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Gender conflicts in the courts of the early Venezuelan republic, Caracas, 1811-1840

Arlene J. Díaz¹

Women in early republican Caracas pursued their quest for equality before the law through their numerous actions in court. The new republic's constitution of 1811 adopted the «Rights of Men», and provided for equality and citizenship to Venezuelans. However Spanish civil codes which supported class, race, and gender distinctions still operated in the new republic. This was the basis for two contending sets of rights: those of the *padres de familia* (male household heads), who tried to maintain their ancient legal prerogatives, and those of the *ciudadanas* (female citizens) who expected some type of material reciprocity in their relationships with men. Elite women openly used their rights as citizens to defend their property, while lower-class women made persistent claims to defend their individual rights. Most of the sampled cases (1835-1840) came from the lower classes (72 percent) and most of the cases were filed by women themselves (51 percent).

*Les femmes de Caracas, au début de la république, luttèrent pour leur égalité juridique au moyen de fréquentes actions judiciaires. La nouvelle constitution républicaine de 1811 adopta les «Droits de l'Homme» et établit l'égalité et la citoyenneté des Vénézuéliens. Cependant, le droit civil espagnol, fondé sur des distinctions de classe, de race et de sexe, resta en vigueur sous le nouveau régime. Il en résultait une opposition entre deux ensembles de droits : ceux des *padres de familia* (hommes chefs de famille) cherchant à préserver leurs anciennes prérogatives et ceux des *ciudadanas* (citoyennes) qui escomptaient une certaine réciprocité, au plan matériel, dans leurs relations avec les hommes. Les femmes appartenant aux élites sociales usaient ouvertement de leurs droits civiques pour défendre leurs biens, tandis que les femmes des classes populaires défendaient avec insistance leurs droits individuels. La majorité de l'échantillon étudié (1835-1840) était issue des classes*

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populaires (72%) et la plupart des actions (51%) étaient engagées par les femmes elles-mêmes.

Research on the participation of women of Gran Colombia² during the wars of independence has concluded that independence did not significantly change women's position in society. It has also been argued that both men and women held the same traditional attitudes concerning gender, and that in Gran Colombia women had a very limited notion of their own rights³. Research on Mexico has presented a more complex picture of the female condition, as women won respect, visibility, and an appreciation for their capacities through the independence struggle. However, after the wars, women went back to their traditional roles⁴. The paucity of research notwithstanding, the general notion is that independence from Spain did not bring major changes to the female condition in Latin America.

While these observations may be incontrovertible from the standpoint of what was formalized in laws, disseminated in print media, and publicly evident, they reflect the assumption that for contestation to occur it must be organized, perhaps collective, but certainly manifest in the public eye. The problem with this perspective is that it fosters the impression that women were passive members of society during a period of revolutionary change because they did not react in a particular, expected way. We must consider, however, that a substantial proportion of women's everyday activities in Latin America (as in other parts of the world) unfolded in unobserved places like the domestic sphere, not in public, mostly male-dominated areas. Hence, the need to search for women's voices in sources different from traditional historical records.

In this particular endeavor, I use James C. Scott's dual concept of «public» and «hidden» transcripts to uncover and discern actions through which Venezuelan women resisted domination from above⁵. These actions range, respectively, from highly visible ones that directly challenged those in power to less conspicuous acts of resistance expressed in everyday behavior. In Venezuela, the contradictions between elite discourse on equality and liberty and the actual conditions of life of the vast majority of the population (excluded from power and from the social and economic opportunities of the newly independent nation) inevitably created tensions which touched off resistance from below⁶. While lower-class resistance often took the form of open struggles over political power – struggles which have left a «public transcript»⁷ – contestation also unfolded in less conspicuous ways, as when the lower classes battled against subtle forms of social control so ingrained in society that they were perceived as normal and natural in people's daily lives. Patriarchy

² After attaining independence from Spain, the former Captaincy-General of Venezuela, the Viceroyalty of Santafé de Bogotá, and the Audiencia of Quito formed the Republic of Colombia, more commonly referred to by historians as «Gran Colombia». The great Bolivarian dream of unity was short-lived and ended abruptly in 1830 with the dissolution of the political entity into three independent states: Colombia, Ecuador, and Venezuela.

³ Cherpak (1978, p. 230).

⁴ Arrom (1985, p. 14-52).

⁵ Scott (1990).

⁶ See Mallon (1995, p. 9).

⁷ This has been the focus of recent research. See Mallon (1995); Joseph and Nugent (1994); and Guardino (1996).

was one form of control that was reified in social norms and mores. Struggles to challenge the contradictions between official discourse and practice did not necessarily take place in the political landscape primarily, but could develop within the sphere of the household. These struggles (chiefly gender conflicts) are the focus of this study⁸.

In this essay I analyze a mass of civil, criminal, and ecclesiastical court cases to construct narratives of individual experiences of women in Caracas during the early republic⁹. During this period, women struggled for equal protection under the law as well as for a more egalitarian relationships with men within the household. In both spaces, the conjuncture of the post-independence proved decisive. The civil wars of independence and the establishment of the new republic provided women of both elite and lower-class backgrounds with a new context, and more importantly, with new discursive tools to struggle for equality at home and in the courts.

Female notions of proper gender relations were not, of course, new to the early republic. To better understand the changes and continuities of gender issues during the early republic, I will first discuss some salient points about the nature of gender conflicts in late colonial Caracas. Next, I examine the effect of independence over the rhetoric and actions of women during the early republic. A special section is devoted to court cases involving gender conflicts in which lower-class women participated. Finally, the contestation of upper-class women in courts is presented, one that openly combined a rhetoric of citizenship with the condition of property owners.

GENDER RELATIONS IN LATE COLONIAL CARACAS

In the late colonial period, the lower classes were quite conscious of their position in the Spanish hierarchical social order and were familiar with upper-class, official notions of proper gender roles, in particular, with the ideal of female isolation or separation from men. Living in the cramped conditions in late eighteenth-century Caracas, however, made this ideal difficult to accomplish. Often, at the level of the household, many people slept in the same room, slaves and free, male and female¹⁰. Separation of the races was equally improbable.

