ENDURING FICTIONS OF POSSESSION

Sexual Infidelity and Homicidal Rage in Shakespeare and Late Modernity (Glossing *Othello*)

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A failed reform bid to exclude 'infidelity' as a trigger for loss of control in the new loss of control defence introduced in England and Wales in 2009 occasions this return to an enduring puzzle: why should men who kill 'unfaithful' women continue to receive law's compassion? The recent case of *R v Clinton, Parker and Evans* places this issue firmly back on the agenda. Informed by the latest wave of law scholarship that is exploring Shakespeare's insights into a host of socio-legal questions, this article explores critical readings of *Othello*, that brilliant dissection of infidelity-inspired femicide that goes so far as to query the notion that a wife's sexual infidelity warrants violent retaliation. The article highlights a strain of Shakespearean scholarship that reads *Othello* as a prescient examination of the operation of commodity fetishism. This reading, it is suggested, provides new insights into the purchase of fictions of possession still being retailed in cases of 'infidelity' homicide today.

Othello: I will chop her into messes – cuckold me?

– *Othello* 4.1.193

Othello: It is the cause, it is the cause, my soul –

Let me not name it to you, you chaste stars:

It is the cause. Yet I'll not shed her blood,

Nor scar that whiter skin of hers than snow

And smooth as monumental alabaster –

Yet she must die, else she'll betray more men.

– *Othello* 5.2.1-6¹

The criminal law's hallowed distinction between hot- and cold-blooded murder, along with its equally venerated by-product, a predilection for sympathising with defendants in 'red mist' wife-killing cases and with victims in non-domestic femicides, has been put into stark relief once again. Witness the recent collective outpouring of grief for a woman abducted,

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¹ Citations are from Neill (2008).

raped and murdered after leaving a Melbourne bar. Initially, the Jill Meagher case attracted the usual queries about possible compromising behaviour on her part – out late drinking and then walking home alone? She was quickly exonerated, established as happily married, professionally employed, vindicated by family, colleagues and friends. And then it began: an extraordinary community-wide response facilitated by massive media coverage featuring a gallery of her life online and a torrent of social media commentary described as ‘unprecedented’ other than for natural disasters, with Twitter and Facebook recording responses to the case every eleven seconds at one point. Such an astonishing social media engagement demonstrated, it was said, that people everywhere were taking to the case ‘with enormous passion’.² What followed was a public display of sympathy for the innocent victim, expressed at a candle-lit vigil ‘honouring Jill’, attended by families, ‘couples, tradesmen and even babes in arms’ at a church near where she went missing, as well as vigils around the country.³ It culminated in a 30,000-strong ‘Peace March’ along the street where she was abducted – now laden with flower-decked shrines – and calls to preserve graffiti-splashed walls in the CBD ‘remembering Jill’.

There was an underside to all the collective emoting. Hate pages appearing on social media sites attracted tens of thousands of ‘likes’, including posts inciting violence against the suspect – the ‘maggot’ as he was described in the gallery at his committal. These had police fearing they could jeopardise his right to a fair trial. Appeals by the police and the distraught husband to close down these sites went unheeded for days. Unheeded too (or barely heeded) in all the outcry was the reminder, in one opinion piece, that in the state of Victoria, the biggest threat to women’s health is violence that is most often perpetrated by a man known to the woman and that, on average, ‘77 women die in Australia every year at the hands of a violent man, usually known to her’.⁴ The crowd was too focused on the generic – ‘violence is evil’ read one banner – and the specific – ‘remember Jill’ – to venture across that yawning psychic gulf segregating dime-a-dozen ‘domestics’ from a sensationalised stranger-danger case featuring a stock-in-trade bad-arse criminal, the hooded lurking street menace.

Such an outpouring of grief and anger is unimaginable in the far-more frequent domestic femicide case, indicatively a provocation by ‘infidelity’ case where sympathy is extended to killers succumbing to ‘human frailty’ with their victims blamed for provoking them. No maggots here, just sorely tried men flying into understandable homicidal rage when provoked by an irritating and sometimes ‘unfaithful’ wife. No peace march for her, emoting over her violent death confined to family members outraged by his self-serving

² Lowe (2012).

³ Chawick and Bucci (2012).

⁴ Rechter (2012).

fabrications and, frequently, conviction for mere manslaughter.⁵ Moreover, even in reforming jurisdictions such as Victoria, where the provocation defence has been abolished, the she-asked-for-it 'provocation' script retains its purchase as a sentencing discretion and culturally mandated alibi for treating infidelity killers more leniently than cold-blooded killers. Such is the stubborn excusatory logic of the partial defence of provocation everywhere.⁶ Switching to another jurisdiction – the latest to attempt a reform of the law of provocation – we find the same problematic, that persistent disavowal of the social harm caused by treating infidelity killers sympathetically, highlighted in yet another spate of 'infidelity-inspired killings. In January 2012, the English Court of Appeal, hearing the conjoined appeals of three men convicted of murdering their wives, determined that infidelity-inspired jealous rage would survive a bold attempt by reformers to prohibit such rage as mitigating emotional excuse for murder in England and Wales.⁷

The resurrection of sexual infidelity as a mitigating excuse for homicidal fury in the Court of Appeal after its seeming legislative demise provides the occasion for my latest inquiry into the continuing legal provenance of the notion that 'infidelity'-inspired killers – overwhelmingly men – deserve compassion and their victims blame for upsetting them. No matter how strained and implausible the defendant's account of how her 'infidelity' provoked him beyond endurance, the *Clinton* decision has ensured that his manslaughter plea will still be countenanced in English criminal courts in the twenty-first century. Where might those wishing to continue the challenge to this ancient conceit turn now? A resurgent Shakespeare and law movement that is exploring his problematisations of a host of socio-legal questions has sparked my interest in delving into the canon in search of novel ways of framing a critical response to law's handling of domestic femicide cases.⁸ *Othello*, Shakespeare's brilliant dissection of infidelity-inspired femicide that goes so far as to query the notion that a wife's sexual infidelity warrants violent retaliation, is the obvious starting point. Here I discovered a strain of Shakespearean scholarship that reads *Othello* as a prescient examination of the operation of commodity fetishism in early modern England. This reading, I suggest, provides insights into the continuing purchase of those fictions of possession still being retailed in cases of 'infidelity'-inspired homicidal rage today – fictions informing the enduring sympathy, in late modernity, for men who kill 'unfaithful' women.

⁵ Then there are the murder suicides, again overwhelming committed by men, one within a week and just a few miles away from the abduction murder. The husband, who stabbed his wife to death and then set her on fire in a jealous rage, was said by his employer to be 'a good person ... a hardworking man and a very generous person, very peaceful'. Quoted in Flower (2012).

⁶ For the most recent overview and critique of various attempts to reform provocation, see Tyson (2013).

⁷ *R v Clinton, Parker and Evans* [2012] 1 Cr App R 26.

⁸ See especially Heinze (2009a, 2009b, 2009c). See also Howe (2012a, 2012b).

