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Murder Ballads and Death in Song

Abstract

This paper develops a typology of murder ballads to inform and assist legal scholars in engaging with this form of literature. Murder ballads are songs about death and killing, originating in seventeenth century Europe thereon forming the bedrock of American folk, blues and country music from around the late nineteenth century onwards. This is a sub-genre of music explicitly focused on murder and, as such, presents a form of popular culture of great relevance to legal scholars, especially those with an interest in crime and justice. To date, legal scholarship has not given proper attention to murder ballads despite the vibrancy of the law and literature movement. This paper offers a call to rectify this dearth, following the law in literature approach of gaining insight into the human condition that can thereon be used to improve understanding of how law and society interact. The paper draws out a central theme of these murder ballads that speaks to a strong gender role in the narrative; violence against women. The ramifications of the normalisation of killing women that occurs in these traditional songs should be further developed to help understand the foundational role such cultural messages may have exerted on wider society.

Key Words

Popular music, crime, murder ballads, gender, femicide

Introduction

This paper is about how popular music can influence our understanding of crime. Law, lawyers and justice systems exist in their wider context. This context includes social, political, economic, historical and, as per the focus of this paper, cultural issues, though all are interlinked. The need to develop and interrogate the wider cultural landscape to form shared cultural reference point is identified by Leiboff, for whom:

> We…draw upon our own inventories, the soundtracks of our lives when we read, interpret and parse the texts of law. My claim is that 'the little things' – the soundtrack of our lives – affect how we read and interpret law.[1]

Leiboff picks out the need to integrate humanities in legal studies to overcome the dissonance caused by missed or forgotten cultural artefacts. Following that call, this paper, in a manner of speaking, literally looks at the soundtracks of our lives through exploring murder ballads. The murder ballads under examination here are those present in the folk tradition from the late nineteenth century, later popularised in blues and country music of the first half of the twentieth century in particular, and most authoritatively described by Schechter.[2] Murder ballads are a type of narrative ballad that tells the story of a killing, typically from taking the murderer's point of view dealing with what led up to the events, providing often gory detail of how the murder took place and, thereafter, considering what happened following the death. The murder ballad tradition can be directly traced back to Europe, especially the UK and Scandinavia, where the murder ballads were published as broadsheets to, variously, report and speculate on true crimes of the age or tell tall tales of mythic criminality

[1] Marett Leiboff, '"Ditto": Law, Pop Culture and Humanities and the impact of Intergenerational Interpretative Dissonance' (2012) 36(1) *Australian Feminist Law Journal* 145 at 146.
[2] Harold Schechter, *Savage pastimes: a cultural history of violent entertainment* (St Martin's Press 2005).

drawing parallels to contemporary society. The expansion of cheap printing saw the murder ballads popularised. Further, folklore scholars collected the murder ballads previously known only within illiterate communities and passed on orally. American murder ballads were often imported from the Old World by European settlers but, on becoming established in the Deep South and on the Western frontier, they took on lives of their own with traditional songs modified to new contexts and fresh stories emerging to supplement them. Murder ballads are considered products of violent and unruly cultures, born from and, thereon, popularised in remote and rural areas at a distance from the formal legal institutions of the state and thus characterised by some degree of lawlessness.[3] They thus afforded authors the space to muse on the wider moral circumstances of the acts contained within.

In the nineteenth century, these murder ballads would be campfire folk songs learnt by ear and moving as the settlers travelled across the country or along each generation in a particular community. In the twentieth century, the songs became the foundation of modern blues and country music, and the songs would be captured for posterity by Alan Lomax, the folklorist, ethnomusicologist and archivist who carried out field recordings of these performers as well as researching the stories behind the lyrics. The existing literature on murder ballads tends to focus on, either, the European roots and the original written ballads,[4] limited enquiries into a specific genre such as bluegrass,[5] or modern parallels to be found in music like rap.[6] There

[3] Richard Underwood and Carol Parris, 'Crimesong: Some Murder Ballads and Poems Revisited' (2014) 12 *Journal of Southern Legal History* 5.

[4] Ronald Broude, 'Revenge and Revenge Tragedy in Renaissance England' (1975) 28(1) *Renaissance Quarterly* 38.

[5] Kenneth Tunnell, 'Blood Marks the Spot Where Poor Ellen Was Found: Violent Crime in Bluegrass Music' (1991) 15(3) *Popular Music and Society* 95.

[6] Elizabeth Keathley, 'A Context for Eminem's "Murder Ballads"' (2002) 4(2) *Echo: A Music-centered Journal*.

is, then, little consideration of American murder ballads in general but this paper will seek to offer just such a contribution, in particular adapting a law and literature approach to identify some of the legally relevant issues in these songs as they speak to fundamental issues of criminality, justice and morality that lie at the heart of much legal scholarship. In so doing, the exploration of murder ballads follows Buchanan's approach of going back to the days of the formation of the law on the frontier to help our understanding of modern law and provide a fuller appreciation of peoples' relationships to legal institutions and practices of justice.[7]

As a central part of folk, blues and country, murder ballads can be understood to represent a foundational cornerstone of contemporary American popular music. As such, the artists are still revered and the songs much covered by modern artists, above and beyond the original genres as evidenced in rock music while the influence can also be much felt in rap and hip hop. Indeed, young songwriters and musicians will often learn their craft by playing through these songs thus hardwiring them into the collective musical consciousness. Modern murder ballads are still written from artists as diverse as Violent Femmes to the Chicks, and the fundamentals of the murder ballad can be appreciated to persist in songs that talk of violence in twenty-first century society more generally. Such signifies the continued relevance of murder ballads, whether in formal exposition of a specific musical discipline or as a cultural artefact with wider impact. The status of murder ballads means that their content is worthy of giving due attention to. In analysing a leading contemporary example of murder ballads –Nick Cave and the Bad Seeds' *Murder Ballads* album – Newman has called for further scholarship on the sub-genre:

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[7] Ruth Buchanan, '"Passing through the Mirror": Dead Man, Legal Pluralism and the De-territorialization of the West' (2010) 7(2) *Law, Culture and the Humanities* 289.

> The five themes identified on Murder Ballads are simply the tip of the iceberg…a useful reminder of the wider value that greater engagement with the topics of murder and death in popular music might provide in popular music studies and beyond. This analysis can now be taken further, to other artists and genres, in order to help improve insight into the human condition.[8]

This paper aims to kick start that process by bringing murder ballads, and popular music more generally, within the law and literature canon. This paper invites others to engage with the tradition and draw out its value for law in literature approaches as the songs offers a valuable, underappreciated, source on the human condition, the ethical content of the law and the socio-political context of legal plights. In so doing, the paper has three objectives. Firstly, providing a historical context for the musical sub-genre of murder ballads, that has not already been offered elsewhere. Secondly, offering a feminist analysis of murder ballads, by attending to the role of gender in this sub-genre. Thirdly, developing an embryonic typology of the murder ballads sub-genre to aid future analysis.