⁸ Mallon stresses that «it is possible to analyze politics at all levels as nested arenas of contestation, where hegemonic processes are at work. In families, communities, political organizations, regions, and state structures, power is always being contested, legitimated and redefined» (1995, p. 6). Joan Wallach Scott has also emphasized the ties between government power and household organization. See her influential book (1988, p. 45-50).

⁹ This essay is based on two samples of civil, criminal, and ecclesiastical lawsuits between 1786 and 1790, and from 1835 and 1840. These cases are part of a larger project in which four samples were made every fifty years since the foundation of the Real Audiencia (High Court of Appeals) in 1786 through the inception of liberal and positivist regimes to Venezuela's oil boom in the early twentieth century (1935). I chose lawsuits in which women were victims, perpetrators, plaintiffs, or defendants in various matters, excepting those dealing with debt, inheritance and property. The reason is that inheritance and property cases often referred to the upper classes, and my objective was to examine the experience of the majority of the population. In terms of the participation of the litigants by type of court (ecclesiastical or secular), I found that this depended on the nature of their claims, not on the social standing of the litigants. The church tribunals heard cases related to spiritual matters (marriage, divorce, breach of promise, etc.) and the secular courts dealt with temporal issues (administration of property, support, patria potestas, etc.). Of course, there were some exceptions. See Díaz (1997, chapter 1).

¹⁰ In his diary of the pastoral visit to the province of Venezuela between 1771 and 1784, Bishop Mariano Martí advised his parishioners to prevent members of the opposite sex from sharing the

Poor women and even slaves had to work for their daily sustenance and thus did not depend solely on the support of male breadwinners¹¹. Stories from late eighteenth-century court cases that I have analyzed in another work suggest that relationships among the sexes and races were quite fluid and that many poor women conducted their daily lives with certain autonomy¹². This does not mean that women did not seek to fulfill ideal roles as wives and mothers, nor that the lives of women without male guardians were easy. In the narratives of women available through the court cases, however, it is clear that women were active in the households, and that if they acknowledged being submissive, such acknowledgement was conditional and, therefore, temporal. Cases of complete subordination are not unknown, however. To be sure, legal conflicts are not a complete representation of the experience of the whole community. Available evidence suggests that in Venezuela a woman aspired to and valued formal marriage and was willing to exchange her virginity (the one thing that determined her and her family's honor in society according to the church and the state) for a promise of marriage¹³.

Formal marriage, however, did not always resolve the plight of women because, even in marriage, some males did not behave as responsible partners. Poor colonial women had a particular vision of proper gender relationships, one in which both women and men had equal responsibilities in the domestic context¹⁴. In 1794, Ignacia Azcarate, a poor white, claimed in court that «a woman is given to a man in marriage to become his partner [*compañera*] not to suffer vexation, oppression and violence from ill-tempered men, who abusing their power and physical strength, forget their main obligations as husbands, as Christians and as citizens»¹⁵. In the same vein Juana Feliciana Díaz wrote to the court: «How hard is the plight of married women! One rarely finds a husband who has the same regard toward his companion [*consorte*]... The husband becomes a tyrant, the wife a slave, the home hell, and the children are unfortunate witnesses of this horrible and lamentable metamorphosis»¹⁶.

same bed and room, which was quite difficult. Waldron (1989, p. 169-70). See also «Autos que sigue Ygnés Maria con su amo Dn. Juan Matias Ramos sobre su libertad», Archivo de la Academia Nacional de la Historia (hereinafter AANH), Civiles, 1790, Letra V, exp. 2.

¹¹ See for example «Rita Antonia Dias esclava de Doña Maria Antonia Dias sobre su libertad», AANH, Civiles, 1789, Letra D, exp. 5.

¹² See Díaz (1997, chapter 3).

¹³ See McCaa (1984).

¹⁴ Whether these ideas came from the church, who placed more constraints on the prerogatives of men than the state did, or were generated by people living under sexual or racial oppression, needs to be further studied. Yet it is interesting to note that some works have found that women and slaves tended to have more egalitarian views on social relationships. Emília Viotti da Costa, makes an excellent argument that slaves had a particular notion of rights in which their relationships to their masters entailed a «mutual obligation» (1994, p. 72-73). One instance of how female leadership expanded notions of democratic and egalitarian ideology is the Nicaraguan case aptly studied by Gould (1990, p. 235-241).

¹⁵ [Untitled: Don Ygnacio González - su mujer se resiste a cumplir con las obligaciones de su estado], Archivo Arquidiocesano de Caracas [hereinafter AAC], Matrimoniales, 1795, leg. 124, fols. 27r-27v. In the colonial period, the word citizen was used in the sense of being a resident of a place or a state, a condition that carried some rights. See Escriche y Martín (1840), s.v. «Ciudadano».

¹⁶ [Untitled: Divorcio - Juana Feliciana Dias con Juan Domingo Moreno], AAC, Matrimoniales, 1794, leg. 120, fol. 8r.

Both in the late colonial and in the early republican periods references to marriage as slavery and to wives treated as slaves appeared constantly in the records. Since men had legal control over their families, sometimes they held the mistaken belief that women were their private property and were obliged to serve them. The case of Ignacia Azcarate serves as a good example. According to her testimony, her husband came to the marriage with only empty promises and with the intention of «having a slave, [who would] serve and look after him and his children, [and endure] the yoke of his ill-temper»¹⁷. In these and other cases, women viewed their marriage as a contract, as a pact among equal partners, as a union of *compañeros*¹⁸. In the eloquent words of Juana Feliciano, «marriage though a sacrament always remains a compact»¹⁹. And it was under this belief that they complained about the abuses and lack of responsibility of the men in the relationship. These women were challenging the official hierarchy of power within the household. According to the colonial state, while women (considered ignorant and weak) necessitated a male guardian to protect their physical beings and their material properties²⁰.

Males were inclined to see gender relations in the light of what was established by the Spanish state. They conceived of marriage as a sacrament, an unbreakable bond in which the power relationship between husband and wife was inherently unequal. For this reason, they tried to assert in the courts the importance of this legal bondage. As one husband put it: his «legitimate wife may have believed that the marriage bond, vested with the respectable condition of the sacrament, was a toy or a matter of little importance»²¹. Women's view of marriage (making their submission conditional to the fulfillment of men of certain obligations) seemed to husbands as an attempt to appropriate *patria potestas*. Thus, men wanted to make sure, every time, that «in the family, no one else [governed] but them»²².

