 'Pigs and Prostitutes:

given up their bodies to sin, women working in the sex trade were considered ‘common’ to all men and so could not be raped by definition.<sup>29</sup> By contrast, sexual lust was accepted as natural in younger unmarried men and their access to prostitutes was condoned to protect the virtue of virgins and married women.<sup>30</sup>

These gender norms conditioned the response of the Lincoln’s Inn governors. The fact that they held a disciplinary hearing at all suggests that in theory, they condemned the men’s actions. However, the lenient punishments meted out reveal that in practice, senior practitioners were willing to ameliorate the consequences of serious and violent offending by members of their own community. Tropnell and Craycroft were initially expelled from the inn but they were soon readmitted on payment of a fine of 20s. in the case of Tropnell and 40s. for Craycroft — substantial but not onerous amounts for young men from well-off families. Two of the governors, described as kinsmen (‘consanguineos’) of the offenders, then intervened to reduce the fines to 20s. for Craycroft and a mere 3s. 4d. for Tropnell.<sup>31</sup> These men were John Haugh, who had sponsored Craycroft’s admission to the inn in 1480, and Robert Rede. By 1484, Haugh and Rede were seasoned legal practitioners and in 1486, they were created serjeants-at-law. Haugh was appointed as a justice of Common Pleas the same year and Rede became a justice of King’s Bench in 1494; both men ended their careers as chief justices of Common Pleas.<sup>32</sup>

This pattern will become familiar in what follows: when faced with acts of sexual misconduct or violence perpetrated by fellow

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Streetwalking in Comparative Perspective’, in Katherine J. Lewis, Noël James Menuge and Kim M. Phillips (eds.), *Young Medieval Women* (Stroud, 1999); Lyndal Roper, ‘Discipline and Respectability: Prostitution and the Reformation in Augsburg’, *History Workshop*, no. 19 (1985).

<sup>29</sup> James A. Brundage, *Law, Sex, and Christian Society in Medieval Europe* (Chicago, 1987), 530–2.

<sup>30</sup> The scholarship on pre-modern sexuality is vast. For a useful overview, see Ingram, *Carnal Knowledge*, 29–32. In addition to works cited above, see Jacqueline Murray, ‘Hiding behind the Universal Man: Male Sexuality in the Middle Ages’, in Vern L. Bullough and James A. Brundage (eds.), *Handbook of Medieval Sexuality* (New York, 1996).

<sup>31</sup> Black Books, II, i, fos. 55<sup>v</sup>–56<sup>r</sup>.

<sup>32</sup> For their careers, see John H. Baker, *The Men of Court, 1440 to 1550: A Prosopography of the Inns of Court and Chancery and the Courts of Law*, 2 vols. (Selden Society Supplementary series, xviii, London, 2012), i, 838–9 (Haugh), ii, 1296–7 (Rede).

innsmen, senior practitioners were willing to tolerate a great deal, privileging the preservation of homosocial community and bonds like that between Haugh and his protégé Craycroft over more severe punishments such as the permanent expulsion of offenders. Further, the inns' governors and benchers can be found participating in sexual misconduct themselves as part of the ritualized misrule that accompanied revels and festivities through which homosocial community was celebrated while professional hierarchy was enacted and reinforced. This can be seen in the brief record of 'a Grand Christmas' held at the Inner Temple in 1526.<sup>33</sup> The manuscript account of these revels lists two dozen senior inn members who were appointed to mock judicial offices for the occasion, including as 'chief justices' and 'justices' of King's Bench and Common Pleas. One of these men, Master Shelley, had in reality recently been elevated to the judge's bench while others including Master Baldwin would go on to hold high judicial and political office in subsequent years.<sup>34</sup> Master Babington was named 'Chief Ranger of the forrest of the white fryers, wherein whole heards of white deare laie paddocked daie and night for sport and pleasance'.<sup>35</sup> This was Anthony Babington, who was first elected autumn reader in 1513 in recognition of his status as a legal expert and who had been one of the Inner Temple's governors since 1521. By 1526, Babington had held offices including as justice of the peace (JP) in several counties and sheriff of Nottinghamshire and Derbyshire, and had served as a member of parliament.<sup>36</sup>

The 'deer' Babington was to manage were women who engaged in casual sex work in and around the grounds of Whitefriars, a clerical liberty that abutted the Inner Temple's eastern boundary.<sup>37</sup> By 1526, Whitefriars housed just twenty-odd friars and like other clerical liberties that evaded the oversight of royal and municipal authorities, it was developing a reputation as one of a number of riverside 'havens for thieves,

<sup>33</sup> Inner Temple Library, Misc. MS No. 32, fo. 5<sup>r-v</sup>. My thanks to Alan H. Nelson for sharing his photographs of the original with me.

<sup>34</sup> Baker, 'Christmas in the Inns of Court and Chancery', 44–5.

<sup>35</sup> Inner Temple Library, Misc. MS No. 32, fo. 5<sup>v</sup>.

<sup>36</sup> C. J. Black, 'Babington, Anthony (by 1476–1536), of Dethick, Derbys. and Kingston-on-Soar, Notts.', in S. T. Bindoff (ed.), *The History of Parliament: The House of Commons, 1509–1558* (Woodbridge, 1982).

<sup>37</sup> Nick Holder, *The Friaries of Medieval London: From Foundation to Dissolution* (Woodbridge, 2017), 97–118.

prostitutes and coin clippers'.<sup>38</sup> A plan of the property in the sixteenth century shows a narrow plot of approximately 250-by-100 metres covered with structures including the church, refectory, almshouses and a collection of tenanted buildings.<sup>39</sup> The convent garden had by this time been divided into rented plots and the land also housed a commercial brewery and watermill. Clearly, there was no forest. Rather, the coy reference to paddocked deer drew on popular literary tropes to present women as the passive prey of men for whom hunting was a popular pastime and venison a prized marker of their elevated social and professional status.<sup>40</sup> A scribal correction in the Inner Temple manuscript shows the term 'paddocked' might initially have been written as 'padlocked', a slippage that represented women literally as captured deer.<sup>41</sup> This suggests the degree to which sexual coercion — whether by physical force and intimidation or via social and economic pressure — was normalized within a pre-modern legal system in which rape was proscribed in statutes but rarely harshly punished in practice.<sup>42</sup>

This is a side to the legal community that we do not see in studies of the inns' revels and feasts, which, if they mention such ritualized 'misrule' at all, tend to depict it as the domain of students rather than masters.<sup>43</sup> However, it effectively demonstrates how shared participation in sexual misconduct contributed to senior lawyers' performance of professional identity. This was a performance made more striking when one

<sup>38</sup> The description is from a petition to the Privy Council naming Whitefriars along with a number of similar properties: Surrey History Centre, Woking, The Loseley Manuscripts, Section A: LM/798. See further, Shannon McSheffrey, 'Liberties of London: Social Networks, Sexual Disorder, and Independent Jurisdiction in the Late Medieval English Metropolis', in Sara M. Butler and Krista J. Kesselring (eds.), *Crossing Borders: Boundaries and Margins in Medieval and Early Modern Britain. Essays in Honour of Cynthia J. Neville* (Leiden, 2018).

