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From Sin and Damnation to Crime and Punishment in Early Tudor Drama

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Abstract

The article presents some case studies of early sixteenth-century English (and Scottish) drama in search of transformation from the overall religious condemnation of sins to a worldlier idea of crime and punishment. Starting from the sin of avarice and connecting it to the acquisition of illegal wealth and stolen property both on an individual and a political level, it also includes usury among property crimes. Relevant Tudor laws and statutes are taken into account and plays are studied on the background of contemporary legislation. The representation of onstage trial courts is also investigated, showing the change and continuation of legal procedures. Onstage forms of punishment are discussed as well. The analysis shows that the passage from sin to crime and from religious condemnation to earthly punishment, a phenomenon still difficult to perceive for law and social historians, is nevertheless foreshadowed in early Tudor drama, which progressively reflects social and political issues, including the administration of justice.

Keywords: *Crime, Damnation, Early Tudor Drama, Punishment, Sins*

1. Introduction

Besides the great northern cycles of mystery plays, which deal with biblical episodes, early Tudor drama includes almost exclusively morality plays and interludes, whose didactic purpose is to show the wiles of evil and the route to Christian salvation. Their plots, more or less standardized from innocence to sin and the subsequent rise to salvation, always present wicked characters that tempt the local representative of mankind. Whether there are several and sundry vices or only *The Vice*, these characters are seldom punished for their actions, the emphasis being mainly on the final victory of good, unless some idea of secular crime accompanies their allegorical stories; in this case mundane justice is also administered. Early Tudor drama is not 'crime literature',

but it can be investigated in order to ascertain its contemporary perception of crime, both on an individual and social level.¹

This article tries to highlight such aspects in a variety of plays, starting from *The Castle of Perseverance* (c. 1440) down to early Elizabethan drama (Ulpian Fulwell's *Like Will to Like*, 1568, and Thomas Lupton's *All for Money*, 1578).² Covering such a long period, it will take into account the religious 'divide' since plots tend to move from the mainly Catholic 'comedies of evil', where penitence and salvation are always possible, to Protestant stories where individual responsibilities are underlined and tragic (or pseudo-tragic) endings are the consequence of evil demerit. Besides religious changes, social preoccupations (like theft, vagrancy and murder) also affect early drama, so that bodily punishment is more and more often portrayed onstage as the aftermath of criminal behaviour. Moral and religious misdemeanour becomes open crime and society reacts to it by adding punishment to a 'simple' moral condemnation. Drama, as 'a mirror held up to nature', portrays these changes: there are trials in *Nice Wanton* (c. 1547-1553), and in *Respublica* (c. 1553); people are put into the stocks and hanged in Sir David Lindsay's *Ane Satire of the Thrie Estaitis* (1540-1554); Newgate is mentioned in many interludes as the place where earthly wrongdoers are imprisoned, and Tyburn is recalled as the notorious locale of death sentence by hanging.

Discussing the problems connected to the definition of crime in early modern England, James A. Sharpe claims that one of the major difficulties for our comprehension, in addition to the lack of extant documentation for certain places and types of court,³ lies in the often non-existing distinction between sin and crime:

The parish constable sending the unlicensed alehouse keeper to the quarter sessions and the churchwarden sending the adulterer to the church courts would have regarded themselves as participants in the same struggle: disorder and ungodliness were not really separable entities. ... The inhabitants of Tudor, Stuart and Hanoverian England were, to say the least, a little unclear on this matter. Even at the end of the eighteenth century, contemporary opinion held crime to be little different from immorality. (1999, 7)

Law and social historians have researched the extant legal documents of many courts and compared their results with the legislation introduced by the various sovereigns, in order to see whether and how local authorities enforced it. Some have also devoted their attention to gender aspects of the administration of justice against the background of social and economic changes, and found, for example, that 'wives constituted the majority of female defendants accused of assault', and that '[w]omen feature more prominently in the records of some lesser courts, and are much more visible in church court records' (K. Jones 2006, 8). Jones also notes that 'Christian morality and the virtues of honour and self-control clashed with secular values which defined male status and identity by physical aggression and sexual conquest, even for

¹ The word 'vice/s' will later be used to designate evil allegorical characters even though a text does not mention the role specifically. Tyrants' crimes and political murders will not be investigated here because they are not matter for moral plays; they occur, however, in the mystery cycles representing biblical history, and as soon as communal and individual history is brought onstage (e.g. in Thomas Preston's *Cambises*, 1569, and in Richard Bower's *Apus and Virginia*, 1575).

² Of course, *The Castle of Perseverance* preceded Tudor times; nonetheless it fits this research for its judicial content.

³ See Ingram: 'An elaborate system of overlapping jurisdictions existed ... including the great common law and equity courts at Westminster; assizes and quarter sessions; city, borough and manor courts; and a hierarchy of ecclesiastical courts operating at the levels of archdeaconry, diocese and province' (1996, 49).

mature men' (3). As for the economic situations affecting possible criminal behaviour (one must remember, though, that what was often judged as illegal in late medieval and early modern times has now lost all its negative weight), employment decreases due to wars, epidemics, negative weather effects on agriculture, and unequal land distribution caused by enclosures have also been aspects studied by historians. This is not the place to go into further details; nevertheless, what sociologists and historians have highlighted will be kept in mind when trying to analyse whether and how late medieval cycle and morality plays, and Tudor interludes record the secular law of their times. In other words, this article, in spite of the blurred separation of crime from immorality and from religious deviance, intends to investigate very early modern drama in order to spot traits of secular justice besides the omnipresent religious condemnation of vices and sins, and, consequently, traces of earthly punishment beyond the threat of hell and damnation.

It must be kept in mind that, on the one hand, religious plays are efficacious theatre pieces as modern research and practice have shown, but on the other that they have always had didactic purposes, and that as late as 1562-1568 the Prologue of the interlude *Like Will to Like*, in itself not a religious play, states that its aim is to show 'The advauncement of vertue, and of vice the decay' (Fulwell 1972, l. 18), thus stressing its being in line with the same moral intent as preachers' in the reformation of manners. Moreover, it is worth noticing that the theatricality implicit in the administration of justice as such has always had great relevance in English drama, from the 'Last Judgment' episodes in the mystery cycles to the 'Four Daughters of God' sequence in *The Castle of Perseverance*,⁴ to the latter's reappearance in Nicholas Udall's *Respublica*. In a way, the mystery cycle episodes of Christ's trial before Annas, Caiaphas, and Pilate can also be interpreted as the foundations of religious and lay courts in Christian drama, respectively, in the same way as Christ's buffeting and crucifixion represent the antecedents of later onstage punishments.

It would be absolutely impossible to give an account of, or only to mention, the numerous late medieval and early Tudor plays which contain allusions to crime and punishment. The large number of references to prisons and worldly punishment in them may depend on the fact that the times were profoundly and quickly 'a-changing', the state was acquiring central power, towns were growing and becoming more densely populated, with an increase in offences which pushed parliament and the sovereigns to pass stricter and stricter bills in order to contain crime. What follows, therefore, should be considered as a first attempt to investigate the issue through analyses which, in the end, could simply be defined 'case studies', although with a wider reach than the individual texts.

2. '*Radix malorum est cupiditas ... and that is Avarice*'

2.1 *Avarice, Wealth and the Misuse of Money*

In *The Castle of Perseverance* the protagonist Humanum Genus is tempted by all the Deadly Sins and, after being saved by the intervention of the virtues, has a second fall into the wiles of Avaricia who accompanies him to his death, after affording him 'More and more' (Anonymous 2010a, l. 2761), but without satisfying his thirst for wealth:

⁴ For a comprehensive introduction to English medieval drama see Beadle and Fletcher 2008.