Reclaiming Sexual Infidelity as Mitigating Excuse for Murder

The decision in *Clinton* was hardly a surprise. Led by former Chief Justice Lord Phillips, senior members of the judiciary had strenuously opposed the proposal to abolish the provocation defence and replace it with a new defence of loss of control that excluded sexual infidelity as a qualifying trigger for loss of control. In the parliamentary deliberations on the reform Bill, now the *Coroners and Justice Act 2009*, the shrillest objections to the sexual infidelity exemption were raised in the House of Lords where emotions ran very high over the idea of dispensing with the ancient right to plead provocation after killing an unfaithful spouse. According to Lord Neill of Bladen, a retired judge, it was 'ridiculous and out of line with the way in which people think about human passions'. The objections were couched in gender-neutral terms – Lord Neill, for example, referred to 'a wife or husband' flying into a homicidal rage on finding their spouse *in flagrante delicto*.⁹ But predictably the first time the new loss of control defence came before the court was in the latest round of femicide exit cases, the three appeals in *Clinton* by men who had killed wives who had left or wanted to leave them. Dismissing the two appeals where loss of control defences had failed, the court allowed the third appeal, that of Clinton. Typically 'courageous' though her decision had been, the trial judge had 'misdirected herself about the possible relevance of the wife's infidelity'.¹⁰ In the court's view, 'infidelity' taking the form of a wife's departure from a marriage may properly be taken into consideration for the purposes of the partial defence of loss of control when such behaviour was 'integral to the facts as a whole'.¹¹

What *were* the facts 'as a whole' in *Clinton*? His wife had left him. He was desperate to get her back – 'obsessional' – but she started a new relationship. He retaliated by destroying her car, *her* 'most treasured possession', as a preamble to confronting her with evidence of her sexual infidelity when she returned to the family home to see the children. On the prosecution's account, he had planned to kill her before she arrived and had made preparations to do so. During the confrontation, he beat her and strangled her to death before taking photos of her near-naked body, which he sent to the man with whom she was having a relationship. On the appellant's account, he had 'tortured himself' about sexual images she and new partner had posted on the internet, images he found when he accessed her Facebook page. Confronted with this evidence, his wife had, he said, boasted in 'very graphic' detail about sex acts she had enjoyed with different men every night of the week and taunted him about his threat to commit suicide.¹² Did she? We shall never know – but why, anyway, should such 'evidence' be ruled admissible, let alone mitigate murder? Undeterred by

⁹ Quoted in Howe (2012b), p 5; my emphasis.

¹⁰ *R v Clinton, Parker and Evans* [2012] 1 Cr App R 26 at [77].

¹¹ *R v Clinton, Parker and Evans* [2012] 1 Cr App R 26 at [37].

¹² *R v Clinton, Parker and Evans* [2012] 1 Cr App R 26. A more detailed account of the facts can be found at [50]–[75]. Opposed as I am to the age-old distinction between hot- and cold-blooded murder, I believe that *any* alleged taunting by a victim – 'mere words' – should not count as mitigation. See Howe (2012b), p 24.

the recent reforms designed to curb ‘infidelity’ defences, the appellant’s counsel followed the standard script highlighting these ‘extremely grave’ circumstances as pivotal to the all-important ‘context’ of the killing, circumstances that in the view of the Court of Appeal may have grounded a loss of control defence and so should have been put to the jury.

The unanimous judgment, delivered by the Chief Justice, Lord Judge, has attracted criticism, none more cogent than that describing it as ‘completely wrong’ and overlooking ‘the fundamental policy issues’ that had led parliament to enact a narrowed defence of loss of control.¹³ The critics do not stop there. Each step of the judgment is ‘top heavy with evidential facts concerning sexual infidelity’, ‘dangerously flawed’ and setting ‘a hazardous precedent’.¹⁴ On the other hand, the critics commend the reformers for changing the law, agreeing with them that ‘society no longer views a loss of control’ resulting from discovery of sexual infidelity as reasonable. Contrasting Lord Judge’s sympathetic approach to the evidence of infidelity that had so ‘tortured’ Clinton with his failure to note the killer’s admission that he had bullied his wife in the past, they completely reject his conclusion that sexual infidelity is only to be excluded when it stands alone as a trigger for loss of control. That was illogical, ‘patently wrong’ and based on a misreading of the statute. The Chief Justice had overlooked parliament’s clear aim of reducing the defence to ‘almost nothing’ on the ground that ‘in contemporary Britain, denying the defence in a case such as *R v Clinton* would cause no injustice’. On the contrary, allowing the defence in such a case would be ‘contrary to justice’.¹⁵ In short, how could a modern Western democracy countenance sexual autonomy in the form of a legal act of consensual adult sex counting as provocation that excuses an illegal act such as murder?

Clinton is indeed precisely the kind of troubling case that precipitated the movement to reform partial defences to murder. This point – frequently overlooked by opponents of the reforms – bears emphasising. How quickly it has been forgotten that while the reform movement was informed by decades of trenchant feminist scholarship, it was ignited by outrage over lenient sentences handed down in three early twenty-first century femicide cases.¹⁶ In one, that of the ‘overworked’ solicitor who killed his departing wife in front of their children while in a ‘red mist’ rage, the prosecution accepted his plea of guilty of manslaughter by reason of provocation. He received a seven-year sentence, upheld by the Court of Appeal, which refused the Attorney-General’s appeal on the ground of undue leniency.¹⁷ So

¹³ Baker and Zhao (2012), p 255; see also Stark (2012).

¹⁴ Baker and Zhao (2012), pp 259–60 and 268.

¹⁵ Baker and Zhao (2012), pp 273–75 (emphasis in original).

¹⁶ The literature critiquing the operation of provocation defences in all Anglophone jurisdictions is too vast to cite here, but see the references in Howe (2002). Key foundational feminist critiques include Taylor (1986), Allen (1988), Coker (1992) and Bandalli (1995).

¹⁷ *R v Surattan*, *R v Humes* and *R v Wilkinson* (Attorney General’s Reference No 74 of 2002, No. 95 of 2002 and No 118 of 2002) [2002] EWCA Crim 2982.

here we have two sets of three ‘infidelity’-inspired killings – all femicides – book-ending a decade of reform effort to ban this excuse for homicidal fury. The six cases put into stark relief the endlessly rediscovered, yet constantly denied, sexed asymmetry of sexual infidelity homicide and the failure of the move to outlaw ‘our version of honour killings’, as the then Solicitor-General referred to them at the height of the reform movement.¹⁸ What can account for this judicial amnesia and how did the Court of Appeal go about reclaiming ‘infidelity’-inspired rage as mitigating excuse for murder in the face of legislation designed to prohibit it?¹⁹

Two revealing disclaimers in the *Clinton* case bear close scrutiny. First, Lord Judge declared that while the term ‘loss of control’ might be ‘evocative’ of the old provocation defence, the new statutory defence was ‘self-contained’. Accordingly, its common law heritage – the entire body of manslaughter by provocation case law containing hundreds of years of precedent for convicting infidelity killers of manslaughter – was ‘irrelevant’.²⁰ Second, he opined ‘that no one (male or female) owns or possesses his or her spouse or partner’. Relationship breakdown is ‘always fraught with tension and difficulty, with the possibility of misunderstanding and the potential for apparently irrational fury’. After all, ‘experience over many generations’ has shown that sexual infidelity has the potential to ‘produce a completely unpredictable and sometimes violent response’. Importantly, this ‘may have nothing to do with any notional “rights” that the one may believe that he or she has over the other, and often stems from a sense of betrayal and heartbreak, and crushed dreams’.²¹ Lord Judge’s impeccably gender-neutral language is belied by the very case law he sweeps aside. First, the most cursory glance at the provocation by infidelity case law that he brackets as ‘irrelevant’ reveals that it is in fact men’s rage, and very rarely women’s, that is narrated there. Second, when it occurs so frequently and so persistently over hundreds of years, wife-killing by jealous men has to rate as entirely predictable. Third, contrary to Lord Judge’s view of the irrelevance of any notional rights, defendants’ pleas for compassion and manslaughter sentences are indeed founded on possessory right, a very sex-specific right enshrined in the foundation 1706 provocation case of *Mawgridge*, setting down the ‘rule’ that:

when a man is taken in adultery with another man’s wife, if the husband shall stab the adulterer, or knock out his brains, this is bare manslaughter: for jealousy is the rage of a man, and adultery the highest invasion of property.²²

¹⁸ Quoted in Howe (2012b), p 5. See further for an account of the British reform movement.

¹⁹ The English Court of Appeal is not the only site of resistance to efforts to reform partial defences to murder. For other displays of hostility or indifference, see Howe (2012a).

