PRESENTATION AND PERFORMANCE OF GENDER AND SEXUALITY IN EARLY ENGLISH

DEFAMATION LITIGATION

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By
Chelsea Kay Dahlstrom
B.A. University of Central Missouri, 2005

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PRESENTATION AND PERFORMANCE OF GENDER AND SEXUALITY IN EARLY ENGLISH DEFAMATION LITIGATION

Chelsea Kay Dahlstrom, Candidate for the Master of Arts Degree
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ABSTRACT

Early English Consistory court records contain hundreds of defamation cases in which one party is suing another party for slander or verbal violence.¹ Slander cases varied greatly, but most often held sexual, economic, or criminal implications, thus resulting in the tarnishing of the victim's honor or reputation.

Recent scholars have generally agreed that gender is central in studies of honor, reputation, and defamation, but have tended to accept and perpetuate the conventional gender binary as a means to analyze male and female involvement in slander litigation. This perspective has resulted in conclusions about the general continuity of female oppression within English society. In this study, I adopt a different understanding of gender by applying Judith Butler's theory of gender performativity to these legal disputes.² Defamers frequently attacked others for acting outside of culturally

¹ The Consistory was the bishop's highest court, and most of its business involved "instance litigation" (people suing one another) rather than "office cases" (ecclesiastical authorities prosecuting wrongdoers). Richard Helmholz, The Canon Law and Ecclesiastical Jurisdiction from 597 to the 1640s (Oxford: Oxford University Press, 2004), 573.

promoted gender constructions, resulting in a multiplicity of gender identities that expand far beyond the restricted labels of “woman” and “man.” My work suggests that when slanderers used terms like “whore”, “strumpet”, “scold”, “gossip”, “cuckold”, and “bastard”, it was part of a larger discourse of determining the social bounds of acceptable gender in early English culture. Furthermore, I demonstrate that these constructions of gender developed through an ongoing synthesis of religious influences, literary culture, and even one’s neighborhood residence. In this dynamic, slander and its subsequent litigation offered a public arena in which agents theatrically challenged, negotiated, and reinterpreted popular perception of self and identity.
The faculty listed below, appointed by the Dean of the College of Arts and Sciences have examined a thesis titled “Presentation and Performance of Gender and Sexuality in Early English Defamation Litigation,” presented by Chelsea K. Dahlstrom, candidate for the Master of Arts degree, and certify that in their opinion it is worthy of acceptance.

Supervisory Committee

Linda Mitchell, Ph.D., Committee Chair
Department of History

Virginia Blanton, Ph.D.
Department of English

Carla Klausner, Ph.D.
Department of History
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INTRODUCTION

On November 24, 1488, a judge, several witnesses, and a legal clerk gathered in a London courtroom to collect depositions and evidence regarding an ongoing legal battle in which Joan Essex was suing Agnes Badcock for defamation. John Buxton, a young tailor who had witnessed the verbal altercation in question, revealed the following scenario in his testimony: sometime around the feast of St. Michael the Archangel (September 29) Buxton was present in his own dwelling-house situated opposite the house of Agnes and her husband, John Badcock. Between the hours of ten and eleven in the morning, Buxton witnessed a violent argument erupt between Joan and her husband that began in their home, continued in their front doorway, and eventually spilled out onto the street in front of their house. During the scuffle, in which John struck Agnes several times, Buxton asserted that Joan Essex crossed the street opposite the house and that Agnes, momentarily freeing herself from her husband’s brutal blows, approached Essex, plunged to her knees in the middle of the street with her head uncovered, and screamed, “A vengeance on thee, whore, Joan Essex, this have I for thy sake, thou art my husband’s whore and this have I for thy sake.”1 Buxton went on to say that both before and after this incident, he heard Agnes insinuate that her husband held Joan in adultery the whole time that Agnes was on pilgrimage to Walsingham.2


2 Ibid.
A second witness, John Smert, corroborated Buxton’s testimony by adding that he heard Agnes saying that her husband engaged with Joan in adultery, and, during the previous year, he witnessed “Agnes in Aldgate Street, London, saying about Joan, who at the time was sitting and holding a child in her arms, 'Will ye see, yonder sitteth a whore, this same is my husband’s child.’” Following this, a third witness, Rowland Bell described a scene similar to that of Buxton and Smert, and also claimed to hear previous accusations from Agnes of Joan and her husband’s adultery.

All three men were then asked to attest to the perceived damage to the public reputation of Joan Badcock. All three men gave the same answer: “To the eighth article, he says that the things he said above are true, and that public voice and fame circulated and circulate in the parishes of St. Michael and St. Andrew and other neighboring places concerning them.” Believing that Agnes had greatly damaged her public fame, Joan was seeking monetary retribution and legal recovery of her reputation and social identity.

Early English consistory court records are overflowing with these types of defamation suits. In these cases, one person has verbally insulted another—either in his or her presence or before other individuals—and the victim is seeking retribution and recovery of honor and reputation through the legal apparatus of defamation litigation. Slander cases varied greatly, but most often held sexual and economic implications. The relationships between insults and dishonor and between slander and morals were complicated, (like most issues of public identity), but they were informed at every level by gender.

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3 Ibid.
4 Ibid.
Such a statement is not unexpected. Recent scholars have generally agreed that gender is central in studies of honor, reputation, and defamation, but have tended to accept and perpetuate the conventional gender binary as a means to analyze male and female involvement in slander litigation. This perspective has resulted in conclusions about the general continuity of female oppression within English society. In this study, I adopt a different understanding of gender by applying Judith Butler’s theory of gender performativity to these legal disputes.\(^5\) Butler asserts that “gender is in no way a stable identity or locus of agency from which various acts proceed; rather, it is an identity tenuously constituted in time—an identity instituted through a stylized repetition of acts.”\(^6\) That is, gender identity is constructed through a series of performed actions and behaviors that result in the illusion of a fixed and natural gender.

It is within this framework that “gender tensions” exhibited in slander litigation become most apparent, not only between men and women, but more significantly, between women and other women. Defamers frequently attacked others for failing to perform a socially dictated tenet of femininity or masculinity, or, more frequently, for acting outside of these culturally promoted constructions of gender. These subversive actions resulted in a multiplicity of gender identities that expand far beyond the restricted labels of “woman” and “man.” My work suggests that when slanderers used terms like “whore”, “strumpet”, “scold”, “gossip”, “cuckold”, and “bastard”, it was part of a larger discourse of determining the social bounds of acceptable gender in early

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Butler’s theory of gender identity locates the key to uncovering female agency in “subversive repetition.” These actions may affirm culturally accepted notions of gender identity, just as they may also challenge them, but the focus on performed constructions of behavior remains. From this perspective, early slander litigation indicates a repetitive and ongoing willingness of women to deregulate their speech by verbally attacking others in an effort to construct their own identities and social roles. Furthermore, women also defended themselves publicly through defamation suits, thus exhibiting additional agency in crafting their reputations.

Public fame, like gender identity, was an ongoing process of creation, continually constructed and reconstructed through an agent’s performed actions, social responses to these actions, and by the various meanings projected by others onto these actions. The same behavior might amass different meanings depending on the agent, on the audience, or even on the location of the accused. This relationship remains complex and interdependent, but it is this symbiotic interplay within slander and its subsequent litigation that forms the foundation of my research.

I argue that verbal attackers attempted to “other” their victims by accusing them of violating a moral ideal, and then used terms like “whore”, “strumpet”, and “cuckold” to categorize them outside the bounds of accepted gender. These accusations had a secondary result in that not only was the accused injured, but also the accuser could attempt to elevate their public identity and gender as a “respectable man” or

7 Butler, *Gender Trouble*, 201.

“respectable woman”. Despite these efforts to craft a positive public persona, my research also will demonstrate how these defamers were then unexpectedly transformed, through the mechanism of the slander suit, from respectability to the publically shameful gender of “gossip,” “defamer,” “scold,” or “reviler.” Furthermore, my work illustrates that contemporary conduct literature simultaneously created, reflected, and reinforced the performance of appropriate gendered behavior. In this dynamic, slander and its subsequent litigation offered a public arena in which agents theatrically challenged, negotiated, and reinterpreted popular perception of self and identity.

If we now imagine the events detailed in the case between Agnes Badcock and Joan Essex as a form of performance theatre, this dynamic becomes more apparent. The witnesses described the physical environment or stage in which the altercation occurred. They related the building tension between Agnes and Joan concerning the suspected affair. They recounted the behavior and actions of the three primary actors, Agnes, John, and Joan, including the violent brawl that began in the semi-private space of the Badcocks’ home, and quickly escalated and overflowed onto the public venue of the street, easily viewable for audience consumption. They depicted Agnes’s dramatic behavior upon seeing Joan evolving into the climactic scene of Agnes loudly and unapologetically disparaging Joan for all within earshot.

Like most acts of slander, this case can be interpreted as performance theatre far beyond its melodramatic qualities. This was one of several incidents in which Agnes verbally attacked Joan and publically accused her of adultery; she made earlier assertions that Joan and her husband had fornicated when she was on pilgrimage to
Walsingham. Agnes’s claim that Joan’s adultery and resulting illegitimate pregnancy occurred simultaneously to Agnes’s act of devotion to God through pilgrimage serves as a key element in Agnes’s self-elevation and her attack of Joan. She is self-identifying as the gender of “respectable woman” and gendering Joan as a “whore”. I suggest that these two labels were culturally perceived antitheses, and, as I will demonstrate, provided slanderers with the most convenient and frequently invoked means of elevating one’s own reputation and verbally injuring another individual.

John also had an agenda in this spectacle. Agnes was threatening his reputation as a “respectable man” by publically accusing him of adultery, and defending his own honor required physically managing his unruly wife by beating her in the street to illustrate his masculinity and power over her. In addition, Agnes’s actions indicate a woman understandably possessed by emotional pain and rage, but might also suggest a calculated and intentional performance of this pain. Agnes was surely aware of the intrigued voyeurs watching the entire scene unfold: during the violent altercation between the Badcocks, Joan attempted to remove herself from the area so as to avoid the resulting confrontation. Agnes, instead, insisted on chasing her into the street, falling to her knees in feigned prostration before her husband, God, the audience, and the woman she believed had wronged her, while loudly screaming “A vengeance on thee whore, Joan Essex, this have I for thy sake, thou art my husband’s whore and this have I for thy sake.” Undoubtedly bruised and bloodied from the beating she had just endured from her husband, Agnes purposely presented her physical and emotional suffering to Joan, and to the crowd of onlookers, as public evidence of the injuries
caused by Joan’s misbehavior and actions. She is also relying upon the audience of witnessing neighbors to bring Joan to justice.

The Legal System and Source Structure

In order to understand the influence of gender on slander litigation and the formations of reputation and public identity, it is first important to understand how this legal system functioned within English society. Largely produced from developments during the twelfth and thirteenth centuries, the ecclesiastical court system was highly formidable, sophisticated, and complex. In addition, the relationships between secular and religious jurisdiction, and between different levels in the hierarchy of courts, became more closely defined during this period. Of particular interest for this project is one of the two types of suits women and men pursued most frequently in ecclesiastical consistory courts: first, to either enforce or dissolve a marriage contract; and second, to sue for defamation. Defamation suits usually revolved around the context in which the damaging words were allegedly spoken and their perceived effect on the reputation of the plaintiff. By 1400, defamation made up a considerable portion of the business in English ecclesiastical courts, including litigation in the London Consistory, and the portion made up by defamation cases would continue to grow in the seventeenth century, eventually eclipsing matrimonial litigation.


By the fifteenth century, English consistory courts accepted quite general accusations of misbehavior. In order for an insult to be considered defamatory, it was not necessary to refer to a specific instance of wrongdoing; generally, calling someone a whore, thief, or cuckold would suffice.\textsuperscript{12} To prove defamation in a suit, a plaintiff needed to demonstrate that the defendant had spoken maliciously.\textsuperscript{13} Furthermore, defamatory words also had to damage the reputation of the plaintiff. The testimony in defamation cases from English consistory courts focuses primarily on the uttering of the defamatory words, and then on the harm the words had inflicted upon the public fame of the plaintiff.\textsuperscript{14}

\textbf{Historiography}

Scholars have examined records of both ecclesiastical and secular courts for traces of defamation, scolding, sexual slander, and other verbal violence. These defamation records offer a plethora of material for historians to explore in a number of ways: issues of gender, sexuality, honor, social credit, and reputation are inherently imbedded in slander litigation. Scholars have employed a variety of methods, sources, and theories to gain an understanding of what is revealed about people and their own conceptions of gender, sexuality, and social relationships.

James Sharpe was the first historian to examine the role of gender in medieval sexual slander and defamation, but his conclusions have been discredited by all.

\textsuperscript{12} Helmholtz, \textit{Select Cases}, 574.

\textsuperscript{13} Ibid, 575.

\textsuperscript{14} Ibid.
successive scholars. Sharpe asserts that men were more involved than women in
defamation cases during the fifteenth and sixteenth centuries, and that the shift in
slander being a female-centered offense did not occur until the late seventeenth
century.\textsuperscript{15} Sharpe, when analyzing a small sample of cause papers from the
ecclesiastical courts of York, suggests that thirty male plaintiffs were objecting to sexual
defamation, and twelve to non-sexual defamation.\textsuperscript{16} He does acknowledge, however,
that these figures changed substantially by the late seventeenth century and that sexual
slander became nearly exclusively a female crime, for both the defamer and the
defamed. Furthermore, he also admits that his rather unique conclusions could also be
due to his exclusive focus on York, as well as the extremely scarce sources that still exist
for these court cases.

While Sharpe asserts that female involvement in slander litigation expanded
during the seventeenth century, most other scholars argue that defamation had been a
female-centered phenomenon since the early thirteenth century, over four hundred
years earlier. In fact, many other historians have demonstrated that women actually
played a disproportionately larger role than men in slander litigation in almost every
other area of England from 1250 onward. Martin Ingram, for example, asserts that
women tended to use verbal rather than physical aggression, which implies that a
presentment for verbal violence by a woman would be comparable to one for minor

\textsuperscript{15} J.A. Sharpe, \textit{Defamation and Sexual Slander in Early Modern England: The Church

\textsuperscript{16} Sharpe, \textit{Defamation}, 28.
assault by a man.\textsuperscript{17} Marjorie McIntosh also cites one of the most commonly punished offenses as verbal abuse or slander known as “scolding,” described as a characteristically female offense.\textsuperscript{18} In addition, she demonstrates that the need for social control of misbehavior greatly accelerated across England following the Black Death in 1348, and that this social control was largely connected with the desire to regulate female agency.

