

# GENDER AND DEFAMATION IN YORK, 1661-1700:

## REPUTATION, AUTHORITY AND THE POWER OF WORDS

**Sharon Howard**

M.A. Dissertation

University of York, Department of History

September 1999

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## *Abstract*

This thesis seeks to contribute to recent research on gender and defamation in the early modern ecclesiastical courts through a detailed local case-study of the city of York in the later seventeenth century. It will focus on the linguistic symbols and practices of defamation in the contexts of neighbourhood and litigation; the words used in insults and the contexts in which they were spoken, and the ensuing law-suits. It will be emphasised that these are crucial examples of gendered neighbourhood politics: the politics of reputation, which was of vital importance to the 'independent trading households' that made up the 'middling sorts' in early modern England. It will be argued that, while defamation is highly revealing of assumptions about the roles and relationships of women and men, and 'sexual honesty' was a particularly important component of reputation for women, recent work arguing that female and male reputation were entirely 'incommensurable' is overstated.

Nor can these concerns with sexual transgression be taken as simple indicators of 'popular' acceptance of religious teachings on morality; defamation causes show agents actively using the institutions of the law to uphold their own - personal, family, neighbourhood - interests. The church courts were a 'public', legal arena used by women to an extent that was unusual in early modern society. In the records of defamation, they can be seen in vocal, assertive roles that were problematic and sometimes dangerous - but not, it will be stressed, simply 'forbidden' - for women. They participated, with men, in the circulation of words that made (and broke) reputations; they confronted 'wrong-doers'; they utilised the words of sexual dishonour in expressing personal rivalries and grievances, which might not be about sex at all. Simultaneously, they were vulnerable to these verbal weapons, and some women, and small numbers of men, felt compelled to defend themselves in court. The representations of dishonour in defamations were powerful; but they were also contestable and strongly contested.

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### *Abbreviations and conventions*

<i>c.</i>	<i>contra.</i>
CP	Cause Papers
DC	Dean & Chapter's court
Gowing, <i>Domestic dangers</i>	Laura Gowing, <i>Domestic dangers: women, words and sex in early modern London</i> (Oxford: Clarendon Press, 1996)
Kermode and Walker (eds.), <i>Women, crime and the courts</i>	Jenny Kermode and Garthine Walker (eds.), <i>Women, crime and the courts in early modern England</i> (London: UCL Press, 1994)
<i>P &amp; P</i>	<i>Past &amp; Present</i>
Sharpe, <i>Defamation</i>	J. A. Sharpe, <i>Defamation and sexual slander in early modern England: the church courts at York</i> (York: Borthwick, 1980)
<i>TRHS</i>	<i>Transactions of the Royal Historical Society</i>

In quoting original sources the original spelling and punctuation has been retained. Capitalisation has been standardised and abbreviations used by clerks have been expanded.

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## *Acknowledgements*

I would like to thank Professor Jim Sharpe for agreeing to supervise this thesis and sharing with me his wealth of experience and expertise. I am also grateful to Dr Mark Jenner for his advice and encouragement, and not least for helping to bring into focus a vaguely-imagined thesis topic. Without the dedication and skill of the staff (past as well as present) at the Borthwick Institute, of course, this thesis simply could not exist. I am deeply indebted to Dr Jane Rendall and Dr Joanna de Groot for all their contributions (far beyond the call of duty) towards making this MA such a stimulating and rewarding course. Finally, my thanks and deepest affection go out to all the fellow students without whom my ‘York experience’, personally, socially and academically, would have been a much poorer one; especially Dave, Alison, Nigel, Rishabh, Daniele, Maria, Giovanni, Masa, Guo and Fernando.

## *Introduction*

### *Contested conversations in early modern England*

Historians of early modern Europe have in recent years increasingly turned to the wide range of records produced by institutions of the law, whether ecclesiastical or secular, criminal or civil. One of the strengths of such records is the light they throw upon relationships and attitudes at local, neighbourhood levels: not least, but not only, those concerning gender. Within this broad current, the ecclesiastical courts have provided important insights into questions of familial and gender relations and moral values. The extent to which later seventeenth-century church courts in different areas could be described as ‘women’s courts’ varied, but everywhere they were characterised by high levels of female participation. This in itself probably contributed to past historians’ dismissive attitudes towards the courts. For a legal historian of the post-Restoration York courts writing in the early 1960s, defamation suits were a particularly ‘tedious’ form of litigation, ‘back-yard squabbles between members of the lower classes, usually women’.<sup>1</sup> The attention paid to the records of the church courts by early modern historians in recent years reflects, to a considerable extent, significant shifts in historiographical priorities; historians have increasingly looked beyond the elites that had dominated much history-writing.<sup>2</sup> Research based on church court records has demonstrated, for example, that concerns with ‘honour’ and ‘reputation’ were far from being the preserve of elite groups, that reputation had significantly differing implications for men and women and that women played important, but contested, roles in informal surveillance and publicising behaviour, maintaining and destroying reputations.<sup>3</sup>

It had also been argued, notably by Christopher Hill, that the ecclesiastical courts from the sixteenth

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<sup>1</sup> B. D. Till, ‘The administrative system of the ecclesiastical courts in the diocese and province of York. Part III: 1660-1883: a study in decline’ (Unpublished MS at Borthwick Institute, York, 1963), 62, 82.

<sup>2</sup> See Peter Burke (ed.), *New perspectives on historical writing* (Cambridge: Polity, 1991).

<sup>3</sup> See, e.g.: Sharpe, *Defamation*; Martin Ingram, *Church courts, sex and marriage in England, 1570-1640* (Cambridge: Past & Present Publications, 1987); Susan Dwyer Amussen, *An ordered society: gender and class in early modern England* (New York: Columbia University Press, 1988); Gowing, *Domestic Dangers*; Tim Meldrum, ‘A women’s court in London: defamation at the Bishop of London’s consistory court, 1700-1745’, *London Journal*, 19 (1994), 1-20. For a complementary approach focusing primarily on a range of ‘literary’ sources, see Anthony Fletcher, *Gender, sex and subordination in England 1500-1800* (New Haven: Yale University Press, 1995), 101-25.

century onwards were increasingly unpopular, ineffective and anachronistic.<sup>4</sup> This analysis, however, rested on contemporary attacks by common-law rivals and by puritans in conflict with the politico-religious establishment represented by the church courts, rather than on examination of the archival records.<sup>5</sup> Set in the wider context of early modern legal institutions, the church courts were no more inefficient or corrupt than their secular counterparts, and the activities and concerns of spiritual and secular courts overlapped considerably: there was no clear dividing line between ‘sin’ and ‘crime’.<sup>6</sup> Moreover, both depended for their existence and functioning on a wide range of participants, on unpaid officials and ‘private initiative’.<sup>7</sup> Martin Ingram has concluded that until at least 1640, the church courts were ‘in reasonable accord with the values of the wider society’.<sup>8</sup> Laura Gowing has warned, however, against too easily assuming a simple fit between ‘ecclesiastical justice and popular morals’. Those who used the courts did so actively and for their own purposes, to advance or defend individual or group interests: ‘we cannot assume an unproblematic community whose moral interests and ideas were more or less in accord with those of lawgivers in the spiritual and secular sphere and more or less the same across the differences of age, class, family, and gender’.<sup>9</sup> Natalie Zemon Davis’ comment regarding French pardon letters seems relevant here: ‘not an impermeable “official culture” imposing its criteria on “popular culture”, but cultural exchange, conducted under the king’s rules’.<sup>10</sup>

The aim of this thesis is to explore these ‘backyard squabbles’ as important examples of the dynamics of sexual and neighbourhood politics in the city of York in the later seventeenth century, a period which has received rather less attention from historians researching defamation than the century

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<sup>4</sup> C. Hill, *Society and puritanism in pre-revolutionary England* (London: Secker and Warburg, 1964), chs. 8-10.

<sup>5</sup> Early reassessments based on archival research include: E. R. Brinkworth, ‘The study and use of archdeacons’ court records: illustrated from the Oxford records (1566-1759)’, *TRHS*, 4th series, 25 (1943), 93-119; Ronald A. Marchant, *The church under the law: justice, administration and discipline in the diocese of York, 1560-1640* (Cambridge: Cambridge University Press, 1969); Till, ‘A study in decline’; Christopher Haigh, ‘Slander and the church courts in the sixteenth century’, *Transactions of the Lancashire and Cheshire Antiquarian Society*, 78 (1975), 1-13.

<sup>6</sup> Ingram, *Church courts*, introduction, especially 3-17; on the blurred distinction between ‘sin’ and ‘crime’, see J. A. Sharpe, *Crime in early modern England* (London: Longman, 1984), 5-6.

<sup>7</sup> Sharpe, *Crime in early modern England*, 7; see also J. A. Sharpe, ‘The people and the law’ in Barry Reay (ed.), *Popular culture in seventeenth-century England* (London: Croom Helm, 1985).

<sup>8</sup> Ingram, *Church courts*, 11.

<sup>9</sup> Gowing, *Domestic dangers*, 10, 11.

<sup>10</sup> Natalie Zemon Davis, *Fiction in the archives: pardon tales and their tellers in sixteenth-century France* (Cambridge: Polity), 112.

preceding the Civil Wars. Moreover, it will focus on the use of language as a weapon and instrument of power: ‘the power to name and to create the world through naming’.<sup>11</sup> It will draw upon the work of sociolinguists and anthropologists who have criticised orthodox linguistics for artificially separating linguistic codes from the use of language and ignoring the social and political conditions of linguistic practice.<sup>12</sup> This is language viewed as ‘an active force in society’,<sup>13</sup> not an abstract concept located somewhere ‘outside’: words with the power to wound, words to fight with, words with material consequences. And it is *gendered* language, with differing meanings for women and men. To paraphrase Susan Harding, this about how women and men use words and how words use them.<sup>14</sup>

Following the editors of a recent collection of essays on women, crime and the courts in early modern England, this thesis is founded on a conviction of the vital importance for early modern historians of ‘a greater understanding of the role of gender in the construction of ideas and the structures of life’. Like them, I view the records of early modern courts as vital ‘for our understanding of a variety of social and political relationships’.<sup>15</sup> The ecclesiastical courts, in particular, dealt with issues of central concern to historians of women and gender: marriage and family relations and sexual conduct, in a society where these were highly ‘public’ issues. Moreover, women themselves participated - as both plaintiffs and defendants - in these courts to a far greater extent than was the case in the secular courts. The church courts, significantly, permitted married women to litigate in their own names, in contrast to the situation in common law.<sup>16</sup> And many did just that to defend their good name in the defamation causes studied here.

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<sup>11</sup> Pierre Bourdieu, *Language and symbolic power* (Cambridge: Polity, 1991), 105.

<sup>12</sup> Pierre Bourdieu, *Outline of a theory of practice* (Cambridge: Cambridge University Press, 1977), 23-30; *idem*, *Language and symbolic power*, 37-65; Richard Bauman, *Let your words be few: symbolism of speaking and silence among seventeenth-century Quakers* (Cambridge: Cambridge University Press, 1983), introduction; Dell Hymes, *Foundations in socio linguistics: an ethnographical approach* (Philadelphia: University of Pennsylvania Press, 1974).

<sup>13</sup> Peter Burke and Roy Porter (eds.), *The social history of language* (Cambridge: Cambridge University Press, 1987), 13; see also Peter Burke, ‘Languages and anti-languages in early modern Italy’, *History Workshop Journal*, 11 (1981), 24-32.

<sup>14</sup> Susan Harding, ‘Women and words in a Spanish village’, in Rayna R. Reiter (ed.), *Toward an anthropology of women* (New York: Monthly Review Press, 1975), 284. See also Deborah Cameron (ed.), *The feminist critique of language: a reader* (London: Routledge, 1990).

<sup>15</sup> Kermodé & Walker, *Women, crime and the courts*, 2, 3.

<sup>16</sup> Gowing, *Domestic dangers*, 11.

However, not all of the litigants were women, by any means. This is a study of ‘gender’ for a number of reasons. The first is that these records offer opportunities to study the relations and interactions between women and men as well as those amongst women and amongst men. I would argue, indeed, that only such a relational and comparative approach makes it possible to fully understand the particular significances of defamation for women. Further, it is essential for a close examination of that crucial (and highly gendered) early modern institution, the household, in ‘public’ interactions. Very often, defamation causes were far from being simply about the individuals named as plaintiff and defendant. The overwhelming majority of the female plaintiffs in the York defamation causes that are studied here were married; many of these were not only defending ‘personal’ reputation, but that of their household as a whole. Further, a number of causes show husbands and wives in joint attacks on their neighbours, sharing interests and concerns - and enmities.

Secondly, it is possible through these records to explore not only ‘everyday’, lived gender relations but also the *symbolic* construction of gender through language: ‘the ways societies represent gender, use it to articulate the rules of social relationships, or construct the meaning of experience’.<sup>17</sup> In many cases the content of insults should not be taken literally: sexual insults could be weapons in a range of battles. But even in such cases, and even where the insult was most vague and ‘conventional’, its power to wound *did* clearly depend on its content. The words were not accidental or arbitrary; they represented widely shared and deeply held sets of values - by detailing their opposites. The records of sexual defamation enable us to explore aspects of ‘everyday’ ways in which agents at the ‘local’ level actively used widely available linguistic symbols, the relations between ‘discourse’ and ‘experience’.<sup>18</sup> Laura Gowing suggests that, following Judith Butler, sexual insults may usefully be seen as ritual public dramas in the social performances that create gender identities.<sup>19</sup> We should bear in mind, too, that such local perspectives might have much wider implications: for example, when the Catholic Church was portrayed as ‘the whore of Babylon’, surely much of the power of this highly gendered and sexualised image lay in local familiarity with images of whoredom, rehearsed daily in abusive exchanges on the streets, from doorways, in shops and alehouses.

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<sup>17</sup> Scott, *Gender and the politics of history* (New York: Columbia University Press, 1988), 38.

<sup>18</sup> I share Kathleen Canning’s concern at approaches that establish oppositions between ‘experience’ and ‘discourse’ and obscure how these are entwined; ‘Feminist history after the linguistic turn: historicizing discourse and experience’, *Signs*, 19 (1994), 368-404.

<sup>19</sup> Gowing, *Domestic dangers*, 124-5; Butler, *Gender trouble: feminism and the subversion of identity* (New York and London: Routledge, 1990), especially 139-41.

These exchanges of words are viewed in terms of violence partly because that is how those involved represented them: witnesses regularly asserted that a neighbour's reputation had been 'much hurt and impaired' by the words of slander or described the litigants as 'brawling and quarrelling'. In part, this thesis will take issue with certain historical approaches to 'violence' in English society, in terms of both their methods and underlying assumptions. Much of this work has focused on trends in lethal violence measured by homicide rates. In broad terms, the picture is indisputably one of a long-term decline from the late Middle Ages to the present, clearly a highly significant trend.<sup>20</sup> The question is: what does it signify? Lawrence Stone has used these statistics to stand for declining 'interpersonal violence' since the fourteenth century. On the other hand, an apparent short-term upswing, a 'wave of violent crime, including homicide, in Elizabethan and Jacobean England', is taken as an indicator, along with an explosion in litigation (including defamation suits), of a period of intense social crisis and conflict that supports his picture of early modern social relationships as characterised by hostility, intolerance and malice.<sup>21</sup>

Firstly, this general picture of incessant conflict and hatred is crudely drawn. J. A. Sharpe has studied the records of defamation suits more closely to show that such disputes were frequently regarded with considerable disquiet by neighbours, and that those involved themselves frequently sought arbitration and reconciliation; very few causes were fought to the bitter end of judgement and sentence.<sup>22</sup> After all, defamation itself was treated as an undesirable breach of neighbourliness and 'charity': that is precisely why we have records of its existence. Some suits would undoubtedly have been 'vexatious', and even arbitration should not be seen as neutral when the defamed party could use the very existence of a lawsuit to put pressure on the defamer. But, quite clearly, these moments of conflict and tension - which cannot be taken as simple reflections of patterns of behaviour - aroused complex and often disapproving reactions.<sup>23</sup>

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<sup>20</sup> Ted Robert Gurr, 'Historical trends in violent crime: a critical review of the evidence', *Crime and Justice*, 3 (1981), 295-350.

<sup>21</sup> Lawrence Stone, 'Interpersonal violence in English society 1300-1980', *P & P*, 101 (1983), 22-33 (which draws largely on Gurr, 'Historical trends in violent crime'); J. A. Sharpe, 'The history of violence in England: some observations', *P & P*, 108 (1985), is more cautious about drawing conclusions from measuring homicide rates, particularly in the case of short-term and localised variations, 208-11.

<sup>22</sup> J. A. Sharpe, "'Such disagreement betwix neighbours': litigation and human relations in early modern England", in John Bossy (ed.), *Disputes and settlements: law and human relations in the west* (Cambridge: Cambridge University Press, 1983), 167-87. For an example of an attempt to bring about a private reconciliation, see Robert Hewitt *c.* William Sergison (1664), CP H4958.

<sup>23</sup> The numbers of defamation causes, it should be noted, need to be viewed with a sense of proportion: in the city of York sample studied here the average is less than three cases per year.

