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문학석사 학위논문

Power, Law, and Female Agency:
Reading Rape in *Measure for Measure*

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ABSTRACT

This thesis aims to explore the relationship between rape and female agency in the early modern period by reading Shakespeare's *Measure for Measure* as a rape narrative. Critics of medieval and early modern rape literature have argued that the literal physical violence of rape must be re-read into rape narratives that have historically tended to trope rape as allegory. However, such analysis overlooks other forms of sexual intimidation that may qualify as rape in that they also serve to oppress women. By perceiving Angelo's fictitious sexual liaison with Isabella as rape, this thesis attempts to enlarge discussions of the relationship between rape and the construction of female subjectivity. The play dismantles the state's efforts to control female agency through revealing the arbitrariness of the legal interpretations of rape.

The first chapter illustrates the ways in which subjects are fashioned in relation to state power. Subjects within the play are shaped by narratives and oppressive experience through state trial and punishment, yet retain elements of individuality that are unable to be assimilated into pre-defined legal narratives. The state's anxiety over impenetrable interiors of its subjects is manifested in the Duke-as-Friar's efforts to displace the state's violent imposition of legal narratives and to justify state power by referring to the corrupt sexual morality of the Viennese citizens.

The second chapter focuses on the collusion of patriarchal ideology and state authority in order to contain female agency. The fictitious act of sexual intercourse between Isabella and Angelo is interpreted in turn as

rape, fornication, and prostitution throughout the course of Isabella's trial, indicating that legal classifications of licit and illicit sex depend on a patriarchal ideology that suppresses female agency.

The last chapter explores possibilities of female agency through the bed-trick. Mariana and Isabella's participation in the bed-trick blurs gender classifications within rape, and exposes the arbitrariness of legal definitions.

Keywords: William Shakespeare, *Measure for Measure*, power, law, female agency, trial, punishment, narrative, rape, patriarchy, state, bed-trick

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1. Introduction: Reading Rape in *Measure for Measure*

In her short analysis of Isabella in *Measure for Measure*, Bernice W. Kilman points out in a side note that “before 1970 few critics used the word ‘rape’ to describe Angelo’s assault on Isabella,” and critics thereafter “seem to take the idea of rape for granted” (148). Kilman argues that the critics of the play have generally tended to draw no difference between sex as “an expression of mutual love” and as “a humiliating act of violence,” a presupposition that lies at the heart of criticism that perceives Isabella as a “hysterical defender of virginity” (145). Criticism of Isabella has indeed oscillated between interpretations of her character as either a prude or a saint.¹ Not only do both interpretations reduce the complexity of Isabella’s character to a symbol or emblem of female virtue—with either negative or positive connotations—but such criticism fails to take into consideration the importance of defining Angelo’s particular brand of sexual violence within literary, social, and historical contexts for a comprehensive analysis of

¹ In his work, *Measure for Measure: the Law, and the Convent*, Darryl J. Gless argues that Isabella’s “desire to preserve her honor” is based in “pride” (245). Barbara J. Baines argues in the same vein that Isabella’s “identification of her self exclusively with her chastity” works to “preclude mercy and compassion for her brother” (“Assaying Power” 290). Harriet Hawkins points out, on the other hand, that “Isabella is described as an angel” (xxv).

Isabella's character, and also of Shakespeare's work itself.

Feminist criticism from the late 1970s onwards has focused on the importance of the social and historical connotations of rape. Pioneering works that theorize rape include Susan Brownmiller's seminal work, *Against Our Wills: Men, Women and Rape* (1975), Sylvana Tomaselli and Roy Porter's *Rape: An Historical and Social Enquiry* (1986), and Lynn A. Higgins and Brenda R. Silver's *Rape and Representation* (1991). Although critics are in agreement that rape is a critical issue that must be addressed, there has been considerable debate over the motivations of rape and its definition. Brownmiller's extensively quoted remark, that rape "is nothing more or less than a conscious process of intimidation by which *all men* keep *all women* in a state of fear" (5), indicates that rape is in the main an act of power that utilizes sex as a weapon of intimidation. Such privileging of power as the motivation behind rape is critically illuminating in that it exposes rape as a "male ideology" (1) imbedded in Western culture that functions systematically to oppress women. Brownmiller's argument, however, tends to overlook the fact that rape is also a specific sexual and physical occurrence that stems from individual sexual desire. In exploring the various motivations behind rape in the quest for a rapeless future, Tomaselli acknowledges the difficulty of defining rape, pointing out that individual motives of rape are closely entwined with its cultural and symbolic connotations (11-12). The complexity of rape, then, lies in the fact

that it is simultaneously a physical act of sexual violence as well as an ideological institution that “keeps women in their place” (12).

Tomaselli’s argument that the concept of rape needs “a discipline, a language, a methodology” (11) thus illuminates its multiple and complex dimensions. Higgins and Silver’s critical work is particularly useful in approaching this dilemma in that they argue that the definition of rape essentially depends on how it is represented. According to Higgins and Silver, “the politics and aesthetics of rape are one” (1), meaning that the truth of rape is determined by who tells the story of rape and how it is told. Perceiving rape as representation sheds light on the fact that patriarchal perspectives are inextricably intertwined with the ontology of rape, as women have historically been denied access to modes of representation (1-2). As such, Higgins and Silver point out that the sexual violence against women inherent in rape has been erased throughout the history of its representation, and insist on feminist strategies of “reading the violence and the sexuality back into texts” in order to reveal the ways in which “violence marks the female subject” (4). Higgins and Silver’s theorization of rape is thus crucial in highlighting the centrality of rape in discussions of female subjectivity and construction thereof.

Higgins and Silver’s critical work on rape has been greatly influential on feminist critics of medieval and early modern literature seeking insight into the construction of female subjects. In her work

Writing Rape, Writing Women in Early Modern England: Unbridled Speech (1999), Jocelyn Catty accurately remarks that rape is “very much a represented crime” (11). Because rape is ontologically based on its representation, medieval and early modern rape narratives become important in that they not only bring to light “those cultures’ notions of women as subjects” (Robertson and Rose 1), but are grounded in “certain constructs of female sexuality” (Baines, *Representing Rape* 1) from the classical period onwards that continues to influence the social perception and shaping of female subjectivity. As Barbara J. Baines explicates:

For an inquiry into the history and thus the ideology of rape, the “Renaissance” is an ideal period because it both represents medieval, biblical, and classical assumptions, and as the “early modern period,” it lays the foundation for what we recognize as our own modern concerns. (*Representing Rape* 1)

Critics concede that early modern rape narratives generally tend to trope rape, in which sexual violence against women is erased and takes on a different meaning; rape is transformed into political allegory, pornography, or “euhemeristic narratives of origins” (Robertson and Rose 9).² Such

² Catty explicates that rape “may be an expression of political tyranny, or function as a crime against other men.” Such a reading that “privileges” the political functions of rape can “mask the power-relationship between the sexes” (10). In her work *Representing Rape in Medieval and Early Modern Literature* (2003), Baines

effacement indicates a persistent cultural and social tendency to subjugate female subjects. In other words, the sexual violence against women inherent in rape is naturalized in rape narratives precisely because violence must appear natural and necessary in order to systematically suppress women. As such, re-reading sexual violence back into early modern rape narratives exposes patriarchal structures, imbedded in representations of rape, which seek to subject women. Robertson and Rose insist on a “model of double reading” that shows “how the trope of rape functions in a given work” while at the same time “keeping the horror of sexual violence against women at the forefront of our minds” (9).

Such feminist modes of reading have played an important role in uncovering ideological structures of early modern periods that shape and subjugate female subjectivity, and continue to resonate in contemporary representations of rape. Accompanying critical work on the history of rape laws, in particular, is useful because, as critics such as Catty have pointed out, both literary and actual representations of rape in early modern criminal trials are inextricably intertwined in that the reality of rape can

explores the connection between rape and pornography in order to expose effacement of sexual violence in rape through “the rendering of a woman as a whore” in which Baines explores the connection between rape and pornography in order to expose effacement of sexual violence in rape through “the rendering of a woman as a whore” in which a woman’s “no” means “yes” and her resistance is “the mark of her desire” (*Representing Rape* 4).

only be manifested through representation (*Writing Rape* 11). As such, an examination of the legal definition of rape, and the process by which courts of law reached a verdict finding rape, is helpful in understanding how rape was—and still is—based on ideological constructs that seek to efface male violence towards women.

Rape in early modern England is difficult to define, particularly due to the fact that rape laws of the period were not a new, discrete set of laws, but rather a continuation from medieval rape laws. According to B. J. and Mary Sokol, the statutes of Westminster I and II (1275-1285) during the reign of Edward I conflate issues of rape, elopement, and the abduction of heirs.³ Saunders points out that “the blurring between rape and abduction is made explicit in the first statute of Westminster...here both are treated under the legal term *raptus*” (59). Corinne J. Saunders and B. J. and Mary Sokol argue that England in the thirteenth and fourteenth century was mainly a male primogeniture culture in which marriage was becoming an increasingly important social tool to ensure the inheritance of property.⁴ Heiresses or landed widows were becoming more and more perceived as pawns that could be exchanged between patriarchal families to increase or

³ As my paper mostly concerns rape laws of the early modern period, I will not give a detailed analysis of the Westminster statutes. For more information concerning the statutes, see Saunders 59-62, Sokol and Sokol 108, Ritscher 7-8.

