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## **SUBJECTIVITIES IN TRANSITION: GENDER AND SEXUAL IDENTITIES IN CASES OF ‘SEX CHANGE’ AND ‘HERMAPHRODITISM’ IN SPAIN, c. 1500–1800**

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### INTRODUCTION

This article assesses how critical boundaries around concepts of what made men and women were constructed in changing social, diagnostic, medical and ‘gendered’ circumstances in Spain from the early sixteenth century through to the late 1700s. In order to illustrate this process, we draw on a number of cases of ‘doubtful’ sexual identity exemplified by instances of ‘transvestism’, ‘transgenderism’ and ‘hermaphroditism’ over the period 1500 to 1800. Recent work has analysed cases of ‘doubtful’ sexual identity in Spain but has not provided a systematic overview of their implications with respect to broader European understandings of sex differences, subjectivity and agency. Furthermore, no Spanish study has traced the decline of one of the principal figures in such liminal cases, the ‘hermaphrodite’ or person that changes sex, a shift which took place during the seventeenth century in Spain and in other European countries. By 1700, it was believed in most scientific and legal circles that hermaphrodites could not procreate, that women could not in reality change into men and, as a less likely scenario, that men could not change into women; true hermaphroditism was deemed incapable of existence.

This period is witness to two major debates that characterized understandings of the nature of ‘sex’, that is, the relative status of men and women. First, the very notion of what ‘sex’ was and what significance it entailed on a biological, social and legal level. It has been argued that medieval and early modern European notions of sex as an anatomical category were founded on a ‘one-sex’ model, whereby medical doctors acknowledged no fundamental physical differences between the sexes, ascribing differences between men and women to questions of bodily ‘organization’. Such a notion does not do full justice, however, to the social and legal realms inhabited by men and women and the fact that these were in fact rigidly differentiated. It has further been posited that this ‘one-sex’ anatomical model gradually declined and was replaced by the early eighteenth century by a dichotomous ‘two-sex’ model, which encapsulated anatomical, biological, legal and social differences between men and women. Many historians have argued however, that such a passage between a ‘one-sex’ and ‘two-sex’ schema, despite its initial attractiveness, is not useful as it obscures the historical diversity of ideas of ‘sex’ and the very problematic periodization of any shift from a ‘one-sex’ model to a ‘two-sex’ model. The second major change of

the period with respect to notions of the fixity of ‘sex’ saw the concomitant gradual extinction of the category of the true ‘hermaphrodite’ as he or she is deemed impossible in humans. The elimination of the category of the hermaphrodite does indeed depend at least partly on a shift to what might be termed a ‘two-sex’ model but this shift is less dependent on processes of scientific change than it is on new social and philosophical horizons.<sup>1</sup>

In order to explore how these two principal issues were played out in Spain from c. 1500 to 1800, we believe it is necessary to identify and explain the interconnections between three processes. These are: first, the naturalization of the monster; second, the development of modern legal medicine; and, third, the elaboration in medical circles of the biological basis of sexual difference. In doing so, we hope that this article takes the analysis beyond what has become a somewhat sterile debate centred on how predominant or otherwise the ‘one-sex’ model was and on its chronological decay and shift to a rather teleological ‘two-sex’ model, achieved in the eighteenth century and prevalent to date. Instead, as we proceed, we emphasize the co-existence of seemingly contradictory understandings about the nature of the ‘sexes’, thus showing how many specialist medico-legal texts were placed on the cusp of understandings about the sexes and ‘hermaphroditism’. This contradictory legacy was inherited, on the one hand, from what we have called the “sexual Ancien Regime” and, on the other, was engendered by the new models emerging in the early eighteenth century.

#### CASES OF ‘HERMAPHRODITISM’ AND CHANGING SEXUAL IDENTITIES IN SPAIN, 1500–1800

For the period 1530–1792 testimonies corresponding to approximately twenty cases of hermaphrodites and masculinized woman, mainly from Castile, have been collected.<sup>2</sup> This set also includes some cases of ‘transvestism’, that is, of women who decided to dress like a man and live as one without any physical change.<sup>3</sup> In our time, hermaphrodites and changes in biological sex belong to an ontological register that is completely different from transvestism or change of appearance. This difference was not operational in what might be termed the “old sexual regime”. During that time, to have one sex was to belong to a state or a rank; biological attributes formed part of that rank as did one’s dress or the kind of occupation one devoted oneself to.

Although the set of examples referred to above is only a proportion of any number that may exist, what is significant is that at least five of the twenty-one cases correspond to women who took religious vows. In addition, we know that at least three of these — Catalina de Erauso, Helena de Céspedes and Estebanía de Valdaracet — spent some time in the army or had something to do with the carrying of arms. Life in a convent also meant that double or alternate sexual identities were possible as such an existence implied a withdrawal from the world and from conjugal exigencies. Something similar occurred in the militias.<sup>4</sup> The ‘woman soldier’, in addition to being a prominent trope in literature, was also a device often utilized by women to convert into men and hence to improve their social situation.<sup>5</sup>

We will examine four of these cases in detail. They have been selected because taken together they cover the whole chronological period and, in three of the cases,

because they are the best documented examples. These examples are: Estebanía (born in Valdaracete, Madrid, in 1496), Helena de Céspedes (Alhama, Granada, 1546), Catalina de Erauso (San Sebastián, 1592) and Fernanda Fernández (Baza, Granada, 1763). The first of these women is included here not only because of the early date of the case but also because she has hardly been mentioned in histories to date.<sup>6</sup>

The source of the Estebanía case is the *Relaciones topográficas de Felipe II*. These accounts, begun around 1575, consist of a detailed and well structured set of information derived from a questionnaire drawn up in each village of Spain. Even though the material was eventually gathered only from certain districts the material was sent to the king's secretary for compilation. The *Relaciones* are the first example of an *enquête*<sup>7</sup> to take place in Spain on a grand scale and constitute a technique of power-knowledge by which the monarch attempted to garner a mass of information about the resources of his realm. The questionnaire covered a wide range of matters for the attention of the local authorities: the geographical and administrative characteristics of the village or town, the quality of its land, pastures and fields, head of cattle, mines, castles, privileges granted, important buildings, religious orders, the best known noble lineages, and the like. Amongst the many questions asked, number 44 sought information on “todas las cosas notables y dignas de saberse, que fuesen a propósito para la historia y descripción de cada pueblo” [“all those things notable and worthy of knowledge, which were relevant for the history and description of each village”].<sup>8</sup>

In November 1580 the local authorities of the town of Valdaracete (Madrid) wrote up and sent their contribution to Felipe II. In point 44, after mentioning disputes with other localities, the birth of Estebanía in 1496 was recorded. The notice was mentioned under the rubric of “casos notables y dignos de saberse” [“cases notable and worthy of knowledge”], that is, it belonged to the order of the extraordinary, almost a portent, but without any negative connotations. This birth was treated as a positive event, a ‘marvel’ just like those mentioned in the contemporaneous books by Antonio de Torquemada and Juan de la Cerda.

A brief account is given of the life of Estebanía. At the age of twenty she was renowned for her physical strength (“era tan suelta e tan ligera e de tan buenas fuerzas que corría y saltaba e tiraba la barra e jugaba a la pelota con tanta presteza e envoltura que en su tiempo ningún mancebo la igualaba” [“she was so lithe and light and of such strength that she ran and jumped, beat others running, and played ball with such skill and spirit that in her time no youth matched her”]).<sup>9</sup> Estebanía undertook what were understood to be typically masculine tasks, although her appearance did not suggest any sex different from the one ascribed at birth (“era cosa notable de ver a la dicha correr sueltos sus cabellos largos e rubios en gran manera” [“it was a notable thing to see her run around, her long fair hair loose and flowing”]). After leaving her town and moving around the area and becoming known for her brave deeds — probably with the use of arms as these deeds are called “cosas tan heroicas” [“such heroic acts”] — she went to Granada, where she was asked to present herself to the authorities of the Chancillería. The authorities did not accept that a woman

could perform such heroic acts and for this reason she was examined by “matronas y parteras para ver su participación del sexo viril, y fue hallada ser hermafrodita” [“matrons and midwives to ascertain her participation in the virile sex and she was found to be a hermaphrodite”].<sup>10</sup> Her examiners (no medical doctor was present in accordance with the tradition whereby females were examined by women) were not able to establish the “sexo predominante” [“predominant sex”], one of the keys at the time to confirm a ‘doubtful’ case as either a man or a woman. In the light of this situation and following the established law, the Chancillería of Granada, a powerful legal organ of Castile, allowed Estebanía to choose her sex (“la mandaron que escogiese en el hábito que quería vivir e andar y eligió del de hombre” [“she was commanded to choose the habit in which she wished to live and she chose that of the male”]).<sup>11</sup> Faced with this choice Estebanía decided to choose the sex (“hábito” [“habit”]) that allowed her to improve on her status, thus availing herself of privileges reserved for men.

Estebanía, transformed into a man and now known as Esteban, found a woman with whom he entered into matrimony (“se casó después con otra mujer e vivieron casados e velados en *facie ecclesiae*” [“she married afterwards another woman and they lived as married and veiled in *facie ecclesiae*”). Her ability in the use of arms meant that she became a master of fencing and she set up a school in Granada. As a way of “ganar honra” [“earning her honour”], it is recounted that as Carlos V passed through Granada, Esteban was called upon to practise arms against some of the king’s most worthy warriors (“hombres diestros y valientes” [“brave and skilful men”). He beat them all: “de los cuales batalló de todas las armas e los hirió e señaló él primeramente con la espada” [“against whom he fought with all kinds of weapon and injured them and touched them first with the sword”]. When Esteban died relatively young, ten years after marrying, it is recounted as a thing “notable de esta mujer hombre” [“notable of this man-woman”] that her mother and wife wept, the one for her daughter and the other for her husband: “la una lloraba diciendo ay hija mía e la otra ay marido mío” [“one cried saying oh, my daughter, and the other saying oh, my husband”].

Estebanía managed to have her condition as a hermaphrodite and her transit to manhood accepted by means of a display of bravery, physical strength and her ability to carry and use weapons. These attributes were the province of a warrior ethos still highly valued at the time of the beginning of the Empire. They formed part of the myth of the Reconquest and were valued as part of the on-going colonization of the Indies.<sup>12</sup> It is for this reason that in the account of the life of Estebanía there is no hint of any presence of dishonour, sinfulness, evil or bad portent associated with her. This master of sword-fighting is always described as an honourable villein. As such, she was declared to be “claro de gesto” [“of gracious regard”] and was described as a “persona bien nacida” [“well-born person”], something that suggested her condition as “cristiano Viejo” [“an old Christian”]. The actions that brought her fame were described as “heroic” and “notable”, confirming Estebanía as a portent like those mentioned in the literature of the time on ‘marvels’.

In contrast to this unequivocal characterization of the hermaphrodite of Valdaracete, we find the story of Elena de Céspedes.<sup>13</sup> Elena did not descend from ‘old Christians’, despite what she alleged to the contrary.<sup>14</sup> Neither were her origins *hidalgo*, of the lower nobility, as was the case of Catalina de Erauso. Elena was the daughter of a *morisco* slave woman and as she was an emancipated slave herself her surname did not actually belong to her — she took the name of the wife of her owner. Only by means of an extraordinary effort to construct herself, modelling her body by means of a process of ‘stylization’,<sup>15</sup> and by elaborating the true story of her life, could Helena transgress the hierarchical borders between sexes and roles. She was a woman, a hermaphrodite, a man, a wife, a husband, a slave, a freed slave, a weaver, a draper, a shepherd, a domestic servant, a soldier and a surgeon.<sup>16</sup> This unusual degree of creativity in making herself allows us to question what many social scientists have said about the process of subjectivization. It is commonly held that the individual in ‘pre-modern’ or ‘traditional’ societies was basically made up by the intervention of collective elements such as family descent, local community, age, civil and ecclesiastical institutions, etc., while the modern subject was different in his or her ability to actively create their own identity.<sup>17</sup>

In contrast to this assumed reality it can be argued that Helena de Céspedes was able to make and remake herself so many times because the roles arising from the exercise of a trade allowed a degree of mobility that was much more extensive than previous accounts of pre-modern societies have suggested. So much is suggested by picaresque literature and the continuous ‘identity frauds’ that are common in the era’s comedies.<sup>18</sup>

The biography of Helena de Céspedes has been recounted many times but it is worth concentrating on a number of details of her life. In 1586, in her forties, Helena lived as a man (‘Eleno’) in a small town near Toledo and was married to María del Caño, the daughter of a master artisan. María was some twenty years younger than Helena. In June 1587 Eleno was detained by the *Corregidor* of Ocaña and was accused by a neighbour of committing sodomy with María. Shortly afterwards, she was summoned by the Inquisition and was accused of insulting the sacrament of marriage and of being involved in acts of witchcraft. The jurisdiction of the case fell finally to the inquisitorial office of Toledo, which, amongst other things, freed Helena from the charge of sodomy and possible death.<sup>19</sup>

The main argument that Helena used to escape any charges was that she was a hermaphrodite. This quality, she argued, undermined the accusation of disrespect towards matrimony since, although she had indeed been married to a man as a woman, it was only on the appearance of male genitalia after giving birth that she felt inclined towards the female sex and then married María del Caño. This argument also quashed the charge of witchcraft, which had arisen because Elena was accused of having deceived those who had examined her to prove her status as a male on several occasions, and in particular just before her second marriage. Amongst those supposedly deceived was none less than Francisco Díaz, surgeon to Felipe II.<sup>20</sup> Díaz had examined Elena before her wedding on the request of the Curate of Madrid and he had declared her

to be a male. When Díaz was called before the Santo Oficio and inspected Elena once more, he stated that she was a woman who showed no trace of manhood. Finally, the tribunal of Toledo found that they were confronted with a case of fraud. Helena had always been a woman, they believed, and they pronounced a sentence similar to those given in cases of bigamy. This entailed a public *auto de fe*, two hundred lashes and ten years' reclusion and service as a doctor in a poor hospital.

Helena did not ever deny that she had altered her body in order to hide her female genitalia and to emphasize her male nature. But she sustained right to the end that she possessed both qualities and that her male member had begun to diminish and decompose some time ago to the point of disappearing during her stay in the inquisitorial prisons.<sup>21</sup>

Helena de Céspedes was able to convince so many people because she gave herself a particular identity, which was constructed by means of an account that combined her own readings as a self-trained doctor (her library was extensive),<sup>22</sup> and her experience was flushed through with practical know-how and oral traditions, something typical of *morisco* medicine.<sup>23</sup> Elena knew how to combine these diverse elements in order to provide a convincing case before whichever authority (ecclesiastical, medical, magistrates or neighbours) she appeared.

This degree of creativity was only possible within a network of discourses and practices such as those present in the Ancien Regime of sexuality where the three kinds of experience described above occurred. Firstly, especially in the discourse of Elena herself, value was given to knowledge of medicine and natural history in order to present her case as something strange, a 'praeternatural' event, but never beyond the bounds of Nature. In this way, she managed to dodge the charge of sodomy, the practice against nature *par excellence*.

Secondly, Helena emphasized her occupation as a soldier and her participation in the repression of *morisco* uprisings. But in her case, unlike that of Estebanía, recourse to her ability to wield arms did not convince. Unlike Estebanía or Catalina de Erauso, it was Elena's sexual practices that cast doubt on her military prowess. Her shift from wife to husband, her multiple partners, seduction of married women and deflowering of damsels, her disrespect towards the marriage sacrament and finally her actions tainted with witchcraft, moved her perilously close to evil terrain and *sin contra naturam*. In fact, the inquisitorial tribunal considered it an act of clemency to have freed her from the charge of sodomy as brought by the Royal Tribunal.<sup>24</sup>

Finally, the case of Helena also has recourse to the experience of miracles, of the hermaphrodite as an individual equipped with redemptory and fantastic powers.<sup>25</sup> It is only in this knowledge that we can explain the commotion that the presence of Helena caused in the Hospital del Rey, in Toledo, where she was sentenced to work.<sup>26</sup> There were stampedes in favour of being treated by this surgeon from Alhama, causing disturbances and a series of problems that could only be resolved by transferring Helena to another hospital. She went first to a different hospital in Toledo and later to the village of Puente del Arzobispo. Here, the traces of this exceptional figure fade away, although the memory of her person lasted for nearly a century.<sup>27</sup>

Catalina de Erauso, born in 1592, when the trial against Helena de Céspedes had already finished, led an even more itinerant lifestyle.<sup>28</sup> On escaping from the Dominican convent in San Sebastián at the age of fifteen, a place her parents had sent her in order to become a nun, she began a long personal journey through the territories of South America, passing through New Spain and what are now Colombia, Panama, Peru and Chile. She returned to Europe on a number of occasions and made long stays in cities in Spain and Italy. She exercised as many trades or more as Helena. It was not only arms, the activity that made her famous as the ‘nun ensign’, that Catalina would take up. She also worked as a page, cabin boy, servant, butler and tax manager of diverse activities in mining, livestock farming and merchandise. She altered her identity on several occasions. She changed from Catalina de Erauso to Francisco de Loyola. When she enlisted in the militias she became Alonso Ramírez Díaz and gained the rank of lieutenant. When, in 1620, she was forced to confess her true identity to the bishop of Guamanga, she adopted once more her first name and condition as a nun, but changed again when she received permission from the king and the Pope to dress as a soldier and to receive a military pension as Lieutenant Catalina de Erauso. As such, she finally went to New Spain under the name Antonio de Erauso.

