



menstrual murderesses

Women Found Not Guilty by Reason of Insanity in Nineteenth Century America

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Introduction

During the 1800s, a tumultuous time for changing perceptions of women, two women—Mary Harris and Laura Fair—found themselves facing the death penalty for the capital murder of men they once loved. Both were acquitted for the highest class of crime possible by asserting that they did, in fact, commit the crime but that they were not responsible for it because of a grave feminine condition: uterine irritability and menstrual irregularity as a result of disappointment in love. The unique application of medical evidence, along

with the intersections of gender, class, and the criminal justice system, created an insanity defense used almost exclusively in these cases. Through female solidarity and the testing of the boundaries of nineteenth-century gender roles, these women highlighted a double standard and, ultimately, used the social standards being held against them for their own liberation.

The insanity defense asserts that a defendant is not liable for their illegal actions. In law, crimes are made up of two necessary components: *actus reus* and *mens rea*. *Actus reus* translates to guilty act, or the unlawful con-



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duct, and *mens rea* translates to guilty mind, or the component that claims mental state or intention to commit an illegal act. It is the responsibility of the prosecution in a criminal proceeding to prove guilt, including the defendant’s state of mind.

The concept of insanity in a legal sense was developed in English law, which greatly influences American law. The Wild Beast Test (1256) was one of the first ways that the courts legally tested if a defendant should or should not be held legally responsible for their criminal acts, describing these individuals as “totally deprived of his understanding or memory, and doth not know what he is doing, no more than an infant, a brute, or wild beast.”¹ The Wild Beast Test represents a broad interpretation of what it would mean to lack the state of mind and/or intention to commit a crime. The balance of understanding diminished capacity and what constitutes this criterion was difficult to navigate.

The M’Naghten Test (1843) was the first significant change from the previous Wild Beast Test. Daniel M’Naghten experienced paranoid delusions which led him to believe that the Catholic church and British government were conspiring to kill him, culminating in the murder of Edward Drummond and the

conspiracy to murder Prime Minister Sir Robert Peel in 1843.² Through this case, the new standard for the insanity defense emerged: the defendant’s ability to tell right from wrong. Central to this test is that the defendant must prove that they had a mental condition at the time of their criminal act, that they could not understand the nature of their criminal act, and that they could not recognize their act as being right or wrong. Although further tests and changes in the evaluation of this defense were developed later, the M’Naghten Test has persisted as the most common test for states which still retain the insanity defense (some states have abolished the insanity defense but retain a plea option of “guilty but mentally ill”). Notably, the result of a successful not guilty by reason of insanity plea in these cases mandated that “the unfortunate accused be confined within the walls of the insane asylum.”³

Case Studies

Mary Harris

Mary Harris was born around 1846 to a poor, Irish Catholic family and had to start working in a hat making shop run by the Devlin sisters at the age of nine. Adoniram Burroughs began to court Harris at work

when she was twelve and he was twenty-seven. After his business failed in Iowa, he moved to Chicago. Her parents did not approve of their relationship—not because of the age difference but because of the difference in social class and religion.⁴ They continued their correspondence for years, and when Harris turned eighteen, Burroughs wrote to her and asked her to move to Chicago to be with him. She was under the impression that this meant they

would be getting married. Their public behavior in their relationship was not well-liked, and so Adoniram’s brother, Reverend Burroughs, lined up a job for him in the Treasury Department in Washington, D.C.⁵

While in Chicago, Harris received some strange letters from a mystery man who said he wanted to meet up, and she thought it looked like it was Burrough’s handwriting. A worker at the post office said it looked like him, but her friends thought these letters were suspicious. So her friend suggested Harris say



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she was interested but not available on that date and to see if they could reschedule the meetup. On the rescheduled date, she went with her friend, where the alleged meet-up occurred at a brothel. When Burroughs saw her with her friend, he ran out. This choice of location might have been because the stigma of a higher-class man using a brothel was not outrageous, and it would provide some sort of anonymity from being seen by other individuals in a high social circle.