<sup>39</sup> Holder, *Friaries of Medieval London*, 106, 117–18.

<sup>40</sup> On masculinity, deer hunting and the sexual conquest of women, see Murray, 'Hiding behind the Universal Man', 134–5; Jeffrey Theis, 'The "Ill Kill'd" Deer: Poaching and Social Order in *The Merry Wives of Windsor*, *Texas Studies in Literature and Language*, xliii (2001), 55–62.

<sup>41</sup> Inner Temple Library, Misc. MS No. 32, fo. 5<sup>v</sup>.

<sup>42</sup> On legal and cultural barriers to prosecuting sexual crimes, in addition to sources cited above, see, for example, Gwen Seabourne, *Imprisoning Medieval Women: The Non-Judicial Confinement and Abduction of Women in England, c.1170–1509* (London, 2011), 10–11, 193–7; Garthine Walker, 'Rereading Rape and Sexual Violence in Early Modern England', *Gender and History*, x (1998).

<sup>43</sup> Moreover, they focus on heavy drinking, male-on-male violence and property destruction, not sexual misconduct.

considers that during a festivity in which women were imagined as prey, the Inner Temple's senior members were inhabiting mock judicial offices and authority that they also wielded in reality. These revels can therefore be seen both to rehearse and to reflect the place of lawyers and judges within patriarchal judicial culture.

## I

## LAWYERS' MASCULINITY AND PATRIARCHAL ORDER

Men's coercive regulatory power was predicated upon their claims to embody the moral probity, reason and capacity for governance of self and others that characterized patriarchal adult masculinity in late medieval and early modern England. This model of manhood — often termed 'civic' or 'governing' masculinity — was espoused by mature men of the gentry and professional classes who operated the machinery of justice and it was performed, in part, through the disciplining of perceived sexual deviance, as well as vices like drunkenness and brawling, among men and women over whom they asserted domestic, professional or public authority.<sup>44</sup> Powers of moral and sexual regulation were exercised within the household, craft workshop and guild, as well as through a range of secular tribunals that functioned alongside ecclesiastical courts to punish transgressions including adultery, fornication, brothel-keeping and prostitution.<sup>45</sup>

Evidence from the inns shows that senior legal practitioners were active agents of this regulatory regime but at the same time, they were prepared to mitigate the consequences of brothel-going, fornication and sexual violence when perpetrators were members of the legal community. When we examine the details

<sup>44</sup> McVitty, 'Engendering Erudition', 449–50; Page, 'Masculinity and Prostitution in Late Medieval German Literature', 745–8; Shannon McSheffrey, 'Men and Masculinity in Late Medieval London Civic Culture: Governance, Patriarchy and Reputation', in Jacqueline Murray (ed.), *Conflicted Identities and Multiple Masculinities: Men in the Medieval West* (New York, 1999); Stephanie Tarbin, 'Civic Manliness in London, c.1380–1550', in Susan Broomhall and Jacqueline Van Gent (eds.), *Governing Masculinities in the Early Modern Period: Regulating Selves and Others* (London, 2011).

<sup>45</sup> Ruth Mazo Karras, 'The Regulation of Sexuality in the Late Middle Ages: England and France', *Speculum*, lxxxvi (2011); Richard M. Wunderli, *London Church Courts and Society on the Eve of the Reformation* (Cambridge, MA, 1981); Ingram, *Carnal Knowledge*; McSheffrey, *Marriage, Sex, and Civic Culture in Late Medieval London*.

of who was or was not punished, and of how offences were represented in disciplinary records, polarities emerge in terms of what would be tolerated and by whom. The evidence reveals that within the legal fraternity, expressions of youthful masculinity that celebrated male bonding through sexual misconduct and violence against women were contiguous with, rather than deviations from, the model of patriarchal manhood embodied by mature practitioners.

To illuminate this relationship, it helps to locate lawyers within the topographical and social space they shared with marginalized women who were targets both of coercive regulation and of sexual exploitation. The Inns of Court and Chancery were packed into the densely populated London suburb of Holborn, while just to the west in Westminster were the central courts of Common Pleas, King's Bench, Exchequer and Chancery. Lawyers promoted their services and consulted clients in the district's taverns and alehouses, and conducted business in market squares and other public spaces.<sup>46</sup> As is attested by the records of various secular and ecclesiastical tribunals operating across London and Westminster, the sex trade flourished in these same streets and neighbourhoods. King's Bench prosecutions for illicit sexual activity — primarily bawdry and brothel-keeping — include significant numbers for Holborn, St Giles-in-the-Fields, and St John and Turnmill Streets in the parish of Clerkenwell. Commercial sex was also a prominent feature of the liberties of Westminster and Southwark, where casual and professional operators catered to men visiting the metropolis to pursue lawsuits, attend parliament and conduct other business. The City of London proper was more closely regulated than the suburbs but bawdry, brothel-keeping and prostitution still flourished there, with incidents in the poor parishes abutting Holborn prominent in the records of church courts and municipal tribunals.<sup>47</sup>

<sup>46</sup> Kleineke and Ross, 'Just Another Day in Chancery Lane', 1032, 1036–7; Alexandra Shepard, "'Swil-Bols and Tos-Pots': Drink Culture and Male Bonding in England, c.1560–1640', in Laura Gowing, Michael Hunter and Miri Rubin (eds.), *Love, Friendship and Faith in Europe, 1300–1800* (London, 2005), 120–1.

<sup>47</sup> Ingram, *Carnal Knowledge*, ch. 5, 6 and 7; Karras, 'Regulation of Brothels in Later Medieval England'; Rexroth, *Deviance and Power in Late Medieval London*, 157–87; Gervase Rosser, *Medieval Westminster, 1200–1540* (Oxford, 1989), 143–4, 232–44.

The authorities who had jurisdiction over this heterogeneous urban space considered singlewomen, widows and other women living outside male control to be especially prone to sexual sin, a suspicion that was strengthened because poor women living alone often engaged in casual sex work to supplement meagre incomes from other labour. Women working as laundresses, domestic servants, and alehouse and tavern workers tended to be directly associated with prostitution, while widows and singlewomen appeared in court accused of brothel-keeping and bawdry.<sup>48</sup> Most of this activity did not take place in dedicated commercial brothels like the Southwark stews, which were located within the liberty of the bishop of Winchester and overseen by his officials. Instead, taverns, alehouses and private dwellings doubled as venues for sex work while landlords rented rooms for casual liaisons, so that ‘there was no clear dividing line between commercial and non-commercial activities’.<sup>49</sup>

Research on pre-modern prostitution has highlighted entanglements between elite men’s power to regulate urban space, their control of women’s bodies and sexualities, and their performance of patriarchal masculinity.<sup>50</sup> From the mid-fifteenth century, secular authorities across western Europe were expanding their control of the sex trade, extending to their operation of municipal brothels and oversight of de facto red-light districts. This was justified on the grounds that prostitution, while sinful, was a ‘necessary evil’ in urban communities that included many young single men but also married men travelling on business; therefore, urban authorities regulated commercial sex in the interests of public order. Although London and Westminster did not feature licensed municipal brothels like those found in continental cities, the men

<sup>48</sup> Karras, *Common Women*, 54–5, 72–3; Carole Rawcliffe, ‘A Marginal Occupation? The Medieval Laundress and Her Work’, *Gender and History*, xxi (2009); A. Lynn Martin, *Alcohol, Sex, and Gender in Late Medieval and Early Modern Europe* (Basingstoke, 2001), 58–95.