To achieve these objectives, the paper begins by grounding understanding of popular music in discussions of the human condition thus providing a route into discussing popular music in the legal context. The paper moves on to look at feminist scholarship and popular culture more broadly to provide a conceptual lens through which to understand the gendered nature of the music under consideration here. Next the paper offers a consideration of how and why a typology is useful for capturing essential elements of the murder ballad tradition. The following three sections offer an attempt at beginning to organise these murder ballads, breaking

[8] Daniel Newman, 'Murder Ballads: Nick Cave and His Approach to Killing in Song' (2017) 39(2) *Musicology Australia* 96 at 98.

down key themes into moralising, revenge and femicide. The conclusion reflects on the value of taking this approach and where it could lead legal scholarship next.

Popular Music and the Human Condition

For bell hooks, 'the heartbeat of critical thinking is the longing to know – to understand how life works'.[9] What emerges, then, is our interest in what can be – perhaps ambiguously – phrased as the human condition; which captures any thematic concern with how we live our lives as humans, human nature or society. Literature can be considered at the heart of investigating the human condition, exploring the many-faceted ways we live our lives as humans, promoting and provoking our understanding of ourselves and our shared experiences. Tymieniecka outlines how 'the investigation of the literary genres' introduces us to 'the existential coordinates of the human condition'.[10] Such is why we are focused on literature here because, as per Altman et al, this paper is guided by the view that literature 'ignites thinking and the imagination, fosters conscious mindfulness, and creates openness to the complexity of the human condition'.[11]

Rather than seeing law as literature and taking structural cues from the cultural form under consideration,[12] this paper can be more aligned with Bruner's take on law in literature whereby narratives that explore human plights through the

[9] bell hooks, *Teaching critical thinking: Practical wisdom* (Routledge 2010) 7.

[10] Anna-Teresa Tymieniecka, 'The Theme: The Poetic, Epic and Tragic Genres as the Existential Coordinates of the Human Condition' in Anna-Teresa Tymieniecka (ed) *The Existential Coordinates of the Human Condition: Poetic — Epic — Tragic* (Springer Netherlands 1984) ix at ix.

[11] Julie Cooper Altman, Gertrude Schaffner Goldberg and Laura Quiros, 'Literature and the Human Condition in Teaching and Learning' (2017) 37(1) *Journal of Teaching in Social Work* 20 at 30.

[12] Robin West, 'Adjudication is Not Interpretation: Some Reservations About the Law-as-Literature Movement' (1987) 54 *Tennessee Law Review* 203.

prism of the imagination are the focus of study.[13] Following the law in literature approach, Weisberg argues that the chief value of literature for legal scholars is that it offers the insight about the human condition sometimes absent from legal analysis.[14] It is crucial that legal scholars develop an understanding of the human condition as, for Hazard, 'the human condition is what law and law practice address, or, as they say these days, what law is "all about"'.[15] It makes much sense, then, for legal scholars to turn to literature, even more so when considering that the two realms are not at all alien to one another. Legal issues and problems of morality are a common topic in literature, indeed, for Brooks:

> Tragedy is always the story of the discovery of the law – perhaps the Law – and in this manner it makes clear, perhaps more than any other genre, that literature's exploration of the individual's destiny always encounters those systems of constraint, those basic interdictions, that both frustrate individual endeavours and constitute irrefutable elements of the definition of the human condition.[16]

Literature asks some of the big questions in life and, for example, the law and literature movement has established that a legal scholar can get great insight into the human condition from reading authors such as Franz Kafka or Albert Camus.[17] What is right and wrong? Are we naturally good or evil? What does it mean to be moral?

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[13] Jerome Bruner *Making Stories: Law, Literature and Life* (Harvard University Press 2002).

[14] Richard Weisberg, *Poethics: And other Strategies of Law and Literature* (Columbia University Press 1992).

[15] Geoffrey Hazard, 'Humanity and the Law' (2004) 16(1) *Yale Journal of Law and the Humanities* 79 at 79.

[16] Peter Brooks, 'The Law as Narrative and Rhetoric' in Peter Brooks and Paul Gewirtz (eds) *Law's Stories: Narrative and Rhetoric in the Law* (Yale University Press 1996) 15.

[17] See Ian Ward, *Law and Literature: Possibilities and Perspectives* (Cambridge University Press 1995).

Should we conform or be individual? How do we deal with death? These timeless enquiries about society and how we are to live our lives are tied into the law, wherein legal scholars should explore them to gain a firmer understanding of what law, crime and justice entail.

Just as legal scholars can turn to written stories to aid their insight, it is important for them to appreciate that popular music can raise similar points. Music and literature share common derivation and, though there are differences between the written word and the world of performance, they retain obvious parallels and essential characteristics such that make them equally suitable for scholarship to draw out the meanings.[18] Indeed, both forms are best understood as cultural phenomena, texts to be decoded for the broader message they communicate.[19] As such, there is as much to be gained from looking for the answers to key questions of the human condition in the songs of Bob Dylan or Neil Young just as there would be any other writer. The human condition need be recognised as being at the heart of song as it is in books because, as Blacking explains:

> The function of music is to enhance in some way the quality of individual experience and human relationships; its structures are reflections of patterns of human relations, and the value of a piece of music as music is inseparable from its value as an expression of human experience. The common factor is therefore the experience of the individual in society.[20]

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[18] Calvin Brown, 'The Relations between Music and Literature as a Field of Study' (1970) 22(2) *Comparative Literature* 97.

[19] Roland Barthes, *Mythologies* (Editions du Seui 2007).

[20] John Blacking, *Music, Culture and Experience* (University of Chicago Press 1995) 31.

Popular music reflects the culture of its times and thus can be taken to represent human experience in society, with different genres articulating the thoughts and feelings of different social segments.[21] For Frith, 'music gives us a way of being in the world, a way of making sense of it'.[22] Popular music is a cultural form replete with symbolism, through which listeners are presented with the cultural norms of the existing structural order as well as being offered alternatives.[23] As such, songs offer a means of development and a place through which listeners wrestle with the tensions between what is acceptable and what is not, in particular working out where their own beliefs and desires fit within this. Considering the violent deaths that characterise the murder ballads has the potential to teach legal scholars much about the human condition.[24]

Feminism and Popular Culture

When exploring examples such as these murder ballads, attention must be given to the gendered aspect that dominates the narratives. Male norms lead in music, which needs be recognised by more musicology research.[25] Cultural material can be crucial as a means from which those who consume it learn the principles that structure gendered societal concepts, as shown by Dworkin when she analyses fairy

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[21] Charles Hamm, *Putting Popular Music in its Place* (Cambridge University Press 2006).

[22] Simon Frith, *Performing Rights: On the Value of Popular Music* (Harvard University Press 1996) 272.

[23] Bernice Martin, 'The Sacralization of Disorder: Symbolism in Rock Music' (1979) 40(2) *Sociological Analysis* 87.

[24] Notable examples of legal scholarship on popular music more broadly includes: Alex Sharpe, 'Scary monsters: the hopeful undecidability of David Bowie (1947–2016)' (2017) 11(2) *Law and Humanities* 228; Robbie Sykes, 'Listening Back: Music, Cultural Heritage and Law' (2018) 31 *International Journal for the Semiotics of Law - Revue internationale de Sémiotique juridique* 183); Robbie Sykes and Kieran Tranter, 'You gotta roll/rule with it': Oasis and the concept of law' (2015) 24(2) *Griffith Law Review*, *24*(4) 571.