While most subsequent historians agree with McIntosh’s assertion about regulating unruly female speech and behavior, several scholars attempted to nuance this control from a legal perspective. Karen Jones, for example, argues that while verbal abuse was particularly associated with women, prosecutions of men for verbal offences were equally numerous, but that the offences were treated differently under law.\textsuperscript{19} In fact, she asserts that some of the women who were prosecuted as scolds may have actually committed the same offence as most male defendants on verbal abuse charges; namely, showing disrespect to figures of authority. Men, however, seldom seem to have been prosecuted for verbal abuse of anyone other than officeholders or social superiors, while the targets of many women described as scolds or defamers were their social equals. Jones, therefore, believes that being a defamer was thus a gendered offence for

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which women were prosecuted disproportionately to men. In addition, Jones demonstrates that verbal offences were much more expensive to female honor and reputation than to that of males.

Laurence Poos also examines patterns of defamation from several hundred cases and argues that women were more likely to be accused of sexual misbehavior, while men were more likely to be defamed for matters such as dishonesty or secular crimes. Laura Gowing draws similar conclusions in her studies of sixteenth-and seventeenth-century slander litigation records, and argues that late medieval and early modern English society placed woman’s sexual behavior at the center of her integrity, and it was of this vision that defamers made most use. She also successfully demonstrates that defamation suits exploded in frequency between 1570 and 1640, and that women fully participated in these legal processes. Furthermore, this was one arena in which women exercised agency in the construction, maintenance, and defense of their own sexual reputations.

Shannon McSheffrey builds upon Gowing’s argument in her work, but utilizes earlier litigation from fifteenth-century London which explores how marriage, issues of sexuality, public honor, and reputation developed. Primarily relying on litigation from consistory court records, McSheffrey argues that the concepts of honor and reputation were gender specific values, and that women’s value and identity were more closely

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20 Ibid.

tied than men’s to sexual repute.\textsuperscript{22} In exploring male reputation and honor, however, she reiterates previous historical arguments by stating that constructions of male honor were much broader in scope, but she complicates this by connecting male reputation to that of women. According to McSheffrey, “male sexual reputability was contested territory, as notions of self-governance, Christian morality, and honor battled with an ethic in which male status and identity were defined by the sexual conquest of women.”\textsuperscript{23} Here, McSheffrey is able to incorporate defamation cases involving both men and women to demonstrate how a woman’s perceived ability to hold sexual power over a man, and a man’s inability to control this power could result in a loss of honor or reputation for the man.

Although these scholars have contributed enormously to the study of defamation litigation, Sandy Bardsley presents the most innovative method for investigating unruly female speech by using an interdisciplinary approach to late medieval sources ranging from defamation cases to contemporary art and literature. She argues that illicit speech became increasingly associated with women during the fifteenth century, and that stronger control over female speech was also aimed at limiting female agency.\textsuperscript{24}

I will adopt a similar interdisciplinary approach in the present study, and, in some respects, will build upon the foundation already laid by Bardsley.\textsuperscript{25} I am limited in

\begin{thebibliography}{9}
\bibitem{22} Shannon McSheffrey, \textit{Marriage, Sex, and Civic Culture in Late Medieval London} (Philadelphia: University of Pennsylvania Press, 2006), 164.
\bibitem{23} Ibid.
\end{thebibliography}
my access to sources, and am relying primarily on slander cases from the sixteenth and early seventeenth century. I am, however, using literary sources from the thirteenth, fourteenth, and fifteenth centuries, and will, therefore, be including this period in my general framework for the study. The sources used present certain obstacles, as I am relying entirely upon transcribed, translated, and published records that vary drastically in format, quantity, and quality of information included. Most of my sources are limited to tables and charts that have been organized by various translators and editors, and that typically only include information such as dates, location, gender, and, occasionally, witness information. Fortunately, some of these records do include a few of the actual details concerning the original verbal offence, but this is relatively inconsistent throughout the collections. Despite these hurdles, the wealth of information offers ample opportunity to perform this preliminary study on gender performance in slander litigation.

Furthermore, I will differentiate my work from previous scholarship through a more nuanced understanding of gender by incorporating Judith Butler’s work on performativity and her questioning of the belief that certain gendered behaviors are natural. I will, therefore, be using this theory in my examination of early English consistory court records to demonstrate how women used verbal offences and the resulting defamation litigation to create a culturally-acceptable performed identity.26

26 For the purposes of statistical analysis in portions of this study, I will be reverting back to the use of “man” and “woman” as biological descriptions of case subjects.
Timeline

One problem evident in previous scholarship on defamation is the use of artificial temporal categories. Generally, historians have isolated and identified sources from the twelfth century to the sixteenth century as “medieval” and litigation from the sixteenth century through the eighteenth century as “early modern.” When first formulating this study, I struggled to decide how to categorize the sources that I am using; I searched for clear distinctions between the two periods that would necessitate such stark bifurcation, and eventually concluded that none exist. In examining the timelines employed by the most significant historians of defamation litigation, it becomes apparent that the sources demonstrate more continuity in behavior over time, and there is not a huge shift in language used by slanderers or their victims.

Scholars of English defamation owe a large intellectual debt to Richard Helmholz’s study Select Cases on Defamation to 1600. Helmholz not only includes full Latin and English transcriptions of ninety cases from local, royal, and ecclesiastical courts, but also provides detailed descriptions of the various legal systems and processes involved in slander litigation. Helmholz appears reticent to categorize his study as “medieval” or “early modern” and avoids the use of either term; he, instead, refers to specific dates and centuries rather than these broad generalities. Although he does occasionally use the terms “pre-Reformation” and “post-Reformation”, this hesitancy to periodize his work could imply an effort to blur the lines between the synthetic categories of “medieval” and “early modern”. Although abstaining from overused and irrelevant categories is refreshing, he fails to account for his study’s concluding date. He simply writes: “Its starting point is 1222, the date of the Council of
Oxford, at which the first English Church promulgated the provincial Constitution on the subject. Its terminal date is 1600, less than half a century before the first English treatise on the law of slander was published by John March.”27 Although the opening date makes sense, he provides no reason why he chose not to include sources that stretched beyond the sixteenth century; this is a strange decision considering that availability of recorded cases increases dramatically during the early seventeenth century.

Other scholars have been more deliberate in mapping temporal parameters for their work, yet entirely fail to draw a connecting line from 1222 to 1642.28 Sandy Bardsley identifies her focus as “late medieval” and uses cases from 1311 to 1530.29 Marjorie McIntosh also stops short of the seventeenth century by exploring litigation from 1370 to 1600, and accounts for this by stating the need for a study that spans the medieval and early modern periods.30 Susan Phillips chooses to identify her study as “late medieval” but provides no specific dates for this label.31

Similarly, scholars exploring cases identified as “early modern” also fail to make connections to the period prior to the sixteenth century. Laura Gowing has dedicated most of her study to litigation from 1570 to 1640, identifying this period as distinctly

27 Helmholz, *Select Cases*, xi.

28 Karen Jones focuses on the period from 1460 to 1560.

29 Sandy Bardsley, *Venomous Tongues*.


early modern, but, in fact, never addresses the earlier period at all.\textsuperscript{32} She simply suggests that litigation involving women dramatically increased beginning in the 1570s and sustained this increase well into the 1640s when she concludes the study. This assertion, however, cannot be confirmed and could simply be a function of lack of available sources. Bernard Capp examines cases from 1558 to the end of the Stuart line in 1714, also ignoring the years from 1222 to the 1550s.\textsuperscript{33}

When examining the actual sources, little to no difference can be detected between the two periods. For example, the earliest available source from 1290 includes details of an archdeacon accusing a woman of adultery and her retaliation against him through a slander suit.\textsuperscript{34} While this case is obviously exceptional in its depiction of a woman battling legally with the archdeacon of Buckingham, its general theme of slandering a woman based on accused sexual misbehavior is completely consistent with cases throughout the entire period from 1222 to 1640. Furthermore, the case structure and legal language is nearly identical to that of cases appearing four centuries later, illustrating that no chronological bisection is necessary within this period. Yet early modern historians present their studies as if there was a giant universal shift in social, cultural, and legal aspects of English society. Although both categories of study contain some overlap in scope, scholars appear reticent to bridge the gap between these two periods that have been anachronistically identified and divided.

\textsuperscript{32} Martin Ingram adopts a similar timeline in his work, \textit{Church Courts, Sex, and Marriage in England, 1570-1640}.


\textsuperscript{34} Gray c. Archdeacon of Buckingham, Canterbury Cathedral Archives, Sede Vacante S.B. 111, nos. 270, 272 as quoted in Helmholtz, \textit{Select Cases}, 3.
Therefore, I have concluded that the “first phase” of slander litigation in England ranged from 1222 (the Council of Oxford) to 1647 (the publication of first English treatise on the law of slander by John March). Therefore, the English Civil War, which also began around this date, serves as a more appropriate legal, social, and cultural shift within English society that may have affected changes within slander litigation. For the present study, however, I will be focusing on the first phase of slander litigation as a whole, and have termed this period “early English slander litigation”.

Organization

This study is divided into three body chapters and a conclusion. Chapter One investigates early slander litigation from England and not only analyzes the numbers of women and men participating in defamation litigation, but also will demonstrate how the roles of plaintiffs, defendants, and witnesses were constructed through gender performance; the language and types of gendered insults most frequently used by defamers; how these insults evolved into distinct genders and identities; and the public punishment of verbal insubordination. This chapter argues that women more readily harnessed the power of speech to attack those living around them, and, by presenting others as morally corrupt, these women successfully enhanced their own reputations as being morally upright. In addition, I will argue that women utilized slander litigation, both as plaintiffs and defendants, in order to define and defend their public reputations.

In Chapter Two, I closely examine the gender of “whore”, the most frequently invoked insult, and will analyze how this role was identified, and why it was projected onto certain women. In addition, I consider how environment might have influenced the
pursuit of defamation litigation by exploring geographical locations in London that were suspected areas of prostitution, and how living among publically-perceived sexual deviants might have influenced women’s self-identities. Although several scholars have attempted to examine prostitution from the perspective of men, and a few have even explored it from the perspective of the prostitute, there has been little exploration to recover the experiences of other women living among prostitutes and how this might have affected their lives. In this chapter, I argue that women living in and around areas of prostitution were more likely to sue as victims of sexual slander.

The third chapter analyzes the influence of contemporary conduct literature on the creation and propagation of gendered standards of social behavior and how people used slander litigation to negotiate identity, honor, and reputation in accordance with these ideals. Furthermore, I demonstrate how slander litigation created a public space that allowed subjects to act out circumscribed roles in acceptable or inappropriate ways, while also considering how these culturally inscribed ideals may have been disseminated to a largely illiterate population. This chapter argues that contemporary conduct literature was one aspect of culture that created, reflected, and reinforced socially desirable behavior and that slander litigation presented one arena in which subjects performed, negotiated, and reenacted these genders.

The conclusion will pull together these arguments by considering the ways that women exhibited agency through the repetitive deregulation of their speech, the influence of various social factors on the cultural construction of gender identities, and the broader implications of gender involvement in slander litigation and deviant speech.
CHAPTER 1

PROFILES OF SLANDER LITIGATION

On March 11, 1490, John Stoner testified in court as a witness in a defamation case involving two London women, Margaret Samer and Joan Ponder. Stoner asserted that, he, his son, and Richard Twety “within and near the doorway of [his son’s] house by the public street,” he overheard a heated argument between Margaret and John Ponder, Joan’s husband, in which John was interrogating Margaret about a vicious rumor circulating about his wife. The witness said, “There and then the said John Ponder declared to Margaret that she had said earlier that Joan, whom John’s wife had borne while they had been married, was not John’s daughter, but that she was the daughter of a certain friar.” Margaret answered him, “So it was told me.” And then John said to her, “Thou saiest so,” and she said again, “So it was told me.”¹ Stoner testified that these slanderous words harmed the public fame of Joan, and that “on the occasion of the speaking of those words, a great rumour circulated against Joan, and many of her neighbors spoke about her because of it,” and that he “trusts her less in his own conscience because of it.”²

A second witness, Richard Twety, testified that, during the argument John accused Margaret of earlier saying that “Joan, his wife, was a prostitute, that is ‘an harlot,’ and that Margaret said to him, ‘I do not deny that I said that, and so it was told


² Ibid.
me.”3 Moreover, this witness said that “Margaret was previously presented for homage at Herford Stock before the secular judge as a common defamer and a scold” and that Twety, “who was bailiff, had an order from the seneschal, John Lyng of Maldon, who warned her that if she did not henceforth abstain from such things she would be made to sit on the Cucking Stool and the pillory.” Twety, however, disagreed with Stoner’s assessment of Joan’s damaged reputation and instead asserts that “he does not have less faith in Joan because of the speaking of those words and said that many serious people talked about the speaking of those words, and he believes in his conscience that the speaking of the said words impedes the contracting of marriage with the said Joan’s daughter, or at least that it will cause many men to turn their hearts from contracting with the girl.”4

In this case, several issues were at stake for the plaintiff, Joan, and her husband. Not only was she accused of sexual misbehavior in the forms of adultery and bastardry, but of fornicating with a religious figure. Without intervening on her own behalf, Joan risked being casted publically as a “whore” or “adulterer”. Furthermore, her daughter was being characterized as a “bastard”, thereby placing her in danger of losing any future marriage prospects. Unsuitability was hugely problematic for a woman, as her own financial well-being depended almost entirely on her perceived marriageability. Therefore, it was necessary for Joan and John to attempt to rectify these accusations by suing Margaret.

3 Ibid.

4 Ibid.
Margaret embodied the most complex role in this drama. She was already publically gendered as a gossip and scold, owing to her previous appearances in court; experiences that clearly did little to dissuade her from her proclivity for speaking ill against others. She, in fact, admits to slandering Joan, but argues that she was simply perpetuating an already-existent rumor, thus presenting herself as a conduit for this information, rather than the source of it. This choice of self-presentation might indicate an understanding of varying degrees of culpability associated with creating a rumor or simply sustaining it. Consequently, both women were engaged in a larger discourse of negotiating gender through insult, retaliation, and public response.

Issues like these resurface hundreds of times in defamation litigation and allow for discoveries about how people conceptualized public reputation and identity. Relying on a quantitative approach and language analysis, I will English Consistory Court cases from the sixteenth and seventeenth centuries to argue that women more readily harnessed the power of speech to attack those living around them, and, by presenting others as morally corrupt, these women successfully enhanced their own social roles as being morally upright. In addition, I will argue that women utilized slander litigation, both as plaintiffs and defendants, in order to define and defend their public reputations.

Statistics of Slander

Before examining gendered presentations in slander litigation, it is important to first establish a broader picture of female involvement in defamation cases. This can be accomplished through statistical analysis of slander records from the period we are examining. As examples, I have selected 479 cases from London and Cheshire from
1567 to 1631. It is difficult to determine many details about the women as individuals, as these records often fail to indicate class, occupation, family size, and age. Typically, the only information offered about individual litigants is name, date, and, occasionally, marital status. Even so, it is apparent that women participated in over eighty-seven percent of cases, either as plaintiffs or defendants. Out of the 479 cases, 263 of the defendants were women.

