Legal Constructions of Gender and Violence against Women in Puerto Rico under Spanish Rule, 1860–1895

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The study of changing legal conceptions over time, as they manifest themselves in the day-to-day practice of the courts, has proven to be one of the most rewarding, albeit arduous, areas of inquiry in law history. Court records provide unique insights into an otherwise invisible flow of legal understandings in the past and into common people's sharing or contesting those views. This article, based on the court records of domestic violence and rape in the Arecibo Superior Court from 1860–1895, permits revealing insights into the ways in which these offenses were shaped, as legal concepts, and into magistrates' and common people's constructions of gender. It studies criminal law administration in the Arecibo region and its connections to women. The Arecibo judicial district included nine municipalities on the northern coast and interior of Puerto Rico. Its records comprise a collection of thousands of handwritten documents left in extremely fragile state by humidity and poor conservation. They constitute a very large sample of the judicial work in the region.1

By observing judicial dynamics of dissent and its nuances, this article builds upon the idea that the criminal law is a terrain of negotiations. It also touches upon the study of changing patriarchal notions in Western societies and their precise daily expressions. Three arguments guide the exposition of cases that follows. First, the criminal law on questions related to women was not a fixed set of rulings, but a fluid and negotiated reference. The succession of disputed truth establishing processes that preceded magistrates' verdicts turned courts, as Martin Wiener put it, into "arenas where competing narratives were at play."2 The processes of investigation, interrogation, profiling of the accused and the victims, medical exams, all constituted moments of dispute. Domestic violence and rape as criminal offenses were changing concepts under the influence of the also changing and disputed notions of gender. Second, the modernizing impulse that permeated nineteenth-century judicial narratives (seen in depositions, rulings, and actions) attempted to refine ideals of patriarchy by domesticating male behavior, but was basically bound by the belief in male privilege.3 Finally, women participated by introducing their own narratives into the general arena of debates and definitions. Women's actions in approaching the law are eloquent. Some women were attracted by the promise of modern domesticity; others sought means to fight against coercion, but the law fell consistently short of their expectations.

The Spanish Colonial Setting

The nineteenth century was an important formative period of Puerto Rico's legal history. Some useful general works are available, though not much else has been written about any of its aspects in detail. Very little is known about the day-to-day workings of criminal justice in that time.4 In the
context of the crucial economic and social changes that the island underwent during that century, and of the modernizing institutional reforms of Spanish colonialism, new understandings of the criminal were operating. These have never been studied, in part because few researchers have engaged in systematic research of court records. Some of these understandings, related to notions of the masculine and the feminine, are explored in this article.

The nineteenth century saw the creation of an island-wide judicial structure centered on the appellate court of the Audiencia Territorial in San Juan and several criminal district courts. The period with which this study is concerned was that of the introduction of the Spanish Penal Code of 1870, which was reformed in 1876 and reformed again for its application to Cuba and Puerto Rico in 1879. The codes provided uniform penalties and guided the magistrates' rulings, which along with uniform procedures and rational application of the rule of evidence contributed to modernize the criminal court system, though in the nineteenth century older and newer legal conceptions and practices frequently overlapped. At the same time, the formation of a professional and militarized local police corps and the Civil Guard, which in 1869 replaced the militia based on draft by lottery, improved law enforcement. Some of the old institutions were still at play, but their performance, as discussed below, was driven to comply with the trends of the times. In the urban and rural barrios, the comisario, or councilman in charge of public order and general compliance with the law, and his aids, were in tune with the state's goals. They frequently had personal acquaintance of the people under their surveillance; they reported transgressions and were a valuable tool at the service of the colonial state. This Spanish legal framework molded the island's progression into capitalist export agriculture (based on sugar plantations and coffee farms), the incorporation of the descendents of landholding families into the landless day labor force, and the transition of one-fourth of the island working class that had been bonded by slavery to wage labor. The Spanish institutions framed the formation of elites of landowners, merchants, professionals, and intellectuals during a period of modernizing rule, which lasted roughly until 1895, when the Cuban war of independence broke out and marked the beginning of its demise.

This whole structure was headed mostly by men, though working-class women formed part of the wage laboring population or worked in the household. There was a long tradition of intervention of the Spanish law in domestic and women-related conflicts, largely enhanced by eighteenth-century Bourbon reforms, a highly gendered set of dispositions attempting to control the family, the basic productive unit of society, and redirect it to comply with the state's goals. The Spanish state had tried to improve its ability to rationally direct the lives of the governed into a productive existence, in tune with the goals of general economic growth, military power, and realization of enlightened beliefs. The turn from the eighteenth to the nineteenth centuries were troubled and uncertain years for Spanish reformism that culminated in the loss of most of the empire and the crisis of absolutism. But the modernizing trends continued in the Puerto Rican and Cuban Spanish colonial settings throughout the nineteenth century, not unlike the transitions deployed in the independent Spanish American republics. The process increasingly took the form of expanded law enforcement and redefinition of criminal action to encompass quotidian popular actions (such as petty theft, male fighting, and varied sexual practices) previously overlooked or treated leniently. Several family related and sexual "crimes" became specific targets of police control.

At the same time, the island of Puerto Rico underwent a demographic explosion, and the "frontier" constantly moving toward the rural barrios, which characterized the agro-exporting expansion, made previous and traditional Spanish judicial instances insufficient and mostly inaccessible. Only the city-ports along the island coastal fringe and the towns cores of the interior (most of them product of the eighteenth-century reformism) had been fully integrated into the formal judicial system. Further social control began to be desirable in the context of formal economic growth and the need for laborers. Thus, the penetration of court authorities organized after the mid-nineteenth century into the rural areas was largely a "new" event that overlapped with
and supplanting the local practice of solving domestic disputes with the intervention of the male members of the family. These family ties had been partially superseded, particularly among independent urban working-class women (such as laundresses and cooks) who did not have access to extended family networks. Other women did have access to the old networks, but challenged them by choosing to report domestic offenses to the law, or the law intervened on the request of neighbors or witnesses. This article concentrates on the observation of women's actions, of the judicial procedures, and of the constructions of gender that men, women, and magistrates performed.9

Gender, Violence, and the Law

Many independent working-class women in nineteenth-century Puerto Rico did not marry. In 1869 almost half of the couples registered in the island's census shared households out of wedlock.10 By mid century, the colonial government engaged in a major campaign to curtail vagrancy and promote marriage among unmarried couples. The San Juan government ordered the creation of municipal boards headed by the councilmen and by church members that would systematically supervise households and impose compliance with the law on this matter. The sheer dimensions of the problem seemingly overwhelmed them. The issue received increasingly less attention, possibly because the need of mobility among the working class made advisable the loose ties of working-class couples. It was desirable that male workers could move freely from the coast to the hinterland in search of work, especially after the 1870s when the sugar economy of the coastal regions went into crisis causing unemployment or underemployment, while the coffee export economy developed in the mountainous interior.11 Some court records show that men and some women workers lived part of the year in the coast and part of the year harvesting coffee in the interior. The colonial state stopped promoting marriage, and most of the disciplinary discourse of the elites centered on work habits, education, and vice control, but not specifically on marriage. Also, consensual unions allowed an easier way out of an unsuccessful marriage, in the face of the enormous difficulties for obtaining legal separation, not to mention ecclesiastical divorce. The tendency continued, to judge from the 1899 observations of North American General George W. Davis on marriage practices in Puerto Rico, that women preferred to remain able to abandon a violent companion if necessary: "The women prefer the looser tie that they may be able to lose the man if he treats her unkindly, yet they are not licentious."12 In 1902, after Puerto Rico passed to the U.S., legislators promulgated the law permitting court divorce in Puerto Rico, as part of the reform of the Civil Code. As Eileen Findlay has argued, this law was, paradoxically, part of the U.S. colonial state's attempt at safeguarding the patriarchal family model.13

The fact that a large part of the female working class remained single in the nineteenth century did not imply that they were not limited by the generally prevailing ideas of male domination, though not one single set of rules of behavior was available. Eileen Findlay has studied the honorability standards, the contested and, at the same time, shared meanings of honorable behavior concerning women's sexuality. These were a set of constantly broken rules of patriarchy, as seen in the frequent practice of consensual union. The key element of traditional patriarchy that is violence is still seen in this excellent and multilayered book subsumed within the workings of the "patriarchal pact" and its negotiations.14 The specific notions of the masculine that harbor violent behavior, the contestations that women individually present and their limits, and the connections of these actions to the judicial establishment deserve attention. Thus, the question of how effective women's agency actually was constitutes an intriguing inquiry still today. This article attempts to contribute to this topic a better understanding of social tensions and the important role of gender.

In particular, the focus is the day-to-day violence that operated many times as a statement of male privilege in controlling the bodies of women. The workings of domestic violence have been
addressed in several studies based on the interrogation of Spanish American state and ecclesiastical court records, especially those of divorce (in colonial Mexico, in nineteenth-century Costa Rica), to present women's resistance and the forms of intervention of the church or the state in family conflicts. In general, these works have not observed the nuances of judicial dynamics of dissent and the ritual procedures through which magistrates attempt to establish truth about the men and women involved in the court cases. Such an approach is more frequent, for example, in works dealing with some regions of the U.S. that touch upon the legal definitions of rape and the complexities of the rational truth-building processes.