[25] Sally Maccarthur, Dawn Bennett, Talisha Goh, Sophie Hennekam and Cat Hope, 'The Rise and Fall, and the Rise (Again) of Feminist Research in Music: "What Goes Around Comes Around"' (2017) 39(2) *Musicology Australia* 73.

tales.[26] Fairy tales are said to contain the gender roles that children learn and adults never overcome. By this line, fairy tales tell us that only two kinds of women exist: good women (such as Sleeping Beauty or Cinderella) are passive, sleeping, innocent, helpless victims; while bad women (such as the Queen or the Wicked Stepmother) are active, devouring, awake, powerful. Men in fairy tales, on the other hand, are generally heroes; good even when they do bad. Fairy tales, then, tell us that men and women are different, absolute opposites. In women, beauty, passivity, and victimhood are desirable. In women, action and power are evil and must be destroyed. Whatever men do is good, because men do it. The moral of fairy tales is that 'happiness for a woman is to be passive, victimised, destroyed, or asleep'.[27] Dworkin uses her examination of fairy tales to highlight how popular cultural forms (in her case, pornography) tell men and women who they are, thereon outlining how the consumption of popular culture (pornography or whatever other form) structures real world human relations.

Following this insight, there is a large body of work using feminist theory that outlines various aspects of how popular culture works to reflect, drive and constrain the ways society constructs meaning and value.[28] It influences our perceptions of nearly everything from entertainment values to political issues and all the important ways these different elements intertwine. As part of this, gendered violence has become mainstreamed in popular culture. Indeed, Horeck shows how sexualised violence against women has been fetishised in television and film with practices such

[26] Andrea Dworkin, *Woman Hating* (Plume 1974).

[27] As above at 49.

[28] For example, Barbara Read, 'Britney, Beyonce, and Me: Primary School Girls' Role Models and Constructions of the "Popular" Girl' (2011) 23(1) *Journal of Gender and Education*: 1; Angela McRobbie, *The aftermath of feminism: gender, culture, and social change* (Sage 2009); Andi Zeisler, *Feminism and pop culture* (Seal Press 2008).

as rape now increasingly used as a device (public rape) to get audiences' attentions.[29] In Higgins and Silver's edited collection, *Rape and Representation*, a range of literary analyses are drawn out to reflect the way rape is often offered as simple plot device.[30] While sexual violence is sadly not uncommon, it is increasingly a cultural prop. Popular culture affects how people understand and live in the modern world. In an effort to discover which ideologies are informing our current popular culture dialect, a number of feminist scholars have begun to investigate and critique new changes and trends in popular media. Such can be seen in Trier-Bieniek's edited collection, *Feminist Theory and Pop Culture* but it need be noted that popular music is often absent from such analyses.[31]

Following Bayton, it has long been rather odd that feminist theory has tended not to engage with popular music, in stark contrast with the extensive work on literature, television and film that had been undertaken in previous decades.[32] She suggests that 'popular music has been perceived as a "masculine" form: music played by and for men',[33] though it must be recognised that she was writing in the same period that Riot Grrl was just breaking – and Riot Grrrl was a scene that Strong saw as reminding the world about the women so often forgotten in popular music.[34] That such an important means of popular culture might typically be considered somehow a male domain highlights all the more the need for the more recent increase in such

[29] Tanya Horeck, *Public Rape: Representing Violation in Fiction and Film* (Routledge 2003).

[30] Lynn Higgins and Brenda R. Silver (eds) *Rape and Representation* (Columbia University Press 1991).

[31] Adrienne Trier-Bieniek (ed) *Feminist Theory and Popular Culture* (Sense Publishers 2015).

[32] Mavis Bayton, 'Out on the margins: Feminism and the study of popular music' (1992) 3(1) *Women: A Cultural Review* 51.

[33] As above at 51.

[34] Catherine Strong, 'Grunge, Riot Grrrl and the Forgetting of Women in Popular Culture' (2011) 44(2) *Popular Culture* 398.

feminist investigation, both on music producers and consumers, such as McCarthy's (2006) exploration of women in rock music that tries to show the role of women in scenes where they have been typically ignored or Halberstam who has even coined the term Gaga Feminism to recognise the important role popular music has on gender relations. James has provided a well-argued account of why feminism had been wrong to often ignore and marginalise popular music in the canon,[35] and she passionately believes popular music need be taken seriously as a key site in which social identity is formed and gender inequality can be embodied.[36] Glantz has purposefully attempted to bridge the gap between feminist theoretical dialogue and the experiences of women's lives as mediated in an area such as popular music.[37] For example, her research emphasises popular media's role as a catalyst for social construction and social change, and also indicates the need for further intersections between feminist theory and women's everyday realities.

One of the foremost authors combining feminist scholarships with musicology is McClary who has argued that the traditional musicological assumption of the existence of supposedly purely musical elements, divorced from culture and meaning, the social and the body, is a conceit used to veil the social and political imperatives of the worldview that produces the classical canon most prized by self-avowedly objective musicologists.[38] In contrast, McLary examines the creation of meanings and identities, some oppressive and hegemonic, some affirmative and resistant. Though her focus is largely on the form and structure of music (and often

[35] Jack Halberstam, *Gaga Feminism: Sex, Gender, and the End of Normal* (Beacon Press 2012).

[36] Robin James,*Resilience & Melancholy: Pop Music, Feminism, Neoliberalism* (Zero Books 2015).

[37] Jamie Glantz, 'Women in Popular Music Media: Empowered or Exploited?' (2013) 2 *The Spectrum: A Scholars Day Journal* 1.

[38] Susan McClary, *Conventional Wisdom: The Content of Musical Form* (University of California Press 2000).

focuses on classical music) rather than the meanings to be gleaned from wider consideration of the messages emanating from the lyrical content of more popular forms of music, her insight that sexism and misogyny are often accepted as the norm in mainstream musical forms highlights that musical genres are generally taken as neutral due to their longstanding, and having been co-opted into an apparently apolitical cultural background. Flowing from her aim to find the political in music, to consider the sexual, McLary offers a key insight into the music that she believes many people to have in the centre of their lives, meaning that her work sheds light on how music affects us and why it is so influential. There remains, though, a particular gap for work that such feminist insight of gendered insight into popular music in the legal field.