On first sight, the seriousness of the misdemeanours of Catalina exceeds that of Elena. In several duels and fights she killed eleven persons, of varying situations, including a slave, a bailiff and a beggar. She was condemned to death on more than one occasion and on others could save herself only by going into hiding. In addition, despite her pretensions to virginity, she was involved in various amorous affairs with young women and even with a married lady. With this reputation as a gambler, murderer and adulteress, how is it explained that Catalina de Erauso was not only capable of being accepted by the authorities — receiving the blessing of king and Pope — but also managed to become a popular legend and, at the same time, an exemplar of the perfect Spanish *caballero* and the perfect Spanish lady?<sup>29</sup>

One crucial element is clearly the military *habitus* occupied by Catalina. She came from a Guipúzcoan family and shared the *hidalguía* and corresponding privileges accorded to all Basques. She was famous in military milieus and her reputation was recognized in the militia, the navy and among the clergy.<sup>30</sup> Her decision to become a man and to enrol in the campaigns of the Spanish army overseas was not taken in splendid isolation; it was taken in the context of a solid military tradition prevalent amongst Basque nobles. The fact that Catalina, without revealing her true identity, was involved in such activities and was accompanied by family members and associates in these activities was not arbitrary. Such links afforded her cover and also a support network that enabled her to achieve certain things such as a pension from the King.<sup>31</sup> On this basis we can understand how Catalina incorporated a military *habitus*, conceived as deriving from the tradition of the Reconquest.<sup>32</sup> Even if she lost her position of prominence with respect to the Court in Madrid,<sup>33</sup> she continued to play a fundamental role amongst the *hidalgos* who took part in the wars overseas.<sup>34</sup>

The admiration for the “natural pendenciero” [“naturally bellicose nature”] and bravery of Catalina,<sup>35</sup> inherited in the blood from her ancestors but common to the

Imperial Age of Spain as part of the need to defend honour and *hombria*, corresponds to a form of social organization in which the state did not hold the monopoly on violence. Duels and blood contests,<sup>36</sup> daily events in peninsular towns, were even more common in colonized lands. These territories were characterized by a 'frontier mentality', where authority encountered all kinds of obstacles.<sup>37</sup> In this kind of 'civilizing' context,<sup>38</sup> survival depended on physical strength and the ability to use arms. It was here that the 'Monja-Alferez' excelled; her murders were justified on the basis of the restoration of honour and it is for this reason that she managed to fend off any condemnation of her acts triumphantly.

Catalina was also aware that she had to incorporate one of the qualities that were essential to the perfect woman in Counter Reformation Spain: that of virginity. After killing a bailiff, a black slave and an official who attempted to seize her, Catalina sought protection under the authority of the bishop of Guamanga. After confessing her status as a woman she was examined by two midwives, a doctor and a surgeon. All of them confirmed her virginity:

Como a las quatro de la tarde, el mismo Señor Obispo abrió la puerta y entró. Entraron detrás dos mujeres, que eran comadres y un Médico y dos Cirujanos. Mandó a todos con censuras reservadas, que hicieran su oficio legalmente y salióse fuera y cerró. Yo me manifesté. Ellos me miraron y se satisficieron de que verdaderamente estaba virgen.... Su Illma. se enterneció y allí delante de ellos se llegó a mí y me abrazó y me dixo: Hija, ahora creeré todo cuanto me dixéreis. Yo, con humildad y reverencia me arrodillé y le besé la mano.<sup>39</sup>

*At about four o'clock in the afternoon, the Bishop opened the door and entered. Behind him, two women entered who were midwives and a Doctor and two Surgeons. He commanded all with discrete reserve that they perform their legal offices and he left and closed the door. I uncovered myself. They examined me and were satisfied that I was a virgin.... His Excellency was touched and before them all he approached me and embraced me and said: My daughter, now I will believe everything you say. With humility and reverence, I kneeled and kissed his hand.*

This quality is referred to emphatically in Catalina's account. Virginity was proof of virtue,<sup>40</sup> a state that made up for her transgression of sexual boundaries. Although this transgression had been achieved by a long and painful process of 'styling' her body,<sup>41</sup> it mitigated the blemish of her amorous activities with other women and exonerated her from the accusation of sodomy.

Her reputation as a virgin was, it would seem, one of the main reasons for her popularity at the time.<sup>42</sup> This woman, steeped in virility and military bravery, was at the same time a true 'shrinking violet'.<sup>43</sup> The virgin warrior, who had become famous after her voyage to Rome where she kissed the feet of Pope Urbano VII, also showed clear signs of impeccable religious devotion.<sup>44</sup>

Combining the warlike ardour of a soldier and the candour of a young lady, Catalina was able to construct her own myth in order to become, as Elizabeth Perry has argued,



a metaphor of the Spanish realm.<sup>45</sup> As a result of her status as a true oxymoron, the Monja-Alférez could bridge the category of God-given marvels and that of an almost miraculous virginity conserved in the context of violent masculinity. In this way, any connotation of evil linked to the committing of the nefarious sin, something that was palpable in the case of Helena de Céspedes, was instantly dismissed. Catalina de Erauso was able to change not into a male but into a legendary symbol of Spanish patriotism, a kind of tough ancestral version of Agustina de Aragón.<sup>46</sup>

The story of the nun Fernanda Fernández is less spectacular than that of Catalina but in some respects is more telling. Her case was discovered and first analysed by María José de la Pascua.<sup>47</sup> Fernanda was born in Baza and became a nun in the Capuchine convent in Granada. She remained a member of the order until the age of 27, when she started to notice signs of masculinity in her body. In two years the sexual transformation was complete. Initially, doctors diagnosed madness as Fernanda explicitly recounted her desires for the other nuns in the convent and her attempts to resist such temptations. Fernanda tried to quell these desires by avoiding her companions and by means of strict penitence including spiked chains and sharpened crosses. Later came regular blood-lettings as prescribed by the doctors. Subsequently, after reiterating her manly nature before the assembled doctors, she was finally examined by them and they pronounced her to be a man. As a result of this revelation the religious authorities began to process her release from her vows. Once her parents were told, Fernanda became Fernando and adopted male attire. This new identity was not assumed easily by Fernando, however, and he pined for his life as a nun and all he had learnt in the convent.

Fernanda belonged to a well-off family. Despite her case being understood as somewhat portentous, this status was partially undermined by reference to the infamy of the ‘counter-natural’ urges that she experienced. However, this evil trait, which by the time had already begun to be reconceptualized as a sign of ‘madness’, was brushed aside when she was identified as a man. Once this was determined the story takes another turn. The sexual metamorphosis undergone by Fernanda becomes the opportunity for Fernanda to sanctify her existence given the suffering and the painful penitence she underwent in order not to succumb to the nefarious sin. It was as if the sex change was a gift from Providence that allowed Fernanda to choose the route towards purification. How else could her virginity, her manhood amongst so many nuns, have been maintained intact if her status were not such a gift? Her case was thus considered ‘marvellous’ and it was this that demolished any association with nefarious sin and the transgression of sexual boundaries.<sup>48</sup>

But what is most surprising about Fernanda’s case is that it takes place in 1792 and that everyone involved, including the medical authorities, did not appear to doubt the possibility of sexual transformation, something generally accepted in European medical circles to be impossible. The doctors’ intervention was limited to reporting Fernanda’s life-experience on the basis of an anatomical examination. In no sense did they argue that deep down Fernanda had always been a man or that maleness had always been her true biological sex. However, by this time, in both Spain and

wider Europe, medical accounts and informed opinion tended to judge this kind of metamorphosis and hermaphroditism as baseless frauds arising out of superstition, a product of the general ignorance of the time.<sup>49</sup> The case of Fernanda illustrates once more the tenacious nature of the old sexual regime, that is, of sex as status and the continuation of notions of the marvellous, the portentous and miraculous. This old world was gradually eroded, however, as the next section of this article argues.

#### THE EXPULSION OF THE MARVELLOUS

As the case of Fernanda Fernández shows, the belief in masculinized women and in hermaphrodites was still alive and well in the eighteenth century. The literature on 'marvels' depicting 'strange observations' or 'curiosities' was still very current. The possibility of engaging in carnal activity with the devil was still discussed and, in those cases of conception and birth, the need to baptize the new born was emphasized.<sup>50</sup> Authors with a certain reputation as 'illustrated' and 'experimental' *avant la lettre*, such as Padre Feijoo, believed in the possibility of procreation between animals and persons.<sup>51</sup> Feijoo also admitted the possibility of bicephalous humans capable of surviving several years and capable of dialogue between the two heads.<sup>52</sup> In sum, in the same way as the political, economic and social Ancien Régime was able to survive beyond its supposed disappearance, as Arno J. Mayer has shown,<sup>53</sup> so could the sexual Ancien Régime continue beyond its usually accepted demise.

Despite this, it would be incorrect not to admit that throughout the eighteenth century in Spain and in wider Europe a broad and increasingly vociferous offensive against the marvellous took place. This discourse found that true hermaphrodites did not really exist, decried the possibility that they procreated, and refused to accept that women could change into men. In order to explain how this step took place we need to identify three connected processes: the naturalization of the monster, the development of modern legal medicine, and the emergence of the biological basis of sexual difference. The bedrock of this change was provided by the continual discrediting of the transcendent order that held Nature to be an expression of divine will. Nature began to be understood as mere nature; life emerged as 'bare life' and as a process governed exclusively by its own laws.<sup>54</sup> Once the protective shield of Providence had disappeared, life and nature became fragile, unprotected and dangerous. Their care and protection came to be a political issue. Government would consist above all in directing life, administrating its flows and managing its risks. It would involve, once the old regime decayed, the rise of divisions and taxonomies of human beings.<sup>55</sup>

#### THE NATURALIZATION OF THE MONSTER

If Nature is just nature, the monster, which is one of its products, can no longer be viewed as a sign either of divine omnipotence or as a warning or punishment delivered from on high by Providence. During the eighteenth century the process of the naturalization of the monster begins. This process culminates in the first half of the following century with the scientific explanation of monstrosity. This understanding

emerges principally in the writing of Isidore Geoffroy Saint-Hilaire in the field of Teratology. The naturalization of the monster constitutes its definitive uncoupling from diabolical intervention, from the aberrations of imagination, and from dreams.<sup>56</sup> It signifies the conversion of the monster into something housed in the natural order according to laws discovered by reason.<sup>57</sup> This process is an epistemological prerequisite for the entering of the monster into the teratological order. In the context of the apparent duality of the sexes there are only more or less anomalous genital malformations.

In the course of the eighteenth century the monster becomes an object and instrument of investigation. In the monster the keys to finding the truth of the 'normal' conformation of human beings were located. The monster, in this sense, was utilized in order to carry out experiments in order to resolve the debates between the rival systems of preformationism and epigenesis.<sup>58</sup> It also served with respect to the first system to decide between ovism and animalculism.<sup>59</sup> The analysis of the monster also served to resolve the question of the circulatory system of the foetus<sup>60</sup> and allowed eighteenth-century naturalists to delve into the laws governing animal species. How could identities, continual transitions, differences and variations in the hierarchical order of animals be explained? From Leibniz to Robinet, the variations represented by monsters would be conceived either as transitional forms between different species (as a guarantee of continuity) or as a sign of the infinite combinations that nature provided (as a source of difference).<sup>61</sup> Finally, the unification of embryology that emerged from the triumph of epigenetic theses (Meckel) with comparative anatomy removed from the idea of an 'animal series' (Cuvier), would give rise in the first third of the nineteenth century to Teratology under Saint-Hilaire. Here, monstrosity is placed among the various types of functional anomaly and is placed in the evolutionary register as 'arrested development'.

The extremely frequent observations on monsters in the publications of European science academies between the final years of the seventeenth century and the first decade of eighteenth suffer a drastic reduction from 1710 onwards.<sup>62</sup> Strict criteria are enforced not to reiterate case studies but in order to select pertinent cases that explain concrete problems. Above all, there was an attempt to divorce monstrosity from anything to do with admiration of the 'marvellous'.<sup>63</sup> In Spain, the decline of the literature of marvels paralleled the rise in textual critique and analysis,<sup>64</sup> in particular in the mode provided by Feijoo and Mayans.<sup>65</sup> The objective of these studies was to differentiate fables and legends from authentic demonstrable historical and scientific facts.

#### THE DEVELOPMENT OF LEGAL MEDICINE

In this context, sexual transformations are steadily deemed to be impossible and, to a lesser degree, so are hermaphrodites, although they are still the subject of profound controversy in the eighteenth century.<sup>66</sup> Spanish anatomists of certain prestige, such as Martín Martínez,<sup>67</sup> religious figures with a naturalist bent such as Hervás y Panduro (1735–1809)<sup>68</sup> and Barco y Gasca (*fl.* 1775),<sup>69</sup> figures in 'legal surgery'

(a subject included in the curriculum of the College of Surgeons from 1780) such as Juan Fernández del Valle (*fl.* 1790),<sup>70</sup> rejected the possibility of “mudas de sexo” [“sex-changes”]. Fernández del Valle and Hervás y Panduro also rejected outright the existence of hermaphrodites in general,<sup>71</sup> and those called ‘true hermaphrodites’ in particular.<sup>72</sup>

Such a rejection of hermaphroditism was, however, not yet the intellectual norm of the eighteenth century in Spain. This is revealed by a study of one of the most used manuals in Surgeon’s Colleges in the century. The *Elementa medicinae et chirurgiae forensis* written by the Austrian surgeon Joseph Jacob Plenck (1733–1807) was published in Spanish for the first time in 1796. The text, to some extent, still belongs to a dynasty of pre-modern medico-legal works such as the *Quaestiones medico-legales* (1621–35) by the Italian Paolo Zacchias (1584–1659).<sup>73</sup> The task of the medico-legal doctor in this context was still not divorced from religious elements and much medical jurisprudence referred to canon law. It is in this framework that Plenck includes his analysis of matters pertaining to monsters, doubts over sex and possession by the devil.

In the section on the signs that might call into question the sex of the individual, Plenck examines the matter of hermaphroditism. He understands hermaphroditism as part of a five-fold problematic: the name with which the child is to be baptized; the legitimacy of the marriage, understood as possible only between man and woman; the determination of the sex of the spouses if both are hermaphrodites; licence to take male or female occupations; and the kind of dress an individual should take up.<sup>74</sup> Plenck considers hermaphroditism as a type of monstrosity that affects the genitalia, giving rise to part male and part female forms.

