RAPE AND MEDIEVAL ENGLISH SOCIETY: THE EVIDENCE OF YORKSHIRE, WILTSHIRE AND LONDON, 1218-76*

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Although students of medieval society have begun work on population, the family, women, and marriage, relatively few studies have appeared on rape and other sex-related crimes.[1] The purposes of this study are three-fold: to examine the incidence of rape in certain English counties and an English city; to observe the significance of the crime of rape in medieval society from 1218 to 1276; and to test certain accepted modern interpretations of the status of women in thirteenth-century England. The first problem will dominate this study, and provide the constant theme.

Eileen Power believed that the most accurate picture of the role of medieval women resulted from a blending of the views of chivalric romance with

*I would like to pay a partial debt of gratitude to my doctoral advisor, Professor Bennett D. Hill, formerly chairman of the Department of History at the University of Illinois at Urbana-Champaign. Professor Hill suggested the idea of writing about rape in thirteenth-century England to me. He, with characteristic care and diligence, answered a plethora of questions and helped me with the understanding of many nuances of thirteenth-century life.

[1] For instance, James Buchanan Given has recently published his study of homicide in thirteenth-century England: *Society and Homicide in Thirteenth Century England* (California, 1977). Given has reaffirmed long-held views that thirteenth-century England was an extremely violent society. He concluded that homicide was so common that everyone living in England in the thirteenth century knew someone personally who had committed a homicide. David Herilhy, "Land, Family, and Women in Continental Europe, 701-1200," in *Women in Medieval Society*, ed. Susan Mosher Stuard (Philadelphia, 1976) has challenged the traditional view of medieval women: R. H. Helmholz's *Marriage Litigation in Medieval England* (Cambridge, 1974) is a recent work on a particularly difficult subject; Josiah Cox Russell's *British Medieval Population* (Albuquerque, 1948), though controversial, remains of fundamental importance for the student of medieval England. Barbara A. Hanawalt's "Fur-Collar Crime: The Pattern of Crime Among the Fourteenth-Century Nobility," in *The Journal of Social History* (Summer, 1975), 1-17,

the hard facts of day-to-day living.[2] Barbara Hanawalt viewed the position of women more negatively in her study, "The Female Felon in Fourteenth-Century England." She made a plea for women's importance in medieval England, even the criminal element.[3] Vern Bullough has shown that the traditional picture of medieval women as "begetters of evil" was created by a celibate clergy.[4] Philosophers of the thirteenth century, paraphrasing Aristotle, had demonstrated that women were inferior to men because of their small physical stature and because they had a less important part to play in procreation.[5]

Our knowledge of how medieval English society viewed rape comes from the legal annals of the Norman and Angevin kings of the twelfth and thirteenth centuries. Before venturing into the specific study of rape in the thirteenth century, it would be wise to establish a view of the way twelfth and thirteenth-century English society perceived the crime of rape.

A twelfth-century legal definition of rape occurs in the *Tractus de Legibus et Consuetudinibus Regni Angliae tempore Regis Henrici Secundi*, which is commonly termed "Glanvill."[6] The work, which Maitland suggested might

touches the problem of rape. Specifically, the author demonstrates how "fur-collar" criminals were able to "cover up" crimes committed against the non-aristocratic class. A more complete study of rape in a late medieval, early modern society is Guido Ruggiero's "Sexual Criminality in the Early Renaissance: Venice, 1338-1358," *The Journal of Social History* (Summer, 1975), 18-37. Ruggiero concludes that the elite of Venice were little concerned about rape in general. Only a rape committed against the wife of a member of the elite would turn the wheels of Venetian justice. Barbara Hanawalt, *Crime and Conflict in English Communities, 1300-1348* (Harvard, 1979).

[2] Eileen Power, "The Position of Women in the Middle Ages," in *Legacy of the Middle Ages*, ed. C. Crump and E. Jacob (Oxford, 1926). More recently her illuminating lectures on medieval women were edited by M. M. Postan (Cambridge, 1975), pp. 9-34.

[3] Barbara A. Hanawalt, "The Female Felon in Fourteenth-Century England," in *Women in Medieval Society*, ed. Susan Mosher Stuard (Philadelphia, 1976), 125-140. This author has written extensively on crime and punishment in fourteenth-century England. Her quantitative work on these areas are welcome additions to this ever-growing field.

[4] Vern Bullough, "Medieval Medical and Scientific Views of Women," *Viator* IV (1973), 485-497.

[5] Ibid., 487.

[6] Henry de Bracton, *De Legibus et Consuetudinibus Angliae*, ed. G. E. Woodbine (Cambridge, Massachusetts, 1968), 403. Bracton's punishment for the ravishment of a virgin was greater than for a non-virgin. The English

be the work of Hubert Walter,[7] contains the following important definition: "The crime of rape is that in which a woman charges a man that he has violated her by force while in the king's peace."[8] One quickly notices no distinction between virgin and non-virgin, nun and lay woman, adult and child, or family member and stranger.

In the thirteenth century, Henry de Bracton (birthdate unknown-1268), who expanded the work of "Glanvill," included what was the basic definition cited in the *Tractus de Legibus* of Glanvill.[9] In addition, Bracton added the distinction between virgins and non-virgins:

> Among other appeals there is an appeal called the rape of virgins. The rape of virgins is a crime imputed by a woman to the man by whom she says she has been forcibly ravished against the king's peace.[10]

From the standpoint of the legal treatise, a more complex view of rape developed in the thirteenth century.

Bracton, who extracted much first-hand legal knowledge from the plea rolls of Martin of Pateshall (c. 1220-1230) and William of Raleigh (c. 1230-1240) died in 1268.[11] From Bracton, continuity in our legal framework for the twelfth and thirteenth centuries can be maintained by gleaning what we can from the anonymous *The Mirror of Justices*. This treatise, criticized for

justiciar's contributions to English law have been hailed as " . . . the crown and flower of English medieval jurisprudence." in Frederick Pollock and F. W. Maitland, *The History of English Law*, 2 Vols. (Cambridge, 1895), I, 206. "Glanvill," *Tractus de Legibus et Consuetudinibus Regni Angliae tempore Regis Henrici Secundi*, ed. G. E. Woodbine (New Haven, 1932).

[7] H. A. Hollond, *English Legal Scholars Before Blackstone* (London, 1947), 6.

[8] "Glanvill," *Tractus de Legibus*. A translation of this passage is given in *English Historical Documents*, II, ed. D. C. Douglas and G. W. Greenaway (New York, 1953), 478. It is listed as Ranulf Glanvill, "The Laws and Customs of England."

[9] Bracton, 403.

[10] Ibid.

[11] See, for example, the important article by Ralph V. Turner, "The Origins of Common Pleas and King's Bench," *American Journal of Legal History* XXI (1977), 238-254. The work of Simon of Pattishall is explained in Turner's "Simon of Pattishall, Pioneer Professional Judge," *Albion* IX (1977), 115-127.

its falsehoods, was once attributed to Andrew Horn, a fishmonger of London.[12] The *Mirror's* author explained:

> Rape is committed in two manners: it is either of things or of women. This sin is put here because King Edward made it mortal by his ordinance, which is founded rather on arbitrary will than discretion. For sturpum is one thing, fornication another, adultery another, incest another, and rape yet another. . . . By the arbitrary words of the statute (the Statute of Westminster, 1285) . . . the word 'rape' is used for every forcing of a woman. . . .[13]

From "Glanvill" to Bracton to *The Mirror* there was growing complexity of the legal definition of rape.