<sup>49</sup> Ingram, *Carnal Knowledge*, 188. See further, Karras, ‘Regulation of Brothels in Later Medieval England’, 418, 423–4; Martin, *Alcohol, Sex, and Gender in Late Medieval and Early Modern Europe*, 66–73.

<sup>50</sup> Page, ‘Masculinity and Prostitution in Late Medieval German Literature’; Lansing, ‘Gender and Civic Authority’; Goldberg, ‘Pigs and Prostitutes’; Roper, ‘Discipline and Respectability’. There is evidence for only one municipal institution in England (in the port town of Sandwich) although the Southwark stews operated under de facto legalization: Karras, ‘Regulation of Brothels in Later Medieval England’.

who operated the machinery of civic and royal administration claimed the same authority to regulate urban space and the bodies and sexualities of those who occupied it. As members of this group, the leaders of London's legal community used a variety of discursive and spatial strategies to exercise powers of moral oversight, with both 'suspect' premises and individual women becoming targets of surveillance and punishment. For instance, in May 1534, the governors of Lincoln's Inn ordered that the neighbouring 'howse yn Chauncery lane called the Grene Latteys (forasmoche as the same ys a suspecyous howse) shalbe serched' to turn out sexual offenders and other deviants.<sup>51</sup> In a similar incident a few years later, the inn authorized two senior members who were JPs to examine 'the dwellers in the houses bothe over the way and on this syde the waye' for their misconduct.<sup>52</sup> The governors' activities followed a model whereby royal and civic authorities conducted periodic 'privy searches' and purges of alleged sexual offenders and other deviants, who would be subjected to humiliating public punishments before being evicted from the district.<sup>53</sup> Searches of suspect premises in the Westminster suburbs were instigated by royal proclamation in 1511, while in 1519 Cardinal Wolsey ordered midnight raids targeting 'idell, vagraunt and suspicious persons' and 'suspicious howses' across London and Westminster.<sup>54</sup> The raids swept up a number of singlewomen caught with men in private dwellings as well as women taken at known stehouses. Senior innsmen helped to enforce these orders so that when Wolsey's raids took place on the nights of 17 July and 22 October 1519, Sir John Cutte of the Middle Temple, along with the Lincoln's Inn men Sir Henry Wyatt and William Redmayn, apprehended and questioned suspects in Holborn, St Giles and Temple Bar.<sup>55</sup> The outcomes from this purge are unknown but in similar searches before and after, offenders were

<sup>51</sup> Black Books, IV, fo. 50<sup>v</sup>.

<sup>52</sup> *Ibid.*, fo. 169<sup>v</sup> (1546).

<sup>53</sup> Rexroth, *Deviance and Power in Late Medieval London*; Goldberg, 'Pigs and Prostitutes'.

<sup>54</sup> The National Archives, London (hereafter TNA), State Papers of Henry VIII: SP 1/18, fos. 227–58, quotes at fo. 232<sup>v</sup> and fo. 240<sup>f</sup>. I am grateful to Shannon McSheffrey for sharing her transcript of this source while archives were closed due to pandemic restrictions.

<sup>55</sup> *Ibid.*, fo. 228<sup>f</sup> and fos. 257<sup>r-v</sup>.

first committed to the stocks and then made to leave ('avoid' or 'void') the area permanently.

A 1531 conflict over a property just outside the walls of Lincoln's Inn further illuminates the strategies the legal fraternity used to control women's bodies and their occupation of space. In May, the Lincoln's Inn governors reported on their attempts to evict 'the wyff that dwellyth on the forther syde of the wey ayenst the Gate', a description that places the property directly outside what was then the main gate of Lincoln's Inn in Chancery Lane.<sup>56</sup> The woman was never named in the records but it is clear the men tried to over-awe her with legal threats delivered by senior practitioners. In early May, the bencher Master Robert Curson ordered her to leave the property within two weeks, 'at her perell . . . and yf she will not avoyd by that date then to avoyd her by the lawe'.<sup>57</sup> However, this attempt at eviction was unsuccessful and when the inn's governors met in late June the woman was still in residence. Masters Chomeley and Densell — both recently called to become serjeants-at-law — along with Master Hawkes were then selected to 'make their warrante and to put her to suretie of good bearyng and to avoyd her the lane', effectively expelling her from the neighbourhood.<sup>58</sup> It was standard legal practice for women to be named in relation to husbands if they had one and the inns' records followed this convention for identifying the wives and widows of tradesmen and suppliers.<sup>59</sup> However, women identified simply as 'spinster', 'housewife' or 'wife', with no mention of a marital name, frequently appeared as defendants in prosecutions for bawdry.<sup>60</sup> In this case, the inn's leadership must have known who the woman was in order to initiate legal action against her. By refusing to name her and instead referring to her simply as 'the wyff', they implicitly categorized her among sexually suspect

<sup>56</sup> Black Books, IV, fo. 13<sup>r</sup>.

<sup>57</sup> *Ibid.*, fo. 12<sup>v</sup>. The governors met on Ascension Day (18 May 1531) and the deadline was Whitsunday.

<sup>58</sup> *Ibid.*, fo. 13<sup>r</sup>.

<sup>59</sup> Notably, while many lawyers were married, there is no mention of their wives in the records of the legal inns and little discussion in prosographical or biographical studies. For this lacuna and directions for future research, see Anthony Musson, 'The Men of Court, 1440 to 1550: A Prosopography of the Inns of Court and Chancery and the Courts of Law (Vols. 1–2)', ed. John Baker, *English Historical Review*, cxxix (2014).

<sup>60</sup> Ingram, *Carnal Knowledge*, 154. Women often transitioned from prostitution into bawdry and brothel-keeping as they aged: Karras, *Common Women*, 66–70.

widows and singlewomen, and thereby rendered her more vulnerable to legal threats.