The interplay between the sexes in late colonial Caracas provides a good example of the many ways in which gender relations became intrinsically related to the power and organization of the corporatist state. Despite women's subordinate social and legal position, they contested male dominance both in the household and in the courts, seeking a relationship in which both genders carried equal responsibilities within the family. Men, instead, were primarily concerned with keeping their position of command over the household.

¹⁷ [Untitled: Don Ygnacio González], fols. 72r-73r.

¹⁸ For instance, «Demanda matrimonial de María de los Santos Marques contra Juan de la Rox Dias», AAC, Matrimoniales, 1789, leg. 106; «Demanda matrimonial puesta por Juana María Muñoz (morena libre) contra Josef Vicente Cordero (pardo)», AAC, Matrimoniales, 1787, leg. 102; «Separación que pretende Da. Ana María Lopez Ynfante»; «Autos seguidos por Da. Luisa de Ochoa sobre que se extraigan del poder de su marido don Bernardo Riso todos y cualesquiera bienes que mantenga en su poder por ser propios suyos y estarlos disipando», AANH, Civiles, 1790, Letra O, exp. 6.

¹⁹ [Untitled: Divorcio - Juana Feliciano Dias], fol. 8r.

²⁰ This idea is firmly asserted in the *Siete Partidas*, which further established that the adult male (the *padre de familia* or family head) ruled his wife and children with the support of powers given to him by law. Fathers had *patria potestas* (parental power), which is the right that family heads exercised over the person and property of family members. Under this principle fathers and husbands enjoyed the fruits of their family property and imposed their will by legal authority and physical punishment if necessary. See Escriche y Martín (1840), s.v. «*padre de familia*»; Boyer (1989, p. 254-255); Arrom (1985, p. 68-73); Pino Iturrieta (1992, p. 28-33).

²¹ «Separación que pretende Da. Ana María Lopez Ynfante», fol. 23r.

²² «Autos de divorcio que sigue Da. Francisca Rosalía Hernández contra su legítimo marido Don Juan Truxillo», AAC, Matrimoniales, 1794, leg. 120, fol. 14v.

The limited set of rights governing women's participation in the courts did not stop them from using the state's institutions. Almost half of the cases (in a sample drawn from late colonial cases, in 1786-1890) were brought by women themselves (49 percent of a total of 140 cases). Of these, 81 percent were filed by lower-class women. However, it should be noted that it was after 1790 that the number of lawsuits really soared; indeed, 47 percent of the sample cases belong to 1790 alone. This increase seemed to have been produced by an increase in the participation of the lower classes in the courts. In that same year, 50 percent of all the lawsuits were filed by poor *Caraqueños*. Before 1790, lawsuits by the upper classes predominated, most of them concerned with issues of property and social status. After 1790, the claims became more diversified, marriage and personal conflicts becoming more common.

Although further research on this phenomenon is needed, available evidence suggests that this increase in court participation by the lower classes was concurrent with a widespread questioning of the legitimacy of colonial rule. By the last two decades of the eighteenth century, the number of revolts, riots, and insurrections increased. Five of a total of eight of these movements occurred in the province of Caracas after the 1780s, and four of those five were led by the lower classes of the province, protesting against taxes, government monopolies, and slavery²³. Thus, even though the city itself was quiet, social tensions in the restless province around it periodically erupted into violence.

According to historian Elías Pino Iturrieta, many of the reformist ideas that engendered mobilization in the late eighteenth and early nineteenth centuries came to Venezuela through foreign and Spanish commerce ships²⁴. The introduction of revolutionary propaganda became a concern for the Spanish state, as demonstrated in a series of new legislation after 1750 that increasingly punished those accused of participating in the spread of modern ideas and in promoting popular mobilization²⁵. Trinidad was one important focus for the spread of modern ideas, such as those of the French Revolution and United States Independence. Public parties, oral transmission of news from abroad, subversive propaganda, and informal schools organized in barber shops helped stir up nationalist sentiment and an appreciation for individual liberties, especially in the Capital city²⁶.

In the late colonial protest movements (which set the stage for the struggle for independence in the nineteenth century) women were not absent. Women actively participated in pre-independence revolts such as the 1795 slave rebellion in Coro and the Gual-España conspiracy of 1797²⁷. They also participated in the independence wars. Poor women called *troperas* – soldiers' wives, friends or lovers – followed patriot and rebel troops to the countryside, preparing food, assisting wounded soldiers, and even taking up arms when needed. Others stayed in the city to defend urban dwellers²⁸.

²³ See Magallanes (1982).

²⁴ See Pino Iturrieta (1991, p. 21-63; 178-187).

²⁵ *Ibid.*, 28.

²⁶ *Ibid.*, 40.

²⁷ Cherpak (1978, p. 220-221).

²⁸ *Ibid.*, 222. See also Troconis de Veracochea (1990, p. 128, 132-152).

The participation of the popular classes in the civil wars of independence and a new political context molded by constitutional rights were powerful stimuli for women. Under these new conditions, women felt self-assured and aware of their capacity as decision makers and agents of change in Caracas society. Acting in this historical conjuncture, women in Caracas appropriated the ideas and revolutionary language of liberal republicanism as weapons in their conflicts with men.

GENDER CONFLICTS IN THE EARLY REPUBLIC

With the birth of the new republic came profound changes in the relationship between government and the governed. The 1811 Constitution brought a formal end to the Spanish corporatist state and established a charter inspired by liberal ideals of the French Revolution and the Constitution of the United States. Among those principles was the radical notion that Venezuelans were equal before the law: no one could hold title or privilege other than that of citizen²⁹. This meant that the law would not recognize any special privileges, including those of birth, purity of blood, nobility titles or an special status like those enjoyed by the aristocracy or by indigenous communities. By the same token, the Constitution revoked all ancient laws that «imposed a civil degradation upon a portion of the free population of Venezuela known as *pardos*» and made them equal to everyone else³⁰.

While independence leaders adopted the principle of the «Rights of Man» (liberty, fraternity, equality, and property) into the constitution, the concept of citizenship was ultimately limited to male property owners. Hence the majority of the non-propertied sectors, including a large number of *pardos*, slaves, Indians, and women, were denied political rights³¹. These ideas continued in the 1830 Constitution, drafted in the aftermath of Venezuela's split from the Gran Colombian union.

