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“As Men Do with Their Wives”: Domestic Violence in Fourteenth-Century Lucca*

Corinne Wieben

Violence, especially when it takes place between husband and wife, has many levels of significance. Married couples form a microcosm of gender relations, social, religious, moral, and ethical systems, domestic politics and the values of society as a whole. The effect of domestic violence begins with the couple and silently enters larger and more complex social spheres. The problem for the social historian studying domestic violence lies in this silence. Premodern incidents of domestic violence rarely appear as a matter of public record. Violence between married couples was typically considered a private matter to be handled by kin groups, leaving no record for posterity. When domestic violence does appear in the records, it is preserved mainly in court and other administrative documents, filtered, if not entirely sanitized, by the formulaic language of the law.

Marriage disputes such as those contained in the records of the episcopal court of Lucca offer a glimpse into the meanings and effects of domestic violence in the fourteenth century. In one case in particular, the case of Guilielino and his wife Sitella, violence is the centerpiece of the marriage dispute. Accusations of extreme violence were leveled unusually quickly in this case, within the first few days of the hearing. It is impossible to judge whether such accusations were actually true; civil courts did not and do not ultimately concern themselves with the truth. Rather, medieval court officials formed their judgment based on the strictures of the law, and where the law was unclear, on the more convincing argument. Tim Stretton has observed that it would benefit historians to focus on the distortion of narrative in court records, looking “not at the truth in each case, but at contemporary representations of the truth, not at what actually happened, but at what litigants and their lawyers said happened.”¹ For this reason, I have chosen not to try to reconstruct the events recounted in the case, but to explore what these accusations of violence could have meant to Guilielino, to Sitella, and to the judge of the episcopal court of Lucca in the fourteenth century.

Historiography

Many scholars have dismissed domestic violence in the Middle Ages as a given, a necessary consequence of the husband’s responsibility to control his wife.² This view has been disputed,

* Corinne Wieben is the winner of the first California Interdisciplinary Consortium for Italian Studies (CICIS) Graduate Student Paper Prize for her paper delivered at UC Santa Cruz at the annual CICIS Conference in 2008. This prize enabled Ms. Weiben, a doctoral candidate in History at UC Santa Barbara, to turn this paper into a full length article for publication in *California Italian Studies*.

¹ Tim Stretton, "Social Historians and the Records of Litigation," in *Fact, Fiction and Forensic Evidence: The Potential of Judicial Sources for Historical Research in the Early Modern Period*, ed. Sølvi Sogner, *Tid og Tanke* (Oslo: University of Oslo, 1997), 28.

² Perhaps most influential on popular images of unequal gender relations in marriage are Lawrence Stone, *The Family, Sex and Marriage 1500-1800* (New York: Harper & Row, 1977) and Judith M. Bennett, *Women in the Medieval English Countryside: Gender and Household in Brigstock Before the Plague* (Oxford: Oxford University

however, in recent scholarship. Among these scholars, Richard Helmholz and more recently Sarah Butler have both attempted to understand domestic violence as found in the plethora of late medieval English legal records.³ In the last year, Charles Donahue, Jr. has published a monumental comparative study of marriage litigation in the episcopal courts of York, Ely, Paris, Cambrai and Brussels in the fourteenth and fifteenth centuries.⁴ Included in this study is an examination of domestic violence cases both in England and on the continent that seeks to reconcile the approaches of doctrinal, institutional, and social historians. For Italy, Stanley Chojnacki, Linda Guzzetti, Christine Meek, and Thomas Kuehn are among those who have discussed marriage litigation in the fourteenth and fifteenth centuries, and most recently Trevor Dean has examined violence and women as part of his study of criminal court records in late medieval Italy.⁵ Despite these contributions, however, few studies of the medieval continent have been as extensive as their English counterparts.

I propose to turn to a rich, under studied body of sources: episcopal court records from the diocese of Lucca in the fourteenth century. In fifty marriage cases between 1341 and 1361, all domestic violence charges were leveled by women against their husbands in response to the husbands' initial accusations of abandonment, indicating that physical abuse was an extremely gender-specific defense. In the legal formulae of these cases, the husbands, complaining that their wives had left their households against the law of marriage, petitioned the court to force the restitution of their wives and marital rights under penalty of excommunication. Such complaints, since they hinged on the validity of the marriage and the issue of the marriage debt, which was typically the province of the church, tended to fall under the jurisdiction of episcopal and other ecclesiastical courts.

