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CHAPTER 21

THE SELF-PORTRAYAL OF WIDOWS IN THE EARLY MODERN ENGLISH COURTS OF LAW

LOTTE FIKKERS

ACCORDING TO T. E. in his *The Lawes Resolution of Womens Rights* (1632), early modern English women were understood to be ‘either married or to bee married’.¹ Indeed, women’s legal status was attached to their marital status: women were thus identified as maid, wife, or widow. Under the common law, married women were classified as *femes covert*, because the legal principle of *coverture* considered their legal identities subsumed, or covered, by their husbands upon their marriage. As a result, they were unable to enter into contracts, start suits, or own property without their husband’s approval. Maids and widows were labelled as *femes sole* and were not restricted by the rules of *coverture*. The tripartite framework of maid, wife, and widow was thus tied to women’s legal identity.

This rigid three-part model has, however, been challenged by various historians and literary scholars alike. Amy Froide, for example, has suggested that a two-part model does more justice to early modern perceptions of women’s legal status. She proposes that we should distinguish never-married women (single women) from ever-married women (married women and widows), because of the different roles and positions these groups of women occupied in early modern English society.² Although single women and widows were both considered *femes sole*, Froide argues that their shared legal status

¹ T. E., *The Lawes Resolution of Womens Rights* (London, 1632), 6.

² Amy M. Froide, *Never Married: Singlewomen in Early Modern England* (Oxford, 2005), 16. See also Amy M. Froide, ‘Marital Status as a Category of Difference: Singlewomen and Widows in Early Modern England’, in Judith M. Bennett and Amy M. Froide (eds), *Singlewomen in the European Past, 1250–1800* (Philadelphia, PA, 1998), 236–69.

was only theoretical: while the appropriate role of a never-married woman was that of household dependent, wives could assist their husbands, and widows were capable of running their own households.³ More recently, Rebecca Mason has argued that neither two-part nor three-part structures do justice to women's actual legal positions. She suggests that we should look at how women effectively used the law, rather than at what legal handbooks prescribed. The variety of women's legal identities as noted down by clerks in Scottish burgh and commissary courts reveals that those women could occupy different positions at the same time, such as wife *and* daughter. A woman's legal position was thus not only dependent on marital status, but also on other intersecting factors including the presence of siblings or any existing property rights.⁴ Indeed, the legal archives contain many records featuring women who do not neatly fit the strict tripartite characterisation of maid, wife, or widow. According to Subha Mukherji, this situation is mirrored on the early modern stage, as 'Renaissance drama is full of men and women with an uncertain and indeterminate marital status'.⁵ One example is *Measure for Measure's* Mariana, who is 'neither maid, widow, nor wife' after Angelo refuses to recognise her as his wife (Shakespeare, 5.1.176–7).⁶ The tripartite division thus does not do justice to the diversity of women's legal identities—neither in real life nor on the early modern stage.

Particular attention has been paid to demonstrate that this is true for married women. According to Tim Stretton, for instance:

the idea that married couples became one flesh before God and one person at law provided a handy shorthand for lawyers and commentators, especially in the area of property, but it does not capture, not does it explain, the full complexity of married women's status in day-to-day life.⁷

Mason, too, has convincingly demonstrated that married women, in particular, could alternate between personae depending on the case at hand: married female litigants could choose to appear as daughters in one suit, but emphasise that they were married women in the next.⁸ Rather than having one fixed, stable legal identity, then, married women could and did invoke different versions of the self in different legal contexts.

Shaping their legal identities to match a particular context was not a strategy reserved to wives, however. This chapter shows that widows, too, could draw on an array of

³ Froide, *Never Married*, 17.

⁴ Rebecca Mason, 'Women, Marital Status, and Law: The Marital Spectrum in Seventeenth-Century Glasgow', *Journal of British Studies*, 58 (2019), 787–804, 795.

⁵ Subha Mukherji, *Law and Representation in Early Modern Drama* (Cambridge, 2006), 17.

⁶ William Shakespeare, *Measure for Measure*, in John Jowett, William Montgomery, Gary Taylor, and Stanley Wells (eds), *The Oxford Shakespeare: The Complete Works* (Oxford, 2005).

⁷ Tim Stretton, 'The Legal Identity of Married Women', in Andreas Bauer and Karl H. L. Welker (eds), *Europa und Seine Regionen: 2000 Jahre Rechtsgeschichte* (Cologne, Weimar, and Vienna, 2007), 309–21, 312.