Moreover, as Sharpe has pointed out, studying homicide rates cannot answer fundamental questions about early modern people's *perceptions* of violence.<sup>24</sup> Susan Dwyer Amussen has suggested that we need to 'take an entirely different approach to the problem of violence, to look for the "social meaning of violence".'<sup>25</sup> John Cashmere, too, has warned that, from our twentieth-century perspective, 'we might be misreading the languages of violence' in early modern societies.<sup>26</sup> Stone is not alone among historians not only in simply taking violent crime as an index of 'violence' *and* of conflict more generally, but, more fundamentally, in confining 'violence' to certain types of physical - and illegal - act. For example, in a recent article that is particularly germane to the subject of this thesis, Robert Shoemaker consistently and unquestioningly opposes 'public insult' to 'violence' (as well as separating 'talk' from 'action').<sup>27</sup>

The anthropologist Elisabeth Copet-Rougier has provided a valuable insight by comparing the meanings of the word 'violence' in the English and French languages:

we immediately see that it is conceptually ambiguous and relative. The primary English sense is of physical aggression - of physically inflicted wrong which is in some way illegal. In French there are two basic meanings. One relates to the English, and the other has the idea of 'exerting pressure on someone in order to make them comply'... The duality in the different perspectives is reproduced on two levels: legal/illegal, physical/indirect.<sup>28</sup>

Similarly, David Riches, examining these 'Anglo-Saxon' conceptions, focuses on the importance of '*strategy* and *meaning*' in analysing violence. He views violence as action that is inherently contestable: 'the performer will argue for the act's legitimacy, whilst the witnesses (and victims) will deem it illegitimate... both sides will appeal to social rules and values, each entering the claim that

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<sup>24</sup> Sharpe, 'The history of violence', 214-5.

<sup>25</sup> Susan Dwyer Amussen, 'Punishment, discipline and power: the social meanings of violence in early modern England', *Journal of British Studies*, 34 (1995), 2.

<sup>26</sup> John Cashmere, 'The social uses of violence in ritual: *charivari* or religious persecution?', *European History Quarterly*, 21 (1991), 292.

<sup>27</sup> Robert Shoemaker, 'Reforming male manners: public insult and the decline of violence in London, 1660-1740', in Tim Hitchcock and Michele Cohen (eds.), *English masculinities 1660-1800* (London: Longman, 1999), 133-50.

<sup>28</sup> Elisabeth Copet-Rougier, "'Le mal court": visible and invisible violence in an acephalous society' in David Riches (ed.), *The anthropology of violence*, 50.

justice lies with *their* performance or opinion'. Violence is used as a means to an end (rather than being in some way 'mindless' and irrational), but to do so successfully the performer has to persuade others that the action was legitimate: a matter of political strategy.<sup>29</sup> Amussen's study of early modern violence centres on the issues of legitimacy, discipline and power. She examines a broad range of manifestations of violence, arguing that 'in separating them, we reject the habits of mind of those we study'.<sup>30</sup> Violence and discipline, she argues were intimately connected, in practice and in thought, and violence was central to the exercise of power.<sup>31</sup>

Both gender and social status affected access to legitimate violence as 'discipline' - including verbal violence. The figure of the 'scold', anxieties about women's disorderly tongues and gossip, say more about gendered power relations than they do about 'real' differences in male and female use of verbal weapons: more than half of the defendants in the York defamation causes studied here were men.<sup>32</sup> Moreover, insofar as women *did* particularly 'scold' and 'gossip' (both negative terms that historians should use with particular care to avoid replicating the assumptions that they embodied), it reflects their limited access to official institutions of discipline and regulation.<sup>33</sup> And the furore that erupted in the Cheshire town of Nantwich in 1627 over Margaret Knowsley's allegations of sexual harassment by Stephen Jerome demonstrates the potential power of women's words, while the violence inflicted on Margaret in the name of discipline and order for her 'slanders' stands as testament to the dangers for women of those words.<sup>34</sup> Women could wield linguistic weapons: they could also all too easily fall victim to them.<sup>35</sup>

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<sup>29</sup> David Riches, 'The phenomenon of violence' in Riches (ed.) *The anthropology of violence*, 5. See also Norman Tutt (ed.), *Violence* (London: HMSO, 1976); and for explorations of violence specifically addressing gender and sexuality, see Penelope Harvey & Peter Gow (eds.), *Sex and violence: issues in representation and experience* (London: Routledge, 1994).

<sup>30</sup> Amussen, 'Punishment, discipline and power', 5.

<sup>31</sup> See also G. M. Walker, 'Crime, gender and social order in early modern Cheshire' (PhD thesis, University of Liverpool, 1994), especially ch. 2; Fay Bound, 'An oecconomy of violence? Marital conflict in early modern England' (MA thesis, University of York, 1996).

<sup>32</sup> See Walker, 'Crime, gender and social order', 70-77, on the gendering of 'scolding' and 'barratry'.

<sup>33</sup> Kermode and Walker, *Women, crime and the courts*, 12; Gowing, *Domestic dangers*, 61; see also Harding, 'Words and women', 305.

<sup>34</sup> Steve Hindle, 'The shaming of Margaret Knowsley: gossip, gender and the experience of authority in early modern England', *Continuity and Change*, 9 (1994), 391-419; Lynda Boose, 'The priest, the slanderer, the historian and the feminist', *English Literary Renaissance*, 25 (1995), 320-40.

<sup>35</sup> See Harding, 'Women and words', 307-8.

To discuss verbal violence seriously is not to underestimate the seriousness of physical violence, not least for women. However, it must be remembered that the effects of verbal violence were at least partly physical. Slander could damage livelihoods; according to two witnesses, Elizabeth Addison's verbal attacks against Susan Hartnes as a 'whore' successfully deterred at least one man seeking lodgings at Susan's house from staying there. This slander also raised the possibility of physical violence; another woman's reaction was to threaten to give Susan a 'whore's mark', as well as repeating the slanders.<sup>36</sup> In this social and cultural context, verbal and physical violence cannot be regarded as separate practices. Nevertheless, they can be seen as representing differing strategies in exercising (or attempting to exercise) power and authority. Rather than speaking of violence 'in decline' (as the result of a 'civilising process') since the Middle Ages, it might be more profitable to focus on *shifts* in such strategies, and their relationship to the growing power of the state to monopolise legitimate physical force.

In other words, rather than seeing defamation suits, among the other forms of party litigation that are such a striking and important feature of the early modern period, as 'providing a non-violent means of expressing aggression',<sup>37</sup> we might view them as an 'indirect' form of violent exchange that was sanctioned by the state: using words and the law to make war. Contemporaries had few doubts about the seriousness of defamatory words: Richard Allestree described 'detraction' as 'one of the grand incendiaries which disturb the peace of the world'.<sup>38</sup> But at the same time, these strategies *were* more acceptable than physical interpersonal violence. Even Allestree recognised circumstances under which 'detraction' could be justified, even imperative, not least when it came to matters of political and social order. If one could never speak discrediting words of another, it would be impossible to bring evidence against a criminal: 'all discipline would be subverted'.<sup>39</sup> We find ourselves drawn once again towards the ambiguities of violence and contests over legitimacy.

Allestree struggled to create distinctions between 'lying defamation', 'uncharitable truth' and necessary discipline. In exploring the meanings and strategies of these verbal conflicts, I would argue that such

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<sup>36</sup> Susan Hartnes *c.* Elizabeth Addison, DC CP 1661/2; Susan Hartnes *c.* Deborah Younge, DC CP 1662/4.

<sup>37</sup> Ingram, *Church courts*, 316.

<sup>38</sup> Richard Allestree, *The government of the tongue* (6th impression, Oxford, 1702), 47.

<sup>39</sup> *Ibid.*, 63-66, quote at 65.

distinctions cannot be made. In any case, the records do not permit certain identification of the 'truth'; many contain quite contradictory accounts of the same people and events. This is not necessarily a 'problem' (except for the judge at the time, whose task must have been an unenviable one). At the time, defamation causes explicitly turned, time and time again, on subjective interpretations: on witnesses' judgements as to whether words had been spoken with *intent* to defame and whether they had in fact done harm to the plaintiff's good name, and their assessments of the honesty and repute of plaintiff, defendant and even of other witnesses. In short, the undecideability that surrounds these records is wholly representative of their subject: 'defamation' is inherently contested and unstable. At any moment, the dialectic of 'attacker' and 'victim', defamer and defamed, could be reversed by a counter-suit - or simply by a new witness.<sup>40</sup>

Moreover, defamation exposes tensions within existing value systems. Defamers could perceive and present themselves as critics exposing immoral behaviour that represented a threat to social order and the integrity of the neighbourhood; but they were in turn accused of *disrupting* order, destroying neighbourly harmony.<sup>41</sup> Again, this has a particular significance for women. Defamation causes show women transgressing certain ideals of feminine behaviour: publicly speaking out and behaving assertively, whether on the street or in the courts. But, again, these actions could be justified by reference to conflicting moral imperatives, women's obligations to defend personal honour and maintain family interests - as when women took part in collective protests.<sup>42</sup> The difficulty for women was not that there was a monolithic set of rules demanding their silence and submission, but that they continually had to negotiate contradictory demands from positions of limited access to legitimate authority and 'official' language-creation.

There is not a clear-cut difference between valid, just 'criticism' and nasty, malicious 'defamation'. To name 'defamer' and 'defamation' was in itself an act intended to discredit the speaker. However, the verbal defamation and the defamation suit were not equal; the latter had the advantage of the authorising weight of institutional authority - and of 'official' language. An accusation of defamation

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<sup>40</sup> On this instability, see M. Lindsay Kaplan, *The culture of slander in early modern England* (Cambridge: Cambridge University Press, 1997), ch. 1.

<sup>41</sup> See the useful discussion of 'neighbourliness' in Keith Wrightson, *English society 1580-1680* (London: Routledge, 1982) 51-7.

<sup>42</sup> The classic discussion of this is Natalie Zemon Davis, 'Women on top' in her *Society and culture in early modern France* (Cambridge: Polity, 1987), 124-51; see Olwen Hufton, *The prospect before her: a history of women in western Europe, Volume 1: 1500-1800* (London: HarperCollins, 1995), ch. 12, for an excellent recent discussion of riotous women drawing on the growing literature on the subject.

might, though, be countered with an opposing defamation suit. And none of these actions was without risk. Why take such risks in the first place? These are political actions exchanging symbolic blows in battles for the precious, powerful and deeply precarious ‘symbolic capital’ of reputation.<sup>43</sup> ‘Reputation’, or ‘good name’ or ‘credit’, was vital for status, authority and material well-being in early modern society, across a broad range of the population.<sup>44</sup> Reputation based on virtuous behaviour rather than inheritance was particularly vulnerable, requiring continual work and, indeed, risk-taking, because it ultimately depended on the opinions and words of others: ‘to gain honour chances have to be taken’.<sup>45</sup>

Reputation was gendered, and reflected the differing roles of women and men. We should be careful, however, about exaggerating at least some of the distinctions. It has been argued that, despite Christian teachings insisting on equal culpability, female honour and honesty was narrowly identified with sexual chastity, while male honour was more broadly based. Men’s most pressing anxieties revolved around occupational or commercial honesty, and their sexual behaviour was not subjected to the same standards. Indeed, in the strongest version of the argument, based on church court records of sexual defamation, male and female sexual reputation were entirely incommensurate.<sup>46</sup> However, it is important to remember the limitations of these records: defamation causes in church courts were quite narrowly based. Only words relating to certain types of ‘spiritual’ crimes, many concerning

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<sup>43</sup> The term ‘symbolic capital’ was coined by Pierre Bourdieu: see *Outline of a theory of practice*, 171-83; *Language and symbolic power*, 72-6. Useful anthropological studies of ‘honour’ and reputation include J. G. Peristiany (ed.), *Honour and shame: the values of Mediterranean society* (Chicago: University of Chicago Press, 1966); F. G. Bailey (ed.), *Gifts and poison: the politics of reputation* (Oxford: Basil Blackwell, 1971).

<sup>44</sup> This subject has received considerable attention in recent years, much of it directly concerned with issues of ‘honour’ relating to gender, class and power relations in early modern England: see, e.g., Sharpe, *Defamation*; Richard Cust, ‘Honour and politics in early Stuart England: the case of Beaumont v. Hastings’, *P & P*, 149 (1995); and the collected essays on ‘Honour and reputation in early modern England’, *TRHS*, 6th series, 6 (1996). Beyond England, see Peter Burke, ‘The art of insult in early modern Italy’, *Culture and History*, 2 (1987), 68-79; Edward Muir and Guido Ruggiero (eds.), *Sex and gender in historical perspective* (Baltimore: John Hopkins University Press, 1990); Thomas V. Cohen, ‘The lay liturgy of affront in sixteenth-century Italy’, *Journal of Social History*, 25 (1991-2), 857-77.

<sup>45</sup> Dave Peacock, ‘Morals, rituals and gender: aspects of social relations in the diocese of Norwich, 1660-1703’ (DPhil thesis, University of York, 1996), 216; Peristiany, *Shame and honour*, 10.

<sup>46</sup> Keith Thomas, ‘The double standard’, *Journal of the History of Ideas*, 20 (1959), 195-216; Gowing, *Domestic dangers*, ch. 3; *idem*, ‘Gender and the language of insult in early modern London’, *History Workshop Journal*, 35 (1993), 1-21.

sexual conduct, were, in theory, actionable there.<sup>47</sup> However, more women than men *did* go to court over sexual defamations and men's causes *were* more likely to be solely about non-sexual insults. Moreover, close comparison of the sexual defamation of women and men reveals some crucial assumptions about gender relations, about male mastery and female subordination. What cannot be accepted is an absolute dualism, or conceptualisations of female honour as one-dimensional: women were deeply concerned about non-sexual components of their reputation, and men could be attacked through sexual defamation.<sup>48</sup>

The central focus of this thesis is a case study of 97 defamation causes in the city of York from the re-establishment of the church courts at the Restoration to 1700. Crucially for my purposes, a high proportion contain witnesses' depositions that make it possible to go beyond quantitative analysis of the litigants and the words spoken. As Kermode and Walker have argued, 'qualitative material can tell us far more about the activities and attitudes of ordinary people than can aggregates of litigation alone'.<sup>49</sup> The depositions make it possible to examine, for example, the specific situations in which defamatory words were spoken, the rich vocabulary of insults, and the interactions between defamers, defamed and their audiences. Further, the strategies employed in efforts to undercut or support witnesses offer additional insights into the dynamics of reputation and defamation. These contests also underline the rhetorical nature of legal narratives, offering a further perspective onto witnesses' representations of violent behaviour and the harm caused by defamatory words: they are using images of violence to persuade the court that the actions they describe were illegitimate. This tends to undermine a search for 'what really happened'; however, it can tell us a great deal about what contemporaries believed *ought* and *ought not* to happen, and *could* happen, and *might have* happened in a particular case. Witnesses told, re-told and contested stories, selecting and shaping narratives

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<sup>47</sup> R. H. Helmholz (ed.) *Select cases on defamation to 1600* (London: Selden Society, 1985), xliii-xlvii. The qualifier 'in theory' is important; as this and other studies show, in practice the situation could be more flexible: Sharpe, *Defamation*, 11-15. A 'full study of defamation' combining the diverse secular and ecclesiastical records (Sharpe, *Defamation*, 5) is still a long way off. Recent studies based on particular secular courts and useful for comparison include: England, Star Chamber: Adam Fox, 'Ballads, libels and popular ridicule in Jacobean England', *P & P*, 145 (1994), 47-83; Wales, Court of Great Sessions: Richard Suggett, 'Slander in early-modern Wales', *Bulletin of the Board of Celtic Studies*, 39 (1992), 119-49; Maryland: Mary Beth Norton, 'Gender and defamation in seventeenth-century Maryland', *William and Mary Quarterly*, 44 (1987), 3-39.

<sup>48</sup> Garthine Walker, 'Expanding the boundaries of female honour in early modern England', *TRHS*, 6th series, 6 (1996), 235-45; David Turner, "'Nothing is so secret but shall be revealed": the scandalous life of Robert Foulkes', in Hitchcock and Cohen (eds.), *English masculinities*, 169-92; Peacock, 'Morals, rituals and gender', 155-75.

<sup>49</sup> Kermode and Walker, *Women, crime and the courts*, 5.

towards particular ends, to persuade and to influence their audiences. Outright falsehoods are always possible, but would have run a very high risk of being self-defeating: the stories told needed to achieve some kind of 'fit' with shared experiences, perceived realities, if the desired ends were to be achieved. The stories told had to be believable; not just to the court but also to the neighbourhood, the original audience and the final judge.<sup>50</sup>

Defamation in the later seventeenth century has received less attention than the period before the Civil Wars, reflecting, at least in part, more general differences in the historiography of the seventeenth century. The tendency to divide the century into two very different halves, with 1660 viewed as a 'fundamental watershed', has recently come in for increasing criticism.<sup>51</sup> A number of historians have brought new perspectives to the study of the period after the Restoration, broadening the topics of enquiry and advocating more dynamic analyses. Dave Peacock has recently challenged the emphasis in accounts of the later seventeenth century on 'continuity and orderliness', 'high' politics and gentry dominance.<sup>52</sup> It has been pointed out that the 'apparent straightforwardness' of the period may be something of an illusion resulting from the lack of research and debate.<sup>53</sup> This thesis will aim to contribute to the revisions that have begun to emerge, and to further such research and debate through a local case-study. The church courts clearly retained enough authority and prestige for substantial numbers of women and men, especially from the 'middling sorts', to utilise them. They might have idealised harmony and order, but in practice such ideals were intensely contested; and their acceptance of the institutional legitimacy and authority of the Anglican Church's legal jurisdiction was carried out on their own, active terms for their own purposes.