Press, 1987) for England and Christiane Klapisch-Zuber, *Women, Family, and Ritual in Renaissance Italy*, trans. Lydia Cochrane (Chicago: University of Chicago Press, 1985) for Italy.

³ Sara M. Butler, *The Language of Abuse: Marital Violence in Later Medieval England* (Leiden; Boston, Mass.: Brill, 2007); R. H. Helmholz, *Marriage Litigation in Medieval England*, Cambridge Studies in English Legal History (Cambridge: Cambridge University Press, 1974).

⁴ Charles Donahue, Jr., *Law, Marriage, and Society in the Later Middle Ages: Arguments About Marriage in Five Courts* (Cambridge: Cambridge University Press, 2007).

⁵ Trevor Dean, *Crime and Justice in Late Medieval Italy* (Leiden: Cambridge University Press, 2007); Christine Meek, "La donna, la famiglia e la legge nell'epoca di Ilaria del Carretto," in *Ilaria del Carretto e il suo monumento: La donna nell'arte, la cultura e la società dal '400: Atti del convegno internazionale di studi, 15-16-17 Settembre 1994, Palazzo ducale, Lucca*, ed. Stéphane Toussaint (Lucca: S. Marco Litotipo, 1995); Christine Meek, "Liti matrimoniali nel Tribunale Ecclesiastico Lucchese sotto il vescovo Nicolao Guinigi (1394-1435)," *Quanderni Lucchesi di Studi sul Medioevo e sul Rinascimento* 1:1 (2000); Christine Meek, "«Simone ha aderito alla fede di Maometto». La «fornicazione spirituale» come causa di separazione (Lucca 1424)," in *Coniugi nemici: La separazione in Italia dal XII al XVIII secolo*, ed. Silvana Seidel Menchi and Diego Quaglioni, *I processi matrimoniali degli archivi ecclesiastici italiani* (Bologna: Il Mulino, 2000); Christine Meek, "Un'unione incerta: la vicenda di Neria, figlia dell'organista, e di Baldassino, merciaio pistoiese (Lucca 1396-1397)," in *Matrimoni in dubbio: Unioni controverse e nozze clandestine in Italia dal XIV al XVIII secolo*, ed. Silvana Seidel Menchi and Diego Quaglioni, *I processi matrimoniali degli archivi ecclesiastici italiani* (Bologna: Il Mulino, 2001); Thomas Kuehn, *Law, Family & Women: Toward a Legal Anthropology of Renaissance Italy* (Chicago: University of Chicago Press, 1991); Stanley Chojnacki, "Il divorzio di Cateruzza: rappresentazione femminile ed esito processuale (Venezia 1465)," in *Coniugi nemici: La separazione in Italia dal XII al XVIII secolo*, ed. Silvana Seidel Menchi and Diego Quaglioni, *I processi matrimoniali degli archivi ecclesiastici italiani* (Bologna: Il Mulino, 2000) Also see Trevor Dean, *Crime in Medieval Europe 1200-1550* (London: Longman, 2001) for discussions of women and crime on the continent. Studies are far more numerous for the sixteenth and seventeenth centuries, especially among Italian scholars; I have restricted my scope here to include only the Middle Ages.

The sources

The episcopal court shared jurisdiction with some of the secular communal courts of Lucca, especially the Curia dei Treguani, which heard cases between ecclesiastical and lay parties. The statute “*De distributione iurisdictionis*,” which probably dates to the late thirteenth century and is recorded in a later redaction of the 1308 communal statutes, specifies that the Curia dei Treguani was forbidden to hear “spiritual cases.”⁶ Presumably, marriage disputes would be categorized as “spiritual cases” since they involved the status of the sacrament of marriage. Even the city statutes and their corrections and emendations from 1331, despite the inclusion of detailed descriptions of the penalties for arranging clandestine marriages, adultery, and rape, avoided commenting on the validity or invalidity of the related or resulting marriage.⁷ The appearance of at least several marriage disputes each year in the episcopal records indicates that a large portion of disputes made it to the episcopal court. It is quite possible that the episcopal court was the only court ruling on the status of marriage contracts.⁸

The *tribunale ecclesiastico* of Lucca administered justice to parties in the episcopal *jura* and oversaw cases that specifically fell under the jurisdiction of the episcopal court. The court was overseen by the major representative of the bishop, the episcopal vicar general. In the absence of the vicar general, other vicars were appointed by the bishop. The vicar general and other vicars were for the most part chosen from among the canons of Lucca.⁹ To compensate for the frequent turnover of the vicars general, many of whom held that office for only a year or two, the long careers of the court scribes provided continuity. The scribes listed for the court in 1349 were the notaries Jacobo Nicolai Vannelli of Lucca and Gualendino of Coreglia.¹⁰ The 1352 volume lists Jacobo and his new partner, notary Ser Fedocco Petri Scortica of Lucca, as the official notaries and scribes of the episcopal court.¹¹ Their partnership would last more than a decade. Ending in 1372, Jacobo’s own career as scribe for the episcopal court would last 23 years.

