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# Helen Barker, *Rape in Early Modern England: Law, History and Criticism*

Cham, Palgrave Macmillan, 2021, 128 p., ISBN: 978-3-030-82608-6

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- 1 This short Palgrave Pivot book introduces several debates surrounding the historiographical interpretation of statute and common law elements pertaining to rape in medieval and early modern England. Helen Barker addresses with precision several misapprehensions stemming from early research in the 1980s that continue to frame approaches to the confused issues of rape, ravishment and abduction in recent studies. In this respect, the book's goal is straightforward: by explaining away consistent misinterpretations of available evidence and an overreliance upon erroneous citations, Barker provides the necessary references and essential context with which scholars of various disciplines might address the history of rape in England with greater clarity and nuance.
- 2 Barker positions her analysis as a direct response to the early research published by Nazife Bashar in 1983, singled out for its disproportionate influence upon subsequent scholarship. Chapter 1 begins by identifying flaws in Bashar's conclusions. First, Barker addresses Bashar's emphasis upon low prosecution rates for rape in early modern England, a feature that resulted in Bashar's conclusion that the patriarchal nature of the law failed to protect women. Second, Barker interrogates the idea that rape's treatment as a crime was determined by the perceived property value of women, a feature that shifted as statute law evolved in the sixteenth century and ravishment and rape were increasingly identified as separate crimes. Barker traces the reprisal of these ideas in recent historical and literary studies of rape in early modern England, before

presenting a two-pronged clarification. Crucially, Barker reveals that Bashar's argument for the growing legal distinction of abduction from rape as separate crimes in Elizabethan England was founded upon a misreading of the statute evidence that significantly undermines Bashar's findings. Indeed, Barker poignantly stresses that "there is no relevant statute of 1555" as cited by Bashar, while "neither of the two possibly intended statutes—of 1557-8 nor 1575-6—fulfils the designated role either." (p. 16). Barker's sensitivity to evidentiary oversights such as these supports her more determined challenge to the legacy of feminist scholarship. *Rape in Early Modern England* is clearly positioned as an attempt to determine empirical foundations for future research, questioning the value and influence of theoretically informed studies in the past forty years. In particular, Barker suggests that literary scholars since Bashar have typically overlooked questions regarding evidence to highlight the workings of early modern patriarchy, and feminist or psychoanalytical approaches, in Barker's view, are especially culpable of anachronistic conclusions.

- 3 Chapter 2 follows with a concise review of common law definitions of rape, largely founded upon a close reading of Henry de Bracton, before addressing four sources of confusion that have plagued scholarship concerning this crime. These include the prevalent notion that conception was proof of consent in rape appeals, which Barker finds to have little grounding in the available statutes; the idea that the report of rape and the ensuing hue and cry by which the culprit was pursued was not a "rehearsal and display of evidence by a raped woman" (p. 43) as theatre scholars have assumed, not least because the pursuit primarily involved men; and, lastly, the belief that there was a legal prescription that facilitated the marriage of rape victims to their assailants.
- 4 Having identified these issues, chapters 3 and 4 present a closer analysis of the available evidence for legal and historical assessments of rape. Chapter 3 follows the evolution of rape's prosecution through statute law from the late thirteenth century through to the Elizabethan era. Barker invites readers to follow in her own struggle to trace the complexities of the statute law's evolution, highlighting how ambiguities and overlaps in the notions of abduction and rape consistently favoured legal manoeuvring. These legal ambiguities rarely correspond to the neat definitions presented in modern research. For instance, while a separate "abduction sequence" was introduced in 1487, by 1597 the two crimes of abduction and rape were amalgamated again, providing "no greater clarity than before" (p. 81). More generally, Barker points to a hardening of royal attitudes. The introduction of the king's suit through statute law saw a shift away from private resolutions to public prosecution though, as Barker notes, ambiguities in the statutes' language meant that the threat of resorting to the law could effectively be employed by plaintiffs to secure reconciliatory outcomes through marriage. Royal intervention can also be detected through other phenomena, especially the decline in the benefit of clergy during the sixteenth century and the concurrent reinforcement of rape's status as a key felony.
- 5 In much the same manner, Chapter 4 specifically addresses the historical interpretation of *The Lawes Resolutions of Womens Rights*, a legal treatise printed anonymously in 1632. In an original contribution that deftly assesses the treatise's possible authorship, print history and content, Barker persuasively argues that scholarly emphases upon the *Lawes Resolutions'* legal authority are unfounded. Not only was the unknown author's account of common and statute law confused, but the treatise was unpopular and failed to attract an audience large enough to justify a second print run. Here, Barker's

research underscores the dangers inherent in relying upon the *Lawes Resolutions* as a source for understanding seventeenth-century considerations of rape and abduction.

- 6 For the readers of this journal, it is important to note that while *Rape in Early Modern England's* stated goal is to address legal, historical, and theoretical approaches, the book is primarily intended for literary and theatre scholars. Historical studies *stricto sensu* are rarely addressed, with the bulk of Barker's critique levied against scholars working on the presentation and ideas of rape in Jacobean theatre. Given Barker's own concerted attempts to redress historical inaccuracies, it is lamentable that some limited historical research results in interpretative and argumentative issues. For example, Barker suggests that through the medieval hue and cry, rape victims demonstrated clear evidence of violence in a manner that paralleled ordeal trials and thereby demonstrating a medieval preoccupation with visible proofs (pp. 39-40). This discussion of medieval law, however, is reliant upon the findings of Elise Histed, a modern lawyer rather than a medievalist, and Barker overlooks the very fact that ordeal trials were outlawed in England in 1219, long before the fourteenth and fifteenth centuries under examination. Historiographical assessments also feel shallow. Historians and literary scholars are often named without discussion of their contributions to the field or their evidence, such that it is difficult for readers to gain a clear understanding of current debates. In one instance, Barker simply cites Edward Shorter's statement that he considered rape "from my vantage point as a historian" as conclusive evidence of "interdisciplinary tension" (p. 9), without precisely delineating the divergent approaches championed by historians and literary scholars. More striking is Barker's forceful criticism of feminist thinking, reproaching Susan Brownmiller as not only being "guilty of bad history, but as a non-historian... attempting to create a history of rape for a specific ideological purpose" (p. 9). In passages like these, Barker appears to ignore *Rape in Early Modern England's* own reliance upon literary studies and a willingness to cite Jacobean plays *in lieu* of archival evidence to support a historical study of rape law. Indeed, the absence of original research means that readers learn little about the lived experiences of rape victims, or the ways in which women navigated the complex legislation regarding rape.
- 7 The predominant focus upon literary scholarship, largely published before 2010, therefore circumscribes the book's approach. Barker has gone through these contributions with a fine-tooth comb to unpick the muddled interpretations of rape law that have bedevilled researchers. As a result, through its combination of a literary-review approach with clear summaries of key legal statutes, *Rape in Early Modern England* represents a useful overview of the complexities of the laws concerning rape in premodern England, and may be of particular interest to those examining the circulation of legal ideas in the public sphere or law courts.

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