

Feminine Conformities within the Trial of Lizzie Borden: Social Expectations of Women in the Courtroom

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This research looks at the trial of Lizzie Borden in 1893 and how society's view of women effect the way that the evidence was viewed and treated in the courtroom. It analyzes how Lizzie Borden fit the feminine mold that society deemed appropriate and how journalists and the public used these traits to paint the picture of an innocent woman. Through the analysis of this trial, it becomes apparent that even though women were breaking into the workforce and universities they were still bound by clear gender distinctions. This article strives not to argue the innocence or guilt of Lizzie Borden but to use her trial to reveal the traits and values proper women were meant to have and their importance. It argues that if Lizzie had not have shown these proper feminine traits her trial would have been conducted differently.

Women in the 1890s were breaking through into the workforce and universities. They worked to abolish the usage of alcohol in America and put the values of the women's sphere, which consisted of caretaking, piety, and purity, into every day public life.¹ It might seem as if women were making leaps and bounds in society, but in truth, women were trapped in a Progressive Era filled with Victorian values. These values and prejudices against women are apparent in the trial of Lizzie Borden in the way the evidence and the suspect herself were viewed and treated.

Lizzie Borden, a thirty-two-year-old spinster, was charged with the ax-murder of her father and stepmother on August 4, 1892. The only known individuals on the premise during the murder were Lizzie and the maid, Bridget Sullivan. Lizzie, however, was the only one arrested. She was acquitted after the trial, leaving the murder unsolved. Since then, the Borden murder has become a popular American legend. Lizzie is often portrayed as a crazed murderer, despite the court's decision of her innocence. This popular idea and public memory of Lizzie Borden causes the trial to be revisited and see how the influence of femininity affected her trial at the time it took place.²

Lizzie Borden (1860-1927) grew up displaying all of the traits that society thought a proper little girl should have. She was described as having a sensitive nature and regularly inclined to be shy among strangers. At school, she was not what one would label as brilliant, but always maintained a high rank in her class and was very disciplined in her studies. Besides her schooling, Lizzie was an attentive student in music and played piano like many young girls at the time. Along with her mother and father, she attended church regularly and was a member of the Sunday school

¹ Carroll Smith-Rosenberg, "Separate Spheres," *The Reader's Companion to U.S. Women's History*, (Boston: Houghton Mifflin, 1998), http://libproxy.troy.edu/login?url=http://literati.credoreference.com.libproxy.troy.edu/content/entry/rcuswh/separate_spheres/0 (accessed January 20, 2015).

² Borden, Lizzie Andrew," *The Columbia Encyclopedia*, (New York: Columbia University Press, 2013); "Borden, Lizzie (Andrew)," *Britannica Concise Encyclopedia*, (Chicago: Encyclopaedia Britannica, 2012).

class in Chicago.³ All of these facts were mentioned in newspaper articles preceding her arrest, prematurely implanting an image of Lizzie as an upstanding society woman that fulfilled all the standards expected of her. One might ask: If Lizzie Borden was such an upstanding woman why she was even considered as a suspect or why a spread on her sister's childhood was never written in any newspaper? The prosecution was convinced of Lizzie's guilt. Yet, the main defense's main argument throughout the investigation and trial, Lizzie's frail and feminine ways were brought up repeatedly.

From the start of the investigation, journalists implanted the image of a male murderer in the minds of the general public. Newspapers wrote articles using the masculine pronoun even though there was yet to be any evidence as to who murdered Andrew and Abby Borden, male or female. Dr. Dolan, the medical examiner, stated that the wound in both cases caused by the first blow must have resulted in almost instantaneous death. This stated, he also declared the murderer had to have been someone who could strike each person with a hard and heavy enough blow as to crush the skull.⁴ This assessment, for many people, confirmed the fact that a man must have been behind the murders of the Bordens. Therefore, it was less likely when Lizzie was arrested that she would ever be found guilty in a court of law. This understanding of femininity, gender, and women's abilities is examined even further by historian Jean S. Filetti. In her research, she points out that the evidence from the crime scene was not used to find the murderer, but to prove that it could not have possibly been a woman who committed the crime.⁵ At the turn of the century, society commonly believed that women were, in fact, the weaker sex. The idea that a woman of her class and refinement could be strong enough to deliver a bone crushing blow in one swing seemed preposterous.

