

# **Seduction, Sexual Aggression and the Defense of Feminine Honor in the Basque Provinces, 16<sup>th</sup>-18<sup>th</sup> Centuries\***

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*Saiakera honek sedukzioa, sexu erasoa eta emakumeen ohorearen defentsa Bizkaian ditu aztergai; azterlanean zehar arakutzen da nola sufritzen zuen emakume engainatu eta abandonatuak ospe onak; era berean aztertzen da nola sexu krimenen biktimek auzitegiara jotzen zuten beren desohorea erremediatu eta izen ona zein egoera berreskuratu nahiz.*

*Giltza-Hitzak: Sexu krimenak. Sedukzioa. Erasoa. Auzia. Emakumeen ohorea.*

*Este ensayo examina la seducción, la agresión sexual y la defensa del honor femenino en Vizcaya; el trabajo explora como sufrían las reputaciones de las mujeres después de verse burladas y abandonadas; asimismo la obra investiga como las víctimas de crímenes sexuales recurrían ante los tribunales de la ley para remediar su deshonra y recuperar su buen nombre y estado.*

*Palabras Clave: Crímenes sexuales. Seducción. Agresión. Litigio honor femenino.*

*Cet essai examine la séduction, l'agression sexuelle et la défense de l'honneur féminin en Biscaye; le travail explore la façon dont souffraient les réputations des femmes après avoir été trompées et abandonnées; de la même façon, l'œuvre recherche la façon dont les victimes de crimes sexuels avaient recours au tribunaux pour remédier au déshonneur et récupérer une bonne réputation et leur position sociale.*

*Mots Clés: Crimes sexuels. Séduction. Agression. Litige honneur féminin.*

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\* This presentation has been adapted from my *Sex Crimes, Honour and the Law in Early Modern Spain: Vizcaya, 1528-1735*. Toronto - Buffalo - London: University of Toronto Press, 2003. The adaptation is carried out with the kind permission of the press. All references and notes are found in that work.

## COURTSHIP AND SEXUAL ADVANCES

The plaintiffs and defendants in the *estupro* lawsuits at the heart of this study<sup>1</sup> were far from strangers to one another; invariably they knew each other well, growing up in the same locality, frequenting similar public places, and entertaining common friends and acquaintances. This familiarity enabled couples to be playful but also serious as well in their courtship. Mostly open and public, courtship occurred in a communal context with the blessing of parents, families and other members of the collectivity. Numerous lawsuits demonstrate that there were prior understandings and agreements between families that courting couples would marry. In effect, courtship was no idle or gratuitous endeavor for pleasure's sake alone; courtship activity was directed at marriage. The stories recounted by the injured parties in their *querellas*, and elaborated upon in the course of the lawsuits, bear much of this out. That so many of the declarations follow such remarkably consistent sequences and patterns raises important questions. Was it because of traditional legal formats and discourses? Or, else, because of the influence of lawyers and court personnel? To be sure, both are plausible, and indeed complementary, possibilities. Whatever the precise reasons, the accusations provide extraordinarily significant information – much of it strongly gendered – concerning women's actions and perspectives.

Typically, the woman details that *before* seduction and sexual relations had occurred, the man for some time – for months or even years – had made a series of explicit amorous advances known to many in the community. These actions could be good-natured in the form of affectionate expressions, both oral and written (*palabras amorosas, cartas de amor, recados*); physical displays of affection (*besos, abrazos, caricias*); presents or tokens of affection (*regalos, dadas, prendas*); and flattery (*halagos*); The advances could also be presented as serious requests (*ruegos, solicitudes*), more insistent persuasions and inducements (*persuaciones, inducciones*), and, finally, as patently unwelcome and ominous as pursuits and harassment (*perseguidimientos*). A close examination of the expressions used in courtship bears out that it was a complex and multifaceted endeavor.

What can we conclude, then, from the evidence of courtship in the lawsuits? First, that courting was primarily a public endeavor conducted openly before the community. Second, that its chief goal was securing a partner for marriage, one that been sought by one or both parties. Commonly, witnesses in *estupro* lawsuits testified that they believed that couples who courted would eventually marry. Third, that courtship was extremely complex and with many levels of demeanor and intensity that ranged from benevolent good-natured actions to unwelcome pressures. Many of these elements,

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1. The documentary basis of this study is comprised of some 245 lawsuits on the charge of *estupro* from the Sala de Vizcaya at the Archivo de la Real Chancillería de Valladolid.

however, were seldom isolated from one another; in fact, key if disparate aspects of courtship often turn up in tandem. Fourth, courtship could be a very long drawn-out process lasting several years. There were considerable difficulties to be ironed out: family considerations, dowries and other arrangements that took much time and planning. Marriage was not simply the act of uniting a couple; it was the process of joining two families and their assets. The length of courtship might help to explain the parties' impatience in the area of sexual relations. Quite serious about marriage, though not formally wed, some males in particular did not wish to wait, and they used their familiarity with women during courtship to persuade and solicit them for sex. Fifth, everything suggests that males were invariably the initiators and prime movers in efforts to attract a mate. In fact, male suitors' overbearing aggressiveness was often resented and resisted by some women who felt harassed and preyed upon. And yet this very evidence must be weighed carefully since the information emanates from victims seeking favorable rulings and compensation. Sixth, and lastly, a close examination of the facts reveals that while women portray themselves as objects of insistent (or unwanted) pressures from defendants, some of the same evidence frequently suggests that plaintiffs were far from passive in courtship's complex and subtle mechanisms. While males may well have been the chief instigators, as noted above with respect to some affectionate behavior and exchange of gifts, the conclusion is often inescapable that many plaintiffs allowed, encouraged and reciprocated the defendants' overtures. Still, if the plaintiffs' accounts are to be believed, at this stage of relationships matters had very rarely proceeded beyond wooing to explicitly sexual phase. However, if courtship alone was an insufficient enabling mechanism for sexual activity, powerful facilitators of an entirely different nature would prove of crucial importance.

## **PROMISES AND SEDUCTION**

While it may be plausibly argued that courtship and seduction formed part of a seamless continuum of behavior that cannot be dissociated, it may be equally held, as I am inclined to do, that seduction – because of the promise of marriage and other considerations – had distinct structures and characteristics. In other words, while it is not always easy to separate seduction from courtship, a persuasive case can undoubtedly be made that key facilitators introduced decisive changes in couples' relationships and substantially altered their character and course. In effect, these facilitators transformed courtship into seduction and, in turn, more significantly still, into premarital or quasi-marital sex. The chief enabling mechanisms were the promise of marriage (by far the most significant and prevalent one), engagements or betrothals, self-administered unions (often semi-secret or clandestine ceremonies), and offers of monetary remedy or other compensation.

There were considerable differences between seduction and courtship. Though not totally hidden from public view, seduction was far more guarded and secretive than courtship. The reasons for this are not difficult to spell

out since in seduction couples crossed into largely unacceptable and forbidden behaviors to be kept as concealed as possible from families, friends and community. One thing was to seek a partner for marriage; quite another was to seduce someone and engage in a sexual affair with all its profound consequences and responsibilities. Given the stakes, seduction was an extraordinarily risky undertaking, one that required determination, skill, and more than a touch of deviousness. The world of seduction, therefore, was one of carefully calibrated promises and assurances of means to ends; of calculated deceptions and duplicities; of subtle guile and cunning; of numerous secrets, both short and long-term, to prevent private behavior from becoming public; of secret vows, pledges and promises offered without witnesses; of secrets for religious purposes; of secret rendez-vous and meeting places; of surreptitious entries into victims' homes; of secret hours; of lies and misrepresentations to entice, persuade and trick; of go-betweens and proxies to carry messages, money and gifts to elude the ever-alert public eye; and of poignant silences out of fear of parents and families and out of justifiable concern for reputations in the court of public opinion. In sum, courtship was primarily carried out in the public sphere; seduction mostly in the private one.