Despite the change in the form of government, the Spanish legal tradition was maintained after independence to give continuity and legitimacy to Venezuelan judicial institutions³². During the early republic, the various colonial codes that supported class, race, and gender distinctions still formed the primary basis for determining people's rights in courts. Ingrained Spanish ideas on gender roles, specifically

²⁹ Art. 154 and 226 of the 1811 Constitution. The 1811 Constitution only lasted for one year due to the independence wars, but it set the frame for future Constitutions. This was the first Republican Constitution for Latin America. See Brewer-Carías (1985, p. 15-52).

³⁰ See Constitution of 1811, Chapter IX, Arts. 201-226. A *pardo* is a person of mixed African and white blood.

³¹ According to the 1811 Constitution, Chapter II, 2nd Section, art. 26 a voter was a free male, 21 years of age and older, who had a wealth of 600 pesos if single and 400 pesos if married *even if the money belonged to the wife*. The Brazilian Constitution of 1824 also hedged its language where the rights of the free mixed-races were concerned. See Flory (1977, p. 199-224).

³² In 1821, when the union between Venezuela and Colombia – which we call today Gran Colombia – was established, it settled the order in which the laws were going to be applied. The law of 13 May 1825 established that the hierarchy of laws would be as follows: (1) laws decreed by the legislative power; (2) pragmatics and other laws and orders such as *cédulas*, *órdenes*, *decretos*, and *ordenanzas* from the Spanish government approved by the law of 18 March 1808, and that were observed in the republic's territory; (3) the laws of the *Recopilación de Indias*; (4) the laws of the *Recopilación de Castilla*; and (5) the *Siete Partidas*. It was also established that all laws which directly or indirectly contradicted those of the Constitution or of the legislature would have no effect. Chiossone (1980, p. 133-134).

patriarchalism, continued to serve the state and the courts as a means of organizing family life³³. The integration of liberal ideas into the juridical system, particularly the rights that applied to ordinary citizens, would have to wait until the drafting of the Civil Code of 1873. Thus, between 1811 and 1873 the state and the citizens had to deal with the contradiction between the constitutional right of women to be citizens (*ciudadanas*) and the inferior status accorded to them by Spanish civil law.

The judicial system was able to function in spite of the confusion created by the use of various legal codes inherited from the colonial and early republican times. The need to provide cohesiveness to the state and consolidate its legitimacy gave support to a working judicial apparatus. The fact that legal institutions maintained Spanish juridical traditions served to establish a continuity in the system even in periods of social and political crisis. Considering the variety of people who relied on the tribunals for solving conflicts, the balance maintained by the judiciary during this period is truly remarkable³⁴.

Based on Spanish law of the *Novísima Recopilación*, the tribunals of Caracas honored petitions from the poor. The *Recopilación* provided that a person without resources could be exempted from the costs of justice if he or she presented a «Certificate of Poverty». Some women, especially those seeking divorce, were issued such certificates on the grounds that their husbands were not providing support³⁵. In addition, the poor could attend lower courts, headed by an *alcalde parroquial* (a local parish magistrate), for a «conciliation» or a «verbal» trial. These brief trials, with the plaintiff orally filing a claim in court, aimed to resolve smaller complaints such as debts under one hundred pesos, defamation of character or marital fights. In them, the contending parties sought conciliation or a expedient solution, thus minimizing the need for a case to go to a higher court³⁶. Some of the 240 cases of the early republic were collected among these *juicios de conciliación* and *juicios verbales* for the Caracas parishes.

The extent of female participation as litigants in court belies the entrenched belief that women as a group were passive. Data from Caracas tribunals point to the contrary. The fact that in 43.3 percent of the cases women acted as plaintiffs is rather astonishing considering that the tribunals remained a male-dominated world³⁷. Even though 19.2 percent of women were victims and a small percentage were aggressors

³³ This same pattern is discussed for Argentina by both Szuchman (1988, p. 13) and Guy (1985). Arrom also raises this issue (1985, p. 93-97).

³⁴ Chiossone (1980, p. 123-4). See also Bushnell (1954, p. 46-47, 49).

³⁵ See L.7, t.19, lib.5, *Novísima Recopilación; Diccionario razonado*, s.v. «litigante» and «pobre». Escriche writes: «A poor person, though may have sufficient means to subsist, does not necessarily have sufficient means to litigate, and should not be compelled to pay the costs and fees that are necessary in order to be defended, if [he/she] presents proofs of [his/her] poverty before any judge and presents, furthermore, a dependable witness before the court which is hearing the case» [«El pobre que, aunque tenga lo suficiente para vivir, carece de lo necesario para litigar, no ha de ser compelido a pagar las costas y derechos que devengue en defenderse, con tal que haga constar su pobreza mediante información ante cualquier juez, presentando además un testigo fidedigno ante el tribunal en que se sigue el pleito»].

³⁶ *Cuerpo de leyes, decretos y resoluciones sancionados por los Congresos de Venezuela en los años de 1830, 31, 32 y 33* (Caracas: Valentín Espinal, 1833), 32-36 (Ley de 13 de mayo de 1825, Capt. I, II and III). See also Matos-Rodríguez (1997, p. 236-238).

³⁷ The percentage would be higher if I added the number of cases in other categories in which women were contending against another women.

or accomplices (2.9 and 0.4 percent, respectively), one wonders whether women were as submissive as is generally believed. The attitudes and actions of *Caraqueñas* I studied contrasts sharply with the demeanor of women in late colonial Buenos Aires³⁸.

To further illustrate the initiatives of these women, I analyzed how the cases were distributed in terms of the gender and role of the people who submitted the complaint to court. It is worth noting that the law provided for married women to go to court only to accuse husbands in criminal or civil cases, to defend themselves against a criminal charge, or to make their own will³⁹. To file another type of complaint, a woman had to obtain a license from her husband; women who were not under *patria potestas* and were twenty-five years of age or older needed no license. In spite these limitations, 51 percent of all the claims were brought to court by women themselves.