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<sup>50</sup> Davis, *Fiction in the archives*, introduction; Gowing, *Domestic dangers*, ch. 7; and see W. J. T. Mitchell (ed.), *On narrative* (Chicago: University of Chicago Press, 1981).

<sup>51</sup> Tim Harris *et al* (eds.), *The politics of religion in Restoration England* (Oxford: Basil Blackwell, 1990), 2. See also Lee Davison *et al* (eds.), *Stilling the grumbling hive: the response to social and economic problems in England, 1689-1750* (Stroud: Alan Sutton, 1992).

<sup>52</sup> Peacock, 'Morals, rituals and gender', 1. For an example of the 'traditional' approach which is being criticised, see J. H. Plumb, *The growth of political stability in England 1675-1725* (London: Macmillan, 1967).

<sup>53</sup> Harris *et al* (eds.), *The politics of religion*, 2.

## *Chapter One*

### *Church courts and defamation in later seventeenth-century York*

‘[T]aken as a whole, by 1700 the spiritual jurisdiction [of the church courts] was only a shadow of what it had been a few generations earlier’.<sup>1</sup> The general picture historians have drawn of the post-Restoration church courts is one of decline, despite short-term successes.<sup>2</sup> There is some truth in this, but can the decrease in its disciplinary work after 1660 simply be taken as ‘another sign of the general decay of spiritual jurisdiction’, when party litigation in ecclesiastical courts was flourishing and steadily increasing until the eighteenth century?<sup>3</sup> Even the disciplinary work of the church courts had relied heavily on local initiative in presenting cases.<sup>4</sup> To conclude that the shift away from using the church courts for direct moral discipline represents a generalised decline in spiritual authority (and corresponding ‘secularisation’) after 1660 is surely to underestimate the active roles taken by local populations earlier in the century in their relations to the authority of the Church.

It would be more precise, however, to speak of *certain sections* of those populations making use of official institutions to uphold their interests in particular ways. Defamation causes primarily involved members of the ‘middling sorts’ or those closely associated with them, in the city of York as in the diocese more generally.<sup>5</sup> Those men whose occupations can be identified in this sample were mainly craftsmen and shop-keepers, with some more substantial merchants and professionals (including clergymen) and a number of yeomen farmers reflecting the connections between city and countryside. Servants, apprentices and labourers, like gentlemen, made fewer appearances, and usually as witnesses rather than litigants. Women were generally identified only by their marital status, but those about whom more can be discovered can be similarly situated. This clearly represents a broad range in terms of income and social status; however, as the contexts of many of the recorded disputes show clearly, most York defamations causes centred on the ‘independent trading households’ that

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<sup>1</sup> Martin Ingram, *Church courts, sex and marriage in England, 1570-1640* (Cambridge: Past & Present Publications, 1987), 374.

<sup>2</sup> See, e.g., B. D. Till, ‘The administrative system of the ecclesiastical courts in the diocese and province of York. Part III: 1660-1883: a study in decline’ (Unpublished MS at Borthwick Institute, York, 1963).

<sup>3</sup> Till, ‘A study in decline’, 73; see tables of business in Consistory and Chancery courts at 61-3.

<sup>4</sup> J. A. Sharpe, *Crime in early modern England 1550-1750* (London: Longman, 1984), 85-6.

<sup>5</sup> Sharpe, *Defamation*, 17.

have been seen as a vital starting point for study of the early modern middling sorts.<sup>6</sup>

It was in this middling range that reputation founded on precarious 'virtue', rather than, say, lineage or wealth, would have been particularly significant. The citizens of York were also 'middling' in another sense, situated between the teeming, rapidly growing metropolis of London and the small-scale rural community of a village. In terms of population, York was not particularly large or dynamic considering the city's importance as a regional centre. The city had expanded - probably largely due to in-migration - in the early seventeenth century, from about 10,000 in 1600 to 12,000 in 1630; growth then slowed down to reach perhaps 12,400 by 1700.<sup>7</sup> (By way of contrast, nearby Leeds had a population of 7-8,000 in 1700 and was growing rapidly; Bristol stood at about 20,000; London was approaching the half-million mark).<sup>8</sup> The city was a centre for regional trade, with important markets and fairs, but its economy was largely related to its functions as an administrative centre and locally directed.<sup>9</sup> This could well have particular implications for the importance of reputation and scandal, with small-scale local producers - of goods, of food and drink, of professional services - competing for 'personal' custom. Many of the disputes recorded in these causes take place in (or just outside) shops and inns and involve their proprietors.

Defamation causes made up a sizeable proportion of business in the York courts during the half-century after the Restoration: about 20 per cent of causes in the Consistory and Chancery courts between 1660 and 1720. Moreover, the proportion was steadily increasing during the period.<sup>10</sup> Table 1.1 shows the proportions of male and female plaintiffs in defamation causes in the city of York sample.<sup>11</sup> As can be seen, the majority, almost two-thirds, were women. However, this leaves

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<sup>6</sup> Jonathan Barry and Christopher Brooks (eds.), *The middling sort of people: culture, society and politics in England, 1550-1800* (Basingstoke: Macmillan, 1994), 2.

<sup>7</sup> G. C. F. Forster, 'York in the seventeenth century', in R. B. Pugh (ed.), *Victoria County History: a history of Yorkshire: the city of York* (London: Oxford University Press, 1961), 162-3.

<sup>8</sup> J. A. Sharpe, *Early modern England: a social history 1550-1750* (London: Arnold, 2nd edn., 1997), 80, 84.

<sup>9</sup> Forster, 'York in the seventeenth century', 166-70.

<sup>10</sup> Fay Bound, 'An oeconomic of violence? Marital conflict in early modern England' (MA thesis, University of York, 1996), 67; see also Till, 'A study in decline', 62.

<sup>11</sup> The sample was obtained from a search of the catalogues of Cause Papers for the Archbishop's courts, series H, and the Dean and Chapter court in the Borthwick Institute of Historical Research. The latter are published in Katharine M. Longley, *Ecclesiastical cause papers at York: Dean and chapter's court 1350-1843* (York: Borthwick Texts and Calendars, 6, 1980). For background information, see Carson I. A. Ritchie, *The ecclesiastical courts of York* (Arbroath: Herald Press, 1956). The search of the manuscript catalogues of the Archbishop's courts should not be regarded as exhaustive, covering only those causes that were definitely

a substantial minority of men defending their (sexual, in the main) reputations through the church courts. In the city of York at the end of the seventeenth century, the ecclesiastical courts had not become a 'women's court' on anything like the scale observed by Tim Meldrum for early eighteenth-century London. Indeed, the proportion of female plaintiffs is lower than that of the diocese as a whole in J. A. Sharpe's analysis of the 1690s.<sup>12</sup> This is partly due to an intriguing phenomenon in the city sample that seems to run counter to all the measured trends: an upsurge in men's causes and a fall in women's causes in the last decade of the century.<sup>13</sup> With such a small sample in a limited study, too much cannot be made of this, but two observations can be made. Firstly, there is the possibility of different patterns of defamation litigation between the city of York and the wider diocese that would merit closer investigation. Secondly, men's causes made up a significant proportion of the defamation suits brought by citizens of York in the later seventeenth century, and they should not be overlooked.

When we turn to the gender ratios of both plaintiffs and defendants (see table 1.2), it is also noticeable that men made up more than half of the defendants in these causes.<sup>14</sup> Most striking of all, they represented almost two-thirds of the defendants in causes brought by male plaintiffs. The majority of men's causes were fought out entirely between men and, moreover, with predominantly male witnesses. This generally masculine context suggests not just that women's *words* against men were less likely to be credited and taken seriously,<sup>15</sup> but moreover that male reputation mattered most crucially *amongst men* - while female reputation mattered to everyone.

Finally, echoing Sharpe's findings, the majority of female plaintiffs were married (see table 1.3).<sup>16</sup> This may well be partly for prosaic financial reasons; married women could draw on the shared resources of the marital household. This would also imply that they acted with at least the tacit support of their husbands. Moreover, it will be argued in the course of this thesis that many causes

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dated to this period and with one or both litigants stated residents of the city.

<sup>12</sup> Meldrum, 'Women's court', 6 (and see the useful comparative table at 17); Sharpe, *Defamation and sexual slander*, 27-8.

<sup>13</sup> Throughout this thesis, the terms 'women's causes' and 'men's causes' will be used to refer simply to the sex of the plaintiff.

<sup>14</sup> cf. Gowing, *Domestic dangers*, where women made up two-thirds of defendants, 61.

<sup>15</sup> See Laura Gowing, *Domestic dangers*, 50-2, and 'Language, power and the law: women's slander litigation in early modern London', in Kermodé and Walker, *Women, crime and the courts*, 37-8.

<sup>16</sup> Sharpe, *Defamation*, 27.

brought by married women were in effect joint affairs: sexual reputation mattered most to married women because a wife's reputation also intimately affected her husband's, and her whole household's, reputation.<sup>17</sup> Further, a substantial proportion of unmarried female plaintiffs (and those whose marital status is not given) were household servants, and it will be argued that these causes sometimes reflect similar concerns.

To be sure, depositions make it clear that a substantial proportion of male plaintiffs, too, were married and it is likely that they were also concerned with the fortunes of their households, not just individual reputation. However, the workings of the 'double standard' meant that, just as there was no male equivalent of 'whore', there was no female equivalent of 'cuckold', and a husband's adultery simply did not carry the same significance as that of a wife. Victoria Goddard has argued that women play crucial roles as bearers of group identity and social boundary markers, which is what makes their 'purity' so important.<sup>18</sup> Reputation in later seventeenth century York *was* significantly gendered, but not in absolute terms; it was a quality of groups - married couples, households and neighbourhoods - as much as of individuals, but this did not mean that it had the same meanings for all those individuals within their groups

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<sup>17</sup> Garthine Walker, 'Expanding the boundaries of female honour in early modern England', *TRHS*, 6th ser., 6 (1996), 235-45; Dave Peacock, 'Morals, rituals and gender: aspects of social relations in the diocese of Norwich, 1660-1703' (DPhil thesis, University of York, 1996), 201-4.

<sup>18</sup> Victoria Goddard, 'Honour and shame: the control of women's sexuality and group identity in Naples', in Pat Caplan (ed.), *The cultural construction of sexuality* (London: Tavistock, 1987), 166-92.

**Table 1.1: Gender of plaintiffs in city of York defamation causes 1661-1700**

<i>plaintiff</i>	<i>1661-70</i>	<i>1671-80</i>	<i>1681-90</i>	<i>1691-1700</i>	<i>total</i>
female	12	19	19	13	63
male	6	7	8	13	34

**Table 1.2: Gender ratios of litigants in York defamation causes, 1661-1700**

<i>female plaintiff</i>		<i>male plaintiff</i>	
female defendant	33	female defendant	9
male defendant	30	male defendant	25

**Table 1.3: Marital status of female plaintiffs in York defamation causes, 1661-1700**

<i>status</i>	<i>no.</i>	<i>%</i>
married	41	65.1
spinster	10	15.9
widow	4	6.3
not known	8 <sup>a</sup>	12.7
<i>total</i>	63	100.0

<sup>a</sup> In 5 of these cases, the plaintiff was a servant and probably unmarried

## *Chapter Two*

### *Finding the words: linguistic symbols and strategies*

‘[Elizabeth Addison said that] Susan Hartnes was a whore and a pocky whore and a burnt whore, and Mr George Lamploughs whore and that he had her at his comaund five yeares together at the stayres head or foot or where he pleased’.<sup>1</sup> The church courts had scarcely re-opened for business after the restoration of the monarchy when Susan Hartnes sued Elizabeth Addison for defamation at the Dean and Chapter’s court in York. The language of defamation in late seventeenth-century ecclesiastical courts centred on a restricted set of themes, due to sixteenth-century common law encroachments on their jurisdiction over slander: the defamation had to involve allegations of ‘spiritual’ offences, mostly sexual, that would have been subject to ecclesiastical discipline.<sup>2</sup> In this York study, ‘whore’ was almost ubiquitous amongst women’s causes, and nearly all the cases brought by women involved imputations of some kind of sexual ‘crime’. The suits brought by male plaintiffs were not quite so narrowly based, but the majority still related to allegations of illicit sex.

However, in addition to what might be termed ‘core accusations’, the basic, legally actionable terms of insult (‘whore’, ‘rogue’, etc.), the records also reveal a much larger and strikingly inventive vocabulary of insulting words and phrases, the majority of which were not ‘sexual’ at all. Such elaborations are not simply decorative details; rather, they are crucial elements serving a number of purposes in the construction of insult. They can provide ‘authorising’ detail; they can intensify the force of the accusation, through adjectives such as ‘arrant’, through comparison or by simply multiplying images; they can ‘personalise’ stereotyped insults (possibly hinting, in the process, at conflicts underlying individual disputes). They also point to a number of tensions and concerns exercising early modern people; particularly, it will be suggested, anxieties surrounding order (including gender order), social status and mobility in an urban setting. In combination with the ‘core’ stereotypes, they could be used to create a remarkable range of linguistic strategies that may be usefully conceptualised, following Pierre Bourdieu, as ‘regulated improvisations’.<sup>3</sup>

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<sup>1</sup> Susan Hartnes *c.* Elizabeth Addison, DC CP 1661/2.

<sup>2</sup> R. H. Helmholz, *Select cases on defamation to 1600* (London: Selden Society, 1985), xliii-xlvii; Martin Ingram, *Church courts, sex and marriage in England, 1570-1640* (Cambridge: Past & Present Publications: 1987), 296. For a stimulating recent study of late medieval defamation, see L. R. Poos, ‘Sex, lies and the church courts of pre-Reformation England’, *Journal of Interdisciplinary History*, 25 (1995), 585-607.

<sup>3</sup> Pierre Bourdieu, *Outline of a theory of practice* (Cambridge: Cambridge University Press, 1977), 10-15.

Insults work by naming and defining in contrast to ideal values; in defamation causes one of the key ideals was that of 'honesty'. This encompassed a wider range of meanings than it does today, from integrity in business and personal relationships to specifically sexual practices. 'Honesty' might be seen as a crucial component of early modern 'symbolic capital': without being 'honest', one could not (to use contemporaries' own complex term) have 'credit'.<sup>4</sup> Sexual insults, very often, were not intended literally; rather, they played upon the fact that sexual honesty was a crucial component of moral integrity. For women, the images of whoredom that Laura Gowing has reconstructed expose the importance of sexual behaviour to female 'honesty'; yet they also brought into play a whole range of other concerns.<sup>5</sup> While Gowing has greatly expanded our understanding of the workings of the 'double standard', her stress on the sexual tends to displace other relations and issues. She argues that the 'use of the word whore makes certain that sexual behaviour is at the forefront of any accusation of women'.<sup>6</sup> Yet the emphasis on sex in ecclesiastical defamation at least in part reflects strategies influenced by the institutional context; in many causes sex appears rather as a framing backdrop.

While acknowledging that 'it looks very often as if sex was not what litigation over slander was about', Gowing concludes that 'women and men fighting over defamation were engaged in a project to reduce all sorts of other things to sex'.<sup>7</sup> This seems an unsatisfactory - indeed, reductive - view, which fails to appreciate sophisticated usages of analogy and metaphor. Words like 'whore' and 'whoremaster' represent the type of 'lay' sexual metaphors discussed by Helen Haste, images that constitute a socially shared 'script' for behaviour. Taking 'Man the Hunter' as an illustrative example, she suggests that such a metaphor 'gives meaning and symbolism beyond the literal context... The metaphor does not only make an analogy, it gives an explanation for other behaviours

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<sup>4</sup> On 'credit', see Susan Dwyer Amussen, *An ordered society: gender and class in early modern England* (New York: Columbia University Press, 1988), 152-5.

<sup>5</sup> Laura Gowing, 'Gender and the language of sexual insult in early modern London', *History Workshop Journal*, 35 (1993), 1-21, and *idem*, *Domestic dangers*, ch. 3.

<sup>6</sup> Gowing, 'Gender and the language of insult', 3.

<sup>7</sup> Gowing, *Domestic dangers*, 270-1.

in the script'.<sup>8</sup> When Jeremy Welfitt defamed Alice Wood with words such as 'Is not thou a whore, I can prove thee a theife', or 'she... is a theife and I thinke to prove her a whore', he was not reducing everything to sex.<sup>9</sup> Rather, he was making explicit connections between different kinds of 'dishonesty', in a society where honesty/honour was for neither sex measured on a single linear scale.<sup>10</sup>

Further, the insults directed at men also present complexities that Gowing does not explore. To be sure, fewer men than women in later seventeenth-century York brought defamation suits; but the proportion is far from being negligible, and the majority of these involved defamations of a sexual nature. While examining sexual defamation in York confirms the power of the 'double standard', it also makes it difficult to view male and female honour as 'wholly incommensurable'.<sup>11</sup> At least some men *were* concerned about their sexual reputation, and could be attacked using allegations of illicit sexual behaviour in similar ways to women.<sup>12</sup> Men boasting about their sexual activities, it should be noted, rarely feature in these causes. Nevertheless, closer examination of the language of sexual insults, comparing women's and men's causes, does reveal highly important gendered differences: in the ways that sexual activity itself was imagined for women and men and in broader conceptions of 'proper' gender roles. Another theme of sexual insult, cuckoldry, also needs to be approached relationally; it fundamentally concerned the *gendered couple* of husband and wife as representatives of a 'household' sharing common fortunes and concerns, rather than as individuals. One could not name a husband 'cuckold' without impugning his wife; to accuse a married woman of whoredom was to raise the spectre, even if it was not explicitly named, of the cuckold.