Promise of marriage was unquestionably the most potent and frequent facilitator in seduction. Significantly, it was almost always offered by males after other means of courtship were exhausted. The promise or offer of marriage was a critical link between courtship and seduction. Having exhausted a gamut of courtship instruments at their disposal, male suitors more often than not were obligated to ratchet up the pressure on prospective partners by playing their most successful trump card – the offer and assurance of matrimony. Promises dramatically changed the nature of couples' relationships. After courting one another, often assiduously, partners had now crossed key thresholds and had taken more serious steps toward permanent unions. Plaintiffs' accounts are virtually unanimous on this point: sexual intercourse and loss of virginity only occurred *after* receiving pledges of marriage from the defendants. Indeed, victims and witnesses were quick to note that unless such a promise had occurred no sexual relations would not have been ensued. In other words, as the offer was accepted, sexual relations began. In turn, sex could be used to preserve the promise of marriage. After his daughter was courted and deflorated, an angry father took the seducer to task by declaring that he had ratified the said promise through sexual relations. In sum, sex resulting from the promise of matrimony introduced important changes in the man's obligations toward the woman – responsibilities far more substantial than anything involved in courtship alone. Even more fundamental and consequential, however, were the immediate mutations in the woman's condition and status.

For women seduction meant losing their virginity and being defiled. The mass of the lawsuits leaves little doubt that estupro was synonymous with defloration or loss of virginity. Women's accusations have a wealth of expressions around the theme of this deprivation: e.g., "*me pribó de mi flor virxinal*", "*me ubo, estupró y desfloró*", "*me hubo desflorado y pribado de mi*

*virginidad*”, “*desflorado de su flor e virginidad*”, “*la estupro y corrompió*”, “*la desfloró e hubo su byrgynydad*”, “*la desfloró*”, and other variations. In addition, the notion of lost purity and chastity as a result of the defloration, is very much in evidence in victims’ accounts: e.g., “*perdida mi limpieza*”, “*me ha privado de mi limpieza*”, “*me llevó mi limpieza*”, “*pribó y estupro de su limpieza*”, “*quitádole su limpieza*”, and others. Significantly, in over half the times that the term *limpieza* is used, the word virginity (or a variant) is also present in the same phrase. For women, losing their chastity also meant their defilement. The lawsuits are rich with a rhetoric of impurity based on the theme of corruption: e.g., “*la corrompió*”, “[*la*] *corrompisteis*”, “[*le*] *acusa de corromperle*”, “*la hubo corrompido*”, “*corrompiéndola*”, “*corrompió de su honestidad*” and so on. As these examples abundantly demonstrate, seduction afforded couples significant sexual intimacy, one that at times mimicked – and was possibly also mistaken for – matrimony. The pitfalls of promise of matrimony followed by premarital sex were many, since well into the early modern era, as is amply known, there were substantial ambiguities and doubts as to what constituted a legally binding marriage, particularly in cases of oral vows.

In sum, seduction was achieved through powerful facilitators and incentives – promises of marriage, engagements, secret weddings, assurances of financial remedy and other deceits – enabling couples to engage in premarital sexual relations. The very existence of these relations, however, without the full knowledge and consent of families or without the blessing of the church, posed substantial risks to the parties. Simply put, at its best and most positive, seduction was a major (and at times decisive) step toward marriage; at its worst, a contrived deception for sexual pleasure’s sake alone. But even when successful as a mechanism for premarital sex, seduction could prove extremely disruptive, exposing its protagonists to serious social, legal and religious consequences. Seducers faced implied and explicit responsibilities towards lovers, and women confronted the ever-present possibility of being abandoned and left dishonored.

## **ABANDONMENT AND DISHONOR**

In the aftermath of seduction, then, women’s reputations suffered when men abandoned them, refused to marry them, married someone else or tried to, or failed to give them compensation for defloration, dowry and child rearing. The harshness of the court of public opinion translated into substantial and tangible damage to women at the personal level. It is difficult to overstate the significance of the breach of promise to marry and desertion for victims of seduction. In their wake, women suffered extraordinary social consequences: loss of honor and social standing, decline in marriage prospects, and a decrease in the dowry amount commanded. Nearly every accusation for estupro lists the amount of damage experienced by the victim. The sum was of course conditioned by the severity – real or imagined – of the harm to the woman’s reputation and marriageability. (More on these matters below).

Even though victims used a panoply of terms to underscore their loss and plight, the most common expression was "*burlada*". Essentially, this meant that the woman had been tricked, deceived, duped and publicly ridiculed: e.g., "*la quiere dexar burlada*", "*dexándome burlada*", and "*dexar burlada a la d[ic]ha mi hija*". Moreover, the victim is also often said to have been disgraced or slandered: e.g., "*estoy agora ynfamada*", "*quedé infamada*", and "*está disfamada*". And to be sure, there is frequently said to be damage to the woman's honor: e.g., "*quedé deshonorada*", "*con mucho deshonor y daño*", and "*perdida de su honor*". Some plaintiffs' accounts emphasize the victims' social stigma in other terms as well: e.g., "*quedaré notada y desacreditada*", "*resultó notada*", and "*me ha dexado notada*". Seemingly more ominously, some accusations assert that the woman is now lost: e.g., "*disfamada y perdida*", "*quedó notada y perdida*", and "*ha pretendido dejarme burlada y perdida*". And yet other expressions of injury to women dot the lawsuits: e.g., "*afrentada*", "*desfraudada*", and "*engañada*". Fundamentally, then, if plaintiffs' assertions are to be believed, they had been thoroughly deceived, shamed and irreparably harmed.

Yet if there was damage to women's reputations, significantly, it did generally not extend in any immediate or ostensible way to their parents and families. In fact, claims of dishonor to parents and family as a result of sexual misconduct by sons and daughters are exceedingly rare, even when family members (or other parents) initiate the complaints on the women's behalf. Given the purported centrality of honor in ancien régime Spain, one would expect to find in the lawsuits a substantial spill-over to kin and house in matters of honor, and yet, except for some isolated instances, strikingly this is not the case. Is it possible that Spain's alleged obsession with parental and family honor has been grossly overstated by an over-reliance on literary texts? Could it be that Basque families, unlike Castilian ones and those of other Iberian and Mediterranean peoples, were not concerned about having their honor adversely affected by their daughters' soiled reputations? This seems unlikely. Or were Basque parents perhaps more practical and realistic when it came to women's sexual honor? Another possibility of course is that questions of female honor were more an issue of social class, and that since many – indeed most – of the plaintiffs came from society's lower orders, concerns of sexual honor were not as significant to these families as they might have been to those of the upper echelons. In other words, should this be correct, when a poor family's daughter was deflorated and abandoned, what was most important to the victim and family was seeking a material solution, not invoking some less tangible and difficult-to-satisfy ideological affront to house and lineage. More to the point: if defendants failed to make good on their promise of marriage, as some victims' accusations demand they do, seducers would be held financially accountable to the women through the legal process.

Damage to a woman's good name was due more to aborted marriage plans and abandonment than to loss of chastity and charges of promiscuity. Having been taken advantage of – deceived, seduced, sometimes impregnated, and then repudiated – a woman opened herself to public scorn,

shame, ridicule and insults. Now tainted in the community's eyes by a failed relationship, the victim plainly would not be able to marry as well as before. A relationship gone awry seriously affected a plaintiff's matrimonial strategy, both with the defendant and with other potential husbands. Families' careful alliance plans were often compromised and impaired in the process. Nor was this limited to plaintiffs' families; those of defendants too were often likewise affected. Seducers' families resented malicious lawsuits, placed, in their view, with the purpose of obstructing their own sons' weddings. Not surprisingly, angry family members – especially the fathers of victims and the wives of wayward defendants – sometimes took out their frustrations and anger on the plaintiffs themselves. Calling even greater attention to their situation, many women underwent intentional alterations in bodily appearance and dress following sexual relations. By donning married women's hairdos and headdresses in public – sometimes at the males' request, it should be noted – females provided corporeal proof to claims of changes in personal status. But portraying themselves as no longer virgins *and* as married, then left in the lurch, these women too suffered the public and personal stigma of other abandoned victims. Fortunately for these injured women, if the court of public opinion proved a formidable foe, there was always the court of law to validate their claims and assist them.