Al schalt thou have al redy, lo,
 At thyn owyn dysposycoun.
 Al this good take thee to,
 Clyffe and cost, toure and toun.
 Thus hast thou gotyn in synful slo
 Of thyne neyborys be extorcoun. (ll. 2752-2757)

All the property accumulated by Humanum Genus, therefore, can be considered as illegal, gained only by extortion and impairment of his neighbours' possessions. In secular terms, instead of defining this as a sin of avarice, it could be considered a crime against property, and a capital one, given that – at least later, in early modern England – 'Stealing property worth a shilling or more' was a 'hanging offence' (Briggs *et al.* 1996, 61).⁵

The topic of wealth is at the basis of *An Enterlude of Welth, and Helth*, a mid-sixteenth-century interlude (1565?),⁶ which debates the relevance of wealth and health for mankind. Wealth defends his role in society, especially against the accusation of piling riches unlawfully:

Why thinkest thou that all men which hath welth
 Getteth theyr goodes with brybry and stealeth
 Thy reporte is nought therfore Helthe
 I counsell thee to say the best. (Anonymous 1565?, Aiiiir)

The plot shows the decay of both protagonists because of the unruly intervention of two rogues (Ill Will and Shrewd Wit), but in the end Welth and Helth are restored by Remedy for the good of England, while the negative characters, who are called 'thieves' more than once, leave the playing area towards prison and – possibly – the stocks:

Remdi. They be here yet, to kepe them fast is myne intent,
 Haue them away both to prison in continent.
wyll. Lo false knaue this is for thy crafty wif.
 Now fast by the heeles we are lake to syt. (Diiiv)

As can be seen, Remedy acts as a judge who decides how to punish the defendants: no ghostly retribution for them, but public shame in the stocks and prison.

If *An Enterlude of Welth, and Helth* does not condemn riches *per se*, although infamous ways of getting and using them are mentioned, Thomas Lupton's *All for Money*,⁷

⁵ The anonymous article 'Crimes and Violence in the Streets' (Anonymous 1862, 589), discussing the outbreak of violent crimes in mid-nineteenth century London, presents an issue that might also apply to previous times: 'Whether it be owing to the keen appreciation of property by the British people, to their dominant commercial habits, or to remoter antecedent circumstances, the fact is undeniable that crimes against the person are not dealt with by English law with anything like the severity which is systematically meted out to crimes against property' (Also quoted in Barrett and Harrison 2005, 198).

⁶ See Grantley 2003, 363-365. Besides showing some xenophobic traits, the play focuses on the 'values and pitfalls' of wealth (365).

⁷ The full title significantly reads: *A Moral and Pieteful Comedie, Intituled, All for Money, Plainly Representing the Maners of Men, and Fashion of the World Noweadayes*. The Prologue, though, calls it 'a pleasant Tragedie' towards its end (Lupton 1578, Aiiiv), thus showing the indefiniteness of genre labels at the time. The moral intent of the play (and its didacticism), however, cannot be denied since the plot has only allegorical characters and clearly exhibits damnation as the end of a sinful life. Moreover, its major character is Sin '*being the vyce*' (Biv). Successive quotes will be taken from the 1985 edition in modernized spelling, which divides the play into six scenes, according to its dramatic structure, and numbers the lines.

a late moral interlude printed in 1578, overtly attacks those who, for their avarice and covetousness, misuse their wealth and are ready to bribe and corrupt. The Prologue, in fact, does not condemn wealth as such, but 'Money ill-used' because it 'is the devil's snare' (Lupton 1985, l. 75). What is of interest here is that the eponymous character, All for Money, is the allegory of a corrupt judge, i.e. of a person in charge of the administration of justice, who definitely breaks his mandate because of his bribability and greed. The character appears only in the fourth scene '*apparelled like a ruler or magistrate*' (4.77, SD), inclined to help only those who are ready to pay for his favours, according to his proclamation: 'So they come from Money, then they shall be heard quickly' (4.104). In this way, he saves the life of a thief who has stolen £200 (i.e. a larger sum than what was considered petty larceny: it was 'grand larceny, a felony, and therefore theoretically a capital crime' punishable with the death penalty; K. Jones 2006, 34). It is then the turn of William with the Two Wives, who, in exchange for money, is in the end rid of his wife, in spite of the bishop's refusal to proceed with that ('But the Bishop doth trouble me', Lupton 1985, 4.247). It appears that a church court is hinted at here, where bigamy and other sexual offences were judged:

The range of sex cases coming before the church courts was impressive. Consider the following sexual offences taken from the Essex church court records: adultery; rape; bigamy; father/daughter incest; mother/son incest; woman dressed as a man; running a brothel; sex before marriage; cuckoldry (not intervening when one's wife openly commits adultery); having sex with an unmarried woman. (Briggs *et al.* 1996, 37)

It is interesting to notice that All for Money assures William that he 'will find means with witness to be proved / That she [the older wife] before her marriage to another was betrothed' (Lupton 1985, 4.261-262), thus referring to the legal practice of collecting testimonies in order to pass judgment (but bribed ones, in this case). Of course, here *All for Money* satirises the misconduct of judges and the way they can easily be corrupted. False testimonies are also mentioned when later old Mother Croote appeals to All for Money in order to compel her young lover to marry her. The judge says that 'A couple of false witnesses must therefore be hired' (4.480), thus stating that trials can be counterfeited and manipulated, if (and only if in this case, for this judge refuses to waste his time listening to poor people) judges and witnesses can be paid.

At the end of the play, after Damnation has taken Dives and Judas to hell because of their covetousness and greed for money (scene 5), Godly Admonition invites the audience to reject 'The inordinate love of money and pride in which many delight, / And all other sins which lead us to damnation' (4.35-36). While on the one hand these words remind us of the atemporal moral and religious bases on which the text rests, on the other they conclude a play that is deeply rooted in its own time. Social problems of the second half of sixteenth-century England surface in various episodes: All for Money accepts bribery from a priest (a Catholic one, supposedly, who – in Sin's words – has 'been a doctor at the ducking of women', 4.338),⁸ and from 'Nichol Never out of Law', a franklin who is allowed by the judge to deprive his neighbour of his land, consequently making a poor man of him, if not a beggar and a vagabond, since 'The rich may soon overcome the moneyless and the poor' (4.307). The much-discussed issues concerning the Poor Law Acts, especially beggary, vagrancy, and enclosures, are adumbrated

⁸ Sir Lawrence Livingless, the priest, laments that St Paul 'writ too many' epistles, and that now there is 'the new Testament in English' (Lupton 1985, 4.379-380) as a clear sign that he does not adhere to the Reformation. As for 'the ducking of women' the phrase refers to the punishment often inflicted on scolds (generally women), both in the late Middle Ages and in the early modern era (but see Ga. Walker 2003, 110). Scolds were tied in a 'ducking stool' and plunged into a pond or a river.

here (see Pugliatti 2003, ch. 1), even if they are not discussed from a legal point of view. Neither are they presented as possible origins of crimes. Nevertheless, *All for Money* shows the eponymous character ‘*sitting in a chair*’ (Lupton 1985, 4.93, SD), namely as a judge listening to defendants who confess to social misdeeds that were becoming more and more relevant in early Elizabethan society.