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J. A. Sharpe has warned of the difficulties of tabulating the language of sexual defamation.<sup>13</sup>

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<sup>8</sup> Helen Haste, *The sexual metaphor* (Hemel Hempstead: Harvester Wheatsheaf, 1993), 29.

<sup>9</sup> Alice Wood *c.* Jeremy Welfitt (1685), CP H3646, H3649.

<sup>10</sup> Garthine Walker, 'Expanding the boundaries of female honour in early modern England', *TRHS*, 6th series, 6 (1996), 235-45; see also Anna Clark, 'Whores and gossips: sexual reputation in London 1770-1825', in Arina Angerman *et al* (eds.), *Current issues in women's history* (London: Routledge, 1989), 231-48, on other values, such as friendship and compassion, that could outweigh unchastity.

<sup>11</sup> Gowing, 'Gender and the language of insult', 19.

<sup>12</sup> Adam Fox's discussion of early-seventeenth century Star Chamber libels includes telling examples of such tactics: 'Ballads, libels and popular ridicule in Jacobean England', *P & P*, 145 (1994), 47-83.

Consider, for example, the words of Anne Askwith. A witness recorded how her husband was drinking in the alehouse run by William and Frances Turnbull in Stonegate when she entered and ‘in an angry and passionate manner said what is thou gott into this whores house amongst a company of bitches and insanes I would have seen her [i.e., Frances] hanged before I had comed into such a whores house’.<sup>14</sup> It seems particularly inadequate to characterise this under the bald heading ‘whore’. So, although tables 2.1 and 2.2 represent an attempt at a finely-shaded break-down, they remain simplifications of complex and at times deliberately ambiguous linguistic practices. They also represent only those documents that happen to have survived, and the possible variations between witnesses’ accounts further underline the need for caution in their use. Moreover, dissecting linguistic usages that often depended for their force on combinations and multiplications of images, and longer narratives, as well as the manner and situation of their speaking, must inevitably be an artificial, limited exercise.<sup>15</sup> However, if it is treated as a provisional move, a preliminary to reconstructing the whole, it does have certain benefits. Firstly, it begins to show the diversity of the ways in which defamers could imaginatively manipulate conventional and commonly available ideas; secondly, it reveals a number of suggestive patterns in these diverse constructions.

The insult ‘whore’ dominates the language of insult in these defamation causes, appearing in over 90 per cent of the women’s causes for which there is surviving evidence of the words used.<sup>16</sup> This is not, however, a simple reflection of the emphasis on sexual defamation. In J. A. Sharpe’s analysis of causes from the whole diocese entering the Consistory and Chancery courts during the 1690s, women’s causes were just as concerned with sexual defamation, but the incidence of ‘whore’ was substantially lower than this sample from the city, suggesting possible variations between rural and urban linguistic repertoires. In addition, there may have been changes in the use of ‘whore’ over time;

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<sup>13</sup> Sharpe, *Defamation*, 9-10.

<sup>14</sup> Frances Turnbull *c.* Anne Askwith (1670s), DC CP B23.

<sup>15</sup> Deborah Cameron warns of ‘the limitations of considering sexism in representation exclusively in terms of specific single words or expressions’, *The feminist critique of language: a reader* (London: Routledge, 1990), 17.

<sup>16</sup> For background on ‘real’ prostitutes and prostitution, see Olwen Hufton, *The prospect before her: a history of women in western Europe. Volume 1: 1500-1800* (London: HarperCollins, 1995), ch. 8.

**Table 2.1: The words of defamation: women**

(59 causes)

<i>insult/allegation</i>	<i>no.</i>	<i>insult/allegation</i>	<i>no.</i>	<i>insult/allegation</i>	<i>no.</i>
whore	54	bitch	12	ugly	5
quean	8	sow	1	painted	2
jade	7	thief	5	wither-faced	2
slut	2	liar	2	tallow-faced	1
drab	2	witch	2	wide-mouthed	1
named man's whore	11	devil	2	down-looking	1
common whore	7			drable-tailed	1
bawd	1	damned	4	fat-arsed	1
bastardy	9	arrant/arrand	8	ill-thriven	1
cuckolding husband	4	abominable	3	pitiful	1
bestiality	1	brazen-faced	11	broken	1
		impudent	8	murthering	2
pocky	7	base	4	butcher/ly	2
burnt/hot	7	beggarly	3	cut-throat	1
branded	2	mean	1	heart-eaten	1
bastard-bearing	3	poor	1	covetous	1
buggering	1	baggage/baggishly	3	busy	1
London	1	trash	1	young/little	1
Newgate	1	filthy/dirty	2	old	1
Billingsgate	1	rotten	1	Scotch	2

**Table 2.2: The words of defamation: men**

(30 causes)

<i>insult/allegation</i>	<i>no.</i>	<i>insult/allegation</i>	<i>no.</i>
rogue	24	lying	1
rascal	9	damned	1
knave	5	arrant	4
whoremaster/ly	8	rank	1
cuckold	2	beggarly	2
bastard/son of a whore	3	common	1
bastardy	1	pitiful	2
had the pox/pocky	2	whorish face	1
sexual assault	2	buffle-headed	1
keeping a bawdy house	1	ill-looking	1
thief	4	lousy	2
cheat	5	old	1
dog	1	Scotch	1
beast	1		
swine	1		
fool	2		
mumper (beggar)	1		
destroyed livestock	1		
attempted perjury	1		

*Notes to tables 2.1 and 2.2*

Each insult/allegation was counted only on the first occasion it appeared in each cause; each cause was counted separately. A small number of insults spoken other than by the defendant were not included (e.g., recorded as spoken by plaintiff to defendant in the course of a quarrel).

Sharpe's comparison of women's causes from the 1590s and 1690s shows considerable continuity in the prominence of sexual 'crimes' but a greater emphasis on the epithet 'whore' in the later period.<sup>17</sup> Without doubt, this insult was commonly used and taken very seriously across the diocese, as elsewhere, throughout the period; but these variations suggest aspects of its development and use as part of the vocabulary of sexual defamation that have not yet been fully explored.

Two striking - and contrasting - uses of 'whore' deserve closer attention. The first is a strategy of specificity: as in the case with which this chapter opened, a named man's 'whore'. Further, this is a usage that tells us something about perceptions of sexual relations: men are seen as 'possessing' women. Insults conveying the opposite meaning are extremely rare; the only example in these causes was that of Grace Horner, who called Jane Morrett a whore and described a witness, George Wynne, as 'one of her rogues'.<sup>18</sup> Indeed, Dave Peacock has suggested that such portrayals of the inversion of 'proper' gender relations could serve to add force to the insult.<sup>19</sup>

In itself, this act of naming provided 'authorising' detail; it also led on neatly to longer narratives of illicit sex and betrayal. Hester Beeforth sued Thomas Thurnham for saying that she 'was a whore, and Timothy Harlands whore, and that the said Timothy Harland had had as much knowledge of the said Esther Beeforth's body, as of his owne wife'.<sup>20</sup> Francis Sergiant allegedly called Joan Daile 'whore and further said that she was one Mr Kemps whore and that... Kemp plaid whore with her... upon... Francis Sergiants bed'.<sup>21</sup> In considerably more detail, Benjamin Mangye defamed Sarah Bigg in similar terms, saying that she and a Mr Smith

had been private together in... Benjamin Mangyes chamber or roome for two or three houres att a time for the continuance of halfe a yeare, the doores of the said roome being bolted locked or fastned the doore, and that... Benjamin Mangye had severall times watched att the doore and that they had polluted, stained or spoyled the sheets or linens of... Benjamin

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<sup>17</sup> Sharpe, *Defamation*, 10.

<sup>18</sup> Jane Morrett *c.* Grace Horner (1693), CP H4325.

<sup>19</sup> Dave Peacock, 'Morals, rituals and gender: aspects of social relations in the diocese of Norwich, 1660-1703' (DPhil thesis, University of York, 1996), 160-1.

<sup>20</sup> Hester Beeforth *c.* Thomas Thurnham, DC CP 1685/1.

<sup>21</sup> Joan Daile *c.* Francis Sergiant, DC CP 1689/2.

Mangyes bed.<sup>22</sup>

The unpleasant details, the stained sheets, watching at the door: they build a story that is compellingly believable.

The term ‘common whore’, on the other hand, might suggest an alternative strategy: presenting the image of the common prostitute, a woman making herself indiscriminately available to all men. It would help to explain the effect that John Peck was aiming for in saying to Juliana Foster, ‘I could have made the my whoore severall tymes... thou art a more common whoore than ever Pegg Beilbie was’.<sup>23</sup> However, a note of caution must be sounded here. The use of ‘common whore’ tends to be recorded only in the formal articles of causes; indeed, in Benjamin Mangye’s case, it was alleged in the articles that he had called Sara Biggs ‘common whore’, but these words were nowhere recorded in the detailed witnesses’ depositions.<sup>24</sup> In other words, given the legal status of the term, we may be witnessing the mediation of court officials at work here.

Against men, ‘rogue’ assumed a prominence approaching that of ‘whore’ for women, appearing in 80 per cent of the causes for which the words spoken are recorded. Dave Peacock has recently challenged the assumption that this word carried no sexual meaning, arguing that in the late seventeenth century, ‘the term rogue was used specifically to refer to male sexual dishonesty and was particularly associated with whores’.<sup>25</sup> This is not, however, quite the case in late seventeenth-century York. Towards the end of the century, the courts are to be found paying particular attention to defining this word, and asking witnesses what they thought it meant. The answers in ‘non-sexual’ cases were simultaneously vague and definite: in the words of one, rogue ‘denotes and signifies a man to be a rascall a rogue and one that will stick att the commission of noe villany and injustice’. Other witnesses, though not quite as circular as this (a rogue is... a rogue?), tended to circle around lying, injustice, ‘villainy’, and return to the related and familiar words ‘rascal’ and ‘knave’.<sup>26</sup> They knew it was bad, but were otherwise not entirely sure about it. Faramerz Dabhoiwala has argued that sexual

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<sup>22</sup> Sarah Bigg *c.* Benjamin Mangye (1689), CP H3802.

<sup>23</sup> Juliana Foster *c.* John Peck (1674), CP H3170. This is the nearest we get in these causes to the male boasting that has been noted in other studies: e.g., Gowing, *Domestic dangers*, 74.

<sup>24</sup> Sarah Bigg *c.* Benjamin Mangye (1689), CP H3802.

<sup>25</sup> Peacock, ‘Morals, rituals and gender’, 158.

<sup>26</sup> Christopher Welburne *c.* William Beeford, DC CP 1690/5.

conduct was becoming less important to male reputation at this time, and it is noticeable that a considerable proportion of the growth in men's causes in York during the 1690s is made up of *non*-sexual defamations, especially allegations of commercial dishonesty.<sup>27</sup> In that context, these discourses on the word 'rogue' may hint at the beginnings of a broader shift in the meanings of male 'honesty' amongst the citizens of York.

At the same time, however, witnesses in other causes continued to provide the alternative meaning of rogue, associated with *sexual* dishonesty: 'the words rogue and rascall are very opprobrious words, and do denote a man to be of wicked life and conversation, and for such are commonly taken' was recorded in 1699.<sup>28</sup> This was apparently the prevailing use of the word 'rogue', and as such it frequently appeared in association with the word 'whoremaster' (or 'whoremasterly'). Gowing argues that 'whoremaster' was not used to condemn men's own sexual promiscuity or 'as a preliminary to detailed sexual accusations', but this is not the case in these York causes.<sup>29</sup> Anne Watson was brought to court for saying that 'Richard Dennis was a whoremaisterly rogue and playd whore with his maideservant and gave her halfe a crowne and a paire of gloves'.<sup>30</sup> Witnesses told how they heard Thomas Hewitson call Thomas Daniel 'whoremaster and said that he had kist a woman in John Scott's entry the night before'. One witness went into even more detail, deposing that Hewitson said that Daniel 'had fuct one Mrs Margaret Hutchinson in John Scott's entry and then showed him the said Mr Daniel the said John Scott's entry and told him that that was the place where he had fuct the said Mrs Margaret the very night before'.<sup>31</sup> However, the use of the term 'whoremaster' in itself *does* support another argument: that 'sexual insults of men revolved around their control of women's sexuality'.<sup>32</sup> In perceptions of sexual relations, men 'master' women, just as they 'own' them.<sup>33</sup>

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<sup>27</sup> Faramerz Dabhoiwala, 'The construction of honour, reputation and status in late seventeenth- and early eighteenth-century England', *TRHS*, 6th series, 6 (1996), 212-3.

<sup>28</sup> Thomas Hewitson *c.* Thomas Daniel (1699), CP H4534.

<sup>29</sup> Gowing, *Domestic dangers*, 63.

<sup>30</sup> Richard Dennis *c.* Anne Watson, DC CP 1685/4.

<sup>31</sup> Thomas Daniel *c.* Thomas Hewitson (1699), CP H4534.

<sup>32</sup> Gowing, *Domestic dangers*, 63.

<sup>33</sup> See also *ibid*, 78, on 'different perceptions of men's and women's sexual roles', where men 'solicit' and 'occupy' women.

Moreover, what the 'whoremaster' lacks is manly and civilised control of *himself*.<sup>34</sup> Male sexual promiscuity *can* be criticised and condemned, but the terms of insult reveal deeply-held assumptions about gender relations and masculinity.

The trouble with a cuckold was precisely his inability to master his wife. And even if the word 'cuckold' was not actually spoken, whenever a married woman was accused of being a 'whore' her relationship to her husband was also being brought into question. Indeed, in a number of cases, the words over which a wife sued had been spoken to her husband in her absence and even in an all-male setting.<sup>35</sup> The reputation not just of the woman concerned but of *the couple* was at stake here, along with the husband's standing amongst other men.<sup>36</sup> Now, court actions by married women based on the insult 'whore' were extremely common, while causes brought by husbands against the insult 'cuckold' were quite rare. Moreover, in a number of causes where both options would have been available, the preferred strategy seems to have been to focus on the defamation of the wife.<sup>37</sup> And when Henry Hunter sued James Young for calling him 'cuckold' and saying 'that he fathered a barne which another man gott', the defamation cause focused largely on Henry's wife Anne:

James Younge replied... [Henry Hunter] is a cuckold intimating thereby as this examinee conceived that... Anne... was a dishonest woman of her body and had committed the crime of adultery or incontinency with some man who had begotten a child of her body which she caused her husband to father and thereby made him a cuckold.<sup>38</sup>

This certainly supports Laura Gowing's depiction of 'a vision of morality in which women, not men, bore the load of guilt for illicit sex'.<sup>39</sup> Yet clearly cuckoldry could only be represented through the activities of the cuckolding wife: the cuckold was essentially a passive, powerless figure. And therein lay the power of the insult: in its disturbing representation of the inversion of gender relations, deeply

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<sup>34</sup> Peacock, 'Morals, rituals and gender', 95-101.

<sup>35</sup> See, eg: Margaret Flave *c.* Matthew Cartwright (1672), CP H3001; Lucilia Gooday *c.* Joan Copley (1680), CP H3409, H3456, H3467.

<sup>36</sup> Peacock, 'Morals, rituals and gender', 206-11.

<sup>37</sup> See, e.g., Anne Brittain *c.* Robert Clarke (1665) CP H2679; Margaret Flaves *c.* Matthew Cartwright (1672), CP H3001; Frances Turnbull *c.* Elizabeth Chapman (1677), CP H3810.

<sup>38</sup> Henry Hunter *c.* James Young (1665), CP H2507.

<sup>39</sup> Gowing, *Domestic dangers*, 2.

threatening to masculine authority and self-identity. Whores were bad, for sure, but cuckolds were just laughable.<sup>40</sup> They represented weakness, a failure of authority, sexual inadequacy; in short, failed *manhood*. If husbands were reluctant to have this raised in the public forum of the court, it is not entirely surprising.

It is also possible that the reputation and standing of a household was also at issue in a number of causes where a female servant brought a defamation suit. Christian Needham sued Anne Harland for calling her a whore and ‘potticar’s meat and sherriffe’s meat’, a reference to Francis Taylor, Christian’s master. Anne denied having said anything defamatory, but there may well have been some kind of gossip going around: several witnesses alleged that Taylor was paying Christian’s legal costs, and one implied that he was doing so out of ‘an extraordinary kindnes’ he had for her, an innuendo-laden choice of wording.<sup>41</sup> Bridget Hodgson was sued for telling various citizens of Micklegate that ‘your neighbours waiting maide’, Hester Browne, had secretly given birth to a bastard child.<sup>42</sup> The phrasing points to the way in which gossip in such a situation could come to involve the maid’s employers, potentially bringing into question their reputation as well as that of the maidservant herself. At the very least, they were failing to properly supervise their servants’ behaviour, and what did that say about the moral standards of their household?<sup>43</sup>

Bastardy and venereal disease were the two primary sexual themes that defamers deployed as descriptive elaborations in constructing insults. Both depicted the consequences of sexual dishonesty as unpleasant, recognisable physical marks; both show gendered differences. Imputations of venereal disease were far more commonly directed at women than at men. Often, they consisted simply of the epithet ‘pocky’ or ‘burnt’ or ‘hot-arsed’, but they could involve more detailed stories or memorable

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<sup>40</sup> As they so frequently were in ballads and mocking rhymes and as the target of charivaris: Joy Wiltenberg, *Disorderly women and female power in the street literature of early modern England and Germany* (Charlottesville: University Press of Virginia, 1992), 152-60; Elizabeth Foyster, ‘A laughing matter? Marital discord and gender control in seventeenth-century England’, *Rural History*, 4 (1993), 5-21; Martin Ingram, ‘Ridings, rough music and mocking rhymes in early modern England’, in Barry Reay (ed.), *Popular culture in seventeenth-century England* (London: Croom Helm, 1985), 166-97.

