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Agents of Justice: Female Plaintiffs in the King’s Court in Thirteenth and Fourteenth-Century England

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AGENTS OF JUSTICE: FEMALE PLAINTIFFS IN THE KING’S COURT IN THIRTEENTH-AND FOURTEENTH-CENTURY ENGLAND

by

J. Savannah Shipman

A thesis submitted to the Graduate College
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It has often been assumed that medieval women, noble or common, had little or no agency, were forced into submissive roles by dominating men, and had little control over their day-to-day lives. Theoretical statements about law served to support these assumptions as they forbade women from prosecuting men for any crimes other than the murder of her husband or for rape. Yet the records of the court proceedings before the king and his justices and the *Calendar of Patent Rolls* paint a very different picture. The sources themselves show that women regularly came to court to gain compensation and justice for crimes committed against their families, their properties, or their bodies. Female plaintiffs complained to the king and his justices of crimes including murder, assault, robbery, breaking and entering, and arson, and often gained convictions. A narrative driven by female agency demonstrates how English women continued to use the court system in spite of prejudices and restrictions and reveals the ways lawsuits unfolded in practice in thirteenth- and fourteenth-century England. This understanding of legal practice provides a more complete picture of the status of women in English society and medieval attitudes toward gender and justice.
ACKNOWLEDGEMENTS

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PBKJ  Pleas Before the King or His Justices, 1198-1212. Volumes 1-4. Edited by Doris Mary Stenton. London: Bernard Quaritch, 1953.


CHAPTER ONE

INTRODUCTION

Before the 1970s, it was often assumed that medieval women, noble or common, had little or no agency, were forced into submissive roles by dominating men, and had little control over their day-to-day lives.¹ Theoretical legal treatises like Glanvill’s *Treatise on the Laws and Customs of the Realm of England* and Henry Bracton’s *On the Laws and Customs of England*, as well as the Magna Carta of 1215 and its subsequent reissues of 1225 and 1297, asserted that English women could only prosecute men for the murder of their husbands or for bodily harm done to themselves.² Yet these statements about the ways medieval English law should work did not reflect reality. In practice hundreds of English women came to the King’s Court to seek justice for crimes that included murder, assault, robbery, breaking and entering, and arson. It is this discrepancy between medieval legal theories and legal practice and its implications for the lives of medieval English women that my thesis seeks to explore. This study will serve to highlight the differences between men’s and women’s experiences under early English law and suggest how women utilized (and manipulated) the court system to gain justice for wrongs committed against their family, their property, or their bodies. Recent scholarship has focused on medieval women as subjects but many studies found that medieval women may not have had much agency in their daily lives and did not have much success in convicting alleged criminals.

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¹ In the 1970s and 1980s there appeared a number of influential works focused on gender and the history of medieval women. Two of the most influential works for my project are Joan Scott’s “Gender: A Useful Category of Historical Analysis,” *The American Historical Review* 91, no. 5 (1986): 1053-1075 and Susan Mosher Stuard and Brenda M. Bolton’s *Women in Medieval Society* (Philadelphia: University of Pennsylvania Press, 1976).
Yet the court records of the proceedings before the king and his justices reveal that medieval English women exercised legal agency during thirteenth- and fourteenth-century England. The women that litigated before the king or his justices were persistent and knowledgeable in their attempts to gain justice for alleged wrongs and had a higher degree of control over their lives than previously assumed.

**A Woman’s Place in the Judicial System: A Wealth of Contradictions**

*The Treatise on the Laws and Customs of the Realm of England Commonly Called Glanvill, Henry Bracton’s On the Laws and Customs of England, and clause 54 of the first issue of the Magna Carta all forbade women from prosecuting men for any crimes other than the murder of her husband or for bodily harm. The Magna Carta decreed, “No one is to be arrested or imprisoned through the appeal of a woman for the death of anyone other than her husband.”⁴ Glanvill included a similar statement in his late twelfth-century treatise, asserting, “it should be known that in [a murder] plea a woman is allowed to accuse another of the death of her husband if she speaks of what she saw herself, because husband and wife are one flesh.”⁵ Glanvill went on to add, “And in general a woman is allowed to accuse another of injury done to her body …” conceding that women were, generally, permitted to prosecute men for any bodily harm.⁶ Henry Bracton echoed this idea in the mid-thirteenth century, stating that “there are only two cases wherefore apparent law ought to be adjudicated to any woman, namely only in cases of injury

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⁴ Magna Carta, “Nullus capiatur nec in prisonetur propter appellum feminine de morte alterius quam viri sui,” 58-59.
⁵ Glanvill, “Preterea scendunt quod in hoc placito mulier auditur accusans aliquem de morte viri sui si de visu loquatur, quia una caro sunt vir et uxor,” 174.
and violence inflicted on her body, as in the case of rape, as aforesaid.”7 Like Glanvill, Bracton also indicated that women could only appeal the murder of her husband if she had been an eyewitness, stating women only had an appeal if “her husband [was] slain within her arms, and in no other way.”8

It is important to note that even among contemporary legal documents there was some confusion as to what cases women could bring to court. Glanvill’s and Bracton’s treatises stated that a woman could prosecute a man for the murder of her husband, if she were a witness, or for any bodily harm, most specifically rape. At the same time, the Magna Carta dictated that a woman may only seek justice for the murder of her husband but remained silent about women’s other legal pleas. The sources of judicial litigation themselves, the Curia Regis Rolls and the Calendar of Patent Rolls, and contemporary legal treatises, such as Glanvill, Bracton, and the Magna Carta, are in conflict about the legal capacity of female plaintiffs. Documentary evidence suggests that female plaintiffs came forward in high numbers to seek justice from the royal court during the thirteenth and fourteenth centuries. In order to provide a detailed analysis of female plaintiffs in the King’s Court, I have chosen to focus on court cases that took place at the beginning and end of the thirteenth century and the mid-fourteenth century. From 1198-1212, 1275-1300, 1335-1350, 404 female plaintiffs came to the king’s royal court to seek justice for a number of different crimes. Over this period of time totaling just sixty-four years, 205 women appealed the crime of homicide, fifty-two women complained to the king of breaking and entering, forty-seven women appealed the crime of rape, thirty-four appealed the crime of assault, thirty-four appealed pleas unspecified, twenty-seven appealed the crime of robbery, and five the crime of arson.

7 Bracton, “…sciendum quod non nisi in duobus casibus, per injuria et violentia corpori suo illata, sicut de raptu, ut praedictum est,” 495.
8 Bracton, ”Item et de morte viri sui interfecti inter brachia sua, et non alio modo,” 495.
So for what crimes could a woman prosecute a man? According to the Magna Carta, only the murder of her husband; according to Glanvill the murder of her husband, but only if she was a witness, or for bodily harm, meaning assault or rape. According to the Curia Regis and Patent Rolls, women sought compensation for a variety of crimes in the royal courts including not only murder, rape, and assault but also robbery, breaking and entering, and arson. It is interesting to note that the Magna Carta also decreed, “To no one will we sell, to no one will we deny or delay, right or justice,” suggesting that there was some leeway, some gray areas, and some chance that all who had been wronged could have the opportunity to gain justice regardless of gender. Over 400 women sought the royal court during these years, suggesting that perhaps English women did have access to the royal courts and these restrictive statements did little to deter the women who sought justice.

Nevertheless, it is clear that contemporaneous practice and theoretical law may have contradicted one another on the subject of female plaintiffs. This thesis seeks to explore the extent to which women were restricted in the court system during these specific years and evaluate whether access to justice was contingent on perceptions of gender in thirteenth- and fourteenth-century England. In order to analyze female agency, I have organized the following chapters by the crime women brought to court. My first chapter, “Introduction,” provides background information about the world of medieval litigation, explains the way I counted and analyzed cases, and describes the historical background of thirteenth- and fourteenth-century England. My second chapter, “Women and Murder,” discusses a crime that, according to the Magna Carta, Glanvill, and Bracton, women were allowed to bring to court—the murder of a husband. My third chapter, “Women and Assault,” explores the other appeals women brought to court, including physical and sexual assault, robbery, and forced abortion. And my fourth

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9 Magna Carta, “Nulli vendemus, nulli negabimus, aut differemus, rectum aut justiciam,” 52.
chapter, “Women and Property,” focuses on the large number of women who came to the royal court to complain of breaking and entering or other property crimes. Yet before delving into the cases themselves, it is necessary to provide a brief discussion on the medieval English court system, a few notes on my methodology, and a discussion of the term “agency” and its implications for this thesis.

The Prominence and Machination of the King’s Court

Thirteenth- and fourteenth-century England experienced its fair share of turbulence and uncertainty: the periodic disruption of the Crusades, Scottish rebellions, succession difficulties, the beginning of the Hundred Years’ War, and the coming of the bubonic plague. Yet for a realm experiencing such internal and external pressures, it possessed a sophisticated and effective judicial system available to its subjects. The people of late medieval England had a number of options for seeking justice for alleged wrongs: the ecclesiastical courts, or Court Christian, oversaw cases in which clerics were either the prosecutor or defendant as well as different types of marital cases; local courts, borough courts, or husting, shire courts, and hundred courts heard various land pleas, criminal complaints, and civil disputes within their jurisdiction; even separate courts for merchants and tradesmen were formed in the twelfth century as trade and towns increased. Yet one court had the authority to oversee all others: the king’s royal court, also known as the Coram Rege, the Curia Regis, the king’s honor court, or the Court of King’s Bench.

Traditional legal historians like Alan Harding noted that the Curia Regis, the court of the king, was both “the center and control of the judicial system” and the court in which the most

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important cases, which welled up from the local courts, were heard and determined.\textsuperscript{14} Although William the Conqueror claimed to continue the central Anglo-Saxon court, in reality he determined how the royal court would function after 1066.\textsuperscript{15} By the time of the Angevins, who ruled England during the twelfth and early thirteenth centuries, the royal court was responsible for hearing and judging certain “high-profile” cases, which included, according to Glanvill, “the killing of a lord or king or the betrayal of the realm or the army; fraudulent concealment of a treasure trove; the plea of breach of the lord king’s peace; homicide; arson; robbery; rape; the crime of falsifying and other similar crimes.”\textsuperscript{16} James B. Given, in \textit{Society and Homicide in Thirteenth-Century England}, noted that it was highly advantageous and profitable for the king to hear violent cases. Not only would dispensation of justice contribute to his prestige and reputation, but “a murder inevitably meant some sort of profit for the king’s treasury,” either by confiscated land and chattels or fees and amercements.\textsuperscript{17}

The royal court was both stationary and itinerant, hearing pleas at Westminster and around the English countryside. According to Ralph Turner, these elite “members of the \textit{curia regis} went on circuits to the counties to hear pleas while carrying out other governmental tasks.”\textsuperscript{18} These travelling royal justices were known as itinerant justices, administering royal justice throughout the countryside to those who did not have the means to travel to Westminster to argue their pleas. Such judicial tours were known as county eyres. Local judiciaries, having been notified of the coming royal justices at least forty days prior to their arrival, were required

\textsuperscript{14} Harding, \textit{Law Courts}, 38.
\textsuperscript{15} Harding, \textit{Law Courts}, 16.
\textsuperscript{16} Glanvill, “…de nece vel seditione persone domini regis vel regis vel exercitus; occultatio inventi thesauri fraudulosa; placitum de pace domini regis infracta; homicidium; incendium; roberia; raptus; crimen falsi, et si qua sunt similia,” 3.
to surrender “to the eyre justices all the writs and pleas pending before them from the county.”

In this way, the royal justices oversaw the dispensation of justice in each English county, recording their proceedings on rolls, later known as the *Curia Regis Rolls*.

These rolls recorded information about each case and almost always included the names of the plaintiff(s), the defendant(s), the alleged crime(s), the county and year in which the plea was heard, and sometimes, though rarely, a verdict. Marital status was almost always recorded for women’s cases, and occasionally for men’s cases as well. Details such as social rank were not usually directly disclosed, but sometimes appeared in a small percentage of cases. In order to analyze the English women that utilized the royal courts in the thirteenth and fourteenth centuries, both marital status and social rank will be counted when possible. This focus on marital status and social rank could reveal how many widows, wives, daughters, or unmarried women used the courts and how many of these women may have been elite, ordinary, or poor.

The sheer number of royal court cases in the *Curia Regis* and *Patent Rolls* is astounding and can make a historical study seemingly endless if limits are not imposed. In order to make this brief study feasible, I have chosen to analyze the royal court cases recorded during the years 1198-1212, 1275-1300, and 1335-1350. Focusing on these “snapshots” of cases in the royal court will reveal any changes in the types of cases women brought to court, illuminate the judicial willingness of different English kings and justices, and allow for a more focused analysis of women in the English courts. Though this study is far from comprehensive, I believe a focus on these three fifteen-year periods provides a representative sample of women’s experiences in the royal courts.

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The royal court functioned a little differently depending on which English king was in power. During my three sets of years, England was ruled by four very different rulers: Richard I, a mostly absent, crusading king, John I, often referred to as England’s worst king, Edward I, a judicious and astute king, and Edward III, a preoccupied and war-like king. The thirteenth- and fourteenth centuries witnessed an increase in the jurisdiction of the royal court at the expense of local courts as well as curtailing of the power of local sheriffs and royal justices in an attempt to decrease corruption. In his work on *The Reign of Edward III*, W. M. Ormrod asserted that the “king’s record on law-keeping did much to determine public opinion of his regime.”\(^{20}\) If the king could successfully maintain law and order, he not only decreased violent crime but also increased his own prestige and reputation as a fair and just ruler.

During my first set of royal court cases, 1198-1212, King Richard and King John ruled the country. Richard died in 1199 and was abroad for most of his reign, fighting in the Holy Land or feuding with Philip II of France.\(^{21}\) The notorious King John ruled England from 1199-1216. Although John’s rule was exceedingly troubled and tensions between John and his barons culminated in the signing of the Magna Carta in 1215, a document created to restrain the king’s power, John initiated a number of judicial reforms in order to help the royal court run more smoothly and to increase the power and jurisdiction of royal justice.\(^{22}\) In her chapter “King John and the Courts of Justice,” Doris Stenton noted that “The rapid growth of the volume of business before the courts of justice was the most significant feature of the age.”\(^{23}\) She also asserted that John understood the importance of the royal court and sought to keep it under his control.\(^{24}\)

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\(^{23}\) Doris Mary Stenton, “King John and the Courts of Justice,” *Pleas Before the King or His Justices, 1198-1212*, vol. 1., ed. Doris Mary Stenton (London: Bernard Quaritch, 1953), 1-170, 170.

\(^{24}\) Stenton, “King John,” 170.
increased the power of local bailiffs and sheriffs, presided over the royal court whenever he was in the country (which was more often than his predecessor), and created a new office of borough coroners. Legal historians have debated John’s true motives in increasing the power of the royal court. In *King John*, Lewis Warren argued that “English common law is greatly indebted” to John’s enthusiasm and tirelessness in judging cases and keeping the court running smoothly. On the other hand, in *Lionheart and Lackland* Frank McLynn adopted a more critical interpretation and argued that John’s involvement in the royal courts was solely for the purpose of increasing royal revenue. Despite his true motives, John was heavily involved in the *Curia Regis* and even increased its power and jurisdiction, unlike his successors.

By the time King Edward I was crowned in 1272, the *Curia Regis* had grown and transformed. Edward’s father, Henry III, king from 1216-1272, ruled England during a period of significant reform. Henry III’s legal reforms were the focus of a collection of essays, *The Growth of Royal Government Under Henry III*. David Carpenter, David Crook, and Louise Wilkinson noted the “great increase in the scale of record-keeping” during Henry III’s reign and asserted that Henry expanded the court’s jurisdiction to include breaches of forest law, a crime that used to fall under local courts. In his article, “The Fine Rolls as Evidence for the Expansion of Royal Justice during the Reign of Henry III,” Tony K. Moore found that the number of plea rolls increased by 50% during the last 22 years of Henry’s reign. Henry also “began to pay regular salaries to the royal justices,” professionalizing and regulating the office of the justices.

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The royal justice system only continued to expand under Henry III’s son, Edward I, who ruled England over a thirty-five year period, 1272-1307, which encompasses my second set of dates. In Edward I, Michael Prestwich discussed the extensive reforms of King Edward, noting that his reign “marked a major advance in legislative practice.” Historians have even dubbed Edward “The English Justinian” since he issued a number of important legal statutes including Westminster I and II, passed in 1275 and 1285, respectively. Not only did these statutes deal with land and law, they also dealt with practical matters such as how plaintiffs received compensation if they won their case. Prestwich noted that even if a plaintiff won his or her case, sheriffs often failed to “implement justice properly,” either by failing to arrest the guilty defendants, provide the ordered compensation, or hand over chattels. After Westminster II, a noncompliant sheriff would be heavily fined if he did not comply with the royal court’s judgment. Edward also made an attempt to control criminal activity. Not only did Edward crack down on “extortion and other offenses by royal officials,” he also made it possible for the king to take over criminal cases even if the plaintiff did not bring the case to the royal court. Those who hunted illegally or poached also received stiffer penalties and royal officials that concealed felonies or granted bail to prisoners without the king’s permission would be punished by three years in jail. In this way, Edward attempted to decrease judicial corruption and made it possible for the crown to prosecute criminals on behalf of its subjects. And again, as the royal court expanded in power, the jurisdiction of local courts was tailored even more drastically.

31 Prestwich, Edward I, 276.
32 Prestwich, Edward I, 276.
33 Prestwich, Edward I, 279.
34 Prestwich, Edward I, 279-80.
35 Prestwich, Edward I, 291.
Prestwich asserted that Edward’s reforms were meant to “make the law more efficient, to make justice speedier by introducing improved procedures, and to correct errors and abuses.”

Edward III, grandson of Edward I, ruled England from 1327-1377 and presided over the Curia Regis during my last set of dates, 1335-1350. Unlike John or Edward I both of whom initiated judicial reforms early in their respective reigns, Edward III “was inevitably preoccupied with war, first in Scotland and then in France, and gave no real thought to the operation of criminal law in his absence.” Yet despite his preoccupation, Edward III’s “intervention in judicial administration during this period turned out to be highly controversial” because he started offering pardons to criminals “who agreed to serve in his armies.” Although Edward III’s predecessors also granted royal pardons, he generated a controversy with his liberal dispensation of pardons. Ormrod suggested that this liberal pardon policy may have led to the increase in violence during the 1340s and 1350s; it even caused some English subjects to demand pardons to be restricted to only certain crimes. But Edward III refused to compromise, leading Ormrod to conclude that he may have had “a distinctly opportunistic attitude to the law.” Ormrod was careful to note that Edward III’s involvement in royal justice was not completely detrimental. Edward became more interested in royal justice during the latter part of his reign and “actively participated in justice during the 1340s and 1350s.” He continued the trend of his predecessors, taking power from local courts and granting it to his own court.

For those who are unfamiliar with medieval English legal terminology, it will be useful to provide a brief paragraph defining the terms I will use throughout my thesis. Instead of using

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36 Prestwich, Edward I, 296.
37 Ormrod, Reign of Edward III, 54.
38 Ormrod, Reign of Edward III, 54.
39 Ormrod, Reign of Edward III, 55.
40 Ormrod, Reign of Edward III, 55.
41 Ormrod, Reign of Edward III, 55-56.
42 Ormrod, Reign of Edward III, 56.
modern words like “sue” or “prosecute” to describe the action of bringing a complaint to court, I have chosen to use the verb “appeal” which appears in the documents as “appellum facere,” and can be translated as “to bring a case to court” or “to make a complaint.” In order to introduce some variation, I will interchange “appeal” and “brought a case to court” since they have the same meaning. Another Anglo-Norman legal term is “oyer and terminer,” a royal order from the king to his justice “to hear and to determine” particular open cases that had been brought to the attention of the king. These cases were deferred to the king either because the case had not been settled at the county level or the plaintiff had managed to contact the king and his justices concerning their case.

Sources and Methodology

I have chosen to analyze the cases found in the Curia Regis Rolls and The Calendar of Patent Rolls as the main evidence for my study. These sources are similar in that they provide information about medieval litigation, but in slightly different ways. The Curia Regis Rolls organizes a variety of cases into a single series, offers a record of both men’s and women’s actions in the royal court system, and almost continuously records pleas throughout the thirteenth and fourteenth centuries. All the cases brought during the years 1198-1212 are available in edited volumes, most of which have been translated, while selected cases are available for the years 1212-1225, also available in translation. The clerk, sitting at the bench with the king and his justices, recorded the details of each appeal in the order in which they were heard rather than by type of crime alleged, gender, or social rank; a complaint of robbery could follow a land plea, a murder could be listed after a grand assize, a rape could precede a plea of dower. Such organization makes analyzing the records a page-by-page endeavor but a straightforward process. The women who appealed men (or who appealed both men and women) of violent,
serious crimes, such as murder, rape, robbery, breaking and entering, and assault, are of the most interest to the present study and were carefully noted and counted throughout my research. My purpose is not only to analyze the number of women who brought cases to the thirteenth- and fourteenth-century Royal Court but also to compare the types of crimes women brought in relation to the types of crimes men brought. Perhaps such analysis can illuminate the similarities or differences in the concerns, access to justice, and life circumstances of English men and women.