Furthermore, 342 of these cases involved women suing another party after being verbally assaulted, meaning that women were far more likely than men to utilize this legal defense of themselves and their reputations. In fact, 188 cases were fought solely between women. Only thirty-four of the suits involved both male plaintiffs and male defendants. These findings not only reveal that women more frequently targeted other women in verbal violence, but also that women were more likely to retaliate against other women for being verbally attacked.

On the surface, this may suggest that women were simply more socially comfortable fighting in court with other women instead of with men. Closer inspection reveals a different conclusion. Perhaps as defamation litigation became a more common occurrence, women gained confidence in suing men for slander. In London, for example,
only twenty-one women sued men for slander from 1586 to 1592. From 1593 to 1611, this number more than tripled, as sixty-six women brought defamation suits against men.\(^8\) This increase could reflect a growing sense of security for women in the defense of their own public identities and reputations; a sense of security that enabled them to pursue slander litigation, even against men.

In addition, men and women were targets of slander for different reasons. As has been discussed, slander involving female victims most often centered on sexual misbehavior, while slander involving men usually focused on financial matters. In Cheshire, for example, 149 out of 212 cases were sexual in nature; women were involved in all but six of these cases.\(^9\) Sexual insults appeared in a wide variety of forms, ranging from accusations of adultery to prostitution to bastardry. For example, sixty-one of these 149 cases mention the word “whore” and was the most common gendered insult relegated exclusively to women.\(^10\) Defamers’ use of the word “whore” and its many variations, such as harlot, strumpet, and trollop, became convenient shorthand for damaging a woman’s fame on a variety of levels.

\(^8\) The years 1595-1606 are missing from these consistory court records, thus ensuring an equal number of seven years in both groups. 'Depositions: 1586-1611', *London Consistory Court Depositions, 1586-1611: list and indexes* (1995), pp. 4-6. URL: http://www.british-history.ac.uk.ezproxy.mnl.umkc.edu/report.aspx?compid=117336 (Date accessed: 01 March 2012).

\(^9\) I only use Cheshire cases here because the records provide the most detail about the involved slander.

\(^10\) Ibid.
In thirty-five of these 212 cases, the defendant has made some sort of accusation of adultery, often including the phrase “my husband’s whore.” In one particularly colorful description of a 1595 case, Ellen Deane sued Elicia Wood for “saying she saw her head laid on one block and her buttocks on another in adultery with Hammnett Bennett.”

Table 1: Slanderous Accusations in Cheshire, 1567-1631

<table>
<thead>
<tr>
<th></th>
<th>Against Women</th>
<th>Against Men</th>
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<tr>
<td>Whore/Strumpet/Harlot</td>
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<tr>
<td>Adultery</td>
<td>27</td>
<td>9</td>
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<td>Bastardry</td>
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<td>Thievery</td>
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<td>Witchcraft</td>
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<td>Cuckoldry</td>
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<td>Disease</td>
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<td>Scolding</td>
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<td>Bawdry</td>
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<td>4</td>
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<tr>
<td>Drunkenness</td>
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Language Analysis

While statistical analysis provides a broad view of slanderous activity in England, a closer look at the actual language used by defamers offers deeper insight into the social power wielded by these terms of insult. For example, the word “whore” not only referred to prostitutes or participants of the commercial sex trade; it elicited a connotative abundance of degrading actions and sexual misbehavior, therefore proving

11 Ibid.

12 Ibid.
instrumental to dismantling honorable female identity and reputation. In other words, verbally gendering a woman a “whore”, or as a variety of sexually deviant terms, summoned a powerful caveat of cultural fear surrounding female sexuality and social agency, and provided an easily accessible method of injuring another individual.

For example, insinuating sexual misbehavior was crucial in accusing a woman of failing to fulfill her circumscribed social roles of good wife or mother, as illustrated in a London case. In 1610, at Agnes Fenner’s alehouse, three men and women discussed a rumor about Barbara Meakins: “I heare saye you have reported that this woman was delivered of a child in a coblers howse in Norton Folgate and she the sayd Agnes Fenner sayd Aye she had sayd so then this Jurate sayd there are divers coblers howses in Norton Folgate tell me in whose howse it was then.”13 Here, a woman was targeted by a group for her rumored sexual misdeeds, and these misdeeds became the preferred topic of conversation in the public venue of a tavern.14

This case, in particular, serves as an interesting illustration of gendered social roles. I suggest that gossip or the exchange of secret, private, or privileged information becomes its own public space for people to gather and to intermingle in ways that they might not normally: here, this space provided an opportunity for a woman to participate in a discussion with men about sexual misbehavior enacted by others.

Furthermore, Agnes is performing the role of entertainer by providing her customers

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13 Barbara Meakins c. Agnes Fenner (1610), DL/C 219, fo. 278 as quoted in Gowing, *Domestic Dangers*, 70.

14 This case actually resulted in Meakins being called into JP to be examined about these charges. She was found not guilty, and then chose to sue Fenner for slander.
with this private information, in exchange for their patronage to her tavern, and commanding attention in public space by speaking.

Barbara Meakins also made interesting choices as a legal agent. According to the available records, Meakins sued only Agnes, not the other men in the tavern. Perhaps this was because Agnes was targeted as the bearer and most frequent deliverer of this rumor, but Meakins also probably knew that her case held greater potential for victory if she sued a woman and not additional male participants. Furthermore, Meakins probably was aware of Agnes’s questionable reputation as a tavern keeper and her constant interactions with men in her pub, and could have exploited this vulnerability in the case against her.

Although Barbara was married, single women and widows were also slandered frequently, perhaps because of their freedom from a male patriarch. For example, in a London courtyard in 1614, Thomas Hoskins told a single woman, Ellen Godderd (whom he called ‘Bouncinge Nell’), “If thou art not with child yet thou...hast deserved for it as many tymes as there are stones in this courte And if the water gate could speake it would tell many strange tales. And if these stones could speake they would justifie my words to be true.”¹⁵ This is an interesting case because Thomas is not only accusing Ellen of sexual misbehavior, he is also insinuating that her sins took place out in the open, in an outdoor courtyard, thus further amplifying his insults. In addition, voyeurism plays a vital part here. Lowther indicates that he has seen her performing sexual transgressions in this public space, and then insinuates that the physical

¹⁵ Ellen Godderd c. Thomas Hoskins (1614), DL/C 222, fos. 80-81 as quoted in Gowing, Domestic Dangers, 69.
environment bears witness to her impropriety, suggesting that, even when human
witnesses are not available to enforce proper gendered behavior, the material
environment becomes an enforcer of gender obedience.

Widows were also frequent targets of slander. One particularly colorful example
of this type of case is shown in a 1629 record: Here, Elizabeth Smith produced several
witnesses to vouch for injurious words delivered by Andrew Reade. The first of these
witnesses, John Wade, told the court that he had planned to become a suitor to
Elizabeth, who was a widow, and that Andrew Reade, on hearing of his intentions, told
him the following story:

I did heare that Mrs Smith the widowe...did make shewe of going to a
sermon unto St Antholins church...and that her husband mistrusting that
she was a dishonest woman of her body, and that she goinge without a
man went to play the whore followed after her, and observed her to goe
into a Bawdy House in St Swithins Lane...and her husband went into a
Barbers shop neere...and caused his beard to be shaved and altered his
clothes and then went into the Bawdy house after his wife and desired to
have a wench brought him, and there was answer made unto him by the
Bawde that there was none in the house, but such as was very deare, and
the husband of the said Elizabeth...Smith asked howe deare and the
Bawde answered that he might have one for five peeces and he told her
he wold give such peeces if he liked the partie and gave her a peec in
earnest whereupon Elizabeth Smith was brought to her husband
Wolfraed Smith by the Bawd not knowing he was her husband but soe
soone as the saide Elizabeth...Smith heard her husbands Tongue and
perceived that he was her husband she...ran away from him and went
home and said that she was a widowe and her husband followed her
home and suddainely fell sicke and died with grieve.16

Several other versions of this tale were recounted in the courtroom: in one,
Elizabeth is accused of murdering her husband, and in others, he simply leaves her
instead of falling ill. Unpacking this sordid tale line by line presents several discoveries.

16 Elizabeth Smith c. Andrew Reade (1629), DL/C/231, fol. 393 as quoted in Gowing,
“Gender,” 4.
First, Elizabeth is accused of presenting herself as the image of virtuous womanhood by pretending to attend church, and instead, adopts the role of the sexually deviant prostitute. Second, it is suggested that her husband already mistrusts her, not believing her church attendance, and he identifies her as being of dishonest use of her body. Third, her husband’s mistrust initially results from her choice to leave the house without a male escort, illustrating the social danger of women seeking public interactions without a male present. Therefore, her husband purposely alters his appearance to mislead his wife from initially discovering his identity, and Elizabeth recognizes him only upon hearing his voice, implying a relatively convincing physical transformation. Furthermore, witnesses in this case entirely fail to agree upon the husband’s eventual fate; their only consensus is that the wife’s deviant behavior directly resulted in the untimely death or disappearance of her husband.

While women were publicly blamed for most sexual indiscretions, men were also victims of slander, although they were rarely targeted for involvement in illicit sex or adultery. Unlike women, male sexual misbehavior was usually socially overlooked, ignored, or disregarded. Typically, the only sexual slanders implicating men were cuckoldry, bawdry, and occasionally bastardry. Most men, instead, were implicated in thievery, drunkenness, and physical violence. In 1492, for example, Alice Mayte accused William Pepard of murdering her child, and Pepard defended himself by suing her for defamation. In a rare occurrence in defamation records, we have the testimony of Alice herself, who claimed that she said the following words to Pepard: “Thou wretched man, where has thou done my child,” to whom William answered, “Go look for him,” and she
said to him, “What said Awsten’s wife to thee in thy garden, thou wretched man.”

Several witnesses agreed to overhearing Mayte accuse Pepard of the heinous crime. John Smyth asserted that “he heard Alice Mayte, enraged by anger as it appeared to this witness, saying to William Pepard these words in English or others similar in effect, ‘Where hast though done to my child, hast thou slain him and murdered him?’”

Another witness, John Roo, corroborates this by declaring that he saw Alice “saying to him with a malicious and angry spirit, as it appeared to this witness, these words in English or others similar in effect, ‘Where has thou done to my child, thou hast slain him or maimed him or bet him away,’ and immediately afterwards she added and said to William, ‘Thou art a whoremonger.’” Clearly convinced of Pepard’s guilt in her child’s disappearance, Mayte made several public attempts to draw a confession from him. The witnesses also used nearly identical language when recounting Alice’s words to William, perhaps indicating uniform repetition by Alice. Pepard obviously felt threatened by her repeated accusations, compelling him to sue her for slander.

Although Alice was probably aware of the pending suit against her, as well as the associated danger of speaking out against a male member of her community, she continued to challenge her gender-dictated silence by loudly and publicly questioning Pepard.


18 Ibid.

19 Ibid.
Men not only defended themselves through slander suits: on some occasions, a husband would sue verbal assailants for insulting his wife. This is important on a number of levels in that a husband is not only defending the honor of his wife, but, by proxy, he is defending his own honor. For example, in 1631, Charles Knott sued Dorothy Wright for calling his wife a “cut-nosed jade” who was “sick for a tarse.” There is no explanation for why his wife did not defend herself in court, but there are several instances similar to this one in which a husband pursues justice in her place. This reflects the intense interconnectedness of a wife’s sexual reputation to her husband’s public identity. Furthermore, Knott’s legal personality as a male could strengthen that of his wife, while figuratively outweighing that of the defendant, Dorothy Wright.

Although defamation litigation typically occurred among lower classes, elites were implicated on occasion, particularly in cases involving sexual indiscretions with male members of the aristocracy. The networks of gossip, however, usually focused on the women rather than the nobles or gentlemen with whom they consorted. In 1483, a woman and her husband claimed that she had been defamed when neighbors spread the following story about her and Master William Paston, probably either William Paston II or William Paston III of the Paston letters fame: “Maude Nesche is a strong whore and a strong strumpet, for Master William Paston should live in adultery with her, and had to do with her in her house, and sent his meinie [retinue] down to keep the door, and he keepeth her in a house in St. George’s field, as a strong whore and harlot as she is.” Unfortunately, it is not known why Maude was specifically targeted in this

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20 Ibid.

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case, or if she and Paston were even acquainted. It is apparent, however, that Maude and her husband were willing to defend her reputation in court to keep her from being publically reduced to the lowly mistress of a wealthy man.

As we have seen above, constructing, performing, and maintaining one’s public identity and reputation was a sensitive and complex process for English people. Slanderers and victims enacted a multiplicity of genders, and depended on the strength of these identities within cultural understanding in order to be viewed as effective. The strictures placed on individuals, particularly women, were rigorous and intense and any misstep could derail one’s public fame in the eyes of the community and church. Similarly, an early legal mechanism also existed that hinged on the morally sound reputations of some: compurgation. Also considered a form of “wager of law,” compurgation literally means “to purify together” and involved the defamed swearing an oath and then having witnesses swear they believed the defendant’s oath.22

Witnesses: Who is Reputable?

If an individual had been publically gendered as a “whore”, “scold”, or “bawd”, producing “respectable men” and “respectable women” as witnesses to vouch for his or her honor could restore social credit through positive association. Compurgation was based largely on the idea that having friends or acquaintances in good public standing could somehow recover the damaged reputation of someone slandered or of an accused slanderer. In the event that a defamed individual could not muster up anyone to

21 GL 9064/3, fol. 179v as quoted in McSheffrey, Marriage, 183.

22 Helmholz, Selected Cases, xxiii. “Wager of Law” could also refer to a trial by battle.
support her, it would look quite bad for the outcome of her case. In 1499, for instance, Agnes Rawson was charged as a “common reviler of her neighbors” and instructed to bring four of her neighbors as compurgators to the next court.\(^{23}\) Apparently, Agnes’s neighbors either agreed with the charge or lacked sympathy for her cause, for she failed in her compurgation and was found guilty of scolding. Relying upon neighbors for assuring one’s respectability indicates the significance of community involvement in identity construction. Witnesses, therefore, served an imperative function in negotiating the social understanding of gender respectability. Furthermore, while the available records from Sussex offer little information about the litigants who initiated lawsuits, they often provide a comprehensive profile of the witnesses who are vouching for plaintiffs or defendants.