In his account three types of hermaphrodites are described with their different anatomical and physiological characteristics and their own secondary characters and sexual inclinations. The first type is the ‘male androgyne’ variety or masculine hermaphrodite. This type possesses a penis and testicles, is capable of inseminating and has an opening in the perineum that seems to be a vulva. On examination, this opening is found not to lead to a uterus but to the bladder. These hermaphrodites are attracted to women, have hair in abundance and beards but no breasts. Finally, they possess a narrower femur and a slightly broader humerus.<sup>75</sup>

The second type is the ‘female androgyne’ or feminine hermaphrodite. This class possesses a large clitoris which appears to be a penis and is capable of erection. This hermaphrodite usually possesses two openings, one of which leads to the bladder and the other to the uterus. They have no testicles or spermatic ducts. They possess breasts, scant body hair, a broader femur and a narrower humerus.<sup>76</sup>

For Plenck there is a third type of hermaphrodite, the ‘true hermaphrodite’. These possess a mixture of the sexes and have testicles and ovaries, a uterus and virile member. In order to demonstrate that this variety actually exists, Plenck cites observations and cases collected in the works of Haller, in accounts by the French authors Mavret and Petit — read at the Dijon Academy and the Royal Academy of Science, respectively — and from the work of the Italian Colombo.<sup>77</sup>

His chapter ends by formulating five theses. These are: (a) male androgynes can inseminate women; (b) female androgynes, using their clitoris, can unite with women but cannot ejaculate; (c) true hermaphrodites are possible;<sup>78</sup> (d) the existence of these true hermaphrodites explains stories about women changed into men and vice versa (what in fact takes place is that the genitalia of the other sex emerge from inside, either as a result of an operation or on coming of age); and (e) old laws punished these unfortunates severely and Nature has punished them sufficiently as it is.<sup>79</sup>

Plenck's account can be understood as heralding a transition. On the one hand, he maintains the belief in true hermaphrodites and on the other he denies the possibility of sex change. But in order to deny this possibility he uses an old device employed by, for example, Bravo de Sobremonte and Fuentelapeña: sex changes arise from hidden hermaphroditism. Finally, he adds an element that is present in the intellectual armoury of the Enlightenment and that Spanish medico-legal doctors will reiterate in the first half of the nineteenth century — he condemns the old laws as barbarous hangovers, which punish savagely individuals of doubtful sex. His sorrow for these 'unfortunate beings' places him in the next century.

The work by Plenck forms part of a first generation of texts in legal medicine, which includes *Cirugía forense* (1783) by Domingo Vidal,<sup>80</sup> *Cirugía forense, general y particular* (1797) by Juan Fernández del Valle, and to some degree the *Compendio de policía médica* (1803) by Vicente Mitjavila.<sup>81</sup> In these texts, which are used as manuals in the colleges and, in the last case, in the Academy of Practical Medicine in Barcelona,<sup>82</sup> legal medicine goes far beyond the parameters of the discipline as laid out at the time of Paolo Zacchias. It is no longer a simple discipline that tries to guide justice in particular circumstances such as violent deaths, poisoning, witchcraft, rape, etc.; it is now a science of the State.

We stated that the naturalization of the monster was possible only by means of the wearing away of the concept of Nature as a language through which God communicated with humanity. The role of a transcendent order that gave life sense and protection is gradually supplanted by a disciplinary form of power characteristic of absolute monarchies and which attempts to administer the tiny everyday details of life. The 'Science of Police', both in its French and German varieties, is the theoretical model followed by this type of power.<sup>83</sup> The German variety, which was disseminated in Spain in the eighteenth century, constituted a set of knowledges devoted to the creation of state administrative functionaries, also known as 'cameralism'.<sup>84</sup>

Part of this set of knowledge was 'medical policy'.<sup>85</sup> If the management of life and health were integral to a State that watched over public well-being, it is not surprising that public health was recognized as an important field, particularly in the reign of Carlos III.<sup>86</sup> In fact, the first series of medico-legal texts mentioned above were to some degree inscribed in the framework provided by 'medical policy'. If the State and its laws should project life this was possible only if the principles that guided it were known. This is evidently the case for the question of the 'population', considered at the time to be the major form of wealth of the nation.<sup>87</sup> Legal doctors, therefore, as major specialists in health and public well-being (at this time, public hygiene was

not separated from legal medicine),<sup>88</sup> were not limited to guiding magistrates. Their knowledge should be employed in the close regulation of life in order to guarantee the harmonious functioning of the State.<sup>89</sup>

This idea of subordinating law to biological norms is articulated in these first texts in an extraordinarily centralist and interventionist mode, corresponding to the mechanisms of State characteristic of enlightened despotism.<sup>90</sup> The emergence of the liberal State, which in Spain, after the failed attempts of 1812 and 1820, was resuscitated under Isabel II, implied a very different way of implementing the government of health and the precepts of legal medicine. In this new context, the legal doctor does not collaborate with a State that wishes to regulate life meticulously as under Cameralism and the days of medical policy. The liberal government of life consists in eliminating the obstacles that prevent the development of the means of internal regulation of life. This form of government marks out the limits and the possibilities of state action. It is not a matter of submitting nature to an endless round of sanitary interventions. Rather, the very dynamic of vital processes is submitted to analysis so that the legislator can adjust his actions accordingly.<sup>91</sup> From the beginning of the nineteenth century, with the Spanish translation of the work of Foderé, *Les Lois éclairées par les sciences physiques, ou Traité de médecine légale et d'hygiène publique* (1797), published in Madrid between 1801 and 1803, a second generation of medico-legal treatises is opened up. The works of Ramón López Mateos (1771–1814), *Pensamientos sobre la razón de las leyes* (1810), and Francisco Fabra Soldevilla (1778–1839), *Filosofía de la legislación natural* (1830), inaugurate a *corpus* of Spanish medico-legal texts,<sup>92</sup> which are faithful to the model of liberal governmentality, whereby legislators should adjust their work “a las insinuaciones de la naturaleza” [“to the insinuations of nature”].<sup>93</sup>

Amongst those areas brought under the aegis of legal medicine there is one that is particularly relevant to the achievement of optimum quantity and quality of the population. The medico-legal practitioner became the ultimate authority in respect of the assignation of sex to those individuals deemed of ‘doubtful sex’. No longer is the ‘predominant sex’ spoken of or the election of sex in cases of ‘true hermaphroditism’. It is understood that each individual has one exclusive sex, male or female, which guarantees their civil identity and holds up the institution of marriage, the key mechanism for the reproduction of the nation.<sup>94</sup> The legitimate procreative couple is the married couple and such a formula requires the strict identification of a man and a woman.<sup>95</sup>

The desire to regulate marriage beyond the sphere of family interests alone in order to create an abundant healthy population is what engendered in educated Spaniards a critique of marriage of convenience and marriages with large age differences. These matrimonial alliances were unsuitable not only morally but also because they affected the biological potency of the realm. Such concerns can be seen in a wide range of sources including comedies of the time such as that of Leandro Fernández de Moratín, *El sí de las niñas* and *El viejo y la niña*, or the satires of Jovellanos on the same matter.<sup>96</sup> Goya’s *Caprichos* drawn between 1797 and 1798 also fall into this

camp. They illustrate in grotesque form a kind of marriage ceremony in which the protagonists are masked figures in a carnivalesque scene. The fiancée, a young girl, appears with a mask on her face and another on her genitalia, simulating the double sex of the hermaphrodite. One of the illustrations of the series (B. 59) is entitled *Máscaras: La apunta por hermafrodita*. A scribe, in likeness to the priest, holds a notebook in which he appears to record the proceedings. Behind, someone watches with hands raised in horror. The scene has been interpreted as an allusion to female luxuriousness common to the *novias* of this kind of marriage, which, by agreement with the boy, is arranged in order to satisfy the girl's unruly erotic appetite.<sup>97</sup> Hermaphroditism is symbolized by sexual excess and draws on the old association with nefarious sin. But at the same time, this hermaphroditism is not real. It does not coincide with that represented in the literature of prodigies in contemporary accounts and is not represented as a harbinger of evil to come. It is no more than a mask, an appearance that hides the true sex of the individual. In this way, Goya's illustration appears to draw on the hermaphrodite as a transitory condition and at the same time suggests that the old sexual regime is fading away as the reign of the true biological sex approaches.

Such a depiction implies the uncoupling of sexual identities from the old network of community and family alliances that characterized the old regime. Here, the civil identity of the subject was defined by his or her external lines of sociability. It was necessary to determine clearly the sex of a person in order to allow their entry into relations governed by alliances, in order to permit their entry into the ecclesiastical order, or to allow their participation in marriage. Identity also allowed them to be positioned with respect to lineages or inheritance, or in guilds and corporations which required a name and a tradition. Determination of sex in doubtful cases was primarily the responsibility of the family or tutors who in turn often sought the guidance of doctors, surgeons and midwives. In this way, the individual was defined less by their sex than by their relations with others. Possessing one sex or the other determined whether the subject would participate in a dense set of relations of dependency (family, vows of fidelity, protection) as part of the social network provided by family and blood alliances.

The new liberal State, which eliminates the representation of society as divided into three unchangeable orders and substitutes a homogenized society in accordance with property relations, defines the social identity of individuals not by their names or titles or their external relations but by means of their 'interiority': their body, their physical strength and their thought, all elements that were identified with the responsible individual who was capable of exercising his or her rights and entering into the contractual relationship.

The fixing of sexual identity, replacing status as a distinctive and innate mark in individuals, would no longer depend on the members of the family or on the subject themselves. Even though the subject would be incited to speak the truth about him- or herself, this task falls on those who possess positive knowledge on bodies and souls, and who are capable of deciphering definitions beyond any deformities that

nature might throw up and beyond any interpretations that superstitious priests might put forward.<sup>98</sup> This is a technical form of rationality. Its social agents possess expert knowledge which even supersedes any juridical authority in terms of determining the identity of the subject.

These new forms of administrative rationality are devoted to seeking the maximum output from the combined strengths of the nation. The science of administration of the old regime and the political economy of liberalism both see the population as a source of wealth, a resource that should be managed to full effect and a treasure whose increase, both quantitative and qualitative, impacts on military might and the productivity of States.

The establishment of a national militia under a system of conscription and the concern with the regulation of the age and ability of marital arrangements to reproduce are measures wholly in line with this desire to increase the volume and health of populations. Within this group of concerns, the exact determination of sex becomes of vital importance. In the first place, this is to guarantee the success and the procreative nature of marriage by authorizing such relations or annulling others. A number of crucial questions move to the heart of legal medicine. These include: problems of impotency, sterility, ideal age for marriage, health, hereditary illnesses, and the assignation of sex in doubtful cases.<sup>99</sup> Secondly, the exact determination of sex is important to questions related to military service. It is no surprise that many of the cases of hermaphroditism recorded in legal medicine in the nineteenth century arose from erroneous marriage arrangements and from ambiguous soldiers aspiring to or having been conscripted by the militia.

#### THE FOUNDATION OF SEXUAL DIFFERENCE

Together with the naturalization of the monster and the take-off of legal medicine, there is a third process during the same period that is decisive in terms of the eclipse of the category of the hermaphrodite and the rejection of the possibility of sex changes. This third element is the biological foundation of sexual difference, a development that, as Thomas Laqueur has argued, converges with the aspirations of enlightened thought and liberal democracy. The route taken by such a development is now traced for the Spanish case.

Emphasis on the duality of the sexes contrary to the monist schema of Hippocratic-Galenic thought can be traced in some medical texts (Bravo de Sobremonte, García Carrero) and some non-medical texts (Martín del Río) of the seventeenth century.<sup>100</sup> But in these kinds of texts divine will is always invoked. Two sexes exist because God wished it so. The Book of Genesis is a manifestation of this premiss and such a state of affairs guarantees the reproduction of human kind. This theological argument characteristic of the Ancien Régime will lose ground in the light of new interpretations. In this new paradigm, it is deemed unnecessary to read the Scriptures to see the differences between men and women; instead, it is a case of deciphering different traits in anatomical structures, physiology and temperaments. It is from this perspective, although without renouncing the old theological and moral interpretations



completely, that Feijoo and Martín Martínez in the early and middle of the eighteenth century argue.<sup>101</sup>

In the *Teatro crítico universal* by Feijoo, the author is extremely critical of the Hippocratic doctrine.<sup>102</sup> In matters relating to generation Feijoo maintains preformationist theories and rejects the notion that female fetuses lie on the left and males on the right.<sup>103</sup> But it is not in these differences with Hippocrates that we see the Benedictine's thought on the differences between the sexes. This can be seen in his "Defensa de las mujeres" within the *Teatro crítico universal*. This text, as Mónica Bolufer has shown, puts an end to the debate begun in the medieval period in Spain on the inferiority or otherwise of women with respect to men. In this "Defence of women", Feijoo follows an argument sketched out in the eighteenth century and refuses to accept the Aristotelian notion of women as 'monsters' or as 'imperfect males'.<sup>104</sup> Instead, women are understood as complete forms, perfect in their own right and biologically necessary "pues no puede conservarse la especie sin la concurrencia de ambos sexos" ["because the species cannot be preserved without the existence of both sexes"]. As a consequence of this position, Feijoo rejects the theological supposition which, as can be seen in Eiximenis, foresaw the conversion of all women into men come the Resurrection.<sup>105</sup>

In addition, Feijoo also recognized that men and women were of "diferente organización" ["different organization"] and that this physical difference conditioned the moral and intellectual orders. But he insisted that it was not from this difference that any intellectual inferiority of women sprang. Indeed, given the state of science at the time, it was not possible to identify the material basis of any such hierarchy. In this sense, it was necessary to consider both sexes as equal.<sup>106</sup> The difference between men and women was not on the basis of understanding, even though he recognized that women's brains were made up of softer fibres. Such a structure, however, did not undermine her "facultad discursiva" ["mental capacity"], as "illustrious" and intelligent women throughout history showed.<sup>107</sup> The difference between the sexes lay elsewhere: not "en los órganos que sirven a la facultad discursiva; sí sólo en aquellos que destinó la naturaleza a la propagación de la especie" ["in the organs that serve mental capacity, but only in those that nature destined to propagate the species"].<sup>108</sup>

Therefore, purely physical considerations did not permit the hierarchical model as conceived by Aristotle (the woman as a failed man) or by the Hippocratic-Galenic model. Women and men were different by their nature, although this did not allow for the supremacy of one sex over the other. To this degree, it would appear that Padre Feijoo anticipated all the aspects of the dimorphous and naturalist model. But this 'modernity' as evinced by a reading of Feijoo is somewhat precarious. If both sexes were equal in terms of talent but different in terms of physical traits, how could the *de facto* supremacy of one sex over the other be accounted for or justified? In order to resolve this conundrum Feijoo had recourse to a theological argument. God had wanted man to exercise power over woman not because of his superior intelligence but because of other virtues that were in the possession of those in positions of command: constancy and fortitude.<sup>109</sup>

The *Anatomía completa del hombre* (1728) by Martín Martínez, an acquaintance of Feijoo,<sup>110</sup> and a supporter of the latter's argument in "Defensa de las mujeres", shows a clear example of the triumph of sexual dimorphism. In the fourth and fifth lessons dedicated to analysing male and female "partes de la generación" ["parts of generation"], differences in these parts are continually foregrounded. The fourth lesson opens with a discussion of the similarities and differences between the male and female organs.<sup>111</sup> In this detailed account, the tiniest differences between these shared parts are emphasized.<sup>112</sup>

When describing the female parts, Martín Martínez emphasizes with great care their function, whether in conception or birth, as if the whole of female genital anatomy were destined to make the semen fecund and the foetus viable.<sup>113</sup> With regard to the clitoris, although it is compared to the penis, well within the Galenic isomorphic tradition, its differences in terms of structure and function are highlighted. Its muscles are not to maintain an erection or to expel semen but to close up the vulva in order to squeeze the penis during coition. Also within this tradition, as seen in some medical texts in the sixteenth and seventeenth centuries, is the insistence on characterizing the clitoris as the principal organ of female "deleite sensual" ["sensual delight"]<sup>114</sup> and the reference to macro-clitoridean women who are capable of seducing and having carnal relations with women.<sup>115</sup> In the work by Martín Martínez an illness that became fashionable at the end of the eighteenth century is not mentioned. This specifically female disease, "furor uterino" ["uterine fury"] or "ninfomanía" ["nymphomania"], was glossed for the first time in the work of J. D. T. de Bienville (*La nymphomanie, ou traité de la fureur utérine*, 1771) and was associated with the excitement of the clitoris.<sup>116</sup> This particular pathology, discussed in Spain from the end of the eighteenth century,<sup>117</sup> marks out the differences between women's sexual desire and that of men and thus serves to recapitulate the differences between the sexes.

The figures representing the genital organs of man and woman in the work by Martín Martínez, even though they still depict a frontal section, do not show the sexes side by side as can be seen in sixteenth-century medical texts such as the *Historia de la composición del cuerpo humano* by Valverde de Amusco. The representation of the vagina as a penis has disappeared and the breadth of the uterus and womb is emphasized forming a conical figure while the penis is represented as cylindrical. Nor is isomorphism between ovaries and testicles any longer a given. In sum, the dichotomous model is now evident.