A few days later, Harris discovered that Burroughs was to be wed to another woman in September 1863.

Following this discovery, Harris exhibited erratic behavior and violent episodes. These behaviors included wandering around aimlessly, attacking others with knives, and tearing an expensive quilt to shreds.⁶ So the Devlin sisters, Harris’ employers and friends, called a doctor. The doctor said that she was having menstrual issues, primarily painful dysmenorrhea, and prescribed her rest. But in 1865, Harris traveled to the Treasury building



in Washington, D.C., and shot Burroughs at his workplace. The literature offers different answers for her age, but an official statement from her in jail published by *The New York Times* stated that she was nineteen years old at the time of the murder, but “appeared a few years older than she is said to be” while other accounts claimed she was twenty-two.⁷

Following her arrest, police reported that Harris said that Burroughs “ruined her” but allegedly also told another officer that she was “still pure.”⁸ Her trial began to attract a large crowd because of the perception that she was a young woman who avenged her own defilement. The prose-

cution argued that the Harris case was “utterly incompatible with the idea of insanity. If it appears, therefore, from the evidence, that this homicide was committed in a spirit of revenge—to avenge some wrong—it is a death blow to the plea of insanity.”⁹ She eventually received a judgement of “not guilty.”

Laura Fair

Laura Fair was born Laura Ann Hunt in Mississippi in 1837 to a small, low-income family. She got married at the age of sixteen to a much older man but was widowed a year later “without a farthing.”¹⁰ The next year, she married Thomas Grayson, an abusive drunkard, but she abandoned him to start a board-



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ing house in San Francisco . She then met her third husband, William Fair, but was widowed again in 1861, after her husband took his own life due to economic pressures to support his family (although there are several other reasons cited in different sources for this death, including

a land dispute and jealousy over Fair’s affairs with a mystery man).¹¹ As a result, Fair was left to support herself, her mother, and her child. In 1863, she met Alexander Crittenden, a man who claimed to be a widower. In 1870, after seven years, Fair discovered that Crittenden was, in fact, married; at this point Crittenden claimed that he planned to divorce his wife. When Fair threatened to reveal the

affair to his wife, Crittenden threatened to kill Fair and himself.¹² That same year, Crittenden took a ferry to meet his wife in Oakland, CA, who was returning from a trip to the East Coast with their children. Fair decided to catch the same ferry as Crittenden and shot him, stating, “You have ruined me.”¹³

According to the official transcript of the 1871 trial, several polled jury members claimed they had already formed an opinion on the case as a result of newspaper reports. One proposed jury member said he was close to Crittenden and had already formed his opinion because of what the media had printed. After the defense attempted to excuse the potential juror, the prosecution challenged the excusal with the claim that jurors should not be ineligible from serving on the jury because of media opinions due to the fact that what the newspaper was publishing was true. The judge cited the unconstitutionality of allowing friends of the deceased to serve on the jury and permitted the excusal.¹⁴

Fair’s trial drew support from suffragists

who aimed to address the double standard which shunned Fair for being a mistress but failed to address Crittenden’s identity as an allegedly routine cheater.¹⁵ San Francisco newspapers criticized Fair as a man-hungry murderess who had seduced the upright man. In her trial, the prosecution argued that she was a powerful siren who aimed to ruin the life of Crittenden, arguing, “Her power was

“ Her power was that of a female Hercules, transcending the power of all men in the world.”¹⁶

that of a female Hercules, transcending the power of all men in the world.”¹⁶ The defense argued that Fair suffered from mania attacks as a result of delayed menstruation during the last year. Three doctors and one nurse testified that these female maladies were common, and some even said that because Fair went into business

opening her own boarding house, she had assumed a masculine role and thus, experienced menstrual irregularities.¹⁷ On July 28, 1871, she was found guilty of the crime and was sentenced to death by hanging. Approximately a week before her assigned execution date, she was awarded a new trial because the prosecution’s attack on her char-



acter was considered prejudicial evidence. She was acquitted in her second trial. It is not entirely clear where Fair ended up immediately following the second trial, but she was living independently in a storefront when she passed away in 1919 at the age of eighty-two.