The historical approach to violence against women helps penetrate a still obscure area of feminist reflection. I share Heidi Tinsman's concern about the need to gain more specific understanding of patriarchy and the particular mechanisms that sanction its reproduction. Tinsman sees men's authority over women, and the gendering of politics, as a manifestation of specific understandings of sexuality. The fundamental site of male power is constituted by sexual meanings and practices, by ideas of the sensuous body and women's sexuality. The reproduction of domesticity principles, and their becoming the basis of the modern nation-state, rests on the gendered bodies of men and women. The reproduction of these ideals cannot be reduced to a concerted effort or a coherent state-led campaign to promote capitalism, but receives impulse from an infinite number of individual relationships in which men and women participate. The state control over displays of bodily strength of nineteenth-century Puerto Rico that attracted my attention conveys precisely that message of individual men claiming possession of women and women participating in varied ways, and constitute individual sites of reproduction. The state representatives make use of the opportunity of control provided by individuals in conflict, by the modernizing legal framework, and growing local support for a more "civilized" patriarchal arrangement.

During the nineteenth century, a series of discussions about the extension of values of family, love, and domesticity to working-class households took place, in consonance with the fast expansion of labor markets. The rise of romantic love as the basis of marriage, which in turn came to be based on freer choices of young men and women, affected the terms in which the domestic patriarchal pact was conceived. The way the body and physical coercion or injury was experienced by participants and conceptualized in judicial spheres was also partly related to cultural aspects, and the ruptures toward utilitarian and individualist forms of thinking the body underlie the tensions explored in this work. Attitudes toward violence changed over time. Nineteenth-century notions of modern domesticity entailed principles of love and male possession of women's bodies with subtler, albeit powerful, means.

The colonial dimensions of the problems here studied are also important. The Spanish legal framework was becoming part of the lives of the people and the gendered terms of the new structure were penetrating men and women's subjectivities. By going to the law to settle domestic questions, or when the law approached homes and intervened adopting a solicitous attitude of protection, women unleashed a process of insertion in the Spanish legal establishment. Women had opportunities to express their viewpoints, but their statements were literally overpowered by a complex network of rational truth-building processes, at the end of which state surveillance of the household was much more overhauled than women's status.

The question of racial hierarchy is also implicit in the fact that the judicial establishment, composed of male Spanish or Creole magistrates and personnel, and most of the police, shared white male identity. We know that in nineteenth-century Puerto Rico plebeians were generally darker, while the elites tended to be lighter. Thus, the role of the law in shaping colonial subjects underlies this inquiry on women's attempts to escape individual coercion and the terms of their transition to state-controlled forms of subordination. Judges approached the ruling of the cases here
studied with an evident sense of duty, in punctilious and impeccable fulfillment of procedural rules. The processes were a sort of mission for directing men and women into civilized domesticity.\textsuperscript{23}

At stake in this argument is our understanding of changing patriarchal notions in Western societies and the precise manners in which this was manifested on a daily basis, at the level of the common people. The particular colonial setting explored in this article was developing a competitive export agrarian economy and in need of a disciplined labor force organized with rationally distributed gender roles. But no single-minded pursuit of goals is evident. Instead, there appears a negotiated process in which the jurists, the police personnel, and the common men and women participate.\textsuperscript{24}

There were tensions in the colonial judicial system. It reformed the most glaringly abusive domestic patriarchal arrangements and tightened state control over subjects. But it also upheld the principle of male authority over women. At the same time, married and nonmarried women were interested in securing their individual bodily integrity, a process that ran parallel with the generalization of freer practices in marriage choice (especially elopement), and the proliferation of female-headed households.\textsuperscript{25} Women had been acquiring (or sometimes forcefully grabbing from the system) greater capacity to choose a partner, but their ability to use the law on their behalf in matters of violence was limited. That women were possibly aware of this lack of judicial support explains the relatively few reports (relative to other forms of violence and legal offenses) that appear on the court records of the time. Ultimately, the state's protective role vis-à-vis local women strengthened state power and made a supervised patriarchal hierarchy viable.\textsuperscript{26} The Spanish criminal law remained blatantly unreformed in its most extreme gender-biased regulations. For instance, it condoned a husband killing his wife and her lover caught in the act of adultery.\textsuperscript{27} The state could, however, use the opportunity of protecting women to tighten authority over men and the household.

**Legal Discourse and Domestic Violence**

One night in May 1880, when a night guard of the city of Arecibo passed by the streets of Santa Isabel and Cristóbal Colón, some residents called to his attention that a woman was being beaten in a house nearby. It was the house of José Morales \textit{alias} Francés, a thirty-five-year-old painter, born in Yabucoa, described as brown colored, illiterate, and an illegitimate son of Catalina. The scribe noted with the usual punctiliousness the scene of the event as narrated by the guard. When he went inside the house, he saw blood spots on the floor and Morales's wife, Hipólita Ocasio, a laundress, described as "around twenty years old, brown-colored, sitting on a red bunk-bed, wearing a yellow dress," with a two-inches wound on her forehead and contusions on her arms. The guard locked Morales up in the town jail. Meanwhile, Hipólita was summarily questioned and she explained that around eight in the evening, her husband having left the house, she went with two girl friends from the neighborhood to bathe at the river. When she returned about fifteen minutes later, her husband was waiting for her and asked where she came from. When she answered, he started to beat her up with an umbrella, causing the injuries she had on her face and arms.

The neighbors of the vicinity played a decisive role in this case by requesting the intervention of the urban guard.\textsuperscript{28} The medical doctors Cayetano Coll\textsuperscript{y} Toste and Rafael del Valle made another decisive ruling, for they certified that the wound was dangerous because of its location. This meant that José Morales remained in jail until it could be determined if the wound was to be classified as a major offense (\textit{lesiones graves}). He was meanwhile interrogated and explained to the police that he hit his wife "because she was unfaithful." He was convinced of her disloyalty and, knowing that in the evenings she went out, he returned that night shortly after leaving to surprise her.

The case of Hipólita Ocasio stimulated a debate on the different meanings of domestic violence and exposed diverse constructions of gender. The law did not represent itself as a static framework, but as an arena of tensions and negotiations. This is seen in the magistrates' divergent interpretations
of the seriousness of the occurrence and its circumstances. The defense lawyers, José Manuel Rossy and Joaquin de Torres, alleged the husband's beating was justified because the wife had "abandoned the house in the night without permission from her husband." In the face of this act of disobedience, Morales had beaten Hipólita "with the first thing he could grab in his hands," thus implying the beating was an act of passion. They requested exoneration of criminal charges. The judge dictated a sentence of one month of "major arrest" corresponding to an offense classified as "minor injury" (lesiones leves). Medical doctors confirmed in their reports the "dangerous" nature of the wound, a word that implied that even when the accused was fortunate enough not to cause great damage, the wife had been seriously endangered. The prosecutor questioned the interpretations of the lawyers and the sentence dictated by the judge. The disagreement was recorded and the case was sent to the San Juan appellate court of the Audiencia Territorial, where it was presented on October 5 of the same year. The Audiencia corrected the Arecibo judge's decision, raising the sentence to two months of arrest. The supreme judges justified their decision on the grounds of two special circumstances. For one part, as the Arecibo judge had initially interpreted, the wife had been disobedient because she had gone out of the house without the husband's permission. Consequently, Morales was behaving under the extenuating circumstance recognized in the Penal Code of having committed the act under "stimuli provoking passion and confusion" (con arrebato y obseccación, a sort of irresistible impulse). This was the idea initially invoked by the Arecibo judge to justify the sentence given the husband. But the superior court also thought that, because the offended was the wife and this constituted an aggravating circumstance, the circumstantial allegations "rationally cancelled each other." The subtleties debated in this case are revealing. There were evident uncertainties on the legal condition of domestic violence. The fact that the battered person was the wife was considered an aggravation of the common offense of injuries, or lesiones. But the circumstance of "passion and confusion" (caused by jealousy or by the wife's act of disobedience) systematically eliminated that aggravation. Thus, domestic violence was being judged in parity to any other case of injury. The matter was not fully transparent at the time. One side of the disputed territory is seen in the commentaries of the jurist Viada y Vilaseca to the Spanish Penal Code of 1870. The jurist commented on article 603 constituting the aggravated circumstance whenever the injured person was the wife, explaining that even when the husband caused minor bodily damage, the severest punishment had to be given:  

... the law cannot but qualify and repress with a slightly higher sentence ... for in committing that offense the husband not only disregards the general duty of respecting his fellowmen, but the highly special obligation imposed by the law of protecting his consort (Art. 45 of that of the Civil Marriage). It should be noted that this offense cannot in any case be prosecuted but in demand exclusively of the offended wife.