²⁰ *R v Clinton, Parker and Evans* [2012] 1 Cr App R 26 at [2].

²¹ *R v Clinton, Parker and Evans* [2012] 1 Cr App R 26 at [16].

²² *R v Mawgridge* (1706) Kel 119 at 137.

In the 300 years that have elapsed since *Mawgridge*, men have killed wives – the invaded ‘property’ – far more frequently than they have the other man, and hardly ever when finding them *in flagrante delicto*. But how accurate and prophetic was that early eighteenth century court in conceptualising a wife’s adultery as an invasion of a man’s property, a violation of his possessory right over her. For, as the *Clinton* decision attests, that profoundly sexed early modern fiction of his possessory right over her that can be traced through centuries of case law still finds a place in late modern and putatively egalitarian democracies.²³ Finding ways of unpacking and destabilising that fiction, challenging the recent judicial disclaimer that ‘no one (male or female) owns or possesses his or her spouse or partner’, remains an urgent task for reformers.

Shakespeare and the Political Economy of Affect in Early Modernity

At the dawn of the capitalist era – and much has been made of the late-Elizabethan and early Jacobean period as a signal time, one intensely preoccupied with what has been retrospectively labelled ‘nascent capitalism’ – Shakespeare paid close attention to contemporary social anxieties. It is a critical commonplace that his work is packed with brilliant insights into the social changes wrought by the intensified economic exchanges of emergent capitalism in early modern England. Shakespearean scholars have explored the canon for their stunning critiques of the rapidly developing exchange-based market economy, and consequent commercialisation and commodification of social relationships. How Marx, an avid Shakespeare buff, must have salivated as he read *The Comedy of Errors*, the fetishised commodity form on staggeringly brilliant dramatic show 250 years before he theorised it in *Capital*. He certainly enjoyed the scathing indictment of capitalism’s monetary ethos in *Timons*.²⁴ But what of Shakespeare’s take on the affective dimensions of nascent capitalism, on the impact the new economic imperatives had on emotional life in early modern England? What has literary criticism made of that? One well-documented theme explored in the plays and the sonnets is that of capitalist angst about property and its potential loss.²⁵ Just as frequently, Shakespeare’s male characters suffered from sexual anxiety about ‘their’ women. Hence the recurring image of the cuckold, represented in Shakespeare as a man overwhelmed by paroxysms of jealousy when wrongly suspecting his wife of infidelity. So many obsessively anxious male characters worrying

²³ The English infidelity case law is discussed in Howe (2012b).

²⁴ See Heinze (2013), pp 153–55. See also Prawer (2012) for a fascinating account of Marx’s engagement with Shakespeare.

²⁵ Arguably, such capitalist angst is on display in the opening scene of *The Merchant of Venice*, with Antonio expressing inexplicable sadness. But is he worried about the potential loss of his ‘merchandise’? As one of my reviewers points out, Antonio’s sadness is famously cryptic, and may stem from the loss of his homoerotic companion Bassanio or from mixed emotions. As the reviewer also observes, Antonio denies that he is worried about his investments. But, inasmuch as his cronies declare they would be worried in the same circumstances, capitalist angst is on display. See Heinze (2013), pp 110 and 130–31.

about wives testify to what one Shakespeare scholar calls his 'enduring, almost excessive interest' in competitive sexuality and the jealousy it provokes.²⁶

Shakespeare's many returns to the question of 'extreme possessive jealousy in men' have received much scholarly attention, with one of his modern editors suggesting he found it 'increasingly reprehensible' and deserving of 'severe punishment'.²⁷ In play after play – *The Merry Wives*, *Much Ado About Nothing*, *Cymbeline*, *The Winter's Tale* – masculine fantasies of cuckoldry are parodied mercilessly. As for *Othello*, where else in English literature is there a more damning parody of a man's delusions about his wife's infidelity, delusions founded on a lost handkerchief that lead hastily to murder? Male cultural fantasies about 'unfaithful' women are also hard at work in *Cymbeline*, where discourses of conquering empire and vassal nation eventually take centre stage.²⁸ But how interesting that the wager story – put in motion by Posthumus's testing of his wife Imogen's chastity and his foiled attempt to have her murdered over trumped-up allegations of infidelity – takes up most of the first two acts. So here we have yet another male character succumbing to a hellish 'infidelity'-inspired homicidal rage, but not one woman doing so in the entire Shakespeare canon. At least Imogen survived – unlike Desdemona, murdered by a husband just as deluded about his wife's fidelity. Moreover, Posthumus is filled with remorse for ordering his wife's death, warning other husbands against murdering wives for 'wrying but a little' (*Cymbeline* 5.1.2–5). Such an array of gullible male characters sucked in by their own or others' highly fanciful 'evidence' of waywardness in wives, from *The Merry Wives* all the way through to *Cymbeline*! At best they receive their creator's mocking scorn, at worst condign punishment. In *The Winter's Tale*, one of his many returns to the abject figure of the obsessively jealous though delusional man, Shakespeare makes Leontes suffer profound guilt for having falsely accused his wife and banishing her to prison. But it is in *Othello*, with its completed femicide, that he takes on and demolishes the culturally mandated belief that men who kill women they suspect of scorning them deserve 'our' and the law's mitigating compassion.

Whether Shakespeare did find extreme possessive jealousy in men reprehensible, and what he might have made of late modern criminal courts' indulgence of explosions of homicidal passion on the part of morbidly jealous men against wives no longer constituted in law as their husbands' property, are purely matters for speculation and not germane to this inquiry.²⁹ What is arresting is the manner in which he linked the emotional life of his male characters to the rapidly changing political economy of early modern England, thereby opening up a fruitful inquiry into capitalism's impact on affect. And as

²⁶ Warren (2008), p 19.

²⁷ Mares, quoted in Warren (2008), p 19 (my emphasis).

²⁸ Heinze (2009a). I develop this argument in a forthcoming paper, 'Hell Hath No Fury? Infidelity and Homicidal Rage in Cultural Context (Glossing *Othello* and *Cymbeline*)'.

²⁹ See Garber's (2008) intriguing critique of the 'consistent critical interest in recapturing' the 'elusive matter of intention' in the context of readings of *The Merchant of Venice*.

we shall now see, Marxist-inflected readings of *Othello* as a prescient examination of the operation of commodity fetishism throw a revealing light on the enmeshment of the grand passion of extreme possessive jealousy in the emergent capitalist economy of Shakespeare's time.

***Othello* – Jealousy, Shame, Rage and More**

Othello is a veritable banquet of cooked-up male jealousy featuring two men succumbing to causeless jealousy, with Iago and Othello experiencing 'a similar torment, a monster of the imagination in both cases'.³⁰ Iago's unfounded belief that his wife Emilia has a lover does 'like a poisonous mineral gnaw my inwards', yet famously and hypocritically, he warns Othello against succumbing to jealousy: 'O, beware, my lord, of jealousy!/It is the green-eyed monster which doth mock/The meat it feeds on.' (3.3.168–70) This refrain is taken up by his wife Emilia when responding to Desdemona's perplexity at Othello's rage: 'I never gave him cause.' Emilia peremptorily dismisses the vapid 'cause'-based excuse that Othello would later make for killing his wife: 'Jealous souls,' she says, 'are not ever jealous for the cause/But jealous for they're jealous/It is a monster/Begot upon itself, born on itself.' (3.4.152–57) As for infidelity, Emilia thought it a 'small vice' (4.3.63), nothing to get so puffed up about as men did. Not that she is advocating adultery for women so much as making light of a relatively commonplace occurrence. In sharp contrast, Iago and Othello's fantasies about their wives' sexual infidelity are reinforced by 'paranoia about unrestrained female sexuality'.³¹ In such fantasies, women have 'little control over whether they will be cast as wives or whores', and they have to 'pay dearly'. Emilia questions why Othello must call Desdemona 'whore', but her voice is lost in 'the male drama of jealousy' and fear of cuckoldry.³² That fear, crucially, was 'a determining feature of male identity' in early modern English culture.³³ Hence Othello's automatic (because learnt and thus thoroughly internalised) response: 'I will chop her into messes – cuckold me?' (4.1.193)

While many Shakespearean scholars highlight the sexed specificity of extreme jealousy and its 'cause' in the canon, some pursue this line of inquiry further, reading *Othello* as questioning the conventional view that a wife's adultery deserves death and her killer compassion.³⁴ In the play, men who kill wives they merely suspect of adultery – as many men who murder wives do – are ridiculed for their pettiness, for acting on 'Trifles light as air' which 'Are to the jealous confirmations strong/As proofs of holy writ' (3.3.324–26). In the final scene, where Othello seeks to excuse the murder of his wife as manslaughter by provocation committed by 'one not easily

³⁰ Honigmann (1997), pp 43–44.

