

JUDICIAL DUELS BETWEEN HUSBANDS AND WIVES

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This paper attempts to shed light on what appears to be a unique series of pictures from the fifteenth and sixteenth centuries, depicting judicial duels between husbands and wives. Judging from the illustrations, these marital combats were generally inelegant affairs of sticks and stones, although in one picture (Fig. 1) husband and wife are armed with swords. Both are bare to the waist, and both have drawn blood. Figure 2 illustrates the more usual mode of combat in which differences in strength were compensated for. The wife, wearing a long chemise fastened between the legs and with a three-pound stone tied in the right sleeve, is about to assault her husband. He stands in a pit up to his waist. His left arm is tied to his side, and he defends himself with a stick. The drawing, by Paulus Kall, master of defense of the duke of Bavaria, is part of a manuscript from 1400 that describes many types of judicial duel fought by a variety of people with a variety of weapons—daggers, swords, lances, staves, spades, sandbags, and stones. Figure 2 is accompanied by the following explanation:

The woman must be so prepared that a sleeve of her chemise extend a small ell beyond her hand like a little sack. There indeed is put a stone weighing three pounds; and she has nothing else but her chemise, and that is bound together between the legs with a lace. Then the man makes himself ready in the pit over against his wife. He is buried therein up to the girdle, and one hand is bound at the elbow to the side.¹

Figure 3 illustrates a similar combat, but the husband sits in a tub. His wife attacks him with a piece of cloth containing a weight. The scene

dates from the beginning of the sixteenth century.²

Judicial duels were common enough in the medieval and early modern period to merit etiquette books; but, as far as I know, nowhere except in the Holy Roman Empire were judicial duels ever considered fitting means to settle marital disputes, and no record of such a duel has been found after 1200, at which time a couple is reported to have fought with the sanction of the civic authorities at Bâle. How, then, can we explain the late dates of these pictures? My hypothesis is that later authors copied them from earlier manuscripts and included them, along with pictures of other outmoded dueling practices, to make their treatises as historically comprehensive as possible.

By the fifteenth and sixteenth centuries, law, custom, and religion were so stacked against aggressive and unruly wives that it is impossible to imagine civic authorities in any part of Europe condoning a wife's attack on her husband with a stone, much less a sword.³ According to fourteenth-century customary law, it was a crime in some places for husbands to allow themselves to be beaten by their wives.⁴ Henpecked, cudged, and cuckolded husbands are stock

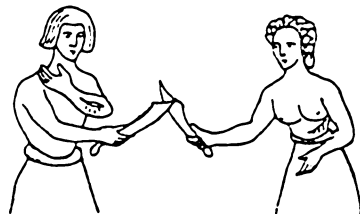


Fig. 1 *Judicial Duel between Husband and Wife*



Fig. 2 *Judicial Duel between Husband and Wife*

characters in medieval and early modern literature, but the law provided husbands with an effective means of redress. “Let not thy wife have rule over thee” cautions the author of *The Monument of Matrons* (1582). “If she walke not in thine obedience, cut her off then from thy flesh. Give her a bill of divorcement and forsake her.”⁵

While husband beating was illegal, wife beating was sanctioned, even encouraged. In thirteenth-century Beauvais, a man was allowed to beat his wife “when she refuses her husband anything.”⁶ A law of Bergerac permitted a husband to draw blood as long as his intention was good (“bono zelo”).⁷ A fourteenth-century book of customary law from Bordeaux exonerates a husband who kills his wife in a fit of rage as long as he confesses under oath that he is repentant.⁸ Saint Bernardino of Siena paints a vivid picture of the everyday cruelty such laws sanctioned. “There are many man,” he says,

who can bear more patiently with a hen that lays a fresh egg every day than with their own wives; and sometimes when the hen breaks a pipkin or a cup he will spare it a beating, simply for love of the fresh egg which he is unwilling to lose. Oh, raving madmen! who cannot bear a word from their own wives, though they bear them such fair fruit; but when the woman speaks a word more than they like, then they catch up a stick, and begin to cudgel her; while the hen that cackles all day, and gives



Fig. 3 *Judicial Duel between Husband and Wife*

you no rest, you take patience with her for the sake of her miserable egg—and sometimes she will break more in your house than she herself is worth, yet you bear it in patience for the egg’s sake. Many fidgety fellows, who sometimes see their wives turn out less neat and dainty than they would like, smite them forthwith; and meanwhile the hen may make a mess on the table, and you suffer her. Have patience; it is not right to beat your wife for every cause, no!⁹

The Wife of Bath was made deaf by her fifth husband’s beatings.

