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Intersections of Honor, Gender and Class

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Publication Date

2018

Peer reviewed|Thesis/dissertation

UNIVERSITY OF CALIFORNIA

Los Angeles

Rhetorical and Judicial Strategies

in a Case of *Rapto* in Early Nineteenth-century Chile: Intersections of Honor, Gender and

Class

A thesis submitted in partial satisfaction of the
requirements for the degree Master of Arts in Spanish

by

Karime Parodi Ambel

2018

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ABSTRACT OF THE THESIS

Rhetorical and Judicial Strategies

in a Case of *Rapto* in Early Nineteenth-century Chile: Intersections of Honor, Gender and
Class

by

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Master of Arts in Spanish

University of California, Los Angeles, 2018

Professor Barbara Fuchs, Chair

Studies of *rapto* in scholarship on Chile are extremely scarce. Research done in social history and history of mentalities have looked into cases of *rapto* among others in order to determine the “judicial-legal culture” of legal actors in colonial and nineteenth-century Chile. However, scholars have not paid attention to the specific rhetorical and judicial strategies deployed by individual legal actors in cases of *rapto* with a microhistory approach and a focus on women’s agency. In this thesis, I examine the judicial and rhetorical strategies used by legal actors in a case of *rapto* through the lens of gender, honor, and its relation to class. I look into a case of *rapto* by seduction that takes place during the years 1823-1824 in Santiago. I argue that actors at the trial turn to several

judicial and rhetorical strategies to bolster their cases but also to argue about larger social issues and ideas particular to the early nineteenth century.

The thesis of Karime Parodi Ambel is approved.

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2018

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Introduction

In 1823, Don Gerónimo Reynoso, a judge and member of the Santiago elite, filed a criminal lawsuit for *rapto* by seduction against Manuel Meneses, a poor and illiterate baker from Nancagua. Reynoso claims that Meneses, a low-life and a criminal in his opinion, seduced and abducted his innocent and honorable daughter, spoiling his family's honor. Manuel is a humble man who claims there was mutual interest between him and Manuela, and that he cares for her and intends to marry her. However, he portrays himself as a particularly passive figure. José Hilario Ureta, the public defender or “defensor de pobres”, mounts a ferocious defense of Manuel Meneses by emphasizing the Republican ideals of his time, attacking the father's aristocratic values and claiming that social status should not matter when it comes to love.

Manuela never has the chance to speak her mind or defend herself, since her voice never makes her way to the court. Although she is silent at the trial, we learn that she had followed a separate procedure in order to marry Manuel Meneses. When this is revealed, the first trial is ended and both are convicted, but Manuela stays with her father, since she is pregnant. However, Gerónimo Reynoso appeals the first trial, and during the appeal Manuela's agency is revealed. At the new trial, the public defender furthermore portrays Manuela as a seductress and a widow who systematically sought out Manuel and persuaded him to elope with her. The trial ends with the release of Manuel Meneses. The documents include no information on Manuela's petition and whether it was successful.

The dynamics of this trial demand explanation at several levels. The actors in the case utilize a series of rhetorical and judicial strategies to pursue their goals. A father arguing for traditional notions of honor, a daughter filing her own legal claim to challenge her father's will, a self-effacing culprit denying his involvement and a public defender portraying a woman as a seductress, are all examples of individuals interacting in the legal system through strategic

discursive and judicial moves. Nuancing the concepts of gender, honor and its relation to class in this context, we should note that this case takes place against the backdrop of early post-independence, when ideas of liberalism and republicanism were just sinking in.

In this sense, the early nineteenth century is a time of transition away from a colonial mindset. By colonial, I refer to a period in which Chilean society was organized by strict social hierarchies, particularly of status and legitimacy, informed by colonial relations with Spain. As a result, this case provides a fascinating opportunity to study the repercussions of this colonial mentality, still present into the nineteenth century, on the progressiveness of an early liberal and republican imagination. Raymond Williams's categories for the study of processes of historical change—dominant, residual and emergent—are useful constructs to nuance the clash of mentalities at the trial.

Gender, honor, and its intersection with class are concepts deeply intertwined with the phenomenon of *rapto* and with assumptions about women. Therefore, the rhetorical and judicial strategies at play are linked to these concepts. Since early nineteenth century is a moment of transition, some of these concepts—honor and its relation to class—undergo fractures and challenges, yet assumptions about gender remains.