⁸ Mason, 'Women, Marital Status, and Law', 803.

different labels when representing themselves in the courts of law. Indeed, it was particularly important for relicts (widows) to pay attention to their self-representations, as there were various stereotypes of what Stretton refers to as the ‘bad widow’ in existence against which they had to defend themselves.⁹ At the same time, as this chapter aims to demonstrate, litigating widows could draw on literary models to help shape their legal persona as the ‘good widow’ in the court room. The ‘biblical widow’ and the ‘eternal wife’ were potent templates of self-representation, rooted in literary texts, and employed by women in their life-writing to counter negative stereotypes about widowhood. After discussing these stereotypes, this chapter analyses Lady Anne Halkett’s and Katherine Austen’s identification with the ‘biblical widow’ and the ‘eternal wife’ in their life-writing. By reading autobiographies, diaries, and meditations alongside legal records, it will then show that these literary models were not only used in literary texts, but also applied by litigants in a legal context. Working with records from the Court of Requests, this chapter ultimately argues that negative stereotypes both necessitated and allowed relicts to draw on literary models in the court room to escape the strict three-part legal framework of maid, wife, and widow.

THE LITERARY WIDOW: STEREOTYPES AND MODELS

The position of widows was a hotly debated issue in early modern England.¹⁰ According to Barbara J. Todd, early modern English society required that ‘the household should be headed by a man’; where a woman headed the household, this contradicted the patriarchal ideal.¹¹ Yet Eleanor Hubbard has calculated that roughly eighty per cent of London’s relicts lived independently.¹² This large number of widows performing the role of head of the household would certainly have led to anxiety amongst those in favour of patriarchal norms. As a result, widows were the subject of scrutiny: those who remained single were feared and those considering remarriage could be seen as hypocritical or

⁹ Tim Stretton, ‘Widows at Law in Tudor and Stuart England’, in Sandra Cavallo and Lyndan Warner (eds), *Widowhood in Medieval and Early Modern Europe* (Abingdon, 2014), 193–208, 205.

¹⁰ Renu Juneja, ‘The Widow as Paradox and Paradigm in Middleton’s Plays’, *The Journal of General Education*, 34 (1982), 3–19, 4–5. See also Vivien Brodsky, ‘Widows in Late Elizabethan London: Remarriage, Economic Opportunity and Family Orientations’, in Lloyd Bonfield, Richard M. Smith, and Keith Wrightson (eds), *The World We Have Gained: Histories of Population and Social Structure* (Oxford, 1986), 122–54; Elizabeth Foyster, ‘Marrying the Experienced Widow in Early Modern England: The Male Perspective’, in Sandra Cavallo and Lyndan Warner (eds), *Widowhood in Medieval and Early Modern Europe* (Harlow, 1999), 108–24.

¹¹ Barbara J. Todd, ‘The Remarrying Widow: A Stereotype Reconsidered’, in Mary Prior (ed.), *Women in English Society 1500–1800* (London and New York, 1985), 54–92, 55.

¹² Eleanor Hubbard, *City Women: Money, Sex and the Social Order in Early Modern London* (Oxford, 2012), 261–2.

intimidating, given their financial independence and sexual experience.¹³ As both remarriage and staying single could be sources of apprehension, relicts had to walk a fine line.

This made the position of widows ripe material for early modern dramatists. On the one hand, widows could be portrayed as societal misfits for staying single. An example is mother Sawyer in Rowley, Dekker, and Ford's *The Witch of Edmonton* (1621), who is the stereotypical perennial relict heading her own household: she is feared by her community, accused of witchcraft, and ostracised by society. Indeed, the stereotypical witch was thought to be a widowed, elderly, post-menopausal woman.¹⁴ At the same time, dramatists frequently used the trope of the rapidly remarrying widow. Such widows were often exposed as hypocritical. The widowed Eudora in George Chapman's *The Widow's Tears* (c 1605), for instance, vows to remain 'a fort of chastity' by refusing to remarry.¹⁵ The play demonstrates 'how short-lived widows' tears are', when only a few lines later in the same scene Eudora does choose to remarry (1.1.141–2). Playwrights thus had two potent stereotypes they could draw on when depicting women who had lost their husband: the widowed witch and the hypocritical widow seeking a quick remarriage.