<sup>41</sup> Christian Needham *c.* Anne Harland (1696), CP H4472. Elsewhere, the phrasing he ‘was very kinde with her’ certainly insinuated sexual relations: Anne Mitchell *c.* Grace Tennant (1682), CP H4988.

<sup>42</sup> Hester Browne *c.* Bridget Hodgson (1663), CP H2560.

<sup>43</sup> See Gowing, *Domestic dangers*, 96-7, on anxieties about mistress-servant relations expressed in allegations of bawdry.

turns of phrase, such as that of Martha Coates, speaking to Elizabeth Ashton: 'goe thou pocky whoore thou hath a fireship in thy arse'.<sup>44</sup> Jane Canby, sitting on a stone, was quarrelling with Thomas Nelson in the street; Thomas commented derisively, 'a cold stone is the best for a hott whore to sitt on'.<sup>45</sup> Priscilla Farnell was sued by John Baycock for saying to his mother Margery Baycock, 'Never any of my sonnes shaved their heades for the French pocke as thine did', also accusing Margery of helping John, who was a barber, to cure himself of the disease.<sup>46</sup> Similarly, Elizabeth Addison alleged that Susan Hartnes had secretly procured a cure for the pox. She also employed a theme used by a number of defamers: the danger of being infected. She warned a witness away from Christopher, Susan's husband, saying 'that whoe ever dranke of his drinke would have the pocks'.<sup>47</sup> A witness told how Matthew Cartwright and Edward Glaves quarrelled as they were in company together and Matthew said that Margaret, Edward's wife, 'was a whoore and that she was soe hott he durst not come nigh her'.<sup>48</sup> These causes do not show the fascination with grotesque 'leaky' women, or with men's infected, half-eaten penises, that Gowing found in her research.<sup>49</sup> However, they do reveal the potency of images of the pox for defamers to exclude and isolate their targets: whores were infectious, sources of pollution and danger, perilous to associate with.

Again, women were much more likely to sue over allegations of bastardy than were men; in the only case in this sample the man sued in concert with the woman concerned.<sup>50</sup> Pregnancy, after all, had very different implications for women than for men: its physical marks and consequences were both immediate and lasting, and difficult to conceal. Women were also more likely to make accusations of bastardy, reflecting their role in the 'rituals' of childbirth and their particular authority in this area.<sup>51</sup> And one of the small number of male defendants was in fact acting in partnership with his wife, in a dispute that led to three almost simultaneous and strongly contested causes. Two witnesses deposed

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<sup>44</sup> Elizabeth Ashton *c.* Martha Coates (1673), CP H2909.

<sup>45</sup> Jane Canby *c.* Thomas Nelson, DC CP 1661/1.

<sup>46</sup> John Baycock *c.* Priscilla Farnell, DC CP 1668/2.

<sup>47</sup> Susan Hartnes *c.* Elizabeth Addison, DC CP 1661/2.

<sup>48</sup> Margaret Flaves *c.* Matthew Cartwright (1672), CP H3001.

<sup>49</sup> Gowing, *Domestic dangers*, 80-82.

<sup>50</sup> Thomas Dalkin *c.* Grace Tennant (1682), CP H4979; Anne Mitchell *c.* Grace Tennant (1682), CP H4988.

<sup>51</sup> On pregnancy and childbirth, see Hufton, *The prospect before her*, ch. 5.

that they had heard Martha Coates say to Elizabeth Ashton (in addition to the colourful insult already noted), ‘I had better have noe children as have them ill begott as thine are and having so many fathers for them’.<sup>52</sup> In return Martha brought suits against both Elizabeth and Thomas Ashton, with witness testimony that Thomas had said that ‘she... had had a bastard and then bid her fetch home her bastards’.<sup>53</sup> According to the articles of the third cause, Elizabeth had spoken in similar terms, although none of the witnesses recorded it.<sup>54</sup> Yet again, given the tit-for-tat, decidedly exaggerated, quality of these exchanges, it is hard to imagine that this was ‘really’ about bastardy or sexual misbehaviour.

Further, the number of women’s causes that record the use of many ‘non-sexual’ insulting words is a notable feature of this sample - especially given the predominant emphasis on women’s sexual reputation in research based on these sources. It is true that in terms of ‘core accusations’ men’s causes were rather more varied. Yet women’s causes - even allowing for the larger number - show a much wider range of imaginative strategies (and more use of ‘personalising’ detail) and involve a number of telling non-sexual themes that were not (or were less often) applied to men.

Most striking of all is the theme represented by the related insults ‘impudent’ and ‘brazen-faced’. These were *only* ever used against women. In a notable case, witnesses recorded that Henry Cooper was drinking in (male) company at the house of Michael Nightingale one evening when his wife Mary Cooper came to ask him to go home, at which Nightingale called her an ‘impudent whoore’ and threatened to turn her out of the house. Mary returned home in considerable distress, crying to a manservant that Nightingale had ‘undone’ her. She sent the servant back to Nightingale’s house to fetch a lantern that had been left there, and when the servant told Nightingale of her complaint, he slandered her again ‘in a very passionate manner’.<sup>55</sup> Nightingale’s violent reactions - both the insult and the threat of physical violence - can be seen as a response to a perceived threat to his authority (from a woman *and* a servant), in a setting reminiscent of the alehouse brawls examined by Amussen:

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<sup>52</sup> Elizabeth Ashton *c.* Martha Coates (1673), CP H 2909.

<sup>53</sup> Martha Coates *c.* Thomas Ashton (1673), CP H2923, H3023.

<sup>54</sup> Martha Coates *c.* Elizabeth Ashton (1673), CP H3145.

<sup>55</sup> Mary Cooper *c.* Michael Nightingale (1671), CP H3109. I am slightly sceptical about the story of the lantern; without necessarily doubting the genuineness of Mary’s distress, it has the air of a kind of theatrical device setting the stage for a further dramatic exchange (and widening the cast of witnesses) in a way that could to some degree be managed and controlled.

the use of violence to discipline and reassert one's place.<sup>56</sup> Mary's subsequent counter-challenge, in taking him to court, simultaneously shows the power of such a tactic (in that she felt she had to do so) *and* its contestability.

The use of this theme in exchanges between women may also be suggestive of disputes and tensions over status and authority. In the case brought by Jane Morrett against Grace Horner for saying that Jane was 'a brazen faced impudent whore', this could well have included issues of age and marital status: Jane was young and a spinster, Grace married and a mother.<sup>57</sup> To name a woman 'impudent' or 'brazen-faced' was to define her in contrast to prescriptive ideals of 'proper' feminine behaviour, deference, obedience and modesty. Yet the obligations and responsibilities of women as wives, workers and mothers provided another, conflicting, set of ideals and practices.<sup>58</sup> In fulfilling one set of expectations, it was all too easy for a woman to transgress the other; after all, if Michael Nightingale's house *was* an alehouse, Mary Cooper can be seen as attempting to carry out her responsibilities to her family by limiting her husband's spending there. And however successfully women negotiated these tensions, the contradictions meant that this verbal weapon was always available for use against them.

A further sign of anxieties and contests over social and economic status lies in the recurring use of insults such as 'base' and 'beggarly', applied both to women and to men. In one striking case, Elizabeth Ballard sued Thomas Penrose following a dispute over the collection of hearth taxes. Penrose, according to witness testimony for Ballard, demanded the money ('in a haughty and uncivill manner'):

whereupon the said Mrs Ballard said to him that he need not be soe hasty for her relations had paid his Majesties more moneys than he had done... and... the said Mr Penrose replied that made her soe begarly as she was.

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<sup>56</sup> Susan Dwyer Amussen, 'Punishment, discipline and power: the social meanings of violence in early modern England', *Journal of British Studies*, 34 (1995), 24-7. John Cashmere, 'The social uses of violence in ritual: *charivari* or religious persecution?', *European History Quarterly*, 21 (1991), 291-319, makes similar points concerning *charivaris*. (It is unclear whether the setting here was a private dwelling or an alehouse; it may well be the latter.)

<sup>57</sup> Jane Morrett *c.* Grace Horner (1693), CP H4325.

<sup>58</sup> Susan Dwyer Amussen, 'Gender, family and the social order, 1560-1725', in Anthony Fletcher and John Stevenson (eds.), *Order and disorder in early modern England* (Cambridge: Cambridge University Press, 1985), 196-217.

He refused to accept her payment, claiming that it was bad coin, and began to seize some household goods. (Did she deliberately offer recognisably false coin, a sign of her contempt, or was he being insultingly provocative in refusing to accept the money?) In her witnesses' accounts, she attempted to prevent him and was called 'whore' and 'bitch' and assaulted; according to Penrose and a constable who was present, she called him 'rogue pimping rogue scabbed curre and other base names' and assaulted him so that he had to defend himself and was provoked into speaking 'ill words'. Both sides, one suspects, were being highly selective here; the cause was strongly contested, matching the intensity of the parties' antagonism.<sup>59</sup> In early modern England, as Amussen points out, 'wealth and worth' were joined through the concept of 'credit'.<sup>60</sup> Penrose's (political) authority could be challenged by disparaging his financial 'credit' and he responded, reversing the insult, in terms that carried much more than simply economic meaning. (After all, the Ballards were some way from pauperdom if they had been assessed to pay hearth taxes). And from there to exchanging sexual insults and 'base names' - and physical assaults - was another short step.

Men were rather more likely to be accused of financial dishonesty than women; certainly, only men brought defamation suits where this was the sole issue. In particular, they were vulnerable to allegations of cheating in business. These causes appear later in the period, again suggesting shifting concerns; the earliest was in 1682 and is quite typical. Robert Hillary sued John Hirst following a dispute over a cask of wine, for saying that he was a 'cheating rogue' and 'denied his own handwriting'.<sup>61</sup> However, for both women and men, accusations of sexual and financial dishonesty frequently went hand-in-hand. A witness deposed that William Sergison called Robert Hewitt a 'picklocke fellow', accused him of having a hand in the destruction of two of his cattle and rounded it off with 'thou art a whore maister'.<sup>62</sup> Thomas Moxon and Mary Edwardes were quarrelling when, accusing her of stealing some 'barn hippins' (babies' napkins) from him, he called her 'both a whore and a thief and said that he would prove her a thief and her husband should prove her a whore'.<sup>63</sup> Jane Carter brought together several themes to defame Isabella Thompson:

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<sup>59</sup> Elizabeth Ballard *c.* Thomas Penrose (1685), CP H3692.

<sup>60</sup> Amussen, *An ordered society*, 152.

<sup>61</sup> Robert Hillary *c.* John Hirst (1682), CP H4057.

<sup>62</sup> Robert Hewitt *c.* William Sergison (1664), CP H4958.

<sup>63</sup> Mary Edwardes *c.* Thomas Moxon (1684), CP H3644.

Jane Carter... in an angry, passionate and reflecting manner [did] call ... Isabell Thompson whore, and further said that she had made her former husband a cuckold and that the lads in the street did call him cuckold... Jane Carter did then and there call [Thomas Thompson, Isabella's present husband] rogue, and bid him tell his wife... to bring home the shifts that she had stolen from her either cleane or uncleane.<sup>64</sup>

The two causes involving accusations of witchcraft, made by a husband and wife against the same woman, similarly brought together different kinds of 'dishonesty'. John Fetherston called Jane Tyreman 'damned whoore dissembling bitch dissembling bitch dissembling whoore and witch'. The suit against his wife, also called Jane, contains similar insults, but is additionally much more precise about what Tyreman was being accused of. A witness deposed that Jane Fetherston said to Tyreman, 'Thou devill wilt thou destroy us' and called her 'witch and said she had bewitched her kine [cows] for that she... could gett noe milke from them', and went on to say to the witness that Tyreman 'had gotten her kyne milke and her owne milke and therefor said God blesse my child from her'. At first Fetherston seems to be accusing Tyreman of ordinary *maleficium*, but she actually goes on to imply that somehow Tyreman is actually using witchcraft to steal the milk (a much more unusual allegation and, again, one involving 'mundane' but important everyday household goods).<sup>65</sup> As in several of the cases above, the sexual insult is brief and formulaic; it is the non-sexual components of the defamation - lying, cheating, theft, witchcraft - that are the focus of attention, of detailed accusations and witness testimony, whatever the gender of the plaintiff. It is not that the sexual element is unimportant, but it would seem simplistic to imagine, for example, that it was Jane Tyreman's primary concern (another witness recorded that she simply said that Jane Fetherston 'had called her witch' when she asked him to give evidence).<sup>66</sup>

'Thou devill wilt thou destroy us...' Jane Fetherston's fury seems to have been matched only by her fear. 'Cruelty', or physical violence, is an occasional but noteworthy theme in women's causes.

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<sup>64</sup> Isabella Thompson *c.* Jane Carter (1692), CP H4301. This and the previous case reflects close associations between women and the theft of clothes and household linen: Garthine Walker, 'Women, theft and the world of stolen goods', in Kermode and Walker (eds.), *Women, crime and the courts*, 81-105.

<sup>65</sup> Peter Rushton points out the more usual witchcraft-theft connection, where divination was used to find stolen property or identify a thief, which could lead to defamation suits: 'Women, witchcraft and slander in early modern England: cases from the church courts of durham, 1560-1675', *Northern History*, 18 (1982), 120.

<sup>66</sup> Jane Tyreman *c.* John Fetherston (1664), CP H2473; Jane Tyreman *c.* Jane Fetherston (1664), CP H4965.

Again, it does not appear in men's causes, reflecting a situation where men had more access to legitimate physical violence-as-discipline and, indeed, male honour could on occasions *require* violent action. Men and women accused of violent crimes constructed very different narratives in attempts to justify their actions; female victims of male assault avoided speaking even of self-defence, of fighting back, focusing instead on their defencelessness and vulnerability.<sup>67</sup> Female physical violence was viewed as particularly repellent, providing the context for insults such as 'cut throat heart eaten devil quean' or 'murthering whore and butcher whore'.<sup>68</sup> In men's causes, conversely, it is *weakness* that is a source of insult. This might be the weakness of the cuckold or the coward,<sup>69</sup> or mental weakness: only men are insulted as a 'fool'.<sup>70</sup>

The Fetherstons also dwelt on Jane Tyreman's physical appearance, her ugly, 'withered' face.<sup>71</sup> This may specifically relate to the 'witch' accusation; Peter Rushton has noted cases in Durham where 'crooked shape or strange appearance' was associated with the witch.<sup>72</sup> But it was also part of a more general theme, again almost exclusively directed at women. Against men, the theme of physical appearance was used only occasionally: one man, for example, was told that he had 'a deft whorish face', another that he was an 'ill lookeing roague'. Christian Needham said that Anthony Harland 'had whored all his teeth out'.<sup>73</sup> Meanwhile, women's faces and 'tails' provided a continual source of insult. The latter usually appeared in accusations of infection with the pox, as noted above, and we have already seen the popularity of 'brazen-faced' as a term of insult. But defamers also

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<sup>67</sup> G. M. Walker, 'Crime, gender and social order in early modern England', (PhD thesis, University of Liverpool, 1994), 77-89; Natalie Zemon Davis, *Fiction in the archives: pardon tales and their tellers in sixteenth-century France* (Cambridge: Polity, 1988), chs 2-3.

<sup>68</sup> Catherine Marston *c.* Thomas Bird (1682), CP H4076; Mary Grayson *c.* Jane Tockets *als.* Young (1695), CP H4548.

<sup>69</sup> Although this is very rare; the only case occurs in the dispute between James Howgill and William Anderson, when Anderson allegedly called Howgill 'pittiful cowardly dogg': William Anderson *c.* James Howgill (1693), CP H4320. And when Howgill sued Anderson, interestingly, 'cowardly' disappears from view in the papers: James Howgill *c.* William Anderson (1693), CP H4321.

<sup>70</sup> Mark Gill *c.* William Beeford (1690), DC CP 1690/1 ('buffle headed rascal'); Office (Henry Thorpe) *c.* Michael Dewfris (1691), CP H4258; Valentine Nicholson *c.* Seth Potter, DC CP 1691/5.

<sup>71</sup> Jane Tyreman *c.* John Fetherston (1664), CP H2473; Jane Tyreman *c.* Jane Fetherston (1664), CP H4965.

<sup>72</sup> Rushton, 'Women, witchcraft and slander', 127.