2.2 *Avarice and State Affairs in Respublica*

Avarice can be a single person’s sin, but it can also undermine whole communities and states. *Respublica*, attributed to Nicholas Udall and written to celebrate Queen Mary’s ascension to the throne, has Avarice ‘*allias policie the vice of the plaie*’ among its main characters (Greg 1952, 1).⁹ In the plays that can be considered moralities of state or political moralities – besides *Respublica*, John Skelton’s *Magnyfycence* (published in 1530), John Bale’s *Kynge Johan* (1538) and Sir David Lindsay’s *Ane Satire of the Thrie Estaitis* (published in 1602) – Vice figures corrupt the allegorical representative not of mankind, but of the state (*Respublica*, *Magnyfycence*, *Englande* and *Rex Humanitas*, respectively), with a focus on ‘order and disorder within the State’ (Rossiter 1950, 127). In *Respublica* the title heroine – a widow representing the kingdom – accepts the help of four counsellors who soon reveal their evil intent: they are actually four rogues who, under disguise, bring ruin to the state; their boss is Avarice. Diverging from previous criticism which considered Udall’s interlude as silent on the major, social and religious problems of the time,¹⁰ Greg Walker discusses instead the dense topicality of the text, which could certainly be caught by a court audience. After Edward VI’s reign, when England had suffered from ‘harvest failure ... marked inflation ... price rises and apparent scarcities’ (1998, 175), Mary’s programme to redress the kingdom (and not only as far as her Catholic agenda was concerned) appears in the complaints expressed by People. This is a positive figure, who laments the troubles endured by the Queen’s subjects and blames her evil counsellors for them. In Walker’s words, then, the play does not present ‘simply a timeless commonplace of economic complaint, but a specific allusion to contemporary events’ (177), all of them negatively influenced by the vices’ action.

Since Insolence/Authoritie, Oppression/Restoration and Adulation/Honestie obey Avarice’s commands thus showing little autonomy, only the Vice’s behaviour will be analysed here, especially in the light of his final punishment. In his first speech, Avarice announces that he will take ‘the name of Policie’ (Udall 1952, 1.1.81) to disguise his real intent, i.e. to fill with money ‘all these same purses that hange att my bakke’ at *Respublica*’s expenses (1.1.104). When in 3.3 People laments the miserable conditions of the country, especially the penury of goods and the rise of prices –

... ther falleth of corne and cattall
wull, shepe, woode, leade, tynne, Iron and other metall,
And of all þynges, enoughe vor goode and badde

⁹ For the problem of Udall’s authorship see the Greg ed. 1952, viii-xvii, and Gr. Walker 1998, 163-195. Alice Hunt particularly stresses the kingdom’s critical situation at Mary’s ascension and the problems raised by the relationship between a female ruler and her male counsellors (2007, 348-349). On Udall’s dramatic production, see Mullini 1996.

¹⁰ David Bevington, for example, speaks of the author’s ‘delicate task’ in reconciling ‘Mary’s courtiers to her program of restitution ... In doctrinal and ritual matters the author avoids inflammatory recriminations.’ (1968, 115). Later he calls the play ‘a timeless pattern of worldliness’ (118).

and as commediens [i.e. commodious] vor us, as er we hadde.
 and yet the price of everye thing is zo dere
 as though the grounde dyd bring vorth no suche thing no where. (3.3.666-671)

– he calls the wrongdoers by their true names, trying to make *Respublica* aware of their fraud, without succeeding. *Respublica*, indeed, insists that the person speaking with her is *Honestie*. ‘This is *Honestee*’, she repeats four times (3.3.711, 714, 716, and 717), but evidently *People* is not fully convinced, since he claims – in his ‘west-countified’ dialect (Rossiter 1950, 124) not to trust this counsellor (and the others): ‘chil beleve een still that vaire woordes beeth but tales’ (Udall 1952, 3.3.726). *People*’s strength, however, is not enough to free the country of these evil doers: to bring the plot to a ‘happy’ ending, Udall recoups the Four Daughters of God from the morality play tradition, and makes of them (with the addition of *Nemesis* whom the Prologue has already clearly identified with ‘*Marye our Sovereigne and Quene*’, l. 49) the protagonists of Act V, at whose end the trial and condemnation of the vices take place.

It is clear that, even if grounded on Christian beliefs and values, *Respublica* deals with worldly and political issues. Because of that, the penalties correspondent to secular trespasses will not include damnation, nor any threat of everlasting hellish pains. *Avarice* is the character who is condemned most severely, although he is finally dealt with by Udall as a modern, comical – albeit very dangerous – *Euclio*, against the backdrop of Plautus’ *Aulularia*. It would take too long to investigate all the amusing micro-episodes in which *Avarice-Policie* is shown as a mean miser, worried because he may be robbed of his wealth by pickpockets and ‘hundred beggers’ thronging in the streets (Udall 1952, 5.5.145), to punish whom he would like ‘two pielouries’ to be ready (5.2.1249), i.e. more instruments for the public shaming of petty thieves. These words expose *Avarice* to ridicule, too, for he, as the major thief in the play, is afraid of petty larceny.

That *Avarice* is a ‘prince of thieves’, well beyond his supposed enemies, is overtly shown in the last scenes, where his thefts and misrule are exposed by *Verity* who, after meeting her sisters *Misericordia*, *Peace* and *Justice*, compels the *Vice* to empty his bags full of money (5.9.1717-1778). The definitive retribution for *Avarice*’s crimes is left to *Nemesis*, the ‘mooste highe goddesse of correccion’ (5.9.1782),¹¹ who decrees that the *Vice* must ‘make restitution’ (5.10.1899), consigning him into *People*’s hands with the task to ‘deliver hym to the hedd Officer / which hathe Authoritee Iustice to mynister’ (5.10.1908-1909). She also decides the penalties for the others: they must presently be imprisoned ‘vnto safe costodie’ (5.10.1916) and will be later ‘examine[d] and trie[d]’ (5.10.1918), to be then ‘Iudge[d] ... by the laws’ (5.10.1919). In this ‘trial’ in front of what can be interpreted as a royal court with a jury made up of the Four Daughters of God and presided over by *Nemesis* (Queen *Mary* herself, according to the words of the Prologue), political crimes – rather than individual sins – are judged mildly, so to speak, very probably because *Respublica* is an accession-to-the-throne play when the beginning of a new government under a new sovereign is expected to be tolerant and magnanimous, albeit firm in defending rule. At the end of *Mary*’s reign, these themes would have been dealt with quite differently, but no play was ever written on the subject.¹²

¹¹ On *Nemesis* as an emblem in the play, see Mullini 2007a.

¹² John Foxe’s *Acts and Monuments* has to be taken into account for the Protestant history of the Marian reign (first English edition 1563; see Foxe 2011).