The articles of the general eyres provide not only a practical definition of rape for the thirteenth century but considerable information about contemporary attitudes toward and the legal treatment of the crime. C. A. F. Meekings observed in his introduction to the Wiltshire eyre of 1249 that the articles in that eyre represented a collection from the various eyres from 1194 to 1249.[14] No article defining rape and specifying its punishment was included in these articles. Indeed, one has to look to the articles of the Kent visitation of 1313-1314 before a specific article concerning rape can be found.[15] Negative evidence is not the best type, but the glaring omission of rape from the eyre articles for the period 1194 to 1313 suggests that a systematized method for dealing with rape had not yet been created.[16] In addition, the striking absence of an article about rape also implies that the itinerant justices were not overly concerned about a crime which was extremely hard to prosecute and one which did little to fill the royal coffer.

If the four legal sources are compared, it can be concluded that the legal treatises of Glanvill, Bracton, and the anonymous writer of *The Mirror of Justices* reflect primarily the theoretical view of rape and its repercussions. The articles of the general eyre, with their view extracted from the hard truth

[12] *The Mirror of Justices*, ed. William Joseph Whittaker (London, 1895; Selden Society Vol. 7).

[13] *Mirror of Justices*, 28.

[14] *Crown Pleas of the Wiltshire Eyre, 1249*, ed. C. A. F. Meekings, (Devizes, 1961; Wiltshire Record Society Vol. XVI), 28-33.

[15] *Rolls of the Justices in Eyre for Kent, 1313-1314*, ed. F. M. Maitland, L. W. V. Harcourt, and William Craddock Bolland (London, 1910, Selden Society Vol. XXIV), 42.

[16] Ibid., xliii.

of experience, imply a somewhat callous attitude about rape–and about women–on the part of those judges who constituted royal justice in the thirteenth century.

Do more rapes occur in urban areas than rural areas? Is the percentage of rape higher in counties that are far removed from the center of authority? The regional choices for this study allowed for the comparison of a county that was in the extreme northern part of England, Yorkshire, with a southern county, Wiltshire. It also allowed for the comparison of a populous county, Yorkshire, with a relatively sparsely-populated county, Wiltshire. Finally, the two counties of this study present a striking contrast in terms of wealth. From the Assessment of 1225, it has been shown that Yorkshire was among England's poorest counties, possessing only 7.9 shillings per square mile. Wiltshire, though not a wealthy county in 1225, was much better off financially than Yorkshire to the far north. In 1225, Wiltshire possessed 11.4 shillings per square mile.[17] London was chosen primarily to give a contrast to the rural areas of Yorkshire and Wiltshire. London was, of course, unique as the national capital, for its size, location, and traditions. Still, it was the largest city in England in the thirteenth century and therefore allows for a valid assessment of rape and for a comparison with the frequency of rape in Yorkshire and Wiltshire.[18]

Chronologically, I shall focus on the period 1218-1276. At least one other investigator, Catherine H. Kauppauf, has looked into the problem of rape in the late twelfth and early thirteenth centuries as it reflected upon the development of the petty jury. Because her researches concentrated upon the reign of king John, the period from 1218-1276 seemed to be the logical extension.[19] In addition, because of James Buchanan Given's work on

[17] See the map, p. 82, in H. C. Da by, ed., *A New Historical Geography of England Before 1600* (Cambridge, 1973); see p. 78 also; for the general histories and topography of Yorkshire and Wiltshire one should consult the following: for Yorkshire, *The Victoria County History of Yorkshire* (Oxford, 1974); For Wiltshire, *The Victoria County History of Wiltshire*, ed. R. B. Pugh (Oxford, 1953-70).

[18] For the history of medieval London, much can be gleaned from the collection of primary documents published as *Munimenta Gildhallae Londoniensis*, ed. Henry Thomas Riley, 3 Vols. (London, 1859) (Rolls Series, Vol. XII). Some of the eyre articles are collected in Volume 1, *Liber Albus*, which contains the eyre articles for the twenty-eighth year of Henry III, 61-78.

[19] Catherine H. Kappauf, The Early Development of the Petty Jury in England, 1194-121 (University of Illinois, 1973). Directed by: Professor Bennett D. Hill.

homicide in the thirteenth century, the study of rape for the same period seemed appropriate.[20]

A major reason for the study of rape in the thirteenth century is the number of printed primary sources for that period. For the county of Yorkshire, the investigation concentrated on the information in the Yorkshire Rolls of the Itinerant Justices, 1218-1219 and the Yorkshire Assize Rolls, 1208-60.[21] The information for Wiltshire was extracted from the Wiltshire Rolls of the Itinerant Justices, 1249, and Wiltshire Gaol Delivery, 1275-1306.[22] For London, the London eyre of 1244 and the London eyre of 1276 have been investigated.[23] In addition to the specific eyre and gaol delivery documents, the following general documents have been consulted for further illumination and illustration: the Close Rolls of Henry III, 1234-37; the Patent Rolls of Henry III, 1232-1272; Select Cases of Procedure without writ under Henry III; Select Cases in the Court of King's Bench under Edward I; and, Select Cases from the Coroners' Rolls, 1265-1413.[24]

Reconstructing the chronology of the Yorkshire eyre proved to be a difficult task. This study begins in 1218 so at least a knowledge of the last eyre to

[20] For instance, Given's *Society and Homicide* covers only five counties in medieval England with documentary evidence for approximately forty years. See his chapter one, "The Records."

[21] *Rolls of the Justices in Eyre: Being the Rolls of Pleas and Assizes for Yorkshire in 3 Henry III (1218-1219)*, ed. Doris Mary Stenton (London, 1937; Selden Society Vol. LVI); *Three Yorkshire Assize Rolls*, ed. Charles Travis Clay (York, 1911; Yorkshire Archaeological Society Vol. XLIV).

[22] *Crown Pleas of the Wiltshire Eyre*, ed. Meekings; *Wiltshire Gaol Delivery and Trailbaston Trials, 1275-1306*, ed. R. B. Pugh (Devizes, 1978; Wiltshire Record Society Vol. XXXIII).

[23] *London Eyre of 1244*, ed. Helen M. Cam and Martin Weinbaum (London, 1968; London Record Society); *London Eyre of 1276*, ed. Martin Weinbaum (London, 1976; London Record Society).

[24] *Close Rolls of the Reign of Henry III*, Public Record Office (London, 1908). (Henceforth cited as CR Henry III). *Patent Rolls of the Reign of Henry III, A.D. 1232-47*, Public Record Office (London, 1906). (Henceforth cited as PR Henry III); *PR Henry III, A.D. 1266-1272* (London, 1913); *Select Cases of Procedures without Writ under Henry III*, ed. H. G. Richardson and G. O. Sayles (London, 1940; Selden Society Vol. LX); *Select Cases in the Court of King's Bench under Edward I*, ed. G. O. Sayles (London, 1936, 1938, 1939; Selden Society Vols. LV, LVII, and LVIII); *Select Cases from the Coroners' Rolls, 1265-1413*, ed. Charles Gross (London, 1896; Selden Society Vol. VII).

visit Yorkshire was needed. John's itinerant justices held an eyre at York and Doncaster from September 29 until November 14, 1208.[25] Between 1208 and 1218, the surviving evidence suggests that no eyres were held, although there are some speculations that an eyre was held in 1214.[26] Alan Harding's explanation of this ten-year gap as caused by the troubles of the civil war during John's last years seems a plausible explanation.[27] The Yorkshire eyre of 1218-1219 lasted from November, 1218 until April of 1219. The judges who visited Yorkshire for this eyre were: Richard de Marisco, bishop of Durham; Robert de Vipont, who was mentioned frequently in the records for king John's reign; Martin of Pattishall and Roger Huscarl, the only professional judges on this visitation; and, William the son of the bishop of Durham.[28]