³¹ Singh (1994), p 46.

³² Singh (1994), pp 49 and 51.

³³ Singh (1994), p 14.

³⁴ Honigmann (1997), p 61.

jealous, but being wrought/Perplexed in the extreme' (5.2.344–45), most Shakespeare critics read Shakespeare as condemning his actions 'as both morally wrong and tyrannical' – in short, as murder.³⁵ By contrast, law scholars are more prone to extend sympathy to the killer. Placed on trial for murder in late twentieth-century re-enactments, he has on the rare occasion been found guilty of that crime.³⁶ Far more frequently, he is championed as the 'honourable murderer' he claims to be, as an automatic candidate for law's compassion, having committed a 'crime of passion'. According to one North American commentator:

Most legal scholars, rightly I think, would have little difficulty convicting Othello under the Model Penal Code of the lesser offence of manslaughter committed under the influence of extreme mental or emotional disturbance for which there is reasonable explanation or excuse ...³⁷

Shakespeare, he continues, leaves us 'torn between blaming Othello for premeditated murder and excusing the mental state that led to the crime'. We may '*logically*' consider him to be the innocent victim of Iago's machinations. And while Lodovico, the official representative of Venice, reminds Othello of his complicity in the attempted murder of Cassio, that is quickly dismissed: 'Naturally, Lodovico cannot understand Othello's mental state as *we* do', Shakespeare being 'ahead of his time in giving Othello's genuine mental stress quasi-legal and tragic substance'. Moreover, his outsider status as Moor gives him 'possible mitigating excuse'.³⁸

The antediluvian universalising 'we' of these pronouncements and their professed 'logic' mirror the phallogocentric universalisms of the provocation defence. Occasionally, criminal law scholars register the defence's cultural construction, one acknowledging that compassion for men who kill their wives is founded on 'familiar Anglo-centric patterns of tragic narrative', with *Othello* drawing on 'salient points' of that story. On 'deeper reflection', however, he agrees with the feminist critic Carol Neely that the play is 'more like a bedroom farce' or even 'cankered comedy'.³⁹ Neely, approaching the play as 'an Emilia critic', portrays it as 'a terrifying completion of the comedies', where men's misogyny, foolishness and anxiety are mocked, transformed and dispelled – 'laughed to scorn' as in *As You Like It*. There, the women, through their 'wit' and 'invention', transform the men 'from

³⁵ Matheson (2004), p 181.

³⁶ Nagle (1978).

³⁷ Hawley (1998), pp 12–13. In North American 'reform' jurisdictions that have adopted the Model Penal Code, male jealousy in relation to 'unfaithful' women has been enshrined as mitigating excuse for murder under the rubric of 'extreme mental or emotional disturbance'.

³⁸ Hawley (1998), pp 13–15 (my emphasis).

³⁹ Leader-Elliot (1997), pp 162–63, quoting Neely (1993). Eschewing such binaries, Garber notes that 'in Shakespearean comedy there is *always* a tragedy embedded, somewhere': Garber (2008), p 146 (emphasis in original).

foolish lovers into ... sensible husbands, and at the end submit to their control'. By contrast, the men in *Othello* all have 'possessive view of women', and are 'jealous in honour, sudden and quick in quarrel'.⁴⁰ Where cuckoldry and sexuality find acceptance in the comedies – 'as horns are odious, they are necessary' (*As You Like It* 3.3.49) – this is 'impossible' in *Othello*, where 'men's fragile self-identities' are so conspicuously on display. Witness Cassio, utterly frantic on losing his post:

Reputation, reputation, reputation! O, I have lost my reputation. I have lost the immortal part of myself, and what remains is bestial. My reputation, Iago, my reputation! (2.3.253–55)

Othello is so dependent on the 'rich opinion' of others that 'feathered Cupid' potentially threatens his 'reputation', and later he finds the fantasy that he has been cuckolded more difficult to bear than the loss of Desdemona. He sees it as 'invalidating his military glories', such that only her murder and his own suicide restore his pride in his 'occupation'.⁴¹

Such is the male characters' obsession with reputation that it has prompted one critic to argue that *Othello* is a play about shame rather than jealousy. After all, Othello's feeling that he has 'lost sexual possession of his wife is intensely focused on himself, on the consequences for him'. Noticeably indifferent to Cassio, the supposed seducer, Othello's most overwhelming feeling is that 'he has himself been degraded and defiled'.⁴² Indeed, there is a whole 'sequence of male shames', starting with Iago who feels shamed and slighted and whose goal of shaming the man he believes shamed him drives the plot forward to its disastrous conclusion. Brabantio is so ashamed that his daughter has eloped and married a Moor that he dies, and then there is the dramatic shaming of Cassio. Roderigo is shamed by being passed over by Desdemona for Othello and rejected by Brabantio as unsuitable. Of course, women are shamed too: Desdemona by Iago's false allegations and Bianca by being publicly denounced as a 'courtesan'. But their shame 'pales to insignificance' next to that of the men.⁴³ Moreover, men's shame, crucially, is bound up with obsession about ownership – sexual ownership. Take Iago's fantasy that Othello has cuckolded him:

This supposed loss of sexual ownership produces a mixture of jealousy and shame ... he feels Othello has violated him professionally and this has spawned the feeling that he has also violated his wife. Thus we have not jealous *ex nihilo*, but shame and jealousy bred from shame. Iago almost chooses to believe he has been cuckolded ... because he is overwhelmed with shame already.⁴⁴

⁴⁰ Neely (1993), pp 108–10.

⁴¹ Neely (1993), pp 118–19.

⁴² Fernie (2002), p 136.

⁴³ Fernie (2002), pp 136–37.

⁴⁴ Fernie (2002), p 143.

While Iago's deep-felt professional shame is transposed into sexual shame, Othello's supposed sexual shame produces professional inadequacy, self-doubt and ultimately self-splitting, 'the self-splitting of shame' when he refers to himself in the third person: 'That's he that *was* Othello.'⁴⁵

Interestingly, while he touches on the key theme of sexual ownership and its loss that is so central to *Othello* and the sexual infidelity case law, the 'shame rather than jealousy' thesis leads this critic straight into the 'blame the victim' camp. Desdemona has provoked her own murder by 'the hapless fashion in which she consistently promotes suspicions of adultery' and her reminders that 'she is a desiring as well as desirable woman'. By contrast:

Othello is morally degraded – we must never forget that he has killed his wife – *but* he is also a spiritual hero, one who shows up the cosseted and frightened self-deception of those who thrust off and misplace shame.⁴⁶

He is a 'spiritual' hero no less; she improperly 'desiring'.⁴⁷ Meanwhile, Neely watches Emilia move from 'tolerating men's fancies to exploding them', coming to see them as cannibalistic: 'They are all but stomachs, and we all but food/They eat us hungrily, and when they are full/They belch us.' (3.4.100) If the play's ending is tragic, it is Emilia's and Desdemona's tragedy, not Othello's. Obsessively self-justifying to the end, seeing himself as ill-fated – even as a victim – Othello does not cut a tragic figure.⁴⁸ Contrast Emilia, once 'a naively collusive patriarchal abject', now making 'staggering discoveries' about male power. Defying silencing to assert the truth, she finds her voice to rewrite Desdemona's ending as murder, 'redeeming her contaminated death from slander'.⁴⁹ Emilia pays a high price for her defiance: Iago murders her.