⁴ Saunders, 51-52. Sokol and Sokol, 108-09.

maintain family property, and as a result, there was a growing social “concern of great families of the time over non-contractual marriages” (*Rape and Ravishment* 62). Rape, abduction, and elopement could all be used as effective tools by males seeking to increase their fortune by forcibly inducing the woman to marry him against the wishes of her family. Social anxiety over elopements or abductions of heirs was thus reflected in the rape laws of the period, which at the same time utilized legal language that could indicate cases of both rape and elopement/abduction.⁵

This conflation of rape and abduction in the definition of rape which perceived the bodies of women and their virginity as the property of men continued to survive throughout the early modern period. Nazife Bashar, however, argues in her influential study of rape law and actual rape cases in the sixteenth and seventeenth century that the definition of rape in the mid-sixteenth century “came to be seen as a crime against the person” (41). Grounding her argument in Bashar’s observations, Amy Greenstadt similarly insists that “legal manuals gradually replaced their language with a definition of rape as ‘carnal knowledge of a woman’s body against her

⁵ In Westminster I, rape and abduction seem to be differentiated by the two verbs “ravyse” (rape) and “pregne” (take by force), but are clearly paired together: “And the king forbids any to rape, or take by force a damsel . . .” (59). Westminster II refers to “ravishment” to indicate both rape and abduction. (Saunders 59-61).

will” (13).⁶ Such arguments indicate that despite a continuing confusion over the concept of rape in the early modern period, in which rape was still perceived in large part as the theft of a woman from her family, there was a definite shift throughout the sixteenth century, at least in the legal discourses of rape, towards defining rape solely as an act of sexual violence against women.⁷

A close examination of actual cases of rape trials in the early modern period, however, indicates that this shift in legal discourse did not necessarily affect the actual outcome of the trials. Bashar’s survey of the Assize records of actual rape cases points to not only a decrease in the total number of rape cases coming to trial particularly in the latter half of the

⁶ Greenstadt traces a gradual shift in the legal definition of rape in the ravishment statutes of early modern England; she in particular cites Henry VII’s 1487 abduction statute which did not use the term “ravishment,” which may refer to both abduction and rape, and the newly revised statute of 1554, after which “crimes of forced coitus and abduction tended to be treated separately” (13, 23n). For more analysis of the so-called Abduction Acts, see Sokol and Sokol 108-09, Bashar 30-32.

⁷ Both Catty and Baines refer to the influential first compendium of laws concerning women, *The Lawes Resolutions of Womens Rights: or, The Lawes Provision for Women* (1632), in which a long section on rape laws is included, to argue that despite a shift in the legal definition of rape, confusion of the concept was still prevalent during the period. Baines refers to *The Lawes Resolutions* as a prime example of “indifference and confusion concerning the woman’s experience of rape” (77), reflecting a social norm in which little “distinction is made between seduction and rape” (75). Catty notes that “conflation of rape with abduction and elopement pervades the text” (13).

sixteenth century, but also a marked drop “in the proportion of men being convicted of rape” (35). Furthermore, Bashar states that “the proportion of rape cases rejected ‘ignoramus’ in the seventeenth century was usually more than twice as high as for cases involving other crimes” (34). When one takes into consideration that the legal definition of rape in the early modern period was gradually shifting to distinguish rape from abduction and emphasize the clause of female consent in verifying rape, it becomes possible to surmise that what juries of rape trials had trouble establishing as “evidence”—and hence made them likely to drop charges or to find the case as “ignoramus”—was the sexual non-consent of the female.

Developments in theories of rape and rape law have begun to perceive these problems inherent in the concept of female sexual consent. Frances Ferguson accurately points out that the “form” of rape as defined by law is identical to the “form” of sex, thereby confining the issue of rape to “mental states” (90). Rape is essentially sex without consent, and the legal procedure of rape trials attempts to reduce and contain psychological states in specific legal “forms” through interpretation. Catharine A. MacKinnon similarly argues that legal doctrines “incoherent or puzzling as syllogistic logic, become coherent as ideology” (52), trenchantly pointing out that the interpretation of consent or female intention is in itself ideological.

As such, establishing female non-consent in rape trials depends on ideological presuppositions of the day regarding female bodies and

sexuality. According to Baines and Lee A. Ritscher, early modern theories of generation mainly had their basis in the medical theories of Aristotle and Galen, largely circulated in early modern England through Aristotle's *De Generatione de Animale* and Galen's *De Semine*.⁸ Basing her documentation of medieval medical theory mostly on the work of Joan Cadden, Baines argues that "a simple equation between conception, sexual pleasure, and consent" (80) was widely disseminated throughout the period. The connection made between sexual pleasure and conception by Galen—that conception was possible only when semen was emitted by both the male and female through experiencing sexual pleasure—provided the basis for assuming that carnal consent could occur on the part of the raped woman despite her initial expression of displeasure or non-consent.⁹ Although Aristotle differed from the more widely accepted theories of Galen that women emitted semen during intercourse, he nevertheless indicates that the sexual act involuntarily invokes pleasure; he writes that "in intercourse the pleasure is produced in the same place as in the male by contact" (46). Ritscher also writes that early modern medical theory assumed that "female orgasm was a voluntary response to genital

⁸ Baines argues that Galen's theories of generation were more widely accepted during the early modern period, although both Galenists and Aristotelians are "easily reconciled in their emphasis upon woman's carnal pleasure" (81).

⁹ See Baines and her explication of *On Human Generation*. ("Effacing Rape" 79-82)

stimulation and that if conception had occurred it was an indication that the woman had willingly enjoyed the sexual encounter” (17). Medical theories of generation were located in the presupposition that female sexual consent could be reconstructed after the sexual act had taken place. A disparity thus exists between the implications of the shift in early modern rape law and contemporary knowledge of the woman’s body; while the clause of female sexual non-consent to establish the fact of rape premises sexual volition on the part of the woman, the theories of generation presuppose the opposite—that female sexual consent can occur involuntarily through sexual pleasure.

Baines cogently sums up that “the early modern legal system managed to avoid the reality of rape through various strategies of effacement: through the concept of coerced consent, through the concept that conception negates a charge of rape, through the concept of woman’s carnal pleasure that makes her ‘no’ really mean ‘yes,’ and through the practice of avoiding litigation altogether by marriage arranged between rapist and victim” (9). These “strategies of effacement” are startlingly similar to the ways in which male violence towards women is erased in rape narratives of the early modern period, indicating that the problematic nature of rape lies in the fact in that its reality is inextricably intertwined with its representation and the cultural and ideological structures that make its representation possible.

As such, reading the literal, physical violence back into rape narratives is a task much more difficult than it first appears, precisely because the very nature of rape is enmeshed in representation. In attempting to focus on the literal violence against women in representations of rape in order to dismantle patriarchal structures, it is easy to confine oneself to a definition of rape that paradoxically limits itself to the physical. In other words, “reading literally” (*Writing Rape* 10) becomes a self-defeating act when the occurrence of the actual, physical act of rape is necessary to qualify as a rape narrative. As Catty points out, the actual trauma of the rape victim is impossible to separate from its depiction and the “social circumstances and sexual ideology” (10) that affect it. Despite cautions of critics such as Catty against perceiving rape as purely a physical act, critical analysis of rape narratives have generally been limited to works that depict actual occurrences of forced coitus, whether of Shakespeare’s poem *The Rape of Lucrece* or Jacobean rape-and-revenge tragedies, most notably *Titus Andronicus*.¹⁰ While such analysis is critically important in

¹⁰ Karen Robertson analyzes in length Shakespeare’s *Titus Andronicus*, in which she argues that Shakespeare’s transformation of the Philomel story in which the female revenge character Progene is excised “shifts rape from the realm of feminine suffering and anger to one of patriarchal responsibility” (229). Coppélia Kahn cogently argues that Shakespeare’s failure in his attempt to position Lucrece “as a subject not totally tuned to the key of Roman chastity and patriarchal marriage” reveals just how much rhetorical traditions are “bounded by an ideology of gender” (143).

that they expose social structures that efface male violence through the troping of rape, it is necessary to consider other forms of rape in order to expand discussions of female subjectivity and agency.

Taking into consideration that the reality of rape lies in its representation, it becomes possible to explore different forms of sexual oppression that may fall under the category of rape, and may furthermore open up new ways to locate female agency in a concept that fundamentally premises the suppression of women. Locating female agency in rape is a particularly difficult problem, one that critics have tried in various ways to tackle. Catty attempts to locate female agency in exploring the connection between rape and female utterance and writing, accurately observing that rape simultaneously disempowers women while also promoting the “production of female utterance” by destroying chastity, “the very virtue which is implicitly antithetical to female writing” (4). Greenstadt suggests that the modern concept of a “personal autonomy or transcendence” (9) central to writing selves derives from early modern perceptions of the chastity of rape victims, thereby placing early modern ideas of female sexual intention at the core of the development of the Western concept of selfhood.

Greenstadt’s argument is particularly illuminating in that it is grounded in a definition of rape as the interpretation of the victim’s mental state. Rape as representation essentially requires interpretation. A reading

of *Measure for Measure* centered on rape is important because the work brings to light problems of interpretation in the representation of rape and furthermore expands the notion of rape to include other manifestations of sexual oppression. The switching of Isabella and Mariana in the famous bed-trick results in an act of fictitious sexual intercourse between Angelo and Isabella that challenges given interpretations of rape. Through the bed-trick, Isabella evades altogether the dilemma of sexual consent crucial in defining rape; she has not consented, nor has she refused to consent. The absence or gap of sexual consent on the part of Isabella leaves it up to the audience's judgment to re-inscribe this gap and perceive of Angelo's fictive crime as one of rape or fornication. Victoria Haynes argues that the play replicates the narrative strategy of defendants of ecclesiastical courts who "elaborate[ing] the social context of their actions" (6), thus invoking the audience as judges to "evaluate the narratives" (7) of the guilty characters. Although Haynes focuses on marriage narratives constructed by defendants in order to counter accusations of fornication, her argument is nevertheless illuminating in that it suggests that the audience brings with them their own perceptions of what constitutes rape, a perception informed by ideologies that define female sexuality and sexual consent.

Furthermore, reading *Measure for Measure* as a rape narrative is critically useful in that it illuminates the representational aspect inherent in the reality of rape by pointing to other modes of sexual oppression that may

be perceived as a form of rape. By perceiving Angelo's attempt to forcibly extract Isabella's sexual consent as a form of rape, I wish to go beyond the general tendency in criticism to focus on rape narratives that represent the physical act of forced coitus, and in doing so, will try to shed new light on discussions of early modern literary representations of rape and their relationship to female agency.

Who controls the modes of representation is closely intertwined with how something is represented. As such, a close examination of state authority and the law's power to interpret subjects is first of all necessary to understand the ways in which individual subjectivity and agency is affected by representation. I will thus place my discussion in the larger context of the state power's fashioning of subjects through law and judicial procedure in order to provide a multi-layered analysis of the relationship between representations of rape and female agency.

The second chapter of my paper will concentrate on providing the general framework for understanding how subjects are fashioned in relation to state power. I will examine how the play demonstrates the ways in which subjects are shaped by narratives and oppressive experience through state trial and punishment. I will analyze in detail the trials of and penal measures imposed on Claudio and Juliet, and the Duke's efforts to naturalize state-imposed narratives by pointing to intrinsic, corrupt sexualities in order to justify state oppression. In my third chapter, I will

narrow my discussion to the subject of rape, and analyze in detail the trial of Act 5 as a rape trial in order to examine how patriarchal ideology colludes with state authority to shape and contain female subjectivity and agency. In my concluding chapter, I will explore the ways in which Isabella and Mariana elude containment and display agency through the means of trick.