2.3 *Abundance, Royal Statutes and Usury in Impacyente Pouerte*

Among other interludes that focus on the issue of wealth and the ways to acquire it there is *Impacyente Pouerte*, published by John King in 1560, whose date of composition, though, remains uncertain.¹³ Under whichever monarch it was written, the interlude is interesting for the topic of the present article because, besides showing a tavern episode and characters playing dice (an unlawful game at the time; see *infra*), it deals with Avarice from a so far here unmentioned perspective, that is, usury.¹⁴

David Hawkes, introducing his study on usury, writes that ‘there is no doubt that usury, its dramatic rise to power, and its grave implications were prominent preoccupations of early modern English people’ (2010, 1): social changes, the money needs of those who aspired to new or more power and, especially, monarchs’ pecuniary necessities to face continuous wars enhanced the role of money lenders, both on a small scale (individuals) and on a larger one (bankers). Witnessing the relevance of money lending in early modern England, most Tudor sovereigns passed various acts against usury, from Henry VII’s ‘Act against Chevizance and Usury’ (3 Henry VII. c. 5, 1488, in Kelly 1835, 125-126),¹⁵ to Elizabeth’s ‘Act against Usury’ (13 Elizabeth. c. 8, 1571, in Kelly 1835, 135-137). Even if the examination of defendants accused of this crime was apparently left to church courts both before and after the Reformation,¹⁶ it is worth noticing that as early as at the beginning of Henry VII’s reign this power was circumscribed to the ‘correction of their souls [of the trespassers]’, while the authority to hold usury trials was bestowed on ‘the Chancellour of England’ and to ‘the justices of the peace of any shire, next adjoining to any citie or borrough’ (3 Henry VII. c. 5, in Kelly 1835, 126). Evidently, though, these laws were scarcely successful if in 1496 the sovereign issued another bill to make ‘more effectual Provision against Usury’ (11 Henry VII. c. 8, 1496, in Kelly 1835, 128-130).

In 1488 Henry VII proclaimed that usurious bargains were ‘to the common hurt of this land, and to the great displeasure of God’ and that ‘the seller, owner, bargainer, or promiser of such corrupt bargains or goods, shall lose, for any such bargaine made by him or his factor, £100’. The state, in other words, appears as injured party and defines pecuniary penalties for something which, nevertheless, continues to be considered a sin ‘to the great displeasure of God’ (3 Henry VII. c. 5, in Kelly 1835, 126). In the same year the King issued another act ‘concerning Exchange and Rechange’ which reserved to law breakers a £20 fine, plus ‘imprisonment of half a yere’. Transgressors were also ‘to be punished by the pillorie or other wise to their open rebuke and shame’ (3 Henry VII. c. 6, 1488, in Kelly 1835, 127-128).

¹³ McKerrow, the first editor of the play from whose edition quotations of the play are drawn, places it c. 1550-1558, ‘probably indeed [during] the reign of Queen Mary’, but he soon adds that, these indications being not totally reliable, ‘the general roughness of style and the feebleness of plot would incline one to suspect a much earlier date’ (1911, x). Lois Potter suggests similar dates: 1547-1558 (1980, 197), while Bevington assigns it to ‘the 1540’s or 1550’s’ (1962, 20). The play’s most recent editor, Leonard Tennenhouse (1984, 58), confirms McKerrow’s dates.

¹⁴ I will limit the analysis only to a few aspects of this interlude, but see Mullini 2007b for more, especially for the attempt to redeem the play from previous negative criticism. McKerrow (1911, 46-47) uses the Tudor usury laws to suggest a date for the composition of this interlude ‘not earlier than 1550’ (47). The overall role of usury in late sixteenth- and seventeenth-century English drama is discussed in Hawkes 2010.

¹⁵ All statutes are quoted from Kelly 1835.

¹⁶ Helmholz writes that ‘From at least the twelfth century, prosecution of living usurers in England belonged to the church ... The church was entitled to hear all pleas concerning usury during the lifetime of offenders, and to determine them freely according to the canon law. This remained the basic jurisdictional rule until the Tudor era.’ (1986, 365).

Henry VIII promulgated his own 'Bill against Usury' in 1545 (37 Henry VIII. c. 9, 1545, in Kelly 1835, 130-133), again 'for the avoiding and punishment of Usury, being a thing unlawful', admitting that 'laws [have] been of so little force or effect, that by reason thereof little or no punishment hath ensued to the offenders of the same' (130). This bill cancelled Henry VII's laws and stated that interest should not be above 'the sum of ten pound in the hundred for one whole year', specifying that 'all and every offender and offenders ... shall forfeit and lose for every such offence the treble value of the wares merchandizes and other thing or things so bargained'. Furthermore, any offender was to 'suffer imprisonment of his body and make fine and ransom at the King's will and pleasure' (132). No church court is mentioned in this act, where only a very general phrase can be found concerning the approval of the act itself by 'the lords spiritual and temporal and of the commons of this present parliament assembled' (130). Besides that, the King's Courts alone are empowered to pass judgment and the King to exact compensation (132). The state, therefore, and not the church, laid claim to full power about this issue.

The second paragraph of Henry VIII's bill appears very relevant to the present analysis. In *Impaciente Pouerte, Abundance*, the allegory for wealth and greed, who is so skilful a usurer as to 'make .xl of .xx. in halfe a yeare' (Anonymous 1911, l. 285), reveals at length his ways to make money breed. His behaviour is illegal, but he boasts of it to Conscience, his interlocutor, in particular when mentioning a special strategy of his:

I solde a man as mucche ware, as came to .xl. pound
 And in an oblygacion, I had hym bounde
 To pay me at a certayne day
 And whan the bargayne was made playn
 Myne owne seruaunt, bought the same ware agayn
 For the thyrde penny it coste, ye wote what I meane
 But was not this a wyse waye? (ll. 299-305)

And soon later he justifies himself by protesting that

... this is no synne
 It is playne byeng and sellyng
 Lawfull it is for a man to wynne
 Els ryche shall he neuer be. (ll. 309-312)

It is not difficult to hear in Abundance's words the echo of Henry VIII's bill against usury, when it reads:

And be it further enacted ... That no person ... shall by himself factor attorney servant or deputy sell his merchandizes or wares to any person or persons and within three months next after by his factor attorney deputy or by any other person or persons to his use and behoof buy the same merchandizes or wares or any part or parcel thereof upon a lower price, knowing them to be the same wares or merchandizes, that he before did so bargain and sell upon the pains and forfeitures hereafter limited in this estatute. (in Kelly 1835, 131)

Indeed, Abundance tells of one of his bargains consisting in selling goods for which he got £40 and buying the same once again at a much lower price (a third of what the debtor had paid). The interest applied, then, proves excessively high, revealing this episode as an example of the interlude's general satire of English society, especially of the inability of state legislation to fight usury.

3. *Divine and Secular Courts of Justice Onstage*

3.1 *Courts and Judges in the Cycle Plays*

With their robes, sometimes wigs, strict procedures and protocols, trials have always had a theatrical flavour. And theatre, when possible, has exploited the spectacular value of the administration of justice in key sequences in various plots. One could say that the English cycles of mystery plays are the first theatrical appearance of trials on stage: Christ before Annas, Caiaphas, Herod, and Pilate during the Passion events are biblical episodes present in all English cycles. In the same way, 'Last Judgment' episodes play a very relevant role in that they close each cycle and, once again, enact a judgmental procedure, where the jury is presided over by God himself. Of course the verdict, in this case, does not concern secular crimes *per se* and punishment will be everlasting, implying damnation. The findings in favour of heaven or of hell are decreed by God/Christ himself who, for example in The York 'Doomsday' play, '[goes] *ad sedem iudicii cum cantu angelorum*' (Anonymous 2011; 47, l. 217, SD), in order to divide the good from the bad definitely. In the Chester 'Judgement' no seat is mentioned in the stage directions; the Second Demon, though, points to God 'that syttheth as high justice' (Anonymous 1974; XXIV, l. 550), thus hinting at an onstage prop and its function. Furthermore, some characters use legal vocabulary to name the occasion: Jesus calls all souls with 'here you come to your judgment' (l. 358) and is addressed as 'rightuouse judge' twice by the First Demon (ll. 509 and 531). As a counterpart to God's righteousness, Chester also shows a 'Justiciarius damnatus' among the evil souls, the only damned representative of secular justice in all cycles. This damned judge laments his lot by confessing that it is the consequence of his corrupt administration of justice:

Alas, that ever I learned law
 ...
 Alas! While that I lyved in land,
 wrought to worke I would not wond
 but falsely causes took in hand
 and mych woe dyd elles.
 When I sought sylver or rych sound
 of baron, burges, or of bound.
 His moote to further ever I would found,
 were yt never so false. (ll. 293 and 299-308)

By showing the social status of single good and evil souls in this peculiar *Danse macabre* (there are damned and saved emperors, kings, popes and queens), Chester is very precise in condemning unacceptable moral behaviour but also social evils. Therefore, it is no mere chance that there is also a 'Mercator damnatus', a greedy man and a mixture of the moral defects highlighted in the previous paragraphs about the sin of avarice. Besides that, this Mercator also confesses to his being a false judge – 'Ofte I sett upon false assyce', (l. 345) – as can be deduced by his use of the very specific word 'assize', which defines a royal court, of which merchants could be members.¹⁷

¹⁷ 'Twice-yearly royal court held in each county normally at the county town. Presided over by visiting Westminster judges, it dealt *inter alia* with the more serious criminal cases.' (Barret and Harrison 2005, 324). For criminal trials in the late Middle Ages, but also in the sixteenth century, see Bellamy 1998.

3.2 *Mercy, Peace, Truth and Justice as Lawyers in a Heavenly Court*

The 'Annunciation' episode of the N-Town plays includes another type of 'jury', made up of the Four Daughters of God, who succeed in convincing their father to send salvation to mankind, after Adam's transgression in Eden, through Jesus' incarnation. *Misericordia* and *Pax* speak in favour of man's salvation like lawyers who uphold a cause, whereas *Veritas* and *Justitia* rebut their sisters' claims, stressing man's guilt. In the end, after deciding to ask God his judgment on the case, they embrace according to Psalm 85, 10 – '*Misericordia et Veritas obviamurunt sibi / Justitia et Pax osculate sunt*' (Anonymous 2008; 11, ll. 187-188). The N-Town cycle is the only one that contains this heavenly trial, a thematic trope to be found preferably in morality rather than in mystery plays because of its connection with homiletics.

The Four Daughters of God feature in *Respublica* as already shown, thus indicating the cultural weight of a long tradition. In this morality of state, though, at stake there is not mankind's salvation but the redress of a very earthly entity, i.e. the kingdom as a whole. Before the sixteenth century, however, they play a decisive role in the Catholic *Castle of Perseverance* when, after *Humanum Genus*' death in the clutches of *Avarice* and the consequent peril of his soul, they discuss whether the representative of mankind can be saved in spite of all his sins, just because on his deathbed he invoked God's mercy:

Misericordia. ... Therefore, my systyr Rytwysnes,
Pes, and Trewth, to you I tell,
Whanne man crieth mercy, and wyl not ses,
Mercy schal be hys waschyngewell: (Anonymous 2010a, ll. 3142-3145)

They prolong their dispute from l. 3129 to l. 3521, after which they kiss and go to God to support man's cause. More than in the political morality they display their rhetorical and argumentative skills as if they were before a jury to speak in favour or against somebody or something. Actually, there is a jury, of which God is the only and supreme judge. To him *Veritas*, who with *Justicia*/Righteousness has spoken against mankind, summarises her point of view: 'I pray thee, Lord, as I have space, / Late Mankynd have dew dystresse / In Helle fere to be brent.' (ll. 3307-3309). *Justicia*'s words are not very different: 'Lete hym lyn in Hell lake, / Dampnyd for evere and ay.' (ll. 3390-3391). On the opposite side *Peace* and *Mercy* defend *Humanum Genus*, always trying to convince their sisters:

Pax. ... For if ye, Ryth and Truthe, schuld have your wylle,
I, Pes, and Mercy schuld evere have travest.
Thanne us betwene had bene a gret perylle
That oure joyes in Hevene schuld a ben lest.
Therefore, gentyll systerys, consentyth me tyll,
Ellys betwene oureself schuld nevere be rest.
Where schuld be luf and charité, late ther cum non ille.
Loke oure joyes be perfyth, and that I holde the best,
In Heveneryche blys.
For ther is pes wythowtyn were,
There is rest wythowtyn fere,
Ther is charité wythowtyn dere.
Our Fadyris wyll so is. (ll. 3522-3533)

And the Father, ‘*sedens in trono*’ (l. 3560, SD) that is not only God’s throne but also his seat as ultimate power as a judge, proclaims his verdict:

Fayre falle thee, Pes, my dowtyr dere!
 On thee I thynke and on Mercy.
 Syn ye acordyd beth all in fere,
 My jugement I wyl geve you by
 Not aftyr deservynge to do reddere,
 To dampne Mankynde to turmentry,
 But brynge hym to my blysse ful clere
 In Hevene to dwelle endelesly,
 At your prayere forthi. (ll. 3561-3569)

Apart from the practical result of the sisters’ eloquence and power of argumentation (Humanum Genus’ soul will be saved from hell), this morality play portrays the development of a trial case, with a defendant (man), two prosecutors and two defence attorneys, a court and its judge. The administration of justice, albeit in this case on an allegorical level applied to man’s afterworld, on the one hand reveals its fascination as a highly theatrical practice and, on the other, its social plausibility even in the drama of the first half of the fifteenth century.

3.3 Mankind: *Mocking the Court*

In the morality play *Mankind* (c.1470) the four vices Mischief, Nowadays, Nought and New Gyse, helped by the devil Titivillus, attack the innocent Mankind to bring him to damnation, so that he arrives at the brink of suicide when he learns that Mercy, his good advisor, has been hanged for stealing a horse. The news is fake, and, in the end, Mercy reappears to save him. Part of the vices’ destructive action takes place during a trial arranged by the vices, after which Mankind will be judged. The indictments against Mankind, of course, come from the vices’ point of view, i.e. Mankind is accused for his good behaviour and the trial itself will soon show satirical traits. The play is interesting as it shows how late fifteenth-century legal procedures and their language were imitated and parodied in drama.

Refusing New Gyse’s advice to report ‘Mankyndys name in yowr bok’ (Anonymous 2010b, l. 663), Mischief adds: ‘I wyll not so; I wyll sett a corte. / Nowadays, mak proclamacyon, / And do yt *sub forma jursys*, dasarde!’ (ll. 664-666). The use of Latin imitates the official *formulae* of legal proceedings, while later dog Latin will be employed to warp their authoritative weight. ‘the cort of Myschyff’ (l. 668) turns out to be similar to a manor court, where local offenders were usually tried in the presence of various officials (see Briggs *et al.* 1996, 33-37; Barrett and Harrison 2005, 27-31). In the play, Nought is called to be one of them (a steward), and there will also be an audience made of ‘All manere of men and comun women’, all invited by Nowadays in his cry (Anonymous 2010b, l. 667), evidently also addressed to the spectators watching the play. During the trial Nought writes, that is to say, he keeps a record of the proceedings (‘*Nought scribit*’, l. 672. SD), but evidently he is not very good at writing since, when he hands the record to Mischief, the latter exclaims: ‘Here ys *blottybus in blottis*, / *Blottorum blottibus istis*. / I beschrew yowr erys, a fayer hande!’ (ll. 680-682). Mischief’s disparaging remarks about Nought’s handwriting (possibly all full of stains, according to the various dog-Latin declinations of ‘blot’) are soon followed by his attempt at reading this ‘goode rennyng fyst’, as Nowadays defines his companion’s signs (l. 683):¹⁸

¹⁸ The note corresponding to this line in Eccles’ edition of *Mankind* reads that this ‘is the only instance of the phrase in *MED* [Middle English Dictionary]’ (1969, 225).