Wife beating was so common that Hans Sachs canonized the wife-beating husband “Sankt Kolbmann” (Saint Cudgelman).¹⁰ Innumerable proverbs and jokes deal with wife beating. The following example comes from seventeenth-century Germany:

“A man beats his wife so badly that he has to call both the doctor and the apothecary, paying them twice.”

“Paying them twice?”

“Once for this time and once for the next.”¹¹

Sixteenth-century broadsheets are filled with advice to husbands with obstreperous wives. In Paul Fürst of Nuremberg’s “A Well-tested Recipe to Cure the Evil Disease of Disobedient Wives” (c. 1650), the husband beats his wife to death. His action is condoned. In the last scene, we see him celebrating in a tavern while his wife’s

funeral procession files by the open door.¹² Other broadsheets and popular stories describe how recalcitrant wives have their vices steamed, milled, forged, or ground out of them.¹³

Such brutal treatment was justified on the grounds of Scripture as well as law (both natural and customary). Catholic and Protestant theologians were united on the issue of female subordination, if on nothing else.¹⁴ The essential justness of male domination, coupled with female inferiority and passivity, was so ingrained that it determined theological and medical opinion about the “natural” position for sexual intercourse—the man on top, the woman below. According to Thomas Sanchez, a sixteenth-century Catholic theologian, all other positions were “unnatural” and “worthy of Hell”:

We must first of all establish what is the natural manner of intercourse as far as position is concerned. As for the latter, the man must lie on top and the woman on her back beneath. . . . Indeed, it is natural for the man to act and for the woman to be passive; and if the man is beneath, he becomes submissive by the very fact of this position, and the woman being above is active; and who cannot see how much nature herself abhors this mutation.¹⁵

Churchmen were so committed to this definition of “natural” sexual intercourse that they placed intercourse with the wife on top in the same category as sodomy and homosexuality, and declared incest preferable.¹⁶

Under both Roman and common law, a wife was her husband’s property, just as his children, servants, and cattle were. By the fifteenth and sixteenth centuries, then, it seems highly unlikely that wives would have legally engaged in hand-to-hand combat with their husbands. Religion, law, and custom militated against such public displays of wifely insubordination. But, as mentioned earlier, the last recorded marital duel occurred long before the fifteenth century, in 1200. In the light of recent research in

women’s history, this date becomes significant.

Many historians consider the twelfth century a watershed for women, marking a deterioration in the position of women from the high point of the early Middle Ages.¹⁷ Numerous factors have been held responsible for this, including a new surplus of women, changes in dowry customs and inheritance laws restricting women’s property rights, the barring of women from universities, the exclusion of women from guilds, and the misogyny accompanying the Gregorian reforms in the Church. A change in the stereotype of the ideal woman accompanied these real changes in women’s status and position. Chroniclers of the early Middle Ages accept women as administrators, warriors, and saints, praising them for their courage, forcefulness, independence, and intelligence. But later writers were astonished to find that women had been active in government and war. They describe such women as “manlike” and abnormal, preferring to characterize women as saints, wives, and mothers. A good example of this change in the male attitude toward women is illustrated by the literary reputation of tenth-century Aethelflaed, wife of Aethelred, king of the Mercians. Early chroniclers recognized her as a capable widow who ruled successfully for eight years. By the thirteenth century, chroniclers remembered her as a wife who refused her husband’s advances after the painful birth of her first and only child.¹⁸

I would suggest that no records of judicial duels between husbands and wives exist after 1200 because of changes both in the reality and in the ideal of what a woman could be and do. Before 1200, wives may well have battled their husbands. Women understood and defended the importance of their economic and administrative roles in the household. After the twelfth century, however, law, custom, and religion made marital duels all but unthinkable. It seems to me that fifteenth- and sixteenth-century authors who refer to these duels are describing the events of an earlier age.