2. Trial and Punishment: Fashioning Subjects

Measure for Measure demonstrates the ways in which subjects are fashioned in relation to the power and authority of the state. State institutions of trial and punishment in Vienna collaborate to subject citizens through narratives and oppressive experience. However, the characters of the play persist in constructing narratives of their own even as they appear to accept the legal interpretations imposed through trial and punishment. This separation of “tongue and heart” (1.1.45), that is, the outward display of self and one’s true thoughts and intentions is a source of anxiety for the state, and seeks to naturalize state-imposed narratives and oppressive experience through effacing the act of imposition and instead referring to a corrupt prior interior of subjects that require disciplining.

Stephen Greenblatt argues that the play stages and at the same time calls into question early modern state techniques of “salutary anxiety” (136) designed to fashion loyal and obedient subjects through the character of the Duke. According to Greenblatt, the governing institutions of early modern England “developed discursive and behavioral strategies” through the “management of spectacles and fashioning of texts” in order to arouse anxiety in its subjects then “transform it through pardon into gratitude, obedience and love” (138). Arthur L. Little Jr. argues that the Duke solidifies his “absolute power” (118) through staging “public punishment”

(119) during the final act of the play. Little explicates that the “power to stage the bodies it punishes,” rather than the actual act of punishment, is effective in consolidating state power, and the Duke chooses to “stage scenes,” transforming the scene of the final trial “from justice to power, from punishment to theater, and from judgment to politics” (124). Both Greenblatt and Little’s analysis of the play point to a close relationship between the theatrical display of punishment and early modern statecraft to discipline and control the bodies of its subjects.

Such analysis is grounded in Michel Foucault’s theory of power and the spectacular display of abused bodies in medieval and early modern periods. According to Foucault, medieval and early modern state penal practices of the public display of torture was a “mechanism of power” (57) rather than the execution of justice, in which the sovereign’s power manifested itself through the displayed bodies of the condemned.

Lorna Hutson argues against interpretations of Renaissance drama that draw a parallel between English early modern theater and Foucault’s “spectacle of the scaffold” as visual spaces in which state power is manifested. She instead insists that early modern dramatic epistemology is closely intertwined, not with spectacle but with the “forensic rhetoric of plot,” that had its basis in “Latin intrigue comedy and the popular practices of detection and evidence evaluation” (68). She points to differences in English and Continental practices of criminal prosecution of the early

modern period, arguing that criticism grounded in Foucauldian readings of early modern drama tends to assume that “English judicial investigations are always identified with, and administered by, the state” (66). According to Hutson, England in the sixteenth century instead developed a unique prosecution procedure that differed vastly from its Continental counterpart in that it that depended on “voluntary officers of the law, victims, and neighbors” (64), in short, members of the public. As such, she argues that readings of Renaissance drama as “anticipatory of Foucauldian discipline” is in need of “reconsideration” (66).

While Hutson’s argument is valid in that a historical analysis of the evolution of the English judicial system undermines criticism that simply links together manifestations of state power and theater, she nevertheless fails to take into consideration that a reading of Renaissance drama based on the “forensic rhetoric of plot” does not necessarily preclude Foucault’s perceptions of the working of power. Critics of interdisciplinary studies in law and literature stress that reading law as narrative presuppose power, that is, the judicial system is interrelated with power in that it excludes or includes certain narratives within a society (Gewirtz 3; Brooks 15-16; Weisberg 82-83). Weisberg in particular refers to Hegel’s definition of historical narrative in *Lectures on the Philosophy of History* in order to point out that narrativity “presupposes a legal system,” and that “narrative deals with law, legality, legitimacy, or more generally *authority*” (77-78).

Reading early modern dramatic epistemology in connection to the period's fledgling participatory justice system based on the presentation of evidence is to perceive early modern court evidence as narratives, and how an open, participatory jury received, judged, and produced narratives of its own in the form of the verdict. Furthermore, Hutson points out that the "gradual shift from a self-informing jury to a trial based on evidence" made the utilization of jury discretion "more difficult to exercise without an evidential basis." Struggle between jury and bench over the jury's penchant for law-finding thus resulted from this shift, in which the jury during trial found differently from the judge based on the jury's "inferences about intent" (86).¹¹ Considering that the reconstruction of "intent" is at the heart of *narratio*, this indicates that bench and jury were in fact battling over the power to produce and impose narratives through trial.¹²

¹¹ In his work, *Verdict According to Conscience*, Thomas Andrew Green argues that the shift from a self-informing jury to an evidence-based trial in the early modern period was due to the fact that the Bench sought to limit the responsibility of the jury solely to fact-finding (105-08). Although Hutson disagrees with Green's argument that the jury became more passive in the face of intimidation from the Bench, his critical work nevertheless highlights that the state sought control over the production of narratives in court.

¹² Hutson's detailed analysis of the influence of classical Latin treatises concerning judicial rhetoric on the newly state-mandated pretrial examination processes implies just how much the deduction of criminal "fact" through trial was closely intertwined with narrative form. She draws a parallel between Cicero and Quantillian's strategies of judicial narrative, or *narratio*, in *De inventione* ("On

Moreover, Hutson argues that the “history of attempted intimidation by and conflict with the Bench” opened up a “theoretical space for exercising judgment” and eventually became “politicized in the period of the English constitutional revolution.” According to Hutson, the “discourse of judicial participation as political responsibility” during the period of revolution was grounded in the concept of “fact finding in trials as an exercise in the evaluation of evidential circumstance,” that is, “[e]valuating the intention behind the legal ‘fact’ or act committed” (87).¹³ In other words, the question of who controls the power to construct narratives was the focal point of argument during the English constitutional revolution. Malcolm Gaskill points out that state-building in Tudor and Stuart England “relied on the centralization of law and judicial practice, and the uniform implementation of authority” (11), an observation that points to the close relationship between state power and the power to control narratives, that is, power to legitimize or exclude certain narrations of subjects.

Invention”) and *Institutio oratoria* (“Institutes of the Orator”) and Aristotle’s concept of dramatic *mimesis* in order to stress that Justices of the Peace, who conducted the pretrial examinations, were familiar with narrative concepts of plot and cohesion of character. (121-28).

¹³ According to Barbara J. Shapiro, the determining of “fact,” a “human deed or action which had occurred in the past and which had to be substantiated or proved” (11) comprised the main process of the sixteenth and seventeenth century criminal trial, in other words, a past action had to be reconstructed in the form of a coherent narrative.

Narrativity was indeed becoming an important factor in trials, as Holger Schott Syme's work on the oral, public trials of early modern England indicates.¹⁴

Hutson's argument is thus illuminating in that it brings to light a crucial aspect of power in the early modern period, namely, the criminal trial. While the judicial system of Renaissance England depended on the open participation of community members of various social standing, the shift to an evidence-based trial that took place during the sixteenth and seventeenth century was nevertheless part of a larger discourse and struggle for power.

It is important to note the frequent portrayal of criminal trials in *Measure for Measure* as well as spectacles of punishment. State punishment of the transgressors of the Viennese law is coupled with preceding criminal trials; the trials of Master Froth and Pompey take place onstage, off-stage trials of Mistress Overdone and Barnardine are implied, and the play culminates in a spectacular final trial involving most of the main characters. Scenes of trial and punishment work together to impose a

¹⁴ In his doctoral thesis *The Trials of Orality in Early Modern England, 1550-1625*, Syme analyzes in detail the presentation of witness testimony and depositions in trial in which "a narrative of events that had already been written, quite literally, before the trial began, and against which or in line with which witnesses will have to position themselves" (29-30) points to the fact that the narrative form used by Justices of the Peace in pre-trial examinations influenced the narratives spoken aloud at court. see 27-33.

narrative of criminality on the accused then seal that narrative in the eyes of the public through the oppressive experience of punishment. At the same time, trial and punishment functions as a space in which the participants are forced to narrate and define their actions, interior intentions, and morality in relation to the order and peace of the state. In other words, the defendant must fashion a viable narrative of himself and his past actions to contest the narrative presented against him. The defendant, of course, seeks to fit his narrative into the boundaries of legal conduct, or at the least, within the limits of a comparably excusable crime. This means that he must rely on and utilize narratives made available by the law, whether to deny the tale of transgression put to him or to plead that his transgression is worthy of a less severe punishment. Yet at the same time, the defendant's actual experience holds variables unable to be neatly assimilated into ready-made narratives.

Angelo's strict enforcement of the "proclamation" (1.2.65), the renewal of laws concerning sexual morality that has lain dormant in Vienna for over fourteen years, not only indicates flagrant display of authority as Claudio implies when he complains to Lucio that Angelo applies too severe a penalty "surely for a name" (1.2.152), but also points to the consolidation of state power to interpret the behavior and actions of the Viennese citizens. Under the banner of the proclamation, Claudio's act of getting "a maid with child by him" (1.2.76) is now interpreted as an illegal act of fornication

deserving execution. Lucio, his gentlemen friends, and Mistress Overdone express surprise and consternation that Claudio should be “carried to prison” (1.2.70), and pepper each other with astonished questions concerning “his offence” (1.2.74), indicating that this legal interpretation contrasts sharply with how the majority of the characters perceive fornication. The act is a source for bawdy and playful quibbling, “[g]rouping for trout in a peculiar river” (1.2.75), and functions as the staple theme of “all this fooling” (1.2.57) for Lucio and his friends.

Furthermore, Claudio’s general character as outlined by his friends and acquaintances indicate that the major population of Vienna interprets Claudio’s impregnation of Juliet in a very different light from that of the law. Mistress Overdone claims Claudio to be “worth five thousand of you all” (1.2.50) and Lucio remarks that he is “ever precise in promise-keeping” (1.2.62), indicating that Claudio is well-liked and deemed honorable by his peers. It is not only the bawdy members of Viennese society that perceive Claudio thus; the Provost who oversees the prisoners laments to the disguised Duke that Claudio is “a young man / More fit to do another such offence / Than die for this” (2.3.13-15), and Escalus, Angelo’s right-hand man in the Duke’s absence, pleads to Angelo that Claudio “had a most noble father” (2.1.7) and believes him to be “most strait in virtue” (2.1.9). This view of Claudio underlies the public opinion that Angelo applies too harsh a measure for his crime, pointing to the citizens’ tendency to make judgments

based on general evaluations of intent, background, morality and character. However, such individual and personal judgments are dismissed in light of Angelo's determination to apply a single standard for judging actions of all individuals, including himself. Angelo reprimands Escalus when he attempts to speak in Claudio's favor, telling him that

You may not so extenuate his offence
For I have had such faults; but rather tell me,
When I that censure him do so offend,
Let mine own judgement pattern out my death
And nothing come in partial. (2.1.27-31).