<sup>73</sup> Thomas Pinder *c.* Thomas Wildman, DC CP 1672/8; Seth Potter *c.* Alice Sandyman (1691), CP H4267; Anthony Harland *c.* Christian Needham (1696), CP H4451.

used ‘ugliness’ in itself as part of insults. Margaret Hawksworth sued Jane Thompson for calling her ‘a fatt arsed bitch and fatt arsed sowe’.<sup>74</sup> Elizabeth Topham was sued for saying that Mary Wild was ‘a tallowfaced, wyde mouth’d, ugly bitch’.<sup>75</sup> Elizabeth Pickard took Francis Field to court after an incident in a John Orton’s house, where Field was distraining some of Orton’s household goods, including some pewter. Elizabeth was called ‘an ugly whoore’ and ‘a downe looking whoore’ when she ‘told the said Feild that she wondred he would offer to meddle with the pewther’.<sup>76</sup>

The painted whore face appears only once in these causes, but in striking association with another physical image. Robert and Catherine Crooke were sued by Mary Spragg, in separate causes, although this was clearly another joint campaign by husband and wife. A witness recorded that Robert called Mary ‘a b[r]asen faced whore and a painted whore... and bid her looke in her forehead if she was not branded for a whore’; Catherine was reported to have called her ‘a painted whore, painted drabb painted bitch and colly-whore, and painted chade, and bid her get her gone in for she had the marke in forehead’.<sup>77</sup> The use of branding amongst the repertoire of early modern punishments is familiar, but this image of specifically branding the *forehead* of a whore seems more like an inventive adaptation, creatively mixing those official punishments and the ‘whore’s mark’, the slit nose, perhaps with a real mark or scar that Mary bore on her head.

Defamation causes in late-seventeenth-century York very rarely refer to noses as such, but they share with earlier Londoners the concern to make the whore ‘as visible as she was meant to be’ and focus on parts of the body on which ‘discredit could be visibly marked out’.<sup>78</sup> Such linguistic practices ‘embody’ social values: ‘treating the body as a memory, they entrust to it in abbreviated and practical, i.e. mnemonic, form the fundamental principles of the arbitrary content of the culture’.<sup>79</sup> Corporeal images, overlapping but not synonymous with the sexual, pervade women’s causes - pregnancy and childbirth, disease and sometimes dirt, ugliness and physical markings, bodily comportment and

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<sup>74</sup> Margaret Hawksworth *c.* Jane Thompson (1685), CP H4109.

<sup>75</sup> Mary Wild *c.* Elizabeth Topham, DC CP 1683/5.

<sup>76</sup> Elizabeth Pickard *c.* Francis Feild, DC CP 1677/7.

<sup>77</sup> Mary Spragg *c.* Robert Cooke; Mary Spragg *c.* Catherine Crooke (1682), CP H5008 (two causes in one file); ‘colly-whore’ referred, again, to a particular man.

<sup>78</sup> Gowing, *Domestic dangers*, 103-4.

<sup>79</sup> Bourdieu, *Outline of a theory of practice*, 94; see also *idem*, *Language and symbolic power*, 86-9.

‘carriage’ - while men’s bodies seem to carry less fraught significances. Female bodies are simultaneously weak and threatening. These are ‘fantasied and fantastic figuration[s] of the body’, which construct, reinforce and regulate (hetero-)sexual practices and gender norms.<sup>80</sup>

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A close study of the language used in defamation in these York causes suggests that within causes based on sexual defamation, sexual insults varied in their importance, from detailed accusations to brief, formulaic epithets with far more emphasis on non-sexual components of the defamation. The significance and use of the common insults ‘whore’ and ‘rogue’, for example, varied considerably. Garthine Walker has made an important point, which is also true for men: ‘[w]hile sexual insult provided a conceptual and linguistic repertoire through which women’s honour could be damaged, defended and asserted, that honour was not necessarily itself sexual’.<sup>81</sup>

Insults were word-pictures evoking a whole range of negative images: deviance, corruption, pollution, disorder, weakness, poverty, ugliness. These might often be represented in sexual and corporeal terms; they were also powerfully expressed through economic images and those of insubordination and the failure of legitimate authority. None of these were *only* about gender relations, but all were profoundly gendered. The ‘double standard’ can be seen to represent a duality not only of ‘culpability’, but also of *power*. It is also, as a result, a double-edged standard; if women were blamed and made responsible for illicit sex, men were potentially vulnerable to it - regardless of personal sexual behaviour. A married man’s whole reputation and standing outside the household could be undermined by representing him as a cuckold, a husband who could not control his wife’s sexual behaviour within the household. Defamation wove together power, sexuality and gender; it also connected the household and the wider community, the ‘private’ and ‘public’. The next chapter will take a closer look at the neighbourhood and legal contexts and practices of defamation.

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<sup>80</sup> Judith Butler, *Gender trouble: feminism and the subversion of identity* (New York: Routledge, 1990), 135.

<sup>81</sup> Walker, ‘Expanding the boundaries’, 239.

## *Chapter Three*

### *On the streets, in the courts: practices and 'modes' of defamation*

The disputes that undoubtedly lay behind many defamation causes are often shadowy; the examination of other source material that might help to bring some of them to light - such as tithe and property disputes or commercial rivalries - was beyond the scope of this study.<sup>1</sup> There are occasional hints within the depositions themselves; for example, Elizabeth Addison said to one witness that 'that pocky burnt whore Hartnes wife... had got all the custome', and told another 'that she would not let her daughter there but whied her to her house to spend her money'.<sup>2</sup> Thomas Penrose complained to the court that during the three years in which he had been tax-collector he had frequently asked the Ballards for their payment but 'that payment was not only neglected but sometimes absolutely refused to be made'.<sup>3</sup> This does not tell us any more about the causes of that particularly hostile confrontation, but it does suggest that it had a long-standing history.

It is not, therefore, possible to offer any conclusions here as to the reasons why certain disputes, certain words, led to litigation in individual cases. Rather, this chapter will explore aspects of 'strategic practices' of defamation, and possible factors in the initiation of legal action, through exploring three interacting 'modes' of defamation, the means by which such disputes might be pursued: 'face-to-face', 'circulatory' and 'official'. 'Face-to-face' defamation involves public arguments, challenges and abusive exchanges between the individuals who are subsequently involved in litigation. By 'circulatory' defamation is meant the speaking of 'scandalous' words about individuals who are not actually present, including 'gossip', flowing around local channels of communication. 'Official' defamation concerns the ensuing court cases themselves, and 'legal narratives' of credit and discredit; in particular, contests over the credit of witnesses will be examined. In each case, questions of the difference that gender (among other facets of identity, status and authority) could make to the power of (spoken) words about reputation, and to the speakers and subjects of those words, will be addressed.

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<sup>1</sup> See Sharpe, *Defamation*, 22.

<sup>2</sup> Susan Hartnes *c.* Elizabeth Addison, DC CP 1661/2.

<sup>3</sup> Elizabeth Ballard *c.* Thomas Penrose (1685), CP H3692.

In research on defamation and insult, there is frequently an emphasis on the need for insults to be taken seriously to have serious effects. David Garrioch argues, in the context of verbal insults in eighteenth-century Paris, that ‘if the listeners actually believed the accusations then the victim’s livelihood would suffer’.<sup>4</sup> Christopher Haigh has suggested that the main motivation behind sixteenth-century defamation suits was to forestall prosecution for the imputed crime in the church courts.<sup>5</sup> However, ‘truth’ was not the church courts’ only criterion in assessing defamation. ‘Nothing in the English Constitution expressly required that the imputation have been spoken falsely. Truth was not a stated defence’. A true accusation might have been made maliciously and be defamatory.<sup>6</sup> Conversely, the courts may have been recognising that defamation did not necessarily have to be thought to be true to do damage. Consider the one and only allegation of bestiality in the York causes: Robert Wryley was sued for saying that Frances Eyre ‘made use of her dog and that her dog bugger’d her foulre’d her and fucked her’.<sup>7</sup> It sounds totally malicious and entirely laughable - which is the point. Did these words need to be *believed* to carry the potential to undermine Frances’ standing among her neighbours and especially, say, among her servants or enemies? How would she maintain personal authority and status if she became the butt of sniggering jokes, if she was no longer taken seriously?<sup>8</sup> What was at stake was ‘face’, a concept as familiar to contemporaries as to modern sociologists, and a crucial component of early modern reputation, though ‘constructions of shame... have been privileged over, or compounded with, those of affront’ in much research into defamation and slander.<sup>9</sup>

Equally, though, many causes *did* revolve around ‘shame’ and the truth of allegations of immorality

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<sup>4</sup> David Garrioch, ‘Verbal insults in eighteenth-century Paris’, in Peter Burke and Roy Porter (eds.), *The social history of language* (Cambridge: Cambridge University Press, 1987), 113.

<sup>5</sup> Christopher Haigh, ‘Slander and the church courts in the sixteenth century’, *Transactions of the Lancashire and Cheshire Antiquarian Society*, 78 (1975), 1-13.

<sup>6</sup> R. H. Helmholz (ed.), *Select cases on defamation to 1600* (London: Selden Society, 1985), xxx.

<sup>7</sup> Frances Eyre *c.* Robert Wryley (1693), CP H4326.

<sup>8</sup> On the subversiveness of mocking slander, see Adam Fox, ‘Ballads, libels and popular ridicule in Jacobean England’, *P & P*, 145 (1994), 47-83.

<sup>9</sup> Garthine Walker, ‘Expanding the boundaries of female honour in early modern England’, *TRHS*, 6th series, 6 (1996), 236; but see Peter Burke, ‘The art of insult in early modern Italy’, *Culture & History*, 2 (1987), 68-79; Thomas V. Cohen, ‘The lay liturgy of affront in sixteenth-century Italy’, *Journal of Social History*, 25 (1991-2). Sexual insults can be helpfully conceptualised as ‘face threatening acts’ (FTAs): see Penelope Brown and Stephen Levinson, ‘Universals in language usage: politeness phenomena’, in Esther N. Goody (ed.), *Questions and politeness: strategies in social interactions* (Cambridge: Cambridge University Press, 1978), 56-289; also Erving Goffman, *The presentation of self in everyday life* (Harmondsworth: Penguin, 1969).

(which should not, however, preclude the significance of ‘affront’ in these situations as well). For example, Anne and Michael Hall accused Mary Brocket of having adulterous sex with Frank Harrison in very specific terms. Moreover, where defendants tended to denial or disclaimer in their responses, Anne forcefully reasserted her allegations:

she this respondent... upon the eleaventh day of June at night did see... Francis Harrison in bed with... Mary Brockett, and she this respondent further beleives that... Francis Harrison did ly and keep company with... Mary Brockett all that night,... Mary haveing sent her maid the said night to lodge in one Ann Ancklands house.

Anne strongly denied any malicious or defamatory intent, however: her position was one of justifiably reproving her neighbour for wrong-doing. Additionally, one of the witnesses emphasised how seriously she had taken the Halls’ words; following the accusations, ‘there were other words passed but she this examinate was soe much concerned and soe angry that... Harrison had been with her [Mary] all night that she this deponent did not observe what they were’.<sup>10</sup>

Just as the significance and prominence of sexual language in insults varied between causes, then, defamation itself was as multi-faceted as the reputation it attacked, and powerful because of its adaptability. Insults, rarely intended literally, created ‘scenes’ which disrupted an individual’s ‘self-presentation’ and threatened their relationships with their neighbours.<sup>11</sup> We are looking at a range of linguistic practices linked together by the crucial importance of spoken words to reputation.<sup>12</sup> Defamation could undermine reputation in a variety of ways, and the motives of victims of defamation who took the step of defending themselves through the courts, too, were complex and varied.

Many of the defamatory exchanges recorded by witnesses were face-to-face encounters, often part of angry quarrels conducted in the street or, very often, from doorways: highly public affairs, as people gathered to find out what was happening. (Publicity was, of course, a necessary precondition for a lawsuit: without an audience of some kind, there could be no witnesses to give evidence and, moreover, no damage to reputation.) A witness explained that she was in her house when she ‘did

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<sup>10</sup> Mary Brocket *c.* Anne Hall; Mary Brocket *c.* Michael Hall (1678), CP H3443 (two causes in one file).

<sup>11</sup> On ‘scenes’, see Goffman, *Presentation of self*, 205-6.

<sup>12</sup> Gowing, *Domestic dangers*, ch. 4.

heare a noyse and great stirre in the streete and thereupon going out of doors with her child in her armes', discovered Anne Brittain and Robert Clarke 'chiding together' outside.<sup>13</sup> Frequently, the audience was already in place, in a shop or 'in company'. A group of customers were gathered in Christopher Welburne's bookshop when William Beeforth came in and told Welburne 'he was come to pay him what he ought him and then laid downe some moneys'. Welburne counted the money and said that it did not cover Beeforth's debts, at which Beeforth called him 'a rogue, a knave and a rascal', 'the greatest knave that ever kept shop in Petergate'.<sup>14</sup>

At the wedding feast of John and Anne Lackwood, Mary Allanson came in ('although not invited beinge a rude woman and of a distracted condition') and 'did there chide and brawle' with Christopher Holmes - who had apparently promised her marriage.<sup>15</sup> These public disputes often have a distinctly 'theatrical' feel: it does not seem entirely accidental that Christopher Welburne's shop was full of customers when William Beeforth arrived, nor - especially given the nature of her complaint - does it feel as though Mary Allanson's choice of venue was a random one. David Garrioch suggests that, where there were existing grievances, insults could be 'an appeal for public mediation', and a challenge to the adversary to justify their position or make concessions.<sup>16</sup> Similarly, a defamation cause can be seen 'as the first step towards bringing neighbourly tensions to a close, as well as a symptom of such tensions as already existed'.<sup>17</sup> Mary Allanson sued Christopher Holmes for defamation, although his own words were rather ambiguous, according to the witnesses, who were distinctly unsympathetic towards her; both her initial actions and the following defamation suit look like rather desperate and ineffective attempts to recruit public opinion to place pressure on Holmes to keep his word.

In some disputes, insults themselves seem to be a sign of defeat: an angry, frustrated reaction to a

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<sup>13</sup> Anne Brittain *c.* Robert Clarke (1665), CP H2679.

<sup>14</sup> Christopher Welburne *c.* William Beeford, DC CP 1690/5.

<sup>15</sup> Mary Allanson *c.* Christopher Holmes (1667), CP H2758.

<sup>16</sup> Garrioch, 'Verbal insults', 115.

<sup>17</sup> JAS, "'Such disagreement betwix neighbours": litigation and human relations in early modern England', in John Bossy (ed.), *Disputes and settlements: law and human relations in the West* (Cambridge: Cambridge University Press, 1983), 178.

failure to bring such pressure to bear. In the case of Benjamin Mangye, a witness recorded that she was drinking in company with Mr Smith and some others when

the said Benjamin Mangye (coming into the roome) asked the said Mr Smith if he could remember that one Lambert had taken some silver of or out of the said Benjamin Mangyes shopp counter to which the said Mr Smith replied that he knew nothing of the matter and told him he wondered that he would offer such a thing to him or to that purpose.

It was at this point that Mangye ‘grew very passionate’ and made the allegations against Smith and Sarah Bigg that landed him in court. Sarah herself was not recorded as being present, and appears to have initiated the suit as a result of public scandal.<sup>18</sup> Insulting words, re-told and circulating around the neighbourhood, could be powerful and damage their subject without empowering their original speaker.

The kind of verbal violence recorded in these encounters is familiar in another legal context: prosecutions for ‘scolding’ and ‘barratry’, which have received attention from a number of historians.<sup>19</sup> Focusing on scolding, witnesses show overwhelming disapproval of the behaviour it represents. A frequently stated virtue was to ‘live quietly amongst one’s neighbours’. Witnesses speak of litigants ‘scolding’, ‘brawling’ or ‘chiding’; and they regularly label the actions of defendants in these terms. For example, Jane Carter called Isabella Thompson a ‘whore’ in ‘an angry and scolding manner’, and Grace Horner slandered Jane Morrett in ‘an angry scoulding and malitious manner’.<sup>20</sup> ‘Scolding’ was firmly associated with women (although men might well speak in ‘an abusive and reprochfull’ or ‘a

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<sup>18</sup> Sarah Bigg *c.* Benjamin Mangye (1689) CP H3802.

<sup>19</sup> On scolding: David Underdown, ‘The taming of the scold: the enforcement of patriarchal authority in early modern England’, in Anthony Fletcher and John Stevenson (eds.) *Order and disorder in early modern England* (Cambridge: Cambridge University Press, 1985), 116-36; Lynda Boose, ‘Scolding brides and bridling scolds: taming the woman’s unruly member’, *Shakespeare Quarterly*, 42 (1991), 179-213; Martin Ingram, ‘“Scolding women cucked or washed”: a crisis in gender relations in early modern England?’ in Kermode and Walker (eds.), *Women, crime and the courts*, 48-80; Karen Jones, and Michael Zell, ‘Bad conversation? Gender and social control in a Kentish borough, c.1450-c.1570’, *Continuity and Change*, 13 (1998), 11-31. G. M. Walker, ‘Crime, gender and social order in early modern England’ (PhD thesis, University of Liverpool, 1994), 70-77, also pays welcome attention to barratry.