A third stereotype regarding the relict which playwrights could use was that of the loud and litigious widow.¹⁶ She was frequently found on the early modern stage: litigating stage-widows include Thomas Middleton's Valeria in *The Widow* (c 1615), John Webster's Leonora in *The Devils Law-Case* (c 1617), and John Fletcher and Philip Massinger's Jacintha in *The Spanish Curate* (1622). A particularly loud and litigious widow is depicted by William Wycherley in *The Plain Dealer* (1676). The list of characters preceding the play already identifies widow Blackacre as a 'petulant, litigious widow, always in law', and other characters describe her as a 'litigious she-pettifogger', 'as vexatious as her father was, the great attorney . . . and as implacable an adversary as a wife suing for alimony'. Moreover, 'she has no pleasure, but in vexing others'.¹⁷ The litigious widow, too, was thus a frequently used trope on the early modern stage.

¹³ Ulrike Tancke, 'Bethinke Thy Selfe' in *Early Modern England: Writing Women's Identities* (Leiden, 2010), 146.

¹⁴ James Sharpe, *Instruments of Darkness: Witchcraft in Early Modern England* (Philadelphia, PA, 1996), 176; Lyndal Roper, *Oedipus & the Devil: Witchcraft, Sexuality and Religion in Early Modern Europe* (London and New York, 1994), 211.

¹⁵ George Chapman, in Akihiro Yamada (ed.), *The Widow's Tears* (London, 1975), 1.1.125.

¹⁶ A fourth stereotype, which will not be discussed in detail here, is that of the older, rich widow, hunted by suitors for her money. Amy Louise Erickson has demonstrated that this stereotype was not rooted in reality: widowers remarried more often than widows, and wealthy widows remarried less often than less well-off widows; *Women and Property in Early Modern England* (London and New York, 1993), 196. For more on the representation of the widow hunt on the early modern stage, see Ira Clark, 'The Widow Hunt on the Tudor-Stuart Stage', *SEL: Studies in English Literature 1500–1900*, 41 (2001), 399–416 and Renu Juneja, 'Widowhood and Sexuality in Chapman's "The Widow's Tears"', *Philological Quarterly*, 67 (1988), 157–75.

¹⁷ William Wycherley, *The Plain Dealer*, in Peter Dixon (ed.), *The Country Wife and Other Plays* (Oxford, 1996), 283–399 (289), 1.1.391–410.

The stereotypical litigious widow was based on her real-life historical counterpart. This stereotype must have been so persistent, or so feared, that it caused Juan Luis Vives to insist in his conduct book that relicts should avoid entering into legal proceedings, because doing so would harm their reputation of modesty.¹⁸ Sure enough, immediately upon the death of their husband, women often found themselves thrust into the legal arena. Widows could be appointed as executrix or administratrix of their late husband's affairs, roles in which they would have to settle affairs with creditors and debtors—often in court. Even if they were not officially appointed to oversee their late husband's estate, widows could find themselves in court to deal with the legal and financial consequences of widowhood. As 'up to 45% of all women could expect to be widowed at some time in their lives,' as Amy Louise Erickson has calculated, a large proportion of relicts was thus bound to engage with the law.¹⁹ This experience, peculiar to widows, led to the stereotype of the litigious widow.

As a result, any widowed woman writing for a (perceived) audience would have to deal with these stereotypes regarding widowhood. Stretton has demonstrated that litigating widows and their legal counsel attempted to 'distance themselves from these damaging stereotypes of the "bad" widow.'²⁰ However, because widows could anticipate invocations of litigiousness or deviation from the accepted patriarchal norms, they were also able to prepare a carefully constructed persona to counter any such allegations: 'the "good" widow.'²¹ This holds true not only for litigating widows, but for all relicts who attempted to create a written portrait of the self. A widow's self-portrayal thus had to be, and could be, carefully navigated—both in and outside the courts of law. This could be done by making use of literary models. Two models were particularly potent and will be discussed here: the biblical widow and the eternal wife. In each case, the model allowed widows to ameliorate the anxieties regarding a relict's renewed status as *feme sole*, as becomes clear by looking at the life-writing of Lady Anne Halkett and Katherine Austen.

Lady Anne Halkett, née Murray, (1622–1699) was a prolific life-writer: she produced her autobiographical 'True account' (1677–1678) and twenty-one manuscript volumes full of 'Meditations' (1658–1699).²² In one of her meditations ('vpon my deplorable beeing a Widow'), she reflects on her status as a widowed woman.²³ She introduces the 'biblical widow' as a model for her own behaviour. This biblical widow is what:

¹⁸ Juan Luis Vives, in Richard Hyrde (trans.), *A Very Frutful and Pleasant Boke Called the Instruction of a Christen Woman* (London, 1547), sigs. 137r–138v.