In an attempt to encourage others to address this gap, the present paper's exploration of death in song is underlined by a belief that popular music sub-genres such as the murder ballads, which forms the foundation of much contemporary music and maintain popularity across time and space, provide examples of what Mulvey has labelled the male gaze.[39] This gaze refers to the tendency of mainstream culture to replicate, through narrative and the imagery invoked, inequalities and biases that exist throughout society. As such it seeks to encourage further legal scholarship into (gender and) popular music by co-opting the insight of feminist work on narrative cinema, which has generally been more accepted within mainstream feminist and legal discourses than popular music study in and of itself. In particular, the paper is grounded in Mulvey's analysis focuses on visual culture, as she suggests that popular film works to serve the political function of subjugating female bodies and experiences to the interpretation and control of a heterosexual male

[39] Laura Mulvey, 'Visual Pleasure and Narrative Cinema' (1975) 16(3) *Screen*: 6.

gaze. By this line, an observer's potential to experience visual and visceral pleasure from watching Hollywood films is based on an acceptance of a patriarchal worldview in which men look and women are looked at. This is a worldview whereby men act while women are merely acted upon. This distinctly male-oriented perspective maintains and propagates sexual inequality through forcing the viewer (male or female) to identify with and adopt a perspective that objectifies and dehumanises women. There are problems with Mulvey's thesis, such as those outlined by Studlar who has suggested rather that visual pleasure for all audiences is derived from a passive, masochistic perspective, where the audience seeks to be powerless and overwhelmed by the cinematic image.[40] Mulvey, though, reacted to such critique by explaining that her article was meant to be a manifesto, rather than a reasoned academic thesis that took all objections into account.[41] As such, there is much to be gained from Mulvey's provocation, not least taking the opportunity to apply its critical insight to other areas such as popular music in law and literature. This paper will consider that it is possible, if not beneficial, to identify this dominant gaze in depictions of violence in popular music meaning that the messages communicated by who is doing the violence, to whom and with what reasoning are important topics to tackle. Such unpicking of violence in popular music should be of interest, then, to feminist scholars in general but feminist legal scholars in particular as a means to understand how issues of crime and justice play out in these cultural treatments of violence.

Murder in Music

[40] Gaylyn Studlar, *In the realm of pleasure* (Columbia University Press 1993).

[41] Laura Mulvey, *Visual and other pleasures* (Palgrave Macmillan 2009).

A wider legal analysis of violence in popular music – whether explicitly gendered or not – would offer a specific focus on the human condition, which can be readily achieved through a consideration of how murder is treated in song. Loss is the number one subject for popular music.[42] Loss, as a topic, covers a broad range of issues, with broken relationships the preeminent theme but death follows close behind as a prominent topic of popular song. Hugely successful tribute songs such as Elton John's *Candle in the Wind* show that popular music can be used to cope with grief. In this way, songs dealing with death can come to represent acts of communal mourning. For Hertz, mourning is more than individual reflection on the passing of a particular person and, rather, acts to render death as the 'object of a collective representation'.[43] Funerals and wakes are the typical means through which people come together to mourn but such songs can help unite people as well. On the other hand, genres such as heavy metal can make great play on singing about death, and in particular the violent death that comes with murder, with such subject matter stock in trade for acts such as Slipknot, Slayer or Metallica. Such songs are often darkly humorous and, in so doing, even such exaggerated treatments of gruesome murder can play a psychological role in helping people to deal with grief as reflected in the research of McGraw and Warren.[44] Black comedy depictions of forbidden or threatening situations in benign conditions such as entertainment can provide a positive effect in helping audiences overcome the tension associated with such stressful events and thus diffuse their emotional potency.

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[42] David Henard and Christian Rossetti, 'All You Need is Love? Communication Insights from Pop Music's Number-One Hits' (2014) 54(2) *Journal of Advertising Research* 178.

[43] Robert Hertz, *Death and the Right Hand* (The Free Press 1960) 28.

[44] Peter McGraw and Caleb Warren, 'Benign violations: making immoral behavior funny' (2010) 21(8) *Psychological Science* 1141.

While death and murder are notable musical topics, the dearth of research into this area means we have a lack of understanding as to why or what impact this may have. Death has increasingly moved from private spaces of personal grief and into the public arena of mediated culture but there is no consensus on why or what implications the rise of such popular culture consumption has.[45] Music that confronts the listener with sudden, often brutal, death may offer a way to cope with contemporary social anxieties, especially amongst adolescents.[46] For such groups, songs offer a reflexive quality, vital as a form of socialisation and self-understanding. Dealing with death can also provide a valuable psychological function by helping those who come into contact with the music to come to terms with their own mortality at a time when, in the West at least until the recent rise of the terrorist threat and Covid-19 pandemic, mainstream society has become sanitised and detached from the reality of dying.[47] By this line, songs can be part of the cultural toolbox that allows us to explore the idea of death and come face-to-face with the issues this brings up thus providing a valuable coping mechanism for self-growth. It is possible that taking on themes such as murder allows performers and listeners alike to play out socially inappropriate taboos in a safe and controlled manner.[48] Nihilistic drives, violent urges, unorthodox sexual gratification and other culturally frowned upon emotions can be explored without judgment or threat of punishment. All the same, Fischer and Greitemeyer have shown that exposing men to sexually aggressive, misogynistic

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[45] Margaret Gibson, 'Death and mourning in technologically mediated culture' (2007) 16(5) *Health Sociology Review* 415.

[46] Robert Fulton and Greg Owen, 'Death and Society in Twentieth Century America' (1987) 18(4) *Omega* 379.

[47] Lynne De Spelder and Albert Strickland, *The Last Dance: Encountering Death and Dying* (McGraw-Hill 2002).

[48] Adam Rafalovich and Andreas Schneider, 'Song Lyrics in Contemporary Metal Music as Counter-Hegemonic Discourse: An Exploration of Three Themes' (2005) 33(2) *Free Inquiry In Creative Sociology* 131.

songs can exert real impacts on the emotions and behaviour of men to women, prompting negative associations and even leading to facilitating the causing of psychical pain.[49] Unpicking the meanings contained in songs about violent and sudden death will have great value for legal scholars as they speak directly to the human condition as it plays out in the most emblematic of all legal topics, murder. It is for this reason that this paper considers the murder ballad tradition to draw out some key themes of how murder has been dealt with in song.

While the attraction to death and murder as a subject matter for song has been little considered thus far, there is a parallel that any subsequent legal analysis could draw on. Research into thanatourism has devoted much time and attention to trying to understand the popularity of dark tourism; visiting sites of death and murder. For example, Stone has developed a typology of thanatourism sites, whereby the destination can be differentiated by its degree of darkness, from the dark fun factory that treats murder as light entertainment to sites of mass genocide presented as sombre places of remembrance.[50] He offers this typology in the hope that construction of a firm and comprehensive categorisation will improve understanding of dark tourism but, also, lead to a better understanding of demand, motivations and experiences. Other studies have built on this and collected the reasoning of visitors to such sites, uncovering a range of motivations from morbid curiosity and thrill-seeking on the one hand,[51] to journeys of self-discovery and opportunities for

[49] Peter Fischer and Tobias Greitemeyer, 'Music and aggression: the impact of sexual-aggressive song lyrics on aggression-related thoughts, emotions, and behavior toward the same and the opposite sex' (2006) 32(9) *Personality and Social Psychology Bulletin* 1165.

[50] Philip Stone, 'A dark tourism spectrum: Towards a typology of death and macabre related tourist sites, attractions and exhibitions' (2006) 54(2) *Tourism: An Interdisciplinary International Journal* 145.