The Wiltshire eyre of 1249 was a part of the country-wide visitation of 1246-1249. During the reign of Henry III, Wiltshire had already received three other visits: in April 1227, January 1236, and June 1241.[29]

Again the uniqueness of London must be emphasized as its eyre chronology is summarized. The London corporation had had jurisdiction over judicial matters since Henry I's day and commissions for the itinerant justices to hold sessions of the crown pleas had to come directly from the crown, as they did to Hubert de Burgh in 1221 and Martin of Pattishall in 1226.[30] The mayor of London in 1244 remarked that eyres had been held during the reign of Henry II, Richard, and John:

> *Et Major et omnes de civitate dicunt, quod ita usitatum fuit ante guerram, tam tempore Regis Johannis, Regis Richardi, quam tempore Regis Henrici patris eorum.*[31]

In this study a total of 2259 cases were investigated for the counties of Yorkshire and Wiltshire and for the city of London. Of the 2259 appeals made to the itinerant justices, ninety-seven were appeals for rape (see Table I). 1153 cases were reported to the itinerant justices at the Yorkshire eyre

[25] *Three Yorkshire Assize Rolls*, 9.

[26] D. M. Stenton, *Rolls of the Justices in Eyre for Yorkshire, 1218-1219*, xvii.

[27] Alan Harding, *The Law Courts of Medieval England* (London, 1973), 67.

[28] Stenton, *Yorkshire Eyre Rolls*, xxi.

[29] Meekings, *Wiltshire Eyre, 1249*, 9.

[30] Cam and Weinbaum, *London Eyre of 1244*, ix; Pollock and Maitland, *History of English Law*, I, 658; see also *Rotuli Litterarum Clausarum*, I (1833), 474; II (1844), 966.

[31] *Munimenta Gildhallae Londoniensis*, I, 78.

TABLE I

Incidence of Rape in Yorkshire, Wiltshire, and London, 1218-1276

Location	# rapes reported	% of Total
Yorkshire, 1218-1219	73	75%
London, 1244	2	2
Wiltshire, 1249	19	20
London, 1276	3	3
Total	97	100%

TABLE II

Location of Rapes, 1218-1276: Ninety-Seven Cases

Urban Location*	# rapes committed	% of Total
London	5	5%
Wiltshire:		
Wilton	1	1
Salisbury	1	1
Total Urban rapes for Wiltshire: 2		
Yorkshire:		
York	9	9
Total Urban rapes for Yorkshire: 9		
Total Urban Rapes	16	17%

*For this study, urban is taken to mean towns of at least 1,000 persons by the mid-thirteenth century. This figure is within close proximity to Josiah Cox Russell's estimates based on Domesday Book and the Poll Tax of 1377 (*British Medieval Population*, 282-289). Unfortunately for modern scholars, no population figure was recorded in the Wiltshire Domesday for the borough of Wilton. However, because of Wilton's 25 appurtenant burgesses, twice as many as Malmesbury (which had a population of 500 in 1086), I am assuming that Wilton experienced a growth rate similar to Malmesbury and Salisbury, two other Wiltshire towns.

of 1218-1219; ninety-six at the Wiltshire eyre of 1249; and, 1010 cases were reported to the justices at the two London eyres of 1244 and 1276.

The major questions asked of the primary sources can be divided into three groups: where did the rapes take place; logistical questions, those dealing with rapes by a single person or gang rapes; and larger questions of justice, war, and society. Finally, the problem of prohibitions against reporting rape will be discussed.

The documents are strangely silent about where rapes most frequently occurred. Indeed, of all seventy-three cases investigated for the county of Yorkshire in 1218-1219, no scribe recorded this information. The same lamentable fact is true for the nineteen Wiltshire cases. Luckily, one of the appeals in the London eyre of 1276 contains the place where the alleged rape occurred: William de Hadestok and his wife Joan appealed James de Montibus of rape on 26 July 1269. The couple said that James broke into their home, raped Joan, and caused £100 damages.[32] Therefore, we are able to learn little from the data about where most rapes were committed.

Was rape more common in rural or urban settings? The documents are much more helpful with this second question. The evidence is overwhelmingly in favor of the rural setting. Out of ninety-seven cases investigated, only sixteen rapes were committed in an urban location.[33] (See Table II).

Nine of the sixteen urban rapes were committed in the city of York; five in London.[34] A decidedly numerous eighty-one rapes were committed in rural areas (see Table III). The answer to the question, why were there so many more rural crimes than urban, is many-sided. The greater population of Yorkshire obviously helps to explain the greater number of rural rapes. In Yorkshire, a county far-removed from the center of authority, law and order were most assuredly prized commodities. The pipe rolls of king John's reign indicate the great incidence of crime for this traditionally isolated, frontier county.[35] In London, the husting had developed a legal individuality and was

[32] *London Eyre of 1276*, case 519. £100 was an enormous sum. The court awarded the appellors only 100 shillings for damages.

[33] Here urban means towns of at least 1,000 persons. For this study, only London, Wilton, Salisbury, and York qualify; see J. C. Russell, *British Medieval Population*, 132-133; 141-143.

[34] See Table I, page 40.

[35] Yorkshire had a history of unstable conditions in the thirteenth century. *Pipe Roll 12 John* (1211) gives us a clue as to the criminal atmosphere of York. In 1211, Yorkshiremen paid 2,727 marks in fines as compared with 2,000 for Lincolnshiremen.

TABLE III

Location of Rapes, 1218-1276:
Ninety-Seven Cases

Rural Location*	# rapes committed	% of Total
Yorkshire:	73	75%
Wapentakes	61	63
Villages	3	4
Total Rural rapes for Yorkshire:	64	65.5
Wiltshire:	19	20
Hundreds	17	17.5
Total Rural Rapes	81	83%
Cumulative Totals – Urban and Rural:	Urban, 17% Rural, 83%	

*For this study, rural is taken to mean all people except those who lived in towns of 1,000 or more (see Table II).

accomplishing the judicial work of the city.[36] Therefore, when the eyre visitation reached London, for the first time since 1226, business was surprisingly light.

Five other questions, of the logistical variety, should be posed: were those involved in rape usually of the non-aristocratic class? As in the question of urban or rural location, the data leans heavily in the direction of rape as a non-aristocratic crime. In only one of ninety-seven cases investigated was a member of the aristocracy mentioned.[37] Even in this case, the noble status was questionable. Eve, the daughter of the earl of Rothesen, appealed Adam Mikel of rape.[38] Ironically, Adam was acquitted. For a non-aristocrat to commit a crime against an aristocrat was a supreme taboo of medieval English

[36] Gwyn Williams, *Medieval London: From Commune to Capital*, (London, 1936), p. 113.

[37] Clergymen who may have been of aristocratic background are excepted.