¹⁹ Erickson, *Women and Property*, 154.

²⁰ Stretton, 'Widows at Law', 205.

²¹ Stretton, 'Widows at Law', 205.

²² The autobiographical 'True account' is held at the British Library, Add. MS. 32376; the extant volumes of the 'Meditations' are held at The National Library of Scotland, MS. 6490–502.

²³ Suzanne Trill (ed.), *Lady Anne Halkett: Selected Self-Writings* (Aldershot, 2007), 34. All references to the 'Meditations' are taken from this edition.

St Paul Calls a Widow Indeed (Oh to bee such a one)[,] desolate (w^{ch} I understand to bee alone & retired)[,] trusting in God[,] & Continuing in Suplications & Prayers Night & day. [B]lamelese, well reported of for Good workes[,] brought up children[,] Lodged strangers[,] washed the Saints feet[,] releevd the afflicted[,] diligently followed every good worke[. T]his Lord I desire to doe. (37)²⁴

Halkett thus strives to live a God-fearing life, dedicating her time to prayer and doing good deeds. This is the kind of widow few people could object to: rather than unsettling patriarchal norms by boldly heading a household, this type of widow served society by leading a charitable life.

The biblical widow not only does good deeds, however; she also requires God's provision as she lives in relative poverty as a result of giving away all her money and material property to those in need. In Psalm 68, God is described as the 'Father of the fatherless and protector of widows' (5).²⁵ Halkett is well aware of this and specifically seeks out God's protection: 'For thou hast promised to establish the border of the widow <and> to Execute the Judgementt of the fatherlese'. This protection, for Halkett, is shaped in the form of financial prosperity, as she desires God 'to multiply what is yet left[. T]hat the Creditors may bee Satisfied *and* wee may Liue vpon the rest' (35). The biblical widow is thus the giver of charity as well as the potential receiver of it.

The model is also a useful shield against unwanted suitors. In the same section of her 'Meditations', Halkett considers remarriage. A new husband would offer financial security and allow Halkett to be 'inabled to pay my depts *and* bee more usefull to the poore'. While such relief from financial worries would be welcome, Halkett asks God to provide 'strength to resist this Temptation' of remarriage. She ultimately decides against accepting her suitor's 'Riches' and instead chooses to 'place more true Contentt in my quiett retirementt' (49). The model of the biblical widow thus offered the widow an acceptable way of styling herself in order to mediate patriarchal anxieties.

Halkett was in particular need of such careful and strategic styling, given her eventful and rather scandalous past.²⁶ The 'True account' details her romantic involvement with the Royalist spy Joseph Bampffield. This relationship left Halkett vulnerable to gossip, as her lover was, unbeknown to Halkett at the time, already married to someone else. Much of her autobiography is therefore an attempt at vindicating her own life.²⁷

²⁴ In her paraphrasing of 1 Timothy 5,5–10, Halkett conveniently leaves out 5.9, where Paul preaches against the giving of charity to a widow under the age of sixty. She wrote this passage in 1670, when she was 48 years old.

²⁵ *The Bible, English Standard Version*, 2016, <https://www.bible.com/bible/59/PSA.68.5-6.ESV>.

²⁶ For the rhetorical strategies Halkett employs in her autobiographical work, see Judith Kearns, 'Fashioning Innocence: Rhetorical Construction of Character in the Memoirs of Anne, Lady Halkett', *Texas Studies in Literature and Language*, 46 (2004), 340–62.

²⁷ Nadine Akkerman, *Invisible Agents: Women and Espionage in Seventeenth-Century Britain* (Oxford, 2018), 182–203; Sheila Ottway, 'They Only Lived Twice: Public and Private Selfhood in the Autobiographies of Anne, Lady Halkett and Colonel Joseph Bampffield', in Henk Dragstra, Sheila Ottway, and Helen Wilcox (eds), *Betraying Our Selves: Forms of Self-Representation in Early Modern English Texts* (Basingstoke, 2000), 136–47.

For this reason, perhaps, Halkett sought to align herself with the biblical widow in her 'Mediations', which she uses, according to Suzanne Trill, 'to (re)construct herself in accordance with the rather more solemn, biblical example of "a Widow Indeed"'.²⁸ Regardless of whether she was the embodiment of the biblical widow, Halkett certainly had good reasons to portray herself as one.