[51] Ria Dunkley, Nigel Morgan and Sheena Westwood, 'A shot in the dark? Developing a new conceptual framework for thanatourism' (2007) 1(1) *Asian Journal of Tourism and Hospitality* 54.

contemplative reflection on the other.[52] These perspectives contrast the desire to experience the pornography of death against the need to confront the terror of death. Both motivations have the same root, the notion that death has been largely removed from mainstream social experience (marginalised into hospices and care homes) so that satisfying whatever social or psychological need underpins the death instinct requires vicarious experience. Such could apply equally to death sites as it could songs about death. If such an approach were applied to violence, death and murder as it appears in songs, legal scholars could learn about a key element of the human condition from popular music in a manner that might have benefits for understanding law, crime and justice. This paper will use the example of murder ballads in the former usage, to develop a typology, rather than offering reasoning for enjoying the music. Though audience studies research to see how the music is received would be illuminating, it would be hard to do for a historic sub-genre that spans date and place, while a typology of murder ballads will provide a valuable starting point to underpin whatever further endeavour. This paper thus examines the culture of murder ballads to set out varying ways in which the songs have dealt with murder and thereon sets the foundations for future inquiry. In so doing, the paper offers a reading of narrative in murder ballads to present three key themes that can be identified to emerge from the sub-genre. These are outlined over the next three sections.

Moralising

First and foremost, a key underlying theme that emerges from the murder ballad sub-genre revolves around the value the songs have as story-telling devices. In this

[52] Gregory Ashworth, 'Holocaust tourism: The experience of Krakow-Kazimierz' (2002) 11(4) *Geographical and Environmental Education* 363.

way, murder ballads perform an important communicative role, which is a function that stories as narratives often serve, particularly effectively when bridging gaps between different cultures.[53] In many murder ballads, stories are offered as cautionary tales, they convey a message and thus there is a moral to the story. In their European origins, murder ballads often contained supernatural elements, wherein the murders involve judgement from the spirit world, perhaps through imparting some manner of divine retribution. In large part, the American transposition of murder ballads discarded this mystical baggage, though the idea that the songs could impart a message about the unwelcome consequences that can flow from bad choices remained. Many murder ballads are offered with a higher meaning than simply reporting a murder, even those songs that refer to real-life events contain some element of moralising. In large part, these murder ballads take moral positions on women, regarding their correct gender roles.

Among the feminist literature dealing with popular music, a large amount has focused on the increasingly pornographic representation of women in popular music media.[54] Much of the relevant scholarship that thus considers the messages from popular music, such as Oppliger, will address the manner in which popular music has played a role in the hypersexualisation of women.[55] Murder ballads, though, speak to a different aspect of social attitudes on female sexuality, a more conservative and judgemental view and, as such, it is useful to consider these songs

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[53] Thomas Grisham, 'Metaphor, poetry, storytelling and cross-cultural leadership' (2006) 44(4) *Management Decision* 486.

[54]For example, Ariel Levy, Female chauvinist pigs: Women and the rise of raunch culture (The Free Press 2005); Meredith LeVande, 'Women, pop music, and pornography' (2008) 8(1) Meridians: feminism, race, and transnationalism 293; Marian Meyers, 'Women in popular culture: All sexed up and global to go' in Marian Meyers (ed), *Women in popular culture: Representation and meaning* (Hampton Press 2008) 3.

[55] Patrice Oppliger, *Girls gone skank: The sexualization of girls in American culture* (McFarland & Company, Inc 2008).

in the light of Rubin who, positioning the body as a site of power, suggests that current popular media productions are rooted in sex-negativist ideology and thus present adverse moral judgments on women deviating from dominant sexual norms or expectations.[56] For Rubin:

> This culture always treats sex with suspicion. It construes and judges almost any sexual practice in its worst possible expression. Sex is presumed guilty until proven innocent. Virtually all erotic behavior is considered bad unless a specific reason to exempt it has been established. The most acceptable excuses are marriage, reproduction, and love.[57]

What she described is some manner of sexual morality, which justifies sexual expressions consistent with dominant culture values and problematises sexual expressions deviating from these values. Such judgements are writ-through the murder ballad cannon and presented here are two examples of how this can play out with regards to women.

A song that explores murder by moralising is *The Cruel Mother*, which seems to have its roots in a number of infanticide ballads from seventeenth and eighteen century Denmark and Germany, and also has similarities with the English ballad, *The Maid and the Palmer*, all of which take influence from the Gospel of John and involve women being punished for failing as mothers. The song has been much covered in folk music circles in the 1960s and 1970s, most notably by Ewan MacColl in 1967. The song centres on a woman who has had an affair with her father's clerk. She gives birth to a pair of illegitimate sons in the woods, kills them with a knife and

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[56] Gaye Rubin, 'Thinking sex: Notes for a radical theory of the politics of sexuality' in Elizabeth Hackett and Sally Haslanger (eds) *Theorizing Feminisms: A Reader* (Oxford University Press 1989) 143.

[57] As above at 150.

buries them. On her return trip home, she sees two young boys playing with a ball. She approaches the boys and tells them that, if they were her sons, she would dress them up in the finest clothes. The boys reply:

> Oh mother dear, when we were thine
>
> Oh the rose and the linsey oh
>
> You did not treat us then so fine
>
> Down by the greenwood side oh

The boys appear to be ghosts haunting the woman, reminding her of the horrific crime she has committed against them. The boys proceed to tell her that she is damned, will live a miserable life and go to hell. One aspect of the moralising in this song involves making a judgment on how the woman dealt with her unwanted pregnancy by killing the children, disregarding the seemingly obvious, if implicit, factor that the protagonist was suffering from some manner of mental illness or psychological disorder related to the guilt and shame of the affair and/or what today might be labelled post-partum depression leading to a case of infanticide. The other element to the moralising of this song lies in the suggestion that everything after the affair seems to be some sort of natural justice punishing the women for her extra-marital dalliance whereby she is seemingly cursed. Not only must the woman be resigned to facing a hell on earth through her haunting by the beautiful children she is shown to have murdered but she will also be damned for all eternity as a response to her acts.

Moralising also occurs in *Where Did You Sleep Last Night*? a much travelled song, which started life as *In the Pines* in the Appalachian mountains of the 1890s. Today famously covered by Nirvana, their version credits the most notable

interpretation by Lead Belly, who recorded several versions throughout the 1940s as *Black Girl*, *Black Gal* and *Where Did You Sleep Last Night?*, the latter reflecting the most prominent title and repeated refrain. The song refers to a murder in the woods – 'in the pines' – which is a location often considered in such songs as a place where socially unacceptable activities such as affairs are conducted supposedly safe from the judgement of society. The victim and the assailant change between versions but in most, including Lead Belly's recordings, a woman is caught supposedly doing something she should not have been doing with deadly consequences. The woman is repeatedly told not to lie as the man demands to know where she slept the night before. She has taken to the woods to keep her extramarital relationship a secret but been confronted by her husband who she then kills as documented in the following verse:

> Her husband, was a hardworking man
>
> Just about a mile from here
>
> His head was found in a driving wheel
>
> But his body never was found

The moral of this story appears to be that ethically dubious behaviour always has negative consequences and this comes across in many of the hundreds of versions, though it is sometimes unclear which party reaches a bloody end. Again, the particular form of ethically dubious behaviour that is explored are sexual liaisons and, as is so common in these murder ballads, the focus is on what the woman has done and how she will face consequences for the moral wrongness of her promiscuity. The lesson to take is that the pines are a place of immoral debauchery, which a good woman would not go to; similar to the forest in another ballad *Pretty*

Polly, these are places that women lose their virtues. The murder that results from a visit there simply acts to underline this judgement and the narrator seeks to teach women a lesson for their future behaviour. The basis of murder ballads, then, could be said to lie in morality judgements, more often than not concerning judgements on what is acceptable or not in matters of sexual relations.