The road from courtship to abandonment was indeed a curious one. On the one hand, it is a seamless succession of logical steps and developments (enabling mechanisms that bridge stages and facilitate sex); on the other, it is a jagged path of sharp discontinuities (highlighted by broken promises and desertion). It is of course possible that this dichotomy is more apparent than real, and that its roots lie in the plaintiffs' narratives proper. The accounts generally seem to present the major aspects of couples' relationships factually and in chronological order. For example, one learns from them how long ago the parties had known one another, the length of their courtship and solicitation, when and in which circumstances the promise of marriage had been offered, when the seduction and sexual relations had taken place, when children had been born, how far along some pregnancies were, as well as other temporal and material facts related to breach of promise to marry, abandonment and so on. Read in this fashion, what emerges most strikingly are narratives of intertwined elements and continuity. But at the same time, these personal histories are highly charged partisan narrations designed to show defendants in the worst possible light and obtain legal advantages. The statements and accounts, let us not forget, occur in the heat of battle in the legal arena.

Consider their timing: plaintiffs' accusations are invariably presented at a time of turmoil and despair. Feeling betrayed and humiliated, victims' accounts understandably emphasize crisis and discontinuity. Depicted at their devious and treacherous worst, seducers break promises, break faith, and break with victims – in effect, the totality of the narrative is punctuated with rupture and separation. But in successfully stacking the deck against defendants, the narratives achieve something else: malevolent male actions are invariably portrayed as intentional. Calculating and devious, seducers

wilfully meant all along to deceive and harm. But did they? One of the historian's greatest challenges – and frustrations – is gaging in retrospect individual intentions and actions, such as those in these lawsuits. How to know, for example, given the many gaps and silences in the documentation, whether seducers' assurances and promises were false from the start and solely meant to trick and secure sexual relations?

## **COERCION AND VIOLENCE**

Issues of coercion, physical force and violence hardly surfaced in most of the lawsuits examined in the opening chapter. However, it would be extremely mistaken to infer from this that seduction was always or generally carried out with full female consent or voluntarily. Quite the opposite, numerous estupro lawsuits contain unmistakable elements of threats, intimidation, insults and verbal harassment, while others involve explicit instances of physical violence and aggression both before and during the commission of sex acts. Some cases also include the outright – and at times forceful – abduction and transfer of the victim for the purpose of sexual relations. Confederates, including family members and friends, had important parts in sex crimes as assistants, intermediaries and facilitators. Important socioeconomic factors functioned as coercive elements in the context of sexual relations: conditions and status of the victims (e.g. women's occupational disadvantage and subordination), financial and social pressure, and monetary and social enticements. Servants, poor women and widows were frequently victimized sexually by males of higher socioeconomic rank and standing. Significantly, however, as many cases abundantly demonstrate, seduction was seldom achieved without considerable female resistance, verbal and physical. An unmistakable conflict and struggle of wills permeates many of the narratives. In this battlefield, the male will is invariably presented as the more aggressive and dominant of the two. For a man to triumph in seduction, it was necessary for him to overcome – indeed, if necessary, overpower – the woman's opposition and defeat her will. In important ways, therefore, estupro lawsuits have undeniable and profound elements of coercion and violence within seemingly consensual sex. The evidence shows beyond doubt that numerous seductions were thoroughly entangled in highly ambiguous and contradictory components of courtship, promise of marriage, consent, coercion and violence.

## **THREATS AND INTIMIDATION**

In the twenty lawsuits that contain explicit references to threats, ten of them involve threats directly related to defloration or sexual access, five of them to keep the victims quiet or have them declare falsely, and five are indeterminate or of a general nature. In sum, threats were tailored to specific situations and goals and encompassed different forms and levels, ranging from simple menaces to ominous death threats. Moreover, they appear to have been effective and damaging modes of intimidation when women were alone or defenseless.



## FORCE AND SEXUAL AGGRESSION

Approximately one-third of all estupro lawsuits contain explicit references to the use of force and violence against victims. However, of the seventy-seven cases, only a dozen have any physical references whatsoever of the attacks; the rest only have highly schematic (if unambiguous) allusions to physical coercion and assault. The vast majority of the references involve the use of force (*fuerza*) and related terms (*forzó*, *forzar*, *forzado*, *forzamiento*, *forciblemente*). The term for violence (*violencia*) is not as prevalent, though when present, it is usually in tandem with *fuerza* or one of its variants: e.g., “*después de averla maltratado, por fuerza y violencia la desfloró*”, or “*con fuerza y biolencia... la estrupó y la quitó su flor*”. Of the twelve lawsuits with specific details on the assault, significantly, seven involve covering the victim’s mouth with a hand or cloth during the sexual aggression: e.g., “*y metiéndole un paño en la boca... la corrompió de su berginidad y estrupó*”, or “*y poniéndola un pañuelo en la boca, la estrupó y corrompió, y pribó de su virginidad*”. Yet even these dozen cases provide surprisingly little concrete information beyond the fact that the victim was knocked to the ground, her mouth smothered, or that she was grabbed or squeezed. In much the same manner that the lawsuits have no descriptions of specific sex acts, only one woman charged that the assailant attempted to undress her. For the most part, sexual intercourse – consensual or coerced – did not require detailed physical representations; it was postulated and asserted with a largely formulaic legal short-hand: e.g., “*la gozó*”, “*la estupro*”, “*tubo acceso y cópula carnal*”, “*la conoció carnalmente*”, “*la privó de su virginidad*”, and so on.

It is important to note where the claims of force and violence occur in victims’ accusations. They are usually found in the narrative just prior to or during the sex acts themselves – i.e., after courtship and other forms of pressure have taken place. Indeed, they are generally presented as coercive actions that take place after males had exhausted all other forms of persuasion (promises, offers, gifts), and as traumatic culminations of couples’ relationships. Recall that these aggressions did not happen among strangers; the parties almost always knew one another well, had courted and in many instances had planned to marry. In all these instances, then, having failed through traditional methods of seduction, males resorted to outright force and violence to achieve sexual ends.

However, not all physical coercion happened only *after* courtship and persuasion had been exhausted; in fact, more often than not, force occurred entirely alongside solicitation, flattery, promise of marriage, deceit, and other enticements. Numerous lawsuits attest to this coexistence. In sum, judging from these and other lawsuits, the evidence strongly suggests that sexual coercion and violence were often integral parts of seduction. The documentation also shows, however, numerous examples of force and aggression devoid of most of the central elements of courtship and seduction. In other words, some cases clearly demonstrate that sexual violence was also used against women without courtship, promise of marriage, and consent.

Violence in sex crimes – restraining the victims, knocking them to the ground and forcibly accessing them – naturally resulted in harm and injury to some women. Even though the evidence is often of a general nature, around a dozen estupro lawsuits underscore the physical mistreatment of victims (“*malos tratos*”, “*maltratando*”). As if mistreatment by aggressors was not enough, scattered evidence likewise suggests that some victims had good reason to be concerned about parental violence against them in the aftermath of defloration and sexual misconduct. Regrettably, despite considerable credible evidence on coerced sex and violence, the documentation is virtually silent on injuries or lacerations to women resulting *directly* from forcible sexual access. True, some women reported excessive bleeding in the wake of undoubtedly violent sexual encounters, but these are almost unique exceptions. Apart from these examples, physical injuries to the female genitals never appears in the lawsuits. The reasons for this silence, I believe, are three-fold. First, what was most fundamental to contemporaries was proof of loss of virginity and sexual access. When expert witnesses (surgeons, midwives, matrons) testified about these matters, they invariably limited their accounts to whether a woman remained a virgin or whether she has been “corrupted”. Loss of virginity was related to loss of honor and a diminished marriageability, matters that were at the very core of these lawsuits. Possible trauma to her genitals was not an essential concern, ironically, because it might have appeared natural or understandable for her to suffer bruising in the course of defloration, especially if it had been forcible. More importantly, physical injury was unrelated to woman’s damaged reputation. Second, most estupros were only reported long after they had occurred (months or even years), and when possible signs of injury had long passed. Third, as recent studies have shown, rape victims report surprisingly few serious injuries. It is therefore not far-fetched to believe that for the most part early modern victims of coerced sex in Vizcaya, too, may not have sustained genital injuries sufficiently severe as to warrant legal attention.