This break with the one-sex model as represented by authors of the first Spanish Enlightenment such as Feijoo and Martínez will be consolidated as legal medicine becomes established. The "nueva ortodoxia ilustrada" ["new illustrated orthodoxy"], as Mónica Bolufer has called it,<sup>118</sup> does not limit these biological differences to the organs of generation; by questioning the old Cartesian dualism biological difference is understood as the material basis that grounds the mental and physical existence of individuals. As such, doctors such as Foderé<sup>119</sup> and López Mateos<sup>120</sup> do not merely underline the different physical make-up of men and women but argue that all social differences stem from this different organic constitution. In this way, the universal

equality heralded by the collapse of the old regime is questioned as differences are no longer situated in differences of rank but in the differences between the organic and physiological constitution of bodies. Doctors, like the authors of moralizing novels at the end of the eighteenth century,<sup>121</sup> appeal to ‘nature’ as against ‘artifice’ as a way of questioning the lifestyles of privileged groups of the Ancien Régime. But this did not eliminate discourse of female inequality; rather, it recodified it and situated this difference on the level of complementary but different biological realities. The social, then, is predicated upon biology. Women and men are theoretically equal as juridical subjects but their physical peculiarities make them more apt to fulfil certain occupations rather than others. The new great divides that characterize industrial society — public/private, production/reproduction, factory/home — are consolidated on a biological basis of bare life rather than in respect of a divine order. At the same time, the sciences of life are invoked to locate the differences between races, ages and classes, thus consolidating a kind of ‘state racism’ in parallel to democratic liberalism.<sup>122</sup>

This emphasis on the complementarities and differences between female and male nature was consolidated in an emerging set of medical texts in the early nineteenth century. These treatises on ‘gynaecopathy’ or ‘women’s illnesses’ were represented by works such as that of Julien Joseph Virey (1775–1846), translated into Spanish by the anatomist Manuel Hurtado de Mendoza (1780/85?–1849). This work emphasized that sex differences were greater the higher one went up the biological scale of living things,<sup>123</sup> and women were declared to be fragile and of acute sensibility.<sup>124</sup> It was this extremely fragile female condition that gave rise to a genre of texts on women in Spain of French origin. There was no male equivalent. This literature, from the treatise by Vigarous, translated in 1807,<sup>125</sup> to that of Baltasar de Viguera (1827),<sup>126</sup> those of Roussel<sup>127</sup> and Capuron,<sup>128</sup> both translated into Spanish in 1821, confirmed the biological roots of sex differences and placed them at the root of all female peculiarities, both psychic and social.

The consolidation of sexual dimorphism led to the elimination of any transitional figures on the masculinity–femininity scale. Sexual metamorphoses had become mere fables and hermaphroditism (apart from ‘perfect’ hermaphroditism) was increasingly qualified as apparent, although Teratology admitted it as a kind of variation within its taxonomies.<sup>129</sup>

Spanish medical thought of the first decades of the nineteenth century, situated on the confluence of the processes examined above — the naturalization of the monster, the take-off of modern legal medicine and the biological foundation of sexual dimorphism — brought together a wide range of understandings on hermaphroditism and sex change that could be found as part of the intellectual legacy of the Enlightenment.

In the first place, there was the more or less vehement rejection of the biological possibility of true hermaphroditism in humans. Despite not receiving identical treatment across the disciplines of natural history, anatomy and legal medicine (recall that discussions had not been unanimous in the eighteenth century), there was a general

rejection of the notion of human beings with two sexes. Increasingly, the belief in hermaphrodites would be consigned to the world of fables, magic and common superstition. Rather, these figures would form part of the fascination of the marvellous, in turn understood as part of humanity's early childhood.<sup>130</sup> In the same way as popular medicine was to be exiled by an increasingly professionalized form of medicine, folk stories about hermaphrodites had to be consigned to history. Hermaphroditism, like sexual metamorphosis, was an example of 'unreason'.

Indeed, such notions of the hermaphrodite constituted an error; the very term that was used to designate hermaphroditism, Orfila pointed out,<sup>131</sup> could only lead to falsity, to a fallacious use of language that should be expelled by new medical knowledge. The hermaphrodite came to be defined negatively, as a deceit that nature had fabricated in order to fool positive observation:

Por hermafroditismo en el hombre o la mujer se entiende aquella disposicion viciosa de las partes genitales en la que el individuo parece ser de un sexo, a que realmente no pertenece, o no se puede determinar cuál sea el verdadero sexo.<sup>132</sup>

*By hermaphroditism in man or woman we understand that vicious disposition of the genital parts that makes the individual appear to be of the sex to which he does not belong or for whom one cannot determine their real sex.*

'Appearance', 'simulacrum', 'deceit', are the terms that become associated with the hermaphrodite. This negation is not just epistemological, a result of the ignorance and backwardness of medicine. The belief in these beings also entails moral negativity. As Enlightenment thinkers believed, and such is present in the work of Plenck, superstitions were associated with barbarous acts, aberrations of reason. Authors believed that it was because of this absurdity that innocent persons identified as hermaphrodites were executed in the same way that belief in witchcraft and possession by the devil resulted in the fires of the Inquisition.<sup>133</sup> This rejection of the hermaphrodite was founded partly on a critical evaluation of past accounts of supposed hermaphrodites. Artistic and literary accounts and supposedly scientific observations made in ancient times made up a mosaic of horrors that reason could only substitute by positive observation in the face of prejudice.<sup>134</sup>

In the same way as in other areas of medical specialization such as the dissection of cadavers in pathological anatomy and the study of mental illness, prejudice and superstition are expelled by the clarity of the clinical eye. Observation, deriving from anatomical inspection, recourse to the microscope,<sup>135</sup> and studies of the physiology of reproduction would constitute the principal basis from which to argue against the existence of the hermaphrodite.

However, these inductive techniques do not create a field informed by complete unanimity. If some authors declared that supposed hermaphrodites observed to date were not capable of reproduction via self-insemination, as occurred in the plant world, other authors pointed out that these beings were not capable of being fecundated or able to procreate. In neither case were they real androgynes. This was the point of

view that gained the upper hand.<sup>136</sup>

Alongside these points of view, the occasional author declared that hermaphroditism was impossible *a priori*, a contradiction in terms whether proven or not by inductive means. This argument seemed to go back to old-style understandings. Here, the hermaphrodite would be a “derogación de las leyes que le plugo al Supremo Hacedor establecer en orden a la reproducción de los seres animados” [“renunciation of the laws that the Supreme Maker established with respect to the reproduction of the animated world”].<sup>137</sup>

The hermaphrodite disappears from the stage to be consigned to the lowest order of living things amongst plants and inferior animals. At most, he or she would be identified with a certain lack of sexual differentiation characteristic of old age or childhood in humans.<sup>138</sup> Humanity and hermaphroditism are deemed to be mutually exclusive concepts. Only when man is not yet a man or when he begins not being so, assailed by old age and death, is sex erased and a loss of identity similar to that of the androgyne is gained.

In this way, hermaphroditism was completely voided of its magical and occult content. Any case was in reality the result of an anatomical or functional maladjustment that made the assigning of true sex a more complex task. The parameters of this medical discussion have shifted from those of the sixteenth and seventeenth centuries. No longer are questions asked on the ‘predominant sex’ of the individual. Instead, when faced with an individual of doubtful sex, Embryology and Teratology would ask: what kind of physical alteration are we presented with? Is this a vice of conformation or a monstrosity? Is this a product of an interruption in the growth of the individual or thwarted development? Legal medicine, on the other hand, would ask about the true sex of the individual *hidden behind* the mask of deformity. It would inquire as to the type of apparent hermaphroditism present and would seek an answer to the question as to whether surgical procedures could ‘correct’ any anomaly to restate the true sex of the individual.

The task of biological discourse is to identify those anomalies that were previously understood as hermaphroditism. By using anatomical and physiological criteria the Teratology of Saint-Hilaire offered a classification of anomalies according to varieties (anomalies that did not interfere with normal functioning), vices of conformation (generally inconsequential anomalies), heterotaxias (severe anomalies but which did not interfere with normal functions) and monstrosities (severe anomalies that did impede normal functioning).<sup>139</sup>

Cases of apparent hermaphroditism were located mainly in the category of vices of conformation and monstrosities. The first of these were not very severe deformities and there were no traces of both sexes to be found. In monstrosities, the co-existence of organs of both sexes prevailed and this prevented sexual relations and reproduction. Both anomalies were understood as elements in ontogenetic evolution — they were developmental shortcomings resulting from the lack of growth of one type of genitals which had been surpassed in growth by the genitalia of the opposite sex.<sup>140</sup>

In the discourse of Teratology, then, hermaphroditism was in reality a kind of

under-development in particular humans. The organism was unfinished and was closer to its own origins than to any finishing point. Such a circumstance also had echoes on the phylogenetic level. Those species in which hermaphroditism was common were placed on the “último peldaño” [“last stage”], in the words of Pedro Mata, of life, separating plant from animal life, the living from the inert. The hermaphrodite was pure negativity and would never become and would never exist as such.

This notion of limit, of negativity, would be different in the case of legal medicine. Here, as has been argued, hermaphroditism is not seen as being close to any origins but a figure giving rise to equivocal views and complex socio-legal situations to be resolved by experts. The hermaphrodite is a fiction, whose truth is to be unmasked by the medical doctor who locates the real sex. The true sex would be identified firstly as “true genital anatomy” in the rules established by Henri Marc in 1817,<sup>141</sup> and, later, by means of the ‘gonads’ in the histological criteria advanced by the German Theodor Albrecht Edwin Klebs (1834–1913).<sup>142</sup> The fate of the hermaphrodite in the nineteenth century would be vastly different to that encountered by either Estebanía de Valdaracete in the sixteenth century or Fernanda Fernández in the eighteenth.<sup>143</sup>

#### REFERENCES

1. The debate over the ‘one-sex’ and ‘two-sex’ models has been extensive. It is perhaps best encapsulated by T. Laqueur, *Making sex: Body and gender from the Greeks to Freud* (Cambridge, MA, and London, 1990); T. Laqueur, “Sex in the flesh”, *Isis*, xciv (2003), 300–6; M. Stolberg, “A woman down to her bones: The anatomy of sexual difference in the sixteenth and early seventeenth centuries”, *Isis*, xciv (2003), 274–99; L. Schiebinger, “Skelettrestreit”, *Isis*, xciv (2003), 307–13.
2. One case possibly not to be included is that of a nun who supposedly changed sex in Madrid (cf. A. de Fuentelapeña, *El ente dilucidado: Tratado de monstruos y fantasmas* (Madrid, 1978 [1676]), 245). This case is mentioned only by Fuentelapeña. Another nun, from Santo Domingo del Real (Madrid), who became a man and was ordained as a friar with the name Rodrigo Montes, as well as being discussed by Fuentelapeña is recorded in many other testimonies. The remaining cases would be as follows (the authors or sources that mention them are in parentheses): Cordoba (Peramato, Frago, Bravo de Sobremonte), Santo Domingo del Real (Peramato, Frago, Pérez de Moya, Gómez de Huerta, Fuentelapeña), Peñaranda de Bracamonte (Mateo Alemán, Sebastián de Covarrubias, Jerónimo de Alcalá, Bravo de Sobremonte), Alcalá de Henares (the secular) (Nieremberg, Bravo de Sobremonte, Fuentelapeña), Alcalá de Henares (the religious) (Nieremberg, Fuentelapeña), Piedrahita (Ávila) (Sánchez Valdés de la Plata), Salamanca (Sánchez Valdés de la Plata), Benavente (Antonio de Torquemada, Juan de la Cerda, Martín del Río), Huesca (Martín del Río), Valdaracete (Madrid) (*Relaciones topográficas*), Madrid (monstrous child, *Relación de suceso*), Burgos (Antonio de Torquemada), Seville (Antonio de Torquemada), Valencia (two hermaphrodites, Matheu and Sanz), Úbeda (Jaén) (*relación de suceso*, Torreblanca y Villalpando, Fuentelapeña), Arnauld de Ronsil, Alhama (Granada) (Gómez de Huerta, Fuentelapeña), San Sebastián (Catalina de Erauso, Tascardo, Pérez de Montalbán), Toledo (Francisco Hernández).
3. On these women in the Middle Ages, see U. R. Hotchkiss, *Clothes make the man: Female cross dressing in medieval Europe* (New York, 1996). For the modern period, there is an abundance of materials, particularly for Holland and France. See R. M. Dekker and L. C. Van de Pol, *The tradition of female transvestism in early modern Europe* (London, 1989), and S. Steinberg, *La*

*confusion des sexes: La travestissement de la Renaissance à la Révolution* (Paris, 2001). Dekker and Van de Pol have worked on a *corpus* of 119 cases taken from the Dutch penal archives although they do try to cover other European countries. They mention the case of the Spaniard Catalina de Erauso (Dekker and Van de Pol, *op. cit.* (ref. 3), 114), as does Steinberg, *op. cit.* (ref. 3), 77–78. We should also mention the cross-dressed Juliana de los Cobos (who took part in the wars in Italy fighting with the troops of Carlos V) and of a Basque and Asturian woman who dressed as women in the sixteenth century in order to save their husbands (F. Delpech, “‘Muger hay en la guerra’: Remarques sur l’exemplaire et curieuse carrière d’une guerrière travestie, Juliana de los Cobos”, in A. Redondo (ed.), *Relations entre hommes et femmes en Espagne aux XVIe et XVIIe siècles* (Paris, 1995), 53–65). Also, the cases of some nuns, following the example of the saints in the *Leyenda Dorada*, who decided to dress as men, are worth a mention. Juana Inés de la Cruz at the beginning of the seventeenth century is a case in point. She asked her mother permission to dress as a man and study at the University of Mexico. Also, the case of María de San Antonio, a nun who remained five years in a Franciscan convent dressed as a man before her death (Steinberg, *op. cit.* (ref. 3), 69). As these cases indicate a temporary or provisional transformation they are not elaborated upon here.