Relicts could also choose to model their self-portrayal on the type of the eternal wife. The clergyman William Gouge thought that for many spouses 'their love of a former husband or wife departed is so fast fixed in their heart, as they can never againe so intirely loue any other. They who are so minded are not fit to be joined with another yoke-fellow after they are loosed from one'.²⁹ Such spouses could choose to remain eternally married to their partners, becoming, in the case of women, perpetual wives. Widows aspiring to such a status could turn to Homer's *Odyssey* for an example. In this epic, Penelope, wife of Odysseus, becomes a symbol of marital fidelity by refusing all her suitors during her husband's twenty-year absence. She even devises several tricks to keep the suitors at bay. Katherine Austen (1628–1683), diarist and poet, is one such widow who turned to Penelope's example.³⁰ In her diary *Book M*, Austen writes that she does not want to remarry, out of 'perticular esteeme to my *Deare Friend*'.³¹ Consequently, she describes herself to a suitor as 'like pennelope, alwayes employed' (148). The suitor for her hand in marriage recognised Austen's literary allusion to Penelope: 'I ses he her lovers could not abide her for it' (148).³² Austen's comparison to Penelope is, however, not merely a sign of her fidelity to her husband, but also, according to Sarah C. E. Ross, driven 'by a desire to preserve his patrimony for her eldest son'.³³ Like the biblical widow, then, the model of the eternal wife could be strategically adopted to create a certain image of the self, even if there were ulterior motives.

While Austen portrays herself consistently as an eternal wife,³⁴ Anne Halkett uses this model in her 'Meditations' but deviates from it in her autobiography. In her 'Meditations', Halkett styles herself as a perpetual wife and is resolved to 'ever . . . Live like

²⁸ Suzanne Trill, 'Introduction', in Suzanne Trill (ed.), *Lady Anne Halkett: Selected Self-Writings* (Aldershot, 2007), xvii–xlii (xviii).

²⁹ William Gouge, *Of Domesticall Duties* (London, 1622), 226.

³⁰ She also adopted the persona of the biblical widow, as is argued in Raymond A. Anselment, 'Katherine Austen and the Widow's Might', *Journal for Early Modern Cultural Studies*, 5 (2005), 5–25, 7.

³¹ Katherine Austen, in Sarah C. E. Ross (ed.), *Katherine Austen's Book M: British Library, Additional Manuscript 4454* (Tempe, AZ, 2011), 116. All quotations from *Book M* are taken from this edition.

³² For a more thorough analysis of the simile between Austen and Penelope, see Pamela S. Hammons, 'Introduction', in Pamela S. Hammons (ed.), *Book M: A London Widow's Life Writings* (Toronto, 2013), 19–20.

³³ Sarah C. E. Ross, "'Like Penelope, Always Employed': Reading, Life-Writing, and the Early Modern Female Self in Katherine Austen's *Book M*", *Literature Compass*, 9 (2012), 306–16, 313.

³⁴ She is less consistent in adopting the model of the 'biblical widow': according to Pamela Hammons, Austen represents herself 'both as a helpless, persecuted widow and as a prophet with divine gifts' ('Widow, Prophet, and Poet: Lyrical Self-Figurations in Katherine Austen's "Book M" (1664)', in Barbara Smith and Ursula Appelt (eds), *Write or Be Written: Early Modern Women Poets and Cultural Constraints* (Aldershot, 2001), 3–27, 4).

[her late husband's] Widow' (38). And so she did: Halkett remained a widow for twenty-nine years after her husband's death, rebuking at least one suitor. Throughout most of her autobiography, on the other hand, Halkett makes a point of styling herself as a single woman. This autobiography was written in c 1677/8, when she had, in fact, already been widowed for some years (Sir James Halkett died in 1670). Rather than presenting her work under her husband's name, however, the 'True account' bears Anne's maiden name, Murray. Although the choice for Murray over Halkett may have been an editorial one, the fact that the autobiography focuses on Halkett's life as a single woman gives reason to believe that 'Murray' may have been a strategic choice made by Anne herself. The reason behind the self-representation as a single woman may, yet again, be found in Halkett's tumultuous past. It is possible that Halkett did not want to tarnish her late husband's name with her past disreputable behaviour and therefore distanced herself from him by styling herself as a single lady, while in her widowhood. If so, Halkett presented herself in line with the task at hand, and offered a different version of her life and herself in each different case. For Susan Wiseman, this means that Halkett's life is captured by 'a complicated web of texts, available to different readers at different moments'.³⁵ Suzanne Trill, too, argues that attention needs to be paid to 'the plurality of Halkett's "lives"' as captured in her various texts.³⁶ This does not hold true only for Halkett: all early modern widows could, and did, present themselves and the relationship to their late husbands according to their text's purpose and its intended audience.