[38] *Wiltshire Eyre of 1249*, case 155, page 182. There is no mention of the Rothesen peerage in I. J. Sanders' *English Baronies* (1086-1327) (Oxford, 1960) or in the *Victoria County History* for Wiltshire.

society. Even more ironic was the fact that, unlike the majority of other women who had made "false appeals"–that is, either the appellor had not appeared before the justices to prosecute the case or the jury had found the appealed not guilty–Eve was released because the judges observed that she was poor.[39] In fifty-three percent of all the cases investigated, women who were conficted of false appeal were arrested. Eve's aristocratic status kept her from a similar fate. Given emphasized that homicide was the special misdeed of the knightly class.[40] From the evidence of the eyre rolls, one can draw the conclusion that rape was clearly a non-aristocratic crime. Of the eighteen cases in which the occupation of the rapist was given, 100% of them could be termed non-aristocratic occupations (see Table IV). However, one must be

TABLE IV

Offenders in Rape according to Occupation*:
Ninety-Seven Cases

Occupation	Location	# offenders in this occupation
kitchener	Yorkshire	1
despenser	Yorkshire	1
weaver	Yorkshire	1
binder	Yorkshire	1
smith	Yorkshire	1
clerk*	Yorkshire	3
prior*	Yorkshire	1
chaplain*	Yorkshire	1
hayward	Wiltshire	1
woodward	Wiltshire	1
constable's man	Wiltshire	1
reeve's man	Wiltshire	1
merchant	London	2
physician	London	1
vintner	London	1
Total		18

*Ecclesiastics were by far the largest group of rape offenders, five of eighteen, or twenty-eight percent of all occupations cited by the eyre records.

[39] *Wiltshire Eyre of 1249*, 182.
[40] Given, *Society and Homicide*, 33.

careful about reaching this conclusion. There were perhaps many upper class rapes which were never prosecuted for a number of reasons: fear, shame, suppression of evidence, influence of aristocratic rapists with the sheriff and the itinerant justices, and intimidation of jurors. Guido Ruggiero has shown that the Venetian nobility in the fourteenth century committed numerous, heinous crimes against the non-aristocratic class. Consequently, because they controlled the institutions of justice, they could "cover up" crimes against the non-aristocrats.[41]

Ecclesiastics seem to form the largest group of alleged rapists, comprising 28% of all occupations cited in the eyre rolls. The other occupations were kitchener, despenser, weaver, binder, smith, hayward, woodward, one constable's man, one reeve's man, two merchants, a physician, and a vintner (see Table IV).

What was the incidence of the rape of children? There was no mention of child-rape in the ninety-seven cases surveyed. It would seem plausible that the justices in eyre, as in Bracton's treatise, did not distinguish between a child and an adult.[42]

Did the rapist commit the crime alone or did he have accessories? In 27% of all the cases investigated, the alleged rapist was abbetted by accessories (see Table V). This is a precarious figure. It has often been argued that medieval people acted in common. James B. Given, for example, found that thirteenth-century people acted in common in almost every activity of life–even in homicide. Only 30% of the murderers included in Given's data acted without an accomplice.[43] Rape is usually considered to be a crime committed by one offender. In Yorkshire, alleged rapists were accompanied by accessories in 30% of the cases–the highest percentage of the three areas covered (see Table VI). In Wiltshire, only 11% of the alleged rapists had accessories (see Table VII). Even though medieval people acted in common in many daily activities, rapists in thirteenth-century England acted alone in a great majority of the cases reported to the justices in eyre.

Were there instances in the rolls of women raping men? There were none in all ninety-seven cases. However, there was one case in which an accessory

[41] Guido Ruggiero, *Violence in Early Renaissance Venice* (Rutgers University Press, 1980).

[42] However, Bracton did distinguish between virgins and non-virgins. Undoubtedly, the great majority of females under twelve would come under the former category. Bracton, 414.

[43] Given emphasized that homicide was a collective crime in *Society and Homicide*, 41.

was female. Edith, the daughter of Richard, appealed William le Escot of rape and Alice, the daughter of Thomas the reeve, as an accessory.[44]

What was the typical relationship between offender and victim? There is no evidence that the rapists were closely-related to the victims in this study.

TABLE V

Cumulative Rape Statistics for Yorkshire, Wiltshire, and London, 1218-1276:

Ninety-seven rape cases were reported at the eyres of Yorkshire (1218-1219), Wiltshire (1249), and London (1244,1276)

Information	Information given in # of cases out of 97	% of total cases
alleged victim named	96	99%
relative of alleged victim	64	66
alleged rapist named	90	93
accessories	26	27
occupation of rapist	18	19
alleged victim arrested	53	55
alleged rapist guilty	23	24
appellor did not prosecute	60	62
fine given in	22	23
rape and robbery committed on same victim	6	6
murder and rape committed together	1	1
alleged rapist did not appear for eyre	9	9

[44] *Wiltshire Eyre of 1249*, cases 310 and 311, 210-211.

In the great majority of the ninety-seven cases investigated, the language of the scribe leads one to believe that the participants were strangers. A typical case for the county of Yorkshire reads thusly:

TABLE VI

Rape Statistics for Yorkshire, 1218-1219*

Information	Information given in # of cases out of 73	% of total cases
alleged victim named	72	99%
relative of alleged victim named	49	67
alleged rapist named	66	90
accessories	22	30
occupation of rapist given	10	14
alleged victim arrested	39	53
alleged rapist guilty	14	19
appellor did not prosecute	49	67
fine given in	12	16
rape and robbery committed on same victim	4	6
murder and rape committed together	1	1
alleged rapist did not appear for eyre	4	6

*The itinerant justices had held an eyre in Yorkshire in 1214; thus, these cases represent the total number of reported rapes for a four-year period in a county with a population of approximately 40,000.

> Beatrice of Brompton appeals Richard Meel that in the peace of the lord king he raped her and she has come and put herself in the lord king's mercy.[45]

The language is without color as are most bureaucratic records. Even so, it would be hazardous to assert that the majority of rape victims and rapists were strangers, particularly in the rural areas. In a thirteenth-century village, a person could easily get to know everyone in the village. Another piece of evidence which supports this idea is the fact that 4% of the rape cases resulted in the marriage of the alleged rapist and the alleged victim.

The third area of questions, the problems of justice, war, and society, contains three major questions: how was rape prosecuted? was the victim examined and by whom? did warfare have a significant effect on the incidence of rape or the punishment of rape?

To answer question number one, we turn again to the legal treatises of the thirteenth century, Bracton and *The Mirror of Justices*. Then we can compare the theoretical with the actual events of the eyre. Bracton, basing his insights on the cases of Martin of Pattishall and William of Raleigh, wrote:

> A. such a woman, appeals B for that whereas she was at such a place on such a day in such a year etc. the said B came with his force and wickedly, and against the king's peace lay with her and took from her her maidenhead (or "virginity") and kept her with him for so many nights, and that he did this wickedly and feloniously she offers to prove against him as the king's court may award.[46]

Even though Given lauded the accuracy of thirteenth-century record-keeping, few of the ninety-seven cases investigated contained all of the information in Bracton's formula for appeal.[47] In fact, there are obvious omissions in the record-keeping. Even the most vital notation–money–was only given in twenty-three percent of the total cases studied (see Table V). In most of the cases, the appellor's name and the appealed man's names are given[48] (see Table V). The hue and cry had been raised, the alleged victim had reported the crime to the sheriff, to the local court, county court, or husting. Finally, the appellor appealed the alleged rapist before the itinerant justices who

[45] *Yorkshire Eyre of 1218-1219*, case 957, page 349.
[46] Bracton, 414.
[47] Given, *Society and Homicide*, 10.
[48] Ninety-nine percent and ninety-three percent, respectively.

TABLE VII

Rape Statistics for Wiltshire, 1249:*

Nineteen cases were reported to the itinerant justices in the 1249 eyre:

Information	Information given in # of cases out of 19	% of total cases
alleged victim named	19	100%
relative of alleged victim named	12	63
alleged rapist named	19	100
accessories	2	11
occupation of rapist given	5	26
alleged victim arrested	10	53
alleged rapist guilty	7	37
appellor did not prosecute	9	47
fine given in	8	42
rape and robbery committed on same victim	2	11
murder and rape committed together	0	0
alleged rapist did not appear for eyre	4	21

*The itinerant justices had held an eyre in Wiltshire in 1241; thus, these cases represent the total number of reported rapes for a four-year period in a county with a population of approximately 13,000 people.