The question debated is the special protection due to women in the domestic sphere, if they requested it. This tendency is part of a larger current of thought promoting the adoption of the nineteenth-century modern patriarchal family based in love and mutual support among working-class couples. In Spanish criminal law the asymmetric relation of husband and wife had been the norm. The husband ruled and punished the wife if she disobeyed, for she was part of the domestic property. This principle was ratified in the Penal Code of 1822, Spain's first modern criminal law. In this code the bias had remained clearly against women, for marriage appeared as an extenuating circumstance when the husband injured his wife, and as an aggravating circumstance when the wife injured the husband. In the Penal Code of 1870, as interpreted by jurist Viada y Vilaseca, humanitarian currents prevailed, and the ideals of modern domesticity tended to specially protect the wife. The domestic sphere remained inaccessible and private unless the wife demanded protection or decided to report the violent excesses of her husband. The multiple contested angles of
the modern narratives of the time are evident, for the recent trends among English specialists of the criminal law turned toward granting value to "irresistible impulses" as a condition affecting criminal responsibility. The newer authorities competing with jurists in this definitional contest were the medical doctors uncovering the secret workings of the human mind and conceding the weakening of individual autonomy under the pressures of passionate states of mind. The circumstance was applied (arrebato y obcecación), as seen in the Morales vs. Ocasio case, to the impulses driving jealous husbands.

The Morales vs. Ocasio case's allegations reveal that the husband's control over the wife's mobility was considered fair, though his authority was conditioned by the duty to use persuasive mechanisms and not brutal force. This is precisely the prerogative Morales alleged he attempted to safeguard by disciplining his "disobedient" wife, though it was evident that the punishment got out of hand. The wife's unfaithfulness was stated and taken as true, the only evidence being the husband's word of her nocturnal outings. The gendered nature of the ruling appears in a variety of instances. The judge did not hesitate at considering "passion and confusion" an extenuating circumstance, even when Morales planned the event and sat at home waiting to surprise her when she returned. The extenuating circumstance was never applied in cases of equally strong impulses, and even more intense violence, that frequently took place in fights among men in the township of Arecibo. Hipólita contemplated alternative thinking on the question of the adequate conduct for married men and women; her husband's customary absences left her free to go out of her home at night as she pleased. Her disregard for the double standard would be punished. Although it was not Hipólita who asked for help from the local guards but the neighbors, her challenge forced the judicial establishment into the contested arena. From the point of view of state power, the sequence of debate itself created a series of valuable instances for intervention, from the opportunity to subdue a local patriarch, to the possibility of defining a woman's role and condoning men's claims of control over women's bodies.

Wife beating as a reported crime was, in the thirty-five years of judicial records examined and throughout most of the twentieth century, relatively rare. The number of cases registered for the time span studied (1860–1895) is twenty-four, which is a very low number compared to other offenses such as assault and injuries among men and theft. Three grave passion crimes against women were also reported. Scarce reporting of milder types of violence was not necessarily the result of lack of access to authorities. The police force, the Civil Guard, and other authorities were becoming very present and accessible in the lives of the rural and urban communities at that time. On the streets of the larger towns, urban guards were keeping day and night vigilance. Rather than suggesting the nonexistence of domestic violence, scanty reports point to the fact that it was accepted as a part of "normal" couple relations, though it was arousing interest among Spanish jurists and members of the colonial judicial establishment (suggested in the discussions described above). Women possibly sought "private" means of negotiation and lacked expectations of judicial support within the existing gender relational framework. Even so, the new legal concern encouraged reporting on the part of bystanders (as seen in the case above) or offered some local abused women an opportunity to dissent, complain, and possibly relieve a long standing wish for revenge (as discussed below).

That domestic violence was seen as a normal part of daily life appears in the report written by the comisario Esteban Ríos in the town of Ciales. At six in the morning, Dionisia Rivera came to report that her husband Miguel Cruzado had hit her. The comisario described the case in a detached and perfunctory manner:

... this morning in the house she took a penny out of her husband's pocket to buy milk for the little ones while the husband went out and he came back angry cursing her mother and asking her to return the penny, she threw it to him on the street, immediately he came into the house and she was given her share of battery.
The phrase "her share of battery" (su porción de golpes) assumes the beating was appropriate and deserved by her. When the case reached the local court, the negotiations began. The prosecutor valued Cruzado's testimony based on the patriarchal notion that he had acted with deep sense of duty as head of family. Cruzado had declared that he was returning into the house "to spank one of the little children that was crying," but Dionisia "jumped over him, tore his shirt up, insulting him with bad words." Cruzado pushed her and she fell, continues the prosecutor; consequently, "the husband only intended to punish the little one" and "had the need to push her apart," causing the wounds she had. The judge reduced the case to the condition of verbal hearing and sent it to the justice of peace. This decision was made based on the medical report, a decisive stance that established the insignificance of the wound, on account of a healing process of less than ten days. Even so, Dionisia's participation in the system must not be underestimated, for in reporting her husband's violence as a legal offense she had forced magistrates into the contested legal territory of wife punishing. Her challenge was met first by highlighting the intention of the husband as a father to punish his children, a "right" that remained virtually uncontested. The offense of hitting the wife, defined out of its gendered-relational and habitual context of physical abuse, turned into a negligible misdemeanor.

Although some women reported cases of domestic violence, this was far from the norm. The case of Nicomedes Valentin and her husband Santos Ravelo is similarly revealing. Nicomedes was fortunate enough to be neighbor to Abelardo Rubio, comisario of barrio Palmares, Arecibo. One morning of 1878 her husband, a tobacco maker described as white and illiterate, appeared on the kitchen door after five days of absence. He ordered her to prepare coffee for him and shortly after he "knocked the bread and coffee over ... trying to beat her." Nicomedes ran toward the house of the comisario with her husband following and hitting her. Santos Ravelo threatened the comisario as he approached to help Nicomedes and ran away. The comisario reported the event and explained the context of the case. He stated that he had had "plenty of occasions to learn about the continuous suffering" that Ravelo was causing his wife Nicomedes. The comisario's simple testimony took the case into the context of recurrent abuse and stated the modern ideals of the patriarchal family in harmony and companionship. The husband's declaration is also paradigmatic, for he turned to the traditional argument of the obedience due by the wife to the husband, alleging Nicomedes had not "prepared the coffee the way he ordered her to make it." Because the injuries were not serious, according to the criterion of the number of days needed for healing, the district judge reduced the crime to misdemeanor and sent the record to the justice of peace.

The case of the cigar maker Santos Ravelo developed further complications, which placed it finally in the hands of the supreme court of the Audiencia Territorial in San Juan. Ravelo had been six times in jail, and on one of those occasions, he had been detained accused of "hostile manifestations against Spain." On that occasion, the Audiencia had suspended the sentence of one year in prison determined by the local judge, changing the category of the offense to falta or misdemeanor and thus placing the case under the jurisdiction of the justice of peace, who in turn absolved him. Because of these antecedents, Cruzado's new record on lesiones was sent to the Audiencia for revision. The superior court was less interested in the crime of lesiones against his wife than in the crime of resistance to authority, which the local judge had omitted. The Audiencia thus changed the hearing from a misdemeanor consisting of lesiones against his wife to the far more serious offense of disobedience to authority. The judge thus sentenced Santos Ravelo to two months in jail. Crimes against the authority were considered graver than those against other persons.

In general, the judicial establishment expected the principle of obedience to articulate power relations not only in the domestic realm but in the community as a whole. Women resisting male violence had to proceed with caution in order not to be considered a threat to the public peace. This conception can be observed in the outcomes of two complex cases involving the laundress Eduviges...
Venzo. In 1870 she went to the urban guard of the Moserrate barrio in the town of Manatí, around nine in the evening, to report that her husband Simón Collazo had hit her three times on the head with a broomstick. She presented the stick to the guard and the injuries on her head. The guard described Eduviges as a dark woman, described her contusions, and stated that the husband had hit her because he suspected she was unfaithful. Eduviges's story is complex. Collazo's suspicions had intensified that evening when he came home after work and asked her to come with him to the nearby town of Vega Baja to make some errands. She refused to accompany him because she had fever and wanted to go to bed early. He was upset, and "knowing his bad temper" she tried to calm him down to no avail. Collazo began to insult her, "classifying her as a whore," hitting her on the head with the broomstick, and leaving the house on his horse.

According to the official medical report, Eduviges's wounds healed in less than ten days, which was the minimum time span required by law for the case to be seen in the district court. Thus, the judge sent the record to the justice of the peace for a verbal hearing. Eduviges Venzo and Simón Collazo went to the verbal hearing when summoned for the third time, and there Collazo argued he had hit Eduviges because he was drunk, possibly attempting to get an extenuating circumstance of confusion in his favor. But he was not lucky. The judge sentenced him to twenty-four days in jail with the warning that if he repeated such behavior "he would be treated with further rigor," an interesting decision that denotes a wish to keep an eye on continuous abuse.44

Simón Collazo did repeat that behavior and found himself again in front of another judge in 1876, accused of having beaten his wife Eduviges Venzo. This time the couple had moved back near their place of birth in a rural barrio of the town of Morovis. After the beating she went to the comisario who sent her with an escort to her father's house. Shortly after, the comisario arrived to take Eduvige's declaration. She began her narration with a long prelude describing the detailed circumstances of the occurrence. That day her husband had gone to work to the estate of Gregorio Tirado, leaving her at home with only two dried fish and some beans. She fed their two children and skipped breakfast herself because she wanted to trade one fish that was left for a quart of corn in the house of her brother-in-law. This long story suggests Eduviges was trying to show her husband was a bad provider, surely knowing that this would keep authorities on her side because of the great importance given to the husband's role of breadwinner.45

Eduviges continued her story, explaining that having obtained corn, she needed to have it ground in the house of neighbor José Tirado. Later that afternoon, when her husband returned home from work, she fed him the corn she had prepared for him. The following morning, when her husband went to have coffee at his father's house, the old man told him that Eduviges had been seen yesterday in the house of José Tirado, "with whom she is most likely having an affair." Her predisposed husband returned home and hit her with a stick, while the father-in-law watched the beating from afar and shouted his son to "hit her hard."46 Her husband's brothers arrived to calm him down and tried to stop her from going to the comisario to report the beating. But she waited until they were all gone and came to report it.