Revenge

Building on the idea of morality judgments, a central message that can be found at the root of most murder ballads is the idea that the murder act was an understandable and, to some degree, inevitable consequence of one person wronging another. Such acts of revenge have been said to lie at the heart of the whole sub-genre.[58] This wrong typically takes the form of one partner in a (heterosexual) relationship cheating on another. Reacting in a fit of passion, the wronged partner hits out and kills the cheater. In this way, the killing is explained as a simple case of revenge, treated as an aspect of human nature: an emotional reaction. Such murder ballads thus evoke the common law defence of provocation that exists in various forms and has been criticised for perpetuating the idea that one partner can provoke another to murder if they are unfaithful.[59] Historically, for example, English murder cases involving defendants lashing out after being confronted by their partner committing adultery were treated sympathetically by the courts. Such songs explain the murder from the killer's perspective and give the reasons as to why something happened, almost taking it out of their control. The listener is expected to accept the crimes committed as but examples of human frailty with the law often painted as hard and inflexible in the face of lived experience.

[58] Broude above note 4..
[59] Jeremy Horder, ''Reshaping the Subjective Element in the Provocation Defence' (2005) 25(1) *Oxford Journal of Legal Studies* 123.

One such song of revenge is *Henry Lee*, which was most famously recorded by, the blues singer, Dick Justice in 1929 and later covered by notable folk legends such as Pete Seeger and Bob Dylan. The song is based on an eighteenth century Scottish ballad called *Young Hunting* as captured by Francis James Child in his *English and Scottish Popular Ballads* collection. In *Henry Lee*, Justice keeps faith to the revenge theme at the heart of the original, whence a female narrator struggles with being spurned by the object of her affections. The song begins with the narrator imploring Henry to stay the night:

Get down, get down little Henry Lee

And stay all night with me

Henry cruelly refuses, sarcastically aping the narrator's turn of phrase:

I can't get down and I won't get down

And stay all night with thee

For the girl I have in that merry green land

I love her better than thee

After rejecting the narrator, Henry goes to leave but first the narrator beckons him over for a goodbye kiss. As Henry leans in, the narrator takes out a knife and stabs him through the chest until he is dead. The narrator proceeds to throw Henry to the bottom of a deep well, where she remarks that he can:

Lie there, lie there, loving Henry Lee, till the flesh drops from your bones

The girl you have in that merry green land still waits for your return

The narrator, then, suggests that Henry has got his just deserts. He had been unfaithful and was planning to leave her for another woman, perhaps because he had found someone new, maybe he had grown tired of the narrator, he may have used her and now discards her because she is tainted or the narrator may even be pregnant with his child. The precise reason is left to the listener but what is clear that the narrator considers herself to have been wronged by the philandering Henry who seemed to mock her love for him.

Another murder ballad concerned with revenge is *Frankie and Johnny*, the most notable early version of which was performed by the Leighton Brothers in 1912 but is believed to originate from the turn of the twentieth century following a murder in St Louis in 1899. The lyrics were first published in 1925, in Dorothy Scarborough's *On the Trail of Negro Folksongs*. The song has been covered over 200 times, providing chart hits for famed artists such as Elvis Presley, Johnny Cash and Sam Cook and even led to a film, 1933's *He Done Her Wrong* starring Mae West. There are varying interpretations as to what actually happened but the song focuses on how a woman called Frankie finds her man, Johnny, making love to another woman and shoots him dead:

Frankie drew back her kimono

Pulled out a little '44

A rooty toot toot, three times she shot

Right through that barroom door

Yes, she shot her man

He was doing her wrong

The song sees Frankie repeatedly justify her actions to a range of audiences, ranging from the barman who first alerts her to the tryst and, then, to Johnny as she confronts him to the court as they try her and, finally, the executioner as she prepares to die for the crime. She claims that ‘he done me wrong’ and Johnny even agrees with this sentiment as he lays there dying. The song finishes by stating that there is no greater meaning to the story than the simple truth that men are ‘no good’, with the implication that they cannot be trusted to stay faithful. It is thus entirely acceptable that Frankie would react to being confronted by her partner’s infidelity by killing him, this revenge is natural justice. In both songs, we see wronged women who cannot understand why their men would cheat on them and, so dependent on that relationship were they, that their only emotional (over)reaction was to lash out. Such confusion (sometimes verging on mental illness as in the ballad, *Poor Ellen Smith*) shows the inability of women in murder ballads to function normally without a man. They exist as objects of the men, the men give meaning to them, which means that they will be driven to bloody revenge if they cannot have their man.

Femicide

While revenge in general might be considered central to the murder ballad sub-genre, the examples of *Henry Lee* and *Frankie and Johnny*, while iconic, do not reflect the dominant way that revenge has manifested itself in song. Those songs are notable exceptions to the general rule that women tend to be the victims of murder with men the wronged party. Those songs were selected here to give some acknowledgment that not all murder ballads involve femicide but, it is crucial to outline that, by and large, traditional murder ballads are writ through with the killing of

women by men.[60] Casting murder ballads stock trade as femicide invokes Russell's definition of the term as 'the killing of females by males because they are female'.[61] It is women's sexuality at the heart of the murder act, which is imbued with all manner of assumptions about how women should enact this and how women should relate to men. Analyses of contemporary popular music such as rap and hip hop have suggested that there is a need to explore further issues of aggressive masculinity in song to understand the socio-cultural reality of male on female violence.[62] Murder ballads offer an opportune means to consider the roots of such violence. The murder ballad tradition has femicide as a central concern so that, in most songs about revenge, the listener is invited to sympathise with the man who murders a woman most often because she has been unfaithful. The theme of femicide goes beyond simple revenge, though, and is more widely evidenced in a large body of song that sees men kill women for the latter being tainted through sex or by pregnancy, for being so pretty it drives the man crazy, to preserve their beauty and the moment for ever or, even, simply because the man has the power and can. Whatever approach is taken, women often appear objectified in these songs and are devices to be used and abused at will. As such, murder ballads will often follow what has been identified as the 'murdered sweetheart pattern',[63] where a young woman (often pregnant) is murdered by her male lover for some perceived derivation from what he expects of

[60] Ingrid Fernandez, 'Brides' Tales: Visions of Feminine Virtue and Degradation in Nick Cave's Murder Ballads' (2012) *Radical Musicology* 6.

[61] Diana Russell, 'Femicide: The Murder of Wives' in Diana Russell (ed) *Rape in Marriage* (Macmillan 1982) 282.

[62] Gwen Hunnicutt and Kirsty Andrews, 'Tragic Narratives in Popular Culture: Depictions of Homicide in Rap Music' (2009) 24(3) *Sociological Forum*: 611.

[63] Donald Wilgus, '"Rose Connoley": An Irish Ballad' (1979) 92(364) *The Journal of American Folklore* 172 at 172

her as evidenced in a wide array of ballads such as *Poor Omie*, *The Cruel Ship's Carpenter*, *James McDonald*, *On the Banks of the Ohio* or *Old Oak Tree*.