Mischief. Take hede, sers, yt stoude you on hande.
 [*He reads*] *Carici tenta generalis*.
 In a place ther goode ale ys
Anno regni regitalis
Edwardi nullateni
 On yestern day in Feverere — the yere passyth fully,
 As Nought hath wrytyn; here ys owr Tulli,
Anno regni regis nulli! (ll. 686-693)

Nought's extremely bad Latin (*Mischief*'s sarcasm is clear when he calls him 'owr Tulli [Cicero]', l. 692) also results in phrases very difficult to understand. An explanation is offered by Eccles (1969, 225) in a note to this speech: since 'Edward IV reigned from 1461 to October 1470, and from April 1471 to 1483', Nought's words may be an 'allusion to Edward being "no king" when the play was written', besides parodying the opening procedures of a court session. Topicality, then, seems to surface in the text, albeit comically blurred. Another apparently incongruous line might have topical value: 'In a place ther goode ale ys' (Anonymous 2010b, l. 688) might allude to the performance taking place in an inn where good ale is sold, but also to the possible presence of ale-tasters among the audience, i.e. of those appointed to control well-ordered food and drink sale in a community. In any case, whether ale-tasters or simply spectators, those in the audience are assured that there is no current problem concerning ale.¹⁹

After his trial, *Mankind* is condemned to commit criminal and violent actions which go from sexual offences to theft and murder. *Mankind* has to obediently answer 'I wyll, ser' every time he is ordered to misbehave. The sequence arrives at an end soon afterwards with *Mercy*'s return and the protagonist's subsequent salvation.

The main interest of what is described above lies in the inclusion of a secular court session and, furthermore, in the overt reversal of the respect generally due to such institutions, while preserving the structure of the trial itself, although in a parody. Very probably the original audience of *Mankind* consisted of the same 'manere of men and comun women' (l. 667) as those who assembled at the sessions of a manor court, where 'In general, all adult males (i.e. all males over 12) were required to attend. Numbers attending manor courts could be considerable.', as Briggs *et al.* write (1996, 34), so as to let us guess that even ordinary people knew how this type of court worked, and therefore could possibly enjoy its parodic burlesque in the play. Besides that, the spectators might also have taken part in one of these courts either as defendants or as plaintiffs. In other words, they were able to recognize the procedures and their comic distortion.

3.4 Nice Wanton: *A Secular Trial*

Printed in 1560, the '*preaty interlude called, Nice wanton*' had very probably been written for the child-king Edward VI and performed at court by a boy company (and therefore addressed to a Protestant audience). Its main characters are Xantippe, the mother, and her three children: 'according to Calvinist principles, two males, one damned [Ismael], the other elect [Barnabas], and one female [Delila] who is retrieved from damnation by God's promise of mercy' (King 1993, 95). It deals with the issue of the education of youth: the 'Three braunces of an yll

¹⁹ John Shakespeare, William's father, was appointed official borough ale-taster of Stratford in 1556 (Bryson 2007, 34). Southern (1973, 143-145) is in favour of a performance inside a Tudor hall, whereas Tydeman (1986, 31-52) analyses *Mankind* as taking place in an inn-yard.

tree' (Anonymous 1560, titlepage), Xantippe's children grow up in the same family but react very differently to life, so that Ismael and Delila at once show their inclination to evil. Delila, disfigured by a venereal disease, will find a helpful – and preaching – hand in Barnabas, while Ismael, accused of very serious offences, is condemned to be hanged in chains during a trial which takes place completely on stage.²⁰

After Barnabas has hosted his sister in his house and left the stage, Daniel enters. This character, with the name of the biblical prototype of the good judge (from the apocryphal story of 'Susannah and the Elders'),²¹ soon declares:

As a iudge of the countrey here am I come,
Sent by the kynges Maiesty, Iustyce to do:
Chiefly to procede in iudgement of a Felon,
I tary for the verdite of the quest ere I go.
Go baily, know whether they be all a greed or no
If they be so, byd them come away
And bring their prisoner, I wold hear what they say. (Biiir)

The order is given to Baily Errand, who in fact is the Vice Iniquity and who immediately tries to bribe Daniel in favour of Ismael:

If your Lordshyp would be so good to me,
As for my sake to set hym free,
I could haue .xx. pount in a purse,
Yea, and your Lordshyp a right faire horse,
Well worth ten pound. (*Ibid.*)

But Daniel is not a 'Justiciarius damnatus' and rejects Baily Errand with indignation, asserting that the defendant 'shall haue the law / As I owe to god and the kyng obedience and awe.' (*ibid.*). It is interesting to see that the King is mentioned as the supreme authority together with God, that is, the administration of justice derives from a secular power which defines communal rules ('the law').

Ismael's trial is then shown on stage in detail, and its various phases are appropriately (and quite fascinatingly to modern eyes) worded by Daniel. The judge, indeed, first asks the jury, consisting of twelve men, whether they 'Be ... all agreed in one' (Biiiv).²² They are 'all true men', Darius says and, on receiving a positive answer, he questions them 'to gyve verdyte directly / Whether Ismael therof be gilty or not gilty'. To our modern ears these procedures sound well known, as if we were in a twenty-first-century courtroom. In this respect *Nice Wanton* is really a very special interlude, a text which signals the emergence, in drama as well, of the central power of the law and the substitution of the latter in place of a simply personal and individual moral and religious judgment. There are no witnesses in this case, since Ismael's crimes (and not sins) are already clear: he is 'intided by .xii. men, / Of Felony, burglary, and murdre'. No modern process

²⁰ 'Hanging in chains' means that, after the execution, the corpse was 'left exposed as a further punishment' (Barret and Harrison 2005, 53). See *infra*.

²¹ Daniel reverses the jury's wrong sentence in Thomas Garter's *The Commodity of the moste vertuous and Godley Susanna* (1578). Susannah is saved and the Elders, her slanderers, are condemned; according to a SD they are executed on stage ('Here they stone them', Eiiiv). The Vice Ill Reporte is hanged.

²² In early modern criminal trials, juries 'always consisted of twelve men, no more and no less. By implication their verdicts had to be unanimous.' (Briggs *et al.* 1996, 23).

of crime detection is necessary, neither would it be historically accurate to ask for one. What the trial still needs in order to be concluded is the judges' pronouncement, which soon comes: 'Gilty (my Lord) and most guilty'. It is now Daniel's turn again, as in a modern well-ordered courtroom exchange between the judge and the representative of the jury, to issue the sentence:

The lorde haue mercy vpon the,
 Tussh, holde thy tonge and I warrant the
 Thou shalt go to the place thou camst fro,
 Tyl to morow .ix. of the clocke, there to remain,
 To the place of execution then shalt thou go
 There be hanged to death, and after again,
 Being dead, for ensample, to be hanged in a chain.
 Take hym away, and se it be done. (*Ibid.*)

Daniel's closing remarks also sound quite familiar to our ears: after Ismael and Baily Errand (i.e. Iniquity now out of his disguise) are sent to prison and taken away, Daniel leaves the stage saying 'If no man haue here, more matter to say / I must go hence some other way.' (Biiir), thus closing the session.