Cases before the episcopal court usually involved inheritance or property disputes, but occasionally a case involving church offices, burial rites, disputes over vows to take holy orders, or disputes over the validity of a marriage came before the court. The civil cases of the *tribunale ecclesiastico*, now contained in the Archivio Arcivescovile di Lucca, are divided into books of simple suits (*libri reclamorum simplicium*) and books of “civil cases both spiritual and temporal” (*libri causarum civilium tam spiritualium quam temporalium*). The *libri reclamorum* contain simple civil cases similar to those that came before the civil court of the Podestà or one of the many other courts overseeing property disputes in the city, like the Curia di San Cristoforo. The *libri reclamorum* also often contain the initial petitions of cases that would later appear in the *libri causarum*. The *libri causarum* contain cases between ecclesiastical and lay parties, disputes over benefices and rights to ecclesiastical land, and disputes between laypeople residing in the

⁶ “A quibus excipiuntur cause spirituales de quibus dicti consules curie Treguanorum principaliter se intromittere non debeant” ASL, *Statuti del Comune di Lucca*, v. 2 (1308-21), c. 49.

⁷ *Ibid.*, v. 4 (1331-36), *passim*.

⁸ It is quite possible that the communal courts ruled on the status of marriage in criminal cases, for example those involving charges of prostitution, or in civil cases involving legitimacy, dowry, or inheritance, but I have not yet found an example of this after perusing sample volumes of civil cases brought before the Curia del Podestà and the Curia di San Cristoforo.

⁹ One of the exceptions is Giovanni of Naples, appointed vicar general in October 1357 and listed as a “Salernitan canon” (*canonicus Salernitanus*), AAL, Tribunale ecclesiastico, Cause civili, v. 30, c. 1r.

¹⁰ *Ibid.*, 22/1r.

¹¹ *Ibid.*, 23/1r.

episcopal *jura*. Cases involving marriage appear in both collections, but the primary difference seems to be the question of marriage itself. Marital status was not in dispute in the cases between married couples in the *libri reclamorum*, whereas the *libri causarum* contain cases in which the validity of the marriage contract itself was in dispute. Parties in marriage cases in the *libri causarum* sought annulments, separations, confirmation of the validity of a marriage, and freedom from the legal contract of betrothal. Extant records of the civil cases of the *tribunale ecclesiastico* begin in 1341. Volumes before 1352 exist only for 1341, 1346 and 1349. From 1352 on, there is a volume for almost every year, and the collection extends well into the modern period.

Case procedure

The procedure of fourteenth-century civil cases can be more or less distilled into a single formula. First, a litigant appeared before the magistrate(s) in the appropriate location, where he or she would petition the court to summon the defendant to hear and respond to the initial charge. The defendant would then be summoned and given the opportunity to confirm or deny the charge, occasionally using formal legal exceptions and often adducing countercharges. These petitions and responses often included the most extreme charges found in the case, which tended to mellow as litigants were questioned further and required to provide proof. In both their petitions and responses, both parties were constrained by what they could prove through documents or witnesses. Both sides would debate the matter further, responding to each new accusation and elaborating on their own stories. Next, each party would be called in turn to swear an oath of calumny (*juramentum calumniae*) in which they each promised not to falsify their case. Each of the litigants would then present final versions of their arguments in the form of a list of articles (*positiones*) to be proven by evidence, to which the opposing litigant would have the chance to respond. Each litigant was required to provide evidence only for those points that the other party disputed. The magistrate(s) would then hear further arguments, see pertinent documents, and question witnesses. Finally, the parties were summoned to hear the judgment publicly pronounced.

Canon law and saevitia

In marriage cases, the ecclesiastical court walked a particularly tricky path. Canon law clearly emphasized the indissolubility and the sacramental nature of marriage with few exceptions. According to the ecclesiastical model of marriage, a valid marriage must be indissoluble, monogamous, exogamous (outside four degrees of kinship), and contracted freely by the parties themselves. This last, borrowed from Roman law, meant that an exchange of consent between the marrying couple was the only requirement for a valid marriage.¹² *Divortium* in canon law meant either granting an annulment, establishing that a valid marriage had never existed, or a separation *a mensa et thoro* (from table and bed), in which a married couple no longer cohabited but could not remarry.¹³ The grounds for annulment were based on violations of the conditions for valid marriage and included consanguinity, bigamy, and lack of consent. The grounds for separation were less clear, and the decision was left to the discretion of ecclesiastical authorities.