The authority of the law, according to Angelo, lies not in multiple interpretations of human behavior that depend on variables of individual virtue or the moral character of the judge that "censure[s] him," but a non-partial standard that applies to everyone alike. The "liberty" to interpret Claudio's impregnation of Juliet according to one's own knowledge of Claudio's history and character is no longer acceptable. Angelo's angry response directed to the Provost when he pleads for the reconsideration of Claudio's sentence (2.2.8-14) indicates that the "demi-god, Authority" (1.2.102) perceives the persistence of its subjects to narrate a different "version" of Claudio's character as a possible destabilizing threat.

The punishment of public humiliation that Claudio is forced to undergo on the "special charge" (1.2.101) of Angelo reinforces his legal

status as criminal and fornicator in the eyes of the Viennese public. The spectacle of punishment in *Measure for Measure* functions as oppressive experience in that Claudio himself is forced to narrate his transgression within the confines of a state-approved narrative imposed on him through his off-stage trial. At Lucio's request to narrate publicly the cause of his "restraint" (1.2.106), Claudio is at first reluctant to tell his story, well aware that "to speak of would offend again" (1.2.117), in other words, that only a narrative of events mandated by the law will be accepted. His reply to Lucio is general in the extreme; he remarks that "our natures" (1.2.110) are wont to turn to "immoderate use" (1.2.109) and must thus be restrained. He compares human propensity for excess to "rats that ravin down their proper bane" (1.2.111) and concludes that such a "thirsty evil" (1.2.112) inevitably ends in death. Lucio wryly points out that his friend's aphoristic elaboration borders on "morality of imprisonment" (1.2.115). Instead of narrating his own specific version of events, Claudio opts to tell a moral tale of excess and punishment encompassing the evils inherent in humanity. Claudio's words addressed to Lucio and the watching Viennese public closely resemble the Duke's speech to Friar Thomas as he explains the deplorable state of "decorum" (1.3.32) in Vienna:

And Liberty plucks Justice by the nose,
The baby beats the nurse, and quite athwart
Goes all decorum. (1.3.30-32)

Claudio's narrative of "too much liberty" (1.2.107) and consequent restraint is thus a model one that conforms to the state's perception of the sexual license.

However, Claudio is well aware that state-imposed narratives do not encompass the full scope of human particulars, as his ambiguous answer "[c]all it so" (1.2.121) to Lucio's terse summarization of Claudio's crime as "[l]echery" (1.2.120) indicates. He points to the "tyranny" (1.2.144) that "puts" onto himself the "neglected Act" (1.2.151) of the death penalty for fornication. His private conversation with Lucio is not only an attempt to convey a request for help to his sister Isabella, but also an attempt to narrate, in his own terms, his relationship to Juliet. Since Claudio has a vested interest in portraying himself as someone wronged by the tyranny of a too-severe application of the law, his explication of his actions must be within legally prescribed parameters. Claudio hurriedly explains that Juliet is "fast my wife" (1.2.128), arguing that the "true contract" (1.2.126) binds himself and Juliet as husband and wife. Claudio thus utilizes a narrative of marriage in order to present his story in a legal light. Yet this narrative unravels even as he tells it; he explains to Lucio that Juliet is legally his wife "Save that we do the denunciation lack / Of outward order" (1.2.129-30), and further undermines his marriage narrative by referring to his consummation with Juliet as "[t]he stealth of our most mutual entertainment" (1.2.135), a phrasing that evokes the illicit pleasures of

fornication.¹⁵ Claudio's conversation with Lucio indicates that neither legal narratives of fornication nor marriage sufficiently explain Claudio and Juliet's relationship; Claudio resorts to both in order to detail past events.

Juliet's complete silence during her punishment with Claudio is all the more suggestive of her refusal to accept the legal interpretation of her actions as a "fornicatress" (2.2.24). The public procession to prison functions as a different kind of oppressive experience for Juliet in that the state-imposed narrative of fornication can be "read" by the Viennese public and audience alike through the visible evidence of her pregnancy. Claudio remarks to Lucio that her pregnancy is "[w]ith character too gross writ on Juliet" (1.2.137), implying that her physical body is a text on which the narrative of fornication may be read. Unlike Claudio, Juliet does not need to repeat a state-mandated interpretation of her crime; the public display of her physical body is oppressive in that her body transforms into a legal text

¹⁵ Haynes explicates in length that the legal form of marriage in early modern England was in fact ambiguous as a private promise to marry, a "contracting," or "hand-fasting" that symbolized their union, was "the most socially significant part of the process" of marriage (4). However, completion of the marriage required "calling in banns in the parish church on three successive Sundays, and, finally, the culmination of the process on the wedding day" (4), indicating that marriage was a "prolonged transitional process begun by private agreement and only completed by public rites" (3). This led to ambiguous stages in which it was difficult to legally determine whether a couple was officially married or not, and Haynes thus argues that the crime of fornication was usually up to the interpretation of the community and church.

and interpretation of herself. As such, Juliet's taciturnity, as neither confirmation nor negation of the imposed narrative, opens up a blank space in which Juliet's private telling of events may be inscribed, while at the same time physically simulating a narrative of silent and penitent acquiescence in the eyes of the observing public.¹⁶

The institutions of trial and punishment within the play collude to subject Claudio and Juliet through narratives and oppressive experience. However, the possibility to construct alternative and personal stories, ironically built by utilizing other socially acceptable narratives, such as that of marriage or feminine silence, cannot be completely erased. The comic trial of Pompey and Master Froth is a case in point. Pompey's absurdly detailed description of the events that took place in Mistress Overdone's brothel is a "full-scale burlesque of legal procedure" (Gibbons 26) that parodies the presentation of witness testimony in early modern courts. Gibbons argues that Pompey's testimony inverts the authority of the law precisely because, unlike Elbow, he is well-versed in the rules of court logic and procedure and ironically puts his knowledge to use to manipulate proceedings. According to Gibbons, the law cannot "accept Pompey's subversive discourse" without becoming "trapped into accepting his assumptions." Beneath the surface of incoherent narrative, Pompey's story

¹⁶ Baines points out that a "woman's silence is her submission to the 'natural,' patriarchal ordering of things" ("Assaying the Power" 298).

can be “translated” through the various double meanings of his words as a bawdy tale “to mean that Elbow’s wife entered the house in search of sexual pleasure and found Froth, who had just paid for the whore he had enjoyed” (27). Unacceptable narratives can be embedded and hidden under a deliberately confused manipulation of the authorized form of witness testimony.

Taking into consideration that the “comic underworld in *Measure for Measure* is a critical mirror in which we recognize, inverted, the structures and assumptions central to the play’s critical action” (Gibbons 26), Pompey’s final words during his trial demonstrate the futility of state-imposed narrative and oppressive experience through trial and punishment. Pompey never answers Escalus’ direct question that “you are partly a bawd, Pompey, howsoever you color it in being a tapster, are you not?” (2.1.188-89), quibbling that he is “a poor fellow that would live” (2.1.190) and that the trade of being a bawd would be lawful “[i]f the law would allow it” (2.1.194). Even after Escalus’ threats to whip Pompey as befitting that of a bawd, he thanks him for his “good counsel” (2.1.216), only to turn around and immediately revoke his seeming acceptance of Escalus’ judgment:

[*Aside*] but I shall follow it as the flesh and fortune should determine.

Whip me? No, no, let carman whip his jade,

The valiant heart’s not whipped out of his trade. (2.1.216-19)

Pompey's "heart" remains intact and unknowable to the law despite Escalus' efforts to pin down and punish Pompey as a bawd. State-imposed interpretations are to be "followed" as Pompey's "flesh and fortune should determine."

Such division of "tongue and heart" (1.1.45) is a constant source of anxiety for the state. The demonstrated ability on the part of the guilty to tell a narrative that may not completely tally with private thoughts and experience raises doubts of the state's ability to exercise control over its subjects. The character of the Duke is a case in point. From the beginning of the play, the Duke is portrayed as a figure anxious to delve into the interior truth of his subjects. He reveals to Friar Thomas that one of his principle reasons for leaving Vienna and naming Angelo as his deputy is to test the authenticity of Angelo's seeming "precise[ness]" (1.3.51), in other words, to "see / If power change purpose, what our seemers be" (1.3.54-55), and he is also anxious to "arraign your [Juliet's] conscience" (2.3.21) in his interview with Juliet in prison. The Duke's anxiety concerning the disparity of private intentions and the outward display of self is most clearly articulated through his soliloquy on the hypocrisy of Angelo:

Oh, what may man within him hide,
Though angel on the outward side?
How may likeness made in crimes,
Making practice on the times,

To draw with idle spiders' strings

Most ponderous and substantial things? (3.2.233-38)

It is Angelo's false seeming, that he would "hide" the "man within" and fashion himself as an "angel" on the "outward side," that is a "crime" and "vice" (3.2.239) rather than his subjugations of both Isabella and Claudio. For the Duke, hypocrisy is the biggest crime of all because it "draw[s]" or deceives, figures "[m]ost ponderous and substantial." Deception implicates power in that it points to deliberate manipulation over the dupe. What the Duke fears most in his subjects is thus this sort of underhand control that may be exercised over the Duke through hypocrisy.

The true authority of Vienna seeks to quash his anxiety by effacing the violence of the state's power through naturalizing the act of imposition. Taking into consideration that the Duke himself orders that "[i]n our remove be thou [Angelo] at full ourself" (1.1.43), Angelo is in fact the surrogate of his lord, or "metal" (1.1.48) on which the Duke's "figure" has been "stamped" (1.1.50). As such, he carries out to the letter the Duke's aims to root out the "headstrong weeds" (1.3.21) who defy the "strict statutes and most biting laws" (1.3.20) of the city. The proclamation is Angelo's realization of the Duke's purpose, which the Duke has only revealed in private to Friar Thomas, and presumably outlined in the sealed letter of "commission" (1.1.47) given to Angelo. It is thus important to examine the proclamation in order to understand how the Duke naturalizes

state oppression. The Duke tells Friar Thomas that the loss of “all decorum” (1.3.32) and “tied-up justice” (1.3.32) within Vienna is due the fact that he has “let slip” (1.3.22) the strict laws of the state. Sexual license of “headstrong weeds” (1.3.21) is the source of all social disorder that leads even to the inversion of patriarchal hierarchy; the “fond fathers” (1.3.24) are “[m]ore mocked than feared” (1.3.28) by “their children” (1.3.26).