A glance at statistical analysis of witnesses from various parishes in Sussex helps to reveal a possible profile of a desirable witness in compurgation. Several elements comprise these witness profiles: Gender, age, occupation, number of years of local residence, marriage status, and various other details. Here, I will use ninety defamation cases from Sussex dating from 1556 to 1616. Analysis of these components yields interesting discoveries about what attributes were considered valuable or honorable in social behavior.\(^{24}\)


\(^{24}\) Medievalists have used legal records in this way for a variety of different studies. For example, in his study of “Proofs of Age” from fourteenth-and fifteenth-century England, Joel Rosenthal emphasized the importance of compurgation records and demonstrated
These cases involve 155 witnesses who were expected to vouch as sureties for the plaintiff. Occupation is a crucial key of analysis and appears to be important in the medieval construction of reputation. Only four of the ninety-eight male witnesses have no listed occupation. The most largely represented occupation is that of husbandman, with forty claiming its title. Furthermore, thirteen men were yeoman. Both of these titles would have been perceived as honorable, as they were free tenants. Thirty-six of the witnesses were various artisans and craftsmen, including tailors, feltmakers, carpenters, blacksmiths, cordwainers, and glovers, among several other occupations. Five men were employed by the Church: one churchwarden, three vicars, and one rector. It is clear that employment indicated respectability and was a desirable element in selecting witnesses in defamation cases.

Gender serves as a particularly significant element of analysis in these cases. Perhaps surprisingly, over one-third of the 155 witnesses in this selection were women. This demonstrates that women were not only vigorously participating in defamation litigation as plaintiffs and defendants, as has been demonstrated earlier in how they can be utilized to reveal collective memory and experience of medieval people.


26 Ibid.

27 Ibid.

28 Ibid.

29 Ibid.
this work, but were also active participants in compurgation. Possessing the ability to “swear good surety” for other members of their communities indicates a powerful legal role for women in English society. In addition, although women were largely vouching for other women, they were also swearing good surety for men in slander cases.\(^{30}\) This illustrates an interesting legal dynamic in which slandered men relied upon the respectability of their female friends and neighbors to recover their own damaged reputations.

A closer examination of the female witnesses in these cases reveals important, but not surprising, details about the profile of a desirable female witness. Out of the fifty-seven women involved, thirty-six were married. As discussed previously, marriage was the fundamental indicator of respectability for almost all women during this time, and single women and widows were often regarded as socially suspect. Despite this, however, four widows served as witnesses in cases. Marriage status is not indicated for eleven of the fifty-seven women.\(^{31}\) Occupation is recorded for only four women: one midwife and three spinsters.\(^{32}\) While possessing an identifiable occupation was clearly a marker of public respect for men, women were not weighed socially in the same manner, and were valued more for their marital status, the occupation of their husbands, and their lack of negative public fame.

\(^{30}\) Ibid.

\(^{31}\) Ibid.

\(^{32}\) This is either an indication of the disinterest of the contemporary scribe, or perhaps of a prevailing sexism of the modern translator and transcriber. Regardless, omission of the occupations of female witnesses is lamentable.
Clearly, women were participating in significant legal processes on a variety of levels. Not only were they actively pursuing slander suits against verbal assailants, but also were reviving the reputations of others through compurgation. Although compurgation proved successful for some, others failed to escape conviction from charges of defamation and scolding.

Punishment and Economy of Slander

Punishment of scolding and slander ranged from case to case and varied across time period. The cucking stool was a popular device of punishment that relied on public shame and humiliation. Most were simply chairs onto which the victim was strapped and displayed on her doorstep or at the site of the crime.\textsuperscript{33} Another form of this was the “ducking stool” which was a chair that was connected to a pole or beam that could plunge the victim into water. Important to note is that both of these punishments were performed exclusively on women. A woman convicted of unruly speech not only was bound to an inanimate object and presented publicly as a “scold” to her entire neighborhood, but also was then physically raised and lowered into water at will, demonstrating complete control over her actions and behavior. While the experience was certainly terrifying and uncomfortable, it was, most importantly, painfully humiliating.

Other forms of public shame could involve being presented on a wooden cart and wheeled through town, dressing in a white sheet and carrying a wand, or wearing a

\textsuperscript{33} Bardsley, \emph{Venomous Tongues}, 143.
paper declaring the sin.\textsuperscript{34} The distinctions between visual signification of sin and textual signification of sin could indicate varying levels of literacy within communities, and sumptuary legislation remained a popular method of visually distinguishing disreputability from respectability. Defamers might also be sentenced to a public apology directed to their victim and a retraction of their injurious words. Like all publicity associated with punishments from this period, the deterrence of humiliation was not only aimed at preventing future bad behavior from the assailant, but also was aimed at dissuading others from committing verbal insubordination.

By the late sixteenth and early seventeenth centuries, convicted scolds occasionally faced more brutal punishments with the introduction of “scolds bridles” or “branks,” which were metal cagelike devices that were placed around the head and locked the mouth shut. Sometimes these incorporated a piece of barbed metal that went into the mouth itself, to pierce the tongue at the slightest movement.\textsuperscript{35} Most often, however, these public punishments were translated into monetary fines.

A fundamental aspect of defamation litigation was the seeking of monetary retribution, therefore requiring litigants to place a price on their public personalities. Because slander negatively impacted one’s social capital, this could directly translate into the loss of economic opportunities by damaging a woman’s marriage prospects or a man’s perceived business value. In this section, I examine the commodification of reputation and slander, and how financial implications factor into these cases. Next, I

\textsuperscript{34} Ibid, 40.

\textsuperscript{35} Lynda Boose, “Scolding Brides and Bridling Scolds: Taming the Woman’s Unruly Member,” \textit{Shakespeare Quarterly}, Vol. 42, No. 2 (Summer 1991), 184.
will explore the ways that these issues were defined and reconciled within slander cases, in order to gain insight into how English people possibly conceptualized of their own public worth.

Financial compensation for verbal attacks varied greatly in church courts and could range anywhere from 2 shillings to several pounds, depending on the circumstances.\textsuperscript{36} In a 1591 case, one woman was ordered to pay 17 shillings and 46 shillings in expenses.\textsuperscript{37} In 1590, Juliana Clunye was ordered to pay ten shillings “or otherwise to give satisfaction” for calling Marcella Lynne’s husband a cuckold.\textsuperscript{38} It is difficult to know how these amounts were determined, but some records are more specific about this information. In 1315, for example, William Clerk sued Cecilia Ode for calling him “false” and said “that the beer of the said William was not fit by which the said William lost the sale of the aforesaid beer, to the damage of the said William 40 pence.”\textsuperscript{39} Here, we can determine that William believed he lost this amount in beer sales because of his product being slandered by Ode.

Other cases are less clear about the basis for fines. In 1287, Geoffrey Hylton accused John Malyng of breaking into his home, attacking him with “shameful words calling him a thief and other enormities and struck him on the right side of his face with

\textsuperscript{36} Unfortunately I do not have access to records of most outcomes and sentences of slander litigation.

\textsuperscript{37} Aveline Grace c. Katherine Fayermanners (1591), DL/C 214, fo. 242 as quoted in Gowing, 40.

\textsuperscript{38} Marcella Lynne c. Juliana Clunye (1590), DL/C 213, fo. 119 as quoted in Gowing, 40.

\textsuperscript{39} Westminster Abbey Muniments 14545, s.d. as quoted in Helmholz, 32.
his knife, to his damage 40s” and brought a suit against Malyng.\textsuperscript{40} It is difficult to know how this monetary amount was determined, whether this was based on material damage to Hylton’s home, or if this amount was based on his physical injury. According to the record, Malyng could “not deny that he entered the house of the same Geoffrey and because he was drunk he said opprobrious things to the same Geoffrey and struck him lightly.”\textsuperscript{41} Several other cases describe damage as simply “half a mark.”\textsuperscript{42}

Bardsely has demonstrated that, as the crime of scolding became increasingly associated with women, the fines also increased. For example, she illustrates that the court rolls of Yeadon in 1387 insisted that anyone who drew a knife or sword was liable to a penalty of 40 pence, whereas any woman who was “quarrelsome in words” faced a fine of 6 pence. When the ordinance was repeated in 1394, the fine for “any women who is contentious with her neighbors” had been raised to 12 pence.\textsuperscript{43}

Furthermore, the legal costs of suing someone added a financial investment to slander litigation. Christopher Thompson, sued by Anne Pridgen for calling her whore “or otherwise entreat her evell if no bodie were bye,” responded “why shoulde I not I must have some sport for my money But...I will not call the whore no more I have paied for it.”\textsuperscript{44} By being forced to pay retribution to Anne for slanderling her, Thompson

\begin{flushright}
\textsuperscript{40} PRO SC 2/178/96, as quoted in Helmholz, 28.
\textsuperscript{41} Ibid.
\textsuperscript{42} Suffolk RO. C 5/3, Roll of 17-18 Edw. 1, s.d.; Norfolk RO. C 4/9, m. 4r.; Suffolk RO. C. 5/3, Roll of 15-16 Edw I, s.d. as quoted in Helmholz, Select Cases, 29.
\textsuperscript{43} Bardsley, Venomous Tongues, 85.
\end{flushright}
clearly feels dissuaded from continuing to verbally attack her. Financial payment, however, was not always effective against slander. When Joan Manning sued John Jent for calling her a whore, Jent boastfully responded in court, “I have fewer score poundes now to spend to prove thee a whore.” Both of these cases indicate an awareness of the financial implications and obligations of defamation suits.

Conclusion

Early slander litigation presents far more than legal systems and processes; it provides an opportunity to eavesdrop on an ongoing negotiation of identity, honor, reputation, and gender occurring among historical agents. In this chapter, I have attempted to frame unruly speech within a more nuanced and mutable understanding of gender to demonstrate how the specific language employed by defamers and their victims illustrates a deliberate and continually evolving dialogue about proper gendered behavior. By highlighting the theatricality of these sources, each individual case becomes a unique opportunity to analyze and interpret the behavior, actions, words, and choices made by the characters presented within them.

Statistical findings demonstrate the pronounced participation by women in the discourse of slander, but this is only one part of the story. Examining the language used by slanderers indicates the tremendous social power commanded by terms like “whore”, “bawd”, and “scold”, and reveals their cultural importance as individual gender

44 Anne Pridgen c. Christopher Thompson (1588), DL/C 213, fo. 431-2 as quoted in Gowing, Domestic Dangers, 135.
categories. Although women found themselves at the center of slander litigation, men were not immune from verbal injury. Men accused of “cuckoldry” were publicly regarded as weak, emasculated, and unable to control their wives’ lustful wanderings which, therefore, directly translated to a perceived inability to manage their business matters. This label could be financially costly for men, and further deepened male motivation for defending their wives if sexually slandered, resulting in many cases of husbands suing defamers on behalf of their wives. The male reputation garnered more social credit than the female, and therefore, proved most effective in the recovery of female honor.

Women, however, did not always have the protection offered by a husband, and many women were slandered because of their single status. Widows and unmarried women, who were already marginalized based on their lack of a male guardian, also found themselves as frequent victims of verbal attack. Gender vulnerability weighed most heavily on these individuals, limiting access to social respectability, and defamers often capitalized on these easy targets.

If convicted of slander, this crime was not simply overlooked by authorities. Clearly, unruly female speech was considered as dangerous as unregulated female sexuality, and to be publically labeled a “scold” or a “gossip” warranted harsh penalties. Although punishments could include humiliation and physical suffering through hideous torture devices, consequences quickly evolved into monetary fines and retribution payments to the injured. Assessing a monetary value to be placed on damage caused to a reputation through verbal injury was, and continues to be today, a complex and amorphous process. While this process appears somewhat hazy in slander
records, it does indicate a societal shift from shame-based punishments to financial penalties, reflecting greater emphasis on economic interests.

Furthermore, while women consistently participated on opposing ends of slander suits, litigation also offered the opportunity to serve as compurgation witnesses. Although the legal system obviously privileged male respectability over that of females, individuals embodying the gender of "respectable woman" were rewarded by appearing in court and testifying on behalf of their friends and neighbors. This role not only offered new legal opportunities for women to publically exhibit social honor, but also granted them additional participation in determining broader gender identities. Possessing the ability to help restore another individual's social credit indicates profound cultural agency, and demonstrates advanced conceptions of women's legal and social potential.

As the evidence suggests, women attempted to construct their own social identities by harnessing the power of speech, but this often came at the cost of another's reputation. Furthermore, women also tried to define and defend their own sexuality and reputations through the legal apparatus of defamation suits, and, as I will discuss in the next chapter, this method of self-defense became increasingly vital for women residing in morally-precarious areas of London.
CHAPTER 2
NEIGHBORHOOD, PROSTITUTION, AND SEXUAL SLANDER

On a noisy northern London street in 1590, a crowd gathered to watch as two women began a verbal sparring match. Edith Parsons stood in her doorway, hurling insults at Sicely Thornton, who was leaning out of a window across the street.

“Thow...art a whore, an arrant whore and worse than a bitche thow goest sauntering up and downe the towne after knaves and art such a whott tailed whore that one nor ten nor twenty knaves will scarce serve thee.”¹ A witnessing neighbor, Sara Johnson, recounted this dispute in a courtroom several months later. In an effort to defend herself and establish positive public fame, Sicely Thornton had chosen to sue Edith Parsons for defamation.

At first glance, this case appears to include typical elements of defamation suits discussed in the previous chapter: sexual slander, verbal confrontation, and publicity. Beyond the apparent animosity between these two women, however, this case provides a view of implicit community participation in the public negotiation of Thornton’s gender identity. Parsons not only characterized Thornton as a sexual instigator, but also insinuated that men refused her advances because of Thornton’s scandalous reputation. This accusation suggests that the wider populace already identified Thornton as socially dangerous and regarded her with suspicion. Furthermore, by loudly drawing attention to negative public opinion of Thornton as a “whore”, Parsons inevitably augmented her

¹ Sicely Thornton c. Edith Parsons (1590), DL/C 213, p. 649 as quoted in Gowing, Domestic Dangers, 98.
own respectability through self-genderization as a “non-whore” or “respectable woman”.

Perhaps adding to these neighborhood tensions was Parson’s and Thornton’s residence in Clerkenwell, an area just north of London, infamously lousy with brothels and bawdy houses. Similar to gendering an individual as socially problematic based on her perceived behavior, a neighborhood could also be negatively identified based on social perceptions of the people and activities contained within it. In this way, individuals’ identities and communities’ reputations could become mutually reinforcing. Therefore, considering that the female reputation was already highly likely to receive sexual blame, living in an area of London believed to contain actual prostitutes would have made the social position of women like Sicely Thornton all the more precarious.

These are some of the issues that I will address in this chapter. Relying primarily on London Consistory Court records dating from the mid-fifteenth century through the early seventeenth century, I examine not only how the gendered social roles of “prostitutes” were treated legally in civil disputes, but also will determine how sex workers were identified in cases. I deliberately avoid the question as to whether or not these women were actually engaged in the commercial sex trade, and focus instead on how and why they were socially and legally categorized as “prostitutes”. The fact that women were being identified as sex workers is more important to this study than the accuracy of these claims. I also will examine the element of defamation and slander cases involving women as a valuable point of comparison. As discussed earlier, sexual morality was central in the formation and maintenance of the female reputation, and
accusations of whoredom or prostitution could unravel a woman’s already-fragile public fame.