When Lizzie's friends were questioned about her personality during the investigation they immediately defended her, describing all of her feminine traits and conduct. They said Lizzie was modest, sincere, gentle, and possessed desire to do not only the best, but also the right things in life. Her dedication to church life was also mentioned, marking her as a good Christian lady of the time. This would become one of the most important aspects of her defense and is repeatedly mentioned throughout the investigation and trial. The newspaper stated that from generalized opinion there was "not one unmaidenly, nor a single deliberately unkind act."⁶ The statements provided to newspapers by her friends supporting her person were of great importance. Women at the time were thought to be more pure, innocent, and moral than men.⁷ By her friends confirming

³ "Lizzie Borden: Her School and Later Life – A Noble Woman, Though Retiring," *The Boston Herald*, August 6, 1892, <http://law2.umkc.edu/faculty/projects/frtrial/LizzieBorden/news3.html> (accessed February 2, 2015).

⁴ "Thursday's Affray," *The Fall River Herald*, August 5, 1892, <http://law2.umkc.edu/faculty/projects/frtrial/LizzieBorden/news2.html> (accessed February 2, 2015).

⁵ Jean S. Filetti, "Violent Women and Gendered Justice," *Journal of American Studies* 35, (2001): 475.

⁶ "Lizzie Borden: Her School and Later Life – A Noble Woman, Though Retiring," *The Boston Herald*, August 6, 1892, <http://law2.umkc.edu/faculty/projects/frtrial/LizzieBorden/news3.html> (accessed January 1, 2015).

⁷ Kimberly M. Radek, "Women in the Nineteenth Century," *Women in Literature*, http://www2.ivcc.edu/gen2002/women_in_the_nineteenth_century.htm (accessed February 2, 2015).

that she possessed all the traits that a woman should have, they also implied, intentionally or not, that there was no way possible that such a woman could perform such a heinous act as murder.

When Lizzie was arrested, journalists sympathized with her immediately through their news articles. The *New York Times* described Lizzie as a physical and emotional wreck upon questioning. She was said to be lying on a sofa, displaying an aptitude for frailty and weakness concerning the murder of her parents. In addition to the description of Lizzie Borden's behavior, the *New York Times* referred to her as a lady, not a woman or suspect, but a title that gives the reader a mental image of someone good and innocent.⁸ These writings from the journalists skewed how the public, and even the jury, saw Lizzie Borden from the start. She entered the courtroom with an image of an undisputed lady with an impeccable reputation. Guilty or not, the trial was biased from the beginning.⁹ With such a predisposed belief of Lizzie's personality, how was the jury supposed to view her as solely a suspect and view the evidence with an unbiased attitude? They could not. Lizzie Borden's feminine ways that conformed to society in 1892 allowed her an almost guaranteed verdict of not guilty before she ever even stepped foot into the courtroom.

By looking at where Lizzie Borden was held during her trial and why she was held there, one can see a preconceived notion of her innocence before a verdict had been decided by the jury. Lizzie was held in the matron's room in the House of Correction, described as large and comfortable, shows the issue of class and character along with gender.¹⁰ This treatment, while in the House of Correction, is just another fact that supports that her trial was not viewed fairly based on her feminine ways. The *San Francisco Call* described how Houses of Correction at the time were viewed as places made to hold examples of "lost womanhood." Food was carried in buckets and served to inmates that have succumbed to every vice imaginable.¹¹ This reveals a completely different side of life at a House of Correction than we are shown from Lizzie's stay. It causes one to ask: If Lizzie Borden had shown any ways less pleasing to society's view of women, would she have been treated in such a demeaning fashion as well? The answer is simply, yes. The women's vices included alcoholism, promiscuity, unkemptness, and overall degradation within a world of poverty. Drinking was a vice that men were allowed to indulge in and it was not thought twice about. If a woman was seen with alcohol, she was immediately deemed corrupt and in need of repair. If Lizzie had ever shown one hint of a "vice", it would have made sense that she murdered her parents to society. Therefore, she would have been thrown into a regular cell with the other "corrupted" women. Instead she was allowed comfort and distance from the "corrupted" women so as not to associate her with "fallen" women of society.