Bringing an appeal before the royal court took time and money but was not without its benefits. Not only did the plaintiff have a chance at gaining justice for alleged wrongs, but “an appeal of homicide also had a strong practical value in that the alleged victim’s kin could claim a right to some form of compensation from the killer.” Although this will be discussed in full in the next chapter, the chance for such monetary compensation could explain why women, often dependent upon their husbands for financial support, came forward in such large numbers to appeal the murders of their husbands. Plaintiffs also received compensation if they had been robbed, assaulted, maimed, or raped.

Before delving into the records themselves, it is first necessary to discuss the way I count appeals and interpret men’s and women’s agency in the royal courts. The appeals recorded in the Curia Regis range from detailed to terse, include or exclude important information, and convey medieval attitudes toward justice. Below are two examples:

(Ford Hundred touching chattels) Roger, Robert, and William are outlawed for the death of Hugh, son of Eilric, and their chattels

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were 4 shillings and 3 pence, whence Richard de Amberleg’ etc. The aforesaid men were outlawed by [the suit of Hugh’s] mother.  

Eva, wife of Walter of Motcombe, appealed Walter, son of William, and Osbert the felterer and John the smith, who has died, that in the king’s peace and wickedly by night they came to her husband’s house and hers and entered and bound her husband and tied him up and shamefully treated him, so that he is maimed, and her infant likewise, and they took all her chattels which they found in her house and carried them away, and afterwards they dragged out from the house a maidservant called Juliana and killed her there. This she [Eva] offers to prove as the court shall adjudge. The 12 knights of the hundred suspect them thereof and the 4 neighboring villages likewise. Judgment, let them purge themselves by water. They have pledged to appear in the next court day.

At a glance one can see that each case offers different information, valuable for analysis and interpretation. It is clear that in both cases Hugh’s mother and Eva of Motcombe appealed multiple men for a violent crime, but notice the differences in the way this information was recorded. The clerk who recorded Eva’s case was rather explicit, noting that Eva appealed Walter, Osbert, and John, proving that Eva came to court and publicly accused these three men

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of assaulting her husband and child and robbing her of a number of goods in 1201. The plea of Hugh’s mother is worded in a less direct way. The clerk divulged that Roger, Robert, and William were outlawed and their chattels forfeited to the king in 1203, only noting at the end of the case that it was by the suit of Hugh’s mother that these men were branded as outlaws. Although the first entry is less explicit, it is vital to note that Hugh’s mother still had to bring her appeal to the royal court in order to gain justice for her and her son. The Curia Regis alternates, seemingly without preference, between these two recording techniques. Despite their differences, they provide clues about female agency: a woman brought a case to court.

Note that in Eva’s case the twelve knights of the hundred and even the citizens of four neighboring villages suspected the three men of committing the alleged offenses. In medieval trials, public opinion, suspicion, and reputation influenced the verdict of the case as much as the testimony of witnesses or physical evidence. The fact that Eva had the support of the knights of the hundred and the people of the nearby village would have undoubtedly improved her chances of gaining a conviction. Yet the defendants have been given a chance to “purge themselves by water,” or prove their innocence by undergoing an ordeal in which they would plunge their hand into a pot of boiling water for a certain amount of time or to grab a ring. The person’s hand would then be bandaged for a period of time. When the bandage was removed, if the person’s arm was healing properly that person was deemed innocent; if his or her arm looked grotesque and infected, God has revealed that they were guilty. Trials by battle or by ordeal were frequently used to settle disputes before 1215 and were used to prove the innocence or guilt of an alleged criminal. Although Eva had the support of the court, the verdict of the ordeal was unrecorded, and we do not know if the defendants were found guilty. Nevertheless, one can still

46 Barbara Hanawalt spoke about the importance of reputation extensively in Of Good and Ill Repute: Gender and Social Control in Medieval England (New York: Oxford University Press, 1998).
47 Anthony Musson, Public Order, 169.
conclude that Eva exercised agency in the royal courts even when the verdict is not included because she had still succeeded in bringing a case before the royal court. I also assert that even in cases where women’s appeals were dismissed, quashed, or denied, there is still a degree of agency present: that particular woman still brought a suit publicly, believing she had the right to attain justice.

Perhaps most interesting about these two cases is that these women appealed men for crimes other than rape or their husband’s murder, contrary to what was theoretically possible according to the Magna Carta, Bracton, and Glanvill. Hugh’s mother appealed the murder of her son. Eva appealed the maiming of her husband and child. A plethora of other thirteenth- and fourteenth-century women utilized the royal courts to gain justice for wrongs committed against their property, their family, or their bodies. This is the central concern of my thesis: To what extent did women exercise agency in the court compared to men? Did the way lawsuits unfolded in practice depend on the particular circumstances of each case or on the gender of those involved? Were the majority of female litigants even aware of the restrictions prescribed by the Magna Carta? Was the royal court a discriminatory or tolerant space for women? Did the King’s Court make an effort in protecting physically and economically vulnerable subjects, women specifically?

I have also incorporated the Calendar of Patent Rolls into my study in order to analyze the types of cases brought to the king’s or his court’s attention during the years 1275-1300 and 1335-1350. The Patent Rolls do not record proceedings before the royal justices but only the orders issued by the king and carrying his seal. They dealt with a wide range of administrative matters including privileges, grants, protections, nominations, pardons, and commissions and can provide details about both male and female plaintiffs although in more indirect ways than the
Curia Regis Rolls. Although the Patent Rolls were not meant to record the proceedings in the King’s Court, one finds clues of appeals brought before the royal justices among the entries. Such information is found in pardons and commissions of oyer and terminer. Unfortunately, the edited volumes of The Calendar of Patent Rolls do not provide the original Latin but only the English translation.

The Patent Rolls are rife with pardons. This is because “Almost any killing, even accidental killing by children, was treated as a crime” in medieval England.\(^{48}\) Even homicide in self-defense or by misadventure, today termed “manslaughter,” would have required a royal pardon.\(^{49}\) Outlaws with economic or social prowess could buy pardons from the king, often in anticipation of being accused, but pardons could also be attained if one had noble connections to beseech the king on their behalf or if the guilty party performed good deeds for the king at home or abroad.\(^{50}\) Below is an example of a pardon that provides evidence of a woman’s appeal:

Pardon to William atte Madyns of his outlawry in the county of Nottingham for non-appearance before the king to answer touching an appeal of Joan late the wife of Nicholas de Brounfeld against him and others of the death of her husband, he being at the time of the outlawry on the king’s service in Brittany with John Darcy ‘le peer,’ as the king has heard; saving the suit of Joan against him.\(^{51}\)

This pardon decreed that William atte Madyns was not outlawed, yet, by the suit of Joan; for he was only pardoned for not appearing in court. This pardon provides valuable detail: one can discern the crimes alleged, the plaintiff, and the defendant. Not all pardons are as detailed and

\(^{48}\) Harding, Law Courts, 68.
\(^{49}\) Harding, Law Courts, 68.
\(^{50}\) Harding, Law Courts, 68.
\(^{51}\) Calendar of the Patent Rolls Preserved in the Public Record Office: Edward III, 1327-1350, vol. 7 (Liechtenstein: Kraus Reprint, 1971.)
often only mention the person pardoned and the crime, unfortunately omitting who brought the appeal. Yet full use will be made of pardons when possible.

Commissions of *oyer* and *terminer*, found throughout the *Patent Rolls*, also reveal legal agency. These commissions were directed at county sheriffs or the king’s justices “to hear and to determine” particular open cases that had been brought to the attention of the king. These cases were deferred to the king either because it had not been settled at the county level or that the plaintiff, and sometimes the defendant, had managed to contact the king and his justices concerning their case. These commissions, like pardons, were not meant to record pleas systematically like the *Curia Regis* but can still be used as evidence that certain appeals had been brought to court. Below is an example of a typical commission of *oyer* and *terminer*:

Commission of *oyer* and *terminer*, on petition of the appellees, to Rober Malet, R. de Sandwyco and John le Bretun touching an appeal which Agnes, late the wife of Nicholas son of Peter de London, brings in the King’s Court of London, against Robert Duraunt and William de Araz for the death of her husband.52

Note that in this particular case it was the defendants who had petitioned the king for aid. The entry also divulged that Agnes was appealing two men for the murder of her husband, evincing the agency of yet another woman in the royal court system. It is through the use of these two sources, the *Curia Regis* and the *Patent Rolls*, that I will attempt to ascertain the agency of women in the royal courts. Yet what is meant by the word “agency?”

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A Concept of Agency

The notion that the medieval world was rife with violence, chaos, and terror often dominates the perceptions of popular audiences. The concept is simplistic but not altogether false. Violence and death were strikingly present and physical might often meant right. Such conceptions beg the question: how did marginalized or disadvantaged groups, such as children, the elderly, the handicapped, or women, survive in a world that seemed to favor the powerful over the less physically able? This thesis will not concentrate on women’s agency in general, but more specifically women’s legal agency. Did the average woman have a modest degree of legal agency: or the ability and power to seek justice in the royal court on her own? Or was she considered a judicial dependent, relying on kinsmen to gain justice on her behalf? Until the 1970s the latter view was more prevalent as famed historians like Georges Duby bemoaned the difficulty in understand medieval men’s lives, let alone the lives of medieval women. He wondered, “How much more are the women, who were spoken of much less, doomed to be shadowy figures, without shape, without depth and without individuality.”

This view was far too pessimistic about the lives of medieval women and the future of women’s history.

Several later works have also supported ideas of female victimization in a hostile, medieval world of male dominators. In her article “Non Potest Appellum Facere,” Patricia Orr explored the theoretical restrictions proposed by the Magna Carta, Glanvill, and Bracton, focusing on the ways they negatively affected women’s litigation. Caroline Dunn explored the legal ineffectiveness and low conviction rates for women seeking to convict their rapists and

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kidnappers in *Stolen Women in Medieval England*. In her article “Abortion Medieval Style?” Sara Butler also noted the prevalence of attacks on pregnant women that resulted in spontaneous abortion.\(^{55}\) Over the course of my own research I have seen a number of cases in which women have failed to prosecute their assailants, lending some credence to the works of Orr, Dunn, and Butler, yet I would like to challenge the idea that most women did not gain justice for felonies committed against their families or their bodies. I would argue, and hope to show throughout my thesis, that medieval English women exercised a considerable degree of legal agency in the royal courts, continued to argue cases confidently despite restrictions, and acted as agents in attaining justice by helping to convict and outlaw dangerous murderers, rapists, and criminals.

My thesis intends to build upon several works that have brought female agency to the forefront. Two works on criminal women, Barbara Hanawalt’s “The Female Felon in Fourteenth-Century England” and Louise J. Wilkinson’s “Criminal Women,” focused on the extremes of female agency—female murderers and female larcenists. Hanawalt used *gaol* delivery rolls as her evidence and noted the prevalence of female to male suspected felons was one woman for every nine men.\(^{56}\) She found that only 16% of suspected women were convicted while 30% of suspected men were convicted.\(^{57}\) To explain this disparity, she concluded that the medieval male jurors may have had preconceived notions of women’s weaker, more gentle nature which made them less inclined to condemn women of violent crimes that required physical strength and brutish force.\(^{58}\) At the same time, Hanawalt also noted that half the crimes committed by women were violent in nature and that the majority of the victims were men or family members.\(^{59}\) Such


\(^{57}\) Hanawalt, “Female Felon,” 266.

\(^{58}\) Hanawalt, “Female Felon,” 266.

\(^{59}\) Hanawalt, “Female Felon 258-259.
information leads one to wonder whether medieval women truly committed fewer crimes than medieval men or if women were simply better at getting away with it, using judicial discrimination to their advantage when they got caught.

Wilkinson’s chapter on criminal women in *Women in Thirteenth-Century Lincolnshire* had a similar focus in that one of her chapters explored female criminals and female prosecutors in Lincolnshire, England. Wilkinson noted a degree of discrimination against women who attempted to appeal men for homicide, larceny, assault, or maiming, focusing on conviction rates and women’s tendency not to follow up their case.\(^60\) I would argue that focusing on conviction rates in general would show inefficacy on the part of both men and women: medieval litigation was a slow process and many parties ended up either dropping or not following up their cases. Wilkinson did concede that out-of-court settlements probably took place off the record, so the “female appellors might have achieved their underlying purpose” of gaining compensation for wrongs.\(^61\)

The works of David Klerman and Patricia R. Orr, “Women Prosecutors in Thirteenth-Century England” and “*Non Potest Appellum Facere*: Criminal Charges Women Could Not—but Did—Bring in Thirteenth-Century English Royal Courts of Justice,” also focused on female agency in prosecuting crimes instead of committing them. Klerman asserted that in his research women’s appeals were “no less successful than the normal appeals of men” but that he detected a subtle hostility to women’s pleas on the part of the royal justices.\(^62\) Orr asserted that the limiting rules of the Magna Carta, *Glanvill*, and Bracton had little to no effect on female appellors and


that justices and sheriffs investigated cases regardless of who brought them. Orr, however, only discussed the effects of the limiting rule in relation to a few women’s cases, all of which took place before 1225. Nor did Orr include cases from the late thirteenth or early fourteenth century in her study or analyze the ways marital status, age, or social rank may have influenced women’s cases or the justice’s verdicts.

Each of these works focused on different aspects of female agency, women who committed crimes and women who sought justice for crimes, and have yielded some fascinating results. The fact that women came forward in such large numbers to gain justice for alleged wrongs hints at an entire mentality: these women had the belief that they could make a difference in the world around them, that they deserved retribution for wrongs, and that they had confidence in the royal court’s ability to do them justice. The king’s royal court may have been an exceptional space for medieval women where they could exercise legal agency in gaining compensation for alleged wrongs. In my analysis I hope to demonstrate that these women were not fearful or submissive but potentially bold and effectual, acting as nothing less than agents to secure justice.

CHAPTER TWO

WOMEN AND MURDER

English women in the High Middle Ages litigated in the king’s royal court for a number of crimes including murder, robbery, assault, breaking and entering, rape, and arson. Compared to other criminal pleas brought to court during the years 1198-1212, 1275-1300, and 1335-1350, women came forward in the highest numbers to prosecute the crime of murder according to the Curia Regis Rolls and The Calendar of Patent Rolls. I found 205 female individuals in 193 cases who brought accusations of homicide before the royal justices: 144 women appealed the murder of a husband, twenty-two the murder of a brother, twenty-one the murder of a son, six the murder of a father, three the murder of their sister’s husband, two the murder of a mother, two the murder of an uncle, two the murder of a servant, one the murder of a daughter, one the murder of a lord’s wife, and one the murder of a nephew. The vast majority of these female plaintiffs were either identified as widows or mentioned singly. In ten cases women brought suits jointly with other women. In contrast to these 205 female plaintiffs, my sources recorded that only seventy-four men came forward to prosecute murders during the same years. The implications of this discrepancy will be the focus of the following pages. I will also discuss the judicial reluctance (or lack thereof) in hearing women’s homicide appeals and analyze the

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agency of widows versus married women and offer some conclusions on how gender affected access to justice in thirteenth-century England.

The restrictions described by the Magna Carta, *Glanvill*, and Bracton, have already been mentioned, but the extent to which these legal writings restricted women in practice is an important issue. There are a few instances in the King’s Court that suggest that women were affected by theoretical restrictions, but for the most part women seemed to sue in the royal courts without difficulty or open discrimination. Women acted within the bounds of theoretical legal documents, appealing the murders of their husbands in the highest numbers. At the same time, almost 30% of women, sixty-one out of 205, came forward to appeal the murder of someone other than her husband. In just four homicide cases out of the 193 cases under consideration was a woman restricted because of her gender. These specific cases will be discussed and analyzed at length after a general discussion of the homicide cases as a whole. I have also included Tables 1-12 to aid in visualizing the extent of women’s agency in the royal courts.

From 1198 to 1212, women brought thirty-six appeals of homicide while men brought twenty. From 1275 to 1300 women brought 158 appeals of homicide while men brought only fifty-four. Table 1 charts the different numbers of women’s homicide appeals per year. One can see from Table 1 that the majority of women’s appeals were brought in the 1280s. Women’s homicide cases throughout the thirteenth century appear to remain rather steady with an average of about seven homicide appeals per year. It is notable that during the years 1201, 1283, and 1285 women’s homicide appeals were extremely high. The sudden rise of women’s appeals in 1201 was not a sign of increased violence but instead may be indicative of an increase in the king’s judicial willingness and an attempt to deal with a backlog cases that had not yet been settled. In *King John and the Road to the Magna Carta*, Stephen Church detailed the long, drawn
out battle between Philip II of France and King John over Normandy.\textsuperscript{65} Although the armed struggle between the two kings officially started in 1202, tensions had been rising even before the death of John’s brother, Richard, in 1199.\textsuperscript{66} There is no direct evidence of this in my sources, but in 1201 John had been crowned for just two years, and it is probable that he was still playing “catch up” as he attempted to run his kingdom and deal with problems abroad.

Table 1: Women’s Murder Appeals in the Thirteenth Century

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of Women’s Court Cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>1198</td>
<td>4</td>
</tr>
<tr>
<td>1201</td>
<td>24</td>
</tr>
<tr>
<td>1205</td>
<td>4</td>
</tr>
<tr>
<td>1208</td>
<td>4</td>
</tr>
<tr>
<td>1210</td>
<td>3</td>
</tr>
<tr>
<td>1217</td>
<td>1</td>
</tr>
<tr>
<td>1218</td>
<td>2</td>
</tr>
<tr>
<td>1219</td>
<td>8</td>
</tr>
<tr>
<td>1222</td>
<td>9</td>
</tr>
<tr>
<td>1223</td>
<td>8</td>
</tr>
<tr>
<td>1224</td>
<td>10</td>
</tr>
<tr>
<td>1225</td>
<td>11</td>
</tr>
<tr>
<td>1226</td>
<td>19</td>
</tr>
<tr>
<td>1227</td>
<td>13</td>
</tr>
<tr>
<td>1228</td>
<td>20</td>
</tr>
<tr>
<td>1229</td>
<td>21</td>
</tr>
<tr>
<td>1230</td>
<td>22</td>
</tr>
<tr>
<td>1231</td>
<td>23</td>
</tr>
<tr>
<td>1232</td>
<td>24</td>
</tr>
<tr>
<td>1233</td>
<td>25</td>
</tr>
<tr>
<td>1234</td>
<td>26</td>
</tr>
<tr>
<td>1235</td>
<td>27</td>
</tr>
<tr>
<td>1236</td>
<td>28</td>
</tr>
</tbody>
</table>

Similarly, the increase in homicide appeals during the 1280s was most likely the result of massive judicial reforms undertaken by Edward I, king of England from 1272-1307.\textsuperscript{67} From 1278 to 1286, Edward I spearheaded a number of judicial reforms after his return from the Welsh Wars in 1277. He replaced most county sheriffs and set up “wide-ranging inquiry” into local level courts “which produced what must have been the most comprehensive survey of England

\textsuperscript{65} Stephen Church, \textit{King John and the Road to Magna Carta} (Boulder: Basic Books, 2015), 69-96.
\textsuperscript{66} Church, \textit{King John}, 69-72.
ever made in the Middle Ages." Prestwich discussed Edward I’s legal reforms extensively, but was silent on the ways these reforms affected female litigators. I assert that the king’s judicial willingness had a substantial effect on female plaintiffs, and I will return to this discussion at the end of the chapter.

According to the Magna Carta and legal treatises like Glanvill and Bracton, the only homicide case a woman could legally bring to court was that of her husband. Yet it is evident from Table 2 that women took full advantage of this legal privilege with the majority of female litigants suing in the court for the murder of a spouse.