A similar discursive strategy was applied to another unnamed woman targeted in 1542. On that occasion, the governors ordered that ‘Master Ryches nor no other by hys procuerement schall beayte nor hurte the wyffe dwellynge over agaynste the Elme Tree, of her body’.<sup>61</sup> The offender was Robert Ryches, the son of Henry Ryches who in 1529 had been admitted to the inn under the sponsorship of Master Robert Curson.<sup>62</sup> The context and use of capitalization in the record suggests the Elme Tree was a tavern or alehouse and the anonymous ‘wife’ considered either a bawd or a prostitute. The casual way the violence is described and the lack of any punishment for Master Ryches beyond a verbal warning underscores the vulnerability of women whose reputations could be called into question by associating them with the sex trade, whether accurately or not. By contrast, Robert Ryches was no doubt cushioned by his family’s social status and especially by his father’s connection to Robert Curson. When Ryches assaulted his anonymous victim in 1542, Curson was one of the inn’s governors, in addition to being a Norfolk JP and legal counsel to the city of London.<sup>63</sup>

The association the inns’ governors made between these anonymous women and the urban sex trade was strengthened by the fact that on each occasion, the reference to suspect neighbours or a troublesome ‘wife’ was twinned with a regulation restricting women’s visits to members’ chambers to perform domestic work, with the implication being that they would also be performing sex work. Such rules tapped into the cultural stereotype that connected women engaged in menial domestic service, including making beds and washing linens, with prostitution.<sup>64</sup> The order to search the Green Lattice was prefaced by an order that:

No woman from hensfurth shallbe resortyng to any gentilmanne chambre of thys Howse, onelesse it be yn tyme of syknesse to make hys bedde, &c for bycause the same ys thought to be to the great disworship of thys Howse.<sup>65</sup>

<sup>61</sup> Black Books, IV, fo. 135<sup>v</sup>.

<sup>62</sup> Baker, *Men of Court*, ii, 1304–5.

<sup>63</sup> *Ibid.*, i, 552–3.

<sup>64</sup> Karras, *Common Women*, 54–5.

<sup>65</sup> Black Books, IV, fo. 50<sup>v</sup>.

The mention of the wife by the Elme Tree was matched by an order that ‘None of the gentylnen of the sayd Howsse shall have eny women to resort to ther chambers for makyng of ther beddes’ and the 1546 order for a purge of nearby suspect houses was followed by a repeat of the same order.<sup>66</sup> On the second occasion, the fine had been increased from 3s. 4d. to 10s. per offence, indicating cash penalties were not keeping women out of men’s rooms.<sup>67</sup> While the records of Lincoln’s Inn provide the most detailed examples, the other inns were not exempt. For instance, the Inner Temple mandated that no woman ‘shall have recourse to the gentylnen’s chambers for any cause except ytt be as suitors to experyensers in term tymes openly wythout evill suspect’.<sup>68</sup> The inns’ governors placed the blame for instigating sexual misconduct squarely on working-class women rather than on the men they served and like university colleges, they tried to avert the possibility of domestic staff luring members into vice by stipulating that laundresses and other female servants should either be young children or elderly women.<sup>69</sup>

## II

### HOMOSOCIAL BONDING AND INTERGENERATIONAL COMPLICITY

The penalties for women suspected of sexual misconduct were high. In addition to being vulnerable to sexual and physical abuse, the examples above show they were also at risk of being made homeless or losing employment. However, when it came to the inns’ treatment of members involved in the same offences, the evidence reveals that far from being a brake on a man’s legal career, bonds forged through shared experiences of sexual misconduct and violence against women helped to form the foundations of future careers, as men cultivated their professional networks and climbed the ranks of judicial and political office. Amongst Christopher Tropnell’s cohort of budding lawyers at Lincoln’s Inn in the 1480s were the future judges William Aylof (with whom Tropnell shared a chamber

<sup>66</sup> *Ibid.*, fo. 136<sup>r</sup>, fo. 169<sup>v</sup>.

<sup>67</sup> *Ibid.*, fo. 169<sup>v</sup>.

<sup>68</sup> The Honourable Society of the Inner Temple, Records of the Inner Temple, Acts of Parliament (1505–1603), PAR fo. 65<sup>f</sup>. The term ‘experyensers’ is obscure but suggests consultation for legal advice.

<sup>69</sup> See, for example, an order that female servants should be younger than twelve or older than forty: *Records of the Honorable Society of Lincoln’s Inn*, 349. On university regulations, see Karras, *From Boys to Men*, 76–7.

from 1490) and William Elys.<sup>70</sup> In 1481, the governors briefly expelled Elys ‘because he was caught one night with a woman named Grace in a suspect house [*in domo suspecta*] near Newgate’ by the constable and beadle of the ward and also because ‘he has been put out of the society in the past for having the same woman in the inn on several occasions’.<sup>71</sup> Indeed, the relationship extended over several years, with Elys being sanctioned for the first time in 1479 for smuggling Grace into his chamber.<sup>72</sup> Unusually, Elys’s sexual partner was identified by name, which could indicate this was a longer-term, if irregular, consensual relationship.<sup>73</sup> However, by associating Grace with a ‘suspect house’ the governors located her squarely within the commercial sex trade. The inn’s governors had a high level of tolerance for Elys’s misconduct, illustrated by his repeated expulsions and readmissions. They also shielded him from more serious public consequences, as was demonstrated in the 1481 incident, when ward officials tasked with enforcing civic order caught Elys in a brothel. The constable and beadle had taken him to the house of the local alderman, John Horne, whence a less well-connected man could have expected his next destination to be Newgate gaol. Yet Elys escaped this humiliation because, thanks to Horne’s ‘reverence’ for Lincoln’s Inn, the masters of the bench were able to intervene the same night to bring him home unscathed.<sup>74</sup>

Meanwhile, Aylof and Tropnell’s friendship saw them participating in sexual misconduct together alongside other homosocial activities like late-night gambling and poaching rabbits from the inn’s coneygarth.<sup>75</sup> Between 1486 and 1488, Aylof was one of a group including John Mors, Robert Beilby and Edward Brograve who were fined and briefly expelled from commons several times for ‘having certain women in their chambers ... often passing the night with them’.<sup>76</sup> The governors associated these women with the sex trade, whether

<sup>70</sup> Black Books, II, ii, fo. 12<sup>r</sup>. Their judicial offices are discussed below.

<sup>71</sup> Black Books, II, i, fos. 47<sup>r</sup>–48<sup>r</sup>.

<sup>72</sup> *Ibid.*, fo. 42<sup>r</sup>, fo. 45<sup>r</sup>.

<sup>73</sup> Analogous to those many young people entered into prior to marriage. See further, McSheffrey, *Marriage, Sex and Civic Culture in Late Medieval London*, 66–72.

<sup>74</sup> Black Books, II, i, fos. 47<sup>r</sup>–48<sup>r</sup>.

<sup>75</sup> *Ibid.*, fos. 56<sup>v</sup>–57<sup>r</sup>.