A class variable was incorporated into the database to capture the social differentiation in the nature of the court cases. This variable was created taking into account property, rent, number of slaves, and whether or not a person could vote. For this last item, I drew upon a list of qualified voters in Caracas for 1850⁴⁰. Two broad categories, rich and poor, were established. The poor sector ranges from the indigent to those who owned a small renting house.

When the cases were grouped by class of litigant (Table 1), a clear pattern emerged. In fifteen percent of cases in which both parties were wealthy, most were related to the preservation of patrimony. Even divorce cases had material undertones since in all of them the mismanagement of the wife's property was a constant argument. The small percentage of interclass litigation may suggest a limited social interaction between the two classes. Most of the cases in the category «Upper Class against Lower Class» dealt with problems involving rich women well beyond their prime years who had affairs with poor men, mostly young immigrant European men (primarily Spaniards). On the other hand, poor people's cases against wealthy defendants were mostly related to claims made by slaves.

Cases in which both parties were poor were the most common (72 percent of all cases), pointing to some degree of legal recourse for all classes during the early republican period. The cases involved conflicts not of property, as in the cases of wealthy litigants, but of an interpersonal nature. As will be discussed later in this section, conflicts among the poor, especially those involving women, dealt with the defense of individual liberties: the right to paid work, the right to the control of their bodies, and the right to be equally protected by law as men were.

While the legal framework in Venezuela maintained and reaffirmed the powers of the male heads of households (as it did in the late colonial period), there were limits to men's power over women during the early nineteenth century as well. Adult

³⁸ Susan Socolow (1990) found that women involved in criminal cases in Buenos Aires in the 1757-1797 period were mostly victims or accomplices, a finding the author interprets as a reflection of their generally passive role in society.

³⁹ The percentage of women who initiated the legal procedure in court (50.6 percent) is the sum of the number of women plaintiffs, victims, and mother of the victims. On women's rights, see Escriche y Martín (1840), s.v. «mujer casada», and «mujer pública».

⁴⁰ See «Lista de los ciudadanos del Cantón Caracas, que reúnen las cualidades para ser electores», Biblioteca Nacional, Colección de Libros Raros y Manuscritos, Colección de Hojas Sueltas, 1 de julio de 1850.

TABLE 1: Type of Lawsuit by Social Class of the Litigants (Caracas, 1835-1840)

Class	%	% of Total
Both Parties were Upper Class		
Claims on Marital Property	8.4	
Divorce	11.1	
Grave Acts of Contumely (<i>injurias</i>)	2.8	
Guardianship	11.1	
Marriage Dispensation	2.8	
Opposition to Marriage	16.7	
Parental Authority	8.3	
Petitions for Certificates	8.3	
Petitions to take Daughter or Wife away from a <i>Depósito</i>	2.8	
Power to Administer Properties	16.7	
Support	8.3	
Theft	2.8	
	n=36	15.0
Upper Class against Lower Class		
Administration of Marital Property	22.2	
Claim on Slave Property	11.1	
Divorce	33.3	
Support	11.1	
Theft	22.2	
	n=9	3.8
Lower Class against Upper Class		
Abuse (<i>maltrato</i>) ^a	17.4	
Claim on Marital Property	4.3	
<i>Estupro</i> ^b , Abductions	4.3	
Grave Acts of Contumely (<i>injurias</i>)	4.3	
Inheritance	4.3	
Manumission/Slave Sale	43.5	
Opposition to Marriage	4.3	
Paternity of Natural Children	4.3	
Support (<i>alimentos</i>)	13.0	
	n=23	9.6
Both Parties were Lower Class		
Abuse	2.9	
Administration/Division of Marital Property	1.8	

^a Maltrato cases mainly deal with physical punishment inflicted on wives and slaves by their spouses and owners.

^b *Estupro* is the deflowering of a virgin woman or chaste widow by deceit or seduction. Escriche y Martín (1840), s.v. «*estupro*».

Class	%	% of Total
Bodily harm (<i>aporreos</i>)	5.8	
Breach of Promise	2.3	
Cutting and Wounding (<i>heridas</i>)	7.6	
Grave Acts of Contumely (<i>injurias</i>)	14.5	
Debt	1.7	
Divorce	8.7	
Drunkenness	0.6	
<i>Estupro</i> /Abduction	8.1	
Failure of a Man to Allow Woman to Work for a Salary	0.6	
Flight (of a Wife)	0.6	
Guardianship/Power to Raise a Child	3.5	
Inheritance	1.2	
Manumission/Slave Sale	3.5	
Marriage License	1.7	
Murder	3.5	
Opposition to Marriage	3.5	
Parental Authority	1.2	
Petitions for Certificates	3.5	
Petition to take Daughter or Wife away from a <i>Depósito</i>	3.5	
Poisoning	0.6	
Prostitution	0.6	
Restitution of Furniture, Clothes or Animals	5.8	
Sodomy and Bestiality	2.9	
Support (<i>alimentos</i>)	7.6	
Theft	1.7	
Trespassing	0.6	
	n=172	71.7

Sources: Archivo del Registro Principal del Distrito Federal (Caracas), Civiles, Criminales, 1835-1840; Archivo Arquidiocesano de Caracas, Judiciales, Matrimoniales, 1835-1840. Percentages were computed by the author.

women had outnumbered men in the capital city of Caracas since the late eighteenth century⁴¹. Women from the popular classes dominated the streets as vendors and petty workers. Their households often had no adult males present⁴². Consequently, many women were not under the *patria potestas* of any male. During the independence wars and after, the people of Caracas experienced the popular revolts and civil wars that transformed traditional urban society. The struggle of the *pardo* population for equality and upward mobility, and the search of slaves for liberty – in short, the widespread rumors of a «race and class war» that threatened the white elite – kept

⁴¹ Between 1796 and 1829, the sex ratios in Caracas remained rather constant, with an average of about 1.6 women for every male. Computed from data in Lombardi (1976, p. 183-185) *Sociedad Económica de Amigos del País* (1835, p. 32-35).

⁴² Waldron (1977, p. 127-137).

Venezuelans aware of their social condition⁴³. As an English traveler to Caracas in the 1830s observed, a «general degree of freedom... now exists among the races», adding that «negroes and mulattoes [have] the privilege of greeting any person, whatever his rank or situation in life, with the familiar appellation of citizen»⁴⁴. For many other women, their agency during these turbulent years gave them self-assurance and self-awareness of their capacity as decision-makers. By the beginning of the Republican era, after Venezuela separated from Gran Colombia in 1830, women in Caracas were already claiming their citizenship rights in court.