<sup>20</sup> Isabella Thompson *c.* Jane Carter (1692) CP H4301; Jane Morrett *c.* Grace Horner (1693), CP H4325.

very passionate and angry' manner).<sup>21</sup> And yet, while it could be used in this way to present a negative picture of a woman in a legal narrative, 'scold' did not, it seems, have the power to defame her on the streets: it does not appear in any of the verbal insults. This contrast might suggest that this was an area where legal officials and institutions had different priorities from women who used the courts - something that could, however, be manipulated when using those courts. As Kermode and Walker have suggested, 'litigation involving scolds reflects the ways in which ordinary people used the legal process for their own ends as much as it reflects assumptions about the offence itself'.<sup>22</sup>

It might be argued that intense concern with scolds, shrews and 'women on top', which might well translate into its use as an insult and sensitivity towards being called a 'scold', was a feature of the late sixteenth and early seventeenth centuries, a 'crisis in gender relations', and had declined by this time.<sup>23</sup> However, Sharpe's analysis of defamation in the 1590s does not indicate particular anxiety in the earlier period either: there was only one 'scold' in the sample.<sup>24</sup> Martin Ingram, examining patterns of prosecution between the mid-sixteenth and mid-seventeenth century more closely, has argued that they do not justify the use of such terms as 'crisis', 'obsession' or 'epidemic'.<sup>25</sup> There is also doubt that it was a new phenomenon in the Elizabethan and early Stuart periods.<sup>26</sup> What happened to prosecutions (in church or secular courts) later in the seventeenth century needs more attention. But defamation does seem to offer another perspective, alongside both records of prosecution and 'literary' sources, onto this topic, especially as scolding (and barratry) and defamation share a close association with disputes between neighbours.<sup>27</sup>

One common theme of insults against women that does relate to this issue has been discussed: that of 'impudence'. The image of the impudent, 'brazen-faced' woman is not the same as the trouble-making, malicious 'scold', but she does break some of the same rules; she is bold, shameless and rude

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<sup>21</sup> Thomas Pinder *c.* Thomas Wildman, DC CP 1672/8; Mary Edwardes *c.* Thomas Moxon (1684), CP H3644.

<sup>22</sup> Kermode and Walker, *Women, crime and the courts*, 20.

<sup>23</sup> Underdown, 'Taming of the scold', proposed a 'crisis in gender relations', which has been strongly questioned; as Gowing argues, 'gender is *always* in contest', *Domestic dangers*, 28.

<sup>24</sup> Sharpe, *Defamation*, 10.

<sup>25</sup> Ingram, "'Scolding women cuckolded or washed'", 54-7.

<sup>26</sup> Jones and Zell, 'Bad conversation?'

<sup>27</sup> Kermode and Walker, *Women, crime and the courts*, 18.

- especially towards her 'betters'. The image symbolises overlapping concerns about disorderly, disobedient women; 'brazen-faced' can have additional connotations of deceptiveness and hypocrisy, expressing anxieties about distinguishing honest from dishonest women.<sup>28</sup> These are, of course, stereotypes. But they are complex stereotypes, adaptable to varied circumstances. Kermode and Walker rightly warn against treating scolding 'as a catch-all for diverse behaviour'.<sup>29</sup> Conversely, though, to focus too narrowly on 'the taming (or not) of the scold', on prosecutions for certain kinds of verbal act, obscures the complexity of gendered experiences of the power of words.

'Gossip' has received considerable recent attention from historians concerned with women and gender.<sup>30</sup> Appropriately enough, it is less immediately obvious in these sources than the 'face-to-face' exchanges discussed. But it is, in its own elusive way, to be found everywhere; whenever witnesses speak of the 'fame' of litigants (or other witnesses), they are referring to its effects, good or bad. Reputation depended on the opinions and words of one's neighbours, how one was 'accompted' by them. And, equally, any individual's ability to actually influence this process of reputation-making and -breaking depended on the current state of their account-sheet amongst their neighbours.<sup>31</sup> It is quite true that litigation was most likely to be initiated after 'loose words spoken in anger'.<sup>32</sup> The trouble was that such words would be re-told and rapidly circulated by their audiences, with potential consequences that are largely obscure to the historian but should not for that reason be underestimated.

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<sup>28</sup> Gowing, *Domestic dangers*, 79-80.

<sup>29</sup> Kermode and Walker, *Women, crime and the courts*, 18.

<sup>30</sup> Patricia Meyer Spacks, *Gossip* (New York: Alfred A. Knopf, 1985); Edith B. Gelles, 'Gossip: an eighteenth-century case', *Journal of Social History*, 22 (1989), 667-83; Steve Hindle, 'The shaming of Margaret Knowsley: gossip, gender and the experience of authority in early modern England', *Continuity & Change*, 9 (1994), 391-419; Gowing, *Domestic dangers*, 120-2; David Turner, "'Nothing is so secret but shall be revealed": the scandalous life of Robert Foulkes', in Tim Hitchcock and Michele Cohen (eds.), *English masculinities 1660-1800* (London: Longman, 1999), 169-92.

<sup>31</sup> Useful anthropological discussions of gossip include: Max Gluckman, 'Gossip and scandal', *Current Anthropology*, 4 (1963), 307-16; Robert Paine 'What is gossip about? An alternative hypothesis', *Man*, new series, 2 (1967), 278-85; 'Filcher of good names: an enquiry into anthropology and gossip', *Man*, new series, 9 (1974), 93-102; Susan Harding, 'Women and words in a Spanish village' in Rayna R. Reiter (ed.), *Toward an anthropology of women* (New York: Monthly Review Press, 1975), 283-308; Sally Engle Merry, 'Rethinking gossip and scandal' in Donald Black (ed.) *Toward a general theory of social control* (Orlando: Academic Press, 1984), 271-302.

<sup>32</sup> Sharpe, *Defamation*, 26.

Neighbourhood ‘gossip’ could take the words spoken in anger between individuals, broadcast them, re-shape them, manipulate them, and perhaps even lead to a law suit not intended or desired by the original protagonists. The specific possibility of a prosecution for immorality, suggested by Christopher Haigh, would have been just one of a range of feared potential consequences of the circulation of scandal.<sup>33</sup> Occasionally witnesses stated particular effects: on livelihood, marriage prospects, employment opportunities.<sup>34</sup> Far more often, they simply alluded to the harm done to the plaintiff’s ‘good name and reputation’ amongst his or her neighbours; the seriousness of this, it seems, could be largely taken for granted. Dave Peacock notes a varied range of situations where good reputation could be of vital importance, including applications for poor relief, when appearing in court and in business or officeholding.<sup>35</sup> Indeed, given the sheer range of possible consequences of lessened or lost reputation, the uncertainties of the situation - the defamation might not cause ‘real’ trouble, but could one take that risk? - should be seen as a factor in decisions to litigate.

Bridget Hodgson’s words about Hester Browne were represented by witnesses in almost stereotyped images of ‘gossip’. Bridget, ‘telling of newes in the city[,] asked the companye if they did not heare the newes in the town’; on being asked ‘what newes’, she replied ‘doe not you heare that your neighbours waiting maide lyes in at Micklegate Barr’. On another occasion, a churching where Bridget was present as the midwife of the new mother, she came to Elizabeth Wright and ‘there whispered her in the eares and asked her if she knew where Hester Browne was... to which this examine replied, that she thought she was at Beverly, but the said Mrs Hodgson sayd Naye, she is without Micklegate Barr brought in bed of a childe’. This ‘whispering’ is itself ambiguous, capable of bearing two interpretations: positive, as discretion, or negative, as slyness. The witnesses, at any rate, were evidently sympathetic towards Bridget; they firmly asserted their opinion that she had not spoken the words ‘with any intent to defame’; and assessments of the plaintiff’s reputation (or the effect upon it of Bridget’s words) are notable by their absence.<sup>36</sup> As a midwife, Bridget would have been in a privileged position to learn of such a story: at least, her neighbours and clients were ready to give credit to her words.

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<sup>33</sup> Haigh, ‘Slander and the church courts’.

<sup>34</sup> Susan Hartnes *c.* Elizabeth Addison, DC CP 1661/2 (damage to business); Jane Morrett *c.* Grace Horner (1693), CP H4325 (marriage prospects); Mary Sugden *c.* Grace Tennant (1691), CP H4271 (‘disappointed and hindred of severall good places or services’).

<sup>35</sup> Dave Peacock, ‘Morals, rituals and gender: aspects of social relations in the diocese of Norwich, 1660-1703 (DPhil thesis, University of York, 1996), 81.

<sup>36</sup> Hester Browne *c.* Bridget Hodgson (1663) CP H2560.

In many cases, witnesses were less sympathetic towards the defamer, and emphasised the harm done to the 'good name' of the defamed. A witness told how she was about to leave Grace Tennant's bakehouse when Grace called her back to look at Anne Mitchell, who was passing by, saying

see thou this brazen faced whore and when this examine asked whome she meant, she said Nanny Mitchell... and this examine said Na sure it is not soe, to whome... Grace replied, yes hang her she's with barne, and further she said that Dalking... was very kinde with her and that it was well if he had not a finger in the pye... and she alsoe said that... Thomas Dalking was a rancke whoremaster and that he had gott one bastard already.

Moreover,

in this examine's oppinion the good name and credit of both... Anne Mitchell and Thomas Dalking are much hurt and impaired by speakeing words predepoused for that since the speakeing thereof severall persons have cast the same in their teeth.<sup>37</sup>

These two cases show rather different attitudes towards 'gossip', both subject and speaker. That partly reflects the contrasting styles of the two women; but it also related to the relative 'credit' of defamer and defamed. Bridget's audience was eager to hear her 'newes'; Grace's words were met with doubt - which probably heightened her indignation and exacerbated her verbal assault. In terms of possible consequences for the victim, however, distinctions between the two should probably not be exaggerated. Both cases led, after all, to a defamation suit; 'severall persons' were less sympathetic towards Anne Mitchell and Thomas Dalking than their witnesses in court.

As words circulate, they move beyond the control of the original sources of their subject matter. In re-tellings, we find variations in the stories told. Elizabeth Addison and Deborah Younge both slandered Susan Hartnes in substantially the same terms: 'pocky whore', 'George Lamplough's whore for five years', but Deborah offered an additional detail: 'he had the use of her seaventeen tymes'.<sup>38</sup> It acts as an authenticating detail; such precision would look like the offender's own confession - in

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<sup>37</sup> Anne Mitchell *c.* Grace Tennant (1682), CP H4988.

<sup>38</sup> Susan Hartnes *c.* Elizabeth Addison, DC CP 1661/2; Susan Hartnes *c.* Deborah Younge, DC CP 1662/4.

which case, her confidant(s) had told others.<sup>39</sup> Otherwise, it represents someone's creative invention, which seems quite possible: if it had been part of the story from the beginning, it is unlikely that Elizabeth would have left it out of her vehement attacks (or that the witnesses would have omitted it).

We can never know where it originated; but it is not unlikely that contemporaries, too, would have found it difficult to track down. As rumours spread, flowing around the channels of communication and evaluation, they can undergo change; they also provide a degree of anonymity. Compared to direct confrontation, gossip is - to judge by the relative infrequency of defamation suits against individual 'gossips' - a much safer mode of defamation. As L. R. Poos points out, the gossip's classic defence - I only repeated what I heard from others - both lends weight to the words and relieves the speaker of sole responsibility for them.<sup>40</sup> Anonymity, moreover, would be particularly useful to two groups: rivals and disaffected subordinates of the victim. Here was the opportunity to damage a reputation, to take revenge for personal slights or ill-treatment, or simply to circumspectly mock and criticise a representative of a more privileged, powerful group.<sup>41</sup> (This is not to say that all gossips were thus motivated, simply that gossip was an ideal vehicle for those who were). This anonymity, though, was crucial unless the gossip had the security of a powerful position. If not, it was extremely dangerous to be identified as the source of defamation, or as a particularly visible agent in its circulation.

And, as Margaret Knowsley and many other women discovered to their cost, among the most dangerous (and difficult) words they could speak were those about their experiences of sexual assault or rape.<sup>42</sup> When Margaret Richardson alleged that John Mould (identified as 'gentleman', it should be noted) had sexually assaulted her, she found herself in court accused of defamation. As it emerged from witnesses, she told a number of people how he came into her chamber, where she was in bed, took hold of her smock and forced it down, or tore it 'from the shoulder to the elbow almost', and

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<sup>39</sup> As happened to Margaret Knowsley: Hindle, 'The shaming of Margaret Knowsley', 400.

<sup>40</sup> L. R. Poos, 'Sex, lies and the church courts of pre-Reformation England', *Journal of Interdisciplinary History*, 25:4 (1995), 602.

<sup>41</sup> On anonymity and gossip as a 'weapon of the weak', see James C. Scott, *Domination and arts of resistance: hidden transcripts* (New Haven and London: Yale University Press, 1990), 142-3.

<sup>42</sup> Hindle, 'The shaming of Margaret Knowsley'; Gowing, *Domestic dangers*, 75-6. See also: Miranda Chaytor, 'Husband(ry): narratives of rape in the seventeenth century', *Gender & History*, 7 (1995), 377-407; Garthine Walker, 'Rereading rape and sexual violence in early modern England', *Gender & History*, 10 (1998), 1-25.

‘touched the secretest places about her’. In one account, he would in fact have raped her if her daughters, who were sleeping in another bed in the same room, had not suddenly woken up and disturbed him.

Margaret well knew the difficulties of her situation; as she said to one witness with a desperate vehemence, ‘if thou wilt beleive mee that I have any skinn of my face Mr Mould knows as well what I am as my owne husband that lyes with mee’. Another female witness equally understood the danger: she ‘gave her warning to take care what shee said for else she would come to trouble’, to which Margaret replied defiantly that she did not care and was prepared to take her oath on it. But it is, perhaps, the reaction of a male witness that is most telling of all: he ‘told her again that shee was a whore indeed that would neither serve a man in his need nor keepe his [ ]’. This file has unfortunately suffered some damage and the very end of his comment is lost, but the sentiment is clear enough. To risk a guess, the missing fragment might be along the lines of ‘trust’ or ‘good name’; that is, criticising her precisely for speaking about what had happened and bringing Mould into disrepute.<sup>43</sup>

The response of men such as John Mould to these accusations, like other men’s causes based on sexual defamations, does show clearly that sexual conduct could matter enough to male reputation to be defended vigorously through the courts. At the same time, this kind of case puts into perspective Bernard Capp’s recent argument that ‘men’s anxiety over sexual reputation’ could ‘provide women with a valuable means of redress or effective leverage in a variety of circumstances’.<sup>44</sup> As his own evidence frequently suggests, few women, from the genuinely wronged to the criminal blackmailer, succeeded in bringing such pressure to bear unless they had substantial support, from relatives or friends (or, indeed, criminal colleagues). Many of his examples are precisely of failure to do so, regardless of the legitimacy of the women’s position: illustrations of just how *ineffective* this was as a means of redress or leverage.<sup>45</sup> Moreover, a woman in Margaret Richardson’s situation found herself in a cruel bind: if she possessed sufficient ‘credit’ to gain a hearing and support, she endangered it simply by speaking of her experience; it was difficult for her to avoid the ‘guilty self-implication’ of confession.<sup>46</sup> Male sexual reputation could indeed be important; but that does not

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<sup>43</sup> John Mould *c.* Margaret Richardson (1680), CP H3475.

<sup>44</sup> Bernard Capp, ‘The double standard revisited: plebeian women and male sexual reputation in early modern England’, *P & P*, 162 (1999), 71.

<sup>45</sup> *Ibid.*, e.g., 77, 82, 85-7, 95, 97.

<sup>46</sup> Gowing, *Domestic dangers*, 74.

necessarily mean that women were able to 'take advantage' of it to any significant degree.

The recently-studied stories of Stephen Jerome and Margaret Knowsley and of Robert Foulkes, point to a rather different argument: that it was *men*, not women, who could make most use of such 'anxieties' about male sexual reputation.<sup>47</sup> It has been noted that, in this York sample, men were far more likely to bring defamation causes against other men than against women, and when they did, nearly all their witnesses were also men. And, as has already been suggested, gossip and rumour did not always benefit those who can be identified as their source, but they might well be used by those who could remain relatively anonymous, or, alternatively, possessed the luxury of high levels of the variables that made up status, reputation and authority. Margaret Knowsley (who had little of these) quite clearly became caught up in local power struggles that were not her own.<sup>48</sup> And it was Margaret - not the powerful local men who attempted to use her words to attack Jerome; not her supposed friends who betrayed her confidence; not those, women or men, who remained in the anonymous majority in circulating scandal - who paid the price of the failure to make those words stick.

Robert Foulkes was less fortunate than Stephen Jerome - fatally so, as he was ultimately executed for the infanticide of his illegitimate child - and this might be related to a notable feature of his case: the prominence in the circulation of sexual scandal about Foulkes of *men's* words. David Turner's discussion of Foulkes' case strongly challenges any assumption that gossip and rumour were a 'feminine' style of discourse, or that male rumour-mongering was not subject to disapproval.<sup>49</sup> Richard Allestree certainly rejected both lines of thought: 'as to this particular of *defaming*, both sexes seem to be at a vie: and I think he were a very critical judge, that could determine between them'.<sup>50</sup> However, Turner suggests that men in Foulkes' case 'spread tales with a good deal of confidence', and more 'publicly' than did women, which 'may have reflected an altogether greater security with which such men could activate rumour and scandal, for which women were potentially more susceptible to judicial sanctions and public shaming'.<sup>51</sup> Gossip and rumour *are* gendered, but not in terms of simple

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<sup>47</sup> Hindle, 'The shaming of Margaret Knowsley'; Lynda Boose, 'The priest, the slanderer, the historian and the feminist', *English Literary Renaissance*, 25 (1995), 320-40; Turner, "'Nothing is so secret'".