The Age of Shakespeare as the Age of Commodity Fetishism

Iago kills his wife because he can no longer control – that is, silence – her. Disobeying his directives to 'get thee home', Emilia insists on speaking out: 'Twill out, 'twill out! I peace?/No, I will speak as liberal as the north.' (5.2.218–20) This is the grand finale to a political awakening that began when she saw Othello hit Desdemona – such 'a familiar story, a story of domestic abuse'. In this narrative, as Rutter argues, 'male power, male appetite, possessed, authored and mastered women's lives by mastering the narratives that wrote their history'. So much of the play has been about male possession – 'male possession reconfigured as demonic possession, pursued to an appalling performative conclusion that monstrously inverts them'.⁵⁰

⁴⁵ Fernie (2002), p 160, citing *Othello* 5.2.282 (my emphasis).

⁴⁶ Fernie (2002), p 171; my emphasis.

⁴⁷ Fernie (2002), p 170.

⁴⁸ Neely (1993), pp 133–34.

⁴⁹ Rutter (2001), p 145.

⁵⁰ Rutter (2001), pp 165–67.

What is at stake when Iago tries to get Emilia to ‘charm your tongue’ is not only confirmation of Desdemona’s innocence; it is the ‘ownership of speech’ – ‘Good gentlemen, let me have leave to speak.’⁵¹

Property, ownership, loss – these are key themes in *Othello*’s intimate partner homicide, as numerous Shakespeare scholars have noted, none more succinctly than Kenneth Burke, who famously argued that *Othello*’s stake in Desdemona is essentially about ownership:

a tragic trinity of ownership in the profoundest sense of ownership, the property in human affections, as fetishistically localised in the object of possession, while the possessor is himself possessed by his very engrossment.⁵²

In this reading, the jealousy plot instantiates this capitalist sense of ownership, with *Othello* attempting an act of enclosure and declaration of private property but being overwhelmed by a sense of impending and unbearable loss. Cuckoldry ‘triply threatens’ him: ‘with the loss of Desdemona’s love; with the supremacy of Cassio, his lieutenant over him; and with the loss of his reputation and the scorn of other men’.⁵³ This gets to the heart of the matter: obsessive jealousy in *Othello* is inextricably bound up with the burden of ownership and its ever-threatening obverse – fear of loss in the deepest sense, the loss of property in human (read the case law, read: women’s) affection.

A more detailed examination of the propertied dimensions of the anguish experienced by Shakespeare’s male characters living in fear of cuckoldry usefully begins with Douglas Bruster’s *Drama and the Market Place in the Age of Shakespeare*. Noting the massive increase in the sale and purchase of commodities and ‘the market-orientated ascription of unreal and inordinate value to material objects – something we have come to call the fetishisation of commodities’ – Bruster suggests that ‘the Age of Shakespeare’ could well be characterised as ‘the Age of Commodity Fetishism’. He argues that Jacobean drama, and Shakespeare in particular, rendered operative and even concretised concepts such as ‘fetishism’ and ‘reification’ to an extent ‘as unprecedented as it was alarming’. Moreover, with the commodification of the personal, women were more often portrayed as commodities, with marriage frequently seen as a marketplace transaction, a development that ‘along with the commodification of chastity worked to their detriment’. Crucially, too, property ‘received new emphasis conceptually’. The self’s relation to property came to assume ‘a cardinal role in the theatrical construction of an early-modern, bourgeois subjectivity’ as a sense of inner worth once based on tradition and hierarchy started to give way to a sense of self in terms of market value.⁵⁴ And what takes centre

⁵¹ Rutter (2001), p 175, citing 5.2.193.

⁵² Burke (1951), pp 166–67.

⁵³ Neely (1993), p 119.

⁵⁴ Bruster (1993), pp 42–44.

stage in Jacobean drama, turning up on the slightest pretext as many critics have noted, is the medieval myth of cuckoldry.

How does the cuckoldry myth play out in the nascent capitalist economy of Shakespeare's time? Bruster claims the myth was based on a delineation of exchange in which women were used 'in a system of male-to-male exchange as the literalised, objectified version of what Bourdieu calls 'symbolic capital ... a transformed and thereby disguised form of physical "economic" capital'. What was 'disguised' capital in medieval literature became for Shakespeare's London 'an overwhelmingly explicit doubling of the monetary on the plane of the personal'.⁵⁵ Furthermore, the cuckoldry myth has a 'structural logic' that works as a metaphor of 'gendered labour and economic relations' that can be traced back to Greek anthology where it made its 'first explicit appearance as a trope for labour'. Within this logic, labour is simultaneously gendered and sexualised. According to the myth, the cuckoo finding a man at work 'testifies symbolically to that man's inadequacy', while the source of cuckoldry's association with labour is 'the historical gendering of patient production as feminine'. Husbandry is labour performed by the husband, the one who tills and cultivates the soil – with Shakespeare using the term to emphasise its link to property, labour and sexuality. *Othello*, for example, draws on the pun of having a livelihood and occupying one's wife.⁵⁶ 'Farewell! Othello's occupation's gone',⁵⁷ he moans, referring to his lost possession of his wife but also echoing Iago's vicious double entendre: 'Although 'tis fit that Cassio have his place/for sure he fills it up with great ability'.⁵⁸

Bruster has more. Intrigued by why merchants are so often cuckolds and cuckolds so often merchants in Jacobean plays, he suggests that to be a merchant is 'to risk loss, to render commodity up to chance. Consequently, the business of commerce produces inescapable anxiety'.⁵⁹ It is precisely because of their ownership of and connection with property that merchants gained, in literary presentations, a special reputation for anxiety. Indeed, their anxiety is 'latent within the concept of property itself'. But when it comes to fear of cuckoldry, any male character can experience acute anxiety. In *Othello*, for example:

in the commodification of the cuckold scenario, male subjectivity reveals its absolute dependence upon an invidious gender tension ... a project of identity construction based in the market and directed toward objectifying the female.⁶⁰

Crucially, this market-driven identity construction is 'a property-centered social transformation'. With the creation of the early modern bourgeois

⁵⁵ Bruster (1993) p 45.

⁵⁶ Bruster (1993) pp 50–54.

⁵⁷ Bruster (1993) pp 50–54, citing 3.3.362.

⁵⁸ Bruster (1993) pp 50–54, citing 3.3.251–52.

⁵⁹ Bruster (1993), p 56.

⁶⁰ Bruster (1993), p 65.

subject, the 'degradation of being into having', only that which can be 'lost (or stolen) can be possessed'.⁶¹ In Bruster's reading, Shakespeare brings all these key themes together: possession of commodities in a rapidly developing, anxiety-producing anonymous exchange economy; the misplacing or loss of property; acute anxiety about cuckoldry understood as a most unwanted male-to-male commodity exchange; and, inextricably related to all that, loss of identity suffered by property-obsessed male characters busy fetishising their objects of desire.