4. On the military question and the nineteenth century, see R. Cleminson and F. Vázquez García, “The hermaphrodite, fecundity and military efficiency: Dangerous subjects in the emerging liberal order of nineteenth-century Spain”, in S. Toulalan and K. Fisher (eds), *Sexual histories: Bodies and desires uncovered* (Manchester, forthcoming in 2010).
5. Dekker and Van de Pol point out that of 93 women (out of 119 in Holland, mainly from the seventeenth and eighteenth centuries), whose male professions are known, 83 of them were in the army or navy at a given moment (Dekker and Van de Pol, *op. cit.* (ref. 3), 9–10). On similar circumstances in France, where there was a tradition of ‘warrior saints’, see Steinberg, *op. cit.* (ref. 3), 55–90. On the literary references to the military woman and the case of ‘María la Bailaora’ in Lepanto see A. Morel d’Arleux, “Las ‘Relaciones de Hermafroditas’: Dos ejemplos diferentes de una misma manipulación ideológica”, in M. Cruz García de Enterría *et al.*, *Las relaciones de sucesos en España (1500–1750): Actas del primer coloquio internacional (Alcalá de Henares, 8, 9 y 10 de junio de 1995)* (Alcalá de Henares and Paris, 1996), 261–71, p. 267. On the tradition of the *serranas* and other warrior women in Spain see F. Vázquez García and A. Moreno Mengíbar, *Sexo y razón: Una genealogía de la moral sexual en España (siglos XVI–XX)* (Madrid, 1997), 390–400.
6. We thank Chema Fraile of the University of Cadiz for bringing this case to our attention.
7. On the practice of the *enquête* and its relationship to the creation of the modern state, see M. Foucault, *La verdad y las formas jurídicas* (Barcelona, 1980), 82–5.
8. F. J. Campos y Fernández de Sevilla, *Las relaciones topográficas de Felipe II: Índices, fuentes y bibliografía* (El Escorial, 2007), 468 ([dialnet.unirioja.es/servlet/fichero\\_articulo?codigo=876263&orden=0](http://dialnet.unirioja.es/servlet/fichero_articulo?codigo=876263&orden=0), consulted 23 April 2009).
9. C. Viñas y Mey and R. Paz, *Relaciones histórico-geográfico estadísticas de los pueblos de España hechas por iniciativa de Felipe II: Provincia de Madrid* (Madrid, 1949), 630–1.
10. Viñas y Mey and Paz, *op. cit.* (ref. 9), 231.
11. This shows that such a choice was not as infrequent as some have argued, e.g. K. Park, “The rediscovery of the clitoris: French medicine and the tribade, 1570–1620”, in D. Hillman and C. Mazzio (eds), *The body in parts: Fantasies on corporeality in early modern Europe* (New York and London, 1997), 171–94, p. 174.
12. Elisabeth Perry and Federico Garza have remarked upon this warrior ethos when explaining the acceptance of sex transformation in the case of Catalina de Erauso: M. E. Perry, “From convent to battlefield: Cross-dressing and gendering the self in the New World of imperial Spain”, in J. Blackmore and G. S. Hutcheson (eds), *Queer Iberia: Sexualities, cultures and crossings*

- from the Middle Ages to the Renaissance (Durham, 1999), 394–419, pp. 412–13, and F. Garza, *Quemando mariposas: Sodomía e imperio en Andalucía y México, siglos XVI–XVII* (Barcelona, 2002), 34–40. In Spain, the ideal of civic humanism ('civilidad') encapsulated by *El cortesano* by Castiglione, was not established in the first half of the sixteenth century, given the influence of the feudal model, which was in turn based on the exercise of arms (see F. Ampudia de Haro, *Las bridas de la conducta: Una aproximación al proceso civilizatorio español* (Madrid, 2007), 38–9). However, in the first third of the seventeenth century, this old model had already begun to decay (*ibid.*, 53–7).
13. *Proceso inquisitorial de Elena o Eleno de Céspedes*, AHN, Inquisición, Leg. 234, n° 24. Here we refer to her as Eleno, Elena, Heleno and Helena, thus reinforcing her continual movement between various identity models. The case of Elena de Céspedes has for some years inspired the interest of researchers firstly from France and later from Spain and the United States. The latter, in particular, have made her into a star of Transgender Studies, even though usually the Spanish and French authors who first discussed her are not mentioned. See M. Escamilla, "A propos d'un dossier inquisitorial des environs de 1590: Les étranges amours d'un hermaphrodite", in A. Redondo (ed.), *Amours légitimes, amours illégitimes en Espagne (XVIe–XVIIe siècles)* (Paris, 1985), 167–82; M. C. Barbazza, "Un caso de subversión social: El proceso de Helena de Céspedes (1587–1589)", *Criticón*, xxvi (1984), 17–40; F. Vázquez García and A. Moreno Mengibar, "Un solo sexo: Invención de la monosexualidad y expulsión del hermafroditismo (España, siglos XV–XIX)", *Daimon: Revista de filosofía*, xi (1995), 95–112, pp. 99–103; Vázquez García and Moreno Mengibar, *Sexo y razón* (ref. 5), 191–6; I. Burshatin, "Elena alias Eleno: Genders, sexualities and 'race' in the mirror of natural history in sixteenth-century Spain", in S. P. Ramet (ed.), *Gender reversals and gender cultures: Anthropological and historical perspectives* (London, 1996), 105–22; I. Burshatin, "Interrogating hermaphroditism in sixteenth-century Spain", in S. Molloy and R. M. Irwin (eds), *Hispanisms and homosexualities* (Durham, 1998), 3–18; I. Burshatin, "Written on the body: Slave or hermaphrodite in sixteenth-century Spain", in Blackmore and Hutcheson (eds), *op. cit.* (ref. 12), 420–56; R. Kagan and A. Dyer, "Sexuality and the marriage sacrament: Elena/Eleno de Céspedes", in *Inquisitorial inquiries: Brief lives of secret Jews and other heretics* (Baltimore, 2004), 36–59 (this is basically a translation and commentary of the trial); and E. Maganto Pavón, *El proceso inquisitorial contra Elena/o de Céspedes (1587–1588): Biografía de una cirujana transexual del siglo XVI* (Alhama, 2007). This last study projects the category 'transsexual' backwards into time. A partial transcription of the trial is in S. Muñoz, "El Proceso Inquisitorial contra Helena de Céspedes", *Boletín de La Sociedad Española de Historia de la Farmacia*, xciii (1973), 20–33.
  14. Kagan and Dyer, *op. cit.* (ref. 13), 39, n.6.
  15. J. Butler, *Gender trouble: Feminism and the subversion of identity* (New York, 1990), 140.
  16. Burshatin, "Written on the body" (ref. 13), 434.
  17. This question has been addressed, with particular reference to Anthony Giddens, in F. Vázquez García, *Tras la autoestima: Variaciones sobre el yo expresivo en la modernidad tardía* (San Sebastián, 2005), 97.
  18. Cf. J. C. Rodríguez, *La literatura del pobre* (Granada, 1994), 116–45, on the construction of the 'self of the pícaro' through autobiographical accounts in the crisis of organicist feudalism, and Kagan and Dyer, *op. cit.* (ref. 13), 56. On the social mobility of rank, see Ampudia de Haro, *op. cit.* (ref. 12), 3.
  19. Burshatin, "Written on the body" (ref. 13), 423–4, notes that sodomy was under the jurisdiction of the civil authorities in Castile, not the Inquisition.
  20. Burshatin, "Written on the body" (ref. 13), 432–3. On Francisco Díaz, see J. M. López Piñero, T. F. Glick, V. Navarro Brotóns and E. Portela Marco, "Díaz, Francisco", in *Diccionario histórico de la ciencia moderna en España* (Barcelona, 1983), 278–81. Díaz was well informed on the



- nature of the genital organs. In 1588 he published his *Tratado nuevamente impresso, de todas las enfermedades de los riñones, vexiga y carnosidades de la verga y urina* (Madrid).
21. “y se le hicieron allí unas grietas por donde muchos días andubo destilando sangre y se le enmestió el dicho miembro bolviéndosele como de esponja y ésta le fue cortando poco a poco de manera que a benido a quedar sin ello” [“and some lesions emerged from where for several days she had spilt blood and the said member withered and became sponge-like and was little by little reduced in size until she lost it”] (*Proceso inquisitorial de Elena o Eleno de Céspedes* (ref. 13).
  22. During the trial it emerged that Helena possessed a library with extensive works on natural history and medicine in Spanish and Latin. It is possible that Elena cited Pliny before the court to defend the unusual nature of her case (cf. Kagan and Dyer, “Sexuality and the marriage sacrament” (ref. 13), 46–47, n. 29). On the impressive culture shown by Helena, see Burshatin, “Written on the body” (ref. 13), 438.
  23. It is possible that the Valencian surgeon who trained Helena during one of her stays in Madrid belonged to this group of *morisco* physician ‘sanadores’. On *morisco* medicine see L. García Ballester, *Los moriscos y la medicina: Un capítulo de la medicina y la ciencia marginadas en la España del siglo XVI* (Barcelona, 1984), 60–136.
  24. Burshatin, “Written on the body” (ref. 13), 429.
  25. See D. Jacquart and C. Thomasset, *Sexualidad y saber médico en la Edad Media* (Barcelona, 1989), 149, on the figure of the hermaphrodite as a privileged source of knowledge on the female body. See also the reflexion on androgyny and thaumaturgy in J. Libis, *El mito del andrógino* (Madrid, 2001), 108–13.
  26. Kagan and Dyer, *op. cit.* (ref. 13), 57, remark: “a great many Spaniards ... perceived her as a kind of miracle worker and flocked to the hospital in droves to be cured by her.”
  27. Gómez de Huerta, *Historia natural de Cayo Plinio segundo* (Madrid, 1629), 262, and Fuentelapeña, *op. cit.* (ref. 2), 244–5.
  28. The reliability of the copy (made by Juan Bautista Muñoz in 1784 from another copy drawn up in the eighteenth century) of the manuscript from which details of the autobiography of Catalina de Erauso are inferred has been placed in doubt by Menéndez Pelayo. For this reason, instead of using this version, whose most recent editions are R. de Vallbona (ed.), *Vida i sucesos de la Monja Alférez: Autobiografía atribuida a Doña Catalina de Erauso* (Tempe, 1992), and the English translation by M. Stepto and G. Stepto (eds), *Lieutenant nun. A memoir of a Basque transvestite in the New World: Catalina de Erauso* (Boston, 1996), we favour that of Pedro Rubio Merino. This text is based on the two manuscripts by Catalina de Erauso herself. They were discovered by Rubio in the Archive of Seville Cathedral. This edition also includes the transcription of the whole documentary dossier on Catalina de Erauso conserved in the Archivo General de Indias (Seville). See P. Rubio Merino (ed.), *La Monja Alférez Doña Catalina de Erauso: Dos manuscritos autobiográficos inéditos* (Seville, 1995). The most extensive biography, which includes an excellent survey of Catalina’s family background, is still J. I. Tellechea Idígoras, *La Monja Alférez, Doña Catalina de Erauso* (San Sebastián, 1992). See also C. R. Boxer, *Mary and misogyny: Women in Iberian expansion overseas 1415–1815* (London, 1975); Perry, *op. cit.* (ref. 12); S. M. Velasco, *The Lieutenant Nun: Transgenderism, lesbian desire and Catalina de Erauso* (Austin, 2000); Garza, *op. cit.* (ref. 12), 32–64.
  29. On Catalina de Erauso as an exemplar of the ‘perfect’ Spanish man and woman, see Garza, *op. cit.* (ref. 12), 38.
  30. Miguel de Erauso, the father of Catalina, and one of her brothers were captains. The captain of the ship which took her to America the first time was an uncle of Catalina’s, Esteban Ciguino. The prioress of the Dominican convent of San Sebastián was a cousin of her mother’s, Doña Úrsula de Unzá y Sarasti.
  31. An examination of the documentation in the Archivo General de Indias shows the variety of military

- personnel that Catalina de Erauso was able to get to testify in her favour for her pension. The mobilization of this social capital can be explained only by the links that her family had with the army. A discussion of these personalities can be found in “Memorial de la Monja Alférez, Doña Catalina de Erauso con la relación de sus méritos y servicios”, in Rubio Merino, *op. cit.* (ref. 28), 136. Other sources of support came from her use of the Basque language and her close ties with *corregidores* and authorities at home in order to secure her release from prison or her immunity from the law (pp. 40–41).
32. The insertion of Catalina into the military and colonial *habitus* of the period, with special reference to her ‘autobiography’ and what the author understands as the playing down of her transgressive role in an explicit sense but with certain hints to the seventeenth-century reader, is discussed in Aránzazu Borrachero Mendíbil, “Catalina de Erauso ante el patriarcado colonial: Un estudio de *Vida i sucesos de la Monja Alférez*”, *Bulletin of hispanic studies*, lxxxiii (2006), 485–95.
  33. On the ‘courtization’ of warriors and the contrast between the court nobility and the warrior nobility, see N. Elias, *The civilizing process: Sociogenetic and psychogenetic investigations*, transl. by Edmund Jephcott (Oxford, 1994), 387–97. This model has been applied to the Spanish case in the excellent study by Ampudia de Haro, *op. cit.* (ref. 12), 56–66. The conversion of the Spanish Court into the European model began to take place in 1561 with the establishment of the court of Felipe II in Madrid (Ampudia de Haro, *op. cit.* (ref. 12), 54).
  34. Perry, *op. cit.* (ref. 12), 412. Both Elisabeth Perry and Federico Garza (Garza, *op. cit.* (ref. 12), 34–8) emphasize the identification of Catalina with the warrior ethos of the Reconquest and the American conquest. Both authors, however, emphasize gender and postcolonial analysis and fail to evaluate the social capital that Catalina possessed in the process of her construction as a man. In order to understand these family ties, the work by Tellechea Idígoras, *op. cit.* (ref. 28), is essential.
  35. Rubio Merino, *op. cit.* (ref. 28), 11.
  36. One of the best works on the culture of the duel and the formation of male identity is R. Nye, *Masculinity and male codes of honor in modern France* (New York and Oxford, 1993).
  37. H. Clementi, *La frontera en América: Una clave interpretativa de la historia americana* (Buenos Aires, 1985); A. Grimson (ed.), *Fronteras, naciones e identidades: La periferia como centro* (Buenos Aires, 2000); F. Opere, *Historias de la frontera: El cautiverio en la América hispánica* (Buenos Aires, 2001).
  38. On the relationship between civilizing control and bellicosity in the construction of the State, see Elias, *op. cit.* (ref. 33), 191–4.
  39. Rubio Merino, *op. cit.* (ref. 28), 86. In the nineteenth century, studies such as that of Menéndez Pelayo wrote of Catalina de Erauso’s story as legendary and doctors such as Nicolás León considered her to be “un pseudo hermafrodita hipospádico” [“a pseudo-hermaphrodite with hypospadias”] (p. 28). Here we can see the attempt to translate the language of ‘rank’ of the sexual Ancien Regime into the biological terminology of nineteenth-century medicine.
  40. See M. L. de Padilla Manrique y Acuña, *Excelencias de la castidad* (Madrid, 1975 [1642]). Here the benefits and virtues associated with virginity are extensively discussed.
  41. Perry, *op. cit.* (ref. 12), 397. Catalina managed to reduce the size of her breasts to almost nothing by means of a kind of corset given to her by an Italian. The wearing of this device was extremely painful (see Rubio Merino, *op. cit.* (ref. 28), 17).
  42. Perry, *op. cit.* (ref. 12), 404–5. An obvious sign of the popularity of Catalina was her depiction in the comedy written by Juan Pérez de Montalbán (*La Monja Alférez: Comedia entre jornadas y en verso*, 1626), published in *Autores dramáticos contemporáneos de Lope de Vega* (Madrid, 1881).
  43. Catalina’s reluctance to undress when asked to do so by the Alcalde de Potosí so as to submit her to torture relates to her fear of discovery: “Mándome que me fuesse desnudando. Hícelo, aunque no de buena gana” [“he asked me to undress. I did so but not willingly”] (Rubio Merino, *op.*

- cit.* (ref. 28), 70).
44. On the religious nature of Catalina, see Rubio Merino, *op. cit.* (ref. 28), 43–6.
  45. Perry, *op. cit.* (ref. 12), 413.
  46. On the relationship between Catalina and Spanish patriotism, see Rubio Merino, *op. cit.* (ref. 28), 40–3.
  47. This manuscript is in the Biblioteca Nacional (ms. 12966). Cf. M<sup>a</sup> J. de la Pascua Sánchez, “¿Hombres vueltos del revés? Una historia sobre la construcción de la identidad sexual en el siglo XVIII”, in M<sup>a</sup> J. de la Pascua, M<sup>a</sup> del R. García Doncel and G. Espigado (eds), *Mujer y deseo* (Cadiz, 2003), 431–44.
  48. De la Pascua Sánchez, *op. cit.* (ref. 47), 443, where there is a discussion of the relation between Fernanda and the saints who grew beards through acts of Providence.
  49. “But are there true hermaphrodites? This question could well be posed in times of ignorance but should not be asked in enlightened times ... hermaphroditism is a chimera and of those examples of married hermaphrodites either of whom have children, each of them as a man and as a woman, these are puerile fables, brought about by ignorance and through respect for the marvellous, much of which is still to be discounted” (C. de Jaucourt, “Hermaphrodite”, in *Encyclopédie de Diderot et D’Alembert*, xv (Paris, 1978 [1755]), fol. H27–H28) (our translation).
  50. We take this three-dimensional structure (*mirabilis, magicus, miraculosus*) from the work of J. Le Goff, *The medieval imagination*, transl. by Arthur Goldhammer (Chicago and London, 1992), 27–44. On the concept of *mirabilis*, cf. the excellent piece by K. Park, “Una historia de la admiración y del prodigio”, in A. Lafuente and J. Moscoso (eds), *Monstruos y seres imaginarios en la Biblioteca Nacional* (Madrid, 2000), 77–90. Original sources in: A. J. Rodríguez, “Dissertación II. Sobre la imposibilidad de generación ni comercio por el demonio íncubo”, in *Nuevo aspecto de theologia médico-moral y ambos derechos o paradoxas físico-teológicas-legales*, ii (Madrid, 1753), 200–15; Fernando Valderrama, “Si la muger que pare un monstruo especie de bruto, se deba presumir Reo de feo crimen por el magistrado y como procederá contra ella”, in *Memorias académicas de la Real Sociedad de Medicina y demás Ciencias de Sevilla*, v (Seville, 1790), 108–20; Lorenzo Zambrano, “Si es posible el concurso carnal del demonio con criatura humana y en este caso habiendo prole, si es capaz de bautismo”, in *Memorias académicas de la Real Sociedad de Medicina y demás Ciencias de Sevilla*, ix (Seville, 1790), 409–22. We must not forget that the last person to be burned by the Inquisition in 1781 was a woman accused of fornication with the devil (mentioned by A. Salamanca Ballesteros, *Monstruos, ostentos y hermafroditas* (Granada, 2007), 204). On the long-standing belief of diabolical intervention in dreams and in the imagination of pregnant women as a cause of monstrosity, see P. G. Boucé, “Imagination, pregnant women and monsters in eighteenth-century England and France”, in G. S. Rousseau and R. Porter (eds), *Sexual underworlds of the Enlightenment* (Manchester, 1987), 86–100. ‘Diabolical possession’ continued to be a category in the medico-legal treatise by J. J. Plenck (*Elementa medicinae et chirurgiae forensis* (Madrid, 1825), 120–1). This was used in the Colleges of Surgeons in Spain, particularly in San Carlos, Madrid. This College included legal medicine in its curriculum and this text was translated in 1796 (L. S. Granjel, *La medicina española del siglo XVIII* (Salamanca, 1979), 135, and J. Martínez, “Sexualidad y orden social: La visión médica de la España del primer tercio del siglo XIX”, *Asclepio*, xxxii (1990), 119–35, pp. 123–4).
  51. “Supongo ciertísimamente en lo sustancial la relación del monstruo en la villa de Fernán Caballero” [“I suppose that the account of the monster in the town of Fernán Caballero is substantially correct”], Benito Jerónimo Feijoo wrote in “Reflexiones filosóficas, con ocasión de una criatura humana hallada poco ha en el vientre de una cabra”, in *Cartas eruditas y curiosas* (1742–1760), iii (1750) (Madrid, 1774), 337. Padre Antonio José Rodríguez rejected the argument by Feijoo that fecund coition was possible between man and beast. See A. J. Rodríguez, *Carta respuesta a un ilustre prelado sobre el feto monstruoso hallado poco ha en el vientre de una cabra y reflexiones*