TABLE VIIB

Rape Statistics for London, 1244, 1276*

Two cases were reported to the itinerant justices at the 1244 eyre; three cases were reported at the 1276 eyre:

Information	Information given in # cases out of: 2 in 1244 / 3 in 1276		% of total cases 1244	1276
alleged victim named	2	3	100%	100%
relative of alleged victim named	1	2	50	66 2/3
alleged rapist named	2	3	100	100
accessories	1	1	50	33 1/3
occupation of rapist given	2	2	100	66 2/3
alleged victim arrested	2	1	100	33 1/3
alleged rapist guilty	0	2	0	66 2/3
appellor did not prosecute	0	2	0	66 2/3
fine given in	1	1	50	33 1/3
rape and robbery committed on same victim	0	2	0	66 2/3
murder and rape committed together	0	0	0	0
alleged rapist did not appear for eyre	0	1	0	33 1/3

*London's population in 1244 and 1276 was between 35,000 and 40,000 people (Russell, *British Medieval Population*, 282-89).

represented royal justice.[49] These are the primary facts known about each of the ninety-seven cases.

The author of *The Mirror*, as did Bracton thirty years before, emphasized the distinction between virgin and non-virgin. He explained:

> An appeal of rape is made in this wise: Arnebourgh, who is here, appeals Athelin, who is there, for that, whereas, etc., there came this Athelin and knocked down, forced, and corrupted this Arnebourgh, against her will, feloniously, against the peace. And because it was not every rape that was accounted a mortal sin, such an appeal was not in due form unless she said, " . . . and took away her virginity."[50]

Judging from Bracton and *The Mirror*, we could conclude that the justices were little troubled by the rape of a non-virgin. This, according to the rape cases under investigation here, was hardly the case. Rarely did an appeal include the words " . . . and took away her virginity." If the legal distinction between virgin and non-virgin was a reflection of reality, it certainly was not by the middle of the thirteenth century.[51]

Even though the records do not indicate officials who examined an alleged rape victim, we know from reliable sources that certain reputable people were employed to examine those who appealed someone of rape and for those who claimed impotence.[52] "Glanvill," studied and paraphrased by Bracton, had said in the twelfth century that a woman who had been raped should go at once to the nearest village and demonstrate to reputable men her humiliation. After that, she must show herself to the reeve of the hundred. Then, she must appeal in the shire court.[53] Finally, she had to come before the justices in eyre.

Undoubtedly, every woman who made an appeal was not telling the truth. She might be trying to humiliate the man under appeal. She might be a tool

[49] Given, *Society and Homicide*, gives a commendable explanation of the eyre at work, 10-13.

[50] *Mirror of Justices*, 59.

[51] See, for example, Yorkshire eyre of 1218-1219, case 594, pages 233-234.

[52] Helmholtz, *Marriage Litigation*, 58 and 89, explained that the assertion of impotence by an unhappy marital partner could be investigated in numerous ways: a woman's virginity could be inspected by a group of qualified matrons: a man who claimed impotence could be inspected by "expert and honest men;" and, at Canterbury, England, there was a practice of deputized honest women examining the man who claimed to be impotent.

[53] Glanvill, in *English Historical Documents*, II, 478.

of the appealed man's enemies. In addition, she had a procedural advantage over men: by being a woman, she could not fight a duel with the appealed and the appealed man always faced ordeal or inquest or a jury.[54] Finally, a woman might be seeking a husband. Seven percent of all the cases investigated were settled "out-of-court." In four percent of the cases, the rapist married the victim. We learn from *The Mirror of Justices* how an appealed man could defend himself against an appellor who had lied:

> In an appeal of rape he may defend the felony and say that he did not corrupt her against her will, but with her assent, as fully appeared from this that she conceived a child by him at the same hour, and on the other hand no presumption arises that he took her against her will since there were no torn clothes, bloodshed, hue and cry, or other evidence of violence.[55]

The interaction of war and the crime of rape produced interesting results in the thirteenth century. A surprising pattern appeared in the patent rolls for the reigns of Henry III and Edward I. Men who had been convicted of rape were exonerated because of their successful participation in wars against England's relatively few enemies or because a clergyman or prominent person suggested their release. For example, in the twenty-eighth year of Henry III (1244) this brief was listed in the patent rolls:

> Release, at the instance of Nicholas, hermit of Westminster, to Gilbert de Hoton of his outlawry for rape, on condition that he stand trial if any will proceed against him.[56]

Not only was Gilbert accused, he had already been sentenced. In the twenty-fourth year of Edward I (1296), it was recorded:

> Pardon,
> Alan le Venur, for his services in the Scotch War, for the rape of Beatrice de Beselisden, whereof he was appealed, and of his outlawry for the same.[57]

This willingness to overlook serious crime, not in a time of national crisis but in a relatively peaceful period internationally, is a reflection of the society's callous attitude toward rape.

The collected data helped to answer and illuminate this question: what

[54] Meekings, *Wiltshire Eyre of 1249*, 79.
[55] *Mirror of Justices*, 103.
[56] PR Henry III, 1232-47.
[57] PR Henry III, 1292-1301, 196.

were the social, psychological, and historical factors which prohibited women from reporting rapes? From the legal experts of the thirteenth century we have already seen how humiliating the process for appealing rape was–first the hue and cry, then the demonstration to reputable men of the community, then a demonstration to the reeve, then a demonstration to the local court, and finally a woman had to repeat her appeal at the eyre court. A woman might shame her family as well as herself. She would immediately become less appealing in the marriage market. She might even incur the wrath of the appealed man. Without a doubt, medieval women must have been as embarrassed about this complex process as modern women. In a Yorkshire case of 1218:

> Godith, daughter of Reginald, appealed Roger son of Robert of Hunslet of rape and she sued at three shire courts and now has not come [to the 1218-1219 eyre].[58]

We may assume that Godith had already presented her appeal to reputable men of the community, the reeve of the hundred, and then to three shire courts. She failed to appear–the fourth open court–at the general eyre and the order was given for her arrest.[59]

Aside from the humiliation, which included the families of victims and offenders, and fear of the vindictive appealed man, a woman might be afraid to appeal a man because of his status.[60] In addition, in a significant number of cases, fifty-three of ninety-seven, the alleged victim was arrested (see Table V). Whether she was telling the truth or not, if the jury found the appealed man innocent, the appellor was arrested and fined for false appeal. And, if she failed to appear before the eyre, the decision of the judges was to have her arrested. The transcript of Case 963 for the 1218-1219 Yorkshire eyre reads:

[58] *Yorkshire eyre, 1218-1219*, case 643, page 258.

[59] Ibid. When a woman failed to appear in the general eyre to prosecute a case which she had instigated in a local court, the usual result was her arrest for false appeal.

[60] Relatives of the victim are given in sixty-six percent of all cases investigated. This emphasizes the publicity of the crime; Given, in *Society and Homicide*, 90, remarked that the upper class controlled the system of justice. This, in itself, was enough to stifle the judicial ambitions of the most courageous female serf; Barbara Hanawalt has explained the "cover up" of crime by the "fur collar" segment of English medieval society in "Fur-Collar Crimes."