¹² R. H. Helmholz, *The Spirit of Classical Canon Law* (Athens, Georgia: University of Georgia Press, 1996), 238.

¹³ James A. Brundage, *Law, Sex, and Christian Society in Medieval Europe* (Chicago: University of Chicago Press, 1987), 371.

By the early fourteenth century, cruelty (*saevitia*) had emerged in canon law through custom and practice as just grounds for separation when the spouse proved unbearably cruel.¹⁴ The precise definition of cruelty was never clearly stated, and it could be especially difficult for a woman to prove that the violence she encountered in her marriage was so excessive that it required a separation. Whenever possible, these women returned to their natal families, and if they responded to a charge of abandonment by issuing a countercharge of abuse, they often relied on their natal families for support for the duration of the case.¹⁵ Not surprisingly, none of the cases I have found involve a charge of abuse leveled by a man against his wife.

Much of a medieval husband's reputation involved his ability to maintain order in his household, including, if necessary, rebuking his wife by physical means.¹⁶ This masculine reputation meant a combination of social standing outside his household and his self-image within. A good husband was expected to provide for his wife under the law of *alimenta*, meaning that he would provide his wife with food, a bed, clothing, and all other necessary comforts; he was expected to maintain discipline in his household, physically chastising his wife, children, and servants as necessary; and he was expected to exercise masculine self-control. This required that he do all this in a calm, reasoned way, without losing control to “womanly” passions. Carol Lansing has described the shift toward masculine stoicism in thirteenth-century Italian gender expectations that contrasted feminine emotion and masculine reason, emphasizing the need for masculine self-control.¹⁷ The medieval husband was subject to all of these expectations and pressures; his duty was to balance generosity, discipline, restraint, and, most of all, control. Failure to perform these tasks could diminish a husband's social status outside the home and subject him to dishonor and mockery. If any husband was a victim of domestic violence, confessing this fact and seeking public justice may have been worse for him in terms of the damage to his reputation than suffering in silence.

Guilielino's case

On October 20, 1357, Guilielino Sighinelli of the city of Lucca came before the episcopal court and petitioned for the return of his wife. According to Guilielino, it had been a little over three years since he had contracted marriage with Sitella, daughter of Franceschino Cecii Bonaiunte, traduced her – that is, led her from her father's household to his own in a ritual confirmation of the marriage – and consummated the marriage with her by carnal copulation. Then, “in contempt for holy matrimony, against Guilielino's will and against canon, divine, and human law alike, and in scorn of holy matrimony, Sitella absented herself from her husband and his household and ceased and ceases to remain together in matrimony with Guilielino as she is bound by law and ought to do according to canonical sanctions.”¹⁸ Guilielino petitioned the court to compel Sitella

¹⁴ *Ibid.*, 455; Helmholz, *Canon Law*, 241.

¹⁵ In a 1341 case, Margarita, daughter of Tomuccio Guidi, also returned to her father's house after leaving her husband (AAL, TECCiv, 20/25r). In the cases in my study, only women whose fathers had died did not reportedly return to their natal households.

¹⁶ Butler, *Abuse*, 258.

¹⁷ Carol Lansing, *Passion and Order: Restraint of Grief in the Medieval Italian Communes* (Ithaca: Cornell University Press, 2008), 162.

¹⁸ “[I]n contemptum sacro matrimonio, contra voluntatem ipsius Guilielini, et contra jus canonicum divinum pariter et humanum, et in vituperium sacri matrimonii, dicta domina Sitella se absentavit ab ispo suo viro et eius domo. Et cessavit et cessat stare simul in matrimonio cum ipso Guilielino, prout de jure tenetur et debet secundum canonicos sanctiones. . . .” AAL, TECCiv, 28/120r.

to return to his house and remain with him as his wife. After presenting this petition, Guilielino made an additional request: “since he recognizes that knowledge and jurisdiction of spiritual cases belong to you and your court and not to secular justice, he asks that through you it be mandated to the Lord Podestà of Lucca and his judges and assessors that they are admonished not to involve themselves in the aforesaid.”¹⁹ The court accepted Guilielino’s claim of abandonment and summoned Sitella to hear his petition and offer her response.