I have selected cases in which women identified as “prostitutes,” “whores,” “harlots,” or “strumpets” chose to bring charges against their verbal assailants. I then compare these defamation and slander cases to those criminal cases involving women who were identified as actual prostitutes to determine the social relationship between commercial sex workers and other women. I argue that because of women’s close geographical proximity to socially-regarded red light districts, they were more likely to retaliate against sexual slander committed against them, resulting in high numbers of defamation cases.

Turning first to the subject of the commercial sex trade, it is important to note that suspected prostitutes are nearly invisible in these sources. They most often appear in court records as “supporting actors” and “extras,” if you will. Stews, brothels, taverns, and bathhouses that accommodated prostitution also tended to be scenes of various crimes and disturbances such as brawling, theft, assault, and murder. Therefore, by examining records involving these various other crimes and disputes, I have been able to recover some of these women from their relegation to the shadows.

Prostitution in London

It has been well established that the area of London directly south of the River Thames, Southwark, was officially sanctioned as the opprobrious—but necessary—red light district of the city. In the fourteenth century, London city officials tried to
segregate prostitutes, prohibiting their residence in the city and banishing them to the area of the stews or bathhouses in Southwark.²

By the early sixteenth century, there were at least eighteen operating brothels in Southwark. Most of these bawdy houses were conveniently situated on the riverbank, facing out toward the city. One contemporary account of Southwark describes how, when one traveled by boat across the river, these brothels could be seen and “had signes on their frontes, towards the Thames not hanged out, but painted on the walles, as a Beares Heade, the Crosse Keyes, the Gunne, the Castle, the Crane, the Cardinals Hatte, the Belle, the Swanne, etc.”³ Prostitution flourished here for over a century, most notably licensed on the grounds of the bishop of Winchester manor in Southwark.⁴

Beginning in the 1530s, however, an attack on institutionalized prostitution in Southwark was mounted. First came a 1537 legal petition against prostitution condemning “the hawnting of commen hoores from the stewes and such other places yn excessyve and gorgious apparill to the evyll example of mennys wyffes maydens and chyldern.”⁵ Hostility towards prostitutes was compounded by an order from the aldermen in December 1542 that tavern keepers should not allow prostitutes to enter


⁵ C.L.R.O. Rep. 10, fos. 13, 27, 300 as quoted in Archer, 250.
their houses to eat and drink. This proscription was followed by an order of the court of the Guildable manor of Southwark in 1543 that no prostitute should enter the manor. Eventually, and perhaps inevitably, the Southwark brothels were abolished in 1546. Examination of chancery records indicates, however, that there were several other popular areas of the sex trade in London that remained unaffected by the closing of the bankside stews. As I will address later in this chapter, there is evidence that over one hundred bawdy houses were in operation by the late 1570s in various areas of the city.

It is incredibly difficult to ascertain any specific details from available records about the nature of a woman’s involvement in prostitution, and scholars have made several important contributions to this effort. These studies have determined that involvement could range from those who worked in established bawdy houses, employed by a procurer to have sex for financial gain to those women whose participation was more transient and sporadic. Brothels and bawdy houses could include private dwellings used on a casual basis or enterprises established by municipal

6 Ibid.

7 Ibid.


legislation. The most sophisticated houses of prostitution appear to have maintained up to nine prostitutes who would pay their keeper a high rent for lodging and food, as well as often a portion of their income from clients.

Although these discoveries are important, the present study depends more significantly on the public belief in the presence of the commercial sex trade within these neighborhoods, regardless if and where it was actually occurring. Women’s frequent genderization as “prostitutes” holds stronger meaning than their actual participation in prostitution, and I examine how and why this identity was publically projected onto certain individuals.

“Prostitutes” in Court Records

Women accused of prostitution appear in civil court cases for a wide array of reasons. Because of the relative legality of the sex trade in most areas of England until the mid-eighteenth century, women identified as “prostitutes” tended to appear in court records in relation to other crimes or disturbances committed in and around brothels or “stews,” including assault, theft, and murder. For example, one entry in the Middlesex chancery records from an August session in 1613 reads, “Edmund Smith of Cow Cross, glover, and William Watenson of the same, hosier, for Joan Cawkett of the same, spinster, taken in the night by the watch fighting and buffeting with a fellow, and is complained by the officers to be a common whore.” Joan’s involvement in the sex

11 Karras, Common Women, 32.

12 Archer, Pursuit, 213.
trade is inconsequential; there are several factors in this case, however, that led to suspicion of her being a prostitute. First, she was out in public at night, which held its own connotations of criminal behavior. Second, she was fighting with an unidentified male, further personifying her as some sort of delinquent. All of these factors contributed to her categorization as a prostitute. Another example is found in the September Sessions two years later in 1615: “John Bull of St. Swithin’s Lane near London Stone, watchmaker [clockmaker], Roger Lyncolne of Stepney, dyer, and William Blysse of Whitecross Street, weaver, for Grace, wife of James [Anthony] Bull of the same, servant to the Bishop of Ely, for keeping a reputed bawdy-house and beating and abusing three officers of the watch in the execution of their office, at the same. Guilty, fined 20s.”

Again, this woman was physically fighting with three officers, although lack of details prevents full understanding of the reason for this altercation. These are just two of the many examples in which other crimes and disturbances have occurred, and accused prostitutes surface in the altercations.

It is also important to note that only two marital statuses were given to any women described as prostitutes: “single” or “widow.” Just as “whore” and “bawd”


15From: 'Sessions, 1615: 28 and 29 March', County of Middlesex. Calendar to the sessions records: new series, volume 2: 1614-15 (1936), pp. 220-256. URL:
became distinct gender categories, marital status also signified various identities and carried specific social meaning. Out of ninety-three cases involving accused or suspected prostitutes from 1613 to 1618, sixty-six women were identified as single or widows.\textsuperscript{16} Out of these ninety-three cases, twenty-one wives are implicated, but only as co-owners of bawdy houses with their husbands. Only one woman accused of actual whoredom was described as married. This further implies the vulnerability of being without a husband, and the increased likelihood of being labeled a sexual deviant if not married. Single women could easily be identified as “whores” because their sexual status, not defined by marriage, was, therefore, viewed as unrestricted and dangerous.

Accused prostitutes also appeared in church court records if their activity drew the attention of ecclesiastical authorities. Mariona Wood was presented as a harlot in the Wardmote of Portsoken in 1479 and 1481, then in Church court for fornication, adultery, whoredom, and bawdry on various occasions until 1496. Excommunication did not stop her from continuing to be identified as sexually deviant, indicating the inefficacy of shame punishments based in the ecclesiastical court system.\textsuperscript{17}

Crystyne Houghton was also repeatedly accused of prostitution, as evidenced in a 1490 court record: “Crystyne Houghton, alias Stone, having been convicted as a common ‘bawde’ and common ‘strumpet’, ordered to void the City, and, having been found again therein, is condemned to be set on the pillory for an hour on two several

\textsuperscript{16} Ibid.

\textsuperscript{17} Guildhall MS 9064/8, fol. 147v as quoted in Karras, \textit{Common Women}, 26.
days, and then be committed to prison for a year and a day.”18 Perhaps Houghton’s and Wood’s frequent charges resulted from their negative reputations rather than their behavior or actions. Although either may have engaged in the commercial sex trade as a means of financial support, their initial public identification as “prostitutes” remained sufficient evidence for continued conviction and public punishment.

Suspected prostitution obviously affected female identity, and also male identity, but in significantly different ways. The records support the idea that prostitution was necessary for men to establish their masculinity according to acceptable ideas of social behavior. A case appearing before the court of the alderman in 1515 shows the importance of virility and sexual prowess in male reputation: Robert Harding testified that he had bedded the “whore” Katherine Worsley simply to prove that he could, because otherwise Katherine might tell women in the parish that he was impotent, thus scuttling his courtship of a wealthy widow.19 This case not only directly supports the contemporary belief that prostitution was crucial to masculinity, but it also presents Harding as dependent on town gossip to verify his sexual talents and potent manliness, thus securing his marriage prospects to a wealthy widow. This is just one of the many societal roles that prostitution could play.

There were also several recorded instances of prostitution being a familial occurrence. As the patriarch, husbands held nearly unlimited power over their wives


19 McSheffrey, Marriage, 184.
and daughters, and there are several entries in records referring to these males acting as bawds to their female family members. For instance, in 1424, John Leche, fellmonger, was led before the mayor and alderman by the constable and beadle of Breadstreet ward because he had allowed David Holland, a tailor, to lie naked in a bed with his wife. All three were committed to the stocks for an hour and handed over to the ecclesiastical authorities for penance.20

In 1455, there is a similar entry in which a Robert Sewell was accused of being a leper and endangering citizens of London, as well as acting as a bawd and fosterer of the act of fornication between his wife, Elizabeth, and their servant, Thomas Martyn.21 Both of these examples indicate the somewhat transient and complex nature of the practice, and that even family members could be implicated.22

In addition, it has been well established that prostitution serviced the needs of traveling foreigners and transient figures in a town or city. “Foreigners” also occupied a distinct gender category and endured a process of “othering” similar to that of “whores”. Foreign merchants were often regarded suspiciously by Londoners, and this suspicion only deepened as they apparently believed to be an important market for London bawds and prostitutes.23 According to McSheffrey, inhabitants of the Steelyard,

20CLRO, Letter Book I, fol. 288r as quoted in McSheffrey, 144.

21 Ibid.

22 This case would have been further complicated by the fact that leprosy was also associated with venereal disease and uncontrolled sexual activity. Lepers were considered untouchable, and perhaps Sewell’s disease is what originally drew the attention of authorities to his bawdry and his wife’s prostitution. Much like prostitutes, lepers also found themselves relegated to societal fringes.
an enclave for Hanseatic merchants ("Easterlings"), were particularly suspect. Nonetheless, it is possible to examine an individual case of alleged prostitution from this area. John and Margery Mappulton petitioned the chancellor in the 1490s because one Francis Derbyet, a Spaniard, had come to their house continually over the previous year and “there craftily hath moved and stirred, one Elizabeth, daughter in your said orators [petitioners] to go with him and hath procured her to be of vicious living of her body, contrary to the laws of God and to the better destruction of her body forever.” Elizabeth told her parents about this so they demanded Francis “to cease of his unlawful desire,” but he refused, instead offering them twenty pounds “so that they would suffer him” to have their daughter as his prostitute. Foreigners appear in several cases as the catalyst for young women slipping into or being forced into sexual deviance and prostitution.

While some of these records may reflect cases of actual commercial prostitutes, they also could be evidence of English ethnocentricity and fear of outsiders. In looking closely at the above case, another possible explanation and interpretation emerges: young Elizabeth Mappulton simply fell in love with Francis Derbyet and they began an intimate relationship. Upon discovery of this relationship, Elizabeth’s parents pursued legal action to end said courtship, thus characterizing Derbyet as a sexual deviant who

23 McSheffrey, 183.

24 Ibid. It would be interesting to examine if the frequency of defamation cases was higher in this area because of its popularity with foreign inhabitants, but unfortunately, I do not have access to the necessary sources to allow for this exploration.

25 TNA, PRO, C 1/214/91 as quoted in McSheffrey, 184.

26 Ibid.
forced their daughter into ill-life. When Derbyet tried to offer them money for the allowed continuation of their relationship, they refused and, instead, recast their daughter as a kind of enslaved commercial sex worker. Unfortunately, these records fail to reflect Elizabeth’s or Francis’s voices, and therefore, the true nature of their relationship is difficult to determine. But the case stands as an example of one of the various ways in which women could be accused of prostitution in court cases and provides a reminder of the ways in which single women’s sexuality was regulated.

Women were usually summoned before the court because they had offended their neighbors in some way. The church court received much of its information about moral offenses either from professional informants, who would have ascertained much of their information from neighbors’ gossip, or from church wardens and other members of the community. Common fame or reputation was often the basis for legal intervention and prosecution. Therefore, being thought of as a whore could be as damaging as actually being a prostitute. Even neighbors’ informal statements about a person’s morals might lead to prosecution. The neighbor could be punished for defamation but not before the defamation had brought the offending behavior to the attention of the courts.

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28 Ibid.
Locating Prostitution and Sexual Slander

The urban center of London offers an interesting and rather unusual situation in slander litigation. The city itself evolved enormously from the fifteenth through the seventeenth century: in 1450, the population was about 50,000; by 1580, it had doubled to about 110,000; and by 1630, it held almost 400,000 residents.29 This rapid increase in population came at the price of overcrowding, disease, and unhealthy living environments. Furthermore, space was often contested and the urban landscape offered particular difficulties, often evoking disputes. The close proximity of city dwellings made the house and the household less self-contained than those of rural areas, often blurring the boundaries between public and private, moral and sinful, and masculine and feminine. These ambiguities could evoke social anxiety, tension, and conflict amongst Londoners. Even between houses, privacy was not guaranteed: one woman prosecuted a case based on having heard her next door neighbor call her “whore” through her kitchen wall.30 Largely owing to these spatial and gender tensions, London serves as a hotbed of slander litigation, which reveals much about how people related to each other.

Clearly, being labeled as sexually deviant was not only problematic for actual commercial prostitutes, but was also the late sixteenth and early seventeenth century “go-to” insult if one wanted to attack someone verbally. In addition to identifying prostitutes in court cases and examining sexual defamation patterns, it is also important to note their geographical location within London to discover areas of high

29 McSheffrey, Marriage, 10 and Gowing, Domestic Dangers, 13.

30 Gowing, Domestic Dangers, 98.
activity and frequency. This will hopefully help uncover social connections between commercial prostitutes and other women. Furthermore, I will argue that because of women’s close geographical proximity to these unofficial red light districts, they are more likely to retaliate against sexual slander committed against them, resulting in high numbers of defamation cases.

One particular part of London surfaces countless times in these court records: an area just north of the city called Clerkenwell. By 1575, there were at least eleven brothels within just a couple of city blocks in this area: a relatively large number when compared with other areas of the city. Furthermore, from 1613 to 1618, there were at least thirty-nine cases involving accused “prostitutes” from this small region in London; a much higher number than any other area of the city at that time. This relatively high frequency of cases involving prostitutes suggests one of two things: this area was either an unofficial red light district, or a climate of sexual slander was thriving here.

One example from these cases is taken from the Session Rolls from February 21, 1614 and reads as follows: “Thomas Flenders of St. John Street, yeoman, and John Warren of Cow Cross, bricklayer, for Frances Harrys of St. John Street, spinster, who was brought before the Justice by the officers, for a common whore, and was taken in a reputed bawdy-house.”31 All thirty-nine cases are organized nearly identically to this one, indicating the prevalence of suspected prostitution in Clerkenwell daily life.

Owners of Clerkenwell bawdy houses also appeared in court records. Elizabeth Kirkham told the consistory court how she had lodged in Clerkenwell for three months with Gilbert East and his wife, “abomynable and lewde persons none worse in the world.” It was here that Kirkham claimed she served up to four clients a day. But occasionally when another bawd needed her services for “great guests,” Kirkham was required to go to a different brothel in Clerkenwell to perform her services. Kirkham invoked specific language to characterize the Easts as “bawds”, similar to the language used to gender “whores”.