Table 2: Whose Murder Women Appealed

<table>
<thead>
<tr>
<th>Years</th>
<th>Husband</th>
<th>Brother</th>
<th>Son</th>
<th>Father</th>
<th>Female</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>1198-1201</td>
<td>19</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>1203-1208</td>
<td>6</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>1275-1280</td>
<td>2</td>
<td>2</td>
<td>1</td>
<td>1</td>
<td>2</td>
<td>0</td>
</tr>
<tr>
<td>1281-1285</td>
<td>54</td>
<td>2</td>
<td>7</td>
<td>3</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>1286-1290</td>
<td>12</td>
<td>1</td>
<td>3</td>
<td>1</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>1291-1295</td>
<td>13</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>1296-1300</td>
<td>10</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>1</td>
</tr>
</tbody>
</table>

The years 1281-1285 saw the highest number of women appealing the murder of their husbands. The fact that women appealed the murders of their husbands in the highest numbers is

68 Prestwich, Edward I, 235.
not surprising. Successful plaintiffs often received monetary compensation from a convicted defendant and these women, now widowed, probably sought financial security and protection from the king and his court. What is curious is that in my sources no men appealed the murders of their wives during these same years. The possibility of out-of-court settlement has already been mentioned and will be discussed further. The possibility of extra-legal settlement may explain the discrepancy in the types of cases men and women brought to court. The fact that men were victims of violence far more often than women in thirteenth-century England may also explain why so many women appealed the murders of their husbands and no men appealed the murders of their wives—fewer women were being murdered than men.69

The fact that women litigated for the murder of a spouse in such high numbers while no men in my sources litigated for the murder of wives raises some intriguing questions. Some could conclude that this discrepancy indicates that women’s lives were less valuable than men’s lives, but I assert that this difference in appeals by gender has more to do with economic factors than a lack of concern for female life. Medieval women, who depended on husbands for financial support and physical protection, would be more likely to put time and money into convicting their husband’s alleged murderers because their livelihood and well-being were both at stake. Men, on the other hand, were more financially independent than women and may not have had the need to bring cases to court in search of compensation or protection. Yet, according to Given, women were victims of murder 20% of the time in his sample of thirteenth-century cases. So why were no spousal homicide cases found in the royal court records from 1198-1212 and 1275-1300? I have two possible solutions, both of which will require more research to be proven definitively. As previously mentioned, men could have opted to settle disputes without the aid of

69 In *Society and Homicide in Thirteenth-Century England*, James Given noted that in thirteenth-century eyres rolls, men were victims of homicide in 80.5% and women were victims only 19.5% of the time, 134-5.
the royal justices. Extra-legal settlement will be difficult to prove, but could explain why cases involving murders of wives never made it into the court rolls—a widower and his kinsmen could have taken justice into their own hands and dispensed vigilante justice themselves. Another possibility, which can likely be traced in the primary sources, is that men could have brought their case to other local courts instead of the royal court. If men and women chose to litigate in different courts, perhaps judicial sympathy or judicial discrimination was contingent on gender.

Though there is no record of men appealing the murder of wives in my sources, men did appeal the murders of other family members during the thirteenth century. Table 3 shows that men most often appealed the murders of their brothers or men referred to in the sources as “kinsmen” in the highest numbers.

Table 3: Whose Murder Men Appealed

![Bar chart showing the number of cases appealed by men in different years and family relationships.]
Men litigated in the King’s Court for murder, but in fewer numbers when compared to women. Table 4 compares the number of men’s and women’s homicide appeals during the thirteenth century.

Table 4: Homicide Appeals Brought by Men or Women in the Thirteenth Century

Although theoretical law restricted the types of homicide appeals women could bring to court, women clearly utilized the royal court in the thirteenth century in much higher numbers than men. As previously discussed, women were probably more dependent on family members and more likely to seek judicial avenues to gain compensation or protection. Such high numbers of female plaintiffs compared to male plaintiffs could also indicate judicial sympathy toward female plaintiffs. The difference in the types of cases men and women brought to the royal court is an important problem, and I will return to this problem throughout the course of the study.

It could certainly be argued that the very act of a woman bringing a case to court when she theoretically was not allowed to do so could be considered a “success.” But a number of
women were not only successful in pleading their cases in front of the king or his justices; a rather significant number of women even gained convictions. An analysis of the success of women’s appeals from 1198 to 1208 provides some interesting insight into judicial gender preference. The cases found in the Calendar of Patent Rolls often failed to disclose the outcomes of cases, but the entries in the Curia Regis Rolls sometimes disclosed a verdict. Twenty-two homicide cases brought to court by women included a verdict. Of these twenty-two cases, the defendants were put to death or outlawed in eight cases, the jury suspected the defendant in four cases, another court was sought in two cases, five women withdrew or did not follow up their case, one man was freed, one man fled the country, and one man was summoned for questioning. If one sorts these cases by “successful,” meaning the defendants were either outlawed, put to death, suspected by jurors, or indicated their guilt by fleeing the country, “ambivalent” outcomes, if the case was transferred to another court, or the accused was summoned for questioning, and “unsuccessful” outcomes, as in the woman did not follow up her case, withdrew her appeal, or the defendant was freed, eight women were “successful” in their suit, seven were “unsuccessful,” and nine women still had the possibility of gaining a conviction. If one throws out the ambivalent cases and only counts the cases with verdicts, women in this sample still enjoyed a success rate a little higher than fifty percent, 53.33% to be exact, in appealing their husband’s murder. This is a rather high success rate that casts doubt on women’s judicial inefficacy and suggests that women were more successful in their suits than previously assumed.

Of the sixty-one women acting outside the theoretical restrictions from 1198 to 1299, twenty-two women appealed the murders of their brothers and twenty-one appealed the murders of their sons. Let us again analyze success rates for women from 1198 to 1208, this time with a focus on women appealing the murder of sons. Of the ten women who sued for the murder of a
son, five successfully outlawed the defendants, two failed to follow up their case, one died but the jurors suspected the accused, and one case went to an ordeal. Women again enjoyed a high success rate of at least 50% in gaining convictions for murdered sons. During this same ten-year period, women also sued for a variety of other homicides: five women sued for the death of a father, two for a mother, two for an uncle, one for a daughter, one for a nephew, one for a lord’s wife, and one for a maidservant.

Clearly English women of the thirteenth century were acting outside the bounds of the Magna Carta before and after 1215, enjoying modest rates of success before 1208. Is it possible that the small band of nobles who drafted the Great Charter realized the extent of women’s success in the court and sought to curtail it? If so, such restrictions only imbued these medieval English women with renewed fervor in seeking the royal courts. Women even continued to utilize the royal courts after 1215 in even more substantial numbers. In a medieval English society that was becoming increasingly reliant on royal law and order, what would be the advantage of limiting pleas based on gender? Perhaps medieval jurors and sheriffs asked the same question and largely ignored the rule in the name of justice. This factor could explain why in only four instances a woman’s case was dismissed when the defendant cited the Magna Carta or clauses found in Bracton’s or Glanvill’s treatises.

“Mulier Non Habet Appellum”

The four victims of this gender bias were Matilda Caper in 1278, Agnes Colle in 1281, Emma, wife of Roger of Kilburn, in 1290, and Cecily, widow of Alan le Day, in 1307. Each of these cases is found in Select Cases in the Court of King’s Bench, volumes 1-3. Interestingly, the cases found in the Calendar of Patent Rolls during the years 1275-1300 and 1335-1350 do not reflect gender restrictions, presenting an intriguing problem. The fact that hundreds of women’s
cases passed through the king’s hands as he ordered commissions of *oyer* and *terminer* may indicate that women, for the most part, were not discriminated against on the basis of gender in the royal courts. In this section I plan to discuss the four dismissed cases in detail while also analyzing the court’s language when it specifically stated that a certain woman could or could not appeal men for crimes.

Before delving into the specific circumstances of each case, it is interesting to note that three out of the four women to be discussed, Matilda, Agnes, and Emma, were litigating during the surge in women’s appeals during the 1280s. It is also noteworthy that Matilda Caper and Agnes Colle appear to be single women, meaning their names were recorded individually without the inclusion of familial ties, while the other cases disclosed that Emma was married and Cecily was a widow. A critical discussion of women’s marital status will be undertaken after this section, but one should note that in these cases different marital situations did not deter discrimination. It is possible that the limiting rule was cited because Matilda, Agnes, and Emma were appealing the murders of mothers and sons, appeals that were theoretically unavailable to them. Yet Cecily was also restricted as she attempted to gain justice for her murdered husband, an appeal which she should have had as a widow. At the same time, the problem is that dozens of other women who appeared in the court records appealed murders other than their husband’s. What made these four women targets of discrimination? And to what extent was their access to justice hampered by restrictions?

On Easter in 1278, Matilda Caper appealed Andrew le Fitz Asce de Rowel for the murder of her mother. According to Matilda, Andrew broke into their home, dragged her mother down the stairs by her feet, breaking her spine and causing her to die immediately.  

70 “Matillis Caper appellat Andream le fiz Asce de Rowel de morte matris sue et unde eum appellat quod ipse die Pentecostes anno regni regis nunc quinto predictus Andreas venit ad domum ipsius Matillidis in Bromeleye, in quo
came to answer the appeal before the court, he proclaimed his innocence on all counts and made it known to the jurors that “a woman has no appeal save in three cases, which do not touch [this] appeal.”\footnote{“Et Andreas venit et defendit omnem feloniam mortem et totum etc. Et petit judicium de appello suo sicut mulier non habet appellum nisi in tribus casibus qui non tangunt appellum istud,” SCCKB, vol. 1, 40.} Andrew also asserted that he had already been acquitted of this crime before the king’s justices, William of Wintershull and David Garmmule, in the hundred court.\footnote{“Et super hoc mandat dominus Willelmus de Wytershull’ per litteras suas quod predictus Andreas aquietatus fuit coram eo et David Garmmule iusticiariis domini regis ad gaolam deliberandum hic assignatis de predicta morte per quinque hundredis,” SCCKB, vol. 1, 40.} The royal court then asked for proof of Andrew’s plea and scheduled for the litigation to continue five weeks after Easter.\footnote{“Ideo mandatum est predictis iusticiariis quod venire faciant recordum et processum predicti appelli a die Pasche in v septimanas ubicumque etc. ad certicandum etc.” SCCKB, vol. 1, 40.} Andrew came to court just three weeks after Easter and Matilda did not show up, making her appeal null. Yet the crown did not release Andrew of all charges until William and David, the hundred jurors, had verified “on their oath that the aforesaid Andrew is not guilty of the death of the aforesaid Matilda, mother of the aforesaid Matilda Caper.”\footnote{“veniunt juratores qui dicunt super sacramentum suum quod predictus Andreas non est culpabilis de morte de predicte Matillidis matris predicte Matillidis Caper,” SCCKB, vol. 1, 41.}

Andrew did not cite the Magna Carta but instead some ephemeral rule that a woman could only bring an appeal except in three cases. By these “three cases,” perhaps Andrew was referring to the murder of a husband, rape, and any injury done to a woman’s body. This indicates that Andrew, or perhaps his attorney, was somehow aware of these limitations but not by way of the Magna Carta, reaffirmed by Edward I in 1297, which only allowed women to sue for the murder of her husband. Glanvill’s work was the theoretical treatise that pointed out other crimes a woman could bring to court. Did Andrew or Andrew’s lawyer have knowledge of Glanvill? Was this stipulation known by many litigants? Scholars estimate that Glanvill’s treatise...
was written around 1190, almost 100 years before this case came to court. It is possible that Andrew or his attorney had access to or were at least aware of this custom that could greatly benefit Andrew’s defense. Yet it still does not explain the judicial inconsistencies; this case and the others to be discussed, are surrounded by other cases in which women litigated successfully for non-spousal murders.

I believe that Matilda’s case was not necessarily dismissed because she was a woman but because she failed to show up at the second court date. Even after Andrew cited the gender restriction the court continued the case, seeking to verify that Andrew had indeed been cleared of charges in the hundred court. It is only after the justice’s verification of hundred court’s verdict and Matilda’s absence that Andrew “is quit thereof.” In this particular case, the court may have been more interested in making sure justice had been served as opposed to dismissing an appeal on the grounds of Matilda’s gender.

Two years later in 1281 in Huntingdonshire, Agnes Colle appealed two men, Henry le Ternur and Gilbert of Grafham, for the death of her son, John. Agnes claimed that Henry and Gilbert, along with another, Henry Nichol, had “held John by his hands and neck whilst the same Henry [Nichol] struck the aforesaid John to the brain with a Cologne sword, whereby he died.”

When Henry le Ternur and Gilbert arrived in court, they asked,

…whether they ought to answer her appeal, inasmuch as the aforesaid Agnes appeals the aforesaid Henry and Gilbert of the death of John her son and it is contained in the Great Charter of the

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76 “prodictus Andreas quo ad appellum suam inde quietus,” SCCKB, vol. 1, 40.
77 “…et predictum Iohannem per manus suas et collum suum tenuerunt dum idem Henricus predictum Iohannum cum quodam gladio colones in cerebrum percussit, unde obiit,” SCCKB, 90.
lord king that no woman ought to appeal anyone save for the death of her husband.\textsuperscript{78}

The justices acknowledged this fact, allowing “the aforesaid Henry and Gilbert [to] go [quit] thereof without [a future] day [in court] with respect to her appeal.”\textsuperscript{79} Yet the case continued even without Agnes as plaintiff. The royal justices next asked Henry and Gilbert how they would like to prove their innocence on the matter; the two defendants answered that it was not the murder itself that Agnes had accused them of but aiding and abetting the real murderer, Henry Nichol of Bedwin, who had already been outlawed at the county level. The royal justices then summoned the sheriff in order to verify the assertions of Henry and Gilbert.

In this case, Agnes’s appeal was dismissed when Henry and Gilbert cited the Magna Carta. Yet the royal justices did not quit investigating the case on the grounds that Agnes could not litigate; nor were Henry and Gilbert immediately cleared of the charges. Instead, the court summoned the sheriff to illuminate the details of the case further. In this way, the royal court again continued the case even after the female plaintiff’s appeal was dismissed. It is also noteworthy that Agnes may have already gained some justice for her son’s death, since a man had already been outlawed for John’s murder in the county court. This could indicate that her access to justice may not have been limited by her gender at the county level even though her case was discounted in the royal court. Also noteworthy is that Henry and Gilbert cited the Magna Carta directly, unlike the previous case, asserting that women had the right to only one kind of appeal: the murder of her husband. The defendants in this case and the previous case,

\textsuperscript{78}“… desicat predicta Agnes appellat predictos Hernricum et Gilbertum de morte Iohannis fillii sui et continetur in magna carta domini regis quod nulla mulier appellare debeat aliquem nisi de morte viri sui, si debeant ad appellum suum respondere.” SCCKB, 90.

\textsuperscript{79}“Ideo consideratum est quod predicti Henricus et Gilbertus eant inde sine die quo ad appellum suum…” SCCKB, 90.
though both showing awareness of legal practice, cited the limiting restriction very differently: according to Andrew a woman could sue in three cases; according to Henry and Gilbert she could plead for just one crime. The justices, who surely must have been aware of the decrees of the Magna Carta and possibly aware of Glanvill’s treatise, acknowledged the arguments of both men, dismissed the appeals of Matilda and Agnes, but continued the cases themselves, ensuring that justice would be done on behalf of these female plaintiffs.

Nine years after Agnes’ case, Emma, wife of Roger Kilburn, appealed four men, Richard Geoffreyman le Clerk, William le Procuratur, John le Heyward, and Richard le Shephirde, for the murder of her son, Henry of Kilburn. In each case I have analyzed, a woman’s marital status is disclosed. Here, the language indicates that Emma’s husband may be alive, leaving one to wonder why they did not jointly bring the case, especially once Emma’s gender was cited as a judicial hindrance. Unlike the two previous cases where specific details of the murder were disclosed, no such details were given here. The sheriff was ordered to contact Emma and tell her at which location “to prosecute her appeal thereof against the aforesaid Richard, William, John and Richard, if she should wish etc.” Here it is clear that the royal courts are allowing Emma to litigate; yet when the court day rolled around and she was “solemnly called on the first, second, third, and fourth day, she did not come.” The defendants did not show up either, save for William le Procuratur, who cited the limiting restriction in that “an appeal is not available to a woman save for the death of her husband within her arms, and for injury inflicted upon her body.”

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82 “…que primo, secundo, tercio et quarto die sollempniter vocata non venit,” SCCKB, vol. 2, 25.
83 “…nunc continetur quod mulieri non competit appellum nisi de morte viri sui inter brachia sua (et de iniuaria corpori suo illata),” SCCKB, vol. 2, 25.
Again there is a distinct difference in the ways the gender restriction was cited. William even inserted a stipulation found in Bracton’s *De Legibus et Consuetudinibus Angliae*; that a woman can only appeal a man for the murder of her husband when he was literally killed in her arms. But unlike the previous two cases, the royal justices do not continue Emma’s case because “there is no indictment by the country,” meaning the jurors did not suspect William or the other three defendants. It is also notable that Emma failed to follow up her suit, a serious mistake that often meant the defendants were set free regardless of the plaintiff’s sex. Since Emma did not show up on her court date, we are left to speculate on how she would have responded to the restrictions placed on her gender.

Cecily, widow of Alan le Day of Carlton Castle, would engage directly with these gender stipulations in 1307. Of the four cases under analysis, Cecily is the only woman to bring a murder that did fit the restrictions of theoretical legal documents—that of her husband. She complained that Gilbert, son of Robert of Hallington, had struck her husband, Alan, on the head with an enormous stick, “the length of which was one and a half royal ells (about 5 feet) and the size of its circumference six inches,” so that it “gave him a wound six inches long, four inches wide and five inches deep into the brain and he immediately died from it in the aforesaid Cecily’s arms.” Cecily immediately alerted the authorities by raising a hue and a cry against Gilbert,

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84 “*In quibus casibus femina appellum habeat videndum est*, et sciendum quod non in duobus casibus, per quod alicui lex apparens debeat adiudicari, s. non nisi iniuria et violentia corpori suo illata, sicut de raptu, ut praedictum est. Item et de morte viri sui interfecit inter brachia sua, et non alio modo,” Henri Bracton, *De Legibus et Consuetudinibus Angliae*, vol. 2 (London: Eyre and Spottiswoode), 1879.

85 “…desicit nullum indictamentum per patriam,” *SCCKB*, vol. 2, 25.

86 “…unde longituduo fuit unius ulne regis et dimidie et de grossitudine rotunditatis vj polllicum hominis…” *SCCKB*, vol. 3, 162.

87 “…percussit predictum Alanum in medio loco grave capitis et fecit ei unam plagam de longitudine vj polllicum hominis, de latitudine iij polllicum hominis, et profunditate v. polllicum hominis usque ad cerebrum, unde statim obiit inter brachia predicte Cecilie,” *SCCKB*, vol. 3, 162-163.
…and prosecuted him from vill to vill up to the four nearest vills, and from the vills to the king’s bailiffs, and from the bailiffs to the coroners, and from the coroners to the county court, until at the aforesaid Gilbert’s suit the aforesaid appeal was by the lord king’s command transferred before that lord king.  

This report reveals how intensive and time consuming medieval litigation could be and demonstrates the extent of Cecily’s motivation and agency in following her suit through so many courts.

But when Cecily’s case reached the King’s Court, Gilbert denied the charges and “he [said] that he ought not to answer that Cecily’s appeal concerning the aforesaid death etc. For he says that the aforesaid Cecily has a husband,” meaning that she could not prosecute the suit. Cecily could not deny that she indeed had a husband and the court decreed that Gilbert “as regards the aforesaid Cecily’s appeal, is to go quit forever.” As in the first two cases, the royal justices continued the suit without Cecily as plaintiff, asking Gilbert how he would “clear himself at the lord king’s suit.” Gilbert then showed the justices that he had already been pardoned for Alan’s death by the king for “the good service that Gilbert… has done us in the parts of Scotland,” evidenced by a royal pardon. Gilbert was then cleared of all charges, “Therefore it is awarded that the aforesaid Gilbert, as regards to the lord king’s suit, is to go quit,” and Cecily was put in mercy for false claim.
It was at this point that Cecily defended herself against the charge and subsequent penalty of bringing a false claim to court, perhaps indicating that she had a rather sophisticated grasp of judicial procedure and the courage to argue against a verdict she perceived as unjust. The events are recorded,

Afterwards the aforesaid Cecily came [to court]. And she says that she ought not to bear the penalty of the statute provided for false appeals, because she says that her appeal was not false although it was quashed on the grounds that she has a husband. For she says that the aforesaid Gilbert sufficiently admitted his guilt as regards to the aforesaid death when on the lord king’s suit he sued out the lord king’s charter of pardon for the aforesaid death and for the outlawry pronounced against that Gilbert on that account. And she says that the same Gilbert was outlawed for the same death at the county court.94

The justices acknowledged the truth in Cecily’s assertion, that Gilbert had committed the offense and had been outlawed for the murder of Alan in the county court. Thus Cecily’s claim that Gilbert murdered her husband was not false, although her appeal was restricted in that her new husband did not, or could not, support her appeal. The royal justices then admitted that “it is quite evident that the same Cecily had good and lawful cause to make the aforesaid appeal and to prosecute it for the above reasons, although she could not prosecute it because she has a husband,

94 “Postea venit predicta Cecilia et dicit quod ipsa habere non debet penam statuti de falsis appellis provisi, quia dicit quod appellum suum no fuit falsum licet sit cassatum per hoc quod ipsa habet virum. Dicit enim quod predictus Gilbertus satis se reddidit culpabilis de morte predicta quando cartam domini regis de perdonacione mortis predicte ad sectam domini regis impetravit et etiam de utlagaria in ipsum Gilbertum ea occassione promulgata. Et dicit quod idem Gilbertus utlagatus fuit in comitatu pro eadem morte,” SCCKB, vol. 3, 164.
and its cause is a certain foolishness rather than anything deceitful.”95 Cecily was then allowed to pay a fine to the king after spending fifteen days in gaol.