However, a close examination of the play reveals that the origins of social disorder lie elsewhere. As news of the proclamation begins to circulate the city, Mistress Overdone complains that “what with the war, what with the sweat, what with the gallows, and what with poverty, I am custom-shrunk” (1.2.67-69). Social calamities of war, disease, and poverty are prevalent within Vienna, and the secret absence and subsequent wildly varying speculations of the Duke’s location—from Poland (1.3.15) to Russia to Rome (3.2.80)—circulate between the Viennese citizens, serving to heighten anxiety within the city. Jonathan Dollimore argues that the “subversive identity the sexual offenders in this play possess is a construction put upon them by the authority which wants to control them” (73). Sexual transgressors are “demonised as a threat to law” (73), and thus “sexuality is subjected to renewed and severe regulation” (72). In other words, by establishing a connection between the prevalent disorder of the state and rampaging sexual immorality, the Duke is justified in cracking down on sexual license and subjecting to “surveillance” (80) the sexualities

of the Viennese citizens. Social anxiety due to external factors has been translated into a *moral* disorder within Vienna.

In this light, the Duke's disguise as Friar Lodowick is telling in that the Duke-as-Friar intersects embodiments of both state power and religious personal confession. Deborah G. Burks observes that the Duke's disguise "renders him an amalgam of that sinister alliance of church and state" (95). When the Duke enters the city's prison, he introduces himself to the Provost in terms of his religious duties; he is "[b]ound by my [the Duke's] charity and blessed order" (2.3.3) to "minister" (2.3.7) the "afflicted spirits" (2.3.4) of those confirmed of their crimes. This is less an act of charity than the extension of a political purpose to police the interiors of his subjects. The Duke, who is well versed in "[t]he nature of our people, / Our city's institutions, and the terms / For common justice" (1.1.9-11), plays the double role of the dispenser of state power and justice as well as the role of a Catholic friar who listens to and aids in the absolution of personal guilt.

Foucault's theory of the Western concept and genealogy of the "soul" or human subjectivity is particularly helpful in understanding the Duke-as-Friar's actions as he prowls the prison of Vienna to invoke the fear of perdition within its inmates. Foucault argues that the soul is constructed in relation to state penal practices. He stresses that the soul "exists, it has a reality, it is produced permanently around, on, within the body by the functioning of a power that is exercised on those punished." In other words,

the “corpus of knowledge” (29) of the soul goes hand-in-hand with the “political investment of the body” (28), discourses and knowledge of the body created by various social and political institutions and apparatuses in order to master bodies as a source of power.

In this context, the Duke-as-Friar forces Claudio to focus on his own moral culpability by assuring him that Angelo never meant to truly barter Isabella’s chastity for Claudio’s freedom, but only offered such a bargain to make “an assay of her virtue” (3.1.161). Canceling out Angelo’s corruption allows the Duke to proceed with his spiritual administrations; he bids Claudio “tomorrow you must die: / go to your knees and make ready” (3.1.166-67). Claudio has now only his own moral and sexual failings to blame for his sentence and execution. The Duke’s interview with Juliet in prison particularly delineates the process of displacing the violence of state-imposed narratives. He first inquires of Juliet, “[r]epent you, fair one, of the sin you carry?” (2.3.19), equating the child she carries with sin. His questions to Juliet seek to delve into the innermost recesses of her heart in order to verify that she is indeed truly repentant of her actions. Instead of questioning the form or definition of her relationship to Claudio, the Duke probes the state of her mind, and foremost inquires if she loved the man that “wronged” (2.3.24) her. When she replies in the affirmative, he condemns their consummation as “your most offenceful act” (2.3.26) in which her sin is “of heavier kind than his” (2.3.28). The Duke thus refers to

an intrinsic sexuality of Juliet as the cause of her “sin” and subsequent punishment. Although her trial and punishment by the state is what interprets her relationship to Claudio as one of fornication, the Duke glosses over this process and instead points to Juliet’s moral “flaws” (2.3.12) that need disciplining. As the Duke unwittingly reveals when he tells Juliet “I’ll *teach* you” (2.3.21 my emphasis) and she returns “I’ll gladly *learn*” (2.3.23 my emphasis), displacing the violence of state authority requires another learning process, in which the individual is “taught” to accept dominant narratives concerning herself as essentially originating from her own sexuality.

Even the ability to govern a state is closely intertwined with intrinsic sexual morality, as the case of Angelo attests. When Angelo’s moral corruption is made manifest in his lust for Isabella, Angelo increasingly conflates his moral and sexual failings with his ability to manage the state. At the beginning of the play Angelo first tended to separate the law from the dispenser of justice; he admonishes Escalus that in the case that “I [Angelo] that censure him do so offend, / Let mine own judgement pattern out my death” (2.1.29-30), and he also turns away Isabella’s plea for the pardon of her brother on the grounds that “[i]t is the law, not I, condemn your brother” (2.2.82). Although harsh, he is extremely efficient; Lucio remarks to the disguised Duke that “Lord Angelo dukes it well in his [the Duke’s] absence: he puts transgression to’t” (3.2.83-84). Not only are the brothels

of the suburbs to be pulled down, but Barnardine has finally been convicted for murder, and Pompey and Mistress Overdone are all arrested and put into jail. This efficiency in cracking down on immorality in the city, a task that the Duke has presumably commissioned to Angelo, becomes glossed over as the play progresses. Instead, the “just but severe law” (2.2.42) that Angelo embodies becomes perceived as personal tyranny.

The intertwining of Angelo’s moral and sexual failings with his ability to govern the state is particularly highlighted in his soliloquy after he has bedded Mariana in the darkness of his garden:

This deed unshapes me quite, makes me unpregnant
And dull to all preceedings. A deflowered maid,
And by an eminent body that enforced
The law against it? But that her tender shame
Will not proclaim against her maiden loss,
How might she tongue me? Yet reason dares her no;
For my authority bears of a credent bulk,
That no particular scandal once can touch
But it confounds the breather. (4.4.18-26)

Images of Angelo’s sexuality are intertwined with language that denotes his authority of the state. His “eminent body” that “enforced” the law and the “credent bulk” of his authority is made “unpregnant” and “dull” through his anxiety over the sudden news of the return of the Duke. Such language is

suggestive of sexual impotence, while at the same time indicating the weakening of state authority. The crimes that Angelo believes he has committed, of violating Isabella's virginity and murdering Claudio, threatens to render his authority and power impotent.

However, it is important to note that the Duke tells Friar Thomas that he has "on Angelo *imposed* the office, / Who may in th'ambush of my name strike home" (1.3.41-42 my emphasis), yet he soon erases his collusion with Angelo in the crackdown of corrupt sexuality by quickly adding a second purpose to his absence, to test his deputy's authenticity. The Duke thus displaces his own "tyranny" (1.3.37) in the authorization of the proclamation by implicating the possibility of a dormant personal "tyranny" (1.2.144) in Angelo. As such, the characters of the play, as well as the audience, are implicated from the beginning to keep a sharp lookout for any moral or sexual failings on Angelo's part. The Duke's proposed "test" of Angelo's "blood" and "appetite" (1.3.53), in other words, his intrinsic sexual morality, provides the overall driving force behind the dramatic action in that the characters as well as the audience watch in anticipation for the Duke's prophecy of the "seemer" (1.3.55) to unfold. *Measure for Measure* thus not only depicts, but also implicates the audience into justifying the tyranny of state power by referring to a prior, intrinsic potential for sexual corruption within subjects that must be controlled and disciplined.

3. Woman on Trial: The Collusion of Law and Patriarchy

The process of maintaining social order in *Measure for Measure* “appears” to depend on the disciplining of sexuality, and in particular, female sexuality. Strict classification, punishment, and conversion of licit and illicit women play a crucial role in stabilizing the state of Vienna. Patriarchal ideals of female sexuality are thus inextricably intertwined with law, providing the basis for classifying sexuality and at the same time working to fortify such ideals. According to Karen Newman, patriarchy is “a construct, not a given” (17), to “manage[e] femininity so as to ensure the reproduction of the commonwealth” (16). Shakespeare’s Vienna in *Measure for Measure* is indeed a patriarchal state invested in the suppression of bastardy and the endorsement of legitimate heirs.¹⁷ Patriarchal values collaborate with law in the interpretation of the female characters in the play.

The revival of archaic, almost-forgotten sex laws that strictly police and punish illicit sexuality depends on a detailed classification of the act of sexual intercourse. The sudden proclamation in Vienna means the division of sexual activity into roughly two large categories—licit and illicit sex.

¹⁷ According to Michael D. Friedman, “in the absence of other means of financial support, the care and sustenance of illegitimate children falls to the responsibility of the state” (455).

While the institution of marriage legalizes sexual activity, sex outside of marriage, and therefore illicit, is interpreted as rape, fornication, or prostitution in this play. *Measure for Measure* problematizes these legal interpretations of sexual intercourse by demonstrating that an illegal sexual act defined as one thing can easily be interpreted as another, and that it is also possible to translate it into a legal act through the institution of marriage. The fictional sexual liaison between Isabella and Angelo is particularly important within the play for two reasons. First, its fictitious aspect allows multiple interpretations of sexual intercourse to co-exist simultaneously, thus blurring the boundaries between legal definitions. Second, the insertion of a proposal of exchange, Claudio's life for Isabella's virginity, conflates Isabella's intent with sexual consent, further disrupting divisions between rape and fornication, fornication and prostitution.

