

# H-Net Reviews

in the Humanities & Social Sciences

Jennifer Kermode, Garthine Walker. *Women, Crime and the Courts in Early Modern England*. Chapel Hill: University of North Carolina Press, 1994. \$49.95 (cloth), ISBN 978-0-8078-2192-3; \$27.50 (paper), ISBN 978-0-8078-4500-4.

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This collection of articles edited by Jenny Kermode and Garthine Walker is the first historical study dedicated exclusively to the subject of women and the law in early modern England. The book is a welcome and overdue addition to the literature on the history of law and crime in England as it has developed in the past twenty years. The essays challenge the assumptions of traditional legal scholarship that excluded women from most legal history. This historiography accepted at face value the prescriptions of the common law which restricted female participation in the legal system. The articles in *Women, Crime and the Courts in Early Modern England* explore the involvement of women in a broad range of legal situations revealing the extensive presence of women in the legal system. The book fulfills the editors' promise to "expand our perceptions of the legal process, of women's engagement with it, and of the gendered attitudes of early modern England." (p. 8)

In their introduction Walker and Kermode attempt to place the study of women and crime within the historiographical traditions of social history, women's history, and legal history. Recent work on crime has stressed the integral part played by law in English culture. According to John Brewer and John Syles "it was a shibboleth that English law was the birthright of every citizen who, unlike many of his European counterparts, was subject not to the whim of a capricious individual but to a set of prescriptions that bound all members of the polity."<sup>1</sup> Until now, the absence of a study which focused on women and their attitudes toward the law, their relationship to it, and their participation in the legal system certainly gave pause. In light of the neglect of half of England's population, could the thesis still stand? *Women, Crime and the Courts* begins the re-evaluation of the place of the law in English culture by examining the significance of the law in the lives of English women and the influence of the presence of women on the legal system.

The essays can be grouped into four categories. Laura Gowing ("Language, power and the law: women's slan-

der litigation in early modern London") and Martin Ingram ("Scolding women cucked or washed": a crisis in gender relations in early modern England?) explore the place of 'language litigation' in community relations. Using consistory court records Gowing convincingly demonstrates how slander litigation was used by women to fulfill their gendered role in the community as the negotiators of aspects of reputation and honor. Ingram's study of legal action against scolds offers a critique of David Underdown's contention that scolding legislation reflected a contemporary obsession with scolds and a crisis in gender relations.) Ingram argues instead that the prosecution of scolds was highly selective; he tries to explain those prosecutions that did occur as manifestations of personal incompatibility and social tension. In light of the volume's attention to issues of gender, this latter argument is not as convincing as the rest of the article.

Garthine Walker's essay ("Women, theft and the world of stolen goods") illustrates the differences between male and female patterns of crime. Walker's research qualifies generalizations about women's involvement in crime by explaining women's criminal activity in relation to the economic and social realities of women's lives. Walker's contribution is the only article in the volume that analyzes women's participation in felonious crime other than witchcraft. Her careful reading of the sources points to the need for further work on this subject which has been marginalized in much of the crime literature.

The next two essays in the volume concern witchcraft accusations and trials. In his contribution, ("Women, witchcraft and the legal process") Jim Sharpe shows that although the vast majority of defendants in witchcraft trials were women, women were also actively involved in the processes of accusation and prosecution. Malcolm Gaskill's essay ("Witchcraft and power in early modern England: the case of Margaret Moore") attempts to assess the witchcraft trials within the context of early mod-

ern popular beliefs and mentalities. These articles are based on careful scholarship and they raise very important questions about the relationship between witchcraft and women; but neither explains why it was women who were so involved in every aspect of the trials.

In the last two essays in the book Geoffrey Hudson and Tim Stretton analyze less familiar aspects of women's participation in the legal system. Using quarter sessions records Hudson ("Negotiating for blood money: war widows and the courts in seventeenth-century England") examines the strategies employed by war widows to secure the payment of their state pensions. Stretton ("Women, custom and equity in the court of requests") uses the records of the Court of Requests to reveal the shifting definitions of women's, and especially widows', property rights. These articles approach their sources with a sensitivity to women and gender and yield correspondingly fruitful results.

The essays as a group are based on solid historical research combined with a creative use of legal administrative sources. They reveal women's knowledge of the law as well as their practical legal experience. The authors employ an interesting and readable methodology which combines case studies with more traditional social historical analysis. These essays represent the beginning of the study of women and the law: there are still more contexts and situations through which women experienced the legal system and developed their attitudes to the law.

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1) John Brewer and John Styles eds., *An Ungovernable People: The English and Their Law in the Seventeenth and Eighteenth Centuries* (London, 1980), p. 14.

2) Underdown makes this argument in his article "The Taming of the Scold: the Enforcement of Patriarchal Authority in Early Modern England," in *Order and Disorder in Early Modern England*, Anthony Fletcher and John Stevenson eds. (Cambridge, 1985), 116-136.

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