WOMEN DEFENDING THEIR INDIVIDUAL LIBERTIES: THE HIDDEN TRANSCRIPTS

Court records involving the poor for the early nineteenth century demonstrate a myriad of issues that were at stake, especially if we compare them with the situation among the upper classes. Through these claims, the lower classes defended their particular understanding of gender relationships and their «right» to defend their individual liberties.

For the poor, life in post-colonial Caracas was riddled with many difficulties. To meet their emotional and economic needs in the overcrowded and expensive city, the poor developed extensive networks of friends and relatives. These solidarity networks must be taken into account if we are to understand the life strategies of the popular classes⁴⁵. It was implicit in the lawsuits studied that women worked for wages and usually held more than one job. A neighbor or housemate would help when a friend was in personal danger. These personal alliances were strong but could be broken by verbal offenses or physical abuse.

In male-female relationships, women expected some type of material reciprocity from husbands or lovers. This could have either symbolic or material importance, or both. Courting couples who were still not living together could seal their relationship with a symbolic gift; through it the man demonstrated his willingness and ability to support the woman⁴⁶. Most of the cases in my early nineteenth-century sample emphasized such an association⁴⁷. What these exchanges of material/emotional goods may ultimately reflect is the demand many women made that men responsibly fulfill a traditional role as household providers.

⁴³ On the «race and class war», see Izard (1979); Carrera Damas (1972); Valenilla Lanz (1991, p. 19-37). These authors challenge the dominant historiography on Independence, arguing that this period encompassed one of many civil wars in which political independence was only one of its motives.

⁴⁴ Quoted by Friedman (1976, p. 108, 238). John Hawkshaw visited Caracas in 1838. Another traveler, Edward B. Eastwick, enthusiastically remarked how well the doctrine of equality was practiced in Venezuela in the 1800s. See Elías Pino Iturrieta and Calzadilla (1993, p. 148).

⁴⁵ For examples of these strategies in other countries, see Chalhoub (1986, p. 123-136); Silva Bonilla, *et al.* (1990, p. 27-32); and Cope (1994).

⁴⁶ Pablo Rodríguez discusses the importance of these symbolic exchanges (1991, p. 29-30).

⁴⁷ The fact that I am presuming a material link affecting woman-man relationships does not mean that this was the only tie or reason for a couple to be together. While I was writing my dissertation, on which this article is based, Steve J. Stern published an excellent book in which he argues similarly for colonial Mexico (1995, p. 75-77). Muriel Nazzari has argued that the dowry was the foremost material incentive for men to contract marriage in colonial São Paulo. With the decline of the dowry, people's perception of marriage changed as well. See Nazzari (1991, p. 159-161).

The cases of Dolores Blanco and of Isabel Freites offer good examples of the lovers' exchange of material goods and the importance of emotional bonds and fidelity. One night Dolores' boyfriend went to her house with a machete to demand an explanation for why she had gone to La Guaira (the adjacent port city) without his permission. She answered that he was not her father or mother, that he should not bother her for he had not given her anything to seal any bond between them. He became so infuriated with her answer that he tried to kill her⁴⁸. Trying to prevent José Dionicio from stabbing her, even Dolores' friend Justa was injured⁴⁹. José Dionicio claimed some power over her, without having fulfilled a symbolic ritual that was important to her. Dolores in turn seemed to understand that her relationship with José Dionicio would not be taken seriously until he gave her concrete proof of his commitment.

In a second case, Isabel Freites, a free woman from Curaçao who was a cook and street-vendor, was accused of stealing some bottles of *rapé* (tobacco powder used as snuff). In court, she was able to prove that the bottles were a gift from José, her slave boyfriend. Not knowing that the *rapé* was stolen, she took the bottles to La Guaira where she sold the product at a reduced price. In the proceedings, the slave confessed that he had stolen the bottles one by one to give to his beloved Isabel each time they met (he had told Isabel that he had himself prepared the tobacco powder)⁵⁰. For José, the *rapé* was a token of his commitment to her. It showed that, to help his woman in times of need, his personal sacrifices knew no limit.

Even though lower-class women were expected to help in the household economy, they aspired to have the male contribute⁵¹. Women and men anticipated some type of balance in the emotional and economic duties of their relationships. Because of women's understanding of their relationship with men as an consortium of equal responsibilities, they vindicated their «right» to defend themselves from abusive relationships. Indeed, gender conflicts emerged when one party perceived that the expected conduct was not met.

In the following cases, women were the providers of the household and problems arose when men abused women economically, verbally or physically. Moreover, these women clearly knew that they could not live a secluded life if their husbands were not supporting the family.

In 1836 Cecilia Barraniz, a theater actress, filed divorce papers because of abuse. In her civil suit, she declared that during seven years of marriage she had supported her husband Pedro Villalobos while he had not fulfilled his duties. Now her husband wanted her to abandon her profession and stop working. Cecilia demanded that the court forced her husband to sustain her or else allowed her to work. In this case, Cecilia successfully defended in court her «right» to earn a wage⁵².

⁴⁸ For a discussion of the issue of verbal deference and economic obligation, see Stern (1995, p. 70-75).

⁴⁹ «Criminales contra Dionisio Vega por heridas», Archivo del Registro Principal del Distrito Federal [hereinafter ARPDEF], Civiles, 1840, Letra V, exp. 10.

⁵⁰ «Criminales seguidos contra Ysabel Freytes por imputársele complicidad en el hurto de unas botellas de rapé a M.A. [Yeseirum]», ARPDEF, Criminales, 1837, Letra F, exp. 2.

⁵¹ Arrom finds that the same holds true for poor women in Mexico City (1985, p. 176-184).

⁵² «Demanda propuesta por Cecilia Baraniz para que se obligue a su marido a acreditar que la sostiene con todo lo necesario, o a que no la impida trabajar en su profesión», ARPDEF, Civiles, 1836, Letra B, exp. 6.