Discussion

Media Implications

Historically, the court system has been a setting which demonstrates societal ideas, values, and mores about what is good and what is bad, with Lawrence Friedman stating, “trials . . . give off moral messages, about crime and punishment, good and bad, norms and values.”¹⁸ Through symbolic messaging and intentional manipulation of the jury, the court system can foster a sense of change or evidence for a broad range of issues. Because the cases of Mary Harris and Laura Fair were widely published, and at the time, seen as scandalous true crime stories, their cases were prime opportunities to introduce new medical testimony and opinions on morality for audiences enthralled by these cases. The suffragettes in Fair’s case were particularly aware of the media attention, arguing in favor of Fair but also challenging the medical diagnosis of hysteria, claiming that it was only a diagnosis

to enact social control over women. Following Harris’ not guilty verdict, newspapers denounced her defense as a fraud, with one doctor claiming the plea was “a dodge whereby a villain is saved from merited punishment.”¹⁹

Medical Implications

The legal arguments focused on the fragility of women and the sacred virtue of maidenhood but also centered around accepted medical practices for women and common beliefs about menstruation at the time. The jury found these arguments compelling enough to acquit Harris and Fair. Medicinal practices at the time were rooted in biological determinism or the idea that women as a group are naturally inferior to men intellectually, physically, and spiritually. In the mid-nineteenth century, the perception of mental health was that women’s and men’s mental health and neuroscience were fundamentally different. The domestic roles of women during the nineteenth century contributed to the development of mental health conditions which were then diagnosed as hysteria and/or other gendered conditions. These conditions were treated in a way that compounded women’s oppression and furthered their clinical symptoms.

Gendered Implications

At the time, women were often institutionalized for being disobedient to their husbands. If women displayed erratic behavior, they were prescribed rest or other ineffective treatments. Another unfortunate reality for women with mental health issues or women who challenged the gender roles of that time was that their husbands had the prerogative to institutionalize them. A not guilty by reason of insanity verdict meant that these women were not released into the general public unscathed, like a not guilty verdict but were instead relegated to an asylum until deemed fit to be released, if ever.

In both Harris and Fair’s cases, the prosecution and defense capitalized on the existing gender norms by arguing that women were fragile and highlighting the societal fears around women’s virtue and exploitation. Fair was originally found guilty but ordered to have a new trial because the Supreme Court found that the prosecution’s attack on her character was prejudicial. In the media and

the courtroom, she was portrayed as a siren who had corrupted an upstanding man. While the medical evidence by modern standards is flawed, Fair’s defense, at the time, was an arguably appropriate one due to the precedent of the Harris case.