It is interesting to note that the comisario questioned her about her relationship to José Tirado, surely searching for extenuating circumstances for the husband's behavior. She denied having any affair with Tirado and made clear that the day she went to grind the corn he was absent from the house. When summoned to testify, José Tirado reconfirmed that he was "away from home working and when he came back his family told him that the Venzo woman had been there to grind some corn." The father-in-law denied having witnessed the incident, in contradiction to Eduviges's declaration that he was encouraging his son to hit her harder. He allegedly learned about it later, when one of his other sons told him that Simón had "given a few punches to his wife." The demeaning expression seems to want to suggest that men considered this a frequent happening.

Simón Collazo's declaration follows the usual pattern of emphasizing the wife's disobedience and careless behavior. He stated that he frequently found himself in the predicament of having to
punish her, "as it occurred yesterday." The scribe took note of his testimony as follows:

He gave her a few blows because of her bad manners and haughtiness in everything, she puts him in the situation of punishing her, and it should be clear that her quarrels come from very far back, for they have been married for eleven years and she has never showed respect to him, on the contrary it occurs frequently that she tries to hit him and responds to his fight with a kind of [illegible] a man would do.

Simón Collazo was questioned about his work, a usual judicial procedure that established the profile of the accused. He passed the test, answering that he went sometimes to work at the sugar plantation Monserrate in Manatí, though other days he stayed to work nearby and had also invested a large amount of time in building his own house in the landed property of his father. Thus the law was persuaded that he was not a bad husband.

This case is particularly valuable because it reveals the workings of the traditional patriarchal and extended family still valued by the men of the family as the site of conflict resolution within the community order. The gentle intervention of the brothers-in-law calming and persuasively ordering Eduviges not to report the beating to the comisario is an instance of its functions. In this case, however, the woman was not willing to accept the dictates of the brothers-in-law. Eduviges was an independent woman; she had been a laundress when the couple used to live in a neighboring coastal town (see above), though now, in the rural setting, she seemingly depended on her husband's earnings. In spite of this, she rejected the family verdict and even denounced the father-in-law's intervention in the process of her punishment. Her challenge to that model met an indecisive support of the local authorities, which is illustrated in the following denouement.

The district judge reduced the case to a misdemeanor for the wounds had not been serious. Simón Collazo and Eduviges Venzo found themselves again in front of a justice of the peace, who closed the hearing with strong reprimands for Collazo. The judge reproached Collazo that he had hit his wife, not with his fists, as he had untruthfully declared, but with the flat side of a machete. For this reason, it was appropriate for her to bring the complaint to the authority. The judge thus assumed that other types of lesser blows with the plain hands would have been more admissible. Collazo's mistake was that of exceeding the punishment due to the wife, and it cost him a fine of ten pesetas. Eduviges Venzo, from her side of the bench, had to listen to the caballero síndico, or representative of the people in this kind of proceedings, admonish her to "abstain from any kind of provocation to her husband." Both husband and wife were considered guilty of "disorder" and reprimanded for it. The judge defined this recurrent situation of domestic violence as a problem of public order, resulting in part from the stubborn behavior of the beaten woman.47 Thus, the question of the general order of the community prevailed in this case, in clear contestation to the ruling of the judge that had seen the Collazo-Venzo's first court appearance back in 1870.48 By 1876, in the midst of a stringent conservative comeback after the intense political agitation of the liberal period (1868–1873), public order was a greater concern for authorities than the domestic complaints of battered women.

There is a similarly complex reshuffling of priorities in the case of the beating of Tiburcia Rosado on October 27, 1860. Her brother and neighbor reported Tiburcia, in her last month of pregnancy, had been beaten by her husband Juan de Dios Sosa, a thirty-four-year-old tailor from Hatillo, described as the white, legitimate son of white parents. The comisario's first reaction seeing the pregnant woman covered with blood was to go after Sosa and put him immediately in jail. However, the interrogation of the sisters of the beaten wife, more interested in securing their sibling's economic well being, began to work on behalf of the husband. One sister who lived in the adjacent house was asked if Sosa had beaten his wife before. She answered that even when they sometimes had "disagreements" the consequences had never been as serious as this time. When asked if Sosa was a good provider, she answered that sometimes they lacked food because of poverty, but that Sosa was a hard-working man. Testimonies began to place Sosa under a different
light.

The rigorous deployment of the legal procedure eroded the merits of the beaten wife's declarations. Tiburcia declared that her husband beat her with the hands, the feet, and, finally, with a stone, an unlikely event suggesting the wife tried to incriminate the husband, knowing that the law was lenient when husbands used only the hands to punish their wives. The quarrel had occurred because she tried to stop him from spanking the children who were crying for their meal. Since she was cooking in front of the stove, she threw hot water on him, and he began to hit her on the face. Tiburcia's condition of housewife performing socially undervalued tasks of childcare and housework did not help her in winning the consideration her husband could command. At the same time that Tiburcia was examined, the neighbors were being asked about Sosa's behavior in the community, which was described as flawless. The medical doctors that examined her the following day, when she was found sitting on the floor of her single room residence (presumably resting or unable to move), stated that "she only showed contusions on the face and several blood stains, being the mouth and the right eye the most hardly beaten part" (my emphasis). These unquestionably rational and authoritative criteria downplayed the gravity of the event and joined in the demolition of Tiburcia's arguments. The comisario’s report of the previous day, written under the deep impression of the blood running down Tiburcia's face, stood now corrected.

On November 16 the doctor examining Tiburcia reported the wounds had healed and she had given birth to a healthy baby girl. After receiving the report, on December 1, the judge took Sosa out of jail, a concession that was pending on the demonstration of the baby's good health. The judge ordered a verbal hearing, which took place on January 2. Advised by her hombre bueno or counselor, Tiburcia declared that "she pardoned her husband in the name of the good harmony that should reign among them." Sosa accepted her pardon and "promised to treat her with the consideration and respect their status deserves." The judge considered Sosa's time in jail had satisfied the requirements of the law and fined him to pay for half of the costs of the judicial procedure. By promoting this ritual of renewed marriage vows, the judge was allowing a special status to the offense of domestic violence, seen not as an isolated case of lesiones, but as a specific offense ingrained in the male/female relationship. Even so, considering how Tuburcia's "voice" was silenced by the overwhelming power of medical declarations and truth establishing procedures, odds do not seem to be on her side. Her agreeing to collaborate in upholding domestic "harmony" sanctioned her subordinate role to her breadwinner husband.

Other women were thus discouraged and rejected law intervention. The neighbors of Isabel Nieves heard noises (una bulla) around four in the afternoon, after her husband had been bragging in town that he was going to hit her with the umbrella. They reported the incident to the police of the town of Ciales, but when the guards came to the house, Isabel explained the injury she had on her right eye had just occurred when a splinter of the fire-wood she was cutting jumped toward her. Women could also strategize, pretending to accept the prevailing standards, but secretly seeking help from the law. This is the case of Isabel Ramos who, fearing her husband had sexually abused their fifteen-year-old daughter and appalled at the fact that he had just sent her to live with a twenty-five-year-old single neighbor laborer, paid a discreet visit to the comisario of barrio Salto Arriba in Utuado. She explained that she was always afraid of her husband "because of his violent temper." The daughter herself had confided in Isabel about her father's seduction, but they were both seemingly terrified of the father's violence. The judge considered this a probable offense of corruption of a minor and sent the case to the Criminal Court of Mayagüez, as was required after the reform of criminal judicial administration in 1891.

More assertive women fought back or sought ways to avoid getting hurt. This is especially true among women who remained at the margins of legal marriage, who thought themselves more empowered to resist coercion and mistreatment and to finish an unwanted union. This was never an easy quest. María Vélez fought back and screamed for help when her ex-concubine José Rivera
went to the river where she was picking up the laundry, unsuccessfully attacked her with the machete, and finally tried to push her under the water.\footnote{52} Similarly, Brigida Rosado, a thirty-five-year-old resident of Manati, classified as a rural laborer, lived with her two adolescent sons in a wooden hut on the countryside. Her ex-concubine came in one morning demanding coffee and threatening her with a stick and finally causing her an injury that took seven days to heal. But Brigida did not remain passive. She fought back with a piece of wood for fire causing her aggressor an even greater contusion that took thirteen days to heal. Brigida herself reported the offense, perhaps hoping that the intruder would be legally punished. However, the judge chose to disregard the event, perhaps considering that Brigida had administered a graver injury, but downplaying the fact that the man had not been invited to the house nor was his presence wanted.\footnote{53} Modern judicial mentality had absorbed well the principle of rigorous and uniform process of law, but fell short in satisfying women's main concern, which was inserted in a different narrative focused on resisting coercion and on affirmation of the self.