Nice Wanton is an almost unique case because of the detailed presentation of a court session and the rich legal vocabulary it contains. Even if isolated, this interlude, which was probably revised for a performance at Elizabeth's court (Grantley 2003, 255), testifies to the relevance of legal procedures in mid-sixteenth-century English culture, and also to the transition, albeit slow, from exclusively religious accusations to social crimes that, as such, had to be dealt with on a secular and legal level.

4. 'Criminal' Places, Unlawful Games, and Onstage Punishments

In the Catholic morality play *Mankind* those who should be judged and punished are, indeed, the vices. But no jury sits for them and their role as representatives of evil is overshadowed and forgotten because of *Mankind's* foregrounded redemption. However, the vices, albeit through their grotesque gesticulation and language which appeals to the audience,²³ have proved to be rogues already condemned in various ways. New Gyse arrives on stage with a noose round his neck, explaining that he has escaped hanging by a hair's breadth: 'I was twychyde by the neke; the game was begunne. / A grace was, the halter brast asonder: *ecce signum!* / The halff ys abowte my neke; we hade a nere rune!' (Anonymous 2010b, ll. 615-617). His companion Mischief, on the other hand, 'ys a convicte, for he coude hys neke-verse.' (l. 619): Mischief, having been able to read the 'neck verse', thus obtaining the 'benefit of clergy', is safe from the death sentence. The two vices' crime is horse theft (the same one they falsely impute to Mercy), an indictment that, being considered a grand property felony, English law punished with the death sentence until the beginning of the nineteenth century.

References to secular punishments become more frequent in later interludes. Penalties, though, are often just presented as threats or are narrated as taking place off stage (as in *Nice Wanton*), generally accompanied by the mention of London prisons and hanging places. The name 'Tyburn' occurs many times, and so does 'Newgate'.

²³ See R.C. Jones 1973 for the relationship between the Vice, his discourse, and the audience.

4.1 *Onstage Hanging in Ane Satire of the Thrie Estaitis*

Sir David Lindsay's *Ane Satire of the Thrie Estaitis*, too complex a play to be discussed here at length, goes against the grain because it shows punishment on stage, and a capital one at that.²⁴ It is a long morality of state (4671 lines) which debates the political and religious situation of Scotland on the verge of the Reformation for which the text takes definite sides. Towards the end of the play a parliament is called to proclaim acts in favour of Rex Humanitas and of the Commonweal, and to judge the evil characters Common Thift, Dissait (Deceit), Falset. The text provides extended stage directions which explain how the three will be punished:

- 1) l. 3999: *Heir sal the Sergeants lous the presoners out of the stocks and leid them to the gallows.*
- 2) l. 4045: *Heir sal Thift be drawin up or his figour.*
- 3) l. 4117: *Heir sal Dissait be drawin up or ellis his figure.*
- 4) l. 4219: *Hei sall he [Falset] luke up to his fallows hingand.*
- 5) l. 4231: *Heir sall thay festin the coard to his neck with ane dum countenance: thairefter he sall say*
- 6) l. 4271: *Heir sal he be heisit up, and not his figure, and ane Craw or an Ke salbe castin up, as it war his saull.* (Lindsay 1979)

Of necessity, the stage must be equipped with some stocks from where the prisoners are freed in order to reach the gallows, which must be visible to the audience as well. All the criminals are guilty of grand felonies (theft for the homonymous character, and evil and serious deceit for the two others, whose names reveal their guilty behaviour). They are hanged one after the other, so that both the onstage audience (the parliament meeting there) and the external audience are shown multiple executions, like those which took place all over the kingdoms of Scotland and England.

All characters pronounce last speeches, but contrariwise to what one might expect, that is, words similar to those penitent and moralizing ones of which seventeenth-century chapbooks will be so full, something different is pronounced by the three condemned rogues. Common Thift, for example, after mixing sorrow and scatology (the text's contemporary spectators must have been quite accustomed to watching terrified felons soiling themselves when on the scaffold), names many accomplices of his and says goodbye to everyone, foreseeing the same death for them. Neither does Dissait show any sign of repentance: on the contrary he boasts of his deceitful life especially in merchandising. Lastly Falset, who pronounces the longest speech, narrates how the nearby villages and their inhabitants will fare worse because of his death, since he will not be there to teach brewers to water their ale, goldsmiths to tamper with gold in order to mix it with meaner metals, etc. Then he speaks to Dissait, already dead – one can imagine – on the gallows. Finally, already with the noose round his neck, he aims his satirical speech at politicians, clergy, and corrupt judges, who 'sall with me be bund in Baliels bands' (l. 4255). His very last words are a misogynous attack.

Besides the satirical content of these three speeches, what is very interesting is the stage action implied by the directions listed above. Two dummies must certainly be hoisted up; however, while SD 2 and 3 refer, even though in an intriguingly ambiguous way, to 'figures' being lifted instead of the characters/actors, SD 5 announces that, in the case of Falset, the

²⁴ Although the play is Scottish, it is discussed here for its representation of crude onstage punishments. Readers can find information and vast research on this play in Gr. Walker 1998, 117-162, and 2013, 63-90. *Ane Satire* was performed at Linlithgow in 2013 as part of the 'Staging and Representing the Scottish Renaissance Court' project (see <<http://stagingthescottishcourt.brunel.ac.uk/>>, accessed 1 February 2021).

rope has to be tightened to *his* neck, and, more dangerously, SD 6 stresses that he '*and not his figure*' is to be drawn up. How this was possible the text does not explain, but the players' long performing practice surely offered tricks to make the audience 'see' a real execution, without any peril for the actor. What is significant, for the present research, is to see that *Ane Satire* does not only speak of the death penalty, as happens in other texts, but also shows it realistically to its audience, thus creating a strong connection between external reality and theatre.

A final point: the SD after l. 4271 (6) adds that a '*Craw or an Ke* [jackdaw] *salbe castin up, as it war his saull*'. The use of live animals was fairly common in late medieval drama (one can remember Noah's raven and dove sent out of the ark after the Flood in the mystery cycles), but here, while reminding the audience of a known theatrical device, either of the mentioned birds represents Falset's damned soul going to hell. One might say, then, that the worldly meaning of public executions as the definitive punishment inflicted by human justice in retribution for social evils and crimes, still overlapped, and was obscured by, the concept of sin.

4.2 *Gaming, Drinking, and Whoring*

In *Mankind* the protagonist, after being slyly convinced by Titivillus to leave the path of virtue, proclaims his will to go to an alehouse (Anonymous 2010b, l. 609) where he will find a nice girl to kiss; some lines later he is subjugated by the vices and commanded to commit crimes ('robbe, stell, and kyll', l. 708), and ordered to go 'wyth us to the all-house' (l. 711). In a short time, then, the word 'alehouse' is pronounced twice in the text to underline Mankind's degenerating phase. Taverns and alehouses had a very dubious reputation indeed in the late Middle Ages, being judged the dens of iniquity, not only because people might get drunk there, but also because ill-reputed patrons might be met, and unlawful games played there. Tavern haunting, then, was considered sinful from the religious point of view, but it also became a social problem that the law tried to remedy. In 1541 Henry VIII issued a statute (33 Henry VIII. c. 9) which, even if originally born 'for the advancement and maintenance of Archery' which men had to practise instead of playing games, actually aimed at prohibiting common pastimes like 'tennis-play bowls ... dicing table or carding' and 'any other new unlawful game hereafter to be invented or made'. Transgressors 'using and haunting any of the said houses [where unlawful games were played] and plays and there playing [had] to forfeit for every time so doing six shillings eight pence' (in Evans *et al.* 1836, 270). The law, which had been preceded by other legal measures for the same purpose, applied only to apprentices, servants and labourers (not to noblemen and landowners) to limit their 'dangerous' leisure activities. Once again, though, it is not difficult to see that secular interventions to regulate a social problem are not easily distinguishable from religious principles: Henry's statute itself reads that, as a consequence of the violation of previous bills, 'great impoverishment hath ensued and many heinous murders robberies and felonies were committed and done, and also the divine service of God by such misdoers on holy and festival days not heard or solemnized to the high displeasure of Almighty God' (*ibid.*).