### **OUTSIDE AND INSIDE: “EN YERMO Y DESPOBLADO” AND “ESCALANDO Y ENTRANDO”**

Women faced substantial dangers when alone in barren and uninhabited places (*yermo y despoblado*), but probably even greater ones in inside locations. In addition to the dangers from masters, employers and guests in their houses, they also had good reason to be wary about being sexually attacked or seduced by men who broke into and entered their quarters, or otherwise gained admission through guile or unauthorized means. If anything, surprising as it might be at first blush, assaults in the home appear to have been far more common than those committed outside in isolated places. Some three dozen lawsuits cite various forms of breaking and entering by males to secure access to women; in no less than ten cases the aggressors broke in and then forcibly deflorated or had sexual access with the victims in their houses. Central to success in breaking and entering, then, was secrecy, night, finding the woman alone when family mem-

bers or employers were absent, as well as a fair measure of boldness or recklessness on the man's part.

Complicity from within to facilitate the entrance to suitors must also be considered. Women could make matters easier by cooperating with would-be intruders, and parents and other household members could lend tacit approval to those who came into their homes by looking the other way. Some claims of parental ignorance and surprise upon learning that their houses had been broken into are scarcely believable given the length of the episodes. Perhaps these were exceptions; let us assume for a moment that most parents were indeed unaware that their houses were being broken into to gain sexual access to daughters and other women inhabiting therein. Still, it is striking that patently injurious misdeeds that struck – literally and symbolically – at the very heart of ancestral worth and honor were also not regarded as humiliating to family honor *after* the fact. Even when pointedly declaring that their estate houses (“*torre y cassa*”, “*casa torre y solar*”) had been breached, family members' accusations failed to connect the misconduct to kin and lineage. Judging from this evidence, in much the same manner that women's sexual dishonor did not generally extend to families, the violation of homes through breaking and entering apparently did little to tarnish Vizcayan parents' reputations or that of their homes.

## **ABDUCTION**

Abduction was another significant form of violence against women. Two dozen lawsuits detail the abduction and transfer of women to other locations where sexual relations occurred. While some types of elopement – with the woman's consent and/or that of her family – constitute well-known marriage strategies, other thefts and kidnaping clearly entailed substantial degrees of coercion and force. Moreover, significantly, most of the abductions (sixteen out of twenty-four) were carried out with the assistance of one or more accomplices. In other lawsuits, even though no force was alleged, women were clearly taken from their homes by men for sexual purposes. Significantly, some abductions apparently occurred *after* seduction, in likely attempts to remove the woman from a public notoriety that was assuredly incriminating to the defendant. Finally, it is important to consider those cases where the woman was not seized at home but was instead lured out of it through promises and deceit. Though not abductions proper, these actions bear strong resemblance to seizures by force; in any event, they achieved the same goal, which was to get the woman out of her house so that sexual relations, usually with coercion, could take place. In sum, abduction was yet another important manifestation of violence against women. Whether for the sake of securing a partner for marriage, cohabitation or simply for sex, and whether by force or with guile, abductions of women in early modern Vizcaya nearly always involved considerable levels of coercion. Much like other types of force employed in seduction, abduction in all likelihood was a means of last resort – a bold and perhaps desperate action after other forms of persuasion and pressure had been exhausted.

## GENDERED WILLS

The extraordinarily contentious relations between men and women that constitute the heart of these lawsuits find eloquent expression in the documentation as a battle of wills. In the struggle, almost invariably, the male will is presented as active, the female as passive; in effect, the wills are gendered, almost stereotypically so. While this may have much to do with the legal construction and presentation of the evidence – one that underscores male aggression and female victimization – plaintiffs' accounts are remarkably consistent on these points. In the dozens of allusions to the will in *estupro* lawsuits, two basic formulations stand out: one, coerced sex against a woman's will; two, attraction of a woman to the man's will for sexual purposes (whether successfully or not). About the first, numerous victims' accounts assert that the woman had been defiled or sexually accessed by force and against her will. But there were other formulas used in plaintiffs' accusations as well, some of them built around the theme of female acquiescence or condescension to the man's will, ("*persuadiéndome a que condescendiese con su voluntad*"), surrender to it ("*la hubo rrendido a su voluntad*"), reduction to it ("*procurando malamente reducirme a su voluntad*" and "*la reduxo a su voluntad*"), or doing the defendant's will ("*a que hiziesse su voluntad*"). However, seldom was a woman said to freely or actively exercise her will and, ironically, in those rare instances when she did, it was generally the man who made the assertion to avoid culpability. Remarkably, there is not a single allusion of a sexual nature that goes against a man's will. As noted before, male sexual agency was invariably expressed in terms of an active and powerful will, while its female counterpart was always presented in passive ones. It could scarcely be otherwise: attributing sexual agency to women was dangerous in litigation since endowing them with an active will increased their moral and legal responsibilities while diminishing those of defendants in sex crimes. Moreover, given women's extensive opposition, passive or otherwise, to sexual overtures, it was crucially important for successful seducers to overcome – if necessary, overpower – women's resistance and defeat their will. In short, in sexual matters, women's wills were largely in men's hands.

Perhaps it is well to consider why so many of these cases were not regarded as rape despite the seemingly widespread force and violence used in the commission of the crimes. Several reasons may account for this. First, these were not cases among strangers; almost to a person victims and aggressors knew each other well. In fact, the litigants and their families often shared common histories that involved courtship and matrimonial plans. Second, victims' accounts often simultaneously conveyed highly contradictory elements of friendship and hostility, and of consent and coercion in the couples' relationships. Assailants' force and violence could be considerably mitigated by evidence of reciprocal affection and understanding among the parties. Third, even after an initial forcible defloration and access, some couples openly admitted to subsequent repeated sexual encounters; in effect, to sexual affairs under promise of marriage or other understandings. This, too, would have tended to accentuate female consent while undercutting claims of outright coercion and violence. In effect, the very narratives of victimiza-

tion could prove double-edged and damaging to female litigants. Four, early modern distinctions between coerced and consensual sex were apparently not nearly as rigid or clear cut as contemporary ones. Many of the lawsuits contain unmistakable elements of coercion within seemingly consensual sex – often in levels and degrees that would be unacceptable today in relations of mutual consent. While flagrant physical aggression against women for sexual purposes was probably the exception and not the norm in most estupro lawsuits, it did occur, and yet, judging from penalties and other considerations, sexual violence was not singled out for particularly harsh or unusual punishment. Was there a culture of tolerance toward sexual aggression against women in early modern Spain? Probably not, but based on the totality of the evidence in defloration lawsuits, one might conclude that Golden Age Spanish society permitted higher levels of violence in sex than is allowed today, and that much of what may appear in the lawsuits as consensual was, in fact, coerced. But there are additional considerations that bear directly on – and undermine – most notions of consensual sex in the early modern era: sex among socioeconomic unequals, gender inequalities and female subordination.

## **SOCIOECONOMIC SUBORDINATION**

Important socioeconomic factors functioned as coercive elements in the context of sexual relations: the condition and status of female victims (social and occupational subordination), financial pressure and monetary and social enticements. As many as one-third of victims in estupro lawsuits were female servants (“*moza desoldada*” “*moza de servicio*”, “*criada*”), poor women and widows who frequently victimized by males of higher rank and standing. Servants in particular were vulnerable to masters and employers: economically dependent, poorly paid, precariously employed and often fired at will, and subjected to working conditions and tasks that took them to secluded and unsafe locations. Closely circumscribed to household duties, and usually saddled with cramped living arrangements, female domestics were open to a variety of sexual advances and attacks at home, especially when the masters’ wives were away. Since many male employers and masters were usually married, they could not offer promise of marriage – the chief enabling mechanism in seduction – to domestics. Therefore, more often than not they offered servants other enticements to secure sex from them (gifts, tokens, and promises of compensation for dowries so that they could marry someone else).