<sup>48</sup> Boose, 'The priest, the slanderer', 337-8; Hindle, 'The shaming of Margaret Knowsley', 401-2.

<sup>49</sup> Turner, "'Nothing is so secret'", 176-7; see also Robert Shoemaker, 'Reforming male manners: public and the decline of violence in London, 1660-1740', in Hitchcock and Cohen (eds.), *English masculinities*, 133-50.

<sup>50</sup> Richard Allestree, *The government of the tongue* (6th impression, Oxford, 1702), 73.

<sup>51</sup> Turner, "'Nothing is so secret'", 191.

behavioural labels. And, again, this is not simply a matter of gender, but a gendered dimension of unequal power structures: the distinctions noted by Turner are those between gossip as a 'weapon of the weak' and a 'weapon of the powerful'.

Most defamations are much less polarised than this, however; they are contests between 'equals' or near-equals rather than encounters between 'weak' and 'powerful'. Indeed, F. G. Bailey suggests, the most intense competition often takes place between closely-connected 'people competing to remain equal'; those distanced by disparities in status do not compete in this way.<sup>52</sup> The competition expressed through defamation can be seen in terms of manoeuvring to improve or defend one's interests and influence, by challenging and disrupting those of others. This may result in negotiation and reconciliation; it can sometimes lead to escalating disruptions, with challenge provoking counter-challenge. But defamation has another highly influential 'life' beyond the range and control of those directly involved in such challenges, circulating the neighbourhood as scandalous gossip; a wider social existence which re-connects with individuals' concerns with their public reputations. These patterns are, interestingly, as much a feature of litigation itself as the events which are being described in witnesses' accounts. Files of cause papers can range from the bare details of the formal articles (with, perhaps, equally formal responses) to bulky sets of documents in which the majority are not about the plaintiff or defendant at all, but about the 'credit' of their witnesses. Sometimes the reader even has a sense of quite unrelated neighbourhood disputes receiving a surreptitious airing in the space provided by another individual's decision to go to court.

Just as the church courts, and especially defamation litigation, provided rare legal opportunities for women as plaintiffs, so it was for women as witnesses. Overall, in the York causes, men do outnumber women as witnesses, but that arises primarily as a result of the overwhelming preponderance of male witnesses - just over 90 per cent of those called - in causes contested between men. In causes between women, female witnesses predominated, but not to the same extent, making up approximately 70 per cent of the witnesses. In mixed-gender causes, the gender balance of the witnesses was almost even. This situation would suggest that in contests between men, women's words simply did not carry the same weight - although it should be remembered that many of the encounters took place in male-dominated contexts, whether in working environments or 'in company'. Looking at the causes where the credit of witnesses was contested, on the other hand, one does not

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<sup>52</sup> F. G. Bailey (ed.), *Gifts and poison: the politics of reputation* (Oxford: Blackwell, 1971), 19.

get the impression that women's testimony was inherently less trusted, more easily attacked, than that of men.

There *were* gendered differences in the issues that were likely to be raised, reflecting the gendered meanings of honesty and credit. And yet, once again, these are not absolute or simple differences. Male witnesses were very likely to be accused of 'dishonesty' in business or work, women of 'sexual' dishonesty, including bastardy; but these represent tendencies and placings of emphasis rather than absolutes. Two witnesses, Sarah Hudson and Mark Knagge, appeared to give evidence for Elizabeth Ashton when she sued Martha Coates. Sarah was accused of 'light and unhandsome carriage', of frequenting the company of soldiers and vagrants and of leading a 'vicious' and 'lewd' life. Mark's alleged offences centred, in some detail, on his bad behaviour as an apprentice, not only being 'addicted' to swearing and lying, but also cheating and stealing from his master and his customers. But the list of his 'crimes' *did* also include, in rather vague terms, 'lewd and loose life and conversation'.<sup>53</sup> And sexual conduct was far from being the only issue that could be raised about female witnesses.

Moreover, if defamation tends to focus on negatives, 'dishonour' rather than 'honour', it is in these contests about witnesses that more positive attributes are also likely to be described. The legal context of these statements needs to be borne in mind; it is difficult to know how much resonance some of the issues that could be raised (such as those concerning church attendance and understanding of oath-taking) would have had outside the court. Others, though, such as emphases on 'industriousness' and 'neighbourliness' *were* significant components of popular constructions of 'honesty' and 'credit'. And, after all, the institution and its officers also influenced the composition of defamation from verbal insults and exchanges in a number of ways that should not be overlooked.

'Honest labour' is a neglected component of the construction of honesty and reputation, especially for 'plebeian' women, again partly as the result of the emphasis on sexual defamation.<sup>54</sup> While 'occupational' identities were much stronger for men than women, 'industriousness' was a positive quality for both women and men.<sup>55</sup> Moreover, it was an important one for countering allegations of

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<sup>53</sup> Elizabeth Ashton *c.* Martha Coates (1673), CP H3023, H2909.

<sup>54</sup> Walker, 'Expanding the boundaries', 238.

<sup>55</sup> See Michael Roberts, "'Words they are women and deeds they are men": images of work and gender in early modern England', in Lindsey Charles and Lorna Duffin (eds.), *Women and work in pre-industrial England* (London: Croom Helm, 1985), 122-81.

‘poverty’ and ‘dependency’. Katherine Watson was one of those called to give evidence against Elizabeth Sellar for defaming Margaret Pape. George Dickinson, corroborated by his wife, deposed that Katherine had been apprenticed to him by the city (suggesting that she was a pauper-apprentice), that she had run away from his service twice and he suspected her of stealing from him, and that ‘she was and is a very poore indigent person’. However, two witnesses defended Katherine: ‘a very honest laborious girle, not poore or indigent but maintaines herself very hansomely by her honest endeavors’; ‘a very civil laborious girle and mainetaines herselfe very hansomely and credibly’.<sup>56</sup>

The starting point of attacks on the credit of John and Elizabeth Stephenson, witnesses for Elizabeth Ballard, was that they were ‘very poore’ (before they went on to extensive details of John’s particular offences which included theft of food and books and cheating both employers and workmates), and that they were dependent on the Ballards for their living, except for a small income from selling ale (which was in itself represented by the witnesses as a discrediting activity). Elizabeth Ballard responded that John and Elizabeth were ‘very honest laborious and industrious people’, not dependent on her or her husband at all, and brought witnesses to testify to their regular attendance at church.<sup>57</sup> ‘Dependency’ - the opposite of the independence that was so important to middling status and identity - was in a number of cases used to suggest susceptibility to pressure to lie under oath. Servants were clearly vulnerable to such suggestions. In two causes brought by Mary Grayson, against Theophilus Young and Jane Tockets (*alias* Young, presumably married or related to Theophilus), the defendants complained that the witnesses were servants of Mr Marmaduke Butler, and that as Mary was his housekeeper, she had ‘great power command and influence’ over them.<sup>58</sup>

All kinds of ‘dishonesty’, as well as swearing and cursing, and enmity towards a litigant, could be used to suggest perjury, which was a crucial element in attempts to undermine witnesses’ testimony. Both of Christian Needham’s witnesses against in her cause against Anne Harland were described as ‘professed’, ‘implacable’ enemies of the Harlands; Jane Robinson had ‘openly declared since this suite begun that she would not stick to forswear herselfe to doe them an injury’, and Francis Taylor had ‘publicly declared since this suite begun... that he would ruine’ the Harlands. These drew countering

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<sup>56</sup> Margaret Pape *c.* Elizabeth Sellar (1696), CP H4491 (and see CP H4489-90).

<sup>57</sup> Elizabeth Ballard *c.* Thomas Penrose (1685), CP H3692.

<sup>58</sup> Mary Grayson *c.* Theophilus Young (1695), CP H4456; Mary Grayson *c.* Jane Tockets *als* Young (1695), CP H4548.

denials, positive assertions of Robinson's and Taylor's honesty and integrity and negative allegations against a number of those women who had testified against Robinson and Taylor as 'persons of very bad life and conversation', 'of little or no credit amongst their neighbours', who 'might easily be prevailed with to swear an untruth'. One, Margaret Newham, was described as 'a distracted person and sometimes kept up in the house of correction as such'. Another was alleged to have had two bastard children. But these accusations, again, led to further defences: 'a very honest lawfull and industrious woman', 'of good and quiet life', 'of good credit'. Margaret Newham 'has sometimes been disordered and somewhat distracted by fitts with troubles and vexation, but when she's out of such fitts she is very sensible and capable' and 'behaves herself very civilly with a great deale of respect amongst her said neighbours'. This cause ultimately involved a total of fourteen witnesses - of whom only two testified to the original incident over which Christian Needham sued.<sup>59</sup>

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That encounter is obscured as witnesses, using a range of strategies, contested the honesty and credit of other witnesses. Even so, the conflict between Christian and Anne remains at the centre of the case; without it, none of the testimonies would exist in any case. Further, the two litigants would undoubtedly have chosen their witnesses with some care, informed by their knowledge of local relationships and reputations. Complex dynamics of neighbourhood politics, more often masked by the litigants' immediate, personal interactions, can be glimpsed at work in this case. As with 'gossip', the fact that these manifestations of neighbourhood politics are less easily observed, largely anonymous background whisperings rather than noisy verbal dramas played out between individuals, should not lead to underestimating their importance. Individual litigants' chances of success in court depended vitally on their standing amongst their neighbours, on being able to call on the support of 'credible' and sympathetic witnesses. In turn, what made a witness credible depended not simply on individual ability to craft an effective, believable narrative, but also on 'public opinion' or, to be more accurate, public *opinions*. We are not looking at consensus, as the competing and contradictory assessments of witnesses clearly indicate. Having pointed out the importance of one's existing 'stock' of credit, the complexities of its constitutive elements, combined with subjective differences of opinion, tensions and rivalries, created the possibility of change. Reputation was never fixed or final; whether male or female, it was not formed on a single spectrum, nor was it based on absolute difference. Defamation involved attempts to influence opinions, to persuade, to alter the existing balances; and, as reputation could be attacked and contested, so it had to be continually maintained and defended.

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<sup>59</sup> Christian Needham *c.* Anne Harland (1696), CP H4453, H4507, H4503, H4472.

## *Conclusion*

### *The personal and the political? Reputation, sex and the power of words*

As characterised by an anthropologist, honour represents ‘a nexus between the ideals of a society and their reproduction in the individual through his [*sic*] aspiration to personify them’.<sup>1</sup> Sexual practices, household and marital relations are explicitly regarded as issues of concern to the whole of society. There may be signs of shifting attitudes in the late seventeenth century: one of the themes in Richard Allestree’s *Government of the tongue* is a concern with the inappropriate ‘public’ exposure of ‘private crimes’.<sup>2</sup> They are not, however, reflected in the expanding business of defamation causes. In defamation, the ‘personal’ meets the ‘political’, and distinctions between ‘private’ and ‘public’ are erased. Defamers were censured and made to apologise for their malicious intentions, their lack of ‘charity’, rather than for speaking publicly of sex *per se*.<sup>3</sup> And even where sexual defamation causes represent conflicts between individuals, they reflect the seriousness of contemporaries’ attitudes towards sex and underline the power of words about sexual conduct and ‘dishonesty’.

As has been emphasised in the course of this thesis, a defamation cause demonstrates *both* the power of defamatory words *and* their contestability. Sexual defamation cannot, therefore, be taken as a simple, repressive, instrument of moral regulation. It may be seen, however, as an important mechanism in the maintenance of ‘symbolic power’. A woman suing in court over an insult such as ‘whore’ was forcefully rejecting that accusation against herself, but she *was* accepting, and reinforcing, the ‘symbolic system’ in which the name ‘whore’ carried so much negative force against women.<sup>4</sup> When a man sued a woman for speaking of his sexual transgressions, he demonstrated his concern for his sexual reputation *and* benefited from the patriarchal system that named women as deceitful, cunning liars.

It is this that underlines the limitations of the power and influence that women could wield. They

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<sup>1</sup> Julian Pitt-Rivers, ‘Honour and social status’, in J. G. Peristiany (ed.), *Honour and shame: the values of Mediterranean society* (Chicago: University of Chicago Press, 1966), 21-2.

<sup>2</sup> Richard Allestree, *The government of the tongue* (Oxford, 1702), e.g., 78-9.

<sup>3</sup> See Jane Peacock *c.* Mary Ascough, DC CP 1676/6, for an example of the penitent ‘declaration’ that defendants judged guilty had to make.

<sup>4</sup> On ‘symbolic power’, see Pierre Bourdieu, *Outline of a theory of practice* (Cambridge: Cambridge University Press, 1977), 190-7; *idem*, *Language and symbolic power* (Cambridge: Polity, 1991), 163-70.

could express grievances, exercise perceived moral responsibilities and assert their expectations; they could participate in informal communal sanctions, in circulation of gossip and processes of character-evaluation. But they were always vulnerable to being named and shamed, in terms that were only rarely, or simply not applied to men, for such activities - 'scold', 'gossip', 'impudent whore' - most of all, when they made *men* the targets of their criticisms. Anonymity and collectivity offered some protection; to be isolated and visible was a particularly vulnerable, powerless, situation. This may provide an additional insight onto the high proportion of married women amongst female plaintiffs, especially given the numbers of male defendants in this sample: however shadowy the husband's presence and support, it *was* a male presence, lending an extra degree of authority that would not have been available to a single woman.

It has been a central argument in this thesis that early modern reputation needs to be understood primarily in terms of 'the household' rather than simply as a quality of individuals. That does not mean that its meanings were the same for every member of a household; the differences embody those of early modern hierarchies - especially gender and rank. The household was a highly important institution in the complex webs of early modern society, and the most 'personal' of all those institutions in a setting where authority was highly 'personalised'.<sup>5</sup> In such a context, it is hardly surprising that the most personal relationships between husband and wife could carry such social and political significance, nor that ideas and concerns about sexual relations should mirror ideas about gender relations more generally. Sex was not, could not be, a 'private' matter.

Words about sexual dishonour, then, were powerful weapons. They were not the only effective verbal weapons, however, and words about specifically sexual 'dishonesty' need to be understood as part of a wider range of dishonouring strategies. We also need to avoid assuming that the sexual components of defamation had an overwhelming, unvarying significance. The emphasis on sex is in part due to the priorities of, and the constraints upon, the church courts, creatively manipulated by those who used this particular legal institution; much work remains to be done on defamation in secular courts. And, as has been stressed throughout this thesis, we should not exaggerate the differences between female and male honour or the strategies by which women or men could be dishonoured. Chastity, with the effects of transgression marked out on the female face and body, *was*

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<sup>5</sup> See Paul Griffiths *et al*, *The experience of authority in early modern England* (Basingstoke: Macmillan, 1996), introduction.

more important for women than for men; but that does not mean that chastity was women's sole concern or that men (certainly, at least, respectable 'middling' men) could be promiscuous without censure.

Defamation tends to disrupt the overly-schematic frameworks of Michel Foucault's history of sexuality, the supposed transformation from a 'markedly unitary' medieval discourse to 'an explosion of distinct discursivities' from the eighteenth century.<sup>6</sup> Moreover, at the centre of defamation is a 'technique' for the production of truth that Foucault touched upon and then, unfortunately, neglected in his emphasis on the 'confessional': *witnessing*.<sup>7</sup> And yet his insistence that models of sexual 'censorship' or 'repression' are inadequate, offers a number of insights onto the relationships between sex, defamatory linguistic practices and the deployment of power. What kind of discourse on sex and gender *is* sexual defamation? What kind of knowledge/power is being produced? It is not purely 'legalistic' nor 'popular'; defamation causes were initiated and pursued by individuals, but as historically-situated members of complex social groupings, in a legal forum bound by complex rules. The verbal insults and the ensuing litigation very often need to be placed in the contexts of interpersonal disputes and rivalries; but the power of those insults, both in their content and the 'modes' in which they were communicated and contested, the specific choices made by individuals pursuing their concerns, have to be understood within social and cultural systems of belief.

And, even though the scales might be unevenly weighted by gender and rank, these are primarily contests between individuals of similar status, closely balanced 'credit', manoeuvring for quite small-scale - but intensely-felt - advantage. The discursive practices of defamation go far beyond those who actually appeared in court; in defamation causes, the 'neighbourhood' represents a set of largely anonymous background voices, but nonetheless is crucial for understanding the importance of reputation and individual decisions to litigate. Nevertheless, defamation focuses attention on the broadly 'middling' people who were the majority of litigants, and comprised a considerable proportion of the population, though they have often been neglected by historians. It offers crucial insights into understanding their attitudes and experiences, their anxieties and rivalries, that can take us beyond polarised models of homogeneous 'popular' and 'elite'. Defamation *is* a highly gendered discourse, but it cannot be understood in terms of gender alone. It is a discourse of elusive, shifting

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<sup>6</sup> Michel Foucault, *The history of sexuality. Volume 1: an introduction* (Harmondsworth: Penguin, 1981), 33.

<sup>7</sup> *ibid*, 58-9.

balances of multi-faceted differentiation. It is an unstable discourse, a discourse without definitive versions; reputations are 'on-going', always being discussed, attacked, defended. And yet it is in many ways a 'conservative' discourse. The power of dishonouring words in early modern society depended largely on the manipulation, however creative, of existing structures and beliefs: about order and authority, about women and men, about virtue and vice. The elements and meanings of 'honesty' shifted over time, individual 'credit' varied; but the importance of 'name' and 'good fame' endured.

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