Guilielino painted himself as a husband abandoned senselessly by a wife who refused to obey her marital vows. By his description, Sitella was willful, selfish, and disobedient and would ultimately have to be compelled by the court to return to her husband as a dutiful wife. The language Guilielino used to describe Sitella’s “contempt” and “scorn of holy matrimony” is formulaic, and similar phrases can be found in many other marriage disputes.²⁰ Two things make the opening claim of this case exceptional. The first is the dramatic invocation of “canon, divine, and human law,” though Guilielino did not necessarily mention the secular statutes of the city in his enumeration of the laws Sitella had broken. The second remarkable aspect is Guilielino’s request that the episcopal court prevent any interference from the Podestà or his representatives. In fifty marriage disputes from the two decades covered by my research, I have seen no similar request. No other litigant actively sought to exclude the possibility of secular justice. Guilielino may have made this request for several reasons, but chief among these may have been that he suspected or knew that the countercharges that Sitella would make against him would include flagrant violations of communal statutes, including physical abuse.²¹

Sitella’s case

After hearing Guilielino’s petition, Sitella had the opportunity to confirm or deny the claims against her and respond. She confirmed that she understood the petition and said that she did not wish to return to Guilielino. As grounds for her decision, she leveled a dramatic countercharge. Sitella told the court that “she was so afraid of Guilielino’s excessive severity that, as she said, Guilielino had already many times cast a sword at her with anger and fury in order to kill her, and because of this cruelty, she said she feared that if she were to return to remain with him she would not succeed in escaping death.”²² In addition to this charge of violence, she complained that she was not being kept in the manner to which she was accustomed, saying that “Guilielino was accustomed to keep so much bread and wine to himself that she could not live with him nor

¹⁹ “Et cum de causis spiritualibus ad vos et vestram curiam spectet cognitio et jurisdictio, et non ad iudicem secularem, petit per vos mandari domino Luce potestati et eius iudici et assessori et ipsos moneri ut de predictas se non intromittant. . . .” Ibid., 28/120v.

²⁰ For example, a 1346 dispute features a woman, Giana, accusing her husband of leaving her “like an unfaithful and malevolent man, and spurning matrimony against canonical sanctions” (“...tanquam homo infidelis et malevolus ac matrimonium spernens contra canonicas sactiones. . . .”) Ibid., 21/207r.

²¹ One 1308 Statute held that “if the husband has been perverse and maltreating his wife, to the extent that it might be suspected of him that he treats her excessively (*enormiter*), let the said Luccan Regime be able by summary justice, without the order of the courts and legal remedies, to compel the husband to give to his wife fitting guarantors that he will not offend her.” (“si maritus fuerit perversus et malectractus uxorem suam; adeo quod possit esse suspitio de eo quod enormiter teneat eandem, dictum lucanum Regimen possit summarie, absque ordine iudiciorum et remediis iuris, compellere maritum ad dandum sue uxori idoneos fideiussores de uxore sua non offendenda. . . .”) *Statutum Lucani communis, an. MCCCVIII*, ed. Vito Tirelli (Lucca: M. Pacini Fazzi, 1991), 269.

²² “Videlicet quia ipsa timet de nimia severitate ipsius Guilielini quam ut ipsa dixit qui Guilielinus iam pluries proiecit gladium adversus eam cum ira et furore ut eam occideret propter cuius sevitia ipsa dicit se timere adeo quod si rediret ad standum secum mortem evadere non valeret.” AAL, TECCiv, 28/120v.

drink nor eat as much as she needed.”²³ Not only was he miserly with food and drink, but while Sitella “was from the city of Lucca and accustomed to living in Lucca, Guilielino kept her in the country, making her do all sorts of rustic chores, as if she were from the country, and as people outside the city do.”²⁴ Sitella then elaborated on the physical violence, saying that Guilielino “had often threatened to put her to torture . . . that he raged immoderately at her, beating her excessively and hitting her with belts, irons, and other terrible blows . . . that he wanted to know her carnally in illicit, dishonorable, and forbidden ways and against the mandates of the church and the laws of matrimony.”²⁵