Extreme Possessive Jealousy and Commodity Fetishism

Developing the reading of *Othello* as an exploration of the operation of commodity fetishism, Paul Yachnin singles out the play's fetishisation of Desdemona's handkerchief – that infamous 'ocular proof' of her adultery.⁶² Placing the handkerchief in the context of early modern England's fetishised trade in textiles, Yachnin suggests that all the characters except Othello see the handkerchief as marketable goods. By contrast, Othello views it as a wondrous object, 'an object of great emotional intensity and sexual energy'. While his intense investment in the handkerchief reveals its 'fetish character', and the fetishised character of commodities in general, they all fetishise it, turning it into a commodity understood in Marx's, not Freud's sense. Recall that, for Marx, commodities become 'mysterious' because, as he puts it, 'the social character of men's labour' appears in the commodity form 'as an objective character stamped upon the product of that labour'.⁶³ While it appears objective, the commodity-form disguises real social relations through the exchange of things, a disguising or masking of social relations that he calls 'fetishism'. Extending this argument, Yachnin suggests that to understand the particular mystery of Desdemona's fetishised handkerchief, the field of labour and exchange must be expanded to include 'the "work" of sex'. The characters' projections of themselves on to the handkerchief, he argues, 'run along lines determined by sex and gender'.⁶⁴

That the handkerchief is recognised by all the characters as private property that will be wanted by its owner is crucial to Yachnin's argument that possessive desire is profoundly sexed – or, as he puts it, the 'handkerchief's properties are continuous with the properties of love'. These properties, like Yachnin's argument, are complex, but it pays to unpack them. First, while the handkerchief is a 'singular object', Cassio and Emilia's stated intention to copy it indicates that it can be reproduced 'endlessly for any number of owners'. Indeed, it could become a 'common thing' in Iago's misogynist sense: 'You have a thing for me? It is a common

⁶¹ Bruster (1993), pp 65–68.

⁶² Yachnin (1996), p 202, citing 3.3.362.

⁶³ Cited in Yachnin (1996), p 202.

⁶⁴ Yachnin (1996), p 202.

thing,' he says to his wife, who is about to give him the handkerchief.⁶⁵ What is Shakespeare implying here? According to Yachnin:

Were Desdemona an object like the handkerchief, Othello could possess her, but so could anyone else, and in any case she would then be a 'common thing' like the handkerchief, certainly not the inimitable treasure for which Othello happily sacrifices his 'unhoused free condition'.⁶⁶

On the other hand, if she is not an object, then she is a subject, self-possessed, 'free to give herself away to another'. But if she is her own private property, then 'her defining attribute – her honour – becomes as detachable as her handkerchief'. As Iago says, the handkerchief, 'being hers/She may, I think, bestow't on any man', leaving Othello to despair: 'She is protectress of her honour too/May she give that?'⁶⁷ What a dilemma, as Yachnin explains: 'No possible permutation is able to unburden heterosexual love of the contradictions involved in the patriarchal ownership of women, who are also required to be owners of themselves.' And, more to the point of our focal concern, the handkerchief 'figures possessive male desire for the female "common thing" in ways that legitimise jealousy in terms of the "phantom objectivity" of the gender system'.⁶⁸

Yachnin's exploration of Shakespeare's gloss on the cultural and emotional consequences of the proliferation of purchased commodities in early modern English households comes to a stunning analytical climax. He borrows the concept of 'phantom objectivity' from Lukacs' account of the objectification of people through their traffic in fetishised commodities: goods for whose commodified value 'real persons exchange their own worth'. This commodity fetishism is deeply alienating, as Lukacs explains, because the 'essence of commodity-structure' is that

a relation between people takes on the character of a thing and thus acquires a 'phantom objectivity', an autonomy that seems so strictly rational and all-embracing as to conceal every trace of its fundamental nature: the relation between people.⁶⁹

What happens when the commodity in question is a woman and the relationship that of husband and wife? In Yachnin's reading, the 'phantom objectivity' of the 'gender system' renders its operation invisible to the characters who are reduced, in Othello's case, to using the handkerchief to prove Desdemona's infidelity. It becomes 'ocular proof' against her, something that 'the desirable thinness of the handkerchief has already

⁶⁵ Yachnin (1996), p 203, citing 3.3.305.

⁶⁶ Yachnin (1996), p 203, citing 1.2.26.

⁶⁷ *Othello*, 4.1.11–14.

⁶⁸ Yachnin (1996), p 203. See also Parker's account of Shakespeare's dissection of Othello's 'preposterous' proprietary logic: Parker (1992), pp 208–9.

⁶⁹ Quoted in Yachnin (1996), p 201.

inscribed as inevitable in heterosexual relations'. Cuckoldry is thus 'destiny unshunnable, like death'.⁷⁰

It is the fate of every man to invest his all in the vexed figure of Woman, she who is unique because she is a rare object and 'common' because she is a subject ... the vexing constitution of Othello's selfhood on the basis of heterosexual mutuality is no different from anyone else's – it is only that his terminology is strangely revealing.⁷¹

Strangely revealing indeed, and if Yachnin's analysis is not already probing enough, he offers another critical insight: to understand Desdemona as 'the profit accruing from a sequence of exchanges within the spectacular economy' of the play is, he says, to begin to grasp 'the production of woman-as-fetish'.⁷²

Yachnin's account of the origins of men's sense of entitlement over 'their' women in the rapidly commodifying economy of the early modern era has much explanatory power. There is however, a complicating factor. While early capitalism produced women as commodified objects of exchange and desire, it also provided opportunities for women to own property themselves. Women were the 'subjects, as well as objects, of property' as Natasha Korda has shown, and not simply 'trafficked' as passive objects of exchange between men.⁷³ Subjecting 'the all-too-familiar trope of women as objects of property' to historical scrutiny, Korda discovered that women bought and sold property, held trusts and became creditors.⁷⁴ Their control over household property was *de facto* and *de jure* more extensive than accounts of the common law doctrine of coverture imply. She also alerts us to 'numerous cases' in Shakespeare's time of husbands 'resorting to violence when their wives refused to hand over money set aside for their own use'. Such violence, she suggests, shows that wives' property was 'the source of considerable strife within marriage and of ideological conflict in the culture at large'.⁷⁵ Accordingly, while the contradictory subject-object constitution of the 'vexed figure of Woman' that Yachnin suggests derailed Othello's selfhood still bedevils infidelity homicide defences, it may be more profoundly contradictory than he imagined. Unraveling the links between the fetishising of commodities that is so central to the capitalistic sense of ownership and the continuing production of woman as fetishised object of desire in late modernity, when women are *de jure* fully subjects, remains unfinished business.

⁷⁰ Quoted in Yachnin (1996), citing 3.3.278.

⁷¹ Yachnin (1996), p 204.

⁷² Yachnin (1996), p 205.

⁷³ Korda (2002), pp 7–12; Korda (2009).

⁷⁴ Korda (2002), p 39.

⁷⁵ Korda (2009), p 139.

Black Othello—Standing in for the Category of the Husband

Quite enough property-focused food for thought about extreme possessive jealousy in men in early modern England, one might think. But why stop there when there is so much more, not least laws against fraudulent conveyancing that inflected the language of Shakespeare's plays, notably when various actions 'allusively mimic' conveyancing, indicatively the conveyance of women? According to Ross, statutes against seducing women for their money shared some of the terms of laws protecting statutes creditors or purchasers from fraud. This overlap partly explains why the language of commercial credit is often deployed in 'the context of desire', a situation that arose not only because daughters were regarded as property, but also because a daughter, 'insofar as she owed obedience to her father, could be compared to a debtor, and her elopement fraud against him'. In *Othello*, Brabantio accuses the protagonist, who has eloped with his daughter of fraudulent conveyance: 'O thou foul thief, where has thou stowed my daughter?'⁷⁶ Fraudulent conveyance, Ross continues, is 'a metaphor not just for the abduction of young ladies, but also for obscuring the issue of the commodification of women and the related issue of race: the status of a child fathered by a Moor or a Venetian lady he has abducted'.⁷⁷ How Brabantio must have reeled at Iago's image: 'Even now, now, very now, an old black ram/Is tupping *your* white ewe.'⁷⁸ Brabantio clearly saw his daughter in propertied terms: 'Are there not charms/By which the property of youth and maidenhood/May be abused?' he asks Roderigo – 'property' being glossed here by the play's Oxford editor as 'nature (what is proper to something)', thus linking property to propriety.⁷⁹ Desdemona's elopement is utterly improper: how could she, Brabantio asks Othello, have 'run from her guardage to the sooty bosom/Of such a thing as thou'?⁸⁰