In addition to coercion, force and pressure, estupro victims – poor women and servants in particular – faced a host of adversity and violence in the aftermath of seduction: not only social disgrace and harm to reputation, but also insults, threats and beatings by enemies and families, ejections from homes, and firings from work. Hints of malfeasance, whether proven or not could, could result in termination of their employment. There were other injurious actions against them as well. For example, as part of sometimes elaborate cover-up schemes, women were confronted with claims that the offspring was

somebody else's and not the defendant's, with attempts to buy their silence, with efforts to force them to leave their villages, and, more ominously still, with dangerous abortions.

In conclusion, in addition to courtship and consent many Vizcayan seductions also included considerable coercion and violence against women. Verbal coercion was often used to cajole and intimidate them into submission, and to silence them afterwards. Force was wielded to overcome female resistance and was generally only used as a last resort after other methods of courtship and seduction failed. The physical mistreatment of women during forcible sex inevitably resulted in some injuries, and yet, despite the blatant violence in acts that today would be regarded as clear cut sexual assaults, estuproes were not treated or prosecuted as rapes. And this, as much as because of what lay at the heart of the crimes – defloration and loss of honor – as because of the seemingly high levels of violence against women permitted in early modern Spanish society. Recall too that these were not crimes among strangers but, rather, among individuals who knew one another well and who often had meant to wed. Whether committed outside (in “*yermo y despoblado*”) or inside (“*escalando y entrando*”), sexual attacks shared common elements of coercion: the woman was invariably alone and defenseless and, if she resisted or struggled against her assailant, she was seized and her mouth was muffled to prevent her from summoning help. Once so restrained, she was usually forcibly sexually accessed. Taking a woman by force from her home or enticing her out of it by deceit yielded the same result for a seducer – she was effectively removed from safety and transferred elsewhere for sexual purposes. Such abductions were seldom one-on-one endeavors; go-betweens and confederates assisted in the thefts and transportation of victims to other locations. In the lawsuits the human will is effectively gendered: sexual agency was a male domain; passivity a female one. But since women also resisted male initiatives, males used various means, including force, to defeat the female will. Finally, substantial evidence strongly indicates that fundamental socioeconomic factors operated as coercive elements against women in sexual relations. Subordination by class and gender facilitated their sexual victimization. Not surprisingly therefore, most female servants, poor women and widows of modest condition were, to use a term from the period, reduced to the will of higher-echelon males. It is understandable for women confronted with such overwhelming subjection, seduction, abandonment and humiliation to have given in – as some doubtless did – and passively accept their fate. However, even under such adversity, determined Vizcayan women and their families refused to give up and instead pressed persistently for remedy and compensation in the royal courts – their surest and often only allies.

## **LITIGATING FEMALE HONOR/DISHONOR**

It has become almost commonplace to assert that from antiquity through the early modern period male honor for the most part was based on social considerations while female honor revolved primarily around sexual virtue. While these ideas may be somewhat overstated, they remind us of the pre-

mium that was traditionally placed on women's chastity and sexual virtue; in effect, on their ability (along with their families) to control their sexuality. But were this control at the root of honor, the women in this study would seemingly not have much honor given their inability to safeguard a prized virginity. And yet, not surprisingly, the very women deflorated and wronged by their seducers profoundly believed that they had possessed honor, a claim they universally and loudly made. In fact, despite their generally modest condition, such women felt that they had experienced a loss of honor, not only because they had lost their virginity, but perhaps more significantly, because they now found their marriage prospects impaired and their social standing diminished.

However, these women's modest rank and absence of strong family supports – after all, who had protected them from predatory male sexuality, who had guarded their honor? – made difficult a reparation of lost honor that entailed physical violence. Unlike dishonored women in the *comedia* who sought revenge against their victimizers, for Vizcayan women at least, lost honor, then, would appear to be best redeemed by way of practical, non-violent courses. To better understand this, consider wronged women's main choices: first, they could do nothing and consequently bear their disgrace grudgingly; second, they could seek out-of-court monetary settlements with their seducers, such as those found in other parts of the peninsula; or, third, they could choose to stand their ground and fight through legal means. Women, through the courts could attempt to repair their honor, obtaining tangible remedies to their damaged reputations. In effect, the legal system became a surrogate family and community support for victims of misconduct. The course chosen by female litigants and their families raises the important question of whether women effectively regained their lost honor. Even though this matter might never be fully elucidated, it would appear that although honor was not completely recovered – how could it after seduction, loss of virginity, abandonment and disgrace? – a monetary award obtained through the courts would enable a woman to marry and thereby regain a good measure of social respectability and honorability. Essentially, therefore, successful litigation probably redressed lost sexual honor and reputation to a considerable extent, allowing women to regain their public place in society on reasonably good terms.

Worth emphasizing, the legal process for the reparation of female honor was, from all appearances, a highly individual one, affecting primarily, perhaps even exclusively, the woman in question. As noted earlier, little, if anything, is ever said, either in the complaints or in the judgments, about sullied honor that extended to family, or that shamed others; female dishonor does not appear to have affected lineage and household. Consistent with this, the monetary remedy sought in litigation was for the woman's marriage, redress and use.

We turn our attention now to how this honor was litigated by the parties to the lawsuits, the litigants' strategies and tactics, and the appellate verdicts and monetary awards. The difficult task of litigating female honor started in the victims' accusations themselves; it was an arduous and often

time-consuming legal process that began at the so-called first instance (*primera instancia*) and ended on appeal at the Chancillería in Valladolid. The incessant and indefatigable advocacy of victims, families and their ubiquitous lawyers in the press of litigation has left a mountain of substantial paper trail that eloquently transmits the interests, opinions and voices of the parties to the lawsuits. In sum, their declarations and briefs, along with a host of testimonies from witnesses, inform the manner in which Vizcayan female honor was litigated.

After a woman was courted, seduced and abandoned, how did she, her family and her advocates litigate her honor and obtain reparation for damages? In the most basic sense, litigation began with the act of filing charges; moreover, the accusations proper reveal a kind of road map that the litigation would take. In addition to vivid descriptions of their victimization, plaintiffs' accusations provided important information to support their legal claims. The charges included declarations that establish the victims' good qualities, reputations and social conditions; assertions of the dowries available to victims; claims concerning the amount of damage suffered through defloration, and public disrepute; and, of course, other immediate demands – monetary or otherwise. While these key points might vary in emphasis from case to case, by and large they drove and guided the litigation of female honor from start to finish.

## **HONEST AND VIRTUOUS WOMEN**

It was singularly important for plaintiffs to establish the victims' virtue and reputation from the very outset of the accusations. Honest and virtuous ("*honesta y recogida*") was the most commonly used formula to characterize the moral condition of women before their seduction. Distressed and angry parents in particular offered persuasive – of course patently partisan and charged – testimonials of their daughters' admirable qualities. Victims, too, naturally stepped forward with powerful testimonies of their virtue before being defiled or wronged by seducers. To be sure, there were also excellent reasons from a legal standpoint for stressing the plaintiffs' prior honesty and other qualities: generous assertions of virtue established women as morally upright individuals and, simultaneously, stood in stark contrast to how profoundly these good women had been wronged by their victimizers. In sum, underscoring female honesty only magnified male culpability.

## **DOWRIES AND DAMAGES**

Far more important to victims was to establish their respectable social condition. Lawsuits' accusations reveal three fundamental paths to the same objective: assertions of good family background and wealth, claims of dowry amounts commanded by victims' families and allegations of the monetary damage to plaintiffs and kin. These considerations were at the heart of litigation for defloration and lost honor; in effect, from the outset victims attempted to prove



their creditable status to recover honor and respectability through reparations equivalent in some fashion to their rank and condition. If claims of women's moral reputation highlighted masculine sexual misconduct, assertions of social standing underlined the tangible harm victims had suffered – damage that defendants would be obligated to repair through the legal process. If victims and their families pressed their claims vigorously in the courts, defendants subjected plaintiffs to a second victimization through relentless double-barrel attacks against the women's good names and social standing.

