

# Gender, Power, and Legal Injustice: A Feminist Legal Analysis of the Gendered Legal Persecution Through Salem Witch Trials in 1692-1693

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**Abstract.** This essay seeks to explore the ways in which biased and gendered legal persecution manifested during the Salem Witch Trials. By examining the actions taken by the religious leaders and other members of the town, it becomes evident that legal persecution was used as a tool to confine women within their conventional gender roles. Throughout the 16th and 17th centuries, the label of “witch” was often applied to those who were marginalized or who failed to meet societal expectations, particularly independent women who did not adhere to patriarchal standards and rules. These women were seen as threats to the established social order. Using the harrowing experiences of the accused in the Salem Witch Trials, this paper attempts to explain how the trials were not just a series of legal proceedings, but a form of gendered legal persecution. It highlights how the trials were driven by a desire to maintain male dominance and suppress female autonomy, ultimately revealing the deep-seated sexism and fear that underpinned the events.

**Keywords:** Salem Witch Trials; Gendered Legal Persecution; Patriarchal Standards; Female Autonomy; Sexism and Fear.

## 1. Introduction

The Salem Witch Trials of 1692 to 1693 in a period of mass hysteria. In January 1692 in colonial Massachusetts, the daughter of Reverend Parris of Salem-Betty and niece of Parris, Abigail became very ill and started having “fits”, and claimed that they saw the Devil. However no medicine nor prayer eased their sickness, thus the interrogation of witchcraft became the explanation for their sickness. Soon the word spread, and the town was filled with accusations of people against each other for practicing witchcraft, the fear of being accused themselves. The accusations, however, served merely as a weapon to end those who didn’t comply with the patriarchal norms. Salem was a Puritan town controlled by powerful men who did not believe in the empowerment of women and the various roles they have in society other than raising children and doing housework, preserving the familial life. Thus, during the Witch Trials middle aged women were the targets due to their purpose in life being “done” as in their inability to give birth and thus were seen as “useless.” When they could no longer produce obedient children or when they stopped conforming to the patriarchal norms and practices, these women were seen as being possessed or associating with the Devil. The court soon became the solution for retaliations and religion became the excuse for the exercise of patriarchy. Over the years, 150 to 200 people were accused and jailed for witchcraft. In the end, 14 women and 5 men (the 19 convicted witches) were hanged [1]. One thing of concern was that the legal procedures of this Trial were done without spectral evidence nor righteous witnesses, yet the religious reverends who claimed to be the judges based on the nature of the Puritan town directly prosecuted these accused “witches” without question. The judges had no legal training as they were religious leaders of the town. Thus this further informs the idea that these women were discriminated against during their trial. Interestingly, it was estimated that 90% of the suspects in the witch trials were women. This phenomenon thus raises the potential for the Salem Witch Trials to be a gendered persecution. This paper will mainly discuss the history of the Salem Witch Trials and why, with the lens of Feminist Legal perspective, many of the targets for persecution were women.

## **2. Gendered Legal Injustice: Demographics**

According to Karlsen in *Devil in the Shape of a Woman*, 60% of women in the Trials were over 40 years old. This age group was often marginalized in Puritan society, its statistics showing how the Salem Witch Trials were weaponized to restrict women from challenging patriarchal rules.

Sarah Good was one of the three people initially persecuted in the trials. The traditional role of a Puritan woman was to be subservient, obedient, and not challenge the rules. However, Good was doing the opposite as she spoke up against her false accusations. In one of her trials, Good openly spoke against a powerful, religious leader's accusations which led to her being seen as being rid of. In the trial transcript, Magistrate John Hathorne asked in the pre-trial hearings, "Why do you hurt these children?" Good argued, "I do not hurt them. I scorn it." She also stated repeatedly, "I am falsely accused." In a Puritan society, especially one of the 1600s, this was unacceptable as it challenged the assumptions the powerful male leaders made, a sign that their power was no longer absolute.

Similarly, Sarah Osborne, the elderly widow in Salem, was also accused of witchcraft after a land dispute with the Putnam family who owned much of the land in Salem. As *GenderedHistoryPub* described, "Osborne was a widow who, after her husband's death, claimed her deceased husband's estate for herself instead of her children. She challenged the standard proceedings of inheritance at the time causing her to be conveniently accused of witchcraft."