The sexual act that takes place off-stage between Angelo and Mariana through the bed-trick evades legal definition and is interpreted differently by the characters of the play. As the consequence of a deliberate trick played by the Duke-as-Friar, Isabella, and Mariana, it is initially and publicly claimed by Isabella that the liaison took place between herself and Angelo. The sex act is first represented by Isabella as rape; she appeals to the returning Duke for "justice" (5.1.20), accusing Angelo in no uncertain terms as "forsworn," (5.1.38) "adulterous thief / An hypocrite, a virgin-violator" (5.1.40). She in the main castigates Angelo's act of sexual violence

and his hypocrisy in outwardly patterning himself in “gravity” (2.4.9) while harboring within himself “sensual race” (2.4.161). However, her accusations of rape are soon rewritten into a narrative of fornication by the Duke. He blusters her story is false, not only because Angelo’s sexual “integrity” (5.1.107) is proof enough to deflect accusations of illegitimate sexual relationships, but also because “it imports to no reason / That with such vehemency he should pursue / Faults proper to himself” (5.1.108-110). The Duke does not hesitate to equate the “faults” of Claudio to the alleged crimes of Angelo, and he further explicates that “[i]f he had so offended, / He would have weighed thy brother by himself” (5.1.110-1), implying that Angelo’s alleged offense is identical to that of Claudio, in other words, the crime of fornication. When Mariana is called as a witness to defend Angelo in the trial that proceeds, she similarly declares that Isabella “accuses him [Angelo] of fornication” (5.1.192).

The transition from a tale of rape to one of fornication delineates the problematic concept of female sexual consent in the patriarchal society of Vienna.¹⁸ Both the Duke and Mariana do not differentiate between the two crimes, and the main reason behind this blurring of legal boundaries lies in

¹⁸ Baines points out legal authorities of the time recommended that defendants of rape cases base their defense on the allegation that the plaintiff had engaged in sexual activities with the defendant prior the alleged rape, indicating that defendants of rape trials tried to narrate a tale of fornication through writing in the plaintiff’s consent within the act of sexual intercourse (“Effacing Rape” 77-78).

the convergence of a form of contract with the act of sexual violence. Unlike straightforward rape narratives that depict sexual violation—and often marks of physical violence to emphasize this violation—female non-consent is ambiguous and difficult to establish in the supposed sex act between Isabella and Angelo. In his interview with Isabella, Angelo carefully fashions his sexual suppression over Isabella in the form of a proposed contract:

. . . that you, his sister,
Finding yourself desired of such a person
Whose credit with the judge, or own great place,
Could fetch your brother from the manacles
Of the all-binding law, and that there were
No earthly mean to save him, but that either
You must lay down the treasures of your body
To this supposed, or else let him suffer:
What would you do? (2.4.90-98)

An exchange is clearly implied; the “treasures of your body” in return for “fetch[ing] your brother from the manacles.” The decision to accept or refuse this contract is left entirely up to Isabella’s choice; Angelo ends his speech with the question “[w]hat would you do?” This question appears to pass over to Isabella the power Angelo initially wielded in their conversation; the outcome of their relationship now lies in the choice that

Isabella is to make. The marked absence of a subject who proposes this contract in Angelo's careful elision of himself as "this supposed" further reinforces the illusion of Isabella's complete freedom of choice and subsequent power. Newman argues that the "reciprocity of the contract is not a 'solution' to the gender hierarchies...but rather an important site of their production. The term 'contract' obscures the discursive construction of gender binarisms" (23). In other words, the form of the contract serves to cancel out the inherent inequality of power between Angelo and Isabella and instead functions to create the illusion that they are interacting on an equal footing. Angelo thus shapes his sexual subjugation of Isabella into a situation in which she appears to have the power to freely consent to or refuse his proffered exchange.

Isabella's explosively vehement refusal of Angelo's "offer" in which she adamantly declares that she would rather "strip myself to death as to a bed / That longing have been sick for, ere I'd yield / My body up to shame" (2.4.102-4) has been perceived as religious prudery or the manifestations of Isabella's suppressed sexuality. Neither critical analysis takes into consideration that Isabella's reply is resistance against sexual subjugation; violent *verbal* struggle takes place over a physical one. Both analyses premise the general assumption of the Duke, Mariana, and the Viennese public presumably observing the open trial, that Angelo's carefully disguised threats are *not* a form of attempted rape, that Isabella is given the

freedom to choose or withhold her consent, assumptions that Angelo so subtly manipulates. Isabella's violent resistance and explicit non-consent is thus easily interpreted as the cold and uptight refusal to save her brother's life, in other words, behavior befitting a sexual prude, or the suppression of desires that Isabella unwittingly betrays through masochistic language. David McCandless argues that Isabella "cloaks a sexual vexation in a novice's robes, striking a ferociously chaste pose that simplifies and neutralizes her complex sexuality" (79). Such observations highlight a woman's suppressed sexuality that may take on twisted forms and serve to cover or ignore male violence. Isabella's resistance against sexual oppression is thus transformed into something else.

What makes Angelo's manipulation possible is how the patriarchal society of Vienna, as well as Stuart England, perceives the possession and expression of desire or intent in women. Mariana, who was not afraid to "wash" (3.1.218) Angelo with "her tears" (3.1.217) and "lamentation" (3.1.216) and now sings her sorrows of love (4.1.1-6), is easily "pretend[ed]" by Angelo of "discoveries of dishonour" (3.1.214-15) despite a public promise of marriage. This points to a state in which women who express themselves too easily can be interpreted as possessing insatiable sexual appetites. Claudio refers to his sister as possessing

. . . a prone and speechless dialect

Such as move men; *beside*, she hath prosperous art

When she will play with reason and discourse,

And well can she persuade. (1.2.164-67 my emphasis)

Claudio's use of the word "beside" places emphasis on Isabella's "prone and speechless dialect" rather than her skills in "reason and discourse"; a "power" (1.4.76), Lucio further elaborates, that takes ultimate effect not when "maidens sue" (1.4.80), or use words, but when they "weep and kneel" (1.4.81). Even before her entrance onstage, Isabella's reputation is established as a woman skilled in the art of physical, rather than linguistic, expression. Isabella's attempts to present herself as completely severed from physical or sexual connotations, expressing her wish for "a more strict restraint / Upon the sisterhood" (1.4.4) and informing Angelo on their first meeting that what she "most desire[s]" (2.2.31) is the punishment of sexual vice. However, such attempts at self-presentation are consistently ignored, even by the members of her family.

Isabella is instead forced to undergo readings that emphasize her body and sexuality. Lucio greets her as a "virgin," exclaiming that "those cheek-roses / Proclaim you are no less" (1.4.16-17) even within the confines of her convent. His asides during Isabella's interview with Angelo provide a verbal filter that the audience easily internalizes. His encouragement of Isabella is framed in phrases with physical and sexual undertones; Lucio eggs her on with exclamations to "touch him, there's the vein" (2.2.72), "[o]h, to him, to him, wench, he will relent. He's coming: I percieve't"

(2.2.128-29). Angelo finally does “come”; his “sense breeds with” (2.2.147) the “sense” (2.2.146) of Isabella’s words, a logical ending to the purely physical and sexual context of Lucio’s asides. McCandless argues that Lucio “directs” Isabella “to perform a *passionate* subservience” in “language suggestive of sexual arousal” (99). A maid that “speaks” (2.2.146) is sexy; it is not words itself that move men but the act of *expressing*, that “prone and speechless dialect,” whether in the form of speech, lamentation, tears or kneeling. Once we are able to understand just how easily not only the characters of the play but also the audience can be persuaded to perceive Isabella’s words to have a sexual undercurrent, *despite* her own desires to be understood as a woman who abhors sexual appetite, it becomes possible to realize the ease in which any form of expression of intent or desire by women can become merged with and perceived as a manifestation of her sexuality. Self-presentation by a woman in the gaze of men is sexual; Juliet’s silence during her punishment of public exhibition is an extreme case in point in which the display of her pregnant body overrides all other forms of presentation to the extent that her body “speaks” *for* Juliet of her illicit and unruly sexuality.

In a society that conflates female expression and sexuality, it becomes impossible to think of Isabella’s desire and agency to save Claudio and her violent resistance to Angelo in separate terms. Her “will” (2.4.27) to rescue her brother and subsequent act of petition to Angelo already possess

sexual connotations in the eyes of Vienna and the watching audience; Angelo merely needs to tweak his narrative in order to present a story that effaces the violence he wields over Isabella. Isabella's expressed desire in the form of her petition provides a space in which her intent to save Claudio may be re-inscribed as sexual consent. Although sexual "consent" connotes passivity in that the woman is only allowed the choice of either acceptance or refusal, the term nevertheless premises a limited scope of individual desire and agency that enables the act of making a choice. "Intent" implies an individual's desire as well as his/her agency to achieve that desire, and Isabella's intent to save her brother from execution becomes publicly manifest through her petition. Consent and intent converge therefore, on the common ground of a woman's desire and agency, and it is this convergence which allows the re-inscription of Isabella's intent as an affirmation of her sexual consent. Patriarchal society seeks to suppress manifestations of desire in women through legally subjugating daughters under the legal control of fathers, wives under husbands. In other words, the desire of the father or husband is the desire of the daughter or the wife, and it is because Juliet refused to conform to the desires of "her friends" (1.2.132) that she could not access her dowry, the cause of her troubles in the first place. Sexual desire and even desire to fulfill familial duties is reduced to the dangerous category of sexual agency. A woman's overt expressions of intent, whether in sexual matters or no, are constantly in

danger of being interpreted as her sexual consent.

Isabella herself is not free from the patriarchal values of her society. Her ensuing narrative during trial interchanges “sisterly remorse” (5.1.100) with sexual non-consent. She narrates that “[h]e [Angelo] would not but by *gift* of my chaste body / To his concupiscible intemperate lust, / Release my brother” (5.1.97-8 my emphasis), further explaining that her desire to save Claudio in the end overrode qualms of “mine honour” (5.1.100). The word “gift” implies that Isabella has the freedom to choose between her virginity and Claudio’s head, and her confession that “I did yield to him” (5.1.101) seals that it was of her own volition to consent to sexual intercourse with Angelo. Isabella’s own public admission of her sexual consent clashes with her previous accusation of Angelo as a “virgin-violator,” indicating just how much Isabella has internalized patriarchal values that conflate female intent and its expression with sexual desire. Rape—albeit fictitious—is interpreted as fornication, and as the partner, rather than the victim of this sexual crime, it is thus necessary for Isabella to emphasize Angelo’s breach of their contract in her appeal to the Duke. “His [Angelo’s] purpose surfeiting, he sends a warrant / For my poor brother’s head” (5.1.102-3), becomes the central point of Angelo’s crime in Isabella’s petition.