The vast majority of plaintiffs' accusations made note of dowry and damage amounts. This approach served several purposes, among them, making explicit the victims' social conditions and establishing the amounts necessary to compensate them for their defloration and loss of honor. In essence, to repair the harm to their reputations and allow them to marry. Let us examine first the question of dowry. Most mentions of dowry by plaintiffs are in precise sums of money without further elaboration; the amounts range from modest requests of a few thousand maravedís to several thousand ducats, depending on the perceived gravity of the offense and, of course, on such factors as the year and rate of inflation. While some plaintiffs readily advanced the amounts they possessed, others, by contrast, demanded specific sums from the defendants for "dowry and remedy" (*"dote y remedio"*). These distinctions, however, ultimately meant little; once a dowry figure was mentioned by a plaintiff, it was widely understood that the amount – whether available to the victim from her family or requested from the defendant – would be utilized to compensate a victim for lost virginity, dishonor and other damages. But at times dowry matters proved far from clear cut simple affairs, especially when plaintiffs compounded their dowry demands with marriage considerations or presented their requests with complex or imprecise monetary amounts.

First, the "either or" approach by plaintiffs did not occur in a vacuum; recall that in the vast number of lawsuits there had been promises of matrimony, that the parties had intended to wed, that in some instances the couples had engaged in premarital sexual relations under such pledges and that at times the couples had even cohabited as husband and wife. Consequently, demanding marriage or dowry was perfectly consistent with the parties' prior history. Second, offering the defendant the option of marriage or dowry, in effect, gave both parties involved in the litigation more flexibility to settle the case according to their best interests. Third, if the defendant acceded to either demand, the female regained much of her honor and respectability: with marriage her prior dishonor became largely moot, and with a dowry she could seek to wed another individual, an outcome that would also restore a good deal of her lost reputation. Not all accusers, however, demanded precise sums or offered defendants the choice of marriage or dowry. Significantly, some plaintiffs felt so egregiously harmed by defendants' actions that they declared that they needed amounts above and beyond the dowries their daughters commanded in order to wed or remedy them as well as before their defloration and disrepute. Part legal brinkmanship, part negotiation tool, plaintiffs were not shy about requesting sums in excess of the dowries at the victims' disposal.

In much the same manner that plaintiffs underscored their dowries, their accusations also continually alleged damages. If anything, claims of damages appear more frequently in the lawsuits than information on dowries – understandable given that plaintiffs after all were eager to obtain tangible reparations to the harm suffered by victims. As in the case of dowries, damages too were alleged in fairly precise monetary terms. While many plaintiffs cited damages without specifying the exact nature of the harm, it is clear from several lawsuits that the purported damages stemmed from defloration, loss of honor, social and sexual disrepute that hindered the victims' marriages, breach of promise to marriage, pregnancies and child support payments, failed sexual assaults and other injurious considerations. In sum, plaintiffs repeatedly cited dowries and damages to suggest both the social condition of victims and to identify the amounts necessary to repair their situation and restore their honor and respectability. The sums *alleged* are especially important since they allow a comparison with the amounts *awarded* by the courts; in effect, enabling us to gauge the success of litigants and, simultaneously, how tribunals judged and evaluated their demands.

Naturally, plaintiffs' accusations presented other demands. Often, for example, plaintiffs requested defendants' imprisonment; securing offenders' persons to avoid their flight insured that they would be available for marriage purposes or be available to stand trial and be held responsible for their misdeeds. (Vizcaya's location, the sea-faring background of many defendants, and the presence of many local and foreign travelers and merchants, made the province a region of easy mobility.) For this reason, when defendants are first encountered in the lawsuits, they are usually in jail awaiting official word of the charges against them. And in several lawsuits the plaintiffs demanded the seizure and confiscation of defendants' goods ("*secuestro y embargo de bienes*") – requests that, should they be honored by the authorities, doubtless armed accusers with additional leverage during litigation. (Seizing a suspect's property may well have had the same effect as imprisoning him, or, if he was away, taking his goods might well have caused him to return.) Finally, plaintiffs' accusations at times also sought harsh penalties against defendants, especially when the sexual misconduct was thought to have been particularly grievous – committed against extremely young victims, or when women were victims of abductions and forcible sex or rape.

Far from a genteel and decorous affair, more often than not, the litigation of honor was a rough-and-tumble legal process. Plaintiffs used witness testimonies in different – though complementary – means to establish the bases for seeking compensatory damages for defloration, lost honor and diminished marriage prospects. Defendants, by contrast, followed sharply divergent – and far more combative – methods and styles in fighting the accusations against them.

## **WOMEN'S SECOND VICTIMIZATION**

In effect, during litigation defendants subjected women to a second assault. In ways large and small, defendants hammered away at plaintiffs,

tainting their reputations and lowering their socioeconomic status. By attacking their sexual reputations, defendants called into question women's virtue, and by concerted attacks against their condition, they lowered their monetary obligations to them. Ultimately, both were profoundly interrelated: a disreputable woman commanded less respect and was not as marriageable as an honorable one. A caveat: while many defendants' assertions seem mean-spirited – and some of them undoubtedly were – it is important to note that rarely were they gratuitous insults; each allegation, even if occasionally exaggerated, was entered into the record to counter and rebut damaging plaintiffs' claims. Victims' ages, sexual histories, occupations and socioeconomic conditions were all fair game for the defense.

While some defendants addressed questions of age to correct what they considered as incorrect and misleading information, it is apparent that they meant to underline the victims' advanced age to render them less attractive and desirable as marriage partners. Defendants paid especially close scrutiny to victims' sexual backgrounds – prior alleged defloration, possible promiscuity, and the existence of children – to emphasize their lack of honor and disreputable character. Numerous defendants were quick to point as well to the plaintiffs' lowly occupations, in particular if the women were servants. In a variety of formulations, defendants' arguments time and again focused on the victims' alleged poverty: e.g., “*muger pobre*”, “*pobre y adeudada*”, “*muy pobre*”, “*moza pobre sin hacienda*”, “*muy pobre y necesitada*”, “*ella es pobre*”, “*pobre y poco honesta*”, “*moza pobre y sin bienes*”, and “*pobre y moza de servicio*”. Naturally, plaintiffs' parents and families were not spared by the defenses either.

Women's second victimization was a natural continuation of the first, during which they had been seduced, deflorated, abandoned and dishonored in the public arena. Now before the court of law, defendants consistently attacked the plaintiffs' and families' reputations and social conditions to gain every possible ounce of legal advantage to minimize offenders' liabilities and deny accusers their due. In other words, already defeated in the court of public opinion, plaintiffs were now assailed in litigation by defendants whose superior socioeconomic status and age originally had largely facilitated women's seductions and the victims' ensuing social disgrace. There was ample reason for defendants to feel superior to their antagonists – they were socioeconomically superior to them. Despite the patent disadvantages and uphill battles they faced before the courts, plaintiffs had nowhere else to turn; ironically, they were forced to concentrate all their efforts and energies in litigation to secure favorable outcomes.