Osborne's accusation did not stem from her supernatural practices, but from the fact that she was a widow, which did not "fit in" with the characteristics of a "good woman" in the Puritan town. Her case mirrored the female vulnerability to societal attacks without male protection, as the idea of her inheriting wealth from her husband challenged patriarchal rule where women cannot be financially independent and have personal autonomy. The Salem Witch Trials were a clear instance of legal injustice influenced by gendered power structures, where women's autonomy was threatened and patriarchal norms were enforced through the legal system.

## **3. Legal Bias and Gender Discrimination in Trial**

### **3.1. Spectral Evidence**

Spectral evidence is a type of witness commonly used in the Trials where the witness testimony makes a claim through their dreams or visions. *Penn Today* states, "By October of 1692, several authorities also begin to question the veracity of spectral evidence, which had been central to witchcraft trials. 'If somebody says in court, 'I saw John Proctor and he was flying through the sky, and he flew to so-and-so's window at night,' this would be entered into the courtroom as spectral evidence that John Proctor is in league with the devil and is a witch," Brown says. Questioners began to wonder, "if the devil can make somebody fly, could the devil make you think that you saw them flying?" she says." Thus the court's use of spectral evidence throughout the trials of many people was prejudicial, as the visions or dreams do not give enough evidence about someone's misconduct. For instance, in one of Sarah Good's trials, a girl claimed to have dreamed of Sarah biting her, and claimed that this is evidence that Good was a witch. Good rebutted with her being physically distanced from the girl, however, the court still chose to add this dream to Good's accusations. Evidently, this act contradicted the traditional means of corroborated evidence, where physical evidence needs to be added to a claim to be legitimate, yet the court of Salem permitted and used such dreams and visions to judge the innocence of a woman. Therefore, this sort of usage benefitted those who wanted to use it to suppress women who challenged the patriarchal rule, as it did not require further evidence, which in the case quickly fulfilled the accusers' aims, to tear women down for going against transitional, misogynist values. The lack of fair trials and the common use of superstition in the judging by the powerful male leaders of Salem showed that the Trial itself was not used to serve justice but to further restrict women from their rights to speak up against false accusations and reinforce truths. This type of legal persecution disproportionately targets women as the powerful male leaders could persecute them,

without needing evidence, for personal reasons, especially in fear of the overthrow of male dominance in the town.

Osborne's trial was an excellent example of the result of a misogynist community. The Salem town failed to legally protect those in need, such as the elderly, the widowed, or the poor, not because it did not have the ability to help, but because the presence of patriarchal values and the norm of devaluing women was so prevalent in Salem, that Osborne, as all three of these things, was marginalized. Osborne's status as a widow rendered her socially suspicious--Puritan ideology framed unmarried women as morally "uncontained" [2]. The male leaders of Salem did not like Osborne's confident challenges to the system and her speaking up for herself, thus they silenced her by blindly following spectral evidence in court. The fact that the punishment came directly after the "evidence" shows that the women's legal autonomy in court was inherently discounted under such societal regulations under gendered subjugation.

Furthermore, the Trials revealed that the system of the trials easily allowed male leaders to persecute women when they didn't comply with the patriarchal norms, including the ability to seize property as women, under traditional values, should not be granted financial independence, another way of challenging male superiority. Thomas Putnam, a trial accuser and powerful landowner, hoped to rid Sarah Osborne throughout the trial and seized her land as soon as the trials were settled. This showed that Salem's male dominance in the court altered the legitimacy of the nature of judicial powers, where the gun was pointed towards women who challenged their superiority. Osborne's case was one that sought to get rid of financially independent women, a way to reinforce the patriarchal idea that women should not be legally allowed to have personal autonomy. The Witch Trials thus acted as punishment to female rights in the legal world.

### **3.2. Fear of Female Power**

The gendered persecutions can be seen as a way of eliminating threats to male dominated legal society, to enforce the absolute power these male leaders have in court and thus in the Puritan community and to demonstrate that their power cannot be challenged by persecuting women who spoke up for themselves.