Cases of women trying to hide or run away from a violent lover are relatively abundant. This is the case of Ramona Ríos, resident of the town of Arecibo, who sought refuge in the house of a female neighbor when her ex-lover tried to beat her up. The man followed her with a stick and a knife on his hands.\footnote{54} In one case, the comisario's house just happened to be on the same road a threatened woman took when running away from the house she shared with her lover toward her parents' house. In an attack of jealousy, he had threatened to kill her. She used the occasion when he left the house to collect his wages and took off. Her testimony is revealing because she explains how she suddenly saw the house of the comisario and as an impulsive act "decided to inform him of what had happened and of the fears she bore ... requesting protection."\footnote{55} Thus, the comisario was becoming a noted presence in the lives of these women. She was immediately assigned an escort to accompany her to her parents' house and allowed to register an extensive declaration. The comisario developed further interest in the case when he learned that the man in question had been accused of theft in the judicial district of San Juan and was on the list of fugitives of the Civil Guard.

Trying to leave a violent lover was never easy. Amalia Dupón sought refuge in the house of her friend Marcolina Porrata at the Arecibo barrio La Puntilla. Her lover Ramón Beltran went for her and slashed her twice with his shoe repair knife when she told him she wanted to leave him.\footnote{56} Women resisted in all sorts of manners, though they paid prices for doing it. In 1894 Carmen Machado refused to continue living with her violent lover, but one day he barged into her house and took their son away after staging a violent scene. The desperate woman went to the authorities, but the judge did not consider the act an offense.\footnote{57}

In matters of domestic violence law enforcement was an arena of tensions and uncertainties. On the one hand, victims received prompt response from the authorities, were assigned escorts if necessary, and were generally given solicitous treatment.\footnote{58} By doing this, local authorities were complying with general modernizing judicial ruling and beginning to conceive of the offense in a more general framework of abused women, instead of the usual offense of lesiones. But on the other hand, rational judicial approach ordered a meticulous search for actions of the victims that, given shared understandings of gender roles, could make women seem deserving of the punishment given by the offender or could add worth to the husbands' responsible quest for domestic obedience. The authorities and the intervening professionals generally validated the control men attempted to impose over women. It had to be preserved, albeit in a more "civilized" manner and under more direct state supervision. Prosecuted men felt wife punishing was an inviolable prerogative of the husband. In exercising this privilege, however, they, not unlike their abused wives, fell under the scrutiny of the authorities, always attentive to the general political order.

The Politics of Sexual Assault
Guidelines were even more disputed on rape, the second most frequent type of violence committed against nineteenth-century women. In processing accusations of rape, the judges faced one of the most severely punished personal offenses in the Spanish law. The law punished rape with the same intensity as male castration, with a minimum of twelve years of prison.\(^5^9\) The idea of female virginity and its sacredness, deeply intertwined with the notions of male domination of women's bodies, worked behind this harshness. Depriving a young woman of her virginity entailed a permanent damage and dishonor to the girl and to the male members of her family. In the actual processing of the cases, it was not the act of coercion and violation of a woman's rights that most troubled the magistrates, but the idea of permanent dishonor implied in the act.\(^6^0\) But because of the severity of the penalty, and shared understandings about male needs and privileges, judges hesitated before sentencing young male workers, those usually facing this type of accusation. When a nineteenth-century young woman reported a rape, her conduct was investigated as to whether she was or was not a virgin. Her temperament could also be questioned as well as her appearance in order to erode her credibility. The interrogators demanded an exact reconstruction of the scene of the assault to establish, for example, if she could have cried for help and been heard by others. An extremely detailed account of the sexual intercourse was mandatory. Thus, modern criminal justice rationality prescribing rigorous investigation could easily work against the victim. As it came to be claimed in other judicial settings, in prosecuting rape, a man's life was in the hands of a woman.\(^6^1\)

Thus, judges tended to put the shadow of doubt consistently over the women pressing charges for rape or attempted rape. Of the nineteen men accused in the Arecibo court records from 1860–1895, most were acquitted because of lack of proof. Only one was convicted, one was pardoned by the victim, another by the father of the victim, two remained runaways,\(^6^2\) and the sentence given to another one does not appear in the record. It is also interesting to note that half of the reports of rape occurred in the last five years of the period studied, which could suggest increased practice of rape among young men, but also, and most importantly, greater women's assertion in reporting an offense that in the past could have remained hidden because of shame.

Young women were assaulted in their neighborhoods, mostly by local equally young residents. Victims and perpetrators and their respective parents usually knew each other. They were frequently attacked in their places of work in the countryside, or while making errands, allegedly after a failed attempt of the accused to persuade them to have sex. The case of Eduviges Feliciano (classified as parda or dark, between eighteen to twenty years old) illustrates the pattern. In 1873 her parents reported to the comisario that their daughter had been raped as she returned home around nine in the evening "through the trail on the bush." The medical doctor Rafael del Valle was immediately sent to check Eduviges and certified she had contusions on her chest and face. She presented at his request the torn dress she was wearing the night of the event, but failed to provide the slip (enagua) she had declared was stained with blood, explaining that she needed to wash it because of the scarcity. But the doctor finally reached the information he wanted from Eduviges. She used to have a relationship with another young man, which had "made her lose her virginity after having several intercourses and, after, he left her for another girl." The former boyfriend was questioned and confirmed the testimony of Eduviges's lack of virginity. On his part, the young laborer accused of rape denied such action. He contended that night on the trail he had offered Eduviges one peso in exchange for a sexual favor. She had accepted the deal, walked with him to the bushes, they had voluntary sex, he paid her, and each walked away separately. Facing opposing versions, the prosecutor recommended the suspect be acquitted for lack of proof. The judge still ordered further investigation of the girl's conduct, and reports attested that "she does not have bad conduct." Nevertheless, at the end the suspect was exonerated, stated the judge, "because even when there were indications of culpability, proof beyond doubt is lacking."\(^6^3\)

A similar process occurred in the case of Yolanda Padró, denounced by her father in Ciales in March 1894, and in the case of Petronila Zeno in April 1894.\(^6^4\) The same procedure and verdict
were reproduced in most cases of rape. It is important to note that in most hearings of violence against men, the previous conduct of the aggressor was investigated, not the conduct of the victim. Only women were subjected to this type of inquiry. Presumed victims of rape were investigated because their virginity was considered relevant to the case, and very much like victims of domestic violence, their previous conduct could make them more deserving of the offense received. The only exceptions were the cases in which the perpetrators remained unidentified and fugitive.

At times, authorities investigated reports of rape that uncovered complex stories of contested honorability standards. The attempted rape denounced in 1877 by Micaela Romero, a married woman of barrio Pajuil, Arecibo, illustrates the complex strategies women could employ to project the image of the obedient wife. That day around dawn Micaela went to the rural store of her barrio to buy tobacco, while her husband waited at home. On her way back home, she remembered she had left a handkerchief in the store and decided to go back for it. On that second visit to the store she apparently exchanged conversation with three laborers who followed her as she went out the second time. It was already dark and the storeowner came out to close the door, shouting to the men and Micaela that what they were doing out there was an indecency. The three young laborers later explained that they had been drinking, and Micaela drank too much and got sick. So they were holding her to take her to the house of a woman friend of theirs, until she could recover. The following morning Micaela returned home and told her husband the three men had attempted to rape her, taking advantage of her state, which she attributed not to drinking, but to a seizure of nervous attack she suffered periodically. Her neighbors, summoned to testify, confirmed her periodical attacks of rage. Micaela was most likely attempting to dissimulate her transgression: she had returned to the store because she wanted to talk and drink with the three laborers. However, the attack, or the attempted rape, had been the unplanned result of what she possibly realized the next day had been inappropriate behavior, by local standards. The authorities did not disregard Micaela's accusation. They had her examined by the medical doctor, who rather bluntly dispatched her as presenting no signs of violence on her body, but possessing a "lymphatic temperament" (meaning lazy and passive) and "intellectual clumsiness." The prosecutor elaborated an allegation exposing the principle of law that guided him: "the culpability has to be as clear as the light of day before the prisoner can be punished,... the benefit of the doubt belongs to the accused." As for Micaela, the strategy of reporting the attempted rape allowed her at least to justify her behavior in front of her husband.