<sup>76</sup> *Ibid.*, fo. 64<sup>r</sup>, fo. 65<sup>r</sup>.

accurately or not, as was seen in 1488 when Brograve was described as consorting in the inn with a ‘corrupt woman [*mulierem corruptem*]’.<sup>77</sup> Toleration of sexual misconduct as a normative element of homosociability was sustained from one generation to the next, as perpetrators transitioned into positions of institutional governance and public authority. For example, by the later 1490s Elys and Aylof were governors of Lincoln’s Inn and in the early 1500s, they achieved the status of readers, Aylof being elected autumn reader in 1500 and Elys the Lent reader in 1501.<sup>78</sup> Elys served as MP for Norwich in 1484 and he went on to hold a string of judicial offices, including as justice of gaol delivery for Norfolk.<sup>79</sup> Aylof, too, served as justice of gaol delivery, in his case for Colchester. He married the daughter of Sir John Shaa, the Lord Mayor of London, and in 1502 Shaa offered the Crown 500 marks for the office of chief justice of Common Pleas for his son-in-law.<sup>80</sup>

In a similar example, Robert Constable ‘le terce’, admitted to Lincoln’s Inn in 1476, was soon being punished alongside Christopher Tropnell, Edward Brograve and several other men for card-playing and other disruptive activities.<sup>81</sup> As noted above, Brograve was fined and briefly expelled at least twice for having ‘corrupt women’ in his chamber.<sup>82</sup> On the first occasion in 1486, Robert Beilby, who had only recently been admitted to the fellowship thanks to Constable’s sponsorship, was disciplined for joining in the same offence.<sup>83</sup> All three men went on to enjoy successful legal careers. By 1495, Brograve was a bencher and had been elected to the inn’s governing body.<sup>84</sup> Constable was elected reader for the first time in 1489 and became a serjeant-at-law in 1495. He served as a JP and assize justice, and in 1501 he was retained as counsel for the city of York.<sup>85</sup> By 1485, Beilby was representing the sheriff of Yorkshire in King’s Bench and he became an MP in 1491.<sup>86</sup> He remained close to Constable after

<sup>77</sup> Black Books, II, ii, fo. 9<sup>f</sup>.

<sup>78</sup> *Ibid.*, fo. 54<sup>f</sup> (Aylof) and fo. 59<sup>f</sup> (Elys).

<sup>79</sup> For his career, see Baker, *Men of Court*, i, 630–1.

<sup>80</sup> *Ibid.*, 246–7.

<sup>81</sup> Black Books, II, i, fo. 52<sup>f</sup>.

<sup>82</sup> *Ibid.*, fo. 64<sup>f</sup> (1486); Black Books, II, ii, fo. 9<sup>f</sup> (1488).

<sup>83</sup> Black Books, II, i, fo. 65<sup>f</sup>.

<sup>84</sup> *Records of the Honorable Society of Lincoln’s Inn*, 105.

<sup>85</sup> Baker, *Men of Court*, i, 509–10.

<sup>86</sup> *Ibid.*, 294.

the latter's creation as a serjeant-at-law, for Constable passed on to Beilby a manuscript compilation of yearbook reports covering legal cases from the 1460s through to the late 1480s, as is indicated by the two men's ownership inscriptions in the book.<sup>87</sup> Robert Beilby offers an example of how a tolerance for violence against women bred in the inns could carry over into lawyers' lives beyond their professional institutions. In 1504, he was brought before a Scarborough jury charged with violently assaulting, abducting, imprisoning and murdering his wife's sister, Joanna Helperby, apparently in an attempt to secure her inheritance.<sup>88</sup> Joanna was unusually vulnerable, for she was described as being born 'a natural fool' ('*naturalem fatuam*') and was probably intellectually disabled. Beilby had beaten and verbally abused her, imprisoned her in his home for two years and eventually, starved her to death.<sup>89</sup> He was bailed and used his legal skills to fight the charges for several years, finally securing an acquittal in 1507.

Intergenerational networks of kinship, patronage and protection enabled men like Aylof, Elys, Beilby and Brograve to rise to positions of professional leadership and public office, and their experiences were reflected in later cohorts. For example, in October 1505, Miles Hubbert was put out of commons briefly for bringing a woman described as a *meretrice* — another term used to refer to women associated with the sex trade — into the inn.<sup>90</sup> Like the generations of men before him, Hubbert was engaging in homosocial bonding through sexual misconduct, with his companions Mattock, Norres and Brennyng also disciplined for having women in their chambers, while Studvile and Verney were fined for aiding and abetting them. As Christopher Tropnell's experience shows, men of the legal fraternity could cross the line from consensual (albeit potentially exploitative) sex to coercion and violence with relative impunity. If the woman could be linked to the sex trade, the consequences for the offender were likely to be minimal as was demonstrated

<sup>87</sup> Bodleian Library, Oxford, Lat. misc. c.55, fo. 94<sup>v</sup> (Constable) and fo. 160<sup>r</sup> (Beilby).

<sup>88</sup> TNA, KB 27/972 rex m. 5. My thanks to Shannon McSheffrey for bringing this record to my attention.

<sup>89</sup> *Ibid.*: 'imprisonavit in tanto quod pro imprisonmentis duricie ac pro vicialium defectis de se finalem fecit distrucionem'.

<sup>90</sup> Black Books, II, ii, fo. 76<sup>v</sup>.

in 1506, when Hubbert, along with Norres, Studvile and two other men were fined 3s. 4d.:

For breaking the door of the White Hert [tavern] in Holburne at night, and beating the housewife of the same to the scandal of the society, and also for frequenting a brothel [*domus lupanaris*] in Holburn called Johne Hasylyrykke's Hous.<sup>91</sup>

William Aylof was by this time one of the inn's governors, as was Hubbert's father Sir James Hubbert, a king's attorney.<sup>92</sup> While they seemed to hold the younger Hubbert primarily responsible for the assault, the minimal fine imposed on him was characteristic of the pattern of toleration when it came to offences committed against lower-class women. The narrative sequence of events, the fact that the woman concerned was referred to simply as 'housewife', and the evidence that after their attack on her the offenders moved on to a nearby brothel together implied that she was a bawd and the White Hart was a tavern that also did a trade in brokering sex. The actions of Hubbert and his friends, as well as the subdued disciplinary response, fit a wider pattern whereby groups of young men targeted poor singlewomen and widows for physical and sexual violence, then secured pardons or minimal fines by claiming their victims were prostitutes or bawds who had refused their business.<sup>93</sup> Such mitigations could reproduce class as well as gender privilege, as offenders benefitted from the support of kinship networks or were vouched for by their masters, patrons and other powerful protectors.

The expectations of Hubbert and his companions, and the language used in the disciplinary record to describe their victim, also reflected a tradition that associated women who worked or drank in taverns and alehouses with promiscuity and prostitution, thus minimizing the gravity of sexual violence against them.<sup>94</sup> A striking example of this cultural trope can be found in a 1522 treatise on sin by the lawyer and future Lord

<sup>91</sup> *Ibid.*, fo. 82<sup>r</sup>. The other men were Forest and Bewmount.

<sup>92</sup> Black Books, III, fo. 5<sup>r</sup>. Sir James was governor from 1488 to 1507: Baker, *Men of Court*, i, 877–8.

<sup>93</sup> Armstrong-Partida, 'Precarious Manhood', 141–52.

<sup>94</sup> Carissa M. Harris, '“A Drunken Cunt Hath No Porter”: Medieval Histories of Intoxication and Consent', *Medieval Feminist Forum*, liv (2019); A. Lynn Martin, 'The Role of Drinking in the Male Construction of Unruly Women', in April Harper and Caroline Proctor (eds.), *Medieval Sexuality: A Casebook* (New York, 2008).