Considering the pervasiveness of suspected wanton activity in this area of London, it is not surprising that sexual slander also abounded. The Red Bull playhouse on St. John’s Street in Clerkenwell was the scene of one such dispute. While collecting money and selling fruit with other women, Joan Hewes became embroiled in a heated argument with Luke Bryan resulting from his refusal to pay her. During the course of this fight, Bryan proceeded to call her a scold, an arrant whore, and a thief. This was more than likely a reference to her financial enterprise, and geared towards the fact that a woman was demanding money from him. He first attacks her words by referring to her demands as scolding, and he then shifts the emphasis to her body by calling her a whore and a thief. By aligning a woman’s ability to support herself financially with the practice of prostitution and theft, this altercation demonstrates the ease of engendering a woman as a “whore” through attacking her self-sufficiency, especially if this individual resided in Clerkenwell.

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32 B.C.B. III, fos. 279-80, 281 as quoted in Archer, 214.

33 Joan Hewes c. Luke Bryan (1618), DL/C 225, fo. 341 as quoted in Gowing, Domestic Dangers, 118.
To this point, Clerkenwell was apparently widely regarded as a hotbed of prostitution and sexual deviance among contemporary Londoners. Defamation cases from other areas of the city even made reference to the unsavory nature of Clerkenwell. In 1616, Elizabeth Walsh was heard screaming at Mary Peters: “Thou art a base queane and a strumpet...get thee out of my house into Turnbull Street for I will keep no bawdy house for thee.” Turnbull Street, which is now Turnmill Street, was located in Clerkenwell, and was apparently a notorious area for bawdy houses. When Susan Lark moved to Shoe Lane, her ex-neighbor Margaret Wild came and stood by her door, and “speaking in a very loud manner” insulted her daughter, calling her a whore and said “Turnbull street is more fit for her to live in than amongst honest people.” Katherine Fayermanners was accused of calling Aveline Grace “whore” and “thief” on the street in Cheapside in the summer of 1591, and telling her that Clerkenwell was “never fitter for her and that she hoped a carte would come and fetch her awaye.” These examples all demonstrate the social acceptance of Clerkenwell as a location of prostitution, which would thereby make other women living here all the more susceptible to sexual insult and perhaps more likely to retaliate against their verbal assailants.

Wapping is another area of London that appears several times in both “prostitution” cases as well as sexual slander cases. Situated in the London borough of

34 Mary Peters c. Elizabeth Walsh (1627), DL/C 231, fo. 151 as quoted in Gowing, Domestic Dangers, 100.

35 Susan Lark c. Margaret Wild (1631), DL/C 233, fos. 214, 216 as quoted in Gowing, Domestic Dangers, 100.

36 Aveline Grace c. Katherine Fayermanners (1591), DL/C 214, fo. 242 as quoted in Gowing, 40.
Tower Hamlets just north of the River Thames, Wapping lies directly across the river from Southwark, the original location for sanctioned prostitution, making it a natural locale for brothels. Archer has also demonstrated that there were at least thirteen bawdy houses here by 1575. Its frequent appearance in court cases involving prostitution or defamation suggests that it was also a site of possible social tension between suspected prostitutes and other women.

For example, one case from February 20, 1615 reads as follows: “Jasper Fludd of St. Sepulchre's-without-Newgate, clothworker, and John Balmer of East Smithfield, tailor, for Margaret Jenings of Wapping Wall, spinster, for her misdemeanours, reported to be a common strumpet.” Thirty-two similar cases appear in the records between 1614 and 1616, indicating that this was an area of frequent activity.

Similarly, several defamation cases involving sexual slander against women also occurred in Wapping. For example, Elizabeth Barwicke, an innkeeper in Wapping, was involved in at least twelve defamation cases in fifteen years. In 1612, Elizabeth sued a constable who said “all the bread in Wapping would not stopp the mouthes of them that did say she was a whore.” This was followed by at least eleven other cases in which she exchanged long and detailed sexual insults with her neighbors. The reasons for Barwicke’s frequent involvement in sexual slander cases are not entirely known. She

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37 Archer, 212.


39 Elizabeth Barwicke c. William Mott (1613), DL/C 221, fo. 1319 as quoted in Gowing, Domestic Dangers, 134.
was, however, married to a sailor who was reported often to be gone.40 As mentioned in the first chapter, this frequent absence of a male guardian would have made her all the more suspect of being sexually dangerous to those around her. In addition, her occupation as an innkeeper not only made her financially viable (always a leery position for women), but often held connotations of suspected bawdry and prostitution. Continual arrivals and departures of strange men from Barwicke’s home made her an ideal target for sexual slander in her residence of Wapping.

Conclusion

Environment is a crucial component to any study of human behavior, and this is certainly true for the formation and maintenance of identity and reputation within one’s community. Just as individuals could become negatively engendered, neighborhoods also were vulnerable to social scrutiny and marginalization. As I have acknowledged, it is difficult to determine the actual frequency of prostitution, since the practice was, and continues to be, tricky to identify and define in a precise manner. In addition, sexual transactions typically occur in nonpublic spaces, thus allowing escape from detection. It is apparent, however, that the commercial sex trade was believed to be flourishing in London, and we can only assume that the frequency was actually much higher than what is suggested by the available sources. Therefore, we can detect behavioral adjustments made by contemporary women in the manner that they presented themselves and their neighbors. Although evidence is slim, it seems that women who lived in marginal areas pursued cases vigorously in order to establish

40 Gowing, *Domestic Dangers*, 134.
themselves as respectable, to differentiate from socially-questionable neighbors, and to enact appropriate feminine behavior in a public venue.

Returning to the lawsuit from the beginning of the chapter between Edith Parsons and Sicely Thornton, it is impossible to know if Thornton was actually engaged in the accusations asserted by Parsons. It is possible, however, to examine the environmental tensions present in their London neighborhood of Clerkenwell and to consider these tensions’ influence on both women’s identities. Although it is unknown what originally sparked this dispute, it is obvious that Parsons and Thornton were attempting to self-identify as "respectable women", through the original slander and then the lawsuit. Also apparent is that the larger community was participating in the determination of Thornton’s gender, just as the entire city was engaged in negotiating the reputation of their Clerkenwell neighborhood. This parallel demonstrates the prevalence of basing conclusions about identity on rumor, public perception, and proscriptive behavior.

The presence of prostitution in London is only one possible environmental influence on the ways that women created, defined, and defended public perception of self. Seemingly endless opportunities for more exploration are possible here: examining locations with a larger presence of foreigners and guilds; neighborhoods surrounding religious and government institutions; and areas in close proximity to popular roads and waterways. All of these factors affected slander litigation, and, more importantly, women’s lives.
CHAPTER 3
LITERATURE AND THE PERFORMANCE OF GENDER

As I have demonstrated in the previous chapters, slander was based on verbally injuring another through accusations of violating moral, social, or gender codes present within the society or community; accusations most often included some form of sexual misbehavior, criminal activity, or heretical misdoings, and therefore were considered taboo by most English people. During this period, societal prescriptions for appropriate behavior evolved from various sources, ranging from religious institutions to literary culture. This chapter explores how these rules, standards, and cultural doctrines of gendered behavior were disseminated, why they were accepted, and how they were enacted by individuals.

I examine contemporary literature, plays, sermons, and conduct books ranging from the thirteenth century through the fifteenth century as one method of exploring what would have been considered proper behavior for English people, and, in particular, for women. Literature is frequently used in societies to establish social order, and England was no exception. These works not only present compelling portrayals of culturally ordained and socially admonished behavior, but also offer vivid characterizations of the gender varieties discussed in previous chapters, such as “whore”, “scold”, “bawd” and “bastard”. Here, I argue that contemporary conduct literature was one aspect of culture that created, reflected, and reinforced socially desirable behavior and that slander litigation presented an arena in which subjects performed, negotiated, and reenacted these genders.
While there is a seemingly endless array of prescriptive and proscriptive literature for female behavior, I have selected a few that I feel best illustrate my focus. I have divided these selections into categories based on the presentations of genders most relevant to this study and recount how these images of gender were appropriated by both slanderers and victims.

The “Respectable Woman”

When understanding early English perceptions of ideal female behavior, there are three basic tenets to bear in mind: silence, chastity, and virtue. Subordination to one’s husband also was viewed as imperative to the successful functioning of gender relations in this society. Sexuality and speech served as the two defining measurements of a woman’s social value, and individuals who deviated from prescribed behaviors risked public genderization as a “scold”, “whore”, or “bawd”. Therefore, the proper performance of silence, virtue, chastity, and relative public invisibility resulted in obtaining the ideal gender identity of “respectable woman”.¹

Many conduct books that circulated throughout England offered instruction on various topics, including optimal feminine behavior. The most popular of these, “How the Good Wife Taught her Daughter,” offers an interesting perspective on what were

considered proper methods of conducting oneself if female.² Likely composed during the fourteenth century, this poem experienced wide transmission throughout several centuries following its production. In addition, several scholars have demonstrated that, although the intended audience was comprised of urban young women of middling rank, male clerics, male and female heads of household, and individuals of lower status also would have found its teachings valuable.³ This work operated in tandem along with its fifteenth century companion piece, “How the Wise Man Taught his Son”, in the instruction of proper gender behavior.⁴ Even the titles betray the heavily-gendered notions of ideal behavior and identity: for women, being “good” is emphasized, along with the importance of being married, as she is referred to as a wife. Conversely, wisdom is emphasized for males, and the title mentions nothing of the wise man being a husband, suggesting that masculinity outranked marital status with regard to ideal male gender.

Not surprisingly, the “Good Wife” promotes values of Christian charity and regular church attendance, while also emphasizing women's behavior with regard to appearance and public behavior. The predominant advice is that a woman should exhibit moderation and humility, and also emphasizes her domestic obligations. Wives were expected to be supportive and subservient to their husbands at all times, and

² Edith Rickert, ed. The Babees Book: Medieval Manners for the Young Now First Done into Modern English from the Texts of Dr. F. J. Furnivall (London: Ballantyne Press, 1908), 31–42.


were also charged with the supervision of their children's development.5 Following these principles was essential to gender respectability.

In addition to these characteristics, proper female speech is carefully outlined in “Good Wife” and, in fact, is emphasized more than any other behavior. A woman is urged to have a “good tongue” and avoid idle chatter.6 The “mother” of the poem counsels her “daughter” that virtue is linked to a curbed tongue, and that speaking too much is associated with sinfulness.7 In addition, the “Wise Man” poem warns against trusting female speech: “If your wife comes with a complaint, be not too hasty to fight and chide, and do not avenge until you know the truth, for in anger you might commit a rash act, that afterward you both should rue.”8 The “Wise Man” poem also mentions male speech, but in different terms. While sons were warned against spreading tales, bearing false witness, boasting, and calling their wives bad names, daughters were advised against gossiping in church, talking to men in public, speaking harshly to their husbands, laughing too loudly, keeping their mouths open, scorning others, and swearing.9 Failure to abide by these standards could lead to an individual's genderization as a scold.

6 Ibid.

7 Historian Katie Normington, however, warns that this poem needs to be treated with caution, in that it disguises itself as a lesson delivered by a woman for the use of other women, but it was, in all likelihood, written by male clerics.7


9 Ibid.
When further examining instruction for behavior, a useful contrast to the “Good Wife” can be found in the work of Christine de Pizan. Her conduct manual *The Treasure of the City of Ladies* addresses many of the virtues that are commonplace in conduct poems, but also emphasizes women’s positive abilities and advocates for their use. Written around 1405, the work was transmitted eventually throughout Europe, including England. Although scholars continue to debate the extent of Pizan’s influence on English conduct discourse, it has been established that she was a strong literary presence amongst English royals and within the English courts during the Tudor period. Therefore, it was probable that the ideas and themes espoused in her work also could have spread to other elite members of English society to be incorporated into their own lives.

Pizan asserts that the soul and character of a woman is one of her most important attributes. She includes in her discussion topics ranging from women’s intellect to conducting household business alongside her husband. Pizan also discusses aspects of women’s speech, advising that one should avoid slander and gossip, but suggests that it is important for women to cultivate gentle, agreeable, and

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charitable speech. She does, however, advocate against male disparagement of female speech, and argues that God would not have given women language, had he wanted them to remain always silent. She writes:

If women’s language had been so blameworthy and of such small authority, as some men argue, our lord Jesus Christ would never have deigned to wish that so worthy a mystery as His most gracious Resurrection be first announced by a woman, just as he commanded the blessed Magdalene, to whom He first appeared on Easter Day, to report and announce it to His apostles and Peter.

Here, Pizan champions female speech, but also advises that women should use their words wisely, and not waste time or energy on unruly chatter. This serves as another example of the stress placed on women’s avoidance of gossip and slander; guidance that was promptly overruled by women participating in the discourse of verbal disputes.

Although these two works were consumed by different audiences, the overemphasis on female speech found in the “Good Wife” and The Treasure indicates long-held sentiments about women’s oral obedience being a virtue to which all should aspire, and, more importantly, conveys the significant connections between verbal etiquette and gender identity. Conformation of proper speech was imperative to being socially identified as the gender of “respectable woman”, and some women’s failure to

13 Ibid, 293.

14 Ibid, 294.
comply resulted in the cultural production of the genders of “scold”, “gossip”, and “reviler”. By continually performing prohibited verbal violence in public, female slanderers perfectly embodied these negatively regarded identities. In addition, through their willingness to defy contemporary standards of conduct, these agents not only furthered the cultural negotiation of gender, but also inspired colorful literary portraits of troublesome female behavior.

The “Scold”

While several authors advocated and presented ideal female behavior through the fairly accessible medium of conduct manuals, other texts illustrated personifications of socially admonished genders to instruct audiences on how not to behave. “Whores”, “scolds”, and “bawds” often surfaced as literary representations in English culture, and served to further censure the misbehavior garnering these titles.

One of the most popular depictions of a scold appears as the female protagonist in The Play of Noah.\(^{15}\) Inspired by the biblical story of Noah and his ark, this play was part of the cycle of biblical pageants from areas like Chester, York, Towneley, which each possess small variations from the others. In this section, I will be focusing primarily on the Chester pageant, but will incorporate others when appropriate. Like

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most of the biblical plays of the period, little is known about the author or authors. It was widely performed for approximately 150 years from 1422 until 1569, and came third in a cycle of twenty-four extant pageants that were performed on public stages in various communities.\(^{16}\)

This story of Noah departs somewhat radically from its biblical narrative in several respects, perhaps most notably in the depiction of Noah’s wife, Uxor. In the Old Testament, Uxor enters the ark without resistance, thus embodying the perfect obedient, silent woman. In the cycle plays, however, she is characterized as a strong-willed, petulant, and disobedient nag who refuses to submit to her husband and is reluctant to enter the ark. She, instead, is more interested in gossiping and drinking with her female friends, and appears much more concerned with their wellbeing than with that of her husband or children. Here, again, we see the literary condemnation of women’s idle chatter and gossip, and the danger of these wicked women communing. In addition, this character embodies nearly every proscribed behavior and attribute outlined in “How the Good Wife Taught her Daughter,” indicating a recurring social desire to reinforce the perceived danger associated with unregulated female speech. Through her manifestation as a scold, Uxor’s primary failures as a wife and mother are amplified and, therefore, disqualified her from the gender of “respectable woman”. This message resonated with audiences, and would have been retained and reenacted in their own lives and marriages.