In many interludes London is mentioned as the most dangerous place of all, not only for its taverns and stews, but also for the opportunity the city offered to commit sins/crimes. In *The Worlde and the Chylde* the vice Folye, after explaining that his origin is England and London his 'chefe dwellynge' (Anonymous 1999, l. 569), succeeds in corrupting the protagonist Manhode and in drawing him into town. Folye mentions Holborn and Westminster, notorious for their inns and stews, and for hosting many lawyers ('For I am a servaunt of the lawe', adds Folye, l. 575), presented generally as bribable in the satirical attacks of the play. Later Manhode will

triumphally rejoice at being led 'to London to lerne reuell' (l. 702). At the end of the interlude, the now aged protagonist confesses his trespasses:

In London many a daye
 At the passage I wolde playe.
 I thought to borowe and neuer pay.
 Than was I sought and set in stockes;
 In Newgate I laye vnder lockes.
 If I sayd ought, I caught many knockes. (ll. 787-792)

In Age/Manhode's words we understand, besides his admission of wrongdoing in playing dice ('passage'), that debtors, too, were imprisoned in Newgate, where they might be shackled and beaten (depending on the prisoners' social conditions; see Davidson and Happé 1999, 104). It is quite remarkable to read that the protagonist was 'sought', namely that representatives of the law searched for criminals in order to arrest them on the basis of secular laws. In other words, crimes were prosecuted and a religious confession of sins was not enough, even if in the context of the play the repenting Age/Manhode, now renamed Repentaunce, will be saved by Perseuerance.

4.3 *A Nests of Vipers*: Hick Scorner

Two very early interludes, *Youth* and *Hick Scorner* (the latter an adaptation of the former), represent profitable case studies for this research.²⁵ In both plays the young protagonist is enticed by vices into a sinful – and criminal – life, which is as usual mainly narrated or alluded to. The 'baddies' in *Youth* 'speak the language of criminals, and show conventional familiarity with gambling and taverns, and with Newgate and Tyburn. Their leader is Riot ... [who is] the embodiment of criminal tendencies' (Happé 1972, 22). One might say that in *Hick Scorner* there is no positive hero given that Free Will and Imagination, joined by a third disreputable character, the title 'hero',²⁶ are evil examples of what is worst in society through most of the interlude: only at the very end do the positive characters succeed in bringing them to repentance. As a portraiture of the depravity of English society, their words often partake of the language of crime and punishment so much so that it is not easy to find another interlude so rich in references to criminal life, even more than Riot's. What follows is just a brief analysis of the play in search of the moments when the rogues' underworld stands out at its worst.

At his arrival on stage Free Will boasts that he 'can fight, chide and be merry' (Anonymous 1980, l. 163) and laments having lost money 'at the stews' side' (l. 184). It is the first occurrence of the word; it is also present later when, speaking of his mother, he says that she was 'a lady of the stews' blood born' (l. 707), and in Imagination's speech when this character anticipates future pleasures ('At the stews we will lie to-night', l. 405). Free Will's father is not much better: he was a 'knight of the halter' (l. 708), a 'title' which is a transparent metaphor for a person condemned to be hanged. Indeed hanging – and Tyburn, its related location – is mentioned

²⁵ For the printing history of these two interludes and the possible political meaning of their topical allusions recalling events in Henry VIII's early reign, see the exhaustive introduction in Lancashire 1980, 1-95. Lancashire claims that *Youth* was very probably composed between 1513 and 1514 (but printed later in the 1530s), and that *Hick Scorner*, printed c. 1515-1516, was very likely written in 1514, since it 'in turn adapts *Youth*' (18). With *Hick Scorner* as political satire deals Gr. Walker 1991, 37-59.

²⁶ Strangely enough, Hick Scorner disappears from 'his' play after l. 545 (out of 1028 lines).

throughout the text. It features as the final destiny of thieves, robbers and murders, but also as an event to tell stories about, including Imagination's bragging that he and his lineage will never suffer this punishment because 'we be clerks all and can our neck-verse' (l. 266).

The characters' criminal adventures are narrated with a wealth of details, with special reference to possible real instruments of punishment used in prison. So, there are not only stocks, but 'gyves' as well (l. 478), and 'fettters' (l. 690), which are renamed 'hose rings' (l. 515) by the villains. In the play there is, though, one episode which is shown and not simply told: the good character Pity is falsely accused by the rogues of stealing £40 from Imagination's purse and is bound hands and feet on stage. He will be released by Perseverance and Contemplation (the other good characters), who, in addition, urge him to

Go and seek them [Free Will and Imagination] through the country,
In village, town, burgh and city
Throughout all the realm of England.
When you them meet, lightly them arrest
And in prison put them fast. (ll. 622-626)

Pity, therefore, will turn constable and arrest the culprits. A real hunt for the criminals is envisaged here: our modern detection strategies and techniques are still far ahead of course, but secular justice, as early as in a 1510s allegorical play, is shown as something feasible and, evidently, practised in some measure in the country.

5. *Brief Conclusion*

Early modern people were accustomed to watching capital executions and public punishments as part of their daily life, this exposure aiming at discouraging crime, especially offences against the monarchy, religion and property, but also against what is now considered very petty crime. Therefore, there would have been no further need for them to be shown the consequences of misbehaviour performed by actors onstage. Furthermore, what Harrison wrote in his long and atrocious list of 'sundrie punishments appoynted for malefactors' in Britain (1577, 107r) witnesses that law and judgment were quite efficient in the country, thus attesting the general awareness of these issues. Nevertheless theatre kept dealing with law and justice administration, and with murder, perhaps aspiring to a mixture of entertainment and catharsis, even though in early Tudor times nobody had written yet about the power of the stage in checking and revealing personal wrongdoing, and in 'catch[ing] the conscience of the King' (Shakespeare 1982, 2.2.601).

In all the early modern texts investigated here religion has almost always been seen at the basis of any judgment of felony and misdemeanour. However, in spite of the difficult separation of sin from crime in the culture of the time, contemporary drama shows how secular justice was taking steps towards its own independence from moral and religious attitudes, and how the law tried both to forestall crime and to inflict earthly penalties. Certainly, it remains true that '“Crime” meant many things to our ancestors; they did not share our aggregated concept of the word, especially as a form of behaviour readily distinguishable from sin', writes Malcolm Gaskill, adding later that 'until the nineteenth century ... contemporaries tended to think less in terms of crime, than individual sins carrying their own particular social meaning' (2000, 28) Theatre, as has been shown, represents this continuity of social and judicial mentality, offering, though, glimpses of change.

Shakespeare's and Ben Jonson's great law courts in *The Merchant of Venice* and in *Volpone*, respectively, and other cases of onstage justice administration and punishment were not far off.

There would still be judges (some of them corruptible); there would still be lawyers (some of them bribable); and truth would still be sought (even if not always found).

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