Chancellor Thomas More, a member of Lincoln's Inn like his father before him.<sup>95</sup> He explicates a common 'rydle' or proverb that a 'D. C. Hath no P', which 'men are wont to write . . . on the wal' (this seems to refer to graffiti in public latrines).<sup>96</sup> More claims that he cannot interpret the saying, although his decision to abbreviate rather than spell out the key words indicates that it was well known and would therefore be familiar to his readers. He continues, 'but I have h[e]ard say, that it toucheth the redines that woman hath to fleshly filth, if she fal in dronkenes. And if ye fynde one that can declare it, though it be no greate authoritie, yet have I heard saye that it is very true'.<sup>97</sup> In other words, a woman who has been drinking has voluntarily dismissed the guard ('porter') on her body, rendering herself sexually available and open to assault. While this proverb and others on the same theme could plausibly be read as warnings against taking sexual advantage of women when they were drunk, Carissa Harris convincingly argues that More's interpretation 'demonstrates that these proverbs were instead likely understood as testaments to alcohol-induced female lasciviousness'.<sup>98</sup>

This gendered stereotype was reflected in the response of the Lincoln's Inn governors to a 1527 incident when William Fermor 'junior' and Richard Dysney were fined 10s. each for stealing a swan and a buck from the inn's larder. Along with Rothall, they faced an additional 10s. penalty 'for that they wold a ravysseyd [raped] a wooman at the Antelope in Holbourne', a tavern at the north end of Chancery Lane.<sup>99</sup> The underwhelming cash penalty equated attempted gang rape with the theft of foodstuffs, thus communicating the governors' relative toleration for members' sexual violence when it was perpetrated against marginalized women. Notably, by this time, Miles Hubbert had followed in his father's footsteps to become

<sup>95</sup> More was admitted to Lincoln's Inn in 1496, where his father was a bencher and had been Lent reader in 1494: Black Books, I, i, fo. 29<sup>r</sup> and fo. 34<sup>r</sup>.

<sup>96</sup> Harris, "'A Drunken Cunt Hath No Porter'", 132.

<sup>97</sup> *Ibid.*

<sup>98</sup> *Ibid.*, 133. Harris probes the persistent cultural trope that intoxicated women have rendered themselves vulnerable to assault. On this theme, and the wider use of rape to teach pre-modern schoolboys Latin grammar, see also Marjorie Curry Woods, 'Rape and the Pedagogical Rhetoric of Sexual Violence', in Rita Copeland (ed.), *Criticism and Dissent in the Middle Ages* (Cambridge, 1996).

<sup>99</sup> Black Books, III, fo. 161<sup>r</sup>.

one of the inn's leaders, having been appointed to the office of steward the same year.<sup>100</sup>

### III

#### TURNING A BLIND EYE: PROTECTING THE LEGAL FRATERNITY'S MASCULINE REPUTATION

The fact that the legal community took any steps at all to punish offenders might suggest a genuine motivation to discourage men from engaging in sexual misconduct. However, we should ask who these disciplinary measures were intended to benefit: women at risk of exploitation and violence? Or the legal fraternity itself? We have already seen that when offenders targeted women who could be associated with the sex trade they escaped with only minor penalties. The efforts of benchers and governors to shield men like Elys from public consequences, in conjunction with the regular use of the phrase 'to the scandal [or 'disworship'] of the society' in reference to disciplinary transgressions, suggest that senior practitioners were primarily concerned to preserve their own reputations and masculine honour in the eyes of other elite men, rather than to prevent harm to women.

This attitude was reinforced in rules and regulations, where gendered spatial and discursive strategies were designed to minimize the culpability of individual innsmen while seeking to distance — in some cases literally — the legal community from reputational damage. Take for instance a 1489 order against *luxuria*, or sexual sin, which declared:

If any member shall henceforth be found in the inn with a corrupt woman [*mulierem corruptem*] or pass the night with her or shall carnally know her, he shall pay a fine of 100s . . . And if he shall have her or enjoy her in that way [*taliter tenuerit*] in the garden, the coneygarth, or in the lane near the inn called Chaunceleres lane he shall pay a fine of 20s.<sup>101</sup>

The term *mulierem corruptem* categorized all women engaging in sexual intercourse with inn members as 'prostitutes' and therefore as sinful seductresses leading men into vice. What is striking about this rule is that the governors so carefully delineated between locations where this sexual misconduct might take place, with far steeper fines for offenders who

<sup>100</sup> *Ibid.*

<sup>101</sup> Black Books, II, ii, fo. 9<sup>r</sup>.

brought women inside the walls of their institution. The distinction perhaps betrays a greater willingness to turn a blind eye to members' sexual misconduct if it took place at a distance, in public spaces, and so could not be directly connected to the inn itself.

Similar attention to protecting the reputation of the legal fraternity can be detected in a reform programme drafted for Henry VIII by several royal counsellors in the 1530s.<sup>102</sup> This implicitly acknowledged that sexual misconduct was endemic to the masculine subculture of the legal inns but like the 1489 order, it sought to distance lawyers from the risks of public infamy. The proposed regulatory regime set out an ideal course of study for law students and outlined the model communal life expected of practitioners while they were resident in their inns. In addition to learning the law, suitable homosocial activities for members included singing and dancing, and exercising themselves 'in martial feats ... shooting in a Cross-bow and Long-bow'.<sup>103</sup> Prominent on the list of forbidden activities was 'Keeping of Concubines in the House', with anyone 'known for a notorious whore-hunter ... to be expelled'.<sup>104</sup>

Why was the legal community so concerned with its public reputation in the first place? As noted earlier, from the later Middle Ages, secular authorities became increasingly involved in moral regulation as an aspect of public order. Sometimes, this took the form of large-scale purges such as the 1519 privy searches. Similarly, in the political flux after Edward IV's death, the city of London had in April 1483 issued a proclamation targeting 'Strumpettes and mysugyded and idill women', which triggered a series of prosecutions for prostitution and bawdry.<sup>105</sup>

<sup>102</sup> The precise date is unknown; the authors were Thomas Denton, Nicholas Bacon and Robert Cary. The original is lost but was printed in Edward Waterhouse, *Fortescutus Illustratus: or, A Commentary on that Nervous Treatise, De laudibus legum Anglie, Written by Sir John Fortescue, Knight* (London, 1663; Ann Arbor, 2011), ch. 49, 539–46, available online at <<https://quod.lib.umich.edu/e/eebo/A65237.0001.001>> (accessed 26 May 2022). See further, D. S. Bland, 'Henry VIII's Royal Commission on the Inns of Court', *Journal of the Society of Public Teachers of Law*, x (1969).

<sup>103</sup> *Fortescutus Illustratus*, ch. 49, 542.

<sup>104</sup> *Ibid.*, 541.