In another case, Agustina Arnal started a number of lawsuits against her husband, alleging that he was crazy, abusive, given to drinking, and a vagrant. While she was the sole provider for the family, her husband demanded her – in court – to remain secluded at home to fulfill her duties⁵³. Juana Rafaela Casares made a similar complaint against her husband. She requested a divorce charging her husband was only interested in her properties and in the labor of their children (the couple had three children before they married). In addition, her husband had hit her because she refused to give her scant jewelry to him, «converting himself into a Nero»⁵⁴.

Men also expected wifely faithfulness, especially when they were providing support. Even if they were not legally married, men insisted that women behave in their traditional role as obedient wives. The dominant ideal of *padre de familia* served as a legal basis for chastising and controlling women. As historian Steve J. Stern asserts, men also considered women as sexual property⁵⁵. On these grounds, men frequently went to court demanding that their spouses render the submissiveness they owed their husbands⁵⁶.

Due to their strained financial situations, lower-class women were often induced to earn their own living. Through this income, they were able to obtain greater social and economic independence than their upper-class counterparts. Hence, the anxiety felt by lower-class men about the excessive «liberties» of their wives and lovers. In particular, men objected to their mates' maintaining friendships with other people and to their seeming independence; men expected them to behave as secluded, virtuous women. To attain this ideal some men petitioned the tribunals to control their wives applying the existing vagrancy laws. For instance, Pedro Pablo Herrera expressed his concern about the drunkenness of his wife, Escolástica. She had been a hard-working woman but had become increasingly dependent on alcohol. Since he needed to go to the fields, and the *hacendados* would not allow her to accompany him in a such condition, he asked the court to imprison her⁵⁷.

Aware of their legal right to punish women for their behavior, some men took «correction» in their own hands. Antonio Romero's defense for hitting his lover provides a good example of contested perceptions of proper gender behavior. He had a love affair with Eulalia Sarmiento. With the intention of marrying her, he had paid for the house where she lived and had supported her. However, her loose behavior and infidelities upset him. Antonio tried to split up with Eulalia many times, but she kept asking for him and even took his clothes for laundering to force him to return to the house. But one day he became irritated and jealous when he saw

⁵³ «Agustina Arnal demandando en conciliación a su legítimo marido Dionisio Acosta», ARPDF, Civiles, 1835, Letra M, exp. 10; «Sumaria información contra Dionicio Acosta instruida por el Juez de Paz 1º de la Parroquia de Sta. Rosalía por ante el escribano Juan José Medina», ARPDF, Civiles, 1836, Letra A, exp. 5; «Criminales contra Dionicio Acosta por vagancia», ARPDF, Civiles, 1836, Letra A, exp. 31; «Agustina Arnal se divorcia de su legítimo marido Dionicio Acosta», AAC, Matrimoniales, 1835, leg. 264.

⁵⁴ «Juana Rafaela Casares quejándose de su marido», AAC, Matrimoniales, 1830, leg. 254.

⁵⁵ Stern (1995, p. 78-85).

⁵⁶ See for example, «Demanda de divorcio de José de la Cruz Parra contra su muger Rosa María Pérez», AAC, Matrimoniales, 1832, leg. 257.

⁵⁷ «Pedro Pablo Herrera contra su mujer Escolástica Gutierrez por hebría», ARPDF, Civiles, 1839, Letra H, exp. s/n.

a man running out of Eulalia's house. Antonio hit her to induce her to «reform herself» and stop such behavior⁵⁸.

The inability to fulfill ideal gender roles because of poverty was another point of contention. The need for women's economic support for the household contradicted the compliance with the code of proper womanhood. Many women could not remain in the house because they needed to seek sustenance by selling in the streets or at the market, by working at other people's houses or by washing clothes in the river. Many times these women were «governing themselves» – as repeatedly mentioned in the documents – and renting a room in a crowded house. Often they defended themselves physically from personal conflicts with neighbors or strangers, showing their independent and unsubmitive character. The violent behavior of males in these cases might be related to their inability to control women and therefore save face in the community⁵⁹.

Endorsement of proper gender behavior by the popular classes could be taken as a sign of their acceptance of dominant family values, yet each gender assigned a different meaning to the other's role. The lower-classes would follow gender role expectations whether married or living in consensual unions on the condition that the other acted accordingly. From these notions, women derived particular ideas about their rights which they defended actively in the courts of Caracas.

A CLAIM OF CITIZENSHIP: THE «PUBLIC TRANSCRIPT»

Demanding that men be equally responsible for their duties to the household, defending themselves from abusive relationships, and vindicating their right to work for a salary, lower class women were protecting their individual rights. Poor women may have not made verbal reference to the concepts of citizenship as often as the upper-classes did, but their many actions in court suggested that they valued this status just as highly. The court records contain the «hidden transcript» of their defense of their natural rights in the domestic sphere.

Wealthy women, instead, openly appealed to their rights as citizens when fighting against their husbands over questions of property. One case is that of María Antonia Pérez, who in 1811 filed a divorce suit against her husband claiming that he did not provide for her sustenance while administering the only marital property which belonged entirely to her. Siding with her husband, the court decided to forbid María Antonia from going out of the house of confinement, even though a week before the court had allowed her to go out with her servant. María Antonia responded to the court decision in these words:

In marriage, husbands are nothing but the ones who represent the family, and women, their *compañeras* (partners), who should help them with marital obligations but are not condemned to be the husband's slaves; nor are women of an inferior condition in the exercise of their rights; the quality of being a woman does not exclude them either from the societal order or from the guaranty to enjoy their liberty and security of their

⁵⁸ «Criminales contra Antonio Romero por aporreo», ARPDP, Civiles, 1837, Letra R, exp. 12. See also «Averiguación sumaria por la que resulta que la Sra. Aureliana Silvera vecina de esta parroquia, en uso de su defensa natural [ilegible] repelendo, hirió a Cosme Orosco, vecino de la de Chacao», ARPDP, Criminales, 1836, Libro RS, Letra S, exp. 3.

⁵⁹ See Stern (1995, p. 84-87).

person. *The law makes us all equals as citizens*, and if my husband is by this right authorized to behave in a free manner, I am, by the same right, entitled to resolve my needs on my own⁶⁰.

María Antonia is only one among a group of upper class women who were able to argue persuasively for their equal rights as citizens. What caught my attention was her idea of liberty, in the sense that she was not her husband's slave (a common complaint among women), and that she had the right to seek her security and to fulfill her needs. Also striking is her rhetoric of equality before the law, claiming that she enjoyed the same rights as men.