> *Alicia filia Engrami appellauit Hugonem Spikfot de rapo. Et ipsa non venit et affidauit sequi et ideo capiatur.* [61]

The frequency of arrest of the alleged victim, fifty-five percent, clearly demonstrates the lack of concern for justice, and what appears to be the position of women in thirteenth-century royal courts. Maitland explained this disregard for women this way:

> As regards private rights women are on the same level as men . . . but public functions they have none. In the camp, at the council board, on the bench, in the jury box there is no place for them.[62]

The collected data quickly developed into observable patterns which were used in answering the major questions which formed my original hypothesis. The bulk of the data has been grouped into thirteen major, and related, categories. Of the ninety-seven total rapes, the great majority, seventy-three, were committed in Yorkshire and were reported to the justices in eyre for 1218-1219 (see Table VI). The Yorkshire records revealed that ninety-nine percent of the seventy-three cases included the names of the alleged victim; and, that the victim's relative(s) was (were) named in sixty-seven percent of the cases. The alleged rapist was named in ninety percent of the cases; accessories were listed for thirty percent of the cases; a low figure of fourteen percent of the rapists' occupations were cited; a strikingly large figure of fifty-three percent of the cases resulted in the alleged victims' arrest for false appeal; a somewhat low nineteen percent of those appealed were found guilty. The appellor did not prosecute in sixty-seven percent of the cases. A rather low figure, sixteen percent, of fines were recorded. Rape and robbery of the same victim were committed in six percent of the cases, while one percent of the cases involved murder and rape. In six percent of the cases, the alleged rapist failed to appear before the eyre. This last figure is striking because it reveals how important it was to attend court when one was the appellor or the appealed. The judges seem to have gone easier on those appealed rapists who appeared. Conversely, the punishments were harsh for those appellors or appellees who failed to appear before the king's justices.

The comparative statistics for Wiltshire and London are as follows: the

[61] This was a typical case of those investigated:

> "Alice, daughter of Engram appealed Hugh Spikfot of rape. She has not come and she pledged her faith to sue and therefore let her be taken."

Yorkshire eyre, 1218-1219, case 963, page 350.

[62] Pollock and Maitland, *History of English Law*, I, 485.

alleged victim was named in 100% of the nineteen cases for Wiltshire and in 100% for the five cases for London.[63] A relative of the victim was cited by the justices in sixty-three percent of the cases for Wiltshire and sixty percent for London; the alleged rapist was named in 100% of the cases for Wiltshire and London. As in Yorkshire, the naming of accessories was considerably low in Wiltshire and London, eleven percent and forty percent, respectively. The percentage of the naming of the rapists' occupation was proportionally higher in Wiltshire and London than in Yorkshire—twenty-six percent for Wiltshire and a high eighty percent for London. The statistics for the arrest of the alleged victim are equally high for Wiltshire and London, fifty-three percent and sixty percent, respectively. And, as can be expected, the percentage of alleged rapists who were acquitted was relatively low, thirty-seven percent for Wiltshire and forty percent for London. It should be pointed out, however, that the percentages for Wiltshire and London are considerably higher than those for Yorkshire where law and order were most assuredly prized commodities. For Wiltshire as for Yorkshire, the percentage of alleged victims who did not prosecute in the eyre is high, forty-seven percent. As for London, the forty percent represents a markedly lower figure. As earlier statistics showed, the urban areas of England were much less violent than the rural. The percentages for Wiltshire's and London's criminal fines are much higher than Yorkshire's, almost half the cases for Wiltshire show the fine, whereas forty percent of the London cases had recorded fines. Rape and robbery were not committed on the same person with any great frequency in Wiltshire, only eleven percent. For London, on the other hand, the 1276 eyre shows that sixty-six and two-thirds percent of the rapes also resulted in robberies. There were no rape/murder combinations for Wiltshire or London. The obvious pattern of the alleged rapist appearing consistently at the eyre is repeated for Wiltshire and London. The itinerant justices obviously considered absence from court a mockery of justice. The statistics reinforce this idea greatly. The fines handed out to those who failed to appear were frequent and heavy.[64] All in all, the data were distinctly revealing of the inner workings of the general eyre and English society's view of rape in the thirteenth century.

In order to put the crime of rape into its proper criminal perspective, some considerations should be given to the commission of other crimes

[63] I have combined the statistics for the London eyres of 1244 and 1276.

[64] That is, the fifty-five percent figure for the arrest of alleged victims who failed to appear before the itinerant justices and prosecute the appeal strikes a converse relationship with the nine percent figure for those appellees who failed to appear at the eyre.

during the same period. If we compare the number of rapes committed in Yorkshire, Wiltshire, and London with all other crimes reported to the four eyres, we notice that the rape percentage is admittedly low. Out of 2259 crimes reported, only ninety-seven were rapes, four percent of the total. But, the twenty percent mark for the Wiltshire eyre is exorbitantly high, particularly when it is learned that rape was equal to murder as the most frequently-committed crimes.[65] Forty percent of all crimes in Wiltshire in 1249 were rape and murder.

One of the most revealing gauges for determining thirteenth-century English society's view of rape is the list of fines levied upon the rapist who was found guilty. And, the twenty-two fines, twenty-three percent of the total number of cases, provide a valid sample of the types of punishments administered to rapists in thirteenth-century England, even though the percentage of fines recorded is undeniably low compared to the total number of cases (see Table V). However, since only twenty-three of the alleged ninety-seven rapists were convicted, the twenty-two fines represent almost a flawless sample. The frequency of punishment was quite low as compared to the number of crimes committed, but extremely high as compared to the number of rapists convicted.

The history of punishment for rape in medieval England presents a picture of continuously changing fines. From the so-called "Laws of William the Conqueror" we find: "He who assaults the wife of another man shall forfeit his wergild to his lord."[66] A further law of the Conqueror, from the Ten Articles of William I, provides yet another step in the direction of lessening severity of punishment:

> I likewise prohibit the slaying or hanging of anyone for any offense, but his eyes shall be put out and he shall suffer castration; and this decree shall not be violated under pain of insubordination to me.[67]

The payment of one's wergild was lacking in severity even though castration was certainly severe. Bracton also emphasized castration as punishment for the rapist in *Tractus de Legibus et Consuetudinibus*:

[65] Meekings, *Wiltshire Eyre of 1249*, 74. There were nineteen rapes and nineteen homicides.

[66] Robertson, *The Laws of the Kings of England*, 259.

[67] Ibid., 243.

> If he is convicted of this crime [rape] [this] punishment follows: the loss of members that there be member for member. . . . Let him thus lose his eyes which gave him sight of the maiden's beauty for which he coveted her. And let him lose as well the testicles which excited his hot lust.[68]

Later in the thirteenth century, probably after the famous Statute of Westminster (1285), the author of the *Mirror of Justices* said that rape was punished by hanging.[69]

Again we must conclude that Bracton, although he had access to the rolls of the itinerant justices, presented an idealistic view of the punishment for rape in the thirteenth century. The data paint no such gruesome picture of castrations and hangings for the period 1218 to 1276. A significant percentage of punishments, thirty-two percent, was for arrest and imprisonment (see Table VIII). One must ask, however, how long did the convicted felon remain in prison? That is, was the punishment equitable? The data were not able to provide an answer. Ralph Pugh has suggested that it was not until the 1270's that coercive imprisonment was used extensively. Numerous imprisonments were created by the Statute of Westminster (1285).[70] For the period 1218 to 1276, imprisonment was probably a prelude to extracting a monetary fine.

Outlawry comprised twenty-six percent of all punishments. This signficantly-high percentage reinforces the traditional view of a severe punishment for rape. Outlawry was a most serious punishment. An outlaw could be executed on sight and his property was confiscated by the crown.[71] It should be repeated that the absence from court caused a great deal of irritability among the itinerant justices who saw the appealed man's absence as a sign of guilt and as a flagrant disrespect for the law.