<sup>105</sup> *Calendar of Letter-Books of the City of London: L, Edward IV–Henry VII*, ed. Reginald R. Sharpe (London, 1912), 206. On this and similar campaigns, see Ingram, *Carnal Knowledge*, 229–36; David Santiuste, "Puttyng Downe and Rebuking of Vices": Richard III and the Proclamation for the Reform of Morals', in Harper and Proctor (eds.), *Medieval Sexuality*.

These periodic campaigns were supplemented by more routine legal processes. For instance, Martin Ingram's sampling of King's Bench records between 1500 and 1505 shows a steady flow of prosecutions for the keeping of bawdy houses in the London suburbs, with over 350 cases brought to court in this five-year span.<sup>106</sup> In the same period, the Westminster manorial court was conducting its own campaign against sexual offenders, which included a 1506 attempt to permanently shutter the Southwark stews and, in 1508, the expulsion from the district of 31 people 'ill-governed of their bodies'.<sup>107</sup> As agents of the authority constructed through the judicial system, lawyers played an active part in these campaigns against sexual offenders, as was the case in 1519 when senior innsmen had helped to round up targets of Wolsey's purge. Governors' and benchers' initiatives to search suspect houses and evict their occupants from the legal quarter can be seen as part of the same pattern. As court officers, JPs, sheriffs and justices, lawyers also played key roles in the more routine prosecution of offenders. This service to the Crown and to urban authorities formed an essential part of lawyers' performance of patriarchal masculinity, as they asserted their right and duty of legal and moral governance over others.

Yet senior practitioners' claims to authority were predicated upon their own performative embodiment of manly self-governance, an essential dimension in the recognition of adult male identity by other men of the professional and political classes. Lawyers' anxieties to demonstrate this self-governance, which extended to domestic governance of their own institutional community, can be read in the timing of the inns' disciplinary efforts. These betray a sensitivity to being *seen* to do the right thing. For instance, the rash of disciplinary proceedings recorded in the 1480s and 1530s coincided with periods of increased prosecution of moral offences by external authorities. While it is plausible that lawyers perceived a genuine corresponding pressure to enforce sexual probity amongst their fellows, minimal punishments (even small fines regularly went unpaid) and the focus especially on illicit sexual encounters that took place within or in close proximity to the legal inns themselves, offer implicit confirmation that lawyers were

<sup>106</sup> Ingram, *Carnal Knowledge*, 152–5.

<sup>107</sup> Rosser, *Medieval Westminster*, 232–44, quote at 244.

primarily concerned to defend their collective reputation in the eyes of other powerful men. They were less interested in their fellow lawyers' moral peril per se; still less were they interested in the welfare of the women involved. This parallels the situation found in universities, where steep penalties for misconduct mandated in college statutes were rarely imposed in practice and where, in the interests of institutional reputation, masters and proctors shielded offenders from the public consequences of their actions.<sup>108</sup>

Lawyers faced real risks to their collective reputation because of the regimes of public punishment common to medieval and early modern cities. In London and Westminster, people convicted of sexual offences in municipal and church courts were usually paraded through the streets in a ritual that incorporated both shaming and penitential elements. Ingram argues that the effect 'was not so much to subject offenders to exemplary punishment as to harass them and undermine their local reputation'.<sup>109</sup> As a profession, lawyers were already a popular target of satire and of more serious forms of complaint that tarred them with accusations of venality and corruption.<sup>110</sup> They could not risk further undermining their self-claimed masculine identity as 'worshipful masters of the bench' by airing dirty laundry in public. Senior practitioners therefore kept the disciplining of offenders in-house, behind the closed doors of the inns, as had been the case in 1481 when the masters of Lincoln's Inn effected William Elys's narrow escape from a spell in Newgate gaol.

As has been seen in cases like Tropnell's and Hubbert's, senior lawyers' commitment to protecting their own is affirmed by the fact that offenders evaded public sanction even for serious offences. In 1512, Roger Hawkyns was suspended as the Lincoln's Inn butler, an elected office that had a prominent role in the Christmas revels and other ceremonial occasions, 'for keyping of women in his chamber contrarie to the good and

<sup>108</sup> Karras, *From Boys to Men*, 76–81; Shepard, *Meanings of Manhood in Early Modern England*, 105–11.

<sup>109</sup> Ingram, *Carnal Knowledge*, 207–8, quote at 155. See also, Rexroth, *Deviance and Power in Late Medieval London*, 171, 347–9.

<sup>110</sup> Anti-lawyer discourse featured in petitions to parliament and in statutes regulating the profession: Jonathan Rose, 'Medieval Attitudes towards the Legal Profession: The Past as Prologue', *Stetson Law Review*, xxvii (1998).

laudable Rulis of this house'.<sup>111</sup> The charge suggests that he was either prostituting the inn's domestic servants or bringing multiple women in from the surrounding neighbourhood. Despite the apparent scale of his offending, Hawkyns was restored to favour after he paid for the making of 'a Taper of wex weyng ii poundes . . . to be sett upp befor our lady in the Chapell' during the service in the Lincoln's Inn chapel the following Sunday.<sup>112</sup> The offering of the candle mirrors public shaming rituals, with a typical punishment for sexual offenders convicted in church courts being to lead the parish procession through the streets on Sunday, barefoot, bare-headed, dressed only in a shirt or shift, and carrying a candle to be set before the main saint's image in the parish church. However, the benchers shielded Hawkyns from this humiliation, and shielded their own reputations from the stain of notoriety, by restricting his punishment to their inn's private chapel.

A few years later, Briggam was put out of commons for having a prostitute ('meretrices' [sic]) in his chamber and Pounder, who was then the butler, was put out of office briefly for aiding him. More significantly, Pounder confessed that he had examined the woman and discovered she had 'ffrenche pockes' but he had concealed this fact from his fellows.<sup>113</sup> The plural *meretrices* appeared regularly in King's Bench prosecutions for brothel-keeping.<sup>114</sup> Here, although the immediate context implies Briggam was with a singular woman, the scribe's use of the plural form hints at multiple incidents lying behind this one committed to ink and paper. The office of butler gave Hawkyns and Pounder the advantage of being able to traffic women into the inn through the kitchens and buttery, which were located by external gates and easily accessible for deliveries of food, wine and other goods. The references to multiple women and in Pounder's case, the invasive bodily search for marks of syphilis, suggests these men were operating on a semi-commercial basis, analogous to their Holborn neighbours' use of private dwellings as informal brothels. Anxieties that butlers might put their office to illicit use were not unique to Lincoln's Inn. At the Inner Temple, an order of February 1527 stated that henceforward,

<sup>111</sup> Black Books, III, fo. 42<sup>r</sup>.

<sup>112</sup> *Ibid.*

<sup>113</sup> *Ibid.*, fo. 64<sup>r</sup> (1515).