There may be more to this case than meets the eye. It is significant that the lord king himself, Edward I, had this case transferred to his court. It is also significant that Gilbert had already received a pardon for the murder of Cecily’s husband and for any subsequent outlawries for “good service” done in Scotland. This could indicate that Gilbert, son of Robert of Hallington, was an associate or perhaps even a favorite of King Edward. It is also striking that Cecily was restricted in a plea that she should have had a right to prosecute. Nowhere in the Magna Carta, Glanvill, or Bracton did it state that a woman with a husband could not come to court to appeal the crime of murder. Perhaps Cecily knew she was being treated unfairly and as a result fought the royal court’s initial verdict, insisting that she did not bring the case in malice but in ignorance. Even in this unsuccessful case, Cecily still managed to demonstrate agency and showed that she had knowledge of basic judicial procedure. It is also notable that she argued against a verdict she perceived as unjust and which may have had more to do with royal politics than her gender or her appeal.

One is left to speculate as to whether the royal justices were ignorant of or knew of the theoretical restrictions prescribed by the Magna Carta, Glanvill, and Bracton and consistently ignored them in the name of justice until they were cited. I find the latter more likely since the records themselves, as I have discussed and demonstrated, are rife with female plaintiffs who exercised, or attempted to exercise, power and agency to gain justice for murders done to their kinsmen. One of the most important factors in a woman’s legal success may have been marital

95 “…et bene constat quod eadem Cecilia bonam causam et iustam habuit appellum predictum facere et illud prosequi racionibus supradictis, licet illud prosequi non poterit eo quod virum habet, que quedam causa pocius est quedam stulticia quam falsitas…” SCCKB, vol. 3, 164.
status. The implications of marital status and an analysis of how many women were widowed, single, or unmarried in regards to these 193 murder cases will be undertaken in the next section.

Widows, Married Women, and Single Women

The judicial right of widows seeking justice for the murders of their husbands was not usually called into question; in fact, this was allowed in each of the theoretical legal treatises under review. In the four cases above it was not the marital status that restricted the female plaintiff but the theoretical rule that women could only prosecute men for certain crimes: the murder of their husband, rape, or bodily injury to themselves. Yet a number of women prosecuted other murders in the King’s Court, often with success and without apparent restriction.

Throughout both the *Curia Regis Rolls* and *Patent Rolls* medieval litigants were either identified by family ties or by marital status. Usually it was the father who was named, but it was not uncommon to be identified with the name of one’s mother. Married women were specified by the inclusion of their husband’s name and vice versa. Other women were often identified with their fathers, mothers, sons, or daughters, maybe indicating that these women were unmarried and unattached to a male figure (other than their fathers). The overwhelming majority of female litigants were widows, which is to be expected. Yet the language of the documents suggests that a substantial number of female litigants during the thirteenth century may have been single, or even married, women. I am hesitant in asserting that all women mentioned without men were unmarried, but they still may have exercised legal agency without a man’s help.

Of the 205 female litigants who brought appeals individually or jointly, 149 were recorded as widowed, twenty-five were mentioned by themselves, sixteen were recorded as daughters, eight were recorded as wives, four as mothers, and three as sisters. Is it possible that
the women recorded by themselves, as daughters, mothers, and sisters were single women? The forty-seven women who could have been unmarried were mentioned in conjunction with their father, sons, or simply by themselves. An example of each of these cases is provided below:

…the appeal that Susan, daughter of Organ, is making in the county court against the aforesaid William for the death of John son of Organ, her brother.\textsuperscript{96}

Hugh son of Aldith fled for the death of Robert Pachet and is outlawed by the suit of Robert’s mother.\textsuperscript{97}

Aliva of Rillaton in Linkinhorne appealed Rikelota de Deurodan of the death of Margaret her daughter because Rikelota struck her daughter with a stone [so] that she died, and she offers to prove this against her as the court shall adjudge. Rikelota denies the whole.\textsuperscript{98}

I concede that the information included in each case was contingent on the clerk, and I do not mean to assert that Susan, daughter of Organ, was irrefutably unmarried. Yet it is conceivable that at least a portion of these forty-seven women were single women, litigating without male aid in the King’s Court.

The implications of single women possibly litigating alone are many. It is possible that these women had no other male relatives to prosecute the suit, leaving them with the responsibility of gaining justice for wrongs that greatly affected their lives. If this is the case then

\textsuperscript{96}“Et etiam appellum quod Susanna filia Organi facit in comitatu predicto versus predictum Willelmum de mort Iohannis filii Organi fratris sui,” SCCKB, vol. 1, 82.
\textsuperscript{97}“Hugo filius Aldith’ fugit pro morte Roberti Pachet et per sectam matris Roberti utlagatus est,” PBKJ, vol. 3, 71.
\textsuperscript{98}“Ailiva de Rellanton’ appellavit Rikelotam de Devordan de morte Margaret filie sue quod ipsa Rikelota filiam suam quadam petra percussit quod inde obit et offert hoc probare versus eam consideration curie. Et Rikelota totum defendit,” PBKJ, vol. 2, p. 74.
it would indicate that the royal justices were not wholly operating with a gender preference and that a woman may have had as much right as any man to bring a case to the royal court. Another more provocative possibility that could explain such high numbers of thirteenth-century female litigants is that families realized that they may have better success in gaining convictions if a woman spearheaded the prosecution. Daniel Klerman noted that women’s appeals “were no less successful than the normal appeals of men”\(^99\) and Barbara Hanawalt asserted that the courts were often more lenient with criminal women as evidenced by fourteenth-century English *gaol* delivery rolls.\(^100\) Hanawalt noted in her sources that “only 16 percent of the women were convicted compared to 30 percent of the men,” leading her to conclude that “male jurors and judges obviously held some beliefs about the essentially gentle nature of women which inhibited them in indicting women and especially in sending them to the gallows.”\(^101\) Combining the interpretations of these historians with the data under analysis enables us to infer that perhaps the royal courts did favor the pleas of women. This insight could explain why noblemen sought to curtail women’s legal agency by way of the Magna Carta and why it was sometimes cited in court as a defendant’s go-to defense.

Perhaps even more interesting than single female litigants are those whose husbands seem to be alive, indicated by the language used in the documents. Only three of these women were found of the 205 under analysis. One such case is that of Emma, wife of Roger of Kilburn, which has already been mentioned. Another is that of Agnes, wife of Richard de Legh, who brought a suit for the murder of her son. The third case is that of Agatha, wife of Hugh, son of Adam de Wedone, who was also attempting to prosecute the murder of her son. Were these women litigating in the place of their husbands? Were their spouses alive or was this silence


\(^{100}\) Hanawalt “Female Felon,” 253-268.

\(^{101}\) Hanawalt, “Female Felon,” 266.
simply a slip of the clerk’s pen? Either way, this information raises doubt about the ways marital status affected female litigants.

In one interesting case in 1201, Edith of Mottonshire appealed Randulf of Chew and William the Irishman for the murder of her lord’s wife. This case stands out in two ways: Edith was not related by blood to her mistress, Maud, wife of Osbert of Dipford, and it is clear from the language of the case that Osbert was still most certainly alive, although maimed from the attack that had killed his wife. Perhaps Osbert was so seriously beaten that he was unable to bring the case to court himself, causing his female employee to step in. But it is noteworthy that it was his female servant who then took up the case and pleaded before the justices. This case could suggest that women litigated when men were absent or unable.

**Gender and Murder in Thirteenth-Century England**

The evidence indicates that women could bring not only the murder of her husband but a number of other kinds of homicide to the royal court despite theoretical restrictions proposed by the elite men who wrote the Magna Carta or other theoretical legal treatises. Such high numbers of female litigants also indicate that women may have been confident in bringing cases to the royal court, believing that they had a chance to gain justice and protection. But how can one reconcile such a disparity between legal practice and legal theory? One may ask what would be the advantage of restricting pleas on the basis of gender in the first place? A number of works have wrestled with this same question.

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In his introduction to the *Crown Pleas of Wiltshire Eyre, 1249*, C.A.F. Meekings asserted that women’s inability to do trial by battle gave her a judicial advantage over male defendants.\textsuperscript{103} He suggested this could explain the existence of the “limiting rules” of the Magna Carta, *Glanvill*, and Bracton.\textsuperscript{104} He also asserted that there may have been a tendency for nefarious males to manipulate women into bringing cases to court for their benefit. He noted that “there must have been at times a strong temptation to an ill-disposed man to persuade a woman, say the daughter of a tenant, to bring an appeal against his enemy in the hope of encompassing his ruin or at least of exposing him to much trouble yet without any risk to himself or his agent.”\textsuperscript{105} Yet this answer is unsatisfactory. Meekings’ solution removes female agency by assuming that, if we use his hypothetical situation, a daughter of a tenant could be used as a litigating puppet by dominating and vindictive male overlords to bring an appeal to court. Yet even after removing female agency from the equation, Meekings’ continued to marvel at the vast numbers of women who brought cases to court from 1234-1239. He even admitted that “women’s appeals outside the rule in our Eyre were no less successful than the normal appeals of men.”\textsuperscript{106} The evidence does not indicate that women’s appeals were restricted because of the possibility of judicial duel or that they were in danger of being manipulated by men to bring cases to court.

Patricia Orr in her article “Criminal Charges Brought by Women in England” suggested a number of alternatives to Meekings’ theory.\textsuperscript{107} She noted an “idea in English law that an appeal lies with the one most nearly affected by the offense,”\textsuperscript{108} as noted in Bracton:

\textsuperscript{103} *Crown Pleas of Wiltshire Eyre, 1249*, ed. C.A.F. Meekings (Great Britain: Wiltshire Archaeological and Natural History Society, 1961), 88.  
\textsuperscript{104} Meekings, 88.  
\textsuperscript{105} Meekings, 88.  
\textsuperscript{106} Meekings, 90.  
\textsuperscript{107} Orr, “Non Potest,” 144.  
\textsuperscript{108} Orr, “Non Potest,” 144.
A person sometimes appeals another on behalf of the goods of another, not his own, as if the person had been robbed of certain things he had had in his charge, perhaps being the property of his lord or another person, and in which case, he should know that it is in his interest to appeal because if he does not appeal he will have no recourse, no more [than he would] for the death of a person not belonging to his family.  

According to Bracton a person had the right to appeal someone for the robbery of another’s goods if the crime also affected them in some way. Tellingly, Bracton also extended this custom to include murder appeals. Orr argued that if the plaintiff could prove they had also been harmed by the crime, whether it be the robbery, assault, or murder of a family member, they had a right to seek compensation in court. Orr suggested this section of Bracton could help explain the high number of female plaintiffs in her sample of cases from the Wiltshire Eyre of 1249. She too found many female litigants in her sources and attempted to reconcile theoretical law and practical law. Perhaps this idea in Bracton could partly explain why the king and royal justices allowed women to litigate. Women undoubtedly would have been affected by the murder of their husbands, deprived of her primary guardian by violent means, making her property, her body, and even her life vulnerable to other nefarious parties. But could these women make a case that they were also severely impacted by the murder of a son, mother, brother, daughter, or father? My research indicates that many women tried—and often with success. Although Bracton did not directly state that women had the right to appeal deaths, robberies, or other crimes that

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109 Bracton, “Appellat quandoque quis alium de alterius rebus quam de suis propriis ut si ab aliquo robbatae fuerint res aliquae quas habuerit in custodia sua, de rebus domini sui vel alterius et quo casu oportet eum docere quod sua intersit appellare quia alias appellum non habebit non magis quam de morte alicuius extraneae personae…” 477.
affected them, perhaps this idea that an affected party had a right to an appeal influenced the justices when a female plaintiff sought the King’s Court for judicial aid.

Orr asserted that Glanvill suggested, albeit not directly, a similar notion of a woman’s right to bring an appeal. Glanvill indicated that a woman could appeal the murder of a husband since husband and wife were one flesh and the wife would be the person to suffer most from her husband’s murder. Yet Glanvill’s assertion still does not allow for the many non-spousal murders women brought to court. Unsatisfied with these partial answers in theoretical treatises, Orr also suggested a number of “practical” reasons a woman would be allowed to litigate for the murder of a husband. She asserted that a recently widowed woman would be more vulnerable to criminals and would be in need of protection from local or royal authorities. When discussing Bracton’s specific stipulations, that a woman could only prosecute her husband’s murder if he was killed in her arms, she noted such stringent requirements would guarantee that the woman had witnessed the crime not only by sight and hearing but that she had been amidst the violent act itself, suggesting that she was also a victim of violence. Yet Orr seems skeptical of the practicality of Bracton’s restrictions, noting that male witnesses could speak of a crime by their sight and hearing and did not have to be victims or in the midst of violence in order to bring a case to court.

Klerman’s “Women Prosecutors in Thirteenth-Century England” dealt with the same questions. Returning to Meekings, he noted that women were immune to trial by battle, which could explain proposed restrictions, but he also offered a number of new solutions. Klerman suggested that lawyers were rare in early thirteenth-century England, which eased the financial

111 Glanvill, “It should be known, moreover, that in this plea a woman is allowed to accuse another of the death of her husband and wife are one flesh. Indeed, as a general rule a woman is allowed to accuse another of injury done to her body, as is explained below,” 174.
112 Orr, “Non Potest,” 144.
burden for both male and female individuals, encouraging both sexes to bring cases to court.\textsuperscript{114} Klerman also asserted the judges “overriding concern to see the guilty punished caused them to treat women with fairness, if not indulgence,” which suggests that county and royal justices even favored female litigants over male litigants.\textsuperscript{115}

Like Klerman, Barbara Hanawalt in her article “Female Felons” and James Given in his monograph on \textit{Society and Homicide in Thirteenth-Century England} both noted a judicial sympathy toward women who committed crimes. In both studies, they found that women were more likely to be found innocent of crimes when compared to men. Hanawalt asserted that this could indicate that the judges had predisposed assumptions of women’s softer and gentler nature.\textsuperscript{116} Given also indicated that the judges were often skeptical of women’s ability to do violence.\textsuperscript{117} At the same time he noted that a convicted woman was more likely to be put to death than a convicted man, suggesting that medieval society was uncomfortable and extremely critical of women who resorted to violence.\textsuperscript{118}

If one combines the evidence of the primary sources with the conclusions of Hanawalt, Given, and Klerman some interesting inferences can emerge. Could this judicial sympathy for accused women have also extended to female plaintiffs? If the judges dealt harshly with female criminals could they also have dealt more sympathetically with female victims? Would a woman attempting to gain justice for a murdered son evoke more sympathy and pity than a male plaintiff would from the king and his justices? Were these 205 women completely lacking male relatives and forced to litigate alone? This scenario seems unlikely. The evidence contained in the \textit{Curia Regis Rolls} and \textit{Patent Rolls} challenges presumptions of judicial preference for male litigants.

\begin{enumerate}
\item Hanawalt, “Female Felons,” 266.
\item Given, \textit{Society and Homicide}, 137-138.
\item Given, \textit{Society and Homicide}, 137.
\end{enumerate}
While more research is necessary to understand the relationship between gender and litigation in the thirteenth-century England, Edward I’s judicial reforms, briefly mentioned earlier, may also shed some light on the enormous numbers of female litigants during the 1280s. I contend that Edward I’s reforms helped encourage women and men to come forward during the 1280s to gain justice for wrongs: this would explain the upsurge in female plaintiffs during the years 1283 and 1285. King Edward I had two obvious advantages in allowing women to litigate during his reign. First and foremost, Edward stood to make money from all homicide cases brought before his court—if he turned away female plaintiffs, he was also turning away profits. Secondly, and much less cynically, one of the king’s principal duties was to protect his subjects, especially the “weak” like women, children, the elderly, or the disabled. Edward I’s Patent Rolls are littered with mandates of protection and commissions of oyer and terminer for his sheriffs to investigate crimes at the local levels. I would suggest that Edward I and his justices were more interested in protecting their subjects, maintaining order, and dispensing justice than restricting pleas on the basis of gender. Edward’s judicial zeal still does not explain the large numbers of female plaintiffs in the documents before his reign, but perhaps the answer lies in the same vein—justice and public order were more important than gender in thirteenth- and fourteenth-century England.

Given asserted that women were involved in homicide far less often than men because “they played a less active role in social life.” True, medieval English women never formally served in public offices as jurors, sheriffs, or attorneys, but my evidence challenges Given’s assertion directly. Klerman noted that bringing a case to court often required copious amounts of public pleading, speaking, and explaining. Is it not therefore conceivable that these 205

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119 Given, *Society and Homicide*, 141.
120 Klerman, “Women Prosecutors,” 308
women who pleaded in the King’s Court for homicide had a moderate degree of self-confidence? Is it not also possible that they were used to and unafraid to speak in a public setting? The sources do not reveal that women had less legal agency than men; instead, they indicate that women regularly used the court system with agency, even confidence. Homicide was certainly not the only crime women brought to court throughout the thirteenth and fourteenth centuries. Women continued to demonstrate agency while appealing other violent crimes in the King’s Court. The women who appealed men or women for assault or rape will be the subject of the next chapter.
CHAPTER THREE

WOMEN AND ASSAULT

Unlike the previous chapter in which women litigated for violent crimes committed against their husbands or family members in the King’s Court this chapter will focus on crimes committed against women’s bodies. The cases discussed here will include violent physical assaults, including maiming and violent attacks on pregnant women that led to spontaneous abortion, sexual assault, meaning both rape, or raptus, and abduction, or kidnapping with intent to rape or to force marriage. The vast majority of these appeals were brought by the female victims themselves but in some cases women brought appeals jointly with their husbands or other kinsmen or even litigated for their husbands, kinsmen, and servants. I hope that this chapter’s focus on female victims will illuminate the ways the royal court sought to decrease violence within the realm and even protect women who had been victims of physical assault. I will also explore the relatively large number of women who litigated for assault during the thirteenth and fourteenth centuries in order to ascertain whether women were able to gain compensation for crimes through judicial and legal means. I will first discuss general problems in my data, explore the numbers of women who brought pleas of sexual or physical assault, and compare the numbers of men and women who brought assault pleas during the same years. The next section will address specific cases that provide some evidence for out-of-court settlement and a discussion of the importance of immediately reporting a violent crime to jurors. Finally, I will analyze women’s marital status and how it affected female litigators, followed by my conclusions of women’s experiences in litigating for assault.
In my sample of cases, women brought forty-seven appeals of rape and thirty-four appeals of assault, five of which were assaults resulting in miscarriage, totaling eighty-one appeals over the span of sixty-four years. Although these figures may seem low when compared to the 205 female plaintiffs who brought murder pleas during these same years, the evidence of eighty-one female litigators is impressive. Not only is it significant that women brought these theoretically forbidden pleas to court with regularity, but it is even more interesting that these women often won their suits, gaining convictions and sending men and women to gaol or into exile, making them forfeit their property, or at the very least pay a hefty monetary fine to the injured parties and the crown. Readers may find Table 5 a useful visual representation of all the female litigants who appealed crimes of assault from 1198-1208 and 1276-1347. Table 6 then divides these assault appeals by physical or sexual assault.