Sitella ended her initial response here, but hers was a difficult case, for the burden of proof rested with her. She was required to prove, not that she was being beaten, which was a given, but that she was being beaten *excessively*, with no clear legal guidelines as to what might qualify as excessive violence. For this reason, the testimony given in these cases is extremely difficult to analyze. Did Guilielino actually do all of these things? For historians, the real question lies outside the veracity of the accusations. Perhaps a better question would be did Sitella successfully convince the court that her situation was dire enough to require a release from her marriage vows? She and her father certainly seemed to have at least a basic grasp of the requirements of canon law.²⁶ Sitella’s list of accusations began with the threat of imminent death, illustrated by her claim that “Guilielino had already many times thrown a sword at her . . . in order to kill her.” Her accusations then progressed to Guilielino’s stinginess – that he refused to feed her enough and kept her away from her city – which violated the expectation that husbands would keep their wives clothed, fed, and comfortable according to their means.²⁷ Sitella then returned to the theme of physical violence, elaborating on the frequent beatings she received. Finally, she added Guilielino’s illicit sexual requests to the list, perhaps knowing that canon law may not have been clear on the issue of violence, but it was nothing if not detailed on the issue of illicit sex.

When the time came for both parties to elaborate their points, Guilielino heard Sitella’s response and “responded that he should not have to give sustenance to Sitella, his wife, while she remains at her father’s house and keeps herself from Guilielino without legitimate cause.”²⁸ He

²³ “Secundo quia ipse Guilielinus consuevit tenere adeo reservatum panem et vinum quod ipsa non potest vivere cum eo, nec potest bibere vel comedere quantum opus est.” Ibid.

²⁴ “Tertio dixit quod cum ipsa sit de civitate Luca et assueta stare Luce, ipse Guilielinus tenet eam in rure, faciendo eam facere omnes rusticas operationes, ac si esset de rure et prout faciunt foretane.” Ibid.

²⁵ “Quarto quod pluries minabatur eidem eam ponere ad torturam, videlicet ad collam. Quinto quod ipse immoderate sevit in ea, percutiendo eam enormiter, et verberando cum stringhis, et ferris, et aliis diris verberibus. Sexto quod ipse frequenter vult eam carnaliter cognoscere modis illicitis, et inhonestis, et prohibitis, contra mandate ecclesie et jura matrimonii.” Ibid.

²⁶ Sitella appears to have represented herself when she answered the original summons on October 20. The next day, her father appeared alongside her as her advocate. There is no indication that Sitella or her father ever employed the services of a legal professional. Ibid., passim.

²⁷ I have already mentioned the law of *alimenta*. In the case of marital discord, men were expected to supply their wives, especially if they were suspected of maltreatment: “And if the husband should be defamed by the father, brother, or brothers of that wife or any of the relatives of that wife or neighbors of that husband and wife, that he should keep his wife not well but dishonorably and indecently, the Luccan Regime is bound to compel the husband to supply provision to his said wife for herself and a maidservant.” (“Et si maritus fuerit infamatus a patre vel a fratre vel fratribus ipsius uxoris vel aliquo ex consanguineis ipsius uxoris vel vicinis ipsius mariti et mulieris, quod non bene set inhoneste et indecenter teneret uxorem suam, teneatur Maius luacanum Regimen compellere maritum ad prestandum alimenta dicte sue uxori pro se et una camereria.”) *Statutum*, 269.

²⁸ “Respondet Guilielinus quod non tenetur dare alimenta Sitelle uxore sue stanti in domo paterna et recedenti ab ipso Guilielino sine causa legitima. . . .AAL, TECCiv, 28/121v.

did not elaborate on his original claim against her, but instead reiterated that she had abandoned him against the law of marriage and “without legitimate cause.” In her response, Sitella again did not deny that she had left her husband, but excused her actions by presenting a detailed list of positions, saying that she left Guilielino because:

Guilielino keeps a concubine and violates and has violated the said Sitella’s marriage and holds and has held his wife in contempt and disdain²⁹ . . . Guilielino, from the time that he brought his wife into the city of Lucca to his residence, namely in the year of Our Lord 1354 in the month of June, remains ever since and keeps his said wife without that which she should have or keep in her residence: another servant, or chambermaid, or another person for service or companionship. . . . Guilielino is a perverse and wicked person, treating his wife evilly and disgracefully from the time his wife was less than fifteen years of age by beating and striking her sharply and often with punches, and slaps, and kicks, and bludgeoning . . . and often threatening to kill her and brandishing an unsheathed sword at her. . . . Sitella was so badly beaten and struck by punches and kicks by her husband one evening in the month of November in the year of Our Lord 1356 that Sitella, who was pregnant, remained half alive on the terrace of the house. And because of the said beating and striking, she fell in childbirth and gave birth to a dead and aborted fetus. And that because of the said beating and noise, the whole neighborhood was drawn to her residence. . . . Guilielino is a depraved man and of evil condition and reputation, and Sitella says that she cannot remain with her husband because of his cruelty, inhumanity, and wickedness. . . .³⁰