And so, inevitably, we come to the question of race in *Othello* – a question inextricably linked to the play's explorations of fictions of possession. What is to be made of 'black Othello', as Iago pointedly referred to the play's protagonist?⁸¹ Such a transgressive act – making a black man the protagonist – cannot be ignored, although keeping the focus on racial *and* sexual difference that the play highlights alludes most critics. Even the best work on the interrelated themes of racial otherness and sexual obsession in *Othello* strains to cover this doubled-troubled problematic. For example, in reading the play as 'carnavalesque', bordering on farce, a charivari that is firmly focused on Othello's blackness, Bristol calls it a 'text of racial *and*

⁷⁶ Ross (2007), pp 91–92, citing 1.2.62.

⁷⁷ Ross (2007), pp 91–92.

⁷⁸ *Othello*, 1.1.88–89 (my emphasis).

⁷⁹ Neill (2008), p 208, citing 1.1.170–72.

⁸⁰ *Othello*, 1.2.70–71.

⁸¹ *Othello*, 2.3.29.

sexual persecution'.⁸² Within this 'comedy of abjection' that competes with a reading of the play as a 'grand opera of misdirected passion', Desdemona is

an impossible sexual object, a female artefact created by a male imagination and objectified in a boy actor's body. This is, in its own way, just as artificial and as grotesque a theatrical manifestation as the blackface Othello who *stands in for the category of the husband*.⁸³

As for Iago, he understands that the complex of envy and jealousy is 'not an aberration within the socially distributed erotic economy, but is rather the fundamental precondition of desire itself'. Moreover:

Erotic desire is not founded in a qualitative economy or in a rational market, but rather in a mimetic and histrionic dispensation that Iago projects as the envy jealous system. In this system men are the social agents, and women the objects of exchange.⁸⁴

Within this system, Iago successfully manipulates pervasive misogynist 'fantasies of the complete abjection of women and fantasies of an exclusively male world', resulting in the 'unbearably hideous' wife-murdering scene. Crucially, what would make this scene 'unendurable' would be 'the suspicion' that it 'expresses all too accurately an element present in the structure of *every* marriage', dissolving the ideal of companionate marriage 'back into the chronic violence of the envy-jealous system'.⁸⁵ Bristol surmises that the play's original audience may not have been particularly bothered by Othello's blackness, as the problematic nature of 'racist sensibilities' had not yet become apparent. Later audiences, he suggests, may have found it harder to receive the play as a 'derisory ritual of racial *and* sexual persecution' because 'the social experience of racial difference has become such a massive scandal'.⁸⁶ This leaves the feminist critic pondering why sexual persecution ultimately drops out of Bristol's image of scandalised *Othello* audiences. Why, she might ask, has the social experience of sexual difference, and more specifically sexual persecution in its myriad forms, still not risen to the ranks of massive scandal in late modernity?

Compare Neill's suggestion that drawing attention to the anxiety-producing deathbed scene as a 'site of racial transgression', and to the bed itself as 'a site of forbidden mixture', helps to locate the play's 'continuing power to disturb' in its racial *and* sexual transgressions. He argues that contemporary ideas about adultery and 'disproportionate desire' were specifically linked to the question of race. In the early modern period, adultery was conceived as 'quite literally a kind of adulteration' or pollution, and the

⁸² Bristol (1990), p 18 (emphasis in original).

⁸³ Bristol (1990), pp 10–12 (my emphasis).

⁸⁴ Bristol (1990), p 15.

⁸⁵ Bristol (1990), pp 14–15 (my emphasis).

⁸⁶ Bristol (1990), pp 16–18 (my emphasis).

polluting propensity of blackness 'imagined as a symptom of the monstrous' was a cultural given.⁸⁷ It follows that acknowledging Othello's blackness as well as the metaphorical blackness associated with Desdemona's suspected adultery serves to highlight rather than detract attention from the play's condemnation of extreme possessive jealousy. Given *Othello's* 'remorseless insistence' on the intimacy of jealousy and desire, and its demonstration that jealousy is 'itself an extreme and corrupted (adulterate) form of sexual excitement', only murder, with its 'violent rapture of possession', can end 'desire's downwards spiral'.⁸⁸

While Neill leaves it implicit that it is a specifically male cultural anxiety that the play addresses, and that it is a man rather than a woman who experiences violent possessive rage, the sexed asymmetry in the matter of who kills whom in domestic homicide does not pass Shakespeare or his feminist readers by. In her analysis of sixteenth- and seventeenth-century literary representations of English intimate partner homicides, Dolan note that although husbands murdered wives far more frequently than wives killed husbands, popular representations of murderous wives vastly outnumbered those of murderous husbands.⁸⁹ In her reading, *Othello* – first performed in 1604 – anticipates the post-1650 literary pattern of paying far more attention to murderous husbands. Shakespeare does so, she suggests, 'in part' by making his protagonist black in order to prepare his audience to question abuse of authority by the early modern husband.⁹⁰ Othello is duped by Iago drawing on the 'deeply entrenched, reactionary cultural interest in insubordinate wives, which associates female self-assertion with betrayal, adultery and violence' in order to incite Othello into experiencing his wife's alleged infidelity as 'a fatal assault'. Dolan concedes that by demonising and racialising the tyrannous, possessive husband, presenting him 'as foreign, duped and dark', Shakespeare deflects blame on to racialised differences between the spouses, and 'thus somewhat distances them from the conflict in most English marriages'.⁹¹ Still, in her view, he deserves credit for getting his audience to start querying husbands' violence against their wives (albeit not too closely).

That might be a stretch. Far from inventing a black protagonist, Shakespeare joined the bandwagon of notoriously pilfering early modern writers, grabbing his storyline from Cinthio, right down to the jealous Moorish soldier.⁹² Still, whatever Shakespeare's motivation is in retaining a black protagonist as wife-murderer, a reading of *Othello* as standing in for

⁸⁷ Neill (1989), pp 385 and 404–8.

⁸⁸ Neill (1989), p 406.

⁸⁹ The statistics she cites indicate that husbands murdered wives two to three times more often than wives murdered husbands, with one study revealing women to be the victims in almost three-quarters of marital killings. Only after 1650 did attention shift from the murderous wife to the murderous husband: Dolan (1994), pp 25, 89.

⁹⁰ Dolan (1994), p 203.

⁹¹ Dolan (1994), pp 113–18.

⁹² Neill (2008), pp 21–22.

the category of the husband, as simultaneously exotic and an embodiment of universal male subjectivity, recalls powerful critiques of the operation of so-called 'cultural defences' in late twentieth-century Anglophone jurisdictions. Defence deployments of 'culture' in North American courts in particular have received sustained critical attention following a spate of controversial cases in which minority ethnic men invoked cultural traditions to excuse homicidal and sexual violence against 'their' women. Their 'backward' cultures, their defence counsel argued, led them to violent acts that would never be tolerated by the dominant culture, a sentiment echoed in Lodovico's astonishment at Othello's striking of his wife – 'this would not be believed in Venice'.⁹³ As Leti Volpp, a leading critic of cultural defences, notes, the idea that a minority ethnic man would react more violently to the belief his wife was unfaithful is 'belied by the very encoding of the manslaughter/provocation doctrine' in Anglo-American law, a doctrine 'explicitly premised upon a *violent* reaction to this knowledge'. Indeed, adultery is 'the paradigmatic example' of mitigating provocation in Western jurisdictions.⁹⁴ Shakespeare may have complicated the social problem of extreme, possessive jealousy in men by making the protagonist in his intimate partner homicide drama a racialised other. But sympathising with enraged, possessive wife-killers caught up in a violent rapture of possession is an ingrained cultural judgement – and not only in minority ethnic communities, his and Volpp's point precisely.