Monetary fines make up the highest percentage of punishments, forty-two percent. The fines ranged in amount from one-half of a mark to 100 shillings (see Table VIII). One-half mark seems to have been in the process of becoming a standardized fine for rape by the third quarter of the thirteenth century. If we look back to the reign of John, we find that one-half mark was then a

[68] Bracton, 414.

[69] *Mirror of Justices*, 141. He continued, " . . . and this whether the ravished woman were a maid or no, and without regard to her rank. . . . "

[70] Ralph B. Pugh, *Imprisonment in Medieval England* (Cambridge, 1968). Pugh said that the word *prisona*, common in the sources, could mean a municipal or county gaol by the late thirteenth century, 87.

[71] Given, *Society and Homicide*, 10-13.

standard fine to pay for judgment itself—what amounted to court costs! Six of the eight fines listed in the Yorkshire Assize Rolls for 1208-1209 are for judgment.[72] The rapists convicted during the reign of Henry III seem to be paying a fine for rape, not for merely having their day in court.

The two exceedingly high monetary fines, 100 shillings and forty shillings, respectively, involved two extraordinary situations. James de Montibus was convicted of raping Joan de Hadestok and of damaging Joan's residence. The combined fines were 100 shillings. The appellor had asked the jury for £100.[73] The other case, which was recorded in the Wiltshire eyre of 1249, involved a rape which resulted in the marriage of the rapist and the victim. The fine of forty shillings was levied on the married couple—quite a wedding present![74]

TABLE VIII

Punishment for Rape, 1218-1276

Ninety-seven cases of rape were reported to the eyres of Yorkshire (1218-1219), Wiltshire (1249), and London (1244, 1276):

Punishment	Number	% of Total Punishments
Arrest and Imprisonment	7	32%
Outlawry*	6	26
½ mark	3	14
1 mark	2	9
20 shillings	2	9
40 shillings	1	5
100 shillings	1	5
Totals	22	100%

*Outlawry was not a specific punishment for rape, but was a punishment for not attending court. Nonetheless, the punishment came as a result of the alleged crime and is, at least, indirectly related to the rape.

[72] *Yorkshire Assize Rolls.*
[73] *London Eyre of 1276*, case 519.
[74] *Wiltshire Eyre of 1249*, case 517.

To understand the real weight of the monetary fines levied by the judges of the eyres, establishing what money could buy in the thirteenth century will prove helpful. Furthermore, since ninety-nine percent of the cases deal with the non-aristocratic class, the investigation of money power will be limited to the urban and servile classes. It is generally agreed upon by historians that the thirteenth century was an inflationary period and a century which witnessed a tremendous increase in the general population.[75] J. Z. Titow calculated that one and one-half quarters of grain constituted the minimum subsistence level for a peasant in the thirteenth century.[76] Multiply the head of the household by three and the amount of grain increases to a minimum of four and one-half quarters of wheat, barley, or other cereal a year.[77] What were the prices of wheat during the period 1218 to 1276? M. M. Postan gave these figures in the *Cambridge Economic History of Europe:* 1219, 4.33 shillings per quarter; 1220-39, 4.19 shillings per quarter; 1240-59, 4.58 shillings per quarter; 1260-79, 5.62 shillings per quarter–a continuous rise in wheat prices. Therefore, if a convicted rapist was fined twenty shillings at the Yorkshire eyre of 1218-1219, he was responsible for paying to the crown an amount which could purchase over 4.62 quarters of wheat, enough for 3.08 years for a single person living alone. This must be looked at as a severe punishment. Also added to the fined man's burden was his need for shoes and clothing. Again, if we multiply the average man's necessities by four, the minimum subsistence level for a servile family looms large. Nonetheless, a monetary fine, as heavy as it was, would not destroy a family the way hanging or mutilation would. If a man were blinded by the administrators of justice, he could no longer provide for his family. This reasoning is not to imply that the royal justices were truly far-sighted individuals who saw monetary fines for rape as a progressive move away from what modern society might call barbarous, capital punishment. On the contrary, a heavy monetary fine could be an economic disaster. The 100-shilling fine, enough money to purchase 17.8 quarters of wheat during the period 1260-79 (the 100-shilling fine was levied in the London eyre of 1276), enough wheat for 4.45 years for

[75] Darby, *Historical Geography of England*, 89-90.

[76] J. Z. Titow, *English Rural Society, 1200-1350* (London, 1969), 83.

[77] Ibid.; estimates for converting tenants into households have ranged from 3.5 to 5.0. Russell, *British Medieval Population*, 22-31; M. M. Postan, *Cambridge Economic History of Europe* (Cambridge, 1952), I, 562. My hypothetical household contains four people, two adults and two children. The children eat only half as much as the adults; thus, 4.5 quarts of grain comprise the yearly minimum subsistence level.

a family of four, was an insurmountable obstacle. Thus, we can conclude that, although physical punishments for rape seemed to be disappearing in the period 1218 to 1276, a few monetary fines were probably fates worth than death. On the other hand, the one-half mark and one-mark fines which constituted fifty-six percent of the total monetary fines were not overly severe. Compared to death and dismemberment, they were mild.

The most distressing statistic gleaned from the data about punishment is the extremely large figure of fifty-five percent of all appellors were arrested for false appeal. The verdict of "let her be taken," cited so frequently in the eyre rolls, resounds today with the noise of inequity. The woman who refused to be humiliated by having to expose himself to men in her community and then to strangers who presided at the eyres, in essence the victim, suffered the most in the period 1218 to 1276.

Some of the punishments were of a non-penal nature. Seven percent of the cases were settled out-of-court, by the marriage of rapist and victim or other means. Compromises which did not include marriage and marriage itself were the two most frequent ways of settling out-of-court. Sometimes, a monetary fine was levied upon the new husband and wife.

Before leaving the subject of the punishment for rape, we should compare a typical penalty for rape with penalties for other crimes. There are even a few combination rape/robbery cases to aid us in this endeavor.[78] William

TABLE IX

Incidence of Rape Compared to Other Crimes, 1218-1276

Location	# rapes reported	# crimes	% rapes
Yorkshire, 1218-1219	73	1153	6%
London, 1244	2	486	less than 1%
Wiltshire, 1249	19	96	20%
London, 1276	3	524	less than 1%
Totals	97	2259	4%

[78] Six percent of the cases were combination rape/robberies.

le Escot was appealed or rape by Edith, the daughter of Richard, at the Wiltshire eyre of 1249. William was found not guilty. The jury decreed that William had had Edith's consent. However, William was taken and hanged as a thief.[79] One wonders what the 100-shilling fine for a London rape would have been without the accompanying robbery.[80] Another indicator of how society and the legal system viewed rape is the data regarding fines for other crimes. Robbery is an interesting case in point (see Table IX). The frequency for outlawry of convicted robbers seems to have been much greater than for convicted rapists.[81] Only six rapists out of a total eighty-nine outlawries at Yorkshire in 1218-1219 were outlawed, a mere seven percent of the total.[82] This suggests a decidedly less severe punishment for rape in the period 1218 to 1276 than in previous periods, 1066-1215, or the subsequent period, 1275-1307.[83] Forty-two percent of all fines for rape were monetary fines. Seventy-seven percent of all monetary fines can be considered light or moderate, not exactly negligible, but at least payable.[84]

The period 1218-1276 was a particularly volatile one in English medieval history. The strife of the civil war of John's last years lingered on as his son's minority stretched into an agonizingly long time (1216-1234). The baronial conflict of the last quarter of Henry III's reign re-opened old sores and created some new ones. Nonetheless, underneath this façade of anarchy there was a royal administration which maintained a semblance of order and, in many instances, kept the royal coffers filled. The eyres of 1218-19, 1244, 1249, and 1276 attest to that. Indeed, it was the thirteenth century which witnessed the logical extension of royal justice which began in the early twelfth century. This same royal justice which helped to maintain order in

[79] *Wiltshire Eyre of 1249*, case 310, page 210.