THE LEGAL PERSONA OF THE WIDOWED LITIGANT

The literary models were not reserved to the writers of literary texts only. They served litigating widows particularly well, too, when these women tried to move beyond the restrictive tripartite model in a bid to strengthen their case. Certainly, some women simply and straightforwardly describe themselves, or let themselves be described by their legal counsel, as widows or relicts. Often, however, they offer more detailed self-portrayals that move beyond the label of 'widow'. But where widowed life-writers were capable of switching personas within their texts, and across their texts, litigating widows had to offer a singular version of the self to meet the demands of the legal case at hand. The two models, biblical widow and eternal wife, could help them in doing so.

³⁵ Susan Wiseman, "'The Most Considerable of My Troubles': Anne Halkett and the Writing of Civil War Conspiracy", in Jo Wallwork and Paul Salzman (eds), *Women Writing, 1550–1750* (Bundoora, Vic, 2001), 25–45, 29.

³⁶ Suzanne Trill, 'Beyond Romance? Re-Reading the "Lives" of Anne, Lady Halkett (1621/2?–1699)', *Literature Compass*, 6 (2009), 446–59, 454.

The model of the biblical widow gave widowed women the opportunity to counter the stereotype of the litigious widow and cast themselves in the role of helpless creature wholly dependent on the Court. This was particularly the case before the Court of Requests, as has been demonstrated extensively in Stretton's seminal study of women's participation in this Court.³⁷ The Court of Requests was a London-based equity court, which, according to the lawyer Thomas Ridley (b. before 1548–1629), was established to handle 'poore miserable persons causes, as Widowes and Orphans, and other distressed people, whose cases wholly rely on pietie and conscience'.³⁸ Placing themselves in a dependent role was something women did before this Court anyway, regardless of their marital status: maids, wives, and widows alike tended to make clear that they desperately needed legal relief. Such demands for help are so frequent that they become formulaic; almost all pleadings contain opening phrases such as: 'your said orator is without all remedy yf your greate Favor be not to her extended in this behalfe'.³⁹ Widows, however, modified such formulaic phrases at the beginning of their pleadings to further emphasise their helplessness. Johane Coppe, for example, suggests in her bill of complaint that 'she havinge nothinge ells to releve or comferte her withall beinge a woman of the age of threeschore yeares and above to her utter undowinge *and* overthrowe if some spedye remedie be not by your *majestie* herin provided'.⁴⁰ The Court here is cast as the widow's only saviour. If the Bible named God as protector of widows and orphans, here the Court of Requests is placed in the same position. Rather than portraying themselves as litigious, then, these women cast themselves as completely helpless and at the mercy of the Court.

Weakness and dependency thus become two key rhetorical elements in a biblical widow's self-representation in the Court of Requests, not just at the beginning of pleadings, but throughout them. Elizabeth Bedell, for example, refers to herself as 'being both aged and verye Impotent'.⁴¹ Maryan Smythe, too, mentions her age as a form of weakness, 'she beinge lxxx yerres of age and not hable to helpe her self', 'she beinge also an Annycient *parisshioner*', 'a sillye woman of lxxx yerres of age', and 'a verye Aged woman of lxxx yerres of ages *and* cannot travell'.⁴² Alice Cowper describes her dependency on the Court by stating she was 'without any frande'.⁴³ Poor health, old age, and the lack of support network were thus all forms of weakness and dependency that widows could use to align themselves with the biblical widow.

The same holds true for lack of money. Styling oneself as a 'pore widowe' is so common in legal pleadings that the phrase becomes an empty formulation. Widows thus modified it to their specific circumstances. Margerie Themilthorpe, for instance,

³⁷ Tim Stretton, *Women Waging Law in Elizabeth England* (Cambridge, 2005).

³⁸ Thomas Ridley, *A View of the Civile and Ecclesiasticall Law* (London, 1607), 229.

³⁹ London, The National Archives, Req 2/138/62, *Bygge v Pycke* (1577).

⁴⁰ London, The National Archives, Req 2/141/18, *Coppe v Smith* (1596).

⁴¹ London, The National Archives, Req 2/50/27, *Bownest v Bedell*, answer of Elizabeth Bedell (1600).