Guilielino’s response to this litany of abuses was nonchalant. He admitted to the court that “it is true that he sometimes beat Sitella moderately, with a belt, as a means of correction, as men do with their wives, and that he had not kept a maid or servant from the time he traduced her, nor for six months or so after. And it is true that the said Ser Nicolao and Franceschino removed Sitella from Guilielino’s house and that they kept her in their house for many days. And he denies everything else aforewritten contained in the said response and articles.”³¹ This

²⁹ This is perhaps another reason Guilielino wished to exclude secular authorities. The 1308 communal statute prohibits keeping a concubine or mistress (*amasiam*). *Statutum*, 227.

³⁰ “Et quia dictus Guilielinus tenet concubinam et matrimonio dictae Sitelle violat et violavit, et ipsam suam uxorem in contemptum et despectum habuit et habet. . . . Guilielinus, a tempore de duxit dictam suam uxorem in civitem Luce ad domum sue habitationis, videlicet anno n. d. MCCCLIII de mense Junii, citra stetit et dictam suam uxorem tenuit absque eo quod ipse haberet vel teneret in domo sue habitationis, aliquam famulam, seu camerariam, vel aliam personam per servitiis vel societate . . . Guilielinus tanquam persona perversa et nequam tractatum male et turpiter ipsam suam uxorem a dicto tempore citra quia sua uxore tunc temporis erat minor annis XV in verberando et percutiendo eam acriter et sepiissime de pusillis, et alapis, et calcibus, et baculis. . . et sepius minando de interficiendo eam et gladium evaginatum vibrando contra eam. . . Sitella fuit taliter verbarata et percussa de pusillis et calcibus a dicto suo viro uno sero de mense novembre proxime partum a. d. MCCCLVI quod ipsa Sitella, qua pregnans erat, remansit semiviva super solarium domus. Et quod occasione dictorum verberum et percussionum ipsa defecit in partu et peperit fetum mortuum et abortuum. Et quod occasione dictorum verberum et rumoris tota vicinia traxit ad domum habitationis eius. . . Guilielinus est homo pravus et male conditionis et fame. Et dicit dicta Sitella quod cum ipsa non possit stare cum dicto suo marito propter sevitiem et inhumanitatem pessimam dicti sui viri. . . .” AAL, TECCiv, 28/121v-22r.

³¹ “Respondit et dixit verum esse quod dictam dominam Sitellam interdum verberavit moderate cum zona per modum correptionis ut faciunt viri uxores suas, et quod non tenuit famulam vel servitiam a tempore quo eam

nonchalance is consistent with Sarah Butler's observation that "[m]arital masculine self-identity also was tied implicitly to a husband's ability to govern the conduct of his wife; any rebellious or disobedient behaviour was perceived as evidence of failed masculinity."³² This close link between masculine reputation and domestic violence made it even more difficult for the court to distinguish between acceptable marital behavior and cruelty.

The ruling

After these points and responses had been noted, the court heard witnesses for both parties testify. Neither the testimonies nor the names of witnesses were recorded along with the rest of the case, and the record only generically refers to them. After hearing the witnesses, the vicar general ruled on the case, saying that despite, "doubting as truthfully as one may doubt, as to the cruelty and inhumanity of Guilielino against the person of his said wife, which cruelty has been and is, through the acts and proofs of this case, evident to a certain degree . . . we pronounce and declare the said Sitella should not nor cannot be held, compelled, or condemned to remain or cohabitare with the said Guilielino, her husband, until they may mutually arrive at another agreement."³³ The couple was to be separated *a mensa et thoro*.

Sitella, it seems, had won, convincing the court that Guilielino's behavior qualified as *saevitia*, excessive cruelty, and that she should not be forced to return to his household. She could not, however, remarry, and there is no comment as to whether she was entitled to receive restitution of her dowry from Guilielino. Sitella was free from violence, but this sentence placed her in a kind of limbo between daughter and wife. A woman returning to her father's household without her dowry and without the ability to remarry became a permanent burden; her father and his heirs would have to support her for the rest of her life. Nor was the ruling expected to be a resolution in itself, but instead specified that the separation was to last until the couple could "arrive at another agreement." The court may have had Sitella's best interests in mind, but even then the judge would not flout canon law's insistence on the indissolubility of marriage by granting a permanent end to the marriage.