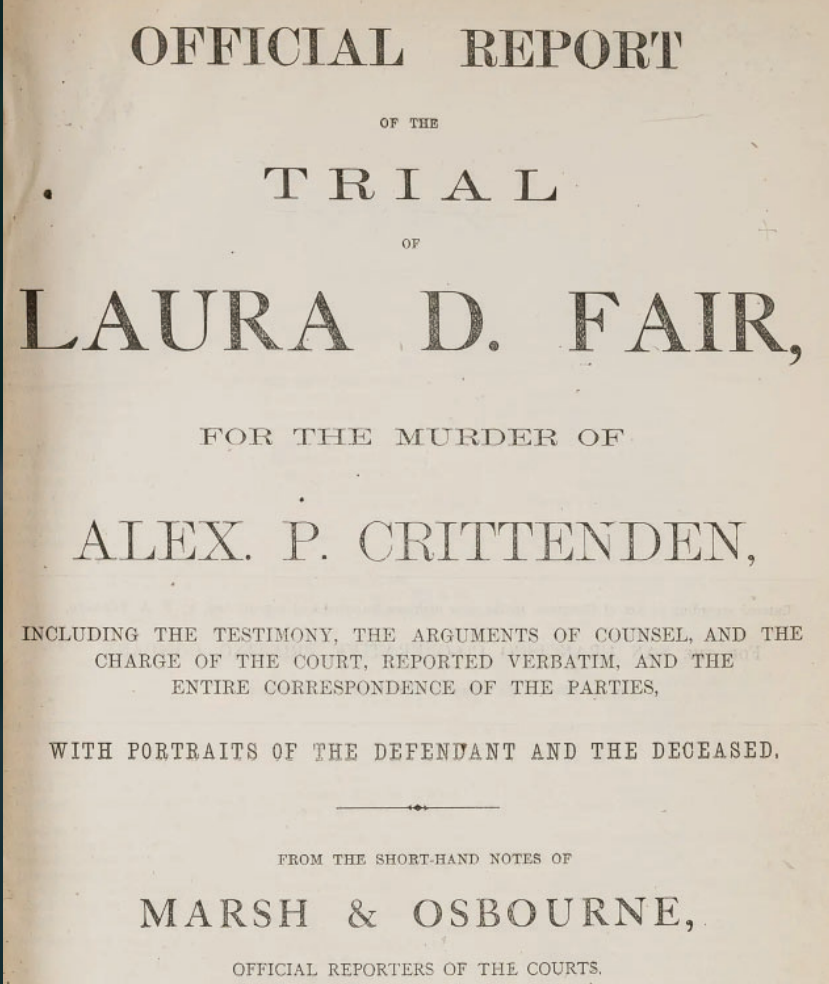
Both women said that the men had ruined them. For Harris, who was likely a virgin or

had only had a relationship with Burroughs, the economic asset of her perceived purity was gone. As a young person by modern-day standards, she had spent the much of her life with this man under the impression that they would get married. Through her marriage to him, she would have risen in the ranks of the socio-economic hierarchy and no longer have had to work to

support her family. This was not a misguided belief of a dramatic young woman; one of the defense’s witnesses in the Harris case stated, “. . . let this poor, blighted, affected, ruined, and persecuted girl go. The law has no claim on her.”²⁰ In contrast, Burroughs’ friends claimed that “he [was] a gentleman of unblem-

“ . . . women were often institutionalized for being disobedient to their husbands. ”





ished morals, and of the highest order . . . He always spoke in terms of strong commendation of Miss Harris, and ever expressed the most friendly interest in her welfare.”²¹

For Fair, the depiction of her as an adulterous whore or as a man was damaging. She was a failure as a proper woman because of the affair and was a failure as a woman because of the murder, despite the jury finding her not guilty due to a uniquely female condition. Wrote Emily Pitt Stevens, the founder of the California Woman Suffrage Association, “It was A.P. Crittenden, that notorious roué and adulterer, who advanced the unholy doctrine of free love as a married man living in open

adultery with Mrs. Fair. Hang this woman, and the very name of San Francisco will be odious for ages to come.”²²

Class Implications

In the nineteenth century, the society viewed women pursuing wages as unnatural, and women who were married, unemployed, and financially stable enough to afford to hire maids and nannies as the epitome of feminist class and maternity.

Harris couldn’t afford to get witnesses from Iowa to D.C. The reality for lower-class individuals was that if they wanted their peers to come forward as witnesses and testify in a trial, someone had to compensate the witness-

es for the travel costs and lack of pay for the time spent traveling. Because of this, Harris was not able to get witnesses, while Burroughs’ brother, a reverend and the president of the University of Chicago, could afford to hire witnesses or compensate witnesses, leading to a power imbalance against Harris. Harris wished to have the madam from the brothel testify that Adoniram Burroughs was present to meet with her and ran when he saw Harris’ friend, but the madam refused to testify without pay. Because the prosecution recognized this bolstered her case, they also refused to compensate her. The Devlin sisters closed their shops in Chicago to travel to D.C. to testify on behalf of Mary Harris, no easy feat for self-supporting low-income women, and because of this action, more women slowly began to support Harris.