Authorities displayed the same caution even with the most convincing testimonies. The meaning of rape was in itself a contested issue. In one case the victim was young and inexperienced, but her declaration was extremely detailed. This happened in 1894, when a teenager reported her father had forced her to have sex with him. After the rape, she was able to escape and run for help to the house of a neighbor. She explained that, while she was washing the laundry that morning by the riverbank, her father ordered her to bring him water to the plantain grove where he was working. When she obeyed, he asked her to come closer and began "to dishonor her." The girl was forced to narrate all the gruesome details of the rape, but even so, her father denied the occurrence and stated that the girl was mistaken because he had not actually raped her. The Arecibo prosecutor demanded a prison sentence of seventeen years for the suspect. But the case had to be sent to the Criminal Court in Mayagüez, where the judges decided to acquit because the rape "had not been legally proven."

In November 1894 the local authorities found more convincing proofs in the case of attempted rape against twenty-nine-year-old laborer Pedro Maisonet. A witness had caught him and rescued the victim in time. That morning, eighteen-year-old Segunda Chevere was washing the laundry at the riverbank in barrio Hato Viejo, when the ten-year-old brother of the laborer Pedro Maisonet came to her to tell her that her mother wanted her to return home immediately. Segunda took the path through the bushes, and there was Pedro Maisonet expecting her. He took her by the arm and pushed her downhill, grabbing her by the neck. Another laborer passing by heard the noise inside
the bushes and went in to see Pedro unbuttoning his pants with one hand and holding Segunda by the neck with the other. Maisonet was in serious trouble when his accusation was found sustainable by adequate proof and his record was remitted for a verdict at the Criminal Court of Mayagüez.68 The final sentence of the court does not appear in the records.

Procedures such as this one sent a clear message to young men who were seemingly used to practicing sexual coercion. Many young women were also accustomed to trade sexual favors for cash. Laborers came to develop a "sense of entitlement to women's bodies."69 Young women had to walk through desolate paths in the rural barrios and were particularly vulnerable. The fact that a witness in the case described above, another young laborer (twenty-four years old), was willing to stop the rape and report the offense should not be underestimated. This was not the common practice at all, for there seemingly operated a code of silence among young males, as a sign of respect for what was considered a manly need. This is illustrated by the attempted rape that occurred in May 1895, in barrio Viví Arriba of Utuado at the mountainous interior, perpetrated by fifteen-year-old Manuel Rivera (identified as agriculturalist) against eighteen-year-old María Cayetana de Santiago, daughter of another agriculturalist. María was doing the laundry by the river, when Rivera approached her and asked if she loved him. She answered "no" and jumped on her horse with the intention of leaving. Rivera pulled her down to the ground, trying to lift her skirt, and tearing her dress in the process. While María screamed, fought a desperate struggle, and finally ran away, at a certain distance there were several witnesses. They were all summoned to testify. The seven laborers who witnessed the event confessed they saw the coercion Rivera was putting on María, but did not wish to engage with Rivera, assuming this matter was his business and not theirs. That was the answer given by forty-four-year-old laborer Ramón Torres, who declared he did not approach to help María because he was "fearful of engaging with Rivera." José Ruiz, a twenty-four-year-old laborer gave a similar answer, as well as fifty-year-old laborer Ramón Pérez, thirty-year-old Matías Pérez, eighteen-year-old Simplicio Andújar, and twenty-four-year-old Silvestre Quiñones. Finally, the youngest of the witnesses, thirteen-year-old laborer Mateo Montalvo, said he was too young to attempt to stop Rivera.

In spite of the corroboration of facts provided by witnesses, María had to answer authorities about her previous sexual conduct. She was asked if she was a virgin and had to explain that she had had sexual intercourse with Evangelista Galarza, who used to be her boyfriend. She was also subjected to a medical examination, which attested to her previous "defloration," and stated there were no signs of violence on her body. Even so, María had been bold enough to collect evidence of the attack. While she was struggling she tore a piece of silk lining from the aggressor's hat and a piece of black ribbon that was tied around the man's neck holding an escapulario and presented both as evidence of the coercion. She was determined to make the law finally work on her behalf.

As soon as the local judge declared the occurrence a punishable crime and was ready to remit the case to the Criminal Court in Mayagüez, he was presented with a declaration of María's father giving his pardon to Rivera for the offense he had committed against his daughter. Even so, the young man had spent time in the local jail and undergone a tortuous procedure beginning on May 9, 1894, when two civil guards had him arrested, and ending with the decision of the court in Mayagüez on July 17, 1895. The court applied article 467 of the Penal Code that established that this type of offense could be prosecuted only on request of the victim, or her father in this case, for she was a minor. In any case, María Cayetana de Santiago, a determined woman, was able to get through a clear message of resistance to rape.70

Another rapist in Jayuya, a town of the interior, got himself a sentence of seventeen years in prison. This is a rather exceptional case in the procedure followed by the local authorities, as well as in its denouement. The judges took an interest in establishing the young woman's good conduct, while the medical doctors respected her refusal to be examined to demonstrate the recent loss of her virginity. The blood-stained slip and the torn dress she presented five days after the event became
the only proof of the rape. The accused declarations also turned against him because he alleged he had not raped her; he had only lifted her skirt to tease her and make her angry. He argued she was still a virgin, but admitted the coercion. This time the judges made a slight but crucial semantic displacement, accepting coercion as a viable definition of rape. Diaz was swiftly convicted in Mayagüez on June 10, 1895.

This conviction occurred in the context of an increasing number of reports of rape in the region. A prison sentence of seventeen years definitely contributed to project an image of rigorous law enforcement against this type of crime. The management of proof was always one great problem for the victims of rape, living in rural settings and unable to receive the immediate attention of the authorities. But the resistance implied in the act of reporting the event was certainly an important step, and the pressure was working on their behalf. Women were not allowing sexual coercion to remain hidden. On August 1895 Antonia Vidot pressed charges against a former boyfriend who forced her to have sexual intercourse. She had gone to the river for water, and on her way back Celestino Rivera pushed her into the bush and raped her. During the investigations, in the face-to-face interrogation, the authorities learned that she had had previous sexual intercourse with the accused and this fact withdrew credibility from her accusation. Even so, she was sending Rivera the message of her determination not to tolerate that behavior. Antonia Vidot's statement as expressed in her actions was a clear declaration that she understood sex differently; she had been raped and rape was not about sex, but about violence.

In 1895 another woman determined to put an end to sexual coercion demanded and obtained the support of the authorities, despite her previous sexual conduct. Elena Rivera was a twenty-two-year-old domestic servant, house sharing with a twenty-six-year-old laundress who sometimes worked in her house as a prostitute. Elena was mistress to a member of the local elite in the town of Utuado. One night, a laborer who came to visit Elena's housemate, went instead to Elena's bed, tied her up, raped her, and ran away. The night guard passing by heard Elena crying and took her to the police. The police arrested the suspect and it turned out that he had conspired with Elena's housemate to be able to rape her. With her friend facing a serious penalty along with the rapist, Elena decided to pardon both of them. Ironically, since she was legally a minor the police had to bring her father from Arecibo to validate the pardon.

Current notions of patriarchy were under the increasing stress created by people's changing way of life, especially women's participation in the labor market. The prescribed family model (permanent union, male gentle and paternal guidance for disobedient wives, virginity as the appropriate standard for young single women) was impracticable for many. Puerto Rican households, the same as those of many other places in Latin America, were varied spaces. Working-class women had undervalued the ideal of virginity, and many were used to being heads of households. Women hated sexual coercion, not as an insult to honor in the court definition of the term, but as a violation of their autonomy and individuality. In some instances women were able to use the law on their behalf. By reporting rapes to the authorities, women were fighting a battle, and, as shown in one of the cases studied, some men were on their side. As Marybeth Hamilton Arnold put it in her study of rape in early nineteenth-century New York, "working-class women and men fought out conflicting understandings of sex, courtship, and female autonomy."

Toward the end of the period studied, some magistrates were becoming more sensitive to these changes as the issue of virginity ceased to be the center of some of the investigations. Alternative legal conceptions of rape were thus emerging. But in general, women found it hard to prove sexual violence beyond doubt. The response of the law was quick, but the modern procedural rationality imposed presentation of decisive evidence, a virtually impossible deed given the material difficulties women faced in providing even the simplest types of proof and men's counter allegations of voluntary sex. The rational application of the principle of presumption of innocence of the "prisoner," which implied presumption of consent of the victim, discarded women's testimonies. But
in addition to this intrinsic complexity of the offense of rape, many judges in their local understanding of the law gave primordial importance to the issue of the victim's virginity, not to the fact of coercion.

Conclusions

Changing legal definitions of women-related and domestic offenses had turned local courts into an arena of contestations where judges, prosecutors, police personnel, witnesses, accused men, and plaintiff women negotiated. There were legal contests about the definition of rape, as well as in establishing the nature of domestic violence as a criminal offense. Some judges' rulings attempted to place domestic violence within its context of habitual abuse and in a sphere different to that of the common offense of lesiones, which was the prevailing view. Other judges came to understand rape as a question of coercion and violence, not as a matter of lost virginity and honor. Modernizing narratives could emerge at a variety of levels, including police personnel (or comisarios), medical experts, intervening witnesses, and judges themselves. But these isolated instances were no match for the prevailing notions of men's control over women. Rulings on domestic violence actually reinforced domestic patriarchy, at the same time that they affirmed increased state supervision over domestic relations. Authorities were more interested in attenuating extreme forms of abuse than in changing gender relations. Wife punishing was many times accepted as long as the blows were not extremely severe and constituted disciplinary action. In cases of rape, the sexual conduct of the victim was a decisive actor, and fathers and husbands' control of daughters and wives' sexuality was upheld.