Several studies on Chile and Argentina have addressed the rhetorical strategies used by subjects in trials, from the sixteenth to late nineteenth century (Barriera, 2009; Brangier 2013; 2016; Brangier y Barriera, 2015; Albornoz 2014; Fernández 2007; Bravo 2010).¹ These authors argue that the systematic use of these strategies implies a familiarity with what would be

¹ Victor Branguier (“Sentido”) claims that in nineteenth-century Chile plaintiffs appealed to specific tropes of ideals of justice and legitimacy and embedded themselves in them, while portraying their contenders as violating them. Marcos Fernández studied the discourse of lawyers of men sentenced to the death penalty. He argues that attorneys used different strategies to portray these men as heroes, victims, or hard-working men, depending on their occupation and crimes. Valentina Bravo studied how in the nineteenth century lower-class women argued their claims to honor by referring to their alleged public refutation and the idea the community had of them.

judicially admissible and plausible, regardless of its veracity. Although these historical studies have made fundamental contributions to the study of judicial files, the frameworks from which they have addressed these files have limited their approach. Social history and the history of mentalities have privileged the study of lower-class people's voices with a focus in what strategies they deployed as a group.

In this study I am interested in analyzing the agency of each of the individual legal actors involved in the trial, without excluding elite voices. To understand what is at stake in a case of *rapto*, it is necessary to address how all voices are interrelated. Microhistory provides a helpful framework for this task, since it emphasizes individual agency and their power to shape their lives². Additionally, there has not been a study focused on *rapto* and on the specific rhetorical and judicial strategies deployed in these trials, with a particular attention to women. Although Victor Branguier ("Sentido") discusses cases of *rapto* in his study, he does not address the specificity of the strategies used in this crime.

Rapto is itself an understudied topic in Chilean scholarship. This crime is interesting because of its complexity, and its ties to male and female honor in a patriarchal society. The strategies deployed in arguing *rapto* cases are an excellent entry point to the phenomenon, since they reflect admissible and plausible beliefs around the crime at the time. Therefore, with this study, I contribute both to the study of a judicial culture regarding *rapto* in the early nineteenth century—in a very preliminary manner, because of the limited corpus—and also to studies of *rapto* as a phenomenon, since the strategies deployed in this trial reflect the complex nature of the crime.

² In this project I follow the Italian school of microhistory. According to István Szijártó, besides focusing on individual's agency, this school claims that small historical events are linked to larger historical questions. In this thesis, I link the findings of my case with other studies of *rapto* in the context of broader concerns of *rapto* studies in Chile.

Rapto is a complex crime partly because of its ties to honor and its relation to women's consent. Therefore, the rhetorical and judicial strategies deployed by characters are wrapped around these very pressing issues. The issue of whether Manuela consented to her alleged *rapto* is embedded in the contradictory efforts of several characters to assign her an identity. In a traditional society, consent in sexual transgressions is presumed of women who are poor and of bad reputation, but honorable women are usually given the benefit of the doubt. However, honor is not only a woman's issue in this trial, but also a pressing interest of the father, since his daughter's honor is tightly linked to his. The public defender argues that Geronimo Reynoso's notion of honor is obsolete, however, where lower-class men's access to honor is concerned in connecting honor to women's sexual behavior, he upholds conservative standards.

I believe these two concepts, consent and honor, are at the core of the complexities around cases of *rapto*. Manuela serves as an abstract notion of womanhood, as different actors concretize competing notions of women in a traditional society: honorable woman or widow-seductress. These notions of women encompass gender and honor, and its intersection with class. The crime of *rapto* is filled with assumptions about women that intersect with their behavior. However, Manuela's actions clash with some of the assumptions when she disrupts the first process, in her own use of judicial and rhetorical strategies. The father, meanwhile, is the foremost present figure in the trial. From an ethos of privilege, he deploys rhetorical and judicial strategies to defend his honor and rights. He is the driving force of the trial, willing to do whatever it takes to re-establish the order of society. His investment in the trial is shaped by his interest in reinforcing an aristocratic notion of honor and his place in society.

Although Gerónimo Reynoso dismisses Meneses as someone lacking honor, the public defender provides an alternative notion of honor to counterclaim that poor men can have it. He stresses Meneses's work ethic and highlights the values of his own historical context by

dismissing conservative notions of honor and the relevance of social hierarchies. Although the public defender stresses forward-looking and egalitarian ideals when referring to class and honor, he upholds conservatives notions when it comes to gender. Manuel Meneses, a poor and allegedly illiterate baker, is in and out of jail during the trial. His releases lead to renewed encounters with Manuela and therefore new alleged accusations of *rapto*. He does not seem to be interested in fighting the social status quo, but in being able to marry Manuela. He provides three confessions in which his main strategy seems to detach himself from responsibility in the events.

In the following section, I offer theoretical and historical contexts for my analysis. First, I approach the concept of honor in colonial and early nineteenth century Latin America. Second, I address what was considered an honorable woman or man in the early nineteenth century. For women, honor was particularly tied to sexual behavior and reputation. Sexual transgressions such as concubinage, illicit friendship, adultery or illegitimate pregnancy, were considered dishonorable. Consensual *raptos* were usually tied to cases of sexual transgressions and in the nineteenth century, some of them were a way to effect a forbidden marriage. The crime of *rapto* was deeply intertwined with notions of both female and male honor, since the honor of the father depended on that of the women of his family.