To be sure, just like the media, the defense used similar gendered arguments to make its case for the innocence of Lizzie Borden as well. In the opening statement by defense lawyer A. J.

⁸ "Miss Borden Arrested," *The New York Times*, August 11, 1892, <http://law2.umkc.edu/faculty/projects/frtrial/LizzieBorden/news5.html> (accessed February 2, 2015).

⁹ The jury that presided over the trial of Lizzie Borden was comprised of all men.

¹⁰ "Borden Jury Found," *Boston Daily Globe*, June 5, 1893, <http://law2.umkc.edu/faculty/projects/frtrial/LizzieBorden/news14.html> (accessed February 2, 2015).

¹¹ "The House of Correction," *San Francisco Call*, April 13, 1890, <http://cdnc.ucr.edu/cgi-bin/cdnc?a=d&d=SFC18900413.2.108> (accessed February 2, 2015).

Jennings, he introduced Lizzie as a young woman of spotless reputation. He went on to remind people of her role as a Christian at Sunday School and her charitable works within the community.¹² Jennings was an intelligent lawyer that knew exactly what he was doing by reminding the court of Lizzie's dedication to the church specifically. In 1890, religion equated morality and morality equated what a woman should be within society.¹³ The defense asserted that because Lizzie was dedicated to the church, it proved she was moral and that, by this reasoning, proved she was incapable of acts of violence. Therefore, she could not possibly be the one that murdered her parents. Jennings just watered the seed the newspaper journalists had planted.

On the second day of the trial, June 6, 1893, Lizzie Borden suffered a fainting spell that is still questioned today whether it was genuine or not. Real or faked, it certainly could not have happened at a better time during the trial. The prosecutor, William H. Moody, addressed the courtroom, explaining his case against Lizzie and why she had reason to kill her stepmother. According to newspapers, the courtroom lacked empty seats, but was not by any means packed disproving any argument that her unconsciousness was caused by lack of oxygen or heat. The paper even states that it was the strain from her nervous system that caused her to lose consciousness, not a physical ailment.¹⁴ One is able to interpret from the newspaper articles that Lizzie's fainting could not have been from lack of air or stuffiness. The only answer could be that the frailty of Miss Borden did not allow her to be able to bear such horrendous accusations against her better person. During this era, it was a very appropriate and feminine for women to have fainting spells.¹⁵ Lizzie fainting gave the public the view that if she was too frail to even hear the accusations against her, then she was certainly too frail to commit such crimes as were portrayed.

Throughout the rest of the trial, the press only described Lizzie in terms of purity and innocence in the newspaper and in the courtroom. One article described how the jury viewed her, stating all they could see was a "dreamy-eyed, expressionless woman."¹⁶ This appealed to society's view that women were flighty, ignorant creatures. Such coverage portrayed the idea that even if she had a motive to murder, there was no way she would have been bright enough to formulate a plan prior to the act. Yet another article in the *Boston Globe* refers to her chattering happily with other females, once again alluding to a certain naivety due to her femininity.¹⁷

This conformity of feminism was also applied to Lizzie's sister, Emma Borden, who was not even a suspect. By this, one can discern just how important of an aspect femininity was to a trial when trying to discern the innocence of a woman. When she was questioned on the stand,

¹² A. J. Jennings, "Opening Statement for the Defense in the Trial of Lizzie Borden," June 15, 1893, <http://law2.umkc.edu/faculty/projects/ftrials/LizzieBorden/jenningsstatement.html> (accessed February 2, 2015).

¹³ Sara Evans, *Born for Liberty*, (New York: Free Press, 1997), 68-70.

¹⁴ "Lizzie Borden in a Faint," *The New York Times*, June 6, 1893, <http://law2.umkc.edu/faculty/projects/ftrials/LizzieBorden/news9.html> (accessed February 2, 2015).

¹⁵ Nynke van Dijk and Wouter Wieling, "Fainting, Emancipation and the 'Weak and Sensitive' Sex," *The Journal of Physiology* 587 (2009): 3063-64, <http://jp.physoc.org/content/587/13/3063.full> (accessed February 2, 2015).