A particularly illustrative example of femicide in song is provided by *The Knoxville Girl*, an Appalachian murder ballad derived from a seventeenth century English ballad called *The Wittam Miller* and nineteenth century Irish ballad, *The Wexford Girl*. It received its first commercial release by Arthur Tanner in 1925 but became a popular song in the South and was most famously recorded by the Louvin Brothers, a bluegrass duo who had a chart hit with the song in 1956. The song begins by telling a homely story of how the narrator met a girl in Knoxville and would spend every Sunday evening at her house, then all of a sudden:

> We went to take an evening walk
>
> About a mile from town
>
> I picked a stick up off the ground
>
> And knocked that fair girl down

From out of nowhere, the listener is confronted with the narrator beating the girl to death as she screams for mercy and pleads that she is not ready to die. The narrator does not flinch until the blood flows around his feet as she lays there a bloody pulp beneath him. He drags the girl's dead body by the hair and throws it into a river then goes back home. When he arrives home his mother is worried by the blood on his clothes and he tells her that it is simply a nose bleed. Through a long and sleepless night, the narrator pictures his fate as he rots away in jail. While the narrator never explicitly gives his reasoning for this brutal murder, clues can be picked from passing comments throughout the song. He talks about dwelling at the girl's home, implying he would stay the night, while the girl's final words suggest she has a sin she feels

the need to confess before she could die. Finally, the narrator suggests that the girl has ‘a dark and roving eye’ so ‘can never be my bride’, leaving the distinct impression that he has murdered her because she is impure and unchaste, whether that be through relations with the narrator or another man. Either way, this saw the narrator see fit to snuff out her life in a way witnessed in other similar ballads such as Down in the Willow Garden (where the narrator gave her poisoned wine, stabbed her and threw her in a river after finding out she was pregnant) or Tom Dooley (where the ‘poor boy’ stabs his pregnant partner repeatedly).

Femicide can also be found in, legendary blues guitarist, Pat Hare’s 1954 recording of *I’m Going to Murder my Baby*, originally written by, blues singer, Doctor Clayton in the early 1940s. This is but one example of many songs from this celebrated blues era that could have been selected with similar themes such as *Killing Floor*, *I’m Going to Kill that Woman* or *Crow Jane*, which present a cocksure, defiant stance on murdering women, most notable as such songs were largely written several decades after the previous murdered sweetheart ballads and are US in derivation rather than being relics of the Old World. Hare is notable for innovating guitar sounds, producing overdriven distortion through sheer volume, before guitar pedals would be used to create similar sounds. The result was that Hare’s songs would be tumultuous, discordant affairs communicating anger and frustration. Such sounds were used to good effect on this recording that sees the narrator pre-emptively addressing a court:

Good morning Judge

And your jury too

I’ve got a few things

That I'd like to say to you

The narrator proceeds to repeat that 'I'm going to murder my baby'. His manner is decidedly conceited and arrogant and it is clear that he feels most righteous in his position on the murder. His case amounts to the following:

She left home in the morning

She didn't get back 'til night

She swore before our maker

That she'd treat me right

The narrator's justification for killing his baby, then, is that she would stay out all day and, in so doing, was breaking her wedding vows, which he presumably deems meaning she should stay at home and tend to his needs. There is also the implication that when she is out, she may be cavorting with other men, though no evidence is ever offered to support this case. Eight years after the song was released, Hare would go on to be convicted for killing his girlfriend, which offers a grim footnote to this song of femicide.

The glorification of femicide ties into the wider narrative identified by McNeil whereby the media whereby a cultural trope can involve women-killers offered as tragic heroes.[64] Considering newspaper coverage of murders, she identifies a reporting shibboleth wherein men are given reasons for killing their female partners, and the murder ballad seems to follow a similar pattern with its treatment of femicide.

Conclusions

[64] Jean MacNeil, 'Feminism, femininity, and the television series: A content analysis' (1975) 19(3) *Journal of Broadcasting* 259.

This paper has aimed to open a new field of inquiry, and to suggest possible lines of future analysis in popular music for legal scholars. It has done so to draw attention to the sub-genre of murder ballads as a fruitful site of enquiry on the human condition. In so doing, it has highlighted the role of gender in this tradition and the gendered natured of the songs. It has drawn out some of the major themes of these songs in a typology designed to introduce legal scholars to the sub-genre.

Murder ballads tend to engage in moralising as they use the murder act to teach a lesson. Many murder ballads involve revenge, whereby murderous actions can be excused. A particularly misogynistic form of revenge can be found in the propensity of murder ballads to involve femicide. The value of identifying such themes in murder ballads is that they allow us to gain a firm handle on how murder has been treated in these songs, which can be used as a resource by legal scholars to gain an insight into the human condition. Future scholars coming at murder ballads could build on and develop these themes to expand (and improve) the typology offered here. In this way, the paper has tried to follow Manderson's call, in one of the most exciting treatments of popular music within legal scholarship in recent times, for law and music research to show how and why music can be of value to legal scholars.[65] Songs can provide material to help inform legal analysis and push forward understanding of issues such as crime or justice and how they relate to wider socio-cultural phenomena.

Looking at the murder ballads, we can find answers to the kind of questions on the human condition posed earlier. What is right and wrong? Are we naturally good or evil? What does it mean to be moral? Should we conform or be individual?

[65] Desmond Manderson, 'Making a Point and Making a Noise: A Punk Prayer' (2013) 10(1) *Law, Culture and the Humanities* 1.

How do we deal with death? Conventionally, those looking for cultural responses to such big issues might consider a literary genre such as the great existentialist novels and plays. From even the brief run through of murder ballads offered in this paper, it should be apparent that there is little reason to ignore similar insight from popular music, as in our example of the murder ballads in American folk, blues and country. While they may not be explored in such grandiloquent terms, these songs address such matters so key to understanding the human condition. The often blurred difference between right and wrong is played out through attempts to explain and justify murder. Debates around whether humanity is good or evil are found in songs that get into the head of a murderer. Moral quandaries are at their most heightened in story that involve a murder and these ballads thus powerfully work through such ethical dilemmas. The songs can be used to understand a range of viewpoints on whether is best to fit in or stand out. Fundamentally, the very sub-genre of murder ballads represents an attempt to come to terms with death.