- críticas que ilustran su historia* (Madrid, 1753). On the belief of Feijoo in ‘fish-men’, nereids, tritons and other fabulous aquatic monsters, see G. Marañón, *Las ideas biológicas del Padre Feijoo* (Madrid, 1954), 223–43.
52. B. J. Feijoo, “Respuesta a la consulta sobre el infante monstruoso de dos cabezas, dos cuellos, cuatro manos ... que salió a luz en Medina Sidonia el 24 de febrero del año 1736”, in *Cartas eruditas y curiosas* (1742–1760), i (1742) (Madrid, 1777), 83.
  53. A. J. Mayer, *The persistence of the Old Regime: Europe to the Great War* (New York, 1981).
  54. The notion of ‘bare life’ is taken from G. Agamben, *Homo sacer: Sovereign power and bare life* (Stanford, 1998).
  55. F. Vázquez García, *La invención del racismo: Nacimiento de la biopolítica en España, 1600–1940* (Madrid, 2009).
  56. Despite his belief in what we would now term ‘fabulous’ creatures, Padre Feijoo, in contrast to what we would see in Rivilla Bonet (J. Rivilla Bonet, *Desvíos de la naturaleza o tratado del origen de los monstruos* (Lima, 1695), fols. 35v–36r), did not allude to astrological influences, divine punishment or fornication with the incubus as a cause of monsters. In addition, as in Martín Martínez and Antonio José Rodríguez (1703–77), he is sceptical about the creation of monsters by means of imaginative force (Granjel, *op. cit.* (ref. 50), 135). Despite this, the power of the imagination in the engendering of monsters was still referred to at the beginning of the nineteenth century by authors such as Virey, translated quickly into Spanish, and by Hurtado de Mendoza (Salamanca Ballesteros, *op. cit.* (ref. 50), 228–40).
  57. The famous anatomist Martín Martínez (1684–1734), a friend of Feijoo and one of the great innovators of Spanish medicine in the 1700s, tried to explain by means of natural causes rather than those miraculous the genesis and short life of a baby boy born in Madrid in 1706 whose heart was positioned outside of the thorax. On this clinical case, see M. Martínez, *Observatio rara de corde in monstroso infantulo ubi obiter et noviter de motu cordis et sanguinis agitur* (Madrid, 1750), 231–6. His explanation of monstrosity from an animalculist perspective depends entirely on natural causes. See M. Martínez, *Anatomía completa del hombre* (Madrid, 1764 [1728]), 202.
  58. G. Canguilhem, “La monstrosité et le monstrueux”, in *La connaissance de la vie* (Paris, 1980), 178–9; P. Tort, *L’ordre et les monstres* (Paris, 1980); L. Daston and K. Park, *Wonders and the order of nature, 1150–1750* (New York, 1998); F. Jacob, *The logic of life: A history of heredity. The possible and the actual*, transl. by Betty E. Spillman (London, 1989), 52–66; J. Farley, *Gametes and spores: Ideas about sexual reproduction 1750–1914* (Baltimore, 1982); and M. Hagner, “Utilidad científica y exhibición pública de monstruosidades en la época de la Ilustración”, in Lafuente and Moscoso, *op. cit.* (ref. 50), 105–28. Hagner also refers to the “aesthetic” uses of the monster. The collection and exhibition of monsters was current throughout the eighteenth century.
  59. Feijoo indicated that the birth of a human baby from a goat made him change his ideas from the “ovevos u ovuistas” [ovist] school to the animalculist school (Feijoo, *op. cit.* (ref. 51), 344–5).
  60. J. Moscoso, “Monsters as evidence: The uses of the abnormal body during the early eighteenth century”, *Journal of the history of biology*, xxxi (1998), 355–82.
  61. See the classic work of H. Daudin, *De Linné a Lamarck: Méthodes de la classification et idée de série en botanique et en zoologie (1740–1790)* (Paris, 1926–27), and Cuvier et Lamarck: *Les classes zoologiques et l’idée de série animale* (2 vols, Paris, 1926–27).
  62. Javier Moscoso undertakes a quantitative analysis of the incidence of observations on monsters appearing in the *Journal de savants* (25 articles between 1665 and 1710 and just 8 between 1710 and 1750) and in *Philosophical transactions* (40 communications between 1665 and 1712 and 16 between 1775 and 1810). The evolution is similar in the Germanic *Acta eruditorum* (Moscoso, *op. cit.* (ref. 60), 359–60).
  63. Moscoso, *op. cit.* (ref. 60), 360. See also Salamanca Ballesteros, *op. cit.* (ref. 49), 17, on the

- eighteenth century as a point of inflection and especially chap. 9 (“The Enlightenment and the antimarvelous”) in Daston and Park, *op. cit.* (ref. 58), 329–63.
64. “Porque entre los autores compiladores de prodigios, hay no pocos fáciles en creer, y ligeros en escribir. Son muchos los hombres que se complacen en referir portentos y rara vez falta quien eternice con la estampa sus ficciones, como si fuesen realidades” (Feijoo, *op. cit.* (ref. 52), 80).
65. F. Sánchez-Blanco Parody, *Europa y el pensamiento español del siglo XVIII* (Madrid, 1991), 134–72.
66. On the important proliferation of monographs on hermaphroditism in Europe in the eighteenth century (medical texts, travel literature, novels with hermaphrodite protagonists), see Vázquez García and Moreno Mengíbar, *op. cit.* (ref. 5), 199–200.
67. For Martín Martínez, masculinized women are in reality women with large clitorises: “en el fervor de acto venéreo [el clítoris] se hincha y enfurece como el miembro viril; y en algunas ha crecido tanto, que han podido abusar de la Venus con otras mugeres, y dar ocasión al vulgo para creer las fábulas de hembras convertidas en varones, ansí como a las de hombres transformados en mugeres, ha dado motivo el ocultarse del todo el pene” [“in the heat of the venereal act [the clitoris] swells and becomes inflamed like the male member; and in some women it has grown so much that they have been able to abuse Venus with other women, allowing the uninformed to believe fables of women turned into men, as well as men turned into women, their penis disappearing entirely”] (Martínez, *op. cit.* (ref. 57), 188). This work has been viewed as the best Spanish morphological work of the first half of the eighteenth century by J. M. López Piñero, T. F. Glick, V. Navarro Brotóns and E. Portela Marco, “Martínez, Martín”, in *Diccionario histórico de la ciencia moderna en España*, ii (Barcelona, 1983), 34.
68. “De la mutación de sexos en una misma persona no discurro, porque repugna totalmente al orden y leyes de la naturaleza; y cualquiera a la menor reflexión la conoce imposible” [“Of the change of sex in one person I cannot accept because this goes against order and nature; anyone with the least reflexion would declare it impossible”] (L. Hervás y Panduro, *Historia de la vida del hombre o idea del universo*, i (Madrid, 1789), 189).
69. Antonio Jacobo del Barco y Gasca, Vicar of Huelva from 1747, was an enlightened figure who applied the same kind of critical approach as Feijoo, refuting supposed sex changes. See A. J. del Barco y Gasca, “Examen crítico de una rara transmutación de sexos en persona del femenino”, in *Cartas familiares, varias y curiosas, dispuestas para honesta diversión*, iii, chap. 29 (Madrid, 1770–71), fols. 197–223.
70. “Aquí pertenece refutar las ‘historietas’ que se refieren a la alteración o cambios de los sexos; la doctrina expuesta sobre las causas de la nymphomania y del hermafroditismo, son las que han hecho se crean estas apariencias” [“Here it is pertinent to refute those ‘stories’ that refer to the alteration or change of sex. Doctrine on the causes of nymphomania and hermaphroditism have led to these beliefs”] (J. Fernández del Valle, *Cirugía forense, general y particular*, iii (Madrid, 1797), 18).
71. On discussing a case, Hervás y Panduro appears to suggest that hermaphroditism is always apparent, not real: “y habiendo oído la muerte de una mujer que se creía hermafrodita, la abrió y halló que interiormente era verdadero hombre” [“and having learnt of the death of a woman who was believed to be a hermaphrodite, he opened her and found that inside she was a true man”] (Hervás y Panduro, *op. cit.* (ref. 68), 185). The author also argues that, although there are cases of children born with ambiguous sex, the true sex always eventually comes through: “sucede frecüentemente, que está confuso el sexo del infante por causa de algunas excrecencias carnosas, u otras señales accidentales que más comúnmente se suelen encontrar en las mujeres.... Si el sexo del infante no está claro, convendrá vestirle con hábitos tales hasta que aparezcan señales claras de un sexo determinado” [“it frequently occurs that the sex of the infant because of extra fleshy growth, or other accidental signs that are more commonly found in women, is confused....

If the sex of the infant is not clear, it is convenient to dress it in roomy vestments until clear signs of one determinate sex appear”] (*ibid.*, 306). Fernández del Valle, however, is much more direct: “ya es tiempo que se borren en nuestros escritos las descripciones de los ‘Andróginos’ y que no se les exhiba el juramento que mandan los Canonistas, para que con el dictamen de los Anatómicos, elijan aquel sexo para que sean más aptos, siempre que intenten contraer matrimonio” [“it is high time that in our texts descriptions of ‘Androgynes’ are erased and that they are not offered the sacrament that canonists wish, so that on the decision of anatomists they elect the sex most appropriate to them, as and when they seek matrimony”]. See Fernández del Valle, *op. cit.* (ref. 70), 295.

72. The ‘hermaphrodite’ entry in the *Diccionario de autoridades* (1732) appears not to doubt the existence of these beings although, in contrast to the *Tesoro* by Covarrubias, it considers them to be monstrous: “Hermaphrodita. La persona que tiene los dos sexos de hombre y muger, que por otro nombre se llama Andrógeno. Tienen los autores varias opiniones del motivo o causa de esta monstruosidad” [“Hermaphrodite. The person that possesses both sexes male and female, and who goes by the other name of Androgyne. Authors have various opinions on the motive or cause of this monstrosity”] (*Diccionario de la lengua castellana en que se explica el verdadero sentido de las voces, su naturaleza y calidad*, iii (Madrid, 1732; facsimile edn, Madrid, 1977), 144). It is unclear if Feijoo actually rejected the existence of hermaphrodites. It is not a question raised explicitly by him. Nevertheless, in a commentary on two-headed monsters he included those with two different sexes without saying that they do not exist: “unos [de los monstruos bicípites] tenían el órgano de la generación duplicado, otros no; y entre los que le tenían duplicado, en unos le había de ambos sexos, en otros de uno sólo” [“some [of the two-headed monsters] possess duplicated organs of generation, others do not. Amongst those who have it duplicated, in some this was of both sexes and in others of one sex only”] (Feijoo, “Respuesta a la consulta sobre el infante monstruoso de dos cabezas, dos cuellos, cuatro manos ... que salió a luz en Medina Sidonia el 24 de febrero del año 1736”, *op. cit.* (ref. 52), 83. Martín Martínez in his *Anatomía completa del hombre* tends to admit the existence of true hermaphrodites: “si por alguna contingencia ... quedan colocadas, más o menos partes de las que debían, y mejor o peor elaboradas, sale el feto monstruoso ... así como si los genitales de ambos sexos hallan oportuno lugar de colocación en el debido sitio, puede engendrarse un verdadero hermafrodita, de que hay muchas observaciones, que trae Bonet, contra la opinión de Diemerborcch, que no admite hermafroditas verdaderos, sino aparentes” [“if for some reason ... more or fewer parts than there should be, more or less complete, the foetus will be monstrous ... and if the genitals of both sexes are placed correctly in the right place, a true hermaphrodite can be engendered, as the observations pointed out by Bonet show, against the opinion of Diemerborcch, who admits of no true hermaphrodites but of apparent ones”] (Martínez, *op. cit.* (ref. 57), 202). Despite this, he points out that some women with a prolapsed womb have been confused with hermaphrodites: “ha havido mugeres tenidas por hermafroditas, por haver salido la vagina y parecer el cuello con su orificio interno la glande de un miembro viril” [“there have been women taken for hermaphrodites, whose vagina has been exposed and whose internal orifice appears to be like a virile member”] (p. 182).
73. The same cannot be said for the work’s scope. For Zacchias the legal doctor is simply an aid to the judge in certain questions such as witchcraft, poisoning, violent attacks, births and ecclesiastical disputes. For Plenck, trained in the German cameralist tradition, legal medicine is a branch of the art of government, which contributes to the increase in population and the maintenance of the quality of public health. See the section on the ‘political’ aspects of medicine in the *Elementa medicinae et chirurgiae forensis*, the Latin text of which was presented by Dr A. Vallejo and published in Madrid by Michaelis Burgos in 1825 (pp. 120–5). On the differences between premodern and modern legal medicine see Martínez, *op. cit.* (ref. 52), 121–3, and J. L. Peset and M. Peset, *Lombroso y la escuela positivista italiana* (Madrid, 1975), 80–1.
74. Plenck, *op. cit.* (ref. 73), 116.