Conclusion

These cases, while unique, reflected common mid- to late nineteenth century perceptions of women, medicine, and the criminal justice system. Entrenched in melodrama, these cases became hot topics to cover, and the lessons portrayed in morality highlighted the sexual double standard and the social pressures women, especially lower-income women, experienced at the time. While I do

not believe that these women were entirely motivated by revenge or entirely controlled by menstrual rage, I do believe that the class narratives and reality of mental illness in the late nineteenth century are often not recognized in their stories. These women were deceived and then experienced the devastating loss of men they presumably loved to women who fit within the narrative of what it meant to be an ideal woman. These women, now ruined because of these men and lacking the economic and social prospects of a husband, found themselves in genuine mental distress that went misdiagnosed, mistreated, or ignored. I find it troubling that much of the existing literature on these cases sees these women as tokens for the feminist movement that rallied during their trials, without recognizing the vibrant lives these women held, filled with both love and devastation. These women countered the narratives of the times to their success, claiming temporary insanity due to the instability of their reproductive systems, highlighting the existing double standard, but still were unable to receive the treatment they duly needed.





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Endnotes

¹ Strom, Samuel "Background and History of the Insanity Defense" 2023

² Ibid

³ Allen Spiegel & Merrill Spiegel "Not Guilty of Murder by Reason of Paroxysmal Insanity: The 'Mad' Doctor vs. 'Common-Sense' Doctors in an 1865 Trial" *Psychiatric Quarterly* Vol. 62, p. 51-66: 1991

⁴ Mary Harris "The Washington Tragedy: An Interview with Miss Harris and Her Statement of Her Relations with the Deceased" *New York Times* 1865

⁵ Carlson, Cheree. "The Crimes of Womanhood: Defining Femininity in a Court of Law." 2008

⁶ Ibid

⁷ Mary Harris "The Washington Tragedy: An Interview with Miss Harris and Her Statement of Her Relations with the Deceased" *New York Times* 1865

⁸ Carlson, Cheree. "The Crimes of Womanhood: Defining Femininity in a Court of Law." 2008

⁹ Ibid

¹⁰ Holly Cole "Women & the Death Penalty in Victorian San Francisco" *California Supreme Court Historical Society* 2014

¹¹ Holly Cole "Women & the Death Penalty in Victorian San Francisco" *California Supreme Court Historical Society* 2014

¹² Holly Cole "Women & the Death Penalty in Victorian San Francisco" *California Supreme Court Historical Society* 2014

¹³ Holly Cole "Women & the Death Penalty in Victorian San Francisco" *California Supreme Court Historical Society* 2014

¹⁴ Marsh & Osbourne "Official Report of the Trial of Laura D. Fair for the Murder of Alex P. Crittenden" 1871

¹⁵ Gary Kamiya "The case of Laura Fair, San Francisco 1870" *SFGATE* 2014

¹⁶ Gary Kamiya "The case of Laura Fair, San Francisco 1870" *SFGATE* 2014

¹⁷ Holly Streeter "The Sordid Trial of Laura Fair" *Georgetown University Repository* 1995

¹⁸ Lawrence M. Friedman "The Big Trial: Law as Public Spectacle" (Lawrence: University of Kansas Press, 2015), p. 29

¹⁹ Allen Spiegel & Merrill Spiegel "Not Guilty of Murder by Reason of Paroxysmal Insanity: The 'Mad' Doctor vs. 'Common-Sense' Doctors in an 1865 Trial" *Psychiatric Quarterly* Vol. 62, p. 51-66: 1991

²⁰ Allen Spiegel & Merrill Spiegel "Not Guilty of Murder by Reason of Paroxysmal Insanity: The 'Mad' Doctor vs. 'Common-Sense' Doctors in an 1865 Trial" *Psychiatric Quarterly* Vol. 62, p. 51-66: 1991

²¹ Mary Harris "The Washington Tragedy: An Interview with Miss Harris and Her Statement of Her Relations with the Deceased" *New York Times* 1865

²² Gary Kamiya "The case of Laura Fair, San Francisco 1870" *SFGATE* 2014



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