Certain Other Countries

Conley, Carolyn A.

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Resolving the tensions between the Otherness of murder in the abstract and the quotidian reality of most actual homicides was a constant challenge for judges, jurors, and the press working to preserve the national image of the decent, respectable men like themselves. Throughout the United Kingdom, the first line was that murderers were foreigners—literally outsiders. Even native-born murderers were still Other—either insane or from a separate breed of monsters. But this differentiation did not square with the reality of most homicides since killers were often neither foreign nor psychotic. In addition to coming to terms with the fact that there might be killers in their midst, national identity was also impacted by how a nation dealt with killers.

In England two major trends were involved. One was the sense of Duty that the *Times* had described as essential to English character. “Our unwritten law is that everything is to be done in the best way possible, and that everybody is to act up to the most exalted canons of duty.” As the British Empire expanded and Britain’s position of the world’s greatest nation was both recognized and challenged, it became increasingly important that the British (read here definitely as English) be perceived not only as the richest and most powerful people in the world but also the noblest and best behaved. Those who failed to live up to the “exalted canons” were increasingly likely to suffer the consequences of that failure. The “unwritten law” and “exalted canons” were also being enforced by an expanding state power. The Englishman’s duty included going through proper channels. Physically chastising an impudent servant, child, or spouse was becoming less acceptable. Violence inspired by provocation or a manly impulse, though still highly praised in some quarters, was increasingly likely to incur punishment. These changes were disproportionately geared toward improving the behavior of the working classes, women, and others outside the charmed circle of middle-class men, but even for them the law and its sanctions were growing less flexible. There was, however, also a realization that the residuum might be beyond civilizing; so long as both killer and victim were from this group, the deaths might be considered regrettable but inevitable. For them, the occa-
sional example must be set by an execution, but otherwise the courts often dealt with them fairly leniently.

The Welsh took pride in the Cymry, even as their neighbors either ignored or made fun of them. Welsh homicide trials provide less useful information than those of the other nations. In part this is because the Welsh apparently had an extremely low level of interpersonal violence. Even the English recognized that the Welsh were a peaceful people. But the Welsh also seemed to prefer to settle things within their own culture. After hearing cases presided over by English judges according to English law, Welsh juries decided based on their own good judgment. The variance between the judge’s charge and the jury verdict in part reflected communication issues, but it may have also reflected the sense that the Welsh had their own standards and values to uphold.

Scotland had its own judicial system and its own concept of accountability. The Scots were more likely to demand that every killer atone for his sin, even if the sin was totally unintentional. On the other hand, Scottish justice was much more likely to be tempered with mercy, especially if the accused were a native Scot. The Scottish courts were less concerned with class and more concerned with ethnicity in that the Other in Scottish courts was so clearly linked to Irish immigrants. When a native Scotsman killed, though he would usually be required to atone, every mitigating factor would be considered. As a Scottish judge explained, the goal for everyone was actually twofold: to “just act like a man of sense and do your duty.” While the Scottish courts upheld the law, good sense dictated that the punishments inflicted on respectable Scots should not be overly harsh. Equity and reason were both crucial in determining sentences. As the Scotsman frequently pointed out, the English were too rigid and thoughtless in their mindless conformity to Duty whether it made good sense or not. But good sense also dictated that mercy not be shown to the unworthy. The Irish were increasingly dealt with as hopeless savages who were not only ruining their own country but were polluting Scottish society as well.

The situation in Ireland was different. Not only were the Irish more tolerant of recreational violence, they were less willing to have their fellow citizens held accountable in courts that were still tainted with “British justice.” For the Irish the dominant legal issues were about land and not about homicide or public behavior. Confident that brutal violence was an English characteristic, Irish juries were particularly willing to see homicides as the unintended consequence of the passionate nature of the Irish people.

Issues of gender and family further complicated reactions to homicides. Contradictory ideas about whether real manliness consisted in physical
strength or self-restraint also created challenges for the courts. British courts were not willing to accept a purely physical definition of male strength, but judges and jurors often expressed a sneaking kindness for a good stand-up fight. Victorian ideals of femininity were often seriously at odds with the circumstances of real women. Both as defendants and as victims, women created problems for the all-male members of the court. In England women who fought each other were often seen as comical, but women who killed men could represent an insidious threat. Women who killed children were the antithesis of the nurturing female ideal, but social and economic realities meant children were the most frequent victims of female killers. English courts largely resolved these issues by differentiating between respectable women and lower-class females. The homicidal activities of respectable married women were viewed as evidence of insanity or as sensational deviations from the norm. Most female killers, however, were lower-class women or unwed mothers. Like their male counterparts, they were incapable of being civilized. They deserved punishment but they were not a threat to English society. Again, the occasional example sufficed. Despite the growing rhetoric about protecting infant life, the government still viewed the well-being of children, especially illegitimate ones, as solely the responsibility of their mothers.

Gender issues were less prominent in Welsh trials as there were so few cases involving female killers. They were no less likely to be convicted than male killers, but two-thirds of them served fewer than two years. But there is some evidence that the disapproval of the local community may have been considerably more severe.

The Scottish courts insisted that women, like men, were reasonable adults who should be accountable for their actions. But again the Scottish courts were more flexible, willing to see infanticide as a sin for which a woman must atone, but not necessarily as a sign of madness or a capital offense. Though not blind to gender issues, particularly in assessing the worthiness of female homicide victims, the Scottish courts were not willing to accept that women were naturally any less prone to violence or any less capable of reason and self-control.

The Irish courts made little distinction between male and female killers, but men who killed women were much more likely to be found insane than any other category of killer. The men found insane had usually killed a woman who was not only weaker but often older or ill. Irish homicides were usually the result of brawls between evenly matched opponents. Deviations from the pattern were more likely to be seen as signs of insanity than as capital crimes.
Ultimately the courts of each nation dealt not only with questions of guilt and innocence but with questions of national character, hierarchy, gender, and fundamental values. Each homicide had to be cast as an act of barbarism representative of an alien mentality, as a comprehensible response to provocation, as the unfortunate result of a careless moment, or as a fundamental threat to the existing social order. Which crimes fall in which category was determined by and in turn helped to define the national character. Whatever certain other countries might do, judges and juries were obligated to demonstrate what their own nation would and would not allow.