⁴² London, The National Archives, Req 2/48/25, *Huntington v Smythe*, answer of Maryan Smythe (1591).

⁴³ London, The National Archives, Req 2/140/36, *Clerke v Cowper*, answer of Alice (1594).

refers to herself as ‘very poore and overchardged with manie children’⁴⁴ and Anne Davie claims that ‘*your* highenes sayd poore subiect hathe many poore fatherless children, whereof sundrye of them bene of fewe yeres and verie chardgable to *your* highnes poore subiect to bringe upp’.⁴⁵ Agnes Bridges’ children required extra care: she describes herself as ‘a verye olde woman and not able to gett her lyvinge, having twoe sonnes thone blynde and thother lame’.⁴⁶ Other widows had to take care of other family members alongside their own children: Margaret Carter has to ‘maynteyne her selfe and her pore mother and two children’⁴⁷ and Elizabeth Thomas has ‘her poore Children and fammlye’ to think about.⁴⁸ To back up the claim of being a ‘poor widow’, then, women would share details about those whose mouths they needed to feed.

The weakness of a widow was not just absolute, it was also relative to their powerful legal opponents. Johan Fowles, for instance, describes herself as ‘a very power and neddy widow and the seid John Sencler [her legal opponent] A worshipfull esquier’.⁴⁹ Margaret Pralyn describes herself similarly: she ‘beinge Wyddowe verie simple and ignorant leste altogetther frendles and Fatherles and the defendentes verie coninge craftie and subtill people’.⁵⁰ This juxtaposition serves to make the widow appear even more helpless, as well as question the morality of the legal opponent, who is described as somebody with power and skills that are employed to destroy a poor, dependent relict.

That women chose to model their self-representation on the biblical widow does not mean that they were, in fact, poor or weak at all.⁵¹ Anne Hooton, for example, presents herself as poor when she may not have been. She describes herself as ‘lefted a verye poore ignoraunt weake and unbefrended woman charged with young Children’ after the death of her husband, but according to her legal opponent she is actually ‘a woman of great wealth and abillytie’.⁵² It is difficult to establish who is right in this case, but because Hooton was capable of settling her late husband’s debt with apparent ease, it seems likely that her claims of poverty are, at the very least, exaggerated. As such, the archetype of the biblical widow could be used by all widows, whether poor or not.

The model of the biblical widow thus contained three main elements: a petition to an authority figure, a self-deprecating portrayal of the widow, and a comparison to a powerful legal opponent. This made the biblical widow the perfect model to counter the persistent stereotype of the litigating widow. Rather than wanting to go to court, biblical

⁴⁴ London, The National Archives, Req 2/44/59, *Themilthorpe v Ecerton*, bill of Margerie Themilthorpe (1600).

⁴⁵ London, The National Archives, Req 2/43/51, *Davie v Davie*, bill of Anne Davie (1588).

⁴⁶ London, The National Archives, Req 2/56/87, *Bridges v Shynner and Obey*, bill of Agnes Bridges (1578).

⁴⁷ London, The National Archives, Req 2/188/6, *Carter v Hogge and Rowland Bates*, bill of Margaret Carter (1595).

⁴⁸ London, The National Archives, Req 2/41/99, *Thomas v Finche*, bill of Elizabeth Thomas (1575).

⁴⁹ London, The National Archives, Req 2/44/51, *Fowles v Sencler* (1559).

⁵⁰ London, The National Archives, Req 2/42/76, *Pralyn and Pralyn v Lloyd* (1594).

⁵¹ Tim Stretton has already demonstrated this, see Stretton, ‘Widows at Law’, 206–7; Stretton, *Women Waging Law*, 185–7.

⁵² London, The National Archives, Req 2/50/26, *Williams v Hooton and Hooton* (1598).

widows were forced to do so for their survival, and rather than evoking irritation, the biblical widow invites pity. This model could help widows not only to try and win their case, but also to present themselves in a certain way to the outside world—a way which could deviate from reality. As such, the choice to model oneself on the biblical widow in the courts of law is a deliberate form of self-fashioning.

The model of the eternal wife, too, could be a potent template for self-fashioning. Where Katherine Austen explicitly invoked the comparison to Penelope, however, no litigating widow chose to portray herself so openly as eternal wife. Instead, widows aimed to associate themselves with their late husbands and, as such, portrayed themselves in more subtle ways as the perpetual wife.

