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978-0-521-83198-7 - Men of Blood: Violence, Manliness and Criminal Justice in Victorian England

Martin J. Wiener

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Men of Blood

This book examines far more thoroughly than ever before the treatment of serious violence by men against women in nineteenth-century England. During Victoria's reign the criminal law came to punish such violence more systematically and heavily, while propagating a new, more pacific ideal of manliness. Yet this apparently progressive legal development called forth strong resistance, not only from violent men themselves but from others who drew upon discourses of democracy, humanitarianism, and patriarchy to establish sympathy with "men of blood."

In exploring this development and the contest it generated, Professor Wiener, author of several important works in British history, analyzes the cultural logic underlying shifting practices in nineteenth-century courts and Whitehall and locates competing cultural discourses in the everyday life of criminal justice. The tensions and dilemmas highlighted by this book are more than simply "Victorian" ones; to an important degree they remain with us. Consequently this work speaks not only to historians and to students of gender but also to criminologists and legal theorists.

Martin J. Wiener is the Mary Gibbs Jones Professor of History at Rice University. His previous books include *Between Two Worlds: The Political Thought of Graham Wallas* (1971), *English Culture and the Decline of the Industrial Spirit* (1980; 2nd ed., 2004), and *Reconstructing the Criminal* (1990).

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for Rebecca and Vivian

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Preface

This book is located in the imprecise but vital realm in society where cultural representations and public actions meet; more exactly, the space in the life of the criminal law where discourse and dispositions come together. In exploring this space, I hope to bring cultural and criminal justice history closer together, and to demonstrate how much each can contribute to the other. In recent years historians have begun to appreciate how intertwined representations and actions are, how discourse is not just talk but structures action, is a mode of action; how, conversely, action always happens within some discursive frame. Yet it is one thing to appreciate this in principle, quite another to carry it through in practice, without privileging one or the other. How well I succeed in this challenging task will be for readers to judge.

In a previous work I attempted a cultural history of criminal policy in Victorian and Edwardian Britain, describing patterns of thought surrounding and helping to shape the central government's construction and treatment of criminal offenders. In one sense, this book extends that enterprise, moving from the general to the more particular – from crime in general to homicide (and rape) in particular – and from national policymaking to the disposition of particular cases; in locale, from Parliament, the Home Office, and the organs of the national “intelligentsia” to the assize courtrooms of England, and to the popular reporting and discussing of what went on there, in newspapers, periodicals, pamphlets, and broadsides, as well as, again, the rooms of the Home Office. The present work is chiefly based on two “archives”: one of them public – newspaper and other published accounts of killings and the legal proceedings that followed them – and one private – discussions between Home Secretaries, their civil servants, and judges, together with appeals from condemned prisoners and others for mercy. The first archive was immediately and widely known to contemporaries, the second confidential and closed, presumably forever. The hundred-year, then seventy-five-, and finally fifty-year rule has opened this second archive. Taken together, both with their own specific agendas and biases, they afford a fuller view than has previously been possible of what was thought and what was done about men committing major violence in Victorian England.

In this sphere, as others, what was thought and what was done were, as already suggested, not neatly separable, and they are not treated separately

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here. The law was at the same time both precise and compelling, and open (even by judges devoted to precedent) to interpretation, especially in questions of “crimes against the person,” and most especially when strong feelings were roused, as was almost always the case when charges of homicide and rape were raised.

One aim of this work is simply to better understand the meaning and treatment of serious violence by men, especially against women, in Victorian England. Another, more general, is to more closely connect cultural and criminal justice history. Yet a third aim is to contribute to the understanding of the roles played by gender in criminal justice history and by criminal justice in gender history. Even as scholarly work has begun to link the two fields, it has suffered from a marked imbalance: nearly all of it has been focused on the treatment and experiences of women; the other half of the population has only just begun to be examined as a gender. Scholarly work on the relations of men, as men, to the criminal justice system is much needed, particularly for the nineteenth century, which formed a watershed not only in criminal justice but in gender constructions and relations, and the two watersheds were in fact, as I will argue, closely connected. “Masculine criminality” was undergoing significant reconstruction in this era.

As such an observation suggests, this work has a thesis. Simply put, it is that men’s violence, particularly against women, became in this period a matter of greater import than ever before, evoking strong but complex and often conflicting sentiments and legal actions and that in the end, for all the complexity, contradiction, and conflict that went on around it, such violence was viewed with ever-greater disapproval and treated with ever-greater severity. The story told here is one of both contestation and change, and both facets have their place. Yet, ultimately, it is argued, the most important thing about the story is the change that took place, in the way such violence was understood and, inseparable from this, in the way in which it was dealt with by the organs of the law.

To highlight change in this realm, in particular change in the direction of diminished tolerance of men’s violence against women, is to risk being accused of glossing over the continuing mistreatment of women in this era. This would be a serious misreading. This book does not seek to evaluate the Victorians by the standards of the early twenty-first century. It attempts to understand them, not to judge them, and to understand them more in relation to their predecessors than to their successors. How did they differ, in both their contradictions and their changes, from the generations that went before them? What kind of legacy did they leave the twentieth century?

Within the field of criminal justice history, this book is unusual in that rather than examining one county or one judicial circuit over a more limited period of time, it ambitiously (or foolhardily) takes the entire nation, over nearly a century, for its subject. In so doing, of course, it must sacrifice some degree of thoroughness and “definitiveness.” At the same time, it does not attempt, even

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superficially, to cover all aspects of male violence and the law, but confines itself to the crimes of homicide and rape. Nor does it examine all levels of the system, but confines itself to the highest courts of original jurisdiction, the assizes, where such serious charges were tried. It draws, as noted, upon both published and unpublished sources, some of which have never been made use of before. It is both quantitative and qualitative, making general statements based on wide and in one area virtually complete data while closely reading texts from both archives to elucidate the contours and complexities of what might be called “discourses of male violence.” It is built upon a unique database of detailed information on several thousand Victorian criminal cases, including virtually every case of spouse murder that went to trial, a large sample of spouse manslaughter, and other homicide and rape cases from this period and for some years earlier and later.^{??} Of course, cases officially noted and dealt with did not include all cases of “actual” homicide and certainly not of “actual” rape, as we (or even Victorians) would define them.^{??} Contemporaries were well aware of this: as the *Times* noted in 1876, “the absolute numbers of murders tells us nothing. It only says how many murderers have been brought to justice.”^{??} Therefore, quantification can only take us part of the way. Much of this work is “qualitative,” closely examining discourses and dispositions that defined and interpreted men’s violence. The sources for such examination are vast, very much more extensive than for earlier periods, and far beyond the ability of any one person, or group of persons, to fully read. The Victorian era saw an explosive growth in both the public and private archives – newspapers grew in number and multiplied their circulation, and after an 1836 Act allowing time after murder convictions for consideration of appeals the relevant Home Office files greatly expanded. Selectivity and discrimination are inevitable, as in most scholarship that attempts to address significant issues. Certainly the patterns uncovered here, both of change and of conflict, are not the only ones that can be found in this material, nor are they immune from challenge. They are, however, patterns that have for the most part not hitherto been noted, or much examined. They need to be.

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