NOTES

1. "Die Frau muss als geschicht sin, das ir der Ermel an dem Hembde ein düne Elle für die Hand geet alls ain Segkelin dar ja tut es ainen Stain der da hat iii Pfund und hat nichts als wann das Hembd und das ist zu wissen (zwischen?) den Beinen mit ainem Nestle gebunden. Als schicht sich der Man in her Gruben gegen dem Wybe. Er ist eingegraben bis an den Gurtel, und die aine Hand ist dan Elnbogen gebunden zu der Seyte." Cited by R. L. Pearsall, "Some Observations on Judicial Duels Practised in Germany," *Archaeologia* 29 (1842):350.

2. Pearsall, from whose article I have reproduced these pictures, thinks this drawing too formal and the combatants too fully clothed to be a representation of an actual event. But he describes a similar picture from a codex of defense, in which the husband has gained the victory by pulling his wife's head into the tub with him. She is depicted with her legs flailing in the air; hence the fastening of the chemise between the legs.

3. A certain amount of licer.se was given to women during carnivals, festivals of misrule, and the month of May. Wives were allowed to take revenge on their husbands for their beatings by ducking them or making them ride on an ass. They were allowed to dance, jump, and banquet without their husbands' permission. But these liberties were granted by men for a limited period and recognized as abnormal. As such, they reinforced the subordination of women. For the view that comic and festive inversion could undermine as well as reinforce the subordination of women, see Natalie Z. Davis, "Women on Top," in *Society and Culture in Early Modern France* (Stanford, Calif.: 1975).

4. "Husbands who let themselves be beaten by their wives shall be arrested and condemned to ride on an ass, with their face towards the tail of the said ass" (a late fourteenth-century law from Senlis). For this and similar laws, see J.-L. Flandrin, *Families in Former Times* (Cambridge: 1979), p. 124.

5. Anon., *The Monument of Matrons* (London: 1582), pp. 16, 21-22.

6. Flandrin, p. 123.

7. *Ibid.*

8. *Ibid.*, p. 124.

9. Cited in *Marie de France and Other French Legends*, trans. Eugene Mason (New York: 1966), pp. xv-xvi.

10. David Kunzle, *The Early Comic Strip* (Berkeley: 1973), p. 225.

11. Edward Shorter, *A History of Women's Bodies* (New York: 1982), p. 6.

12. Kunzle, p. 229.

13. *Ibid.*, p. 223.

14. Theologians and preachers endlessly quote Saint Paul: "Wives, submit yourselves unto your own husbands, as it fit in the Lord" (Colossians 3:18); "Wives, submit yourselves unto your own husbands, as unto the Lord" (Ephesians 5:22). Both Catholics and Protestants stressed the goldlike role of the father and husband in the family. The equation of husbands with God and kings explains why husband killing (but not wife killing) was punished as treason. For Catholics, the ideal woman was the Virgin Mary, praised, from the twelfth century onward, for her humility, modesty, self-effacement, and silence. Although Protestants rejected the cult of the Virgin, they expected their women to practice the virtues for which she was renowned. See J. Dod and R. Cleaver, *A Godly Forme of Household Government* (London: 1614).

15. Thomas Sanchez, *De Sancto Matrimonii Sacramento* (Antwerp: 1607), bk. 9, dispute 16, question 1.

16. "It is better for a wife to permit herself to copulate with her own father in a natural way than with her husband against nature. . . . It is bad for a man to have intercourse with his own mother, but it is much worse for him to have intercourse with his wife against nature." Cited in John T. Noonan, *Contraception: A History of Its Treatment by the Catholic Theologians and Canonists* (Boston: 1965), p. 261. Saint Bernardino, the author of these words, followed the teaching of Thomas Aquinas (*ibid.*, pp. 260-261).

17. For example, Kathleen Casey, "The Cheshire Cat: Reconstructing the Experience of Medieval Woman," in *Liberating Women's History*, ed. B. A. Carroll (Urbana, Chicago, London), pp. 224-249; Susan M. Stuard, ed., *Women in Medieval Society* (Philadelphia), Introduction; David Herlihy, "Life Expectancies for Women in Medieval Society," in *The Role of Women in the Middle Ages*, ed. R. T. Morewedge (Binghamton, N.Y.), pp. 1-22.

18. Betty Bandel, "The English Chroniclers' Attitude toward Women," *Journal of the History of Ideas* 16 (1955):113-118.