Customary law, the law practised in manors and boroughs, could require widows to remain single and chaste after the death of their husband in order to continue to enjoy the legal rights they had held while still married.⁵³ There was therefore a strong incentive for women to associate themselves with their late husband. We see this in the case of Alice Bowdon, who finds herself at law over a property in Northam, Devon. According to Bowdon:

there is a custome whiche (From the tyme whereof there is no memorie of manne to the contrarye[)] hathe ben that the wiefe of euerye suche Tenante seased of any the customarye landes and tenementes of the said mannor shall haue her widower estate whiche is so longe as she lyuethe sole and unmarried allthoo she be not named in the coppie.⁵⁴

Here, Bowdon argues that Northam maintains a custom that relicts are entitled to succeed their husbands as tenants, as long as they live ‘sole and unmarried’.⁵⁵ Even if the widow is not mentioned in the copyhold, living chaste and single allows her to enjoy such privileges. As such, legal rights are attached to her status as a widowed *feme sole* and her compliance with this role.

However, in these types of cases, widows refrain from explicitly labelling themselves as a *feme sole*. Although they *act* like *femes sole* by starting legal proceedings and heading their own household, they opt for terminology such as ‘relict’, ‘widow’, or ‘then Wife’ in their self-descriptions. Alice Tilcocke, for example, refers to herself as ‘wydowe the late Wief and Relict of William Tylcocke’ and ‘then Wife and nowe his relict and wydowe’ in her pleading.⁵⁶ This decision to act like a *feme sole*, but describe themselves in relation

⁵³ Such local cases could be tried before the Court of Requests, which could serve as a court of appeal for local suits or at first instance (for example, if parties feared the bias the of local court).

⁵⁴ London, The National Archives, Req 2/42/49, *Bowdon v Beaple* (1566).

⁵⁵ Such stipulations are numerous in the court records. We find them, for example, in the following cases: London, The National Archives, Req 2/42/49, *Bowdon v Beaple* (1566); Req 2/210/118, *Grove v Gould and Peverell* (1571); Req 2/35/50, *Grove v Thynne* (1573); Req 2/41/36, *Tilcocke and Tilcocke v Iuxton* (1579); Req 2/168/19, *Allambrige v Allambrige* (1586); Req 2/56/34, *Soppe v Weekes* (1594); Req 2/187/49, *Cosynes v Morgan and Brodribbe* (1560).

⁵⁶ London, The National Archives, Req 2/41/36, *Tilcocke and Tilcocke v Iuxton* (1579).

to their late husband suggests that widows (and their legal counsel) had a solid understanding of what the case at hand required: the affiliation to their late husband was what gave these widows their legal rights, while their ongoing claims to these rights rested on the condition of remaining single. While they did not explicitly invoke the trope of the eternal wife, then, the more subtle strategy these litigating widows employed was closely related to it.

This styling as implicit eternal wife is tied to very specific legal circumstances. As a result, there are only a few cases in which widows would want to present themselves as such. No legal situation required relicts to explicitly express their love and devotion to their late husbands. For that reason, we do not meet Penelope in the legal archive. This shows us that the legal action a widow was involved in determined, in large part, how she portrayed herself. Another reason litigating widows did not opt for the label of eternal wife was perhaps that the trope of the biblical widow was simply more powerful: she was in more need of protection and charity than the eternal wife.

Women were thus capable of fashioning themselves beyond the tripartite model of maid, wife, and widow, both in and outside the courts of law. The literary models of the biblical widow and eternal wife offered widows the opportunity to escape negative connotations attached to the label of ‘widow’, including the challenges she posed to early modern patriarchy and the idea that all widows were loud and litigious. The most potent of the two models was certainly that of the biblical wife. This countered the stereotype of the loud and litigious widow and invoked pity rather than anxiety. Moreover, it could be used as a framework by all women who had lost their husbands. This made it a powerful model for all widows seeking to create a written self-portrait. The template of the eternal wife, on the other hand, served little purpose in the courts of law, and was for that reason a less attractive model. At the same time, we do see it used by widows in their life-writing, which suggests that widows made conscious decisions about their self-portrayal—in and outside the court room. The type of text, its purpose, and its perceived audience are important factors when it comes to making such decisions. Where life-writing offered widows much flexibility to style themselves, relicts involved in legal suits were hampered by the nature of their law suit and the brevity required in legal pleadings. In all situations, however, widows had to carefully consider which version of the self would serve them best in the case at hand, and the models of the eternal wife and biblical widow helped them to do so.

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