Conclusion

What, then, does this case tell us about the nature of domestic violence in the fourteenth century? The unique nature of episcopal court records enables us to examine domestic violence as a matter of practice, rather than in a philosophical or purely legal sense. What is most striking about this case is the role violence played for each of the parties involved. To Guilielino, violence was a tool for correction and a means of fulfilling his duties as a husband. He insisted that he beat Sitella "moderately . . . as men do with their wives," indicating that the purpose of violence was to reinforce the gendered social order of his household. Sarah Butler has recently

traduxit, nisi per VI menses vel circa. Et est verum quod dicti Ser Nicolaus et Franceschinus ipsam domina Sitella de domo ipsius Guilielini extraxerunt et quod in domo eorum ipsa pluribus diebus tenuerunt. Et alia omnia prescripta in dicta response et articulis contenta negavit." Ibid., 28/122v.

³² Butler, *Abuse*, 28.

³³ "Et dubitantes prout verisimiliter potest qualibet dubitare, de sevitia et inhumnitate dicti Guilielini adversus personam dicte sue uxoris, que sevitia nobis fuit et est, per acta et probata dicte cause, quodammodo manifesta...pronuntiamus et decernimus dictam dominam Sitellam non teneri nec cogi vel condemnari debere vel posse ad redendum standum vel cohabitandum cum dicto Guilielino viro suo donec ad aliam concordiam devenerint adinvicem" AAL, TECCiv, 28/181v.

said that “[d]omestic violence may represent an instance when one discourse of masculinity triumphed over another . . . or, in broader terms, when the aggressive male triumphed over the husband as educator and protector.”³⁴ I would argue that Guilielino would have seen violence as an integral part of his role as educator and protector. Indeed, his masculine reputation and self-image depended on his ability to discipline his wife “as men do,” as long as he managed to do it “moderately,” maintaining self-control. Sitella’s escape from his household and accusations of abuse impugned his ability to control his wife and his own passions. One imagines that such men took a risk coming before the episcopal court. If the loss of an errant wife indicated a failure on the part of the husband, the loss of the resulting court case could do still further damage to his reputation, signifying a “twice-failed masculinity.”

Similarly employing preconceptions of gender roles, Sitella sought to use the legal definition of violence as *saevitia* as grounds to justify abandoning her violent husband. She offered the court graphic examples of the kinds of violence Guilielino visited on her in order to convince the court that Guilielino’s behavior constituted *saevitia* and justified a separation. In order to emphasize his cruelty, she used language that indicated her own helplessness, describing occasions on which Guilielino threatened her, beat her, deprived her of food and drink, and tried to kill her, all while emphasizing her obedience. Indeed, she repeated several times in her narrative how she attempted to escape Guilielino, only to be actively pursued. Finally, she emphasized her role as a mother in her narrative. In the dramatic conclusion to her positions, Sitella described how one of Guilielino’s beatings left her pregnant body lying on the terrace “half-alive,” culminating in her consequent miscarriage. Sitella employed the ultimate expression of the feminine – maternity – only to describe its violation by the cruelty of her husband, proving that women, too, could exploit preconceptions of gender in order to make their cases in the episcopal court.

For its own part, without a clear definition of *saevitia* in canon law, the court had to decide which was more important: preserving the indissolubility of marriage or protecting a member of the diocese from excessive cruelty. Despite the urge to try to preserve a marriage at all costs, the ambiguity of canon law as it pertained to domestic violence allowed the court a certain flexibility in its ruling. In this case, the court was able to preserve the marriage but also to prevent Sitella from falling victim to continued mistreatment at the hands of a cruel husband.

The officials of the fourteenth-century episcopal court of Lucca found themselves in a difficult position when faced with marriage disputes involving domestic violence. On the one hand, they had a duty to preserve the safety and wellbeing of members of the diocese; on the other, canon law prevented them from dissolving a valid marriage on the basis of cruelty. Exacerbating the complexity of the situation was the expectation that the court would reinforce gender roles, preserving the authority of the husband over his wife and his ability to “correct” her through corporal punishment. Working around the law as nimbly as possible, the episcopal court of Lucca, unable to grant a divorce or annulment, granted a separation *a mensa et thoro* instead, freeing Sitella from her obligation to remain with her husband. Violence served several functions in this case: as a tool for reinforcing gender relations, as a means of legally justifying abandonment, and as the impetus for creative legal solutions within the episcopal court. When called upon to negotiate the social and legal intricacies of a marriage dispute involving domestic violence, the fourteenth-century episcopal court of Lucca managed to find a middle ground

³⁴ Butler, *Abuse*, 40.

between its respective obligations to the law and to the social and gender expectations of the married couple.

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