75. Plenck, *op. cit.* (ref. 73), 117–18.
76. Plenck, *op. cit.* (ref. 73), 118–19.
77. Plenck, *op. cit.* (ref. 73), 119.
78. “De Androgynis autem veris utrumque esse possibile” (Plenck, *op. cit.* (ref. 73), 120).
79. “Atrocem et iniquissimam fuisse veterum legem, auque homines dubii sexus quos ipsa natura jam severius tractavit, cum morte puniebat” (Plenck, *op. cit.* (ref. 73), 120).
80. D. Vidal, *Cirugía forense*, facsimile edn by J. Corbella (Barcelona, 1987).
81. V. Mitjavila, *Compendio de policía médica*, facsimile edn by J. M. Calbet and Jacinto Corbella (Barcelona, 1983).
82. On this innovatory institution, see A. Zarzoso Orellana, “La práctica médica a la Catalunya del segle XVIII”, doctoral thesis, Barcelona, 2003, 129–94.
83. M. Foucault, *Securité, territoire, population: Cours au Collège de France 1977–1978* (Paris, 2004). On the development of Police Science in Spain, see P. Fraile, *La otra ciudad del Rey: Ciencia de la policía y organización urbana en España* (Madrid, 1997); A. Zarzoso Orellana, “Policía y ciencia de la policía en el discurso urbanístico a finales del Antiguo Régimen”, *Asclepio*, liii (2001), 125–30; and Vázquez García, *op. cit.* (ref. 55), 139–82.
84. On the importance of cameralism in Spanish enlightened thought, see E. Lluch, “El Cameralismo en España”, in E. Fuentes Quintana (ed.), *Economía y economistas españoles*, iii: *La ilustración* (Barcelona, 2000), 721–8.
85. G. Rosen, *De la policía médica a la medicina social: Ensayos de historia de la atención a la salud* (México, 1985).
86. E. Rodríguez Ocaña, “El resguardo de la salud: Administración sanitaria española en el siglo XVIII”, in *Salud pública en España: Ciencia, profesión y política, siglos XVIII–XIX* (Granada, 2005), 17–48.
87. Vázquez García, *op. cit.* (ref. 55).
88. Martínez, *op. cit.* (ref. 52), 123.
89. “Los objetos de la Cirugía forense se pueden reducir a dos, uno próximo y otro remoto: el primero se dirige a saber y conocer la verdad; el segundo es consiguiente y conspira a conservar la buena armonía y tranquilidad de un Estado” [“The objectives of forensic surgery can be reduced to two, one immediate and the other more distant: the first is to know truth; the second is derived from this and seeks to conserve the true harmony and tranquility of a State”] (Fernández del Valle, *op. cit.* (ref. 70), i, 62).
90. On the ‘police state’ in this older sense, cf. Foucault, *op. cit.* (ref. 83), 341–70, and M. Dean, *Governmentality: Power and rule in modern society* (London, 1999), 89–96.
91. “y como las leyes no pueden ser buenas si no están de acuerdo con el hombre, con su corazón, necesidades, clima y género de vida a que están sujetos los diferentes pueblos, deben los legisladores y los magistrados consultar la medicina, vasto código de las leyes de la física animal, antes de pensar en establecer nuevas instituciones o para darlas todo el grado de utilidad que son capaces de recibir” [“and as laws cannot be good if they are not made in accordance with man, with his heart, needs, climate and way of life of different peoples, legislators and magistrates should consult medicine, a vast code of the laws of animal physique, before establishing new institutions or to bestow on them the highest degree of utility they are capable of receiving”] (F. E. Foderé, *Las leyes ilustradas por las ciencias físicas o tratado de medicina legal y de higiene pública* (8 vols, Madrid, 1801–3), i, 1–2).
92. In chronological order: P. M. de Peiró, and J. Rodrigo, *Elementos de medicina y cirugía legal arreglados a la legislación Española* (Zaragoza, 1832; new edns 1839, 1841 and 1844); P. Mata, *Vademecum de medicina y cirugía legal* (Madrid, 1844); P. Mata, *Tratado de medicina y cirugía legal* (Madrid, 1846; republished several times); R. Ferrer y Garcés, *Tratado de medicina legal*

- (Barcelona, 1847); and A. Rossell, *Manual de medicina legal* (Madrid, 1848). The translation of the *Traité de médecine légale* by Mateo Orfila was completed in 1847 from the 1835 edition (the *Traité* had been published for the first time in 1821 with the title *Leçons faisant partie du cours de médecine légale*). On the context of French legal medicine around the time of Orfila see R. Huertas, *Orfila, saber y poder médico* (Madrid, 1988), 31–3. In 1843 the Chair in Legal Medicine was established at the University of Madrid and in 1845 that of the University of Barcelona. In 1853 the first Spanish journal specializing in legal medicine was created with the title *Repertorio de higiene pública y medicina legal*, ed. by Manuel Álvarez Chamorro. In 1855 the Cuerpo Provisional Médico Forense of Madrid was established (Juan Querejazu Hartzenbusch, the translator of Tardieu in Spain was a member) and 1862 saw the organization of the medical legal profession nationally. For these details see M. Pérez de Petinto y Bertomeu, “Comienzo y actualidad (en 1951) de la trayectoria corporativa médico-forense”, *Revista española de medicina legal*, xxiii (1999), 5–43, pp. 6–10.
93. “Las leyes entienden en arreglar la moralidad de las acciones; y la medicina en averiguar los instrumentos que la determinan y modifican. Sin un exacto discernimiento de la variedad de circunstancias que pueden concurrir a determinar y modificar esta moralidad, sugerido por la ciencia de la vida y de la muerte, mal podrá el legislador ajustar como debe sus preceptos a las insinuaciones de la naturaleza” [“Laws are designed to correct the morality of actions; medicine to determine the instruments which conform and modify morality. Without a precise identification of the variety of circumstances that may converge to determine and modify this morality, as proposed by the science of life and death, it will be a difficult task for the legislator to adjust as he should his precepts to the insinuations of nature”] (R. López Mateos, *Pensamientos sobre la razón de las leyes*, cited in Martínez, *op. cit.* (ref. 52), 126). On ‘classical’ liberal governmentality, see Dean, *op. cit.* (ref. 89), 113–30, and Vázquez García, *op. cit.* (ref. 55).
94. “Todo hombre, generalmente hablando, en habiendo llegado a la pubertad, siente en su interior un poderoso estímulo que le incita a la propagación de su especie; pero tanto como una unión desarreglada e ilegítima no conviene al Estado, se debe favorecer, quanto sea posible, la conyugal, con atención a que tiene cuenta a todo gobierno que sus Reynos y Provincias estén competentemente poblados; y supuesto que las ventajas y prosperidad de una población están en razón directa de la robustez y sanidad de sus moradores, proporcionadas a la naturaleza del suelo en que viven” [“All men, in general, on arriving at puberty, experience in their insides a powerful stimulus that incites the propagation of the species. As much as an illegitimate and careless union is inconvenient for the State, as far as is possible, the conjugal union should be favoured, and all governments should ensure that their Kingdoms and Provinces are sufficiently populated. The advantages and prosperity of a population are in direct relation to the robustness and health of its inhabitants, in accordance with the nature of the soil where they live”] (Mitjavila, *op. cit.* (ref. 81), 69).
95. On hermaphroditism and the question of ‘same-sex marriages’, see A. D. Dreger, *Hermaphrodites and the medical invention of sex* (Cambridge, MA, 1998), 119–26.
96. See I. Morant and M. Bolufer Peruga, *Amor, matrimonio y familia: La construcción histórica de la familia moderna* (Madrid, 1998), and M. Bolufer Peruga, “Lo íntimo, lo doméstico y lo público: Representaciones y estilos de vida en la España ilustrada”, *Studia histórica, historia moderna*, xix (1998), 85–116, pp. 109–10.
97. R. Alcalá Flecha, *Literatura e ideología en el arte de Goya* (Zaragoza, 1988), 349–51.
98. “For a long time, the individual was vouched for by the reference of others and the demonstration of his ties to the commonweal (family, allegiance, protection); then he was authenticated by the discourse of truth he was able or obliged to pronounce concerning himself” (M. Foucault, *The history of sexuality*, i: *An introduction* (Harmondsworth, 1990), 58).
99. The above mentioned manual by Foderé, whose translation marked the beginning of modern legal



- medicine in Spain, does not address the question of hermaphroditism or sexual identity at all. Impotence, sterility and anaphrodisia in men and women are discussed, however. Foderé, coincided with Fernández del Valle in wishing to banish the term from medico-legal texts. The same absence is to be noted in Rossell, *op. cit.* (ref. 91), although the author does examine the matter of monstrous births (pp. 104–6). On the question of the reproductive capability of married couples, see F. E. Foderé, *Traité de médecine légale et d'hygiène publique* (3 vols, Paris, 1813), i, 200–55, and Foderé, *op. cit.* (ref. 91), vols ii and iii.
100. G. Bravo de Sobremonte, *Operum medicinalium* (4 vols, Lyon, 1671); P. García Carrero, *Disputationes medicae super libros Galeni de locis affectis et de aliis morbis ab eo relictis* (Alcalá de Henares, 1605); M. del Río, *La magia demoníaca: Libro II de las disquisiciones mágicas* (Madrid, 1991 [1599–1600]).
  101. These two authors opened up Spanish thought to Enlightenment currents: “Macanaz, Martín Martínez y Feijoo, cada uno en su campo limitado de actividad, abren el camino a quienes ya en la segunda mitad de la centuria se esfuerzan por incorporar a España al movimiento cultural europeo” [“Macanaz, Martín Martínez and Feijoo, each within his own area of activity, opened the way to those in the second half of the century tried to harness Spain to European culture trends”] (L. S. Granjel, “El pensamiento médico de Martín Martínez”, in *Médicos españoles* (Salamanca, 1967), 165–201, p. 171). On the construction of the female body in Spain in the eighteenth century the work of Mónica Bolufer Peruga is essential. For a synthesis and overview of the debates see her *Mujer e ilustración: La construcción de la feminidad en la España del siglo XVIII* (Valencia, 1998), and “Cos femení, cos social: Apunts d’historiografia sobre els sabers mèdics i la construcció cultural d’identitats sexuades (segles XVI–XIX)”, *Afers: Full de recerca i pensament*, xxxiii/xxxiv (1999), 531–50.
  102. B. J. Feijoo, “La Doctrina Hipocrática no debe tomarse por norma de Medicina”, in *Teatro crítico universal*, viii (Madrid, 1779 [1739]), 328–39. On this question, see G. Marañón, *Las ideas biológicas del Padre Feijoo* (Madrid, 1954), 216–17.
  103. Feijoo, *op. cit.* (ref. 102), 333.
  104. B. J. Feijoo, “Defensa de las mujeres”, in *Teatro crítico universal*, i (Madrid, 1778 [1726]), 330. On the huge impact of this work on the intellectual currents of Spain in the eighteenth century, consult Bolufer Peruga, *op. cit.* (ref. 101), 28–59.
  105. Feijoo, *op. cit.* (ref. 104), 331; F. de Eiximenis, *Carro de las donas, trata de la vida y muerte del hombre cristiano* (Valladolid, 1542).
  106. A similar understanding of physical differences but as less marked appears in J. Amar y Borbón, *Discurso sobre la educación física y moral de las mujeres* (Madrid, 1994 [1790]), 63.
  107. M. Bolufer Peruga, “Galerías de ‘mujeres ilustres’ o el sinuoso camino de la excepción a la norma cotidiana (ss. XV–XVIII)”, *Hispania*, lx (2000), 181–224.
  108. Feijoo, *op. cit.* (ref. 104), 359–60.
  109. Feijoo, *op. cit.* (ref. 104), 389.
  110. On their friendship see Granjel, *op. cit.* (ref. 101), 193–5, and Marañón, *op. cit.* (ref. 102), 118–24.
  111. “El tercer género de partes contenidas en el vientre inferior, son las que sirven a la generación, y de éstas unas son comunes a ambos sexos, como los vasos espermáticos, testículos y vasos deferentes, y otras propias de cada sexo, como en los varones la epídidimis, vesículas seminales y miembro viril, y en las mugeres el útero. Estas partes son nobilísimas y principales en orden a la especie, y fueron dadas por la naturaleza, para que ya que los individuos no pueden perpetuarse, se perpetúe y no se envejezca la especie, renovada en cada individuo” [“The third kind of parts contained in the lower abdomen are those that serve generation and of these some are common to both sexes, such as the sperm ducts, testicles and vas deferens, and others are possessed by one sex, as the epididymis, seminal tracts and virile member in males, and in women the uterus. These parts

- are noble and integral to the species and were given by nature, so that since individuals cannot procreate by themselves, the species is reproduced and does not die off, being renovated in each new individual”] (Martínez, *op. cit.* (ref. 57), 159).
112. On the difference between the spermatic ducts and the female ovaries with respect to their male counterpart see Martínez, *op. cit.* (ref. 57), 178.
113. On the form of the womb as convenient for the expulsion of the foetus see Martínez, *op. cit.* (ref. 57), 182; on the role of the “ligamentos redondos” [“round ligaments”] facilitating birth, see p. 183; on the uterus as “fecundo campo de la generación” [“fecund site of generation”], p. 184; on the function of the labia in opening the vulva during birth, p. 187. Regarding the muscles of the clitoris, the author states the following: “parece que sirven de cerrar el orificio de la vulva y comprimir en el coito el pene, y no de elevar el clítoris o arrojar el esperma, como otros presumen” [“they appear to have the function of closing the orifice of the vulva and of compressing the penis during coition and not of elevating the clitoris or ejaculating sperm, as some suppose”] (p. 183). In this way, the lack of similarity between the penis and the clitoris is emphasized. Finally, the vagina possesses a sphincter that prevents the entry of air and avoids “enfriar el esperma espirituoso masculino antes que penetre por las tubas a los ovarios” [“the spirited male sperm from getting cold before entering the ovarian tubes”] (p. 192).
114. Martínez, *op. cit.* (ref. 57), 187.
115. Martínez, *op. cit.* (ref. 57), 188 and 192.
116. On the construction of nymphomania in France see J. M. Goulemot, “Fureurs utérines”, *Dix-huitième siècle*, xii (1980), 97–111, and Y. Knibiehler and C. Fouqué, *La femme et les médecins* (Paris, 1983), 144–8. For Britain, see G. S. Rousseau, “Nymphomania, Bienville and the rise of erotic sensibility”, in P. G. Boucé (ed.), *Sexuality in eighteenth-century Britain* (Manchester, 1982), 95–119. For Spain, see F. Vázquez García, “Ninfomanía y construcción simbólica de la femineidad (España, siglos XVIII–XIX)”, in C. Canterla (ed.), *VII encuentro de la Ilustración al Romanticismo: La mujer en los siglos XVIII y XIX* (Cadiz, 1994), 125–35.
117. Ventura Pastor, whose texts have been considered to be “el mejor testimonio del desarrollo logrado por la Tocología ilustrada” [“the best example of the development attained by illustrated Tocology”] in Spain (Granjel, *op. cit.* (ref. 50), 222–3), describes “furor uterino” [“uterine fury”] as an “impúdica enfermedad” [“shameless illness”]. Mentioning Baudelocq, Ventura cites, perhaps for the first time in Spain, the operation of clitoridectomy as a means of curing this illness: “otras veces (dice [Baudelocq]) ha sido preciso separarle [al clítoris] de las mujeres jóvenes a causa de hallarse consumidas del marasmo y próximas a quedarse abatidas y enteramente extenuadas con motivo de las copiosas evacuaciones uterinas de todas clases suscitadas por la irritación mecánica y continua de esta parte” [“on other occasions ([Baudelocq] states) it has been necessary to remove [the clitoris] from young women because they have been consumed by miasmas and who have been defeated and entirely exhausted by copious uterine evacuation of all kinds brought about by the continuous mechanical irritation of this part”] (J. Ventura Pastor, *Preceptos generales sobre las operaciones de los partos* (Madrid, 1789), 35).
118. Bolufer Peruga, *op. cit.* (ref. 101), 69.
119. Foderé, *op. cit.* (ref. 99), i, 48–51.
120. “Lo más débil y sensible de la muger la inutilizó para grandes fatigas, y para negocios de discusión seria y detenida; al paso que la proporcionó a impresiones las más ligeras, y a que tomase interés en cosas despreciables o de poca importancia. La conformación particular de los huesos de las caderas y demás que conforman la pelvis facilitaba la postura sentada, como también lo más abultado de sus músculos por su gran tejido celular, y mayor diámetro de su base, haciéndola declinar a ocupaciones sedentarias y tranquilas” [“Woman’s weakness and sensitivity have precluded her from great exertion and from serious and prolonged discussion, at the same time allowing her to perceive more delicate impressions and to interest herself in useless or unimportant things. The