Fornication and prostitution are also easily interchangeable within the play. Although it is Mistress Overdone and Pompey who are bawds by trade and hauled off to prison under the mandates of the proclamation,

one's actual profession functions less as an index in defining a whore than sexual license and appetite. Indeed, Pompey makes an easy transition of occupation from bawd to executioner; he insinuates that the trades of the "unlawful bawd" (4.2.12) and "lawful hangman" (4.2.13) are not that different in that they are both a "mystery" (4.2.28) and involve the cutting of heads. Since it is sexual liberty that the state sets out to curb for the repression of bastardy and the continuation of legitimate heirs, strict classification between the crimes of fornication and whoring is not crucially relevant to the aims of the state in that both crimes produce bastard children. It is a case in point that while Juliet, the fellow "schoolmaid" (4.2.47) of Isabella and presumably a gentlewoman in the care of "friends" who have a keen interest in the financial aspect of her marriage, is arrested to give birth in jail, Kate Keepdown, whom Lucio refers to as a "rotten medlar" (4.3.161), in short, a prostitute, retains her freedom although she too has given birth to an illegitimate child. Illicit sex, whether defined as fornication or prostitution, is perceived a danger to the patriarchal state when upper-class landed members of society begin to produce illegitimate heirs.

In such a social context, Isabella's public admission of her sexual liaison with Angelo, in which she agreed to "yield" (5.1.101) herself, is a thoroughly dangerous one in that it opens her up to legal interpretations of both fornication and prostitution. Mariana's testimony paradoxically

solidifies Isabella's wanton sexuality rather than clearing her of implicit charges of fornication; Isabella is now exposed of committing the ultimate crime of slandering a man of upstanding social reputation—a man's worst nightmare.¹⁹ Michael D. Friedman argues that "slander is a metaphorical form of illicit seduction" (461). False women and insatiable sexual appetite are inextricably intertwined, and it is mainly due to such a bias that Desdemona in *Othello* dies a tragic death. The exposure of Isabella as a false woman who tells tales that may seriously harm the honor of an important figure in Vienna confirms her frivolity and wantonness. It is no accident that Lucio once again inserts bawdy commentary of Isabella when Escalus determines to question her:

ESCALUS. ...you shall see how I'll handle her.

LUCIO. Not better than he, by her own report.

ESCALUS. Say you?

LUCIO. Marry, sir, I think if you handled her privately she would sooner confess, perchance publicly she'll be ashamed.

ESCALUS. I will go darkly to work with her.

¹⁹ Greenstadt quotes early modern legal authority Matthew Hale—"It is true rape is most detestable crime, and therefore ought severely and impartially punished with death; but it must be remembered, that it is an accusation easily to be made and hard to be proved, and harder to be defended by the party accused, tho never so innocent" (22)—to emphasize that the fear of false testimony from women was prevalent in early modern period legal discourses.

LUCIO. That's the way: for women are light at midnight.

(5.1.269-76)

If his previous asides demonstrate the male gaze that persistently perceives Isabella in terms of her physical body, Lucio's quibbling is now based on "her own report," and his insinuations are much more direct as he hints that Isabella is likely to engage in sexual activity with Escalus. Women who "report" lies are more than likely to be "light."

The inscription of Isabella's body from rape victim to fornicatress and whore during the final trial in *Measure for Measure* points to a judicial system that bases its standards of legal classification on patriarchal ideology that seeks to control and suppress female intent and desire. According to Robert Watson, the "dominant motive" in *Measure for Measure* is "the need to convert lustful fornication into martial fecundity" (130). Tennenhouse argues that the Duke's "prerogative to oversee marriage" (158) reveals "an earlier, rarified and magical form of patriarchy as the principle of political order" (159). In other words, the fortification of the patriarchal state depends on legitimatizing previous actions of illicit sex through the institution of marriage. The state-ordered marriages of Angelo, Claudio, and Lucio reinterpret their fornication into marital sex, and transform their respective spouses from fornicatrices to the legitimate status of wife. While such rewriting does have positive consequences in that it re-inserts Mariana, Juliet, and Kate Keepdown into respectable Viennese

society, it also points to the complete subjugation of female desire and agency under the control of the husband. Marriage legally seals the wife's sexual consent hereafter, and as the Duke's succinct remark, "her worth, worth yours" (5.1.490), implies, the "worth" of the newly married women depends solely on the "worth" of her husband. Illicit desire has effectively been nullified into no desire, or the desire of husbands.

The Duke's abrupt proposal of marriage, then, completes the conversion of "lustful fornication into marital fecundity." Although Isabella remains a virgin, her body has nevertheless gone through too many inscriptions through her trial. Very much similar to Hero's plight in *Much Ado About Nothing*, in which Hero needed to fake her own death in order to erase false accusations of lasciviousness, Isabella's honor has already been besmirched through the legal narratives of raped maiden, fornicatress, and whore to such an extent that it has become impossible for her to fully return to her original status of chaste virgin. Isabella has sealed her reputation by her own public admission of her liaison with Angelo, albeit fictitious. Friedman argues that "virginity is as much a social as a physiological state. Once a woman is charged with unchastity, she wears the social stigma of a fornicatress even if she has never actually engaged in sexual activity" (459). In other words, the virtue of chastity depends on reputation, that is, narrativization by others, rather than physical virginity. Although the physical body of Isabella has been proved to be chaste, a new narrative is

necessary in order to inscribe over still existent illicit interpretations. The Duke's proposal serves to dispel any remaining perceptions by the Viennese public or the audience of Isabella as "light"; once she agrees to "say you [Isabella] will be mine" (5.1.485 my emphasis), she rewrites herself as wife. Although the anticipated legal status of Isabella "imports your [Isabella's] good" (5.1.527) in that it dissipates other interpretations of her sexuality made available through her trial, Isabella's marriage will only take place once she "say[s]" that she will "belong" to the Duke. This phrasing of a marriage proposal is particularly telling in that it implies that marriage presupposes the complete legal subjugation of the woman, a price that Isabella must pay in order to write over the illicit sexual narratives inscribed on her body, despite the fact that her actual virginity has always been intact.

The marriages of Mariana, Juliet, and Kate Keepdown demonstrate that the reinterpretation of illicit sexual intercourse into legitimate marital consummation is both possible and necessary for subjugating female desire and reinforcing social order in the patriarchal state. Even fictitious sex, once it has become open to public speculation, can imply unruly sexuality by opening up the body of the woman to inscriptions of different illicit narratives. Isabella is thus interpreted as rape victim, fornicatress, whore, and even wife, according to the needs of the state. And in this process of interpretation, the suppressive violence that Angelo exercised over Isabella

becomes glossed over. When Isabella counters his “bargain” with a threat of her own, declaring that she “will proclaim thee [Angelo]” (2.4.152) unless he “[s]ign me a present pardon for my brother” (2.4.153), Angelo becomes outraged, and in his anger he is led to reveal the true nature of his sexual violence. He orders Isabella to “[f]it thy consent to my sharp appetite” (2.4.163) and “yield[ing] up thy body to my will” (2.4.165), “or else” (2.4.166) Claudio is not “only die the death / But thy unkindness shall his death draw out / To lingering sufferance” (2.4.167-68). Angelo is willing to prove himself a “tyrant” (2.4.170) to fulfill his lust, and it is this overwhelming power of the “tyrant” that he exercises over Isabella that is effaced. The violence that Angelo displays merely becomes a “needless process” (5.1.92) through trial and punishment.

It is important to note that this final effacement of sexual violence is achieved not only through the Duke’s power and prerogative. What makes the effacement complete is both Mariana’s and Isabella’s participation. When Mariana is threatened with widowhood by Angelo’s impending execution, she pleads,

They say best men are moulded out of faults
And for the most become much more the better
For being a little bad: so may my husband.
Oh Isabel! Will you not lend a knee? (5.1.432-35)

Mariana’s words reduce Angelo’s sexual violence and attempted rape into “a

little bad” that motivates masculine reformation. In doing so, she repeats and reinforces patriarchal attitudes that play down the inherent violence in rape and instead emphasize “that the men who have proved their manhood in the process will be desirable husbands” (“Marrying the Rapist” 324). Suzanne Gossett argues that Jacobean tragicomedy in which women marry their rapists suggest that “rape is just an unfortunate side effect of that valuable commodity, manliness” (324). In order to secure her legal status as wife in Viennese society, Mariana must collaborate in the effacement of Angelo’s sexual violence by re-presenting it as a “fault” that makes a “better” man and husband—even as she previously gave testimony in trial to clear Isabella’s name of the crime of fornication. Furthermore, Mariana’s almost reproachful plea, “[w]ill you *not* lend a knee?” is oppressive in that she demands Isabella to participate in the effacement of her own traumatic experience. Mariana justifies her oppression over Isabella by shaping her plea as an act of mercy on her behalf; she begs, “take *my* part, / Lend *me* your knees, and all my life to come / I’ll lend you all *my* life to do you service” (5.1.423-25 my emphasis). Isabella’s pleading for Angelo, and thereby erasing her own trauma, is presented an act of mercy that will save Mariana’s life.

Isabella is thus faced with the dilemma in which her refusal of Mariana’s plea will testify to her own hard-heartedness. Isabella chooses to efface her experience of sexual subjugation; on her knees, she tells the Duke

and the watching public that she believes a “due sincerity governed his [Angelo’s] deeds / Till he did look on me” (5.1.440). This admission reinforces the premise that partial responsibility lies in the rape victim. Catty cogently remarks that while “female beauty is a passive attribute,” it is simultaneously “credited with the power to ‘ravish’” (14). She further argues that “women are charged with complicity, at least, in sexual violence against them” (14). Isabella continues in this vein of reasoning:

His act did not o’ertake his bad intent,
And must be buried but as an intent
That perished by the way. Thoughts are no subjects,
Intents but merely thoughts.” (5.1.444-47)

Isabella’s assumptions that buttress her words of “mercy” are frightening in that they deny altogether not only her own experiences of sexual oppression but also the reality of rape. If “intents” are “but merely thoughts” and the “act” is what decides the reality of a crime, the argument that sexual non-consent of the rape victim and her resistance are also “merely thoughts” that “perish” once the act of coitus is accomplished becomes valid. Such reasoning lies in the patriarchal ideology that assumes that the “true” chaste woman can never be raped because her manifest virtue alone will deter rapists. In other words, the act of coitus— forced or no—is the woman’s consent.