¹⁶ "Even So! What if Lizzie Did Ask for Acid?" *The Boston Globe*, June 14, 1893, <http://law2.umkc.edu/faculty/projects/ftrials/LizzieBorden/news7.html> (accessed February 2, 2015).

¹⁷ "One Side: State Rests upon Its Case," *The Boston Globe*, June 15, 1893, <http://law2.umkc.edu/faculty/projects/ftrials/LizzieBorden/bordenarticles.html> (accessed February 2, 2015).

journalists took it in their hands to decide if she fit the mold society deemed suitable for women as well. Apparently, she passed the test. The *Boston Globe* described her as a “prim, little, old-fashioned New England maiden,” who was dressed with neatness in a plain black dress.¹⁸ This statement both supported the fact that Lizzie was the ideal picture of a proper woman and validated Emma’s testimony. If her sister was anything but proper, it could influence how people viewed Lizzie. The fact that both sisters displayed feminine dispositions supported the argument that is preposterous to think one of them could have been the murderer.

The write up by the *Boston Globe* reporter once it was decided that Lizzie was not guilty of murder became even more invested in relaying how she acted as a proper woman. The reporter begins by describing how she reacted to the verdict. Lizzie displayed emotion as a woman should by emitting loud sobs with her face in her hands. The *Boston Globe* also stated that during the whole time of the investigation and trial that she did nothing that an ordinary woman would not have done in her situation and, therefore, it was only expected that she would be deemed innocent in the eyes of the court. Once again, we get a look into the devotion towards her religious life, except this time how she handled it while in custody. Lizzie visited those in prison and comforted women in the same situation as her. She regularly attended bible class, Sunday school, and prayer meetings, which she said were her most exciting pleasures.¹⁹ Even an Illinois newspaper article that appears to attempt a moderate portrayal of the case, allowing the reader to decide their own opinion of Lizzie Borden, mentioned Lizzie’s active church life and participation in the temperance movement.²⁰ Lizzie Borden’s public persona, that of a feminine and proper Christian, during the trial convinced the jury and the public that she was without a doubt innocent. Neither the police nor the detectives believed in Lizzie’s innocence.²¹ The reason neither the police nor the state detectives used her feminine morality as a statement is because they knew it lacked any correlation with the case. Even in a time where women were believed to be weak, it should not have been used as a matter of law to find Lizzie Borden innocent. The fact that it was, is a reflection of American society and its beliefs during the 1890s.

During the trial, Borden’s main defense was never the lack of evidence, opportunity, or motive. Although the defense counsel mentioned both, the main focus was how Lizzie conformed to society’s view of the ideal woman. This view consisted of a white woman’s weakness, morality, and innocence. The Lizzie Borden trial was a trial that, in today’s time, would have been handled completely differently. Whether or not the outcome would have changed is not the issue, but that

¹⁸ “Hopeful: Lizzie’s Counsel Sustained.” *The Boston Globe*, June 16, 1893, <http://law2.umkc.edu/faculty/projects/ftrials/LizzieBorden/news11.html> (accessed February 2, 2015).

¹⁹ “Not Guilty: Lizzie Borden is Acquitted,” *The Boston Globe*, June 20, 1893, <http://law2.umkc.edu/faculty/projects/ftrials/LizzieBorden/news16.html> (accessed February 2, 2015).

²⁰ “Fall River Tragedy,” *The Argus Saturday*, December 28, 1893, <http://chroniclingamerica.loc.gov/lccn/sn92053934/1895-12-28/ed-1/seq-3.pdf> (accessed January 19, 2015).

²¹ “Not Guilty: Lizzie Borden is Acquitted,” *The Boston Globe*, June 20, 1893, <http://law2.umkc.edu/faculty/projects/ftrials/LizzieBorden/news16.html> (accessed February 2, 2015).

something as irrelevant as how feminine she was considered primary evidence to her defense is.²² The trial of Lizzie Borden was never a question of whether she was guilty or innocent, but how feminine she was in a time where females were considered weak and incapable of murder.

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²² Today there are still expectations of gender in the courtroom, such as is the case with rape victims being ashamed to testify because of their sexual history, they are less narrow-minded and are more forgiving than it was at the time of the Lizzie Borden trial.