Table 5: Women’s Assault Appeals
Recent studies on late medieval England have concentrated on female victims of rape and explored the low conviction rates for women attempting to punish their rapists. In *Stolen Women in Medieval England*, Caroline Dunn undertook a comprehensive survey of English royal court records, *Patent Rolls*, and *Parliament Rolls* from 1100-1500, focusing on the crimes of rape, abduction, forced marriage, and adultery.\(^{121}\) In her comprehensive study of 400 years of royal court records, she found that a large number of alleged rapists received royal pardons for their crimes instead of suffering harsher penalties under the law.\(^{122}\) Despite what could be interpreted as leniency for suspected sex offenders, Dunn was hopeful in suggesting that women


\(^{122}\) Dunn, *Stolen Women*, 70.
may have received compensation by way of private settlement, a resolution that could have favored the female plaintiff but would not be recorded in the court’s rolls.¹²³

In her work, *Crime and Conflict in English Communities*, Barbara Hanawalt concentrated rural English communities during the first half of the fourteenth-century. Hanawalt focused on both men and women and discussed the crimes of larceny, burglary, robbery, homicide, receiving felons, arson, rape, treason, and counterfeiting. She analyzed the court records of eight English counties and found that “the character of the victim determined the indictment and conviction, and the crime [of rape] was seldom prosecuted.”¹²⁴ Hanawalt also compared medieval and modern conviction rates for the crime of rape and found that medieval “jurors were indicting about as many men for rape as now, but [medieval jurors] were convicting them more frequently.”¹²⁵ In *Rape in Medieval England*, John Carter surveyed thirteenth-century court records of seven English counties and three English cities, London, Brisol, and York. Carter found that rapists were found guilty in 21% of 145 cases.¹²⁶ In his article “The Crime of Rape Temp. Richard I and John,” Roger Groot found only a few rape convictions from the years 1189-1216. This led him to assert that “either the government or the jurors, or both, thought rape an inappropriate matter for resolution through publicly-initiated prosecution.”¹²⁷ My findings do not support these low estimates of convictions for rape. Instead, the royal court records during my selected years show that many rapes were prosecuted publicly in the royal court, and often with success.

¹²³ Dunn, *Stolen Women*, 72.
Of the forty-seven rape appeals, thirteen cases were not followed up, thirteen were commissions of oyer and terminer and did not include a verdict, one case was ruled a false claim, and one case was settled by marriage; at the same time eleven defendants were outlawed, three were forced to pay a fine, two were already in custody, two were wanted by the sheriff, and one man was found innocent. If one counts the cases that were not followed up, the false claim, and when the defendant was found innocent as “lost” cases, fifteen out of forty-seven appeals were unsuccessful. If one counts the eleven cases in which defendants were outlawed, the three who were forced to pay a fine, the two in custody, the two wanted men, and one brought into agreement by marriage as “won” cases, women gained successful outcomes in nineteen out of forty-seven appeals. In this sample of cases, women in the royal courts enjoyed an estimated success rate of 40%, which is significantly higher than the estimates of Hanawalt and Carter.

Women’s success rates in assault appeals are not quite as high as in rape appeals. Of the thirty-four cases, fifteen were commissions of oyer and terminer, four cases were not followed up, another day or another court was sought in four, three men were taken into custody, two women were in mercy for false appeal, two parties were brought into agreement, two men were forced to pay a fine, one man was found innocent, and one case gave no indication of the verdict. So in this sample of assault pleas, women were only “successful” an estimated 20.5% of the time.

In Society and Homicide in Thirteenth-Century England, Given discussed the different levels of violence in the lives of men and women, concluding that men were victims of and perpetrators of violence far more often than women. My evidence does not wholly dispute Given’s conclusion, but it does call it into question. From 1198 to 1212, fifty-eight men brought pleas of assault, maiming, or wounding to the royal court while women brought thirty-eight pleas

128 Given, Society and Homicide, 134.
of assault, twenty-five being sexual assault while thirteen were non-sexual assaults. True, men
did bring twenty more pleas of assault to the royal court, but this gap in cases brought by each
gender was not as dramatic as Given’s conclusions suggest. From this data, it seems that women
were almost just as likely to be victims of assault as men, yet from the evidence it is also clear
that if a woman were assaulted it was most likely to be sexually.

Also interesting to note is that in none of these cases were women’s appeals restricted by
the defendant’s citing of the Magna Carta, Bracton, or Glanvill, unlike in the four murder
appeals. The language in each of these assault cases indicated that these women had the right to
appeal men for rape, yet the Magna Carta supposedly did not allow women to litigate for general
bodily harm. How then can one explain the thirty-four women who litigated for non-sexual
assault especially considering the four women who were restricted in their appeals of homicide
during the same years? One is reminded of the case of Cecily, widow of Carlton Castle, in 1307
when she attempted to convict Gilbert for the murder of her husband. The fact that Cecily was
restricted in her appeal because she had since remarried may have been a political excuse
intended to clear Gilbert of the charges because he was a favorite of Edward I. Were these thirty-
four women lucky enough to stay free from courtly politics or did the judges believe no man or
woman had the right to restrict women’s assault appeals?

Such judicial attention to women’s cases could lead one to conclude that the royal courts
were concerned with protecting their female subjects instead of adhering to restrictions proposed
in theoretical statements about law. In my data, not only is the number of successful female
plaintiffs higher than estimated by Given, Hanawalt, and Carter, but a number of cases also
mentioned the possibility of out-of-court settlement. It is reasonable to assume that medieval
villagers and townspeople often settled disputes without the aid of the royal justices. Admittedly,
the prevalence of out-of-court settlement would be impossible to determine, yet there are some cases in which this practice is mentioned. In the next section I will explore the possibility of out-of-court settlement and its implications on female litigators and estimated success rates.

Evidence for the Possibility of Out-of-Court Settlement

A rather high number of both men’s and women’s cases in the royal courts were not followed up. In cases of assault between 1198 and 1212, seventeen out of thirty-eight women and fourteen out of fifty-eight men failed to follow up their cases. A higher percentage of women than men failed to follow up their assault cases during this fourteen year period, but failing to continue a prosecution or withdrawing from a case did not necessarily mean the case had ended unfavorably for the plaintiff. Both Daniel Klerman and Louise Wilkinson have mentioned this possibility. In his article “Settlement and the Decline of Private Prosecutions in Thirteenth-Century England,” Klerman asserted that men and women alike often brought cases to court in order to scare their judicial opponents into settling with them out-of-court.¹²⁹ In another article, Klerman also discussed the possibility of extrajudicial settlement, noting that “in many non-prosecuted cases the records indicate whether there was a settlement,” leading him to conclude that favorable settlement for both men and women was higher than his estimates.¹³⁰ Wilkinson also pointed to the possibility of out-of-court settlement in her discussion of the success rates of female litigants, mentioning a few cases in her sources that suggested some settlements ended in “unspecifed compromise agreements.”¹³¹ Yet neither Klerman nor Wilkinson included concrete examples of out-of-court settlements that would prove their theories.

Klerman and Wilkinson make a persuasive case that out-of-court settlement may have been very common. Unsurprisingly, the majority of cases are silent on this question and only a few provide information about extrajudicial settlement. One of the cases in which two opposing parties were brought into agreement without formal prosecution and indictment reads thus:

Joscea wife of William de la Dune appeals the aforesaid Michael that he came to her house and assaulted her and wickedly and in the king’s peace wounded her on the head. They are brought into agreement by license of the Justices.132

Here it is clear that the two parties were reconciled with the help of the king’s justices. Not only were physical assaults settled in this manner, but I also found one rape settled by marriage. The case said specifically that “[Malot Crawe and Robert son of Godfrey] are brought into agreement by license of the Justices, in as much as he has taken her to wife.”133

These cases provide evidence that negotiated settlement as opposed to litigation with intent to prosecute could have been common in medieval England, just as Wilkinson and Klerman have suggested. Yet one case in my research stands out among all of these as the most convincing evidence for the possibility of out-of-court settlement. In 1203 Sybil, daughter of Engelard, appealed Ralf of Sandford for assault that resulted in spontaneous abortion and robbery. The case reads:

Sybil daughter of Engelard appeals Ralf of Sandford that… he came to her lord’s house and broke the doors and carried off her chattels and so shamefully treated her that he killed the living child

133 “Concordati sunt per licenciam Justic’ per sic quod cepit eam in sponsam,” PBKJ, vol. 2, 74.
in her womb. Afterwards she came and said that they have been brought into agreement and she withdrew herself because they were agreed that Ralf should satisfy her touching her chattels by the view and judgment of lawful men and Ralf has agreed to this.134

Several details about this case are worth analyzing. Firstly, it is significant that Sybil came back to court to tell the justices that she and Ralf had reached an agreement. If Sybil had not come back to court the justices would have simply recorded that she had not followed up her case, leading researchers to assume the plea had not worked out in her favor. Instead, the opposite is true. This leaves one to wonder how many men and women did not bother reporting to the justices that they had reconciled their differences with the defendant. Secondly, notice that the royal court has noted that Sybil will receive her due retribution “by the view and judgment of lawful men.” Perhaps these lawful men were village elders or jurors, the entry did not specify. This again begs the question—how often did “lawful men” help mediate disputes?

This case between Sybil and Ralf of Sanford is revealing in another way. Notice that Sybil appealed Ralf for stealing her chattels and assaulting her so that she had a miscarriage. Yet when Ralf and Sybil were brought into agreement, it was recorded that “Ralf should satisfy her touching her chattels…” and the issue of her lost child was unaddressed. Sara Butler noted that such assaults were sometimes unplanned byproducts of robbery or assault.135 She also asserted that some assaults on pregnant women were intended to cause miscarriages, even going so far as to suggest that some women, if their pregnancy was unwanted, willingly agreed to the primitive

134 “Sibilla filia Engelardi appellat Radulfum de Saunford quod ipse in pace domini Regis et nequiter et super pacem ei datam a vicecomite in comitatu. Venit ad domum que fuit domini sui. Et fregit ostias suas et catalla sua asportavit et eam ita tractavit quod infantem quem habit vivum in ventro suo occidit. Postea venit ipsa et dixit quod concordati sunt et retraxit se quia concordati sunt quod ipse Radulfus satisfaciet ei de catallis suis per visum et considerationem legalium hominum et ipse Radulfus hoc concessit,” PBKJ, vol. 3, 204.

135 Butler “Abortion,” 785.
abortion technique. I do not mean to suggest that Sybil was complicit in the assault or that Ralf intended to harm Sybil’s baby during the burglary, but the fact that no compensation was mentioned for the assault raises some questions about female agency. If Sybil were not complicit in the assault-miscarriage and Ralf did not compensate her for the assault and loss of her child, it does not seem as if Sybil had much agency in this case. Yet one may notice Sybil was identified as a “daughter” and not a wife, indicating she was probably pregnant and unmarried. It would not, therefore, be inconceivable to think that Sybil’s pregnancy may have been unintended and unwanted, leading one to wonder if she was complicit in the burglary and assault. If Sybil had been complicit, one could argue that she was acting with agency; she successfully aborted the unwanted child, albeit after enduring physical trauma, and, as the language of the case suggests, would be compensated for any goods she had lost in the struggle. It may be impossible to know for certain whether Sybil was complicit in the crime, but either way she still brought a case to court and received compensation from Ralf for her chattels. She still exercised agency, though whether or not she received a favorable settlement is unknown.

Thirteen of the twenty-five rapes found in the royal court records from 1198 to 1212 were not followed up. It is far too optimistic to claim that all thirteen of these women were brought into a negotiated settlement with their alleged rapist, but when taken with Sybil’s case, at least a portion of these women could have certainly settled out-of-court with their attacker. Again, one cannot draw definitive conclusions about out-of-court settlement simply because the evidence has not yet been found; yet I hope that my brief discussion of the possibility of extra-judicial agreement to suggest that out-of-court settlement in thirteenth-century England was a potentially significant, although poorly documented, means of judicial negotiation.

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The Advantage of a Suspicious Jury

In an age that did not have the advantages of modern forensic technology to aid in capturing criminals, the prosecution of crime in medieval English society depended on the testimonies of eye-witnesses, proof of any visible wounds from the alleged attack, and the immediate raising of a “hue and a cry” to let others know a crime had been committed. It was not only the victim and his or her kinsmen who were responsible for alerting officials if they suspected or witnessed a crime being committed, but also the entire village was responsible for reporting crimes and complying with the investigation in whatever way possible.137 If one stumbled upon a dead body or a crime being committed, that person was obligated to report it, or raise a hue and a cry, or risk being found guilty of concealment or even aiding a criminal.138 While there was a strong emphasis on witnessing a crime, it was also very important to seek the proper authorities immediately if you were the victim of a crime. A number of murder, rape, and assault cases in the royal courts hinged on the suspicion of the jury, testimonies of important witnesses, or how quickly the crime was reported. In the sample of cases I investigated, jurors’ suspicions worked for and against many women in my records. I hope that my exploration of suspicion and proof of wounds can further illuminate the royal courts’ attempts to punish physical or sexual violence inflicted on women.

Only twelve cases have given any indication of jurors’ suspicion. The pleas discussed in this section will include two rape cases, four assault cases, and five murder cases, in which reputation, timing, and the presence of blood were instrumental to a successful case. I have divided these cases into two categories: seven being instances of jurors’ suspicion working in favor of female plaintiffs, and the other four cases in which jurors leaned in favor of male

137 Given, Society and Homicide, 65-68.
138 Given, Society and Homicide, 68.
defendants. It is probably significant that in seven instances the jurors supported women’s pleas and in four they did not. This may constitute even more evidence that jurors were sympathetic to the pleas of female plaintiffs, especially when they had seen her bloodied and beaten. In three of the six cases in which jurors sided with the female plaintiff, jurors had seen evidence of wounds and in the other three cases jurors suspected the defendant[s]. Of the three cases in which obvious wounds were seen on women’s bodies, two were assault cases and one was a rape case. Of the three cases where the jurors suspected the defendants, one was an assault case and two were murder cases.

As is often the case today, receiving medical attention for injuries and reporting the crime immediately to authorities is a vital part of a criminal investigation. Such direct evidence of physical violence or sexual misconduct greatly aids in prosecuting crimes like assault and rape that often have no witnesses beyond the assaulted. In 1201 a woman named Gunilda appealed Gilbert of Hammet for beating and wounding her and another woman named Edith of St. Teath appealed Robert, son of Wastay, for the same crime. Both won their assault cases and their respective attackers were taken into custody and fined. Gunilda’s case noted that when she appealed “Gilbert... of breaking the king’s peace and of beating and wounding her,” he denied the charges but “the jurors say that [Gunilda] was so beaten and shamefully trampled on” that he should be “taken into custody and Gilbert has made fine with Gunilda by half a mark, and with the king by half a mark.”139 It is vital to note that the only reason this case did not descend into a “he said/she said” conundrum was because Gunilda had managed to show the jurors her wounds and bruises as evidence of the physical attack. Edith of St. Teath used the same strategy to convict Robert. Even though Robert denied the charges, the case reads “Edith… appeals

139 “Gunilda appellat Gillebertum de Hamet de pace domini Regis infraecta et de verbatione et vulneracione ei facta. Et Gillebertus defendit sed juratores dicunt ipsam ita verberatam et turpiter conculcatam. Et ideo custodiatur et Gillebertus finem fecit cum Gunilda per dimidiam marcam et cum Rege per dimidiam marcam,” PBKJ, v. 2, 71.
Robert… that in the king’s peace he wounded her in the head so that sixteen bones were extracted and this was attested by the jurors,” indicating that the jurors had indeed seen the grisly wound.¹⁴⁰

Both Gunilda and Edith must have contacted the authorities immediately in order to show them the fresh wounds that served as material evidence to convict their attackers. A woman named Sibba appealed William, son of Hugh of Bolton, of rape and beating in 1208 and also instantly contacted authorities. The case reads:

Sibba daughter of William appeals William son of Hugh of Bolton that in the king’s peace he took her outside the village of Wheldrake and lay with her by force and beat her and made her bloody. And she immediately came to Wheldrake and showed this deed to Alan Malecake and Walter de Beauuair, who bear witness to this. And the village of Wheldrake bears witness that they heard it said that she raised the hue and that she made complaint before the coroners. They are brought to agreement by 20 shillings which this William gives to Sibba…¹⁴¹

Sibba not only raised a hue and a cry but she also showed the coroners Alan and Walter her wounds. On top of showing the coroners the evidence of rape, the clerk noted that the entire village of Wheldrake was made aware of the crime. Instead of attempting to conceal what must have been a traumatic experience, Sibba made the crime as public as possible, informing the coroners. In this way, William had absolutely no chance of escaping punishment.

¹⁴⁰ “Edith’ de Sancta Tecla apellat Robertum filium Wastey quod ipse in pace domini Regis vulneravit eam in capite ita quod xvj ossa fuerunt extracta et hoc testatum fuit per juratores. Et Robertus venit et defendit et captus fuit et finivit per dimidiam marcam,” PBKJ, v. 2, 88.
¹⁴¹ “Sibba filia Willelmi appellat Willelmum filium Hugonis de Boelton’ quod ipse in pace Regis cepit eam extra villam de Queldric et vi concubuit cum ea et eam verbabit et fecit sanguinolentam. Et ista statim venit ad Queldric et hoc factum monstravit Alano Malecak’ et Walero de Beauuair, qui hoc testantur. Et villata de Queldric testator quod audierunt dici quod ipsa levavit clamorem et quod fecit clamium suum coronatoribus. Concordati sunt per xx solidos quos ille Willelmus dat predicte Sibbe…” PBKJ, vol. 4, 114.
Not only was the presence of wounds and blood a vital part of a successful case, but reputation, evidence that the perpetrator fled the scene of a crime, and group suspicion also played a large part in gaining convictions. In 1201 Bela, widow of Robert, appealed four men, Ernald the champion, William his brother, Peter his brother, and William son of Ernald of beating and wounding her. For an undisclosed reason, Bela withdrew her case, no longer wishing to prosecute these men for the crime. It is recorded, however, that when jurors were asked about this case, they reported “that Bela was so beaten by them and therefore let them be taken into custody.” Perhaps Bela withdrew her case because Ernald the “champion,” who was likely a successful knight, may have been a formidable judicial opponent. Yet it is very significant that the jurors were still interested in convicting her assaulters even after Bela withdrew her suit. Just as in the last chapter, it seems that the royal court may have been concerned with protecting women, although this could be a favorable by-product of the royal justices’ real duty—preserving the king’s peace. Perhaps both protecting women and preserving peace and public order were objectives of the King’s Court. Even though it may be impossible to prove intention and the justices may not have been consciously protecting vulnerable women, their attempts to preserve the king’s peace definitely benefitted women directly.

Jurors’ suspicion was also apparent in two murder cases, one headed by Denise, widow of Anthony, in 1201 and the other by Eva, wife of Roger Moltcombe, in the same year. Denise appealed Nicholas Kam for murdering her husband. Denise was restricted in her appeal not because she was a woman but because “she did not put her sight of the crime in her appeal,”

142 “Ernaldus campio et Willelmus frater eius et Petrus frater eius et Willelmus filius Ernaldi appellati fuerunt per Belam que fuit uxor Rogeri de verbatione et vulneratione eiusdem Bele,” PBKJ, vol. 2, 68.
143 “Et juratores interrogati dicunt ipsam Belam ita per eos esse verberatam…” PBKJ, vol. 2, 68.
meaning she could not truthfully assert she was a witness. Yet when the jurors were asked, “[they] say that they suspect [Nicholas] thereof, and the whole shire likewise suspects him.” It was then recorded that Nicholas would “purge himself by water,” or undergo an ordeal, to prove his guilt or innocence.

Eva of Moltcombe’s case is much more complex and a bit more revealing. In 1201 Eva appealed three men—Walter, son of William, and Osbert, the felterer, and John, the smith, not only of murdering her maidservant Juliana, but wounding her husband Roger and their infant and stealing all their chattels. The entry revealed that Eva could not speak of this from her sight and hearing, but fortunately for Eva’s case, “[t]he 12 knights of the hundred suspect[ed] them thereof and the 4 neighboring villages likewise.” Like Nicholas, these defendants were also sentenced to undergo an ordeal. This case is not only interesting in that it provides insight into criminal reputation and group suspicion, but it also reveals a woman who litigated in the place of her maimed, but very much alive, husband. Perhaps it is also possible that Walter, Osbert, and John were known as violent and volatile men, predisposing the jurors and the neighboring villagers to suspect them of this violent attack.

It is revealing that in each of these cases the defendants were found guilty, the physical evidence of assault too damning to mount a convincing defense. Yet jurors’ suspicion often worked against female plaintiffs as well. I found four cases in which it was recorded that the judges were suspicious about female plaintiffs and perhaps even conspiring against them. In two of these four cases the judges did not suspect the male defendants due to certain pieces of

144 “Consideratum est quod Dionisia non habet appellum quia ipsa non apposuit appello suo visum,” PBKJ, vol. 2, 54.
146 “Nicholas purget se per aquam,” PBKJ, vol. 2, 54.
147 “…et intraverunt et ligaverunt virum suum et intesiliaverunt et infantem suum, et ceperrunt omnia catalla sua que invenerunt in domo sua…” PBKJ, vol. 2, 214.
evidence and let the men go free while in the other two cases, it is recorded that the jurors may have concealed certain information in order to hurt the female plaintiff’s case. The two cases of skeptical jurors will be discussed first followed by a discussion of the possibly corrupt juries.