Among the competing narratives that comprised the legal discourse, women's assertions of their own bodily integrity stand out. Women approaching the law or driven toward it by a witness reporting battery or rape fought to bring the discussions into the territory of their individual right to resist coercion. Battered women, unable to have their condition examined in its wider context of continuous abuse, tried to the best of their ability to incriminate their husbands and welcomed the opportunity to at least get even. Victims of rape and battery found it difficult either to prove the offense or to articulate its new meaning in relation to their struggle against coercion. But they were usually able to bring the perpetrator before the judge, putting the issue in the forefront of the local police and magistrates' concerns. In doing so, they transmitted forceful messages to their fellow men and negotiated improved gender relations. In general, married women depending on a breadwinner husband faced greater constraints to their mobility and were exposed to the enraged outbursts of their husbands. They appear entrapped in the principle of obedience of the wife to the husband. Their socially devalued housework and childcare would hardly turn into a source of appraisal, while the Penal Code remained adamantly intransigent in the theme of men's control over wives and court divorce was not available.

The whole drama evolved in the context of renewed state interest in enhancing its authority over the working-class households and harmonizing the domestic sphere. These new concerns drew from a variety of nineteenth-century doctrines utilitarian, romantic, or rational-scientific ideas and were connected to local economic and social changes and to the liberal transformations of the colonial institutions. The colonial state was interested in controlling the behavior of the local patriarchs, leading it toward a modern and efficient model of domesticity. This strategy commanded solicitous treatment and attentive response to women. But even when they rigorously performed modern judicial rituals, assigned escorts, took careful note of extensive declarations, performed rigorous investigation, and punished according to the law, the older domestic patriarchal notions were consistently reproduced in local judges' interpretations and rulings. The nineteenth-century extension of rules of social control to the working-class population was a highly gendered process that reaffirmed the subordination of women.
Notes

1. The district court of Arecibo included the municipalities of Arecibo, Barceloneta, Manatí, Ciales, Morovis, Utuado, Hatillo, Camuy, and Quebradillas. It is impossible to ascertain the exact number of missing records. An estimate based on occasional statistics included among the records puts the proportion of destroyed materials in about one third of the total archive.


3. The argument that traditional domestic patriarchy as an ideal underwent state-led transformation into "civilized" notions in late nineteenth or early twentieth century can be extracted from many published works. See for example, Hidden Histories of Gender and the State in Latin America, eds. Elizabeth Dore and Maxine Molyneux, (Durham: Duke University Press, 2000); Susan K. Besse, Restructuring Patriarchy: The Modernization of Gender Inequality in Brazil, 1914–1940 (Chapel Hill: The University of North Carolina Press, 1996).


6. I have been able to construct a good part of this information based on the court records that support this article. Some insights are provided by Luis González Vales, "Apuntes para una historia del Código Penal luego del cambio de soberanía," Revista de la Academia Puertorriqueña de Jurisprudencia y Legislación 1 (1989): 141–76. See also María Magarita Flores Collazo, "Expansión del poder estatal y la militarización del sistema de orden público en el Puerto Rico del siglo XIX," Op. Cit. Boletín del Centro de Investigaciones Históricas, Universidad de Puerto Rico, 8 (1994): 201–46.

7. See Verena Stolcke (former Martínez-Alier) for a study of Charles III 1776 Royal Pragmatic tightwinding rules on marriage and its effects in Cuba. The law aimed at preventing interracial unions. Cuba and Puerto Rico's sugar export economies depended largely on African slave labor force. The state ruling tried to preserve the hierarchical understandings within the already heavily mixed black and white societies of the islands but was not always able to overrule the intervention of the Catholic Church, which tended to place the need to marry interracial couples (in order to secure the spiritual salvation of those living in "sinful" cohabitation) over the segregating attempts of the colonial state. Verena Martínez-Alier, Marriage, Class and Colour in Nineteenth-Century Cuba. A Study of Racial Attitudes and Sexual Values in a Slave Society (Ann Arbor: University of Michigan Press, 1989). In Puerto Rico elopement, concubinage, and Church-granted exemptions from the state ruling became frequent. See also Ramón A. Gutiérrez, When Jesus Came, the Corn Mothers Went Away. Marriage, Sexuality, and Power in New Mexico, 1500–1846 (Stanford: Stanford University Press, 1991), 236 for the case of New Mexico, where traditionally prescribed control of young men and women's sexuality was strengthened by the Royal
Pragmatic on marriage. Even so, enough examples show that youngsters frequently escaped the state-supported vigilance of the elders.


10. In 1869 there were 116,252 households in Puerto Rico, while there were 134,899 married persons or, presumably, 67,449 married couples. This suggests 48,803 households were either single-headed or formed with couples out of wedlock. For census numbers, see Olga Jiménez de Wagenheim, Puerto Rico. An Interpretive History from Colombian Times to 1900 (Princeton: Markus Wiener Publishers, 1998), 151.


14. Ibid., 50, 156.


19. These views are seen directly or indirectly in studies such as James Hammerton, Cruelty and Companionship. Conflict in Nineteenth-Century Married Life (London: Routledge, 1992); Alan Macfarlane, "Individualism and the Ideology of Romantic Love," in Rethinking the Subject. An Anthology of Contemporary European Thought, ed. James D. Faubion (Boulder: Westview Press, 1995); Besse, Restructuring Patriarchy. A classical work exposing the emergence of the idea of marriage for love is that of Lawrence Stone, The Family, Sex, and Marriage in England, 1500–1800, which aroused successive refutations, especially of the time span established. Matrimonial practice based on love has been taken far back into the Middle Ages, though many think its becoming dominant can be related to specific conjunctions of individualist ideas and mercantile-urban, or capitalist-oriented settings. The disciplinary impulse of nineteenth-century states was inspired in models of domesticity based on these ideals. For a discussion on the rise of romantic love in early 1800s New Mexico, see Gutiérrez, When Jesus Came.


21. In 1860 the census registered a total of 874 government officials in Puerto Rico, all of them classified as white; there were 11,177 military men, of which 11,133 were white. U.S. War Department, Report on the Census of Puerto Rico, 1899 (Washington: Government Printing Press, 1900), 34.

22. In 1869 of the 600,233 total population, 53.8 percent (323,454) were classified as white, 39 percent (237,710) as free colored, and 6.5 percent (39,069) as slaves. Jiménez de Wagenheim, Puerto Rico, 151.


25. For a discussion of elopement as a way of free marriage choice, see Findlay, Imposing Decency. For the widespread practice of elopement facilitating interracial unions in Cuba, see Verena Stolcke (former Martínez-Alier), Marriage, Class and Colour. Freer choice in marriage had been extending since the turn of the century. In a similar context of demographic swelling, economic expansion, and diffusion of changing mores, Ramón Gutiérrez registered in the early 1800s New Mexico the presence of individualist and love-based marriages: "a love born of passion was sufficient reason for choosing a particular conjugal mate." These attitudes were in contrast with earlier state-supported elders' control of marriage choice. Gutiérrez, When Jesus Came, 329–330. On the eighteenth-century constraints over marriage in Mexico see Patricia Seed, To Love, Honor, and Obey in Colonial Mexico. Conflicts over Marriage Choice, 1574–1821 (Stanford: Stanford University Press, 1988). However, nineteenth-century growth of working class population in Puerto Rican barrios, and their mobility, created practical problems for the continuation of such disciplinary guidelines.

26. The literature that presents late nineteenth-century and early twentieth-century women-related legal reformism as a means of strengthening state power over domestic affairs is very large. See for example, Sueann Caulfield's assertion: "State protection of women, especially the juridical sphere of action, was a power enhancing function" (Caulfield, In Defense of Honor, 9). In this work, women are seen partaking in the incessant negotiations over the meanings of honor and attempting
to grasp the edge of advantage in cases of "sexual" offenses, very much as in Findlay's descriptions of sexual offenses in late nineteenth-century Puerto Rico.

27. This is the notorious article 437 of the 1879 Penal Code (438 of the 1870 Spanish Code) establishing the penalty of exile to married men who killed their wives and/or lovers caught in the act of adultery. It reveals the anxieties that the violation of marriage regulations created in the state, and its desire for domination over women's sexuality. I did not find any court record exemplifying the actual application of this disposition, nor of its second part, which includes daughters below the age of twenty-three living in the paternal house and their "abusers." It is not certain how widespread was the knowledge of its existence among the common people. Adultery could also be committed by men who kept a lover "with scandal" or indiscreetly; not so in the case of women, who committed the offense of adultery in any condition. See Código Penal 1879.

28. In traditional communities there was intense surveillance among neighbors, but in matters related to domestic disputes residents refrained from intervening, for the husband's prerogative to punish a disobedient wife was respected. See the case of Arequipa in Sarah C. Chambers, From Subjects to Citizens, Honor, Gender, and Politics in Arequipa, Peru, 1780–1854 (University Park: Pennsylvania State University Press, 1999), 98, 101–4. Chambers notes that husbands attempted to control their wives' mobility, fearing the neglect of domestic duties and/or unfaithfulness. In these cases "men felt perfectly entitled to 'correct' their wives through physical punishment" (103).