In addition to being a useful plot device, Uxor’s rebellion has frequently been identified as providing a comedic interlude within the deluge pageants. Audiences

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delighted in the Noah family's performance of inverted gender roles, as well as the slapstick staging potential of their crazy, physical brawls. The physicality of her ridiculous behavior was only enhanced by the fact that her role was played by a man in drag; a man who was, more often than not, much larger in stature than the character of Noah. This common theatrical device also strengthened the presentation of gender inversion embodied in Noah’s wife: a culturally and sexually ambiguous character who embodied more male behaviors than female. In order to convey the importance of female submission and virtue to the successful functioning of Christian society, it was necessary to strengthen the female protagonist’s behavioral flaws to illustrate her as a “scold”, which was viewed as the complete antithesis to the “respectable woman”. In other words, portraying the primary female character as a caricature of women’s sinfulness serves as a convenient method for instructing female and male audiences on the proper place of women in the social gender hierarchy. Transmission of these concepts from the stage for audience consumption would have further solidified prescriptions for gendered behavior and the proper societal role of women.

In addition to actual theatre, several other public venues were used as stages to present these doctrines to audiences, including churches. Sermon literature was another prominent form for disseminating antifeminist ideologies, and could also be useful for illustrating undesirable female genders. Preachers often held significant social influence and greatly swayed public opinion regarding women. Jacques de Vitry, a popular thirteenth-century ecclesiastic, generated a massive collection of sermons that
circulated widely throughout England. Although he was French, I have chosen De Vitry as an emblematic sermonist, not only for his immense popularity and influence for centuries across Europe, but also because of the complex perception of his relationship with women. Owing to his support for female religious movements, especially that of Mary of Oignies, he is often remembered as being a sympathetic figure to women. When examining his sermons, however, misogynist undertones and public condemnations of scolds quickly emerge.

In one sermon discussing marriage, he begins by admonishing drunkard husbands who would beat and mistreat their wives, and warns that these husbands would share in their wife’s guilt if she abandons him for other men. Following this, however, he condemns women for their continual hardheadedness and willfulness, asserting that a woman’s proper place is under the thumb of her husband. He then recounts a tale involving an oppositional wife who refuses to submit to the will of her husband. In fact, she consistently performs the exact opposite of anything he requests of her. Jacques’s tale concludes with the wife accidentally drowning in a river during a

17 Thomas Crane, *The Exempla or Illustrative Stories from the Sermones Vulgares of Jacques de Vitry* (London: The Folklore Society, 1890), lxi. Thomas Crane has done extensive work tracing the profound influence of Jacques de Vitry’s sermons on the continent, as well as in England. He meticulously demonstrates the presence of De Vitry’s teachings in several successive generations of English preachers’ works, most notably John Felton, the famous fifteenth-century vicar of the Church of St. Mary Magdalen-Without-the-Walls in Oxford. Not only does Crane illustrate Jacques’s tremendous influence on subsequent sermon literature, but also the incredible strength of De Vitry’s teachings in England during the period of present study.


20 Ibid.
concerted effort to act contrarily to her husband’s wishes.\textsuperscript{21} Here, De Vitry offers a depiction of a “scold” while supplying a thinly-veiled warning to uppity women about the dangers in store for them if they choose to disobey their husband’s good reason and, instead, follow their own wild and irrational desires.

The “Whore”

Beyond these illustrative examples of scolds, many authors also became quite talented at inventing hate-filled rants targeting female sexuality. Largely founded upon writings of canonists and religious figures, countless tales of female lust, deviousness, sin, and greed warned audiences of women’s corrupting nature. From these works, contemporary audiences drew sweeping conclusions about the dangerous and deceitful nature of women’s lustful desires.

This is, perhaps, not surprising. But how do these tales connect to unruly speech and slander? As discussed in previous chapters, the term “whore” covered a broad range of social disgrace, and was the most easily accessible and commonly invoked insult. Contemporary writers, therefore, simply were rifling on a painfully evident theme long-held within early English culture. This constant frequency of literary aspersion targeting female sexuality, however, is precisely what gave the term “whore” its social power in verbal disputes. This insult became convenient shorthand for all of the negative connotations, implications, and scenarios depicting female sexuality in conduct literature that were deeply embedded in the cultural consciousness of pre-modern England. When calling someone a “whore”, slanderers simply exploited this

\textsuperscript{21} Ibid.
pervasive image of undesirable female gender within the minds of their peers, thus making it an effective means of public degradation.

For example, *The Book of the Wiles of Women* is a collection of fabliaux and short stories largely developed during the thirteenth century, in which the plots are dominated by womanly trickery and female deceit. In one tale, “The Story of the Master and the Manservant, of the Wife and the Husband, and How they all found themselves Together,” a wife seduces a young and gullible manservant, and when her husband and the servant’s master return and enter the house, the wife cunningly concocts a story in which she was simply protecting the young man. All three men exit the tale, with the deceitful wife triumphing over all of their stupidity. In the closing line of the story, similar to the advice given in the “Wise Man” poem concerning women’s untrustworthy speech, the narrator advises men “to never murder your son on the word of a woman, for in women are contained deceits without number.” So here we have a tale with a fairly obvious moral: women cannot be trusted, and lust combined with male stupidity results in relinquishing one’s masculinity to the cunning of a woman. This message was paralleled in countless other fabliaux, through a variety of plots and literary devices.

The “Bawd”

Beyond sexual danger associated with the literary figure of the “whore”, another trope demanding discussion is that of the “old woman.” As discussed in earlier chapters, there existed an almost omnipresent fear about old, unattached females, who were

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23 Ibid.
more than likely widows or never married, and these fears were reflected in defamation and slander records. Owing to their freedom from a male guardian, widows and other unmarried women were frequently targeted in slander and defamation cases involving accusations of scolding, prostitution, bawdry, and other sexual misbehavior.

Contemporary literature was instrumental in reinforcing these suspicions. The “Old Woman” was a constantly resurfacing stock character in literature and plays, often portrayed as socially and sexually contaminating. She typically preys on a young “respectable woman” by leading her into a life of sin, thus transforming the young woman into a “whore” and engendering herself as a “bawd”. This dynamic is illustrated in the fabliaux, “The Tale of the Man, his Wife, the Old Woman, and the She-Dog,” describing a husband who leaves his wife at home and did not return when promised. During her time alone, a stranger fancies her from afar and tries to win her affections. Still devoted to her marriage, the woman refuses the stranger’s advances, so the stranger approaches an “old woman” for assistance in winning over his new crush, and promises her anything she wants in return. The old woman agrees and through various forms of trickery, including a crying canine, she convinces the wife that the weeping dog was once a beautiful woman who refused love’s advances and was cursed by being turned into a dog by the rejected man.24 So the old woman persuades the wife to take a lover, and the old woman, unknowingly, brings back the woman’s own husband as the candidate for adultery. He is initially delighted at the prospect of keeping company with a young woman, but upon realizing he is being set up with his own wife, becomes engulfed in a jealous rage.

24 Ibid, 133.
The wife, thinking on her feet, quickly twists the circumstances and tells her husband that this was actually a test of his fidelity. She then upends the entire scenario and explodes in anger, saying, “So Mr. Whoremonger! Is this the faith you and I swore to keep? Now I know that you frequent bad women and wicked prostitutes!” The husband then feels remorse and shame, believing it was he who betrayed his wife, and gifts to her an entire village as retribution, which she readily accepts. And the narrator closes this with, “I gave you this story only to point out to you the perfidy of women, which is boundless.”

This tale is an expansion of the earlier one: a wife clearly cannot be trusted to remain faithful during a husband’s absence and must be watched at all times. This certainly echoes the findings from slander litigation in which women were often targeted as sexual deviants during absences of husbands. Furthermore, it solidifies the idea that, if caught, a woman will lie incredibly well to avoid any penalty for her misdeeds. In this tale, however, we have the addition of two new elements of analysis. First, we have the husband’s intention of infidelity. This is certainly not the central idea here, but it can lead the reader to additional conclusions. Perhaps the author is insinuating that the husband’s own lustful and adulterous intentions resulted in his wife’s ability to victimize him through deceit. Several misogynistic writers of the period attack men for being stupid enough to love a woman or for being weak enough to give in to lust. Obviously, however, the author’s main purpose here is to portray all women’s

25 Ibid.

26 Ibid, 134.
deceitful wickedness, whether young or old, married or detached, and is not focused on presenting male moral shortcomings.

Second, we have the familiar literary trope of the “old woman,” who is automatically regarded with suspicion. Here, she proves herself untrustworthy by tricking the young woman into adultery for her own gain. Furthermore, she lies to the wife about finding the stranger, and instead, unknowingly brings her back her own husband to seduce. In addition, by initially portraying the young wife as devoted and loyal to her absent husband, the author suggests that the old woman’s polluting influence drives the wife to betrayal, thus reinforcing the notion of the old woman’s malignant powers. As stated earlier, contemporary audiences would have been familiar with this stock character, and the suspicion surrounding her.

My next selection is the most well-read book of the middle ages, The Romance of the Rose. Written during the late thirteenth century, this work was composed in two parts, the first by Guillaume de Lorris and the second by Jean de Meun, in which he spews contemptuous hatred at all of womankind for about 17,000 lines. Even the way that the book is organized presents an interesting dichotomy to the reader, with Guillaume’s more emotional confessions of lovesickness in the beginning, only to be followed by de Meun’s punishing and damning words toward any man dumb or


masochistic enough to fall for a member of womankind. Nonetheless, as the most popular fictional work during the Middle Ages, men and women alike would have been informed by its depiction of women, love, and marriage, and would have been influenced by its characterization of female genders.

In one of the most striking and ambivalent characters in the work, “La Vieille,” we have another character manifestation of the crafty, deceitful old woman. “La Vieille” has been assigned to guard a young man, “Responsiveness” (Bel Acueill), whom “Jealousy” has imprisoned in a tower. La Vieille serves as an effective guard because of her own extensive experience in love affairs: she is not fooled by the tricks of young lovers. Alcuin Blamires characterizes her as “the archetypal medieval literary Old Woman, survivor of a lifetime in the sex war, and a guide to younger recruits who she hopes will learn under her tutelage to use men as she feels they have used her.”

In one speech to her young prisoner, she describes her advice to women by saying, “Never be too generous, and keep your heart in several places, never in one. Don’t give it, and don’t lend it, but sell it very dearly and always to the highest bidder.” Here, the author has fashioned La Vieille into the figure of the “bawd”, in that she passes out sex and relationship wisdom to young women about the advantages of exploiting and deceiving men. She is clearly urging women to remain uncommitted to any particular man, and instead, to commodify one’s love for the highest profit. This could obviously be read as advice to become a sort of prostitute, but as the work further unfolds, a long and aching hurt slowly surfaces in La Vieille and the audience is made

29 Alcuin Blamires, Woman Defamed and Woman Defended, 159.

30 Jean de Meun, Romance, in Woman Defamed, 160.
aware of the wrongs she has suffered by men in love. As has long been debated by scholars, despite de Meun’s best efforts at verbally trashing all females, he—intentionally or unknowingly—creates a character that reads as a type of abandoned vessel, carrying all of male cruelty and deceit, who is now turning against men and simply reciprocating the ill treatment she has received. In one passage, she says, “Briefly, all men betray and deceive women; all are sensualists, taking pleasure anywhere. Therefore we should deceive them in return, not fix our hearts on one. Any woman who does so is a fool.”

Clearly, her desire to hurt men originates not solely from her evil nature as a woman, as many men attempt to argue, but instead, stems from pain and betrayal caused by men. This is an interesting twist, particularly for de Meun. Perhaps the author is simply emphasizing women’s nature to act vengefully against perceived wrongs, and only further marginalizes the suspicious figure of the Old Woman. In any case, however, La Vieille appears somewhat sympathetic in character and becomes an interesting point of analysis for scholars and historians of the work.

Concordance

After discussing some common presentations of female genders in literary culture, I will now turn my attention to how these genders were enacted in slander and its subsequent litigation. As mentioned earlier, frequent terms of insult, such as “whore”, “scold”, and “bawd”, held powerful connotations of social misconduct, often summoning the misogynistic images presented in literary culture and, therefore, could

31 Ibid, 161.
be wielded like weapons against women. In other words, simply calling someone a “whore” granted immediate access to all of the negative cultural baggage associated with unruly women, and could allow slanderers to bypass inclusion of sordid details from actual episodes of misbehavior. In some cases, however, slanderers and witnesses recounted more specific details from disputes, which provide useful material for this analysis.

In this section I use fifteen cases that contain substantial detail from witness testimonies to analyze how individuals presented slanderers and their victims, and make connections between the images of gendered behavior presented in these cases to the images presented in contemporary conduct literature, sermons, and plays. Unfortunately, this selection of cases does not include testimony from the actual plaintiffs or defendant, but offers important perspectives from witnesses who claimed to view altercations firsthand. Their descriptions of people and events reveal interesting parallels with contemporary literary culture.

Important to note is the appropriation of ideas, but not the use of the precise language from the literary works, reflecting that the basic ideas were being transmitted but not the exact textual language and terms. So how did literary notions of female conduct developed by a literate class filter down an almost entirely illiterate population to be incorporated and reenacted in their own lives? Textual representations of female conduct, as I will discuss, largely evolved from religious writings and disseminated to the greater population through lay conduct literature. Although the illiterate population had no direct access to many of these works, they were still greatly affected by the teachings contained within this literature. Oral transmission certainly played an
important role in distributing themes of feminine behavior. Beyond word of mouth, many of the ideas were developed and presented in genres like the theatre, specifically the mystery cycle plays that were continuously performed in local villages for wide audiences, and sermon literature. The wide and constant distribution of these ideals through a variety of public venues generated a strong climate of cultural teachings for proper gendered behavior.