Isabella thus participates in effacing her own experience of sexual

violence. Her participation functions to portray her as a woman merciful and generous, not only towards Angelo himself but also to a “sister” in distress. Such self-presentation as a “most kind maid” (5.1.386) is not without benefits, as Isabella herself is probably aware; her tainted sexual reputation is in sore need of repair. Her self-effacement of Angelo’s violence necessitates repeating patriarchal perceptions of rape and female sexuality, and her eloquent deliverance of patriarchal ideology provides the basis for Isabella’s re-entry into respectable Viennese society. Indeed, Isabella has “passed” all trials engineered by the Duke; her furious intent to “pluck out his [Angelo’s] eyes” (4.3.111) has been replaced by mercy and forgiveness. Cleansed of all dangerous intents of revenge and ready to reinterpret male sexual violence towards women, Isabella is fit to be newly inserted into patriarchal society through marriage. And in this process of “purification,” Isabella also proves to be oppressive; she tells the Duke that Claudio “had but justice / In that he did the thing for which he died” (5.1.441-42). Considering that Angelo has also committed fornication with Mariana, therefore prompting the Duke to order Angelo to “marry her instantly” (5.1.370), Isabella’s line of reasoning does not so much indicate faulty logic as it points to her willingness to sacrifice her “dead” brother to salvage her reputation. In other words, it is not only due to the Duke’s desire to control female agency that Angelo’s sexual oppression of Isabella becomes effaced. Both Mariana and Isabella’s desire to re-enter society as legitimate subjects

collaborate with the Duke's "prerogative to oversee marriage."

4. Conclusion: Bed-Tricks and Female Agency

I have so far examined the ways in which the law and the judicial system are grounded in, and at the same time reinforce, patriarchal ideology that suppresses and confines female agency and subjectivity through. However, the dramatic representation of how this ideology operates in collusion to state power and authority does not entirely account for exertions of individual agency which the characters display, even while conforming to Vienna's patriarchal values. Tennenhouse insists on a political reading of Shakespeare's works that perceive his drama as "an instrument of political literacy that openly acknowledged its relationship to the power of the state." As such, his works are not subversive in the sense that they overturn completely ideological values of Elizabethan and Stuart England. Instead, they are a "series of semiotic events" that are "part of the political thinking of the culture," and it is through exposing this process of "political thinking" through dramatic representation that his works exhibit subversive elements (13). Furthermore, individual desires and agency often operated in collusion to dominant social ideologies that had unexpected consequences, something that Shakespeare was well aware of.

The bed-trick in *Measure for Measure* has a long history in the play's criticism as a problematic device. A dramatic trick incorporated into *Measure for Measure* and absent in the source-plays of *Epita* and *Promos*

and Cassandra, critics have traditionally oscillated between assessing the device as disruptive of the play's realism in order to precipitate the conventional comic ending of multiple marriages, or as necessary dramatic trick that maintains the overall harmony of the work.²⁰ Such debate presupposes, at least, that the bed-trick is pivotal within the play. For the most part, critics tend to focus on the fact that the bed-trick legitimizes unruly sexual desire through eliminating illicit sexual relations between his deputy and Isabella and thereby consummating Mariana's marriage-bed. Eileen Z. Cohen argues that the bed-trick "abets love and marriage" and that it "utilizes illusion and deception to bring perception and understanding" (171), and Tennenhouse remarks that the device "rigorously observes the law" (157) in that it fundamentally works to restore moral and sexual order in Vienna.

Such criticism tends to ignore the subversive elements of female agency in Isabella and Mariana's participation of the bed-trick in assuming that both women ultimately work towards the consolidation of patriarchy and state. While the substitution of bodies does revert Vienna to a state of

²⁰ Richard P. Wheeler insists that the bed-trick "further disperses a dramatic movement that will eventually culminate in four marriages, none of which completes a relationship that has held a place at the center of the action throughout the play" (13), while E. A. J. Honigmann argues that while the introduction of the bed-trick shifts the play "into a new mood" (163), the device nevertheless is crucial to the harmony of the play in that it serves to effectively "mingle" dramatic genres (168).

moral order and legitimates Isabella and Mariana's respective statuses as maid and wife, the bed-trick also contains subversive elements of female agency. Emily A. Detmer-Goebel argues that the bed-trick is a device that "supports and feeds into a rape culture by sustaining the cultural belief that women lie about sex" (118). She explicates that *Measure for Measure* is an uncomfortable experience for the audience because the play "has forced men to marry women based on the false testimony of women" (133). In other words, the work plays on male anxiety of the generally accepted idea that women tell false tales of rape to exact revenge by grounding the arranged marriages precisely in the realization of this anxiety. In Catty's detailed analysis of the bed-trick in the context of rape narratives in Renaissance drama, she compares plays that depict male and female substitutes, arguing that "when the substituted party is female . . . this implies that the woman's volition is of greater weight." Catty argues that plays that depict female substitutes of the bed-trick demonstrate that "female desire proves to have some agency in resolving the play's tangles" (116). Both Detmer-Goebel and Catty's analyses indicate that subversion of patriarchal ideology may take place even as the female agents participate in the trick in order to secure places in patriarchal society.

It is important to examine the bed-trick in *Measure for Measure* in the context of the concluding trial. What the device accomplishes is the erasing of clear legal definitions of its characters. Mariana is a case in point.

When the Duke interrogates her, it is revealed that she is “nothing,” she is “neither maid, widow, or wife” (5.1.177). The act of deliberately substituting her body for Isabella’s and tricking Angelo as well as the entire Viennese public has no place within a legal classification system of women grounded in patriarchal standards that define a woman according to her marital status. Mariana’s social and legal indefinability also wreaks havoc in defining the legal status of the man she has had sex with. She narrates that “[t]his is the body / That *took away* the match from Isabel / And did supply thee at thy garden-house” (5.1.207-08 my emphasis). Mariana’s choice of words implies a sexual volition that differs markedly from the feminine domain of sexual consent; not only is she the agent who held the body of Angelo in “mine [Mariana’s] arms” but also forcibly “took away” his body from Isabella—a phrasing evocative of the term “ravishment” that conflates the abduction and sexual subjugation of a female body. Mariana’s narrative not only renders ambiguous her own legal definition, but even radically serves to blur gender classifications—a disturbing undercurrent of male rape by an undefined female may be glimpsed in Mariana’s telling of her story.

Furthermore, this blurring of gender in rape is reinforced upon a close examination of Isabella’s description of her meeting-place with Angelo:

He hath a garden circummured with brick,

Whose western side is with a vineyard backed;
And to that vineyard is a planchèd gate
That makes his opening with this bigger key.
This other doth command a little door
Which from the vineyard to the garden leads;
There have I made my promise, upon the heavy
Middle of the night to call upon him. (4.1.26-32)

The detailed description of Angelo's private garden "circummured with brick" and accessible only by passing through two doors is evocative of the medieval metaphor of the heavily guarded entrance to the castle of a maiden's virginity. In this case, however, it is Isabella who penetrates Angelo's garden by "mak[ing] his opening" with the first key, then "command[ing]" the "little door" to open with the second. It is Isabella who has "made" the promise to "call upon him," and such use of active language that implies sexual aggression rather than subjugation functions to blur gender roles.

Mariana, of course, is seeking re-entry into respectable Viennese society, and it is thus necessary to present herself as Angelo's legal wife whose "hand which with a vowed contract / Was fast belocked in thine [Angelo's]" (5.1.206-07). However, her re-insertion into patriarchal society first necessitates the bed-trick and subsequent erasure or blurring of previous legal and social definitions of women. It is only when Mariana's

legal status as wife is cemented through the Duke's marriage mandate that Angelo may also gain his new legal definition as husband. It is the substitution of female bodies through the bed-trick that precipitates the concluding trial; a trial is crucial in that its main function is to impose legal interpretations of human behavior. Mariana and Isabella's participation in the bed-trick, paradoxically with the intent to establish themselves within Vienna as wife and maid, disrupts the system of legal classification by exposing its very tenuousness.

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권력, 법, 여성주체: 강간서사로 『자에는 자로』 읽기

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본 논문은 셰익스피어의 『자에는 자로』을 강간서사로 읽어 권력과 여성 주체 형성의 역학을 연구한다. 실제 강간이 재현되는 작품들로 강간서사의 범주를 제한하는 기존 비평과 달리 본 논문은 안젤로와 이자벨라 간 허구의 밀통을 일종의 강간으로 읽는다. 르네상스 강간서사에 작품을 포함시킴으로써 당시 강간의 법적, 사회적 개념을 토대로 국가 권력이 여성 주체를 어떤 방식으로 통제하였는지 탐구한다.

1장은 국가 권력의 작동 방식을 분석하고 국가 제도인 재판과 형벌이 주체 형성에 미치는 영향을 밝힌다. 재판과 형벌을 통해 클로디오와 줄리엣에게 간음이라는 서사가 덮어씌워지지만, 개인 행동 대한 법적 해석은 인간의 구체성을 전체적으로 수렴할 수 없다. 법적 서사와 억압적 경험으로 완전히 추상화할 수 없는 인간의 구체성에 대한 국가 권력의 불안은 공작 빈센티오를 통해 현현한다. 공작은 타락한 성적 도덕성을 비엔나 시민들의 개인적 본질로 돌리고 국가적 억압을 정당화한다.

2장은 이자벨라의 재판에 주목하고 가부장제와 국가 권력이 공모하는 과정에서 여성이 어떻게 억압되고 활용되는지 고찰한다. 재판에서 안젤로와 이자벨라 간 일어난 허구의 밀통은 차례로 강간, 간음, 그리고 매춘으로 해석된다. 허구의 성관계가 다양한 법적 서사로 변주되는 과정이 재현되면서 실제로 일어난 이자벨라에 대한 안젤로의 성적 억압은 지워짐을 밝힌다.

마지막 장은 강간서사에서 침대-피의 의미에 조명하고, 여성 주체의 발현 가능성을 모색한다. 합법적 여성 주체로 비엔나의 사회로 재흡수 되기 위해 이자벨라와 마리아나는 침대-피에 가담한다. 이 과정은 역설적으로 강간의 젠더 구분을 모호하게 할 뿐 아니라 법적 해석의 임의성을 폭로한다.

주요어: 『자에는 자로』, 셰익스피어, 권력, 법, 여성 주체, 재판, 형벌,
서사, 강간, 가부장제, 국가, 침대-피

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