- particular structure of her hip bones and other bones that make up the pelvis facilitate a seated posture, as does the bulk of her muscles due to the larger cellular texture, the larger diameter of her posterior, making her inclined towards sedentary and tranquil occupations”] (López Mateos, *Pensamientos sobre la razón de las leyes*, cited in Martínez, *op. cit.* (ref. 52), 128–9).
121. M. Bolufer Peruga, “Literatura encarnada: Modelos de corporalidad femenina en la Edad Moderna”, in S. Mettalfá and N. Girona (eds), *Aún y más allá: Mujeres y discursos* (Caracas, 2002), 205–15, pp. 209–10.
122. J. L. Peset, *Ciencia y marginación: Sobre negros, locos y criminales* (Barcelona, 1983), 9; M. Foucault, “*Il faut défendre la société*”: *Cours au Collège de France, 1976* (Paris, 1997), 70–3.
123. This meant that hermaphroditism was excluded from the higher orders of nature and in these species sexual inclination was more acute: “el hermafroditismo era menos aplicable a las especies que, poseyendo sentidos y membranas, podían más fácilmente moverse y conocer sus semejantes: también la naturaleza ha separado los sexos en los animales que se transportan con facilidad y están provistos de sentidos. Pero para obligar a los sexos a que se buscasen, ha sido necesario darles el sentimiento del gozo más vivo y delicado que a los hermafroditas. Estos, al contrario, debían tener deseos más moderados y limitados para no destruirse a sí mismos con solicitudes continuas de amor. ¿Qué abuso, que pronta muerte no se seguiría al hermafroditismo completo en seres tan ardientes en amor como las aves, los cuadrúpedos y el hombre? Este estado no conviene sino a las especies frías y poco sensibles, como los animales imperfectos y las plantas” [“hermaphroditism was less applicable to those species that, possessing sense and membranes, could move easily and meet those similar to them. Nature has also distinguished the sexes in animals that can move easily and which have sense. But in order to oblige the sexes to look for one another it has been necessary to make them more sensitive to a greater pleasure than that experienced by hermaphrodites. Hermaphrodites, on the other hand, must have more moderate and limited desires in order not to destroy themselves through continuous demands for amorous activity. What degradation, what quick death would await complete hermaphroditism in species so ardent in love-making as birds, quadrupeds and man? Such a state is only convenient for cold species and those with little sensation such as imperfect animals and plants”] (J. J. Virey, *Tratado histórico y fisiológico completo sobre la generación, el hombre y la muger* (Madrid, 1821), 24–5).
124. “¿Cuántas precauciones y cuánta prudencia necesita el médico para dirigir la salud de una organización tan frágil y movable como es la de la muger en todos los estados de su vida!” [“How many precautions and how much prudence must the doctor display in order to direct the health of so fragile a being as woman throughout all the phases of her life!”] (Virey, *op. cit.* (ref. 122), 155).
125. J. M. J. Vigarous, *Curso elemental de las enfermedades de las mugeres* (2 vols, Madrid, 1807).
126. B. de Viguera, *La fisiología y patología de la muger o sea historia analítica de su constitución física y moral, de sus atribuciones y fenómenos sexuales y de todas sus enfermedades* (2 vols, Madrid, 1827).
127. P. Rousset, *Sistema físico y moral de la muger* (Madrid, 1821). Laqueur considers this work by Rousset to be one of the most representative of sexual dimorphism and of the biological interpretation present from the Enlightenment onwards. See Laqueur, *Making sex* (ref. 1), 6. See the words of Rousset: “Parece pues que el temperamento que se llama sanguíneo es en general el de las mugeres.... Unas fibras débiles y fáciles de moverse deben necesitar un género de sensibilidad viva pero pasajera.... Los sentimientos más disparatados se suceden en ellas con una rapidez que espanta, de suerte que no es raro verlas reír y llorar muchas veces en un mismo momento” [“It would appear that the temperament that goes by the name of sanguineous is in general that of women.... Weak and easily mobile fibres must require a kind of sensibility that is vivid but passing.... The most extravagant feelings occur in them such as a rapidity of response that

- shocks, so that it is not uncommon to see them laugh and cry at the same moment”] (Roussel, *op. cit.* (ref. 127), 54).
128. J. Capuron, *Tratado de las enfermedades de las mugeres desde la edad de la pubertad hasta la crítica inclusive* (2 vols, Madrid, 1821).
129. “A pesar de los escritos llenos de ideas juiciosas de los sabios Geoffroy de Saint Hilaire y de otros, no es fácil explicar la causa de otras muchas monstruosidades” [“In spite of the many writings full of intelligent ideas of the wise Geoffroy de Saint Hilaire and others, it is not easy to explain the causes of other such monstrosities”] (M. Hurtado de Mendoza, *Instituciones de medicina* (Madrid, 1939), i, 125). Geoffroy Saint-Hilaire, together with Meckel, was the essential reference point for nineteenth-century Spanish anatomists in questions of embryology and teratology. Saint-Hilaire divided hermaphrodites into two large groups: those without excess in their sexual parts and those with. Among the first class, there were masculine, feminine, neutral and mixed. The neutral class offered a combination of the organs of both sexes such “que la détermination du véritable sexe soit difficile ou même entièrement impossible” [“that the determination of true sex is difficult or even quite impossible”] (I. Geoffroy Saint-Hilaire, *Histoire générale et particulière des anomalies de l’organisation chez l’homme et les animaux: Traité de tératologie* (Paris, 1836), ii, 36). Neutral hermaphrodites lacked sexual differentiation to the degree that they were considered of no sex. The mixed hermaphrodite had the characteristics of both sexes in such a way that one part corresponded to one sex and the other part to the other sex and was thus a contrast to the ‘disordered’ neutral hermaphrodite. The second class was made up by hermaphrodites who did possess sexual parts in excess. These, in turn, were divided into masculine, feminine and bisexual. The latter possessed the sexual parts of both sexes. They could be imperfect if one set of genitalia or both were incomplete or perfect if the genitalia were complete. Saint-Hilaire denied the existence of this sub-type: “c’est à dire, la réunion d’un appareil mâle et d’un appareil femelle entièrement complets. Mais nous verrons que, malgré les nombreux témoignages consignés dans les ouvrages des anciens auteurs, l’observation et la théorie s’accordent pour démentir l’existence de ce dernier groupe” [“that is to say, the coming together of an entirely complete male and female apparatus. Instead we see that, despite the numerous witnesses present in works of ancient authors, observation and theory are in agreement in denying the existence of this group”] (Saint-Hilaire, *op. cit.* (ref. 129), 38). On the asymptotic condition of the ‘perfect hermaphrodite’ in Saint-Hilaire, see M. Tort, “Le mixte et l’Ocident: L’hermaphrodite entre le mythe et la science. Platon, Ovide, Isidore Geoffroy Saint-Hilaire”, in *La raison classificatoire* (Paris, 1989), 175–203, p. 197. On the significance of Saint-Hilaire for the Valencian anatomist Lorenzo Boscasa e Igual (1786–1857), see J. Arechaga Martínez, *La anatomía española en la primera mitad del siglo XIX* (Granada, 1977), 164. The reception in Spain of Meckel, whose classification of hermaphroditism drew in part on that of Saint-Hilaire (see Saint-Hilaire, *op. cit.* (ref. 128), 35) was greater than that of Saint-Hilaire although the latter was mentioned favourably in Hurtado de Mendoza, Agapito Zuriaga y Clemente (1814–66) and Mariano López Mateos (1802–63), and not so favourably in Fabra y Soldevilla and Boscasa e Igual (see Arechaga Martínez, *op. cit.* (ref. 129), 220).
130. “Hermafroditismo o reunión de los dos sexos que comúnmente llaman hermafroditas, es una fábula transmitida de la antigüedad, en que en aquellos tiempos se carecía de los conocimientos anatómicos exactos, pues es imposible que en el hombre y en la numerosa familia de los animales de sangre roxa se verifique semejante unión. Las observaciones exactas que se han podido recoger por los más distinguidos profesores no ofrecen testimonio alguno auténtico que lo confirme, y todos los hermafroditas que se han podido ver hasta ahora, y de que hacen mención algunos autores, no han sido más que unos seres mal conformados” [“Hermaphroditism or the uniting of the two sexes who are commonly called hermaphrodites, is a fable transmitted from ancient times, times in which precise anatomical knowledge was lacking, since it is impossible that in man and in the large family of animals of red blood a similar kind of union occurs. Precise

observations collected by distinguished professors have offered no authentic proof that would confirm this, and all hermaphrodites that have been seen to date, and which have been mentioned by certain authors, have been nothing but creatures poorly formed”] (D. A. B., “Hermafrodita”, in *Diccionario de medicina y cirugía o biblioteca manual médico-quirúrgica* (Madrid, 1817), v, 102–3). This concept is practically identical in M. Hurtado de Mendoza, *Vocabulario médico-quirúrgico o diccionario de medicina y cirugía* (Madrid, 1840), 478–9. Hurtado de Mendoza at the time still felt the need to reject the theory of hermaphroditism as the result of a ‘moral impression’ during pregnancy. This argument “aunque desgraciadamente sea el más acreditado en el público, es el menos fundado de todos” [“although it is unfortunately the one most highly believed by the public, has the least foundation of all”] (Hurtado de Mendoza, *op. cit.* (ref. 128), 125). On Hurtado de Mendoza’s work, see J. Arechaga Martínez, “Manuel Hurtado de Mendoza (1780–85–1849)”, in *op. cit.* (ref. 129), 31–102. Hurtado was to state: “La etimología de la palabra ... prueba que, desde la más remota antigüedad, se ha creído en la existencia de estos seres quiméricos.... La ignorancia y la credulidad aumentaron y perpetuaron este error de siglo en siglo, hasta el punto que, en tiempos más modernos, se han visto personages graves, y aun médicos que, engañados por apariencias, llevaron su absurdo hasta citar ejemplos de conversión de muchachas en muchachos, a la época de la menstruación, o en la primera noche de matrimonio” [“The etymology of the word ... proves that, from the most ancient times, the existence of these chimerical beings has been believed.... Ignorance and credulity increased and perpetuated this error over centuries to the point that, in more modern times, serious observers and indeed doctors who have been deceived by appearances have absurdly cited examples of conversion of girls into boys at the time of menstruation or on the first night of matrimony”] (M. Hurtado de Mendoza, “Hermafroditismo”, in *Suplemento al diccionario de medicina y cirugía del profesor D. Antonio Ballano* (Madrid, 1823), iii, 1135), while De Viguera wrote that it was the scalpel that had done the trick to disabuse people of this phenomenon: “la brújula del escabelo desentrañó por fin el simulacro del prodigio e hizo desaparecer lo maravilloso” [“a firm hold on the scalpel dispatched once and for all the simulacrum of the prodigy and made the marvellous disappear”] (De Viguera, *op. cit.* (ref. 126), 116).

131. “Debería borrarse del language médico la palabra ‘hermafroditismo’ siempre que se tratase de la especie humana. Consecuente yo con esta opinión, no la usaré de manera alguna” [“The word *hermaphroditism* should be expunged from the medical lexicon when referring to the human species. Consequent with this opinion, I shall by no means employ the term”] (M. Orfila, *Tratado de medicina legal* (Madrid, 1847), i, 188).
132. P. Mata, *Vademecum de medicina y cirugía legal* (Madrid, 1844), i, 45–6.
133. P. M. de Peiró and J. Rodrigo, *Elementos de medicina y cirugía legal arreglados a la legislación española*, 3rd edn (Madrid, 1841), 9. The Aragonese Pedro Míguel de Peiró was a Doctor of Law and became an emeritus member of the Academia Matritense de Jurisprudencia y Legislación. José Rodrigo, also Aragonese, was a doctor in medicine and surgery. This text, published in Zaragoza in 1832, was the first of its kind and became the manual that was used in all colleges of surgeons throughout Spain. For more details, see Pérez de Petinto and Bertomeu, *op. cit.* (ref. 92), 6. The words of Peiró and Rodrigo mirror almost exactly — except in the two cases he mentions of the Scottish servant and the French woman — those written by Hurtado de Mendoza, *op. cit.* (ref. 130), 1135. For the same kind of reasoning see De Viguera, *op. cit.* (ref. 126), 116.
134. “Los progresos de la anatomía y fisiología, señaladamente desde que se hace una aplicación exacta y rigurosa de las ciencias a la medicina legal, han hecho que se estudien con un cuidado particular los diferentes casos que se confundían en otro tiempo con la designación vaga de hermafroditismo” [“The progress of anatomy and physiology, particularly since the exact and rigorous application of these sciences within legal medicine, has meant that those cases that were confused in earlier times with the vague description of hermaphroditism have been studied with especial care”] (Hurtado de Mendoza, *op. cit.* (ref. 130), 1135).

135. Anon., “Nueva aplicación del microscopio a los experimentos médico-legales”, *Boletín de medicina, cirugía y farmacia*, ser. 2. no. 66 (1841), 237. Cf. R. Cleminson and R. Medina Doménech, “¿Mujer u hombre? Hermafroditismo, tecnologías médicas e identificación del sexo en España”, *Dynamis*, xxiv (2004), 53–91, pp. 80–4.
136. Dr Henri Marc (1771–1840) was a decisive authority on the question. He established a series of rules for the diagnosis of true sex and these were retained for decades. Marc believed that the possibility of reproduction amongst hermaphrodite individuals was something that divided medical opinion. See H. Marc, “Hermaphrodite”, in *Dictionnaire des sciences médicales par une société de médecins et de chirurgiens*, xxi (Paris, 1817), 86–121. Dr Juan Mosácula (1794–1831), professor of physiology at the Colegio de San Carlos, denied the existence of hermaphroditism (J. Mosácula, *Elementos de fisiología especial o humana* (Madrid, 1830), ii, 370–1), and others refer to the impossibility of reproduction in all cases: D.A.B., *op. cit.* (ref. 130), 103; Hurtado de Mendoza, “Hermafroditismo” (ref. 129), 1136; Peiró and Rodrigo, *op. cit.* (ref. 133), 9; Hurtado de Mendoza, *Vocabulario* (ref. 129), 479; Orfila, *op. cit.* (ref. 130), i, 188. Pedro Mata, however, argued that even the neutral hermaphrodite could be declared potent. No *a priori* statements were justified (Mata, *op. cit.* (ref. 132), i, 21).
137. P. F. Monlau, *Higiene del matrimonio o el libro de los casados* (Madrid, 1868 [1853]), 158. Pedro Felipe Monlau (1808–71) was a member of the Consejo de Sanidad del Reino and head of Spanish hygiene in the mid-nineteenth century. His *Higiene del matrimonio* underwent numerous editions and it became extremely well known (republished seven times up to 1898 and translated into French in 1879). On Monlau see M. Granjel, *Pedro Felipe Monlau y la higiene española del siglo XIX* (Salamanca, 1983).
138. “Diferentes hechos atestiguan que hay seres monstruosos que reunen los atributos de ambos sexos; y otros en quienes no se observa carácter ninguno distintivo: y esto es lo que ha hecho decir a Blumenback, a Meckel, a Geoffroy Saint-Hilaire, que los dos sexos presentan en su estado primitivo, una sola y misma forma, y que solos los progresos del incremento son los que desenvuelven los caracteres propios de cada uno de ellos” [“Different facts prove that there are monstrous beings that unite the attributes of both sexes and others in whom no distinctive characteristic can be observed. This is what has driven Blumenback, Meckel and Geoffroy Saint-Hilaire to say the sexes in their primitive state represent a unique and single form and that it is only the progress of change that develops the characteristics of one or the other”] (M. Dany, “Observación que puede servir para la historia del hermafroditismo”, *Gaceta médica de Madrid*, 1 (1835), 149–51, p. 151). A similar ‘take’ is seen in Hurtado de Mendoza, *Vocabulario* (ref. 129), 478; Orfila, *op. cit.* (ref. 131), i, 188, and, Mata, *op. cit.* (ref. 132), i, 15. The lack of differentiation of infancy and old age is emphasized by Virey, *op. cit.* (ref. 123), 75 and by De Viguera, *op. cit.* (ref. 126), 127.
139. G. Canguilhem, *The normal and the pathological*, transl. by Carolyn R. Fawcett and Robert S. Cohen (New York, 1989), 131–7.
140. The shift in medico-legal medicine on the question of hermaphroditism in France and its consequences for legislation are analysed by the University of Granada doctor José de Lletor Castroverde. See José de Lletor Castroverde, *Repertorio médico extranjero* (Madrid, 1835), v, 73. On the differences between vices of conformation and monstrosity in cases of hermaphroditism, see Orfila, *op. cit.* (ref. 131), i, 193.
141. On Marc’s criteria and their use in Spain see Cleminson and Medina Doménech, *op. cit.* (ref. 135).
142. Dreger, *op. cit.* (ref. 95), 139–66. On Klebs in Spain, see Cleminson and Medina Doménech, *op. cit.* (ref. 135), 79–80.
143. This phase of the ‘science of hermaphroditism’ is discussed in R. Cleminson and F. Vázquez García, *Hermaphroditism, medical science and sexual identity in Spain, 1850–1960* (Cardiff, 2009).