On April 16th, Bridget Bishop, a business woman who ran her own tavern, was accused of witchcraft. The afflicted girls writhed and convulsed. "She calls the Devil her god!" said Ann Putnam Jr. Judge Hathorne, which Bishop argued, saying "I never saw these persons before, nor I never was in this place before," said Bishop. "I am as innocent as the unborn child. I am innocent of a witch." Judge Hathorne also accused her of bewitching her first husband to death, which she also denied. However despite her denial to all of these accusations, Bishop was held for trial [3]. Bishop's red bodice also became evidence for her accusers. Her business, a source of financial stability, and her attractive attire were provocative to the conservative values the Puritans held for women. A "right" woman would be one that submitted to her husband, vulnerable, dependent and stayed humble. Bishop was doing the opposite, and thus challenged the male expectations for a "right" woman. This characteristic marked her as socially insurgent, thus confirming the initial claim that noncompliant women were persecuted unconditionally as they constantly challenge the values these male leaders held. The court, a representation of legal values and processes, thus became a tool for patriarchal control of the town.

## **4. Feminist Legal Analysis**

Feminist legal theory includes the four themes: "Difference, dominance, domesticity, and denial" and shows how law has historically served as an instrument of patriarchal control. It addresses how problematic assumptions about sex and gender underlie answers to conceptual questions about the nature of law and legal systems. Emerging from the feminist movements of the 20th century, scholars like Catharine MacKinnon and Carol Smart stated that legal systems are not neutral, but reflect and reinforce male dominance.

Feminist legal theory argues that: First, law is gendered: Legal frameworks are built upon male experiences and priorities, while women's realities are treated as deviations from the norm. Second, objectivity is a myth. The idea of an "impartial" legal system disguises deeply embedded biases--what is considered "reasonable" or "credible" is often coded as masculine. Third, power is preserved through law. Legal institutions don't just reflect societal power structures--they actively maintain them, punishing those who challenge the status quo.

In the Salem Witch Trials women had no legal autonomy--they could not own property independently, serve as legal witnesses in many cases, or hold positions of authority. The law was not just stacked against them; it was designed to keep them subservient. Therefore, under a feminist legal point of view, the trials were a tool for the patriarchal society to suppress women in the power imbalance, and to keep their dominance through legal means.

Though the only significant evidence was that 14 women and 5 men were hanged, this disparity is evident in the almost-exclusive accusations that targeted most females. According to Godbeer, this is shown "by the compulsory gender norms of the Puritan society and the women who defied them [4]." For instance, when asked in the trial why she hurt the children Sarah Good said "I do not hurt them, I scorn it." She also faced the issue of ignoring her children which did not fit the Puritan values of a good woman. Bridget Bishop, again, was accused and prosecuted because she was a widow, who should be vulnerable yet was empowered by her mass inheritance. These things were all seen as improper, as according to the Puritan patriarchal values women should not act with these principles. However, because these women did, Salem felt obligated to get rid of them as a means to suppress any evidence of a possibility for a woman to be independent and thrive without her husband.

Though it was not all men who accused these people, the patriarchal idea still led to hatred of independent women and thus their biased legal persecution. As Rosen stated, "The cry of misogyny is challenged when women accuse other women, but the reasoning to do so is because they have been indoctrinated with patriarchal beliefs." The women in Salem who accused their counterparts of witchcraft were evidently those who were heavily indoctrinated with misogynist and patriarchal beliefs, which explains why they all used legal means to limit these women who did not comply with conventional gendered rules with witchcraft, "a classic illustration of the control exercised over women by the established order of the time, in an attempt to subdue them, for fear of their own position and standing in the community being compromised [5]". Therefore, the biased legal persecution was not only a weapon to kill the "witches," but a means to legally bound women back to their traditional roles so as to protect and consolidate male power in society.

## **5. Conclusion**

The Salem Witch Trials of 1692-1693 were a dark chapter in history, marked by mass hysteria and severe gendered legal injustice. This paper has explored how these trials were deeply rooted in patriarchal norms and designed to suppress women who challenged traditional gender roles. The demographics of the accused--predominantly middle-aged women--highlight the vulnerability of those who no longer conformed to the Puritan ideal of subservient, child-bearing women. Legal procedures were deeply flawed, with spectral evidence and subjective testimonies used to convict the accused, further demonstrating the lack of objectivity and fairness in the trials.

The feminist legal analysis reveals that the trials were a tool for maintaining male dominance through legal means. Women like Sarah Good and Bridget Bishop, who defied patriarchal expectations by speaking out or achieving financial independence, were targeted and silenced. The trials also exposed the broader societal fear of female power and the lengths to which male leaders would go to preserve their authority. Ultimately, the Salem Witch Trials serve as a stark reminder of how legal systems can be weaponized to enforce gendered power structures and suppress women's autonomy. This historical case underscores the importance of recognizing and addressing gender bias in legal processes to ensure justice and equality.

## References

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