Similarly, Micaela Ravelo y Alcántara went to the Alcalde Municipal in 1836 to ask that her husband authorize her to administer the property inherited from her father. She had been married for many years to Juan José Espinosa and had borne him five children. Juan José had abandoned her four years earlier without providing support for her or the children. She had inherited wealth from which she could earn a decent livelihood, but her husband did not authorize her to use it, she was «living in misery».

The husband claimed that it was about time that she assumed «her duties as mother and as a submissive wife»⁶¹. Moreover, he maintained that she had no judicial standing to pose a demand. As a wife's first judge was her husband, he should have been asked first before she brought the case to the attention of the authorities. Juan José clinched his argument to the judge: «To behave in any other way is to dismiss woman from the duties and rights of the male; it is to defraud the male from the privileges that he has from nature, from this nation's laws, and from the unchanging order of the whole universe.»⁶² He denied that he had not supported his wife and family; rather, he claimed it was Micaela who would waste and misspend the stipend. Finally, he requested that she be returned to her mother's house, from which she «ran away».

Micaela was surprised to learn that her husband was now «asserting that I am a runaway from his marital power and demanding rights from a consortium which he has completely forgotten, abandoned, ignoring his conjugal responsibilities»⁶³. She claimed that behind all this was Juan José's ambition to dispose of her inherited fortune⁶⁴. She alleged that Juan José was now administering her monies through his right as a husband, not acknowledging that by law she had dominion over and administration of the *bienes parafernales*⁶⁵. She had not granted him such powers by

⁶⁰ «Divorcio que prepara Doña María Antonia Pérez a su legítimo marido Don Ramón Maucó», AAC, Matrimoniales, 1811, leg. 187, fols. 46r-47r.

⁶¹ «La Sra. Micaela Ravelo solicitando se le habilite judicialmente para administrar por sí los bienes que heredó de su padre Miguel Ravelo y sin la intervención de su marido el Sr. Juan José Espinosa», ARPDF, Civiles, 1836, Letra R, exp. 14, fol. 14r.

⁶² *Ibid.*, fol. 17v.

⁶³ «Juan José Espinosa solicitando que Micaela Ravelo se restituya con los hijos que ha ocultado a la casa de su madre donde aquel la tenía», ARPDF, Civiles, 1836, Letra E, exp. 15, fol. 6v.

⁶⁴ *Ibid.*, fol. 6v.

⁶⁵ *Bienes parafernales* are the goods that a wife brings to marriage, independent of her dowry, and that are at her disposal. Usually these goods were clothes and jewels and any property she acquired through inheritance or donation. It seems that husbands customarily managed the *bienes parafernales* for their wives, although the law established that he could not dispose of those goods unless the wife agreed in writing. See Escriche y Martín (1840), s.v. «*bienes estradotales*», and «*bienes parafernales*»; Arrom (1985, p. 67-68).

law, and « the Constitution of the State [gave her] the precious condition of citizen, owner of my rights and assisted by my own properties »⁶⁶.

In cases like this husbands consistently accused their wives of relying on the «subversive» principles of the Constitution, that is, of citizenship and the equality of people before law. Husbands claimed that such liberal views would lead to anarchy since they directly affected male familial control, which was the basis of the civil society. Moreover, such principles defied male authority and honor in society⁶⁷.

It is hard to find such an articulate defense of citizenship rights among lower-class women. Unlike their counterparts in the upper rungs of society, lower-class women defended their rights as citizens mostly by their actions at home and in the courts. Yet I found one instance in which a woman verbally expressed her expectations of being treated with equality. Such was the case of a freed woman called Barbara Jedler, who complained about the cruel abuse her son suffered from the Provincial Governor and his master in 1835:

«When I started to contend against a wealthy, powerful and influential man, I, a low colored woman, and him, a high category man who is the owner of my son, What could I expect? What would be the result of a controversy among people of different spheres; and what would be my success if I did not count on the justice and even-handedness of the court? This persuasion encourages me, and *the equality of rights all Venezuelans enjoy* gives more strength to my weak forces and empowers me, to not hide my face from Mr. Huizi's arguments...because, although I am a freed slave, it would depress my condition of respectful woman to other men and especially to social manners, but it should not be believed because of this that I am afraid of making use of my rights...»⁶⁸.

Note that the act of complaining respectfully to court was not incongruent with the ideal of an honorable woman. Such a woman was not willing to withdraw a just demand in the context of her rights as a citizen of Venezuela. On the contrary, she claimed that she was encouraged to pursue her claims.

Unlike the situation among the upper classes, gender conflicts among the popular classes were related to the defense of individual liberties. Poor women questioned not the validity of the institution of marriage but the capacity and character of their husbands or lovers. They accused men of being alcoholics, lazy, or abusive partners who were not responsible to reciprocal rights and duties embodied in their formal or informal marriage contract. In this sense, I would argue that poor women were embracing notions of citizenship, liberty, and equality embedded in the 1811 Constitution. Lower-class women were already practicing liberal ideas in their daily relationships with men at the level of the household, a situation that transpired in the court cases. They did not want to be abused, to be banned from working for a salary or to be deprived of their liberties. They wanted compensation for their services and, by the same token, they wanted material contributions from their relationships. They wanted to be treated as *ciudadanas*, with equal protection under the law.

In early republican Caracas poor women pursued their quest for equality before the law by their numerous actions in court. Upper-class women spelled out more

⁶⁶ « Juan José Espinosa », fol. 7r.

⁶⁷ See « Juan José Espinosa », fol. 18r.

⁶⁸ « Barbara Jedler quejándose contra el gobernador de la Provincia por el cruel castigo que ha hecho dar a su hijo Antonio Madriz, esclavo del Sr. Juan Pablo Huizi, por indicios de estar comprendido en una revolución que tramara », ARPDP, Civiles, 1835, Letra J, exp. 22, fol. 11r.

openly their pretended citizenship, while defending their property. Contrary to the widespread belief that independence did not bring significant changes to women, my data show that women were seeking individually a transformation in their rights. They met fierce resistance from their husbands or lovers who stuck to their claims as customary *padres de familia*.

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