Turning first to the subject of respectability, witnesses were often required to attest to the previous reputation of the slandered individual. Establishing positive public fame of the plaintiff was key to demonstrating the damage inflicted by defamation, and this task typically fell on witnesses. Individuals presented their neighbors and friends as “respectable women” and “respectable men”, and these descriptions often reflect images developed in conduct literature. For example, in all seven of the fifteen cases involving male plaintiffs, witnesses proclaimed that, prior to the slander or rumor, the man was “of good fame, of honest life and conversation and of unblemished reputation” with minor variations.32 Most of the elements in this statement are typical of witness compurgation and obviously denote respectability. Standing out, however, is the piece concerning male speech. To be of “honest life and conversation” is a fundamental teaching in the “Wise Man” conduct poem:

Your own tongue may be your foe;
Therefore beware of what you say.
Take good heed if you do say ought,
For you might say a word today
That seven years after may be regretted.33

32 London, Guildhall Library, MS 9065, 45v-47r.

33 Rickert, The Babees Book, 43-46.
Here, good speech is emphasized for men as a marker of respectability. For women, on the other hand, speech is never mentioned by witnesses when attempting to vouch for positive reputation, indicating that women’s speech was always considered problematic, even when regulated. Witnesses simply say that a woman’s “good fame fell due to the speaking of those words”, and little more is offered to establish a woman’s previous respectability. This mirrors the prevailing attitude toward female speech that a woman’s silence was considered her most honorable trait.

Conversely, witnesses also testified to the verbal altercation and the character of the slanderer. For example, five witnesses in two of the fourteen cases mention that the slanderous words were made with an “angry and malicious spirit”. Furthermore, these accusations of anger were made only against female slanderers; no male slanderers were presented in this manner by witnesses. This demonstrates that female respectability was founded on “gentleness” and “meekness”, two ideas echoed in “Good Wife”, and disrespectability grew from anger, malice, and hostile words.

Beyond presenting individuals in accordance with conduct literature, several cases reflect similar scenarios depicted in literary tales and plays. For example, considering the fabliaux, “The Tale of the Man, his Wife, the Old Woman, and the She-Dog,” discussed earlier, the dynamic of the older female bawd doling out socially corrupting advice to young women appears to have manifested when compared to an actual court case from London around 1480. Two Londoners, Joan Bawde and her

34 London, Guildhall Library, MS 9065, 45v-47r.

35 Ibid.
husband, Humphrey, brought a suit to court against Maude Olyff for defamation.\(^{36}\) Joan also claimed that Maude took advantage of her when she knew Humphrey was working and residing in another part of London, living with his employer, Thomas Hart, a baker, in Smithfield. According to Joan and Humphrey, Maude, “knowing the same Joan was dwelling in the house alone, ... labored subtley to the said Joan, saying that there was a man the which ought to be her heartly love and gladly would be with her acquainted.”\(^{37}\) But Joan, presenting herself as a herself as a “respectable woman”, refused any acquaintance “by the which she in any wise might be hurt of her good name.”\(^{38}\) Maude, a woman of “uncleanly disposition” and some persistence, nonetheless fully intended to help the man “to have his foul lust and will of the said Joan.”\(^{39}\) To that purpose Maude secretly brought the man to Joan’s house while Joan was out working in a shed in her yard; when Joan returned to the main house, she found him lying on a bench in her kitchen. When he saw her, he started up and “took the said Joan in his arms, saying that he would have and do with her or else he would die for it.”\(^{40}\) Joan struggled against him, and “by the help and grace of our lady, that blessed virgin, she broke from him” and remained “a woman not defiled.”\(^{41}\) When Joan next met Maude, she slapped her and told her never to bring such a man to her house again. But Maude subsequently

\(^{36}\) TNA, PRO, C 1/32/337 as quoted in McSheffrey, 165.

\(^{37}\) Ibid.

\(^{38}\) Ibid.

\(^{39}\) Ibid.

\(^{40}\) Ibid.

\(^{41}\) Ibid.
sued Joan for trespass, alleging that Joan assaulted her, not just with a slap, but with a staff. Joan admitted that she had slapped Maude, but felt that this assault was justified because of Maude’s outrageous insult to her virtue and to her reputation.42

Beyond the irony of a woman named “Joan Bawde” suing for sexual slander, this case also reflects invocations of the literary trope of the corrupting, sinful old woman victimizing the young virtuous wife, and bears striking resemblances to the earlier discussed fabliaux. Maude personifies the “bawd” and Joan personifies the young “respectable woman” in danger of corruption. In addition, the records demonstrate that this was not the only dispute between Joan and Maude: the parties were also involved in another legal dispute, undoubtedly related in some way to the matter in the petition: Humphrey Bawde and his wife were cited before the London Commissary court in 1480 for having defamed Matilda Olyff, calling her a prostitute and a bawde, especially for a certain John Travase.43

Conclusion

Literature exists in a symbiotic relationship with the society in which it is created or consumed. It becomes a reflection of cultural trends, values, or behaviors, while simultaneously readapting, reinterpreting, or reifying much of what it reflects. This dynamic produces a complex ongoing synthesis of social actions and cultural responses, sometimes making it difficult to determine the original source of influence.

42 Ibid.
43 Ibid.
Even so, it is apparent that literary culture and real life were involved in a mutual exchange of ideas concerning gendered identity, sexuality, and speech.

Iconic characters like Uxor served the dual purposes of public entertainment, as well as behavioral instruction. She is, by far, the most memorable character of the entire genre of mystery plays, and provided audiences with an easily accessible archetype of the “scold” and female unruliness. Female gossiping, drinking, shouting, and fighting all summoned familiar images of Uxor’s behavior on stage; therefore, any female behavior remotely resembling that of Noah’s wife could be immediately categorized as unrespectable and socially dangerous. For women characterized as “gossips” or “scolds”, the cultural presence of Uxor served as an unlikely contributor to their public condemnation.

Similarly, the familiar literary trope of the “old woman” perpetuated already-existent suspicions surrounding unattached women within a community. These recurring depictions typically included predatory traits and the character often socially contaminated a young, vulnerable, respectable female character for her own gain, thus transforming the “old woman” into the figure of the “bawd”. Based on their freedom from male guardianship, these real social figures were often targeted in slander and rumor, resulting in further marginalization.

Women were marginalized not only in their communities, but also in contemporary conception of gender itself. Whether fictional or factual, “old women”, “bawds”, “scolds”, and “whores” all fell outside the bounds of acceptable gender, and to enact behaviors associated with these identities meant relegation to the social periphery. It is clear from the selected works that silence, submissiveness, and chastity
were heavily-gendered “female” virtues to which to aspire, and if successfully performed, a woman could possibly achieve respectability. Deviating from these teachings, however, resulted in immediate exclusion from this desired identity.

Female silence is emphasized in both conduct literature and in slander litigation, as witnesses never addressed female speech when trying to present a slandered woman as respectable. For women, silence was valued far more than even good speech, and portrayed ultimate respectability. Men, on the other hand, were championed for being “of good conversation”, indicating significant differences between public perception of gendered speech.

Despite these pressures, however, individuals continued to resist conformity by acting outside of the limits prescribed by social and literary culture. As evidenced by slander litigation, countless women willingly spoke out of turn and gave voice to the cultural desire of expanding gender beyond its narrow absolutism. By examining how these ideologies were transmitted into English society through literature, it becomes easier to understand how subjects incorporated their meanings and morals into their own lived experiences, as well as how they challenged them.
CONCLUSION

Conflict with others is a constant of the human condition. During this period of study, verbal disputes were commonplace in English streets, markets, shops, and homes, and individuals quarreled over everything from chickens to sex to money. As a result of these ongoing altercations, hundreds of historical actors from various places, ethnicities, religious leanings, and economic backgrounds filed into the consistory courts of England every year. These legal arenas became a public stage, not only for the presentation of neighborhood and community verbal disputes, but also for the performance of socially negotiated and culturally constructed identities. Perhaps largely motivated by unconscious intentions, these actors understood that legal success depended heavily on his or her ability to embody, personify, and perform proper gendered behavior.

Scholars have produced a significant number of studies examining the relationship between gender and unruly speech in pre-modern England. By adopting a different understanding of gender through applying Judith Butler’s theory of gender performativity to verbal disputes, I have demonstrated that gender was not fixed, monolithic identities in cultural consciousness; it was considered highly transmutable, socially constructed through a multiplicity of identities, attributes, and behaviors. Certain genders, however, were deemed favorable, and slander litigation offers a view of how agents used sexual and gendered insults to categorize others outside the bounds of acceptable gender.

Through public degradation of another, women gained admission into a powerful and ongoing discourse of negotiating the social meanings of gender identities.
By publically destabilizing the gender of another individual, slanderers secured their own identity in respectability. Despite these attempts at self-elevation, slanderers, (most often female), then unexpectedly were transformed, through the mechanism of the defamation suit, from respectability into the socially shameful gender of “scold”, “gossip”, or “reviler”.

In addition to this alternative view of gender, I have deliberately abstained from using the terms “medieval” and “early modern” to avoid the distortions generated by these temporal categories. Slander litigation, in fact, retained general continuity from the thirteenth century all the way into the mid-seventeenth century. The legal system did not experience major changes until the 1650s, and case format remained structurally congruent throughout the entire period. More importantly, individuals maintained consistent language by using terms like “whore”, “adulterer”, “bawd”, and “bastard” in slander, and by exploiting analogous themes of public insult; most notably, the social and cultural connections between female identity and sexual misbehavior. Therefore, previous scholarship insistent on distinguishing “medieval” slander from “early modern” slander has done so arbitrarily, often resulting in misleading conclusions about the nature of verbal disputes and female speech during this period.

As I demonstrated in the first chapter, women utilized the power of speech in the forms of slander, gossip, and scolding to identify negative or undesirable behavior by other women as a means to elevate their own public identities and reputations. Participation in unruly speech and the exchange of private information about others allowed women to wield secrets and rumors as a form of social currency, and granted them new access into public transactions of power. While women were more likely to
be victims of slander, they also comprised 75 percent of individuals who sued in retaliation against verbal attack, demonstrating a desire to defend their reputations.

Furthermore, women exercised significant legal agency by playing the roles of plaintiffs and witnesses (roles which were previously granted only to men) in slander suits against verbal assailants. Serving as compurgation witnesses allowed women to exhibit public respectability by aiding in the reestablishment of the positive reputations of their neighbors and friends. Possessing the ability to restore another’s public fame through one’s own positive social standing indicates significant power, and women not only served this function for other women, but also for men. Therefore, defamation suits offered agents new opportunities to exercise this clout on behalf of others.

Slander litigation also demonstrated an evolution of public punishments of unruly speech. Although shame-based penances and physical suffering remained consistent forms of discipline, penalties slowly transformed into monetary fines and retribution payments. This new emphasis on financial implications of damage to reputation became a consistent element of lawsuits, and remains firmly in place even today.

The second chapter examined the highly controversial gender of “whore” by analyzing how and why this identity was projected onto certain women, and its cultural relationship to individuals believed to be engaging in actual prostitution. Reasons for identifying someone as a prostitute ranged from marital status to association with other criminal behavior to walking alone at night, and these assumptions were rarely based on concrete evidence. Women were constantly targeted as sexual deviants, and the prevalence of the cultural figure of the prostitute gave power to these accusations.
I also discussed the importance of environment, neighborhood residence, and the public role played by suspected prostitutes in the formation of female identity, arguing that women living in areas of London that were believed to contain a significant presence of prostitutes were more likely to sue for sexual slander. Similar to the process of identifying individuals as socially problematic, neighborhoods also endured cultural signification as dangerous or undesirable; the relationship between communities and its residents is mutually reinforcing, and is based entirely upon public perception. As long as the public identified certain areas of London as unofficial red light districts, the women living within these areas experienced increased gender vulnerability, and were at greater risk to be labeled as prostitutes. In turn, these women also felt more compelled to defend their own reputations through slander suits.

In the third chapter, I explore elements of conduct literature intended to fashion gendered standards of behavior, and its influence on how individuals attempted to present themselves as socially respectable and others outside of this identity. While literary culture depicted ideal feminine behavior through works like “How the Good Wife Taught her Daughter” and Christine de Pizan’s *The Treasure of the City of Ladies*, it also offered personifications of female unruliness in iconic figures like “Uxor” and “La Vieille”. I demonstrated how these characters evolved into the distinct genders of “scolds”,”whores”, and “bawds”, reinforcing cultural contempt for women who dared to reenact similar bad behavior. Here, I argued that contemporary conduct literature was one aspect of culture that created and reflected gendered standards of behavior, and that slander litigation presented one arena in which subjects performed, negotiated, and reenacted these roles.
I also examined the intense promotion of female silence in these works, and the cultural connections between women’s speech and sexuality. In contemporary thought during this period, unruly female speech and unregulated female sexuality were interchangeable offenses, and deemed equally dangerous to the successful functioning of English society. Cultural fears dictated the belief that, if left unchecked, “scolds” and “whores” held the potential of overturning the “natural” social hierarchy of male dominance and female submissiveness among “respectable men” and “respectable women”, and, therefore, demanded constant legal, social, and cultural control. Conduct literature was intended to play a significant role in this control. Women, however, challenged these standards by refusing to remain silent, as evidenced in slander litigation.

Judith Butler asserts that locating female agency depends on discovering strategies of subversive repetition of performed identity, which then allows for the possibility of contesting these identities.¹ The abundance of female involvement in slander litigation indicates a repetitive willingness by women to, not only deregulate their own speech, but also to subvert socially inherited principles of female silence by verbally attacking others in an effort to construct their own identities and social roles. Furthermore, women also defended themselves publicly through defamation suits, thus exhibiting additional agency in crafting their own public reputations.

On one hand, it would be easy to regard these conflicts between women as further evidence of female oppression, and that by slandering and suing each other, women were only participating in the continued policing and subjugation of their own

¹ Butler, *Gender Trouble*, 201.
sex. I would like to reframe this: women were, instead, heavily engaged in a discursive negotiation regarding the ongoing evolution of female gendered roles. Furthermore, this cultural dialogue was not only with men, but more importantly, with other women. Through these verbal and legal conflicts, women were engaging other women in a conversation about the reconfiguration public roles and identities available to them.

Regardless of residence, occupation, age, and status, people were, and are largely still, expected to live and behave in socially prescribed ways, and there existed certain dangers in stepping outside of these culturally dictated boundaries. Change, progress, and evolution, however, are only possible if historical agents are willing to push back against oppressive forces in an attempt to blur these boundaries and to expand beyond them. It is apparent that, by harnessing the power of speech, as well as the legal agency granted by slander litigation, women essentially staged a quiet revolution in which they employed new methods of constructing public identities for themselves and for each other. In a society that severely limited women’s agency, this was one possible way that women could not only attempt to develop their own honor and shape public conceptions of female genders, but also use their own voice to do so.
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Chelsea Kay Dahlstrom was born on January 24, 1983 in Grand Forks, North Dakota. In 2005, she graduated from the University of Central Missouri with a Bachelor of Science degree in History with a minor in Religious Studies. She began working on a Master of Arts degree in History at the University of Missouri-Kansas City in 2009. Upon completion of her degree, she hopes to work for one of Kansas City’s many Nonprofit institutions, while continuing her education in History and Gender Studies.