In 1285 Henry of Berwich was appealed by William Hirdeman and Christiana, his wife, for beating Christiana, stealing goods and chattels, and abducting their two daughters, Cecily and Christiana. Unlike many cases, which are usually short and very succinct, this case provided a wealth of information surrounding the alleged crime. The case disclosed that after Henry had allegedly beaten Christiana and kidnapped their daughters, William and Christiana came to court claiming they had suffered the loss of 100 shillings on top of the abduction of their daughters. When Henry, the defendant, arrived in court, a whole different side of the story was revealed. First and foremost Henry “explicitly denies that ever on the aforesaid day and year did he beat and ill-treat the aforesaid Christiana or abduct the aforesaid Cecily and Christiana.” Instead, Henry asserted that the female plaintiff, Christiana, “had been excommunicated on account of her contumacy” and had left the town of Bristol, leaving her two daughters “wandering about in the aforesaid town of Bristol without protection.” Henry then claimed that the mayor, “who has charge of orphans and all other things pertaining to the aforesaid town for the community of the town of Bristol,” took Cecily and Christiana and put them in Henry’s custody until their

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151 “…quia dicit quod eadem Cristiana excommunicate fuit propter eius contumacionem, per quod eadem Cristiana elongavit se extra villam Bristoliae ita quod predicti pueri iverunt vagantes in predicta villa Bristoliae sine custodia...” SCCKB: Edward I, vol. 1, 135.
parents were found. The jurors, on their oath, corroborated Henry’s story and the judges declared that Henry should be set free without delay. William and Christiana’s fine for false appeal was waived because they were poor.

This case is interesting not only because it provides an instance where jurors’ knowledge worked against a female plaintiff, who seemed to have been in the wrong, but it also reveals a case in which the two plaintiffs may have been bringing a false claim in hopes of gaining compensation from the defendant. One also wonders if Christiana’s excommunication and bad reputation had anything to do with the jurors siding against her, or if she and her husband had a habit of bringing false claims to court. Either way, the case demonstrated that women were not only capable of utilizing the courts to gain justice, but that this woman and her husband were also capable of manipulating the court system, though unsuccessfully in this case.

About eighty years earlier in 1208, Emma, daughter of John, appealed Amfrey, the smith of Barton, for the death of her husband. Emma did not follow up her case but the justices ordered that Amfrey was to be arrested anyway in the neighboring town of Haliwerfolk where he had fled. When the litigating parties were finally all in court, the jurors declared that Emma’s husband had not been murdered by Amfrey but “died a natural death a long time before, and that Amfrey was appealed for malice.” Unfortunately, the clerk did not provide any additional details about Emma’s allegedly false claim. But again, it was not the testimony of litigants but the jurors’ outside knowledge of the natural death of Emma’s husband that ultimately decided the case.

152 “…idem maior qui custodiam habet orphanorum et omnium aliarum rerum ad predictam villam pertinentium propter communitat’ ville Bristollie…” SCCKB: Edward I, vol. 1, 135.
154 “Et Amfridus dat j marcam pro habendo judicio suo secundum veredictum juratorum qui dicunt quod longo tempore ante, fuit vir ipsius Emme mortuus de sua propria morte et quo per attiam fuit appellatus Amfridus,” PBKJ, vol. 4, 105-106.
From the details of the last two cases, one could assert that the judges seemed primarily interested in keeping order and doing justice. They made sure Cecily and Christiana, daughters of the excommunicated Christiana, were safe and taken care of; they waived Christiana and William’s fine for false appeal because they were poor; and they ascertained Amfey’s innocence by investigating the circumstances surrounding the death of Emma’s husband. This is the only women’s case that suggested the defendant was appealed “for malice” in my sample of cases. But in my research I found that this may have been a fairly common occurrence in medieval England and, as I have discussed, initiating a claim in court may have been a way to intimidate others into settling the dispute out-of-court.

There is also some evidence that village jurors may have worked against female plaintiffs at times, concealing certain evidence or persons she wished to appeal, much to the detriment of these women’s cases. One such case was recorded in 1208 between Malet, daughter of William, and William of Holtby. Malet came to court and appealed William of Holtby “of rape, namely that he took her by force in the house of Robert of Askham, where she was with her father and mother, and they carried her into a garden and he lay with her and took her virginity and robbed her of chattels to the value of 20 shillings.” This reads like a normal case at first glance, but notice that William of Holtby was accused of raping Malet, but the verb “portaverunt” is in the third-person plural, indicating that there may have been someone else present at the scene of the crime. The next two cases shed light on this confusion.

The next entry reads, “The same Malet appeals as accessory Gikel son of Warin de Hotun’…” but was left unfinished, making this case all the more curious. But in the next entry, the royal justices recorded that the village jurors were under investigation for concealing from

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155 “…de rapo scilicet quod ipse cepit eam cum vi sua in domo Roberti de Ascum ubi fuit cum patre suo et matre sua et eam portaverunt usque in unum gardinum et concubuit cum ea et rapuit ei virginitatem suam (et ei robauerut catalla sua ad valenciam xx solidorum)…” PBKI, vol. 4, 108-109.
them that Malet had also appealed Gikel, son of Warin, of aiding and abetting William, her rapist. These related entries are extremely valuable and raise a number of questions about legal honesty and women’s agency in seeking different avenues to right wrongs. Is it possible that Malet sought the aid of the royal justices because she realized the village jurors were working against her? Were the village jurors actively hiding Gikel for reasons unknown or was this “concealment” just a bookkeeping error on the part of the local jurors? Whether or not the village jurors purposefully plotted against Malet is certainly an interesting question, but regardless, Malet may have sought the royal court when she experienced some resistance at the local court level.

A similar case is recorded in the same year between Agnes, widow of Robert of Laytham, and thirteen defendants who allegedly aided in the murder of her husband. In this case, the jurors were again suspected by the royal justices of concealing one of the defendants, Simon, son of Ivo. Is it possible that the King’s Court was a more impartial space than the county courts? Did women believe they were more likely to find aid or at least fair treatment from the royal court? Such evidence for county courts concealing suspects certainly raises some questions about the influence of local groups in the country courts and attitudes toward gender and justice. It will take more research to know for sure and such questions may be outside the scope of this thesis, but this evidence so far suggests that women may have been able to exercise agency more effectively in the royal courts scattered around England as opposed to the local or county courts.

157 “Ad iudicium de iuratoribus qui concealaverunt Simonem filium Ivonis esse appellatum et malecreditum per appellum eiusdem Agnetis,” PBKJ, vol. 4, 102.
Assault and Marital Status

In the last chapter, I have included a discussion of how marital status affected women’s attempts to litigate for murder. I will undertake the same analysis here. In my sample of forty-seven rape cases, twenty-one women were recorded as daughters, twelve women were mentioned individually, six were identified as widows, three litigated with the aid of their husbands, two were sisters, one was a wife, and two names were too damaged to read the women’s names or marital status. In my sample of thirty-four assault cases, thirteen women were mentioned individually, seven litigated with their husbands, six were recorded as widows, four as daughters, three as wives, and one litigated with a man who was not recorded as a kinsman.

There are a number of differences in the marital status of women who litigated for murder versus physical and sexual assault. The reader will find it helpful to peruse Tables 7 and 8, two graphical representations of the marital statuses of women who appealed sexual or physical assault in the King’s Court.

Table 7: Women’s Sexual Assault Appeals and Marital Status
The most readily apparent difference in women’s marital status and type of assault plea is that women who appealed rape or assault in the highest numbers were either mentioned individually or were identified as daughters. These “single” women were probably more vulnerable to sexual or physical assault, but the fact that these women did not have husbands or male guardians litigating on their behalf also indicates that “single” women had some degree of agency in the royal courts without the aid of male relatives. It is noteworthy that both women mentioned without reference to a man and widows accounted for almost half, thirty-seven out of eighty-one, or 46%, of female litigants. This could show that many women may have brought their cases to court by themselves. This could also indicate that single women may have been more vulnerable to physical attacks, but it also suggests that these single women then sought compensation for such attacks, refusing to be passive, silent victims of violence.

One also notices the high number of female plaintiffs recorded as daughters. The majority of these women litigated for rape, which most likely indicates that they were unmarried women
still in the custody of their parents. In his article “Life and Death: The Ages of Man,” P. J. P. Goldberg explored conceptions of age during the Middle Ages, asserting that girls were believed to come of age around twelve years old and lived with their parents up until that point. It would be safe to assume that women recorded as daughters in my sources were about twelve years of age and were most likely still in the custody of their parents. Daughters who litigated for rape account for 45% of my sample. Unfortunately, the clerks did not record which family members came to court with these female plaintiffs. In rape cases, which were probably traumatic for the victim and for her family members, fathers and even other kinsmen or women may have accompanied their daughters to court to provide additional details on the crime or simply to offer moral support. Rape was often seen as a crime committed not only against women’s bodies but against her entire family as well, especially if she had been a virgin. Yet even if kinsmen accompanied a woman to court, she, as victim and plaintiff, was still responsible for explaining her side of the story to gain a conviction.

This again indicates some degree of female agency. Only by speaking, pleading, and re-living the rape in front of the accused litigators, royal justices, and village jurors, could a woman potentially convict her rapist. One may recall Daniel Klerman’s assertion that litigation involved extensive public speaking. Once again the evidence provides clues about both female agency as well as the victimization of women and contradicts assumptions about their timidity and lack of involvement in public life. Given suggested women did not have very active social lives outside the home and were much more restricted than men in their choice of social relationships. It is true that medieval men were encouraged to have more social relationships outside the family than women, but I would assert that the presence of female plaintiffs coupled with my estimated

159 Given, Society and Homicide, 141-147.
success rates challenges Given’s assertions about women’s lack of social involvement. The fact
that daughters, who were most likely younger women, brought almost half the rape cases in my
sample, suggests that women believed they could gain convictions against their attackers in the
King’s Court. It also suggests that some women, regardless of age, were assertive and willing to
speak in public (or at least to appear).

Although almost half of the cases in my sample indicated that women may have litigated
alone, some female plaintiffs litigated with their husband or another person for rape and assault.
It is also noteworthy that a number of wives also litigated on behalf of their husbands for
assaults. The three cases in which women litigated with another person involved not only the
crime of rape but also abduction. Abduction, or kidnapping with intent to rape or force marriage,
was a frequent enough problem in the medieval world to be the subject of both Kathryn
Gravdal’s *Ravishing Maidens* and Caroline Dunn’s *Stolen Women in Medieval England*. While
Gravdal explored the low conviction rates for rape in medieval France, Dunn explored the
possibility of women’s involvement in their own abductions, treating women as accomplices
instead of victims. Only one of the cases in my sample could support Dunn’s argument. In 1342
the abbess of Godestowe came to court to appeal the abduction of Agnes de Ledebury, a nun at
Godestowe, by Elias Walewayn.160 The case reads that if Elias surrenders to gaol, he will be
pardoned for the abduction. Unfortunately, no information is provided about Agnes’ possible
compliance with the abduction, but this case could still provide insight into two females who
sought justice in two different ways and for different reasons: Agnes and her abbess.

The other two abduction cases indicate the female plaintiffs were probably not complicit
in their kidnappings. Both cases took place in 1346 and both female plaintiffs litigated with their

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husbands to gain justice from their abductors. John de Martham and his wife, Isabel, came before the king and accused Robert de Asshele of abducting and ravishing Isabel not once but two times.\textsuperscript{161} That same year Simon, son of Roger de Munketon, petitioned the king and his justices to help get his wife, Agnes, and certain goods back from William de Huntyngton and Richard de Grymesby and others who continued to withhold both his wife and his goods from him.\textsuperscript{162} Agnes would most certainly bring the case herself once she was released, if she were not complicit, but Agnes could obviously not litigate while she was kidnapped.

Women brought more assault pleas to court with family members than rape pleas in my sample of cases. Seven out of thirty-four women brought their assault pleas with another person while only three out of forty-seven women brought rape cases with a family member. Of the seven cases in which women litigated with family for assault, six came to court with their husbands and one with an unrelated male. Of the six cases in which husband and wife litigated together, half of them had to do with assault that resulted in miscarriage while the other half were general assault pleas. The one instance in which a woman brought suit with an unrelated male is a special case. She was identified as Katherine, widow of David de Strasbolgy, Earl of Athol, and her fellow litigant was Bernard Pouche.\textsuperscript{163} It has been mentioned that it is often difficult to discern social status in these tersely described cases, yet it is probable that Katherine was an elite woman since she complained of criminals breaking into her park and assaulting her servants and was the widow of the Earl of Athol. Katherine came to court with a man named Bernard who may have been an elite friend, although his relationship to Katherine was unrecorded.

Katherine’s case is interesting not only in that she litigated with another male but that she was

\textsuperscript{162} CPR: Edward III, vol. 7 (Liechtenstein: Kraus Reprint, 1971), 102.
\textsuperscript{163} CPR: Edward III, vol. 5, 321.
attempting to gain justice for an assault on one of her servants, Thomas atte Vyne of Canterbury, and for breaking and entering her park. Since Katherine was most likely an elite woman, all parties involved, including the injured servant Thomas, may have found it more prudent for her to lead the case in prosecuting the enormous twenty-seven or more defendants before the royal justices. This case, yet again, hints at women’s ability to spearhead cases in the royal court.

Katherine was not the only woman to litigate for injured servants. In 1201 a woman named Alleva brought a case to court for her husband who had been assaulted. Alleva’s husband had survived the assault, but could not speak and argue before the justices because he was mute.164 In this case, the justices seemed to have readily accepted Alleva in her husband’s place, perhaps indicating that wives could litigate on behalf of their husbands if they were unable. Another woman, Agnes, daughter of Adam Murdac, appealed Reginald Warter, his brother, Gilbert, and another man named Gilbert of wounding her husband in 1208.165 It is interesting that Agnes’ husband remained unnamed throughout the entire case, when women were usually further identified by their husband’s name. Unfortunately, no other helpful details were included except that Agnes failed to follow up her case, and the defendants were set free after paying a small fine to the justices.

Women and Assault: Conclusions

The previous chapter on murder helped to introduce the world of medieval litigation, theoretical restrictions on female plaintiffs, and preliminary findings on the complex relationship between gender and justice. This chapter looked at female plaintiffs who litigated for rape and assault and demonstrated the ways in which women were able to utilize the courts in substantial numbers with efficacy and knowledge. It appears from these cases that, for the most part, gender

165 “Agnes filia Ade Murdac appellavit Reginaldum de Wartria de vulnere facto viro suo...” PBKJ, vol. 4, 115.
did not directly affect women’s attempts at litigation and if it did, it did not affect women in wholly detrimental ways. It is striking that in this sample of rape and assault cases, tenuously allowed for in theoretical legal treatises, not one woman was restricted in her appeal by the principles in *Glanvill*, Bracton, or by the relevant clauses of the Magna Carta.

It is equally striking that women seemed to have preferred to litigate alone than with the aid of male relatives. It would not be an exaggeration to assert that the majority of women who litigated for physical or sexual assault probably had male relatives who were alive. It is certainly curious that only a small portion, ten out of eighty-one, or 12.3%, of these female plaintiffs chose to litigate with male aid. There seems to have been a modest preference among female plaintiffs to litigate alone as almost 50% of women in my sample were widows or mentioned as autonomous individuals. This again raises the question of judicial sympathy toward women in cases of rape or physical assault and contributes to the ongoing discussion about the connection between gender and litigation.

The cases of Alleva and Agnes also suggest that the royal justices accepted female litigants in the place of men who were unable or too injured to come to court. It may be true that the royal courts preferred the litigation of males whenever possible, but these cases also suggest that the royal justices accepted female litigants without apparent prejudice. It has also been mentioned that the royal court sought to protect single or widowed women from nefarious physical or sexual assaults and may have been more inclined to condemn an alleged rapist if local jurors saw evidence of violence on female plaintiffs’ bodies. It is difficult to discern whether the royal justices harbored genuine concern for women who had allegedly been assaulted or whether they were more interested in maintaining the king’s peace. I would argue
each of these possibilities led to the same, favorable outcome for female litigants—they were protected by the royal courts and guilty men were punished.

The possibility of out-of-court settlement, though a poorly documented phenomenon, has also been explored in this chapter and could help explain the cases in which women withdrew or did not follow up their appeals. Klerman suggested that women may have brought certain appeals to court in order to scare their opponents into settling with them extra judicially.\footnote{Klerman, “Settlement and the Decline,” 15.} Does this indicate that some male defendants did not take their female accusers seriously until the women brought the case before the royal justices? This is provocative, suggesting that men may not have taken seriously women’s demands for compensation unless she had involved the royal court. Such detail can illuminate not only men’s assumptions about women’s judicial efficacy, but it can also highlight the ways women manipulated the court system, and their alleged male perpetrators, to negotiate a settlement. It is probably impossible to know whether women who withdrew or did not follow up their cases ever received compensation for crimes allegedly committed against them, but I believe Klerman’s suggestion: that at least a percentage of women’s dropped cases were settled out-of-court. I will reserve additional conclusions until I survey women’s attempts to gain justice for crimes committed against their property, which is the subject of the next chapter.
CHAPTER FOUR

WOMEN AND PROPERTY

I hope it has been sufficiently demonstrated that the king’s royal court did not observe the theoretical restrictions proposed by legal treatises or the Magna Carta and instead allowed women to litigate in large numbers for crimes that were supposedly not available to them. Yet one could argue that some of the criminal pleas analyzed in the last chapters, murders of husbands, rape, and assault, were allowed for by the Magna Carta, Glanvill, and Bracton, since each of these crimes falls under homicide and bodily harm. However, the crimes discussed in this chapter, breaking and entering, robbery, and arson, were most certainly not mentioned as allowable pleas for women in the Magna Carta, Glanvill, or Bracton—and, unsurprisingly, women brought property appeals to court with just as much regularity as physical assault pleas. Even more intriguing, women were not restricted in their efforts to do so by the clauses in the Magna Carta, unlike the four unlucky women litigating for homicide noted in Chapter Two. From 1198-1212, 1275-1300, and 1335-1350, twenty-seven women brought robbery pleas to the King’s Court, fifty-two women complained and prosecuted breaking and entering, and five women appealed the crime of arson.

Before delving into specific cases, it should be noted that the sample of women who brought property appeals to court differs slightly from the sample of women who brought murder and assault appeals. While the average number of women who brought murder and assault pleas to court remained relatively steady throughout the thirteenth and early fourteenth centuries, women brought far more property pleas to the royal court in the late thirteenth and mid-
fourteenth centuries. One can refer to Table 9 to see the apparent rise of breaking and entering pleas during the latter years of my sample. Equally interesting is the decline of robbery pleas during the same years.

Table 9: Women’s Property Appeals

This trend was most likely due to the decline of private prosecutions and the rise of litigation by presentment, discussed by Daniel Klerman in his article “Settlement and the Decline of Private Prosecution in Thirteenth-Century England.” Presentment, as opposed to private prosecution, was a form of public prosecution in which elite men were elected to report crimes that had been committed in their neighborhoods to the county courts or King’s Court.¹⁶⁷ These presenters were responsible for being aware of crimes within their jurisdiction, investigating

cases, gathering evidence, and presenting it publicly in court to the justices. Klerman noted that women were excluded from presenting juries, as they were excluded from holding public offices in medieval England. Yet it is important to understand that women’s inability to serve on presenting juries did not impede their ability to influence cases. A woman could bring her case to the king’s attention by complaining directly to the king about alleged wrongs by way of writ or even visiting the royal court. She could also, if she were witness to or had reason to suspect a crime, inform presenters of crimes that had been committed against her and her family, which the presenting jurors would then investigate. But such methods of initiating litigation have left no clear evidence in the court records. In late thirteenth- and fourteenth-century England, women had to exercise different strategies to continue using the courts once presenting juries became the norm. And utilize and manipulate they did.

Not only are women’s property cases interesting because women who litigated for stolen goods or damaged property primarily complained to the king directly, but a large number of these female litigants may also have been elites. A number of entries in the Calendar of Patent Rolls provided clues of men’s and women’s social rank in ways that the clerks who recorded cases in the Curia Regis did not. Not only were large tracts of land invaded and hunted on and a great number of goods and animals stolen in many cases, implying at the very least that these women were certainly not poor, a number of women were even identified as countesses or king’s kinsmen. In an effort to estimate how many elite women litigated for breaking and entering, arson, and robbery, I have designated as “elite women” those who have titles or complained of

having servants assaulted or having many goods, animals, or important papers stolen because they were wealthy. Women who complained of smaller robberies and were not identified by titles could still have been elite, but without hard evidence I tallied them as ordinary women, who could have been middling or poor. It is also notable that a number of these female plaintiffs were religious women, identified as prioresses or abbesses. I have placed the female religious in their own category as well. Readers can compare the possible social rank of these women in Table 10.