Conclusion: The Violent Rapture of Possession in Late Modernity

So where have we got to four centuries after Shakespeare framed infidelity-inspired homicidal rage as commodity fetishism *in extremis*? How firmly does that rage hold its grip in the currency of feeling in late modern political economies of desire? A fleeting encounter with recent English Court of Appeal judgments in femicide cases must suffice for an answer. Lord Judge, as we have seen, gives infidelity-inspired 'red mist' rage the green light in *Clinton*. Cases decided prior to the coming into force of the 2009 Act, with its controversial clause excluding sexual infidelity as a trigger for loss of control, are also revealing. In one case – an appeal by the Attorney-General in June 2011 against a five-year sentence given to a man convicted of the manslaughter of his wife by reason of provocation – the court indicated that it had clocked the legislative intent behind the reforms. Increasing the minimum sentence to seven and a half years, it noted that changes to the law contained in the 2009 Act appeared to create 'a higher (and certainly a different threshold) than the common law', and 'a greater focus on the death of the victim equally fell to be considered'. But all was not lost for the reform's opponents, with the court insisting that provocation by infidelity would still feature as a mitigating factor in sentencing.⁹⁵ Another 2011

⁹³ *Othello*, 4.1.232.

⁹⁴ Volpp (1994), p 67 (emphasis in original).

⁹⁵ *R v Edwards*, Attorney General's Reference no. 008 of 2011 [2011] EWCA Crim 1461 at [15].

femicide case – an appeal on the ground of undue leniency against a man’s sentence for murder of life imprisonment with a minimum specified term of fifteen years – is also noteworthy. Entering the home of his former partner in the middle of the night, he killed her in a prolonged beating in front of their three-year-old daughter while shouting, ‘Have you slept with him?’ While the court increased his sentence to 20 years, it once again hastened to announce that provocation by ‘infidelity’, even if not amounting to a defence, could still provide relevant mitigation to murder. That accorded ‘with common sense’ and reflected the sentencing principle which allows for mitigation when ‘the same material’ arises in attempted murder or grievous bodily harm cases.⁹⁶

What ‘material’ might that be? As I have discussed elsewhere, a perusal of English attempted murder and grievous bodily harm cases reveals that it turns out to be those familiar defence stories of ‘unfaithful’ women who leave overbearing men.⁹⁷ Further clues abound as to what kind of ‘sexual infidelity’ would survive the reform bid to curb the excesses of provocation defences in domestic cases. To take one example, in a 2007 case in which a man killed his former partner after seeing a photo of her new boyfriend, the court found that the ‘actual trigger’ to his ‘readiness to kill’ was his discovery of his former partner’s latest relationship. In the court’s view, this could be said to amount to ‘an element of provocation’ that could mitigate sentence.⁹⁸ A man learning that his former partner has a new partner – that’s how far the court believes such fictions of possession should extend in sentencing discretion in the post-reform era. The *Clinton* judgment reclaiming sexual infidelity as relevant not only to sentencing but to a defence to murder is simply the final nail in the reformers’ coffin.

When searching for new interpretative sites on which to build on the decades-old feminist critique of infidelity-inspired homicide, fashion a cumulative, still more persuasive case against distinguishing hot (domestic) from cold-blooded (non-domestic) murder and puncture the persistent disavowal of ‘infidelity’ as a profoundly sexed excuse for murder, enlisting Shakespeare and certain strands of Shakespeare scholarship emerged as a potentially fruitful way forward. Readings of *Othello* as a play about jealousy understood as an instantiation of commodity fetishism are especially insightful. Emphasising what Shakespeare scholars call ‘the critical importance of Shakespeare *now*’, they highlight how ‘the Age of Shakespeare’ reconfigured as ‘the Age of Commodity Fetishism’ is in ‘our time-zone’.⁹⁹ As Grady puts it, Shakespearean historical time is ‘congruent with modernity’, and ‘part of the secret of Shakespeare’s uncanny adaptability to all eras subsequent to his own is that those eras have all been

⁹⁶ *R v Williams (Sanchez)* Attorney General’s Reference no. 23 of 2011 [2001] EWCA Crim 1496 at [32].

⁹⁷ See Howe (2012b).

⁹⁸ *R v Rush* [2008] Cr App R(S) 45 at [26].

⁹⁹ Fernie (2005), p 169 (emphasis in original) and p 173.

dominated by an unfolding dynamic of modernity'.¹⁰⁰ Consider, for example, Iago's insistent 'put money enough in thy purse' to Roderigo, a man driven to distraction by his fetishised desire for Desdemona.¹⁰¹ For Grady, this is 'a neat encapsulation' of how Iago constructs reality – as 'an interiorisation of the logic of commodification'. Sadly, this vision continues to dominate the 'vastly commodified – and failing – social structure' of late modernity.¹⁰²

On the evidence of recent judgments in English wife-killing cases, the phantom objectivity of the gender system still rules OK in late modernity, transforming women into objects and obscuring their humanity. Given neoliberal capitalism's unabated commodity frenzy, its relentless commodification of all forms of social life, there appears to be no end in sight for the turning of use-values into exchange-values.¹⁰³ This does not bode well for anyone bent on destabilising those enduring fictions of possession still governing judgments in infidelity homicide cases today. Nevertheless, researching the alienating effects of commodity fetishism on human relationships is, I believe, a worthwhile project for anyone wishing to challenge the risible cultural script that continues to champion 'sexual infidelity' as mitigating excuse for murder.

Finally, in *Minima Moralia*, published 50 years ago, Adorno reflected on 'the order of ownership' and 'the property relation' in human beings. In a poignant and still starkly relevant way, he linked the desire to possess to fear of loss within a fetishising capitalist exchange economy:

Whatever is, is experienced in relation to its possible non-being. This alone makes it fully a possession and, thus petrified, something functional that can be exchanged for other, equivalent possessions. Once wholly a possession, the loved person is no longer really looked at. Abstraction in love is the complement of exclusiveness, which manifests itself deceptively as the opposite of abstract, a clinging to this one unique being. But such possessiveness loses its hold on its object precisely through turning it into an object, and forfeits the person whom it debases to 'mine'. If people were no longer possessions, they could no longer be exchanged.¹⁰⁴

And perhaps such 'people' would no longer be murdered and their killers partially excused on the ground of 'human frailty'. Proclaiming himself an 'honourable murderer', who acted not 'in hate, but all in honour',¹⁰⁵ Othello made one final disingenuous request at the play's end: 'When you shall these

¹⁰⁰ Grady (2004), p 230.

¹⁰¹ *Othello*, 1.3.371.

¹⁰² Grady (2009), pp 457–59. As Garber puts it, *Othello* has 'become a play about that most dangerous concept in the language, for we have made it a play about *us*' (Garber 2008), p 177 (emphasis in original).

¹⁰³ Lilley (2010), pp 2–5.

¹⁰⁴ Adorno (2005), pp 78–79.

¹⁰⁵ *Othello*, 5.2.293–94.

unlucky deeds relate/Speak of me as I am. Nothing extenuate'.¹⁰⁶ Compassion for wife-killers, consideration for wife-killing's extenuating circumstances – always already located in the suffering she caused him – has been dished out regularly by criminal courts ever since. It remains only to insist once more on the stark sexed asymmetry of who debases who to 'mine' in intimate partner homicide in Shakespeare and late modernity.

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¹⁰⁶ *Othello*, 5.2.340–41.

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