Consider the significant obstacles plaintiffs confronted. For one thing, as argued earlier, numerous victims lived in precarious socioeconomic situations: marginally employed in menial work and odd jobs (domestic service in particular), with limited revenues and resources, often saddled with children without the benefit of husbands and family support, and at times downright poor or living as widows in conditions that were anything but prosperous. (In a telling social detail, few of the victims are alluded to in the lawsuits

as *doñas*.) In addition, many victims were orphans or lived in single-parent households that appear to have lacked strong parental supervision. Despite claims of large dowries and substantial damages – invariably inflated for legal effect – plaintiffs and victims in reality were very far from affluent. Their victimizers and legal antagonists, by contrast, on the whole were vastly better off economically; their lot included merchants (local and foreign), lawdowners and rentiers, artisans and tradesmen, and “professionals” (lawyers, surgeons and notaries-public). Everything appears to have given defendants the upper-hand in litigation: monetary resources, social and family support mechanisms, status and rank, literacy and knowledge of the law, and age. Older than the plaintiffs by nearly six years *at the time of the accusation* – twenty-eight versus twenty-two – offenders were probably more seasoned than the women they now confronted. In short, that plaintiffs and victims were able to succeed against such overwhelming odds as often as they did is as much eloquent testimony to their tenacity and skills as litigants as it is to the helping hands of the local authorities and royal courts.

For one thing, the justice system showed remarkable flexibility in allowing some accusations to be brought forth after the time specified by the statute of limitations in the Vizcayan Fueros. Nor was the burden of proving defloration – a potentially thorny question – particularly difficult for plaintiffs and victims. In fact, the bar appears to have been set quite low, with the courts in general agreement with plaintiffs’ claims that “indications and conjectures” (“*indicios y conjeturas*”) were sufficient to prove that a woman had lost her virginity. This was all of the more remarkable in that most of the purported sex acts of course had occurred in private, a view readily conceded by even the plaintiffs themselves; but perhaps more surprising in that, as noted before, during the females’ second victimization, offenders repeatedly subjected them to charges of promiscuity. More to the point: if women had had sexual relations with other men, how could it be shown or proven beyond doubt that those who stood accused were responsible for the women’s defloration? To be sure, plaintiffs produced numerous witnesses who gave convincing coherence and weight to their stories, but ultimately the magistrates apparently reached their conclusions not solely on hard facts and evidence, but also on intangibles, such as presumptions and conjectures, a practice that undoubtedly favored the accusers’ positions and interests. In other words, in light of the profound difficulties in establishing the culpability of certain defendants, the courts appear to have sided with the plaintiffs and given them the benefit of the doubt on key matters of proof.

Just as plaintiffs and defendants followed divergent tactics in establishing their cases, they also had sharply divergent objectives in litigation: accusers primarily sought to redress lost honor and reputations through marriage or monetary compensation for damages; offenders, meanwhile, struggled to prove their innocence and, more importantly, should they be found guilty of the charges, to keep the awards for the victims as low as possible. How well the parties succeeded in their aims is borne out in the extant 101 complete estupro lawsuits – dossiers that include all verdicts, from the initial one at the first instance to the final (or highest one) on appeal. A detailed examina-

tion of these lawsuits suggests that while both sides benefitted from litigation in different ways, on balance, the plaintiffs fared somewhat better. For one thing, plaintiffs prevailed over defendants by wide margins: of the total, only seven offenders were acquitted at the highest appellate level. Of possible significance, of the seven acquittals, six occurred during 1542-1586 and only one thereafter, suggesting that for the most part of the period under study magistrates were not inclined to be sympathetic to defendants' claims. In effect, then, plaintiffs were able litigate successfully and hold offenders responsible for damages 93 percent of the time.

However, this is a more than somewhat misleading figure. A close look at the *final* amounts awarded to plaintiffs by the courts on appeal, compared to the *original* monies requested or damages cited in the accusations, reveals that the bulk of the awards for victims was well below what they sought. In sum, even if awards were under what was desired, most plaintiffs did not walk away from litigation empty-handed. Conversely, even if the sums might appear meager, nearly all defendants were held monetarily responsible for their actions.

To triumph as many plaintiffs did, accusers had to present their cases convincingly, portraying themselves as honest and virtuous and of course as the victims of offenders' sexual misconduct. Plaintiffs' lawsuits also had to prove the damages that stemmed from the wrongdoing: loss of honor, disrepute that affected marriageability, pregnancies and offspring, and other tangible social and personal injuries. To support their arguments, accusers also brought forth witnesses who ratified their testimonies and versions of events. To succeed in these endeavors, plaintiffs had to safely navigate the perilous seas of the justice system, tactically and strategically, never losing sight of their ultimate goals. Moreover, female litigants and their families had to be willing to survive the gauntlet of a second victimization to which they were subjected by defendants. Plaintiffs' sexual reputations and social standing were repeatedly savaged by offenders who attacked their conditions as a way of raising doubts about the women and diminishing their financial obligations to them. Given the numerous disadvantages they faced – lower social standing, inferior resources and support mechanisms and others – to prevail, accusers, had to prove themselves especially tenacious and patient in litigation, as well as being willing to settle for less than what they had initially requested. However, if monetary awards for plaintiffs tended for the most part to be at the lower end of the scale, by contrast, few accusers failed to secure something from their victimizers, a significant achievement in light of the social disparity between the parties. Finally, even after they had essentially won their cases, it was not always easy for plaintiffs to collect on the damages decreed by the courts, in particular because of offenders' flight, recalcitrance and occasionally death. But after prolonged turmoil – seduction, abandonment and disrepute – and arduous litigation, if they eventually succeeded, as many of the female plaintiffs in this study did, with a monetary award in hand, they could well have recuperated through marriage and/or financial security some of their diminished standing, reputation and honor.

## CONCLUSION

Deceived, seduced and repudiated – much like Don Juan's victims – women became the object of public shame and ridicule. Tainted by failed relationships and disrepute, such women were now unable to marry as well as before. Fortunately for aggrieved women, if the court of public opinion was an implacable adversary, the court of law was there to validate their charges and assist them; essentially, to hold seducers accountable through the legal system. Vizcayan women and their advocates were far from defenseless. They confronted seduction, abandonment and dishonor by turning to the courts for validation of their claims and compensation for their injuries. In sum, victims availed themselves of the legal institutions – one of the few effective weapons of the weak at the time – to right the wrongs inflicted upon them.

Until now, even though much has been written about questions of honor in ancien régime Spain, little has been known about how the specific ways in which lost honor was assessed and recuperated. What exactly was honor to oneself and one's family in Golden Age Spain? Was it an intangible, invaluable and irreplaceable quality for which one fought and died – as in some of the period's literature – or was it a commodity that could be recovered pragmatically without violence? The evidence that emerges from early modern Vizcayan lawsuits involving the crime of estupro strongly indicate the latter. In essence, this study suggests that the loss of female honor and reputation could – and often was – settled through orderly and legal monetary solutions.

Once deceived and disgraced, women were forced to attempt to remedy their situations in order to remain in good communal and social standing. In pursuance of an honorable state, victims and families turned to the justice system for solution to their predicament. They may well have regarded the courts as their most reliable allies in the search for justice – one fundamentally defined in monetary terms. Should they prevail – and most plaintiffs appear to have done so – with such compensation and a dowry to marry, the victims of sexual misconduct could regain some measure of reputation and respectability. In other words, litigation appears to have been the only viable and effective course to women for holding sexual wrongdoers accountable. Women of exceedingly modest social condition, proved determined and resourceful in their quest to overcome the consequences of sexual misconduct. That they eventually prevailed in a patriarchal society speaks volumes about the significance of the early modern Spanish courts for these women, but it also tells us just as much about the women themselves. Without a doubt, they were formidable figures of agency and initiative – independent-minded and fiercely determined. They had to be.

## RESUMEN

### Seducción

Este trabajo examina la seducción, la agresión sexual y la defensa del honor femenino en Vascongadas en la era moderna. Según los resultados de la investigación, después del cortejo o el noviazgo, la seducción se lograba a través de poderosos mecanismos facilitadores e incentivos –promesas de matrimonio, compromisos, matrimonios clandestinos, garantías de remedio financiero y otros subterfugios y engaños– que permitían a las parejas entrar en relaciones sexuales prematrimoniales. Sin embargo, la existencia de estas relaciones, sin el pleno conocimiento y consentimiento de las familias, y sin la bendición oficial de la iglesia, presentaba riesgos sustanciales a las partes. Dicho de manera más directa: en lo mejor y más positivo los casos, la seducción era un paso principal, y a veces decisivo, hacia el matrimonio; en lo peor de los casos, era una trama y engaño para lograr solamente el placer sexual. Pero aún cuando resultaba un mecanismo exitoso para la sexualidad prematrimonial, la seducción podía ser extremadamente disruptiva, exponiendo a sus protagonistas a serias consecuencias sociales, legales y religiosas. Los seductores se veían confrontados con responsabilidades explícitas hacia las mujeres seducidas, y ellas, por su parte, confrontaban siempre la posibilidad de verse abandonadas y deshonradas.