Table 10: Women’s Property Appeals and Social Status

<table>
<thead>
<tr>
<th></th>
<th>Elite</th>
<th>No Evidence</th>
<th>Religious</th>
</tr>
</thead>
<tbody>
<tr>
<td>Breaking and Entering</td>
<td>31</td>
<td>12</td>
<td>9</td>
</tr>
<tr>
<td>Robbery</td>
<td>1</td>
<td>21</td>
<td>0</td>
</tr>
<tr>
<td>Arson</td>
<td>5</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

It is reasonable to assume the majority of women who brought complaints of breaking and entering were most likely elite while the majority of women who brought simple robbery pleas may have been middling or poor women. This information is valuable not only in demonstrating that women of all social ranks may have utilized the King’s Court, but it also provides an opportunity to study a number of elite women who petitioned the king several times
for the same crime or for different crimes. Below I will discuss the three different property pleas women brought to court: breaking and entering, simple robbery, and arson. As in the previous chapters, I will also focus on revealing cases and analyze marital status.

I separated breaking and entering from simple robbery cases using information from each entry. One will see below in direct quotations from the cases that breaking and entering pleas noted that these women’s parks were broken into and specific goods or animals were carried away. I tallied cases in which smaller amounts of property or goods were stolen or someone’s house burgled as simple robbery pleas.

Women and Breaking and Entering

Breaking and entering pleas found in the *Calendar of Patent Rolls* are not only interesting because they highlight elite, middling, and poor women’s attempts to litigate for crimes against their property, but they also provide valuable details about the types of goods that were stolen in medieval England. These sources also show the ways female plaintiffs would include other crimes, like assaulting servants, in their pleas. From this sample of cases, it seems that typical stolen goods included farm animals like cattle, horses, pigs, and sheep, wild animals found in private forests, including deer, hare, and fish, crops, and farm equipment, specifically ploughs. These cases also provide insight into the experiences of female religious litigants who did not show up in such high numbers in other criminal pleas. It will also be worthwhile to discuss female plaintiffs who appear multiple times, litigating for the same crime or for another crime.

Two typical breaking and entering cases read,

  Commission of *oyer* and *terminer* to Thomas de Normanvill and Master Adam de Crokedayk, touching the persons who hunted in Matilda de Moleton’s parks of Erthington and Askerton and in her
free chases in Northmor, Fulwode, Geltesdale, Brigeswode and Tineleside, county of Cumberland, and carried away deer.\textsuperscript{171}

The like to John Boteturte and William de Sutton, on complaint by the prioress of St. Cross, Bungeye, that Robert, prior of Cokesford, John Peyvre, Walter, vicar of the church of Thorp Market, Simon Forward, son of Martin Pulte, John Pulhom of Thorp, William Goche of Thorp, John son of Egelinus Buk, Marte Pulte, Ralph Peyvre and Richard de Reppis carried away her goods at Rughton and Thorp Market, county of Norfolk, and assaulted her men.\textsuperscript{172}

One can infer that Matilda de Moleton was most probably an elite woman by the number of lands in her possession. It is also notable that this is a commission of \textit{oyer} and \textit{terminer} ordered by Edward I himself, indicating that Matilda had contacted the king directly and alerted him of the alleged robbery. Consequently, Edward sent two of his justices to investigate the disturbance. The prioress of Saint Cross complained of having two of her land holdings broken into and undisclosed goods carried away. The prioress also complained that “her men” were assaulted. Cases like the prioress’s will be discussed in more detail below.

Matilda only complained of criminals breaking into her park and hunting deer. A number of women combined their property appeals with complaints of assault and even false imprisonment. In order to analyze women’s property appeals, I have subdivided the fifty-two complaints of breaking and entering into different groups depending how many additional crimes women alleged in their complaints other than simple breaking and entering: twenty-three women complained only of stolen goods taken from their property; twenty-six women complained of multiple crimes including breaking and entering, stolen goods, and assaults committed against

\textsuperscript{171} \textit{CPR: Edward I}, vol. 2, 209.

\textsuperscript{172} \textit{CPR: Edward I}, vol. 3, 460.
their servants, their men, or their own bodies; two complained of stolen goods and wrongful imprisonment; and one woman complained of breaking and entering, stolen goods, imprisonment, and assault. It may be possible that women complained of more than one crime in their plea in order to increase their chances of gaining a conviction. This is a plausible assertion since women who litigated for assault or robbery often included complaints of spontaneous abortion and beating, discussed in the previous chapter. Yet in this group of largely elite women who litigated for breaking and entering, it is interesting that so many complained of crimes committed not only against their property but against their servants’ or men’s bodies as well.

This type of case reads:

Commission of *oyer* and *terminer* to William de Sancto Georgio and William de Sutton, touching the persons who lately took the plough of Emma de Colevill, with her beasts in it, as they were plowing her soil at Hokyton, county of Cambridge, cut the beam of the plough, and drove the beasts to Beche, within the liberty of the bishop of Ely, and kept them impounded there a long time without food, and beat her men in the high road at Histon.¹⁷³

Notice that Emma de Colevill not only complained that criminals broke into her property but she also included the pleas of impounding and starving her animals and assaulting her men. There is no evidence in the *Calendar of Patent Rolls* that Emma’s servants sought compensation from the royal court for their physical assault. Instead, Emma contacted the king herself and incorporated the assaults against her men into her own plea. Emma was their employer and the entry divulged that she had lost the service of her men for a period of time after the assault; this could explain why Emma included crimes against her servants in her complaint of breaking and entering—the

¹⁷³ *CPR: Edward I*, vol. 3, 379.
injuries of her servants had adversely affected her too. Similarly, Margaret, widow of Ralph de Beaupre, complained that more than twelve men broke into her house at Suth Brente, county of Somerset, carried away goods, and assaulted not only herself but her servants as well.²⁷⁴ Twenty-four other women did the same, complaining to the king of not just one crime but several. In the last chapter I mentioned two women who litigated for assault on someone else’s behalf, noting that there may have been a tendency for women to spearhead some cases in the royal court. The considerable number of women who mentioned assaults on their men or servants during crimes of breaking and entering can certainly contribute to this conversation. These women, some of whom were most probably elite, were seeking compensation for crimes committed against themselves, their property, and the people who worked beneath them.

It is also worth mentioning that five women complained multiple times to the king of breaking and entering, sometimes coupling this main plea with accusations of assault and imprisonment. These five persistent women were Alice of Bello Monte, Countess Alice de Lascy, the abbess of Godestowe, Maud, widow of Thomas Lercedekne, and Elizabeth de Burgo. Three of these women, Alice of Bello Monte, Alice de Lascy, and Elizabeth de Burgo brought multiple complaints of breaking and entering to the king’s attention while two women, the abbess of Godestowe and Maud, widow of Thomas, beseeched the king twice for the same crime. It is notable that five women in this sample utilized the King’s Court multiple times with regard to breaking and entering. Perhaps evidence of repeat plaintiffs in the royal court indicates that these five women considered the King’s Court a legitimate avenue for gaining compensation for wrongs. One could conclude that these examples of women litigating at several different times, sometimes on behalf of injured men and servants, contributes to the ongoing discussion of women’s legal agency in the royal courts. Two royal women complained to the king on multiple

²⁷⁴ CPR: Edward III, vol. 6, 83-84.
occasions of breaking and entering: Queen Isabella in 1335, 1337, 1338, and 1344, and Queen Phillipa in 1343 and 1344. I separated these two women from the rest of the female plaintiffs because members of the royal family exercised considerable agency. Queens Isabella and Phillipa are examples of the most elite women in my sample and undoubtedly had direct influence with the king and his court. The fact that these elite women appeared in the royal court could indicate that it was an elite space for elite litigants.

Perhaps unsurprisingly, when one analyzes marital status and property pleas, the majority of these women were mentioned singly or identified as widows. Of the fifty-two women who litigated for breaking and entering, twenty-five were widows, twenty-four were identified individually, two litigated with their husbands, and one was identified as a wife. Of the twenty-seven women who complained of robbery, thirteen were mentioned by themselves, eight were widows, three were daughters, two were with their husbands, and one with a family member. Of the five women who litigated for arson, two were mentioned singly, one was a wife, one was a widow, and one litigated with a husband. I have provided Table 11 to help analyze marital status as it relates to the three types of property crimes, breaking and entering, robbery, and arson, women appealed from 1198-1212, 1275-1300, and 1335-1350.
Table 11: Women’s Property Appeals and Marital Status

This table reveals the number of widowed and single women who appealed crimes of breaking and entering and robbery. High numbers of widows and single women could indicate that these plaintiffs were the primary authority and owners of the stolen or damaged properties, acting independently from men, running their own estates, and petitioning the king themselves if anything went wrong.

The women who litigated for violent crimes such as homicide and assault were overwhelmingly laywomen, yet some religious women complained to the king and his justices of breaking and entering. Four prioresses and four abbesses in eight unrelated cases informed the king that their parks had been broken into, their servants assaulted, and their goods stolen. It is intriguing that these female religious could have sought justice from bishops or ecclesiastical courts but instead chose to complain to the king. One is left to wonder whether these women
sought the ecclesiastical courts and failed to gain justice there before complaining to the royal courts. Nonetheless, it is significant that they complained, sometimes multiple times, to a secular authority for aid. This indicates that the royal courts were not only a space where laywomen sought justice; female ecclesiastics, too, may have perceived the court as a protective and helpful entity from which they could gain justice and monetary compensation for crimes against their property.

Another interesting trend in women’s breaking and entering complaints are the large number of accused. In some cases the exact number of accused is not known, but the majority of female plaintiffs estimated the number of criminals who had broken into their property. The number of accused in these breaking and entering pleas was extremely high, averaging about eighteen and many times reaching thirty and in one case an enormous fifty-four alleged wrongdoers. The very nature of breaking and entering for the purpose of stealing large numbers of goods, farm animals, or crops may have required more criminals to carry out, but the women who complained of breaking and entering consistently implicated many individuals. I do not yet have a solid explanation for this noticeable trend. Such high numbers of alleged defendants may be indicative of elite women’s confidence in pinpointing and implicating alleged criminals.

This analysis of cases in which women complained of breaking and entering has produced some interesting results. The agency of elite women (sometimes very elite royals) as instigators of cases, evidence of female ecclesiastics using the courts, and high numbers of accused have raised some interesting questions about women’s confidence and persistent use of the King’s Court. The next section will discuss female plaintiffs that litigated for robbery and will continue to explore the issue of women’s agency in property pleas.
Women and Robbery

Similar to the way breaking and entering pleas were concentrated at the latter end of my sample of years, women’s robbery pleas are found mostly during the 1270s and 1280s, as shown in Table 9, because of legal reforms under Edward I. In my sample of cases, twenty-seven women litigated for robbery in twenty-nine separate cases. This sample of robbery pleas presents some interesting contrasts to the breaking and entering pleas. The goods typically stolen in these robberies included money, clothing, one or two farm animals, or writings. Unfortunately, most cases do not state exactly what goods were stolen, but they still provide valuable information concerning the plaintiff, the alleged crime, and possible suspects. A typical robbery case reads thus:

Commission to Richard de Stonele, Robert Randolf and Adam Ody of Asshoo to make inquisition in the county of Warwick touching the malefactors who plundered Margaret, daughter of Henry de Grenehill of Palyngton, of her goods at Palyngton and those who afterwards knowingly received them, and to return their inquisition to the king in the chancery.¹⁷⁵

In the case above, Margaret only complained to the king that her goods had been plundered. Only three women combined robbery appeals with complaints of assault, the majority of female litigants only beseeching the king to investigate the crime of robbery. It is also notable that the average number of accused in these robbery cases fell far below the number of people accused in the breaking and entering sample. The average number of suspected robbers was about four, the highest number of accused being twelve. One may remember that the average accused in breaking and entering cases was eighteen. Perhaps this startling difference has something to do

with social rank, mentioned in the last section. It may be possible that these women were of ordinary status and less comfortable with naming large numbers of suspected felons and risking false appeal. It is notable that none of these women were identified by an elite title, with no obvious indication of social rank, opening up the possibility that most of these women were non-elites.

Some women who brought robbery complaints to the king’s attention litigated with no less persistence than those who did for breaking and entering. Three out of twenty-eight female plaintiffs, Margaret, widow of William Bernard of Dunwich, Alice de Graveshend, and Alice de Bello Campo, appeared more than once in the Calendar of Patent Rolls. Each of these women appeared multiple times in the records but in different ways: Margaret of Dunwich complained twice to the king concerning the shipping and subsequent seizure of fifty bales of alum (a chemical used in cloth dying); Alice de Graveshend sought the King’s Court when she believed justice had not been served at the county level; and Alice de Bello Campo alerted the king of two separate robberies. Since Margaret was heavily involved in trade and shipping, it would be safe to assume that she was a tradeswoman who may have been wealthy. It was noted in Alice de Graveshend’s case that she had rented a house from a man and his wife in which to keep her goods while she visited a neighboring town for the span of three days; her ability to rent a dwelling to house her goods and the fact that she had freedom to travel, perhaps for business, may indicate she was middling or elite. Alice de Bello Campo complained the first time of stolen goods and the second time six years later of another unrelated robbery. These three women clearly had the resources to initiate multiple cases and may have been exceptional.

Each of these cases reveals a different facet of female agency. Margaret of Dunwich is an example of a female shipper and trader, concerned about acquiring goods that had not been
returned to her after a shipwreck. Alice de Bello Campo sought compensation for her stolen goods from the King’s Court on two separate occasions. Perhaps this indicates the royal court was perceived as an effective place where Alice could gain justice for wrongs committed against her property. And Alice de Graveshend’s case, perhaps the most interesting of the three, provides an example of a woman seeking the King’s Court after a local court had not shown her justice.

The case reads,

Commission of oyer and terminer to John de Cobham and Elias de Bekingham to examine the record and process of a plea that was before the mayor and bailiffs in London, and to correct the error, if any, therin; on complaint by Alice de Graveshend that whereas in a house in London which she had hired from Robert de Burfer and Matilda, his wife, she had put under lock goods to the value of 50l 6s. 8d. and the doors and windows having been closed by witness of her neighbors, had gone to Graveshende for three days the said Robert and Matilda broke the said doors, windows and locks, and carried away her goods; and when she proceeded against them before the mayor and bailiffs of London justice was not shown.  

This case is revealing in several ways. First, Alice was bringing a case that had already been tried at the borough court before the bailiffs and the mayor. Clearly Alice disagreed with their judgment and sought another court. She must have thought she could receive a better ruling in the King’s Court; another indication that medieval women knew the royal court may favor their plea. Second, and more interestingly, this case indicates that Alice believed she deserved a better judgment. Even after the first trial in which she obviously did not think she received due compensation, Alice exercised her right to beseech the king for aid. Alice was certainly

exercising legal agency, as were each of these women who sought the King’s Court twice or just one time for robbery. They each must have believed they had a right to compensation and a right to justice. They saw the King’s Court as a viable avenue for righting those wrongs.

**Women and Arson**

The women who litigated for arson were far rarer than those who litigated for other crimes against property, but their presence in the documents is still significant. While most property cases, as previously mentioned, were concentrated toward the latter half of my sample years, three out of five arson pleas took place before 1203. None of these women were identified by title but the fact that they owned property may indicate that they were atypical.

One arson case, between Adam and his mother, plaintiffs, and Roger and his wife, defendants, brought to the royal court in 1203, presented a strategy of litigation seen in no other cases from my sample. The case reads,

> Roger Parlur fled for the burning of Adam of Aston’s house and was outlawed by Adam’s suit, and Adam’s mother appealed Roger’s wife of the same deed and because she has fled, let [Adam’s mother] sue in the shire court until Roger’s wife is waived. Roger’s chattels were 3 shillings, whence R. de Emberleg’ ought to answer.¹⁷⁷

Notice that Adam of Aston first appealed Roger Parlur of arson and then his mother, separately it seems, appealed Adam’s wife of the same crime. This does not seem to be the norm and this is the only case of this type I have yet found in my sources. One is left to wonder why Adam did not appeal both Roger and his wife since men prosecuting men, women, or a mix of both, was

common. It may also be noteworthy that the royal court is transferring this case to the shire court, making one wonder whether Roger or his mother sought the aid of the royal court in the first place and why they would have chosen to go to this court instead of another. Notice also that the women in this case remained unnamed. This is a fairly rare occurrence as women were usually identified by their name and by family ties. In only eight cases from my sample of 404 female plaintiffs were women unnamed and instead referred to as wives, daughters, or widows. Cases in which women were not named but identified by family ties may imply limits on female agency and may instead suggest that these eight women had others litigating for them. Unfortunately the entries do not disclose the names of those who may have assisted women in litigating.

Like other pleas of damaged property, one of these women also coupled her arson complaint with a complaint of assault. Another case reveals an interesting mix of litigants. Richard de Wykinton and Isolda, husband and wife, complained of robbery and arson along with a seemingly unrelated female, Emma, daughter of Juetta. The entry divulged that the four accused were suspected of burning the homes of Richard, Isolda, and Emma. I have only briefly touched on cases in which family members have litigated together, but I did mention a case last chapter, spearheaded by Katherine, widow of David de Strasbolgy, Earl of Athol, in which a woman litigated with a man who was not identified as a kinsmen. Here is another example but in reverse; a married couple litigating with a seemingly unrelated woman who was also affected by the same crime. Emma did not take a backseat in litigating for this crime. Instead she chose to come to court with Richard and Isolda and offer her version of the story. Perhaps this was purposeful on the part of the three plaintiffs; there has already been lengthy discussion of the

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178 Two examples of these “nameless” women can be found in PBKI, vol. 3, 71, when one woman was referred to as “uxoris Walteri,” or “Walter’s wife,” and another woman referred to as “matris Roberti,” or “Robert’s mother.”
possibility of the royal courts showing sympathy for female plaintiffs. Is it possible that this is another clue to support that theory?

Several times in this chapter I have analyzed numbers of defendants and attempted to interpret the meaning of either high or low numbers of accused. Although the number of arson cases is small, it is easy enough to place them into categories. The three cases that took place before 1205 named only one or two possible felons. The two cases from the 1280s had slightly more suspects; one woman named four suspects, the other eight. There is, unfortunately, no indication of the social rank of these women, offering no evidence that high social standing could lead to high numbers of accused.

**Women and Property: Brief Conclusions**

This discussion of property cases headed by women has raised some new questions and contributed to the ongoing discussion of women’s use of the courts, social status and litigation, and possible judicial sympathy toward female plaintiffs. More so than previous chapters, this analysis of women and property pleas has painted a picture of female agency: these women owned land, farms, animals, houses, coffers, and important documents and it was these women who stood up in court to seek compensation when these goods were stolen, damaged, or burned. In previous chapters it has been suggested that women may sometimes have preferred to litigate alone even when male kinsmen or male assistance was most probably available. The women discussed in this chapter, some of whom were elite, also seemed to have preferred contacting the king themselves as opposed to entrusting the task to a male employee or male kinsmen. The case of Alice de Graveshend is a valuable addition to this conversation. The fact that she brought her case to the King’s Court for the express purpose of hoping to gain justice she thought she
deserved is very telling. Perhaps the King’s Court was a space in which women could litigate—a space in which women could be heard.
CHAPTER FIVE

CONCLUSION

Medieval English women of different ages and different social ranks brought cases to the King’s Court during the years 1198-1212, 1275-1300, and 1335-1350. They either came publicly to the King’s Court or contacted the royal court to litigate for crimes ranging from murder to physical assault to robbery. In practice, most female litigants were not restricted by the ideas found in the Magna Carta, Glanvill, and Bracton and instead seemed to litigate before the king and his justices without impediment. The fact that English women continued to utilize the courts throughout this sixty-four year period reveals women’s legal agency, but one could also argue that it provides hints about the mentality and beliefs of these medieval women. These 404 female plaintiffs must have believed they could gain justice for wrongs. These women must have thought they could make a difference in their own lives and in the lives of those around them by bringing cases to the King’s Court.

It has been suggested that medieval English women were treated as childish dependents by their male counterparts, an assertion that does have credence—but can one assert that these 404 women were acting as dependents? Or that they saw themselves as childish victims? Absolutely not. Perhaps medieval men treated women as children, but these women themselves were acting independently as legal agents, seeking justice effectively, and successfully convicting men for a number of different crimes. It will take more research to understand the

180 While discussing medieval perceptions of age in “Life and Death: The Ages of Man,” Goldberg noted that young boys were often taught how to plough, mow, and use a scythe during their teenage years. In contrast, he asserted that “Girls, on the other hand, tended not to be initiated into new tasks on achieving their teens with the consequent result that women’s work was seen to be inherently unskilled (or even ‘natural’ to women), and that women were seen always to occupy a category akin to children,” 419.
extent of English women’s agency in general during the thirteenth- and fourteenth centuries, but this thesis has demonstrated that assumptions about women’s legal dependence, lack of social life, and inefficacy should be reconsidered. These 404 women, a very small sample of England’s female population, refused to be victims of crimes and pleaded for what they perceived as injustices committed against themselves or their families.