[80] *London Eyre of 1276*, case 519.

[81] Cases 707 (page 262) and 1013 (page 365) in the *Yorkshire Eyre of 1218-1219* are two interesting examples. Both convicted robbers were outlawed. Procedural complexity is illustrated by the appellor's complaint of prejudice on the part of the jury in case 939, page 342 in the Yorkshire rolls for 1218-1219.

[82] See Table IX, page 59.

[83] The Norman and Angevin periods to 1215 witnessed the use of the punishments of execution, castration, or gouging out the eyes of the convicted more so than in the period 1218 to 1276, although it appears that even that age of swift, severe punishment was not as severe as has been previously thought. Edward I's statutes of Westminster in 1275 and 1285 revived severe penalties for rape.

[84] See Postan, *Cambridge Economic History of Europe*, II, 166.

times of crisis was a great factor in the lessening of women's status in the thirteenth century. Royal justices from distant counties or towns were unconcerned about the stability of a county that they would probably never visit again. What they were concerned about was money. It was much easier to fine a woman for not appearing at the eyre than it was to prolong the case. Moreover, the easiest route to the goal was taken by the itinerant justice in the thirteenth century. One should certainly take into consideration the effects that rising prices, increased population, and the general decline in the status of the peasantry had on the administration of justice and the status of women in the thirteenth century. But, the most obvious "felon" with regard to rape and the lowered status of women in the thirteenth century was the king's royal justice.

The significant decrease in the severity of punishment for rape is the greatest indicator that the status of women was suffering miserably throughout the thirteenth century. The second greatest culprit for the lowered status of women was war. When war comes, and civil war came regularly in the thirteenth century, the rules which govern society are normally discarded. Indeed, when the wars have been between kingdoms or nations, no rules have been able to extinguish "war's purifying fire." In civil wars, such as those of the waning years of John and the Barons' Wars of the last quarter of Henry III's reign, opponents–albeit inhabitants of the same kingdom–have shown an amazing desire to kill each other and to ignore society's maxims. In times like those of 1218-19, which were in the midst of a war-torn society, a peculiar lack of concern for rape and its consequence developed. The patent rolls of Henry III and Edward I intimate as much. Rape, murder, and robbery could be forgotten by the crown if a felon had performed successfully in war.[85]

The chivalric ideal of the status of aristocratic women has been subjected to a strenuous modern criticism, and rightly so. Nevertheless, even though the status of aristocratic women was not as high as *The Romance of the Rose* or Gottfried von Strassburg's *Tristan* would have us believe, their lives were significantly more bearable than the women of the servile class or of the free peasantry.[86] The data in this study revealed that the majority

[85] PR Henry III, 1232-47, 21 June 1244, at Saint Edwards: a convicted and outlawed rapist was released at the insistence of a hermit. PR Henry III, 1266-1272 (Public Record Office, London, 1913), 24 September 1268, at York John de Gunmecestre, who had been outlawed for rape, was pardoned.

[86] See Power, *Medieval Women*, 1-34; Lynn Friedlander, "The Worship of

raped by non-aristocrats. There must have been innumerable rapes of servile women by the knightly class, but because of the pressures against a serf appealing her lord, the great majority of those rapes went unreported. Given suggested from his data that aristocrats did not personally participate in violent conflicts (especially homicide).[87] We can agree that the eyre rolls contain little about aristocratic crime. Indeed, only one aristocrat was raped among all of the cases investigated for the 1218-1276 period. However, it would be wise to remember that a servile woman could not appeal her lord.

Given also implied that only the non-aristocratic elements of society indulged in violent crimes, suggesting that the more "civilized" segment of society resorted to gentlemanly methods of settling disputes, the courts.[88] One might hypothesize, which is all that Given did, that aristocrats engaged in violent crime but were able to conceal, "cover up," their crimes by manipulating their legal system in their favor. Given has put the aristocracy of thirteenth century England upon the same type of pedestal that the trouvere and the troubadour placed the ladies of the twelfth and thirteenth centuries. A more realistic picture of medieval elites was that one portrayed in Guido Ruggiero's study of sexual criminality in fourteenth century Venice.[89]

The chivalric ideal of women, if it ever existed, was not reflected in the statistics in this study. The data revealed a harsh society, one which was particularly hazardous to women. At least one scholar has even questioned whether rape was still considered a felony in the thirteenth century.[90] Had the crime of rape fallen to the status of a misdemeanor during the period 1218 to 1276? The legal treatises would have us believe that rape in the thirteenth century was punished by the same harsh methods of the eleventh century. But the statistics extracted from the general eyres tell something entirely different. Within the legal framework of English law, the crime of rape was still theoretically a felony in the thirteenth century. Nonetheless, the mild punishments of the offenders coupled with the rather severe treatment of a humiliated woman who refused to be further abused by justices

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Women in Courtly Love and Rock and Roll," in *Women and Men: The Consequences of Power*, ed. Dana V. Hiller and Robin Ann Sheets, (Cincinnati, 1977).

[87] Given, *Society and Homicide*, 90.

[88] Ibid.

[89] Ruggiero, "Sexual Criminality."

[90] Ralph Pugh, in his introduction to the *Wiltshire Gaol Delivery* records pointed out that rape, which had accounted for twenty-percent of all crimes reported to the Wiltshire eyre of 1249, rarely occurred in the surviving gaol delivery records.

who were strangers indicates that rape had, in reality, fallen to the status of a misdemeanor. It follows that with the lowered status of rape went the lowered status of women.

If a beautiful aristocratic lady of the thirteenth century was lucky enough to have a poet, half-crazed with love, speak passionate lyrics about her, as the Dreamer spoke in the *Romance of the Rose*, she was in a very small minority.[91] The great majority of women lived no such "ideal' life, particularly among the servile class. Christine de Pisan, the fourteenth-century champion of women, discerned what she felt to be an advantage of peasant women over aristocratic women:

> Albeit they be fed with coarse bread, milk, lard, and pottage and drink water, and albeit they have care and labor enow, yet is their life surer, yea, they have greater sufficiency, than some that be of high estate.[92]

Truthfully, in the eleventh and twelfth centuries, the amount of woolen cloth was one of the few material ways of distinguishing an aristocratic lady from a serf. By the thirteenth century, an aristocratic woman might be distinguished from the servile woman by the fur she wore. Yet, this study has proven that English medieval ladies of the thirteenth century differed significantly from their contemporaries within the ranks of the peasantry who were frequently the victims of rape: some of the former made their way into the poetic literature of *l'amour courtois*; many of the latter found a type of accidental immortality as statistics in the general eyre rolls.

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[91] "Straightway I hurried to the rosebush;
And I can tell you that, when I approached
The blooms, the sweetness of their pleasant smell
Did so transfuse my being that as naught
Compared to it the perfume would have been
Within my entrails, had I been embalmed."
From Guillaume de Lorris and Jean de Meun, *The Romance of the Rose*, trans. Harry W. Robbins (New York, 1962), 33.

[92] Power, *Medieval Women*, 75.