### Abandono y deshonra

Después de la seducción, las reputaciones de las mujeres sufrían cuando los hombres las abandonaban, se negaban a casarse con ellas, se casaban con otras; o bien no les daban compensación por haberlas desflorado, no les ofrecían dinero de dote o no les pagaban la crianza de hijos/as. En estos casos una severa opinión pública se convertía en daño tangible y sustancial contra las mujeres a nivel personal. Es difícil exagerar la importancia de la palabra incumplida de matrimonio y el abandono para las víctimas de la seducción. Después de la desertión estas mujeres sufrían consecuencias sociales considerables: pérdida de honor y posición social, disminución en posibilidades matrimoniales, y reducción en la dote de que podían disponer. Por ello casi toda acusación por estupro especifica la cantidad de daño experimentada por la víctima. La suma, claro esta, estaba condicionada por la severidad –real o imaginada– del daño a la reputación y posibilidad matrimonial de la mujer. En otras palabras, se puede afirmar que el daño al buen nombre y fama de una mujer se debía más al fracaso matrimonial y al abandono que a la pérdida de castidad y acusación de promiscuidad. De hecho, habiendo sido burlada, seducida, a veces impregnada, y después repudiada, una mujer se convertía en objeto de desprecio, humillación e insultos públicos. Y ahora claramente notada en la comunidad por una relación fracasada, la víctima no se podía casar tan bien como lo podría haber hecho antes. En suma, tal situación afectaba seriamente la estrategia matrimonial de la mujer, tanto con el acusado como con otros posibles maridos. Es claro también que una situación como esta asimismo comprometía cuidadosos planes

y alianzas familiares. Afortunadamente para estas mujeres injuriadas, si la opinión pública era siempre una enemiga implacable, la ley estaba presente para legitimar sus reclamos y a la vez asistirles a solucionar sus dilemas.

### **Coacción y violencia**

Sería erróneo inferir que la seducción era o se llevaba a cabo generalmente sin violencia, o bien con pleno consentimiento femenino. Por el contrario, numerosos pleitos de estupro contienen elementos inequívocos de amenazas, intimidación, insultos y acosos verbales; mientras que otros incluyen instancias explícitas de violencia y agresión física así bien antes como durante los actos sexuales. Algunos casos también incluyen el rapto –a veces por fuerza– y traslado de la víctima para fines sexuales. Importantes factores socioeconómicos funcionaban como elementos coactivos en el contexto de las relaciones sexuales: condición y estado de las víctimas, presión financiera y social, e incentivos monetarios o de otros tipos. Por ello, las sirvientas, las mujeres pobres y las viudas en particular eran frecuentemente las víctimas sexuales de hombres de rango socioeconómico superior. En suma, este trabajo alega que numerosas seducciones estaban sumamente imbuidas de elementos ambiguos y contradictorios de cortejo, promesa matrimonial, consentimiento, coacción y violencia.

### **Fuerza y agresión sexual**

Aproximadamente la tercera parte de todos los pleitos de estupro contienen referencias explícitas del uso de fuerza y violencia contra las víctimas. Sin embargo, de estos pleitos, solamente una docena de ellos nos brindan referencias explícitas o descripciones detalladas de los ataques. Es decir que la vasta mayoría de las alusiones tiene que ver con el uso general y concepto de *fuerza*, así como de términos relacionados (*forzó*, *forzar*, *forzado*, *forciblemente*, etc.). De los doce pleitos con detalles específicos del asalto, significativamente, siete incluyen el acto de cubrir la boca de la víctima con la mano o con prenda de ropa durante la agresión sexual. Aún así, estos mismos casos ofrecen poquísima información concreta más allá de informarnos que la víctima había sido sofocada, derribada, agarrada o apretada. De la misma manera que los pleitos no contienen descripciones específicas de actos sexuales, solamente una mujer indica en su acusación que el atacante trató de desvestirla. En gran parte, por lo tanto, los actos sexuales –con consentimiento o con coacción– no requirían descripciones físicas detalladas en las acusaciones, sino que eran simplemente postulados con formulas legales y expresiones tradicionales: e.g., “la gozó”, “la estupro”, “tubo acceso y cópula”, “la conoció carnalmente”, etc. En suma, muchas seducciones en Vizcaya incluían considerable coacción y violencia contra las mujeres. La coacción verbal frecuentemente se utilizaba para intimidar a las mujeres y someterlas a la voluntad masculina (así como para silenciarlas después). Y la fuerza se ejercía para vencer la resistencia femenina, aunque generalmente se usaba solamente como último recurso cuando fallaban otros métodos de seducción.



## **Litigando el honor femenino**

Es comprensible que algunas víctimas aceptaran pasivamente su situación y destino; aunque burladas, seducidas y repudiadas, tales mujeres se convertían en objetos de vergüenza y ridículo público. Marcadas por la adversidad y mala fama, ahora no podrían contraer matrimonios favorables. Sin embargo, otras mujeres y sus familias se negaban a aceptar su situación, y decidían luchar por sus derechos y su honor. Afortunadamente para ellas, si la corte de la opinión pública siempre les era desfavorable, la ley las favorecería y ayudaría. Concretamente, la justicia haría responsable a los seductores a través del proceso legal. Por ello las víctimas vizcainas de estupro no eran indefensas. Conjuntamente, ellas y sus defensores confrontaron la seducción, el abandono y la deshonor a través de las cortes de justicia para legitimar sus agravios y así obtener compensación por los daños incurridos. De esta manera las víctimas hicieron pleno uso de instituciones legales –de las pocas armas efectivas de las débiles de la época– para rectificar los ultrajes e injusticias contra ellas y recobrar su honor.

Hasta ahora, aunque se ha escrito mucho sobre cuestiones de honor en el antiguo régimen español, poco se sabe sobre las maneras concretas de como se valoraba y recuperaba el honor perdido. Que era exactamente el honor individual y familiar durante la era moderna en España? Era algo intangible e irremplazable, y por lo que se luchaba y moría –como en gran parte de la literatura de la época– o era una especie de mercancía que se podía recuperar pragmáticamente y sin violencia? La evidencia que emerge de estos pleitos claramente apunta en la segunda dirección. Esencialmente, este estudio indica que la pérdida del honor femenino se podía resolver a través de ordenadas soluciones legales. Una vez engañadas y difamadas, las mujeres en cuestión se veían obligadas a remediar sus situaciones precarias para mantener su buena reputación social ante la comunidad. En búsqueda de un estado honrado, las víctimas y sus familias se apoyaron en el sistema de justicia para solucionar sus apuros y dificultades. Era una búsqueda, la verdad sea dicha, que se definía fundamentalmente en términos monetarios. Pero de ganar los pleitos –y la inmensa mayoría de las acusantes parecen haberlo hecho en los casos consultados– con compensación financiera y dote para casarse, las víctimas de conducta sexual ilícita podían recuperar alguna medida de su reputación y honor. En otras palabras, el litigio parece haber sido el curso de acción más viable y efectivo para estas mujeres, sus familias, y partidarios. Mujeres de condición muy modesta demostraron enorme determinación ante la justicia para superar las consecuencias de sus predicamentos. Que muchas de ellas triunfaran en una sociedad patriarcal dice bastante sobre la importancia de las cortes de ley modernas para estas mujeres, pero asimismo dice bastante sobre estas protagonistas. Sin duda alguna, fueron formidables figuras de agencia e iniciativa –independientes y ferozmente decididas. Tenían que serlo.