Some of the answers we get from looking at murder ballads are not always palatable, not least because we find modernised versions of Dworkin's fairy tale representations of men and women. The prevalence of such a strong trend for femicide is troubling. Not only do many murder ballads objectify women as simple props through which to explore issues but a large amount actively endorse the killing of women and engage in victim-blaming as they give men a great deal of free reign to treat women in the most despicable manner. Some may consider such a theme as reflective of its time, with views on the respective merits of men and women less enlightened a hundred or so years ago.[66] That these songs remain popular, and the

[66] Kirk Huston, '"Whackety Whack, Don't Talk Back": The Glorification of Violence Against Females and the Subjugation of Women in Nineteenth-Century Southern Folk Music'. (1996) 8 *Journal of Women's History* 114.

themes persist in contemporary popular music, though, raises them as legitimate ongoing concerns that should be taken full account of today.[67] Indeed, Gieson suggests that popular music can be used as a measure of social and political change, offering a body of material that can be drawn on to see whether attitudes have altered and, if so, in what ways.[68] Such issues of discrimination and bias are tied in to assessments about the human condition, simply adding to the value of analysing and getting to grips with a form such as the murder ballad. There is, for example, much scope for moving beyond descriptive accounts and developing feminist analyses of these murder ballads that focused on their historical usage as a form of social control, and comparing this to the continuing usage in contemporary society. We could get insight into rape culture and the phenomenon of victim-blaming for sexual assault that exist despite the #MeToo movement or, how despite the apparent cancel culture we live in, so many men can get ahead in life (and to positions of democratically elected responsibility) despite displaying rampant misogyny. At root, there are long-term, deep-seated trends that we could pick out through exploring the treatment of women, gender roles and sexuality in popular music.

Such endeavour seems of great relevance today considering that research into the US Billboard Hot 100 has shown the dominant themes of modern pop music to be men and power, sex as top priority for males, objectification of women, sexual violence, and women being reliant on men with men controlling women emerging as

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[67] John Hamerlinck, 'Killing Women: A Pop Music Tradition' (1989) 55 *The Humanist* 23.

[68] Hans Gieson, 'The new German Nazism: Pop song texts as indicators' (1995) 19 *Popular Music and Society* 107.

the organising framework emerging from the song lyrics.[69] To consider one genre as an example, US Southern rock music consciously opposes itself to supposedly metropolitan and middle class values, offering its own take on morality that prioritises being a rebel and ignoring the demands of liberal society.[70] This genre of roots rock draws heavily on its blues, folk and country traditions meaning that it may be possible to trace a line between the violence to women so common in these foundational murder ballads and Southern rock's current preoccupation with defining a particular type of masculinity premised on standing against that considered to be politically correct. Looking at murder ballads and their enduring legacy gives us a way in to better understanding trends such as this and, crucially, helps us understand the place of these attitudes in popular cultural representations of issues of crime, law and justice. The law exists in a social context infused by representations of such gender roles and gender rules. It seems important to follow the recent lead of James, in one of the most well developed and promising treatments of gender and music, who argues for much more work to do be to apply feminist theory to popular music, in order to properly connect contemporary politics and identity in this vital musical form.[71] While she covers figures from Focuault to Hill Collins and acts from Atari Teenage riot to Beyoncé, there is still a gap for legal scholarship to look at the enduring legacy of the violence against women to be found in the old standards of murder ballads.

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[69] Brook Bretthauer MS,,Toni Schindler Zimmerman and James H. Banning, 'A Feminist Analysis of Popular Music Power Over, Objectification of, and Violence Against Women' (2007) 18(4) *Journal of Feminist Family Therapy* 29.

[70] Jason Eastman, 'Rebel Manhood: The Hegemonic Masculinity of the Southern Rock Music Revival' (2013) 42(2) *Journal of Contemporary Ethnography* 482.

[71] James as above note 50.

It would be beneficial moving forward to offer more explanation that went beyond the transhistorical misogyny focused on in this paper. While such misogyny is operative, the analysis here invites other questions that merit deeper consideration. What is it that produces this form of balladry? What are the changes – political, economic, social – that set the stage for the cultural reception of lyric songs narrating infanticide, femicide, rape, torture and other forms of corporeal and criminal violence? What is enabling balladry's fantasy of the body *in extremis*? And, further, who is listening here? To whom do the murder ballads speak? And where are these auditors situated in terms of race, gender and class? Some of these issues are touched upon here – primarily gender – but the paper raises the importance of a sustained sense of historical causality that should be produced going forward.

By and large, this paper has focused on the narrative content of murder ballads. Narrative has been pursued in order to allow for an embryonic typology to be developed so as to highlight the value of developing research into this sub-genre of song. This consciousness-raising exercise necessitated attention being drawn to the most emblematic elements of a variety of songs. A more nuanced analysis of how individual murder ballads work needs to be conducted in further research to deepen understanding hereafter. There should be a more detailed musical and textual analysis to go beyond the surface of the songs, and really evaluate what they contribute to the human condition. This analysis would attend more to aesthetic qualities of the music *qua* music – which, after, all is the discussion of features such as musical notation, score and performance. Such an exercise would need to proceed with more space being afforded to a smaller number of songs to allow the discussion to better separate between narrator, standpoint, focaliser and morality in these songs thus drawing out more of the subtler nuances of the murder ballads.

There would also be an extended discussion of the relationship between textual and musical elements. A follow up paper would be useful if it would focus on discussing the history and analysing the implications of one or two songs in detail, rather than several songs more hastily as demanded by the scene-setting typology approach that seemed most useful here.

While this paper has focused on the themes emergent in murder ballads, it has not addressed the reasons why people engage with the songs. It cannot be assumed that there is a simple and unambiguous pattern of reception between the song and the audience, legal scholars need be aware that listeners will always interpret and therefore varying meanings will be found dependent on the individual.[72] Future research on murder ballads should look to address the reasons people did and continue to play and listen to them, which could include archive research and ethnography. Further semiotic research could also be conducted to help draw out a range of possible meanings. In this way, legal scholars can fully utilise the vast resource of insight into the human condition provided by the murder ballad sub-genre. Like the hip hop music that is increasingly gaining attention from scholars, murder ballads offer a music culture that speaks directly to legally relevant concerns and, as such, merits being taken seriously by legal scholars who wish to understand the role of law, crime and justice in society, both in historically specific times and locations, and more generally.

Classical music has been accepted as part of the law and literature cannon such as Balkin and Levinson drawing on Beethoven for what this can tell us about

[72] Sharon Cowan, 'The Elvis We Deserve: The Social Regulation of Sex/Gender and Sexuality Through Cultural Representations of "The King"' (2010) 6(2) *Law, Culture and the Humanities* 221.

legal interpretation,[73] or Manderson utilising forms such as the prelude, fugue or requiem to highlight processes of analysis for legal texts.[74] A study of popular music and law, influenced by the law in literature approach, can work to illuminate the content of the songs that affect so many people, shaping and reflecting their worldviews. By using the example of murder ballads, and highlighting the key themes that characterise them, this paper intends to add to the work being doing in the field of hip hop and hopes to help stimulate further inquiry by legal scholars into popular music, and murder ballads specifically. There seems much to learn about the human condition and the role of law in society from popular music thus it seems right that legal scholars should give it more attention. The typology offered here seeks to encourage scholars to tap into this vast resource of writing on people's interactions with law and the role of law in society.

Acknowledgements

Thank you to Ambreena Manji and Sharon Thompson who each provided encouragement, support and ideas on an earlier draft. Thanks also to the two anonymous reviewers who offered such valuable constructive critique, which especially helped me tighten the objectives of this paper and identify areas of future scholarship.

[73] Jack Balkin and Sanford Levinson, 'Law, Music, and Other Performing Arts' (1991) 139(6) *University of Pennsylvania Law Review* 1597.

[74] Desmond Manderson, *Songs without Music: Aesthetic Dimensions of Law and Justice* (University of California Press 2000).