<sup>114</sup> Ingram, *Carnal Knowledge*, 150–1.

butlers were forbidden from allowing guests or ‘any other strangers’ into the buttery at any time.<sup>115</sup>

It is impossible to know what degree of sexual and economic agency women had in these transactions. One reason secular and ecclesiastical authorities gave for their periodic crackdowns on brothel-keepers and bawds was that women were being tricked or coerced into prostitution, or left with no alternative after being raped. These fears were expressed in the fifteenth-century customary regulating the Southwark stews, which stated that stewholders were ‘to kepe noun of theire women within ther houses ayenst ther wyllle’ and further ordered that every quarter, the bailiff and constables should search the brothels and ‘if ther be any syngle woman founde and kept there ayenst her wyllle’ she should be allowed to leave ‘withoute any lette or interrupcion’.<sup>116</sup> Such concerns were realistic, with the records of royal, municipal and church courts containing ample evidence for coercion and trafficking. Ruth Karras documents two centuries’ worth of cases describing women being physically entrapped in brothels; tricked or forced into prostitution with promises of respectable domestic service work or through forms of debt bondage; and in which ‘maidens’ in their early teens were sold to bawds and raped.<sup>117</sup> In a number of instances the records were generated not by the prosecution of an offender but because the victim was being sued for debt or defamation by her alleged attacker.<sup>118</sup> Despite laws that mandated harsh sentences for rape, such examples are reminders of the practical and structural barriers — including the costs of legal action, wording of legislation, rules of evidence and the risk of damage to a woman’s reputation — that made convictions for sexual crimes notoriously rare within pre-modern judicial systems.<sup>119</sup> Then as now, in England as elsewhere in western Europe, cases that made it to court likely represented the tip of the iceberg.<sup>120</sup>

<sup>115</sup> Records of the Inner Temple, Acts of Parliament, PAR fo. 90<sup>r</sup>.

<sup>116</sup> J. B. Post, ‘A Fifteenth-Century Customary of the Southwark Stews’, *Journal of the Society of Archivists*, v (1977), 423. For similar concerns on the Continent, see Page, ‘Masculinity and Prostitution in Late Medieval German Literature’, 754–5.

<sup>117</sup> Karras, *Common Women*, 57–64, detailing cases from the 1300s to the 1520s.

<sup>118</sup> For example, Ellen Butler was tricked with a promise of employment as a domestic servant then sued for debt by the steward when she refused work as a prostitute: Karras, *Common Women*, 38–9, 57–8.

<sup>119</sup> See n. 26 and n. 42 above.

<sup>120</sup> Historians of crime note that patchy survival of records and multiplicity of pre-modern jurisdictions makes it difficult to extract statistics, but they agree that

## CONCLUSION

Extensive scholarship on women and the law has explored the ways norms surrounding gender, sexuality and social status intersected with specific legal procedures and practices to sustain the patriarchal judicial culture of late medieval and early modern England. Working from the ‘insider’ perspective of treatment of sexual misconduct and violence within the legal profession itself, this article generates important insights into how and where these gendered judicial norms and practices were fostered and reproduced. As has been seen, the inns’ lawyers acted on their own behalf and as agents of civic and royal power to enforce patriarchal order through practices including privy searches and evictions, while disempowering women by representing them as sexually suspect. At the same time, lenient treatment of male offenders reflected the degree to which senior practitioners tolerated sexual misconduct and gendered violence when it was perpetrated by members of their own community. While historians of the early common law profession have tended to dismiss brothel-going, assaults and rapes as youthful aberrations or the work of individual ‘bad apples’, intergenerational complicity in shielding offenders from serious consequences demonstrates the degree to which this behaviour represented normative homosocial bonding within the legal fraternity. From the Inner Temple’s mock justices imagining women as deer to be hunted and Thomas More’s explication of his victim-blaming proverb, to the quotidian physical and sexual brutality perpetrated by men like Christopher Tropicke, Miles Hubbert and Robert Beilby, there was a continuum between the explicit violence of pre-modern youth culture and the implicit violence and exploitation inherent to a patriarchal judicial culture in

(n. 120 cont.)

cases brought to court represent a fraction of actual incidents. See, for example, Armstrong-Partida, ‘Precarious Manhood’, 130–1; Musson, ‘Crossing Boundaries’, 85–9. Recent government reports reveal similar low rates of prosecution and conviction. See, for example, Office for National Statistics, ‘Sexual Offences in England and Wales Overview: Year Ending March 2020’, 18 Mar. 2021, <<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/bulletins/sexualoffencesinenglandandwalesoverview/march2020>> (accessed 26 May 2022); Caelainn Barr and Alexandra Topping, ‘Fewer than One in 60 Rape Cases Lead to Charge in England and Wales’, *Guardian*, 23 May 2021, <<https://www.theguardian.com/society/2021/may/23/fewer-than-one-in-60-cases-lead-to-charge-in-england-and-wales>> (accessed 26 May 2022).

which elite men exercised coercive authority over the bodies and sexualities of women.

At the legal inns, as the perpetrators of one generation became the governors, benchers, justices and public office-holders of the next, a self-reinforcing pattern was perpetuated across time. These findings matter because gendered violence within the pre-modern legal profession has been overlooked or minimized in existing histories, and has therefore been left untheorized in accounts of the evolution and enduring features of English legal culture. Moreover, gendered violence — both overt and implicit — continues to haunt modern common law systems, where despite legal reforms and policies such as gender quotas, women still face structural barriers. For anyone following the outcomes of recent sexual misconduct scandals in the legal profession, the themes explored in this article will no doubt seem familiar, from the attempts to keep disciplinary outcomes under wraps and the tendency to shift the blame onto victims, to the disjuncture between condemnations by the profession's leaders and the reality of minimal punishment of offenders. There is no evidence that people in pre-modern England saw the legal profession's approach to misconduct within its own ranks as hypocritical. The fact that we might recognize it as such highlights the need to reflect critically on the traditions inherited through institutions like the common law, with its privileging of custom and precedent. A gendered analysis of sexual misconduct and violence in the pre-modern profession helps to explain how and why this degree of toleration and complicity became so entrenched in the legal community, and underscores the need both to better understand this history on its own terms and to probe how it has continued to shape legal culture into the modern era.


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*Amanda McVitty*   
*Massey University, New Zealand*

## ABSTRACT

Fifteenth- and sixteenth-century evidence shows that common lawyers and law students regularly engaged in sexual misconduct and violence against women. Social histories of the early legal profession give little attention to such incidents, treating them as aberrations or as the 'natural' excess of privileged youth. By contrast, this article uses gender analysis to argue that sexual misconduct and gendered violence were structural features of all-male legal culture, contributing to homosocial bonding and to lawyers' performance of masculinity. Records from the Inns of Court, London civic administration and royal government reveal law students asserting manhood through shared involvement in sexual misconduct and violence. However, it is significant for the history of the profession that young men were not the only offenders. While senior practitioners condemned misconduct and violence in rules and disciplinary regulations, in practice they shielded fellow lawyers from consequences and participated themselves. As perpetrators went on to become barristers, serjeants-at-law, judges and public office-holders, a tradition of toleration and intergenerational complicity was sustained across time. These findings generate new insights into how the training and socialization of lawyers contributed to the gendered violence inherent in the patriarchal judicial system of pre-modern England.