In my introduction, I posed a number of questions about the extent of women’s legal agency. One provocative problem is did women who litigated in the King’s Court know they were theoretically restricted in the types of pleas they could bring by the clauses of the Magna Carta, Glanvill, or Bracton? Of these 404 female litigants, only four were actually restricted by these theoretical statements about law and the remaining 400 women brought their cases before the king or his justices without open discrimination against their gender. Taking this into account, I believe that most, if not all, medieval women were unaware of the theoretical restrictions placed upon their gender. Again, this provides clues about how medieval English women perceived their right to justice: the evidence seems to indicate that women assumed they had a right to compensation, a right to accuse publicly, and a right to fight to improve their life circumstances. It is possible that the king or his justices harbored gender biases, but I assert that these prejudices did not affect most female litigants in detrimental ways.

Although women were permitted to bring cases to the King’s Court and plead there publicly, a woman’s access to justice may have depended on certain factors that were out of her control: her marital status, judicial sympathy, a defendant’s connections, jurors’ suspicion, and, perhaps most importantly, the king’s judicial willingness could affect a woman’s case for better or for worse. In this final chapter, I will first provide a brief review of my findings, focus on the ways my conclusions differ from previous scholarship, and discuss the extent of women’s
agency in the medieval English royal courts. I will then highlight certain factors or circumstances that affected female litigants and also suggest future avenues of research that could further illuminate the extent of women’s judicial agency in medieval England.

Female Agency?

Many works discuss women’s status in the medieval world and a number of scholars have attempted to discover clues about women’s experiences and lives by way of legal sources. Yet there is still little consensus on women’s status in high medieval England. Theoretical legal statements in the Magna Carta, *Glanvill*, and Bracton outlined what women could and could not do in court, suggesting that medieval women should have experienced restrictions and discrimination during litigation. At the same time, works of secondary scholarship, like those of Hanawalt, Given, Klerman, and Orr, focused on female criminals and female victims in thirteenth- and fourteenth-century England but came to vastly different conclusions on the extent of women’s legal agency, leaving the subject open to new interpretations. This section will survey existing secondary scholarship and compare their findings to my own research.

I have discussed the numbers of female litigants in my sources, but I will review the numbers again in brief. Over the course three periods, totaling sixty-four years, 205 women appealed the crime of homicide, fifty-two women complained to the king of breaking and entering, forty-seven women appealed the crime of rape, thirty-four appealed the crime of assault, twenty-seven appealed the crime of robbery, and five the crime of arson. An additional thirty-four women brought unspecified pleas of trespass to the royal court. A substantial 404 female plaintiffs appeared in the King’s Court over just a sixty-four year period. Many of these women were recorded as widows, daughters, or were mentioned as autonomous individuals, and seemed to have pleaded alone without the direct support of relatives.
My research also provided clues about women’s success rates. As previously discussed, verdicts were not always included in my sources, but in the cases in which verdicts were disclosed, women seemed to enjoy higher success rates than previously assumed. Of the fifteen homicide cases that included a verdict, eight women were successful in gaining a conviction and seven were unsuccessful, yielding a success rate of slightly higher than 50%. Women attempting to convict their rapists experienced a slightly lower success rate than those of women litigating for homicide. In rape cases, nineteen out of forty-seven appeals led to convictions and fifteen did not, yielding a success rate of 40%. Women who litigated for assault enjoyed a similar success rate compared to those who litigated for murder. Of the fourteen assault cases that provided verdicts, seven were recorded as successful and seven as unsuccessful, which resulted in an estimated success rate of 50%. Unfortunately, only six robbery cases disclosed a verdict, four in which the defendants were convicted and two in which defendants were cleared of all charges. This small sample size calculates to an estimated success rate of 67%.

The success rates provided here are mere estimates that may help in illuminating women’s experiences in the court. The numbers of female litigants found in my sources, however, are not estimates or conjecture, but proof that women came to the royal court, spoke before the justices, and sometimes gained convictions against male defendants in rather impressive numbers. Furthermore, I found rather high numbers of successful cases that were brought by women. These findings might imply grand conclusions on female agency, even judicial sympathy, for female litigants. Yet the findings of other scholars who have researched medieval women have not been as positive.

Given surveyed homicide cases in county eyres during the years 1202, 1221-1227, and 1241-1257 in his work Society and Homicide in Thirteenth-Century England, concluding that the
low number of criminal women in his sample of cases indicated a lack of women’s involvement in public life. He asserted “the chief reason why women were involved so much less frequently in homicide was the fact that they played a less active role in social life” and “the bonds women established outside the home were neither as numerous nor as continuous as those of their male counterparts.”181 Certainly medieval men did have more life choices and freedoms than medieval women, but Given’s statement may be too black and white. I have already discussed Klerman’s assertion that medieval litigation involved extensive public speaking. Given’s conclusions on women’s private, less social lives do not fit with what I have found in the primary sources. Margaret of Dunwich, who attempted to recover her bales of alum from a shipwreck, and Alice de Bello Campo, who demanded she be compensated for the 50l stolen from her while she was travelling, did not seem like timid women locked away from public life. Both may have been exceptional women, but they were also acting as business women and tradeswomen, travelling from town to town and shipping and trading goods, clearly living their lives in the public sphere.

Hanawalt’s work, Crime and Conflict in Medieval English Communities, focused on the first half of the fourteenth century and awarded medieval women a bit more agency than Given. Yet Hanawalt remained conservative in her assertions about women’s social status and roles in the public sphere. In her sample of cases from 1300-1348, she found that juries were far more likely to indict defendants for property crimes than for homicides or rapes because these more serious crimes carried far harsher penalties.182 She asserted that this could explain the low conviction rates for both men and women in her fourteenth-century county and royal court records. She noted “The high acquittal rate resulted in part from the severity of the punishment”

181 Given, Society and Homicide, 141.
182 Hanawalt, Crime and Conflict, 268
and that jurors and royal justices were both uncomfortable with sentencing criminals to death.\textsuperscript{183}

In my sample of cases, the usual penalties were exile or a monetary fine, depending on the crime, but a few alleged murderers were put to death. If Hanawalt’s conclusion about high acquittal rates due to judicial reluctance to sentence criminals to death are correct, the estimated success rates of women in the royal courts become even more impressive.

Caroline Dunn in \textit{Stolen Women in Medieval England} undertook a comprehensive survey of women, rape, adultery, and abduction from 1100-1500. She also found low numbers of rape convictions and high numbers of pardons for rape or abduction throughout the four centuries under consideration.\textsuperscript{184} But instead of drawing conclusions about women’s inefficacy and victimization, Dunn included an extensive discussion on the possibility of out-of-court settlement. She noted that “[a]t least until the mid-thirteenth century, both alleged victims and royal justices seem to have preferred private arrangements to full prosecution and trials within the King’s Court,” suggesting that women could have initiated cases in court to intimidate defendants into settling with them extra-judicially.\textsuperscript{185} This could explain why so many women’s, and even men’s, cases were withdrawn or not followed up—medieval people may have found it more convenient, and more economical, to settle without the aid of the justices. Yet, as I have discussed, such activity was not recorded in these sources, making such conclusions mere conjecture.

Klerman also discussed the possibility of extra-judicial settlement and the possibility of judicial sympathy toward female litigants. In his survey of thirteenth-century county eyres, he found that women seemed to have “settled more of their cases than men and obtained favorable

\textsuperscript{183} Hanawalt, \textit{Crime and Conflict}, 268.
\textsuperscript{184} Dunn, \textit{Stolen Women}, 70-71.
\textsuperscript{185} Dunn, \textit{Stolen Women}, 79.
jury verdicts about as often.” In his sample, he noted that men were successful in their suits 29% of the time and women 27% of the time. Klerman suggested that justices were more interested in seeing the guilty punished than restricting pleas based on gender; he noted that this “caused them to treat women litigants with fairness, if not indulgence.” I agree with Klerman in that women were treated with fairness in the royal court, but not that they were treated with indulgence. Justices may have sympathized with women, but women did experience some challenges to their right to justice.

Given did not grant women much agency, concluding that they were not involved in homicide because they were less involved in public life. It is true that women committed fewer murders than men, but does this necessarily indicate that they were less involved in medieval society? On the contrary, I would argue that fairly high numbers of female plaintiffs appealing crimes of homicide, assault, and robbery indicate that women were rather involved in public life. Not only did women appear as victims in my sources, they appeared as heads of households, property owners, tradeswomen, and sometimes wealthy widows. The possibility of women’s agency came to the forefront in the works of Hanawalt, Klerman, and Dunn, who all suggested that more may have been happening behind the scenes and out-of-court that benefitted women than was recorded by the justices.

It is clear that my conclusions about English women’s legal agency and my estimated success rates greatly differ from those of Given, Hanawalt, and Dunn. There are a number of reasons my conclusions and estimated success rates are different than theirs. The simplest answer is that my findings were taken strictly from the King’s Court, the most elite court in medieval England, while Given, Hanawalt, and Dunn focused on the records of county courts and gaol

187 Klerman, “Women Prosecutors,” 301
delivery rolls that recorded the actions of criminals and ordinary or poor litigants. The royal
court could have been an exceptional space for litigation for both male and female complainants
in a number of different ways. The King’s Court could have naturally attracted elite plaintiffs
who may have had connections with the king or his justices, increasing their chances of gaining a
conviction. Another possibility is that only plaintiffs with especially strong cases came to the
King’s Court. As previously mentioned, plaintiffs who lost their case were put in mercy for false
claim, so perhaps the women who appeared in the royal court records were especially confident
or invested in their pleas. It could also be possible that the county courts may have been a
discriminatory space for women, revealing low convictions rates and leading historians to make
pessimistic conclusions on women’s legal agency, while the King’s Court was a more accepting
place for women, revealing higher conviction rates and leading one to make more optimistic
conclusions about female litigants.

Yet it would be an exaggeration to claim that women in thirteenth- and early fourteenth-
century England did not experience some discrimination in the royal courts. A woman’s case,
just like a man’s case, could be affected by the discretion of the justices, her social rank, or
jurors’ suspicions and knowledge in addition to any possible gender factor. The next section will
explore the extent of women’s access to justice and discuss the possible gender restrictions,
prejudices, and circumstances that could affect women’s cases.

A Woman’s Access to Justice

The 404 women who appeared in my sources may have had vastly different experiences
in the royal courts depending on her age, social status, or the crime she was appealing.
Presumably appealing the crime of rape or murder may have been more emotionally strenuous
than complaining of breaking and entering or robbery. The cases heard before the king and his
justices reveal that women litigated in higher numbers and maybe even enjoyed more judicial success than previously assumed. Yet women experienced some challenges to their right to justice.

The Magna Carta stated that a woman could only appeal men for the murder of her husband. Perhaps this statement meant that only widows were allowed to come to court and were only allowed to complain of one crime—the murder of her husband. Glanvill and Bracton did not mention marital status in their treatises, but they did widen women’s appeals to include any bodily harm. In practice, women of different marital status came and litigated before the king and his justices for all types of crimes. It will be useful to analyze women’s marital status in this section to discover what kinds of women litigated most often to determine whether women with the same type of marital status experienced more judicial success than others. Table 12 provides a visual representation of marital status of female plaintiffs.

Table 12: Female Plaintiffs and Marital Status

![Graph showing the number of female plaintiffs by marital status and type of criminal case.](image-url)
The majority of female plaintiffs in my sources were identified as widows and accounted for 196 out of 404 female litigants. The fact that widows would come to court in high numbers is not very surprising. Widows would presumably be the head of the house since her husband’s death and would therefore be the most likely person to bring a criminal or property case to court. It is also possible that more crimes may have been committed against widows since they may have been more vulnerable to criminals; if this is true, however, these widows refused to be victims and instead sought compensation for wrongs.

Perhaps even more intriguing than the majority of widowed litigants is the second highest type of female litigants: “single,” or unmarried, women. I found 101 women who were identified as acting alone in my sources. These women were mentioned simply by their first name or by a first and surname. The majority of these women litigated for murder, twenty-five, and breaking and entering, twenty-four. But notice that these women also litigated in the highest numbers for assault, robbery, and pleas unspecified. Like widows, single women may have been more vulnerable to criminals, but it is also possible that these single women did not have, or did not need, male relatives to accompany them to court. The fact that the royal justices allowed these women to litigate without male aid could suggest that women had a right to bring cases to court even if there were no men to bring the case with her or plead for her.

The third highest group of female litigants was identified as daughters who numbered forty-six out of 404. These women appealed the crime of rape in the highest numbers, twenty-one, but fifteen also brought murder appeals to court and five brought charges of assault. It is possible that these daughters were younger women who may have litigated with the aid of their fathers, but the entries unfortunately do not disclose whether fathers were with their daughters during litigation. True, far fewer daughters than widows utilized the royal courts, but the fact that
the justices heard the pleas of both daughters and widows indicates that they were willing to hear pleas of women of all ages.

Twenty-three women litigated with their husbands, making up the fourth majority, while sixteen married women litigated by themselves. It seems that married women may have been a little more likely to come to court with their husband, while a few married women chose to use the courts without their husbands’ aid. If we combine these two groups of married women, they still make up a very small percentage of the sample, thirty-nine out of 404, or less than 10%. These fairly low numbers of married female litigants could indicate that married women were less likely to be exposed to violence and crime, or that when a husband and wife chose to go to court, husbands may have been more likely to head the cases while wives’ names were left unrecorded. This could mean that the royal justices may have preferred male plaintiffs over female plaintiffs. Yet the sources also indicate that female plaintiffs were readily accepted if no males were available. But this idea of judicial preference for males still does not explain why a number of married women litigated separately from their husbands.

The last group of female litigants came to court with another family member or unrelated person and numbered just six out of 404. In *Society and Homicide*, Given concluded that women were far more likely to commit crimes with the aid of relatives or accomplices than to commit crimes alone. He noted that “combining with others to perpetrate a murderous assault was a generalized cultural trait, true for both men and women, it was even more pronounced among women,” with only 16.7% of female criminals acting alone.\(^{189}\) The fact that female criminals often had male accomplices is not too surprising; committing crimes like robbery, assault, or murder would have required physical strength, which a woman may not have been able or willing to exercise. Yet on the other side of the spectrum, when women came to court to plead

\(^{189}\) Given, *Society and Homicide*, 143.
for compensation for crimes, they were recorded as acting alone. The sources reveal that most women, including widows, women mentioned as unmarried, daughters, and wives litigating without husbands, may have litigated without male aid. This would mean that 359 out of the 404 women, or 89%, headed their own court case. It is true that these women may have been aided by lawyers or male relatives in some ways, but it was the woman’s name that appears on the records and it was she, presumably, who had to explain her side of the story in the hopes of gaining a conviction against alleged criminals. Perhaps women committed more crimes with male aid simply because women are not typically as strong as men. But perhaps women did not need as much male support when she came to speak before the king and his justices because she was just as capable of speaking, pleading, and explaining as any man.

It may be useful to analyze marital status and convictions rates. I chose to count only the cases that disclosed a concrete verdict: the defendants were outlawed or put to death, cases were not followed up, the accused were taken into custody or fined, or defendants were freed or plaintiffs put in false claim. This analysis yielded remarkably even results. In widows’ pleas, nine successfully convicted their defendants while seven did not. Daughters enjoyed a slightly lower success rate, winning just nine cases while eleven cases were lost. Single women won sixteen cases but were unsuccessful in seventeen. And in wives’ pleas, three were successful while three were not. If this portion of cases represents the average experience of women of different marital statuses, it does not seem like marital status greatly affected a woman’s appeal. This could indicate that the royal justices judged cases by the evidence presented instead of by a woman’s age, maturity, or marital status.

Another factor, and probably the most important of all, that could have affected women’s cases was the judicial willingness of the king. This has already been discussed in relation to the
high numbers of female plaintiffs during the 1270s and 1280s. The king had undisputed judicial power and could transfer any case to his court, pardon whomever he wished for any crimes, and dispense justice the way he saw fit. Throughout the course of my analysis, the kings in power, John I from 1199-1215, Edward I from 1272-1307, and Edward III from 1327-1377, seemed willing to hear the pleas of their subjects. Each of these kings regularly sent eyre justices throughout the kingdom, heard pleas at Westminster when they were in the country, and oversaw the continuous codification of new cases and the preservation of old cases.

There are a number of obvious reasons the king would be interested in doling out justice to his subjects. Not only would organized justice serve to decrease crime and violence, but if the king was willing to hear all sorts of crimes and convict dangerous criminals, he would also increase his own prestige and reputation for fairness. This could only be advantageous to England’s kings. It would be safe to assert that doing justice would be in the king’s best interest and this may have affected litigants in advantageous ways. Perhaps the king and his justices were more interested in doling out justice than limiting the pleas of men and women—this could explain the existence of the limiting rules despite the fairly high numbers of female litigants. The king and his justices may not have been going out of their way to hear the pleas of women, but their willingness to dispense justice would have undoubtedly benefitted women who had been affected by crimes.

Ideas for Future Studies

The years of my study, 1198-1212, 1275-1300, and 1335-1350 were chosen for several reasons: these smaller groups of years allow for a more in-depth analysis of any changes over three periods of time and provide a more manageable sample size. I believe that the cases found during these years provide a representative sample of women’s experience in the royal courts
during the thirteenth- and early fourteenth century, but I would like to offer a number of suggestions for future scholarship.

First and foremost, a comprehensive study of women in the royal courts during the thirteenth and fourteenth centuries would give valuable insight on 200 consecutive years of women in the royal courts. This type of study could reveal not only numbers of female litigants, it could also reveal any changes in women’s cases, judicial preference, or women’s marital status. One could even expand this study into the fifteenth century. Therefore a comprehensive study could reveal the extent of women’s legal agency over a longer period of time, providing a more representative sample of female litigants.

Another idea for future studies could be comparative in nature. I have only included cases from the central royal court in my analysis. It would be very interesting to compare women’s cases in the royal courts to women’s cases in the county, borough, ecclesiastical, and manor courts. Such a study could reveal whether or not different types of courts were more likely to treat women with sympathy or discrimination. This study would also open up the sample to include more female litigants. A comparative study may also reveal more about social rank and could indicate if the different courts were used by elites, ordinary, or poor women.

A prosopographical study would be useful in the present research, but is outside the scope of this short study. Such a study could aid not only in my attempts to discover women’s social rank, but it could also help in uncovering elite women’s relationship to the king or certain political motives in odd cases. One of my principal interests is the lives of ordinary or poor women. A prosopographical study could identify elite women and help me discover which women could be considered ordinary or even poor.
I only analyzed criminal cases in my study, but women were involved in many other pleas throughout the thirteenth- and fourteenth centuries. They often came to court to litigate for assizes of mort d’ancestor, novel disseisin, or to fight for their dower. The fact that some medieval English women were allowed to hold property and come to court to defend their right to their dower or inherited lands may have given many women the confidence to come forward for violent pleas or crimes against property. A thorough analysis of property pleas could further elucidate women’s experiences in the royal, secular, and ecclesiastical courts.

Throughout my research, I noticed that some women’s cases tended to be recorded near other women’s cases. This may be a significant detail about the way medieval litigation unfolded in practice. It could be possible that the justices sometimes organized pleas by gender, but this did not always hold true as some women’s pleas were not always grouped with other women’s cases. It could also be possible that litigating women came with each other to court on the same day, perhaps to provide moral or emotional support. Pursuing this avenue of research could help illuminate women’s lived experience in pleading before the justices and medieval royal court procedure.

Last Remarks

My purpose throughout this thesis has been to discover more about the lives, experiences, and levels of legal agency of medieval English women. Although it is difficult to understand the lived experiences and confidence of people in the past, I hope that this thesis has demonstrated that medieval English women used the courts in spite of proposed restrictions, prosecuted a number of different crimes and often with success, possessed knowledge of the court system, and litigated with efficacy and persistence. Modern assumptions about medieval women have often affected historical studies and led to pessimistic conclusions about women’s submissive roles or
dependence on men. Instead, this avenue of research has revealed that many women may have litigated alone, were able to gain convictions in the royal court, and had a higher degree of control over their lives than previously assumed. There is still much more to be understood about medieval English women, especially women who were ordinary or poor, but in the royal courts English women had access to justice and acted not as victims but as legal agents capable of shaping their own lives.
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