29. Most cases of the Arecibo Criminal Court were sent for revision to the Audiencia Territorial, though not all created similar disputes. Judges usually had an ample margin of discretion when applying or disregarding extenuating or aggravating circumstances.

30. Archivo General de Puerto Rico (hereafter AGPR), Tribunal Superior de Arecibo (hereafter TSA), Criminal, caja 367, May, 1880. See also Art. 9 and Art. 603, Código Penal Re-formado de 1870 (Madrid: F. Fe, 1876); Código Penal de 1879 para las Islas de Cuba y Puerto Rico (La Habana: Imprenta G. Montiel, 1879).

31. Normally, the span of time in jail was established in proportion to the number of days needed for the wound to heal and the number of days the victim was unable to work, according to official medical reports. Considering domestic violence the same as any other battery offense was not uncommon in other criminal laws of the time, as suggested in the case of Costa Rica studied in Eugenia Rodríguez, "'Ya me es insoportable mi matrimonio'. El maltrato a las esposas en el Valle Central de Costa Rica," Ciencias Sociales 68 (June 1995): 73–93.

32. Código Penal reforzado de 1870 ... Art. 603, 873. Emphasis in original.

33. See Hammerton, Cruelty and Companionship.

34. Inés Alberdi and Natalia Matas, La violencia doméstica. Informe sobre los malos tratos a las mujeres (Barcelona: Estudios Sociales Fundación La Caixa, 2002), 156–70.

35. Martin J. Wiener, Reconstructing the Criminal, 257, 272–73.

36. The "turning point" in this condition could perhaps be the promulgation in 1989 of Act 54, or the law on domestic violence in Puerto Rico, that constructed the special offense and provided institutional support to abused women. For discussions on feminist legal theory in Puerto Rico with keen awareness of the dilemmas posed by state protectionist intervention, see Esther Vicente, "Feminist Legal Theories: My Own View from a Window in the Caribbean," Revista Jurídica de la Universidad de Puerto Rico 66.2 (1997): 211–67.

37. Extreme violence is exceptional and not a reflection of "typical" gender relations in a specific community, though it is a tragic aspect of the general idea of men's possession of women's bodies. The early commercial press publicized these events, a sensationalist tactic that increased sales. See for example, the San Juan newspaper La Correspondencia, Feb. 28, 1895. See Susan K. Besse, "Crimes of Passion: The Campaign against Wife Killing in Brazil, 1910–1940," Journal of Social History 22.4 (Summer 1989): 653–66, for a study of early twentieth-century Brazilian state concern for such crimes, which did not contemplate reforming views on women's subordination.

38. See the proposal of Eugenia Rodríguez, that domestic violence has always been difficult to study because it was...
undervalued and regarded as a quotidian reality unworthy of judicial report. Rodríguez, "'Ya me es insoportable ....'” 74. This does not mean that nineteenth-century records are nonexistent, as shown by the cases Felix Matos found in the capital city of San Juan's verbal hearings (juicios verbales) between 1830 and 1840. See Matos Rodríguez, "La mujer y el derecho." Also, the ecclesiastical divorce records, a mechanism especially used by the elite, may provide another way of uncovering domestic violence, as seen in the studies of Mexico City and Costa Rica. Arrom, Las mujeres en la ciudad de México, 252–315. See cases of nineteenth-century Ponce verbal hearings and ecclesiastical divorce in Findlay, Imposing Decency, 18–52, 113–16.

39. AGPR, TSA, Criminal, caja 316, Oct. 1875. The case record has the date of Oct. 1873 but is mistakenly placed in the 1875 box.

40. See a discussion on the changing perceptions of reproductive sexuality and parenting in Donna J. Guy, "Mothers Alive and Dead: Multiple Concepts of Mothering in Buenos Aires," in Sex and Sexuality, 155–73. The supposedly "natural" authority of the male heads of households over offspring was beginning to be questioned in press articles in Puerto Rico, but "mild" physical corrective punishment was deemed an indispensable part of responsible parenting.

41. For another case of a domestic fight because of a man's complaints about the quality of the food the wife was preparing, see AGPR, TSA, Criminal, caja 447, June/July 1887.

42. AGPR, TSA, Criminal, caja 334, April 1878.

43. One of the qualities of the Penal Code of 1889 was that it penalized the crimes against the State more severely than those against the person or the property. For this reason it has been described as "eminently political" in Nevárez Muñiz, "Evolution of Penal Codification, 90–91.

44. AGPR, TSA, Criminal, caja 295, May–June, 1870.

45. For a discussion on the tensions created by the application of the ideal of the husband-provider borrowed from bourgeois family models to working class families, see Hammerton, Cruelty and Companionship, 13.

46. AGPR, TSA, Criminal, caja 321, Sept-Oct. 1876.

47. Ibid.

48. See above, note 45

49. AGPR, TSA, Criminal, caja 278, Oct. 1860.

50. Ibid., caja 550, Nov. 1894.

51. Ibid., caja 498, Oct. 1893.

52. Ibid., caja 550, Nov. 1894.

53. Ibid., caja 494, Sept. 1893.

54. Ibid., caja 472, Jan. 1893.

55. Ibid., caja 434, March 1886.

56. Ibid., caja 548, Oct. 1894.
57. Ibid., caja 526, May 1894.

58. See one more example in the case of Dominga Sánchez against her concubine Juan Maldonado, AGPR, TSA, Criminal, caja 604, Dec. 1895 (the case is dated Dec. 1894 but misplaced in a box corresponding to the year 1895).


60. For a contemporary expression of the importance given in cases of rape to the violation of a woman's honor, and not to the violation of a woman's will, in a New York court, see Arnold, "The Life of a Citizen in the Hands of a Woman," 35.

61. Ibid. See also the arguments on cases of rape in Dayton, Women before the Bar, 231–84. Dayton found that similar problems were created in eighteenth-century Connecticut under the influence of the English Criminal Law. Prosecutions of sexual violations focused on the previous conduct and reputation of the victim. There was considerable skepticism toward the women's word. Since the offense constituted capital crime, juries resisted emitting a guilty verdict, especially when the accused were white local males, not so much when the suspects were black, Indian, or foreign. For Dayton, it is important to highlight the deterioration of women's credibility before the law when eighteenth-century English legal influences penetrated the religiously inspired criminal system of the seventeenth-century Puritan regime.

62. See AGPR, TSA, Criminal, caja 532, July 1894; caja 583, June 1895.

63. Ibid., caja 303, Jan/March 1873. For another case in which lack of proof is adduced see caja 592, Sept. 1895.

64. Ibid., caja 518, March 1894; 524, April 1894.

65. Ibid., caja 532, June, 1894.


67. Ibid., caja 538, Aug. 1894.

68. Ibid., caja 550, Nov. 1894.

69. The phrase is from Arnold, "The Life of a Citizen," 42.

70. AGPR, TSA, Criminal, cajas 574 and 578, May 1895.

71. Ibid., caja 580, June, 1895.

72. Ibid., caja 591, Aug. 1895.

73. Ibid., caja 601, Nov. 1895.

74. For Latin America see, for example, the case of Paraguay, where households headed by women were the common practice in the nineteenth century. Barbara Potthast-Jutkeit, "La moral pública en Paraguay: Iglesia, Estado y relaciones ilícitas en el siglo XIX," in Familia y vida privada en la historia de Iberoamérica. Seminario de historia de la familia, ed. Pilar Gonzalbo Aizpuru and Cecilia Rabell Romero (México: El Colegio de México-Universidad Autónoma de México, 1996), 148.


76. Despite the patriarchal trappings that made women lose court cases, they partook in shaping dominant views, and in the
nineteenth century they would be more likely to influence opinion, given the general changes in perspectives about individual rights and the spread of counter-discursive proposals. Susanne Eineigel's reflection in her review of Eileen Findlay's book is illuminating: "Discourses are not self-contained or static but rather exist in continuing dialogue or as communicative processes with all members of society. They must necessarily remain open and flexible to stay active and powerful.... While some may argue that such inclusions of the marginal by the dominant represent mere forms of co-optation, we cannot dismiss that such ways of maintaining power bring about real change, however subtle. In this way any dissent has the potential to be challenging, not only as an opposition but also as a means to weave itself into the dominant discourse." Gateway: An Academic History Journal on the Web (Winter 2001) http://grad.usask.ca/gateway/susanneineige1reviewfindlayimposingdecency.html. (March 31, 2003). See another interesting reflection in Elizabeth Dore, "One Step Forward, Two Steps Back. Gender and the State in the Long Nineteenth Century," in Dore and Molyneux, Hidden Histories of Gender, 3–32, esp. 4–5. It focuses on the problem of state-led legal reform to protect women as a possible road to further entrapment in dependent subordination. Some specific cases, however, reveal women's actions in reporting offenses had positive consequences. See also the view of modernizing reforms as decreasing women's ability to resist subordination in Dayton, Women before the Bar.