Additionally, I address the legal history of *rapto* to elucidate the dynamics and strategies used in the case. Legally, in the Roman-Hispanic tradition, *rapto* has been thought of as a crime with two modalities: by force or seduction. However, scholarship of *rapto* in the nineteenth provides two different forms: *rapto* by force or consensual *rapto*. The concept of female consent is at the core of the complexities of the case I study. Female consent is closely intertwined with assumptions related to women's ideals and identities. In the case of honorable and upper class women, it is assumed that consent is not present in sexual transgression unless there is

compelling evidence. However, for poorer women, consent is generally assumed in sexual transgressions.

Finally, I address the judicial and the rhetorical strategies that both men and women would use in the colonial period and in the nineteenth century to bolster their cases. There are few studies of the nineteenth century, so I turn to studies in earlier periods. The majority of these studies on rhetorical and judicial strategies deployed at trials have been conducted on people of the lower-classes and marginalized communities. Some studies also focus in how these peoples deploy strategies through the discourse of their public defender to make their cases more compelling. However, I am interested in the strategies used by the most prominent actors at the trials, including elite actors. In this section, I address different studies conducted on a variety of crimes or petitions to prove that there was a judicial culture among legal actors and they consciously engaged in these practices. Some studies focus on the specific strategies by petition and gender, which is useful for this case, since I will study the strategies of one woman and several men. Gender, honor and class are the frameworks from which I approach the text.

Legal actors turn to legal and judicial strategies with a primary purpose in mind: to bolster or win their cases. Yet, there are other interlocking and more profound reasons: to reinforce social hierarchies, preserve their honor, strive for independence from paternal authority, press for new ideals to be embraced in a nation, among others. In the first chapter, I argue that ideas of women are deeply intertwined with assumptions about women's behavior, consent, and honor and that they are strategically used in this case. Also, I approach the judicial and rhetorical strategies of a young woman and how she manages to defy expectations and assumptions related to her identity. In the second chapter I address male notions of honor and how they interact with class. Legal actors turn to a series of judicial and rhetorical strategies to

uphold their notions of honor. I focus particularly on the alleged concern of Reynoso for his honor, to the detriment of his daughter's consent.

In the first chapter, I approach two aspects in regards to Manuela Reynoso and the ways discourse is constructed around her. First, I argue that both her father and the public defender actualize ideas of women in the trial to bolster different arguments: honorable woman v/s widow-seductress. For the two men, the stakes are high, because pushing these archetypes too far may hurt their case. I contrast these discourses with the image of her provided by her alleged lover, Manuel Meneses. Second, I focus on Manuela's own agency in this trial. Her legal status is debated and contested in the trial. It is not clear if this 16-year old woman is either a widow or a wife. I argue that her agency is directly tied to legal institutions which she trusted as a means to accomplish her wishes and her independence.

In the second chapter I approach questions of honor. First, I argue that in the trial two competing notions of honor and its intersection with class are in contrast. The first one, that of Gerónimo Reynoso, is a conservative and hierarchical notion of honor infused with class privilege and clear ideas of how honor intersects with the role of a father and the role of a married woman in a traditional society. The other one, presented by the public defendant, argues for a new Chile, a republican and liberal nation in which honor is merit based, and perks like calling oneself a "don" are senseless distinctions. I argue that some of the strategies of both Reynoso and Hilario Ureta are to enact at the trial the very social system they are arguing for through the way they present themselves or treat each other.

Second, I am interested in the way that Manuela's father argues that the case is *rapto* by seduction in order to re-establish his honor. In this section, I approach why he files a lawsuit of *rapto* by seduction in the first place and how this particular modality of the crime is better suited to erase Manuela's consent. I also address the response of judicial actors to Geronimo's

argument and what that implies of the repertoire of legal frameworks for understanding *rapto*. The word *rapto* itself alludes to this problem, since it emphasizes seizure over the woman's consent.

1. Honor : A gendered concept from colonial Latin America to the nineteenth-century

According to Ann Twinam, honor is the fabric of society in colonial Latin America: “honor was the ethos which rationalized the existence of the colonial hierarchy” (“Honor” 123). An encompassing and complex concept, honor was defined by members of the elite who ascribed it only to themselves: “honor served as an overarching complex of ideas, attitudes, and values that set the ideal standards for elite behavior, including sexual behavior” (123). Birth and conduct were two fundamental aspects of honor. Birth implied being racially and religiously pure and being able to refer to and prove a family history of legitimate marriages and births. Occupation was also closely tied with honor. Manual and labor work were considered as lacking honor, while holding public office implied having an unimpeachable honor.

Honor shaped a person’s reputation in the public sphere. One could hold a different identity or behavior in the private sphere, but as long as one complied publicly with the necessary appearances, the colonial man or woman would have a claim to honor (Twinam, “Public” 33). According to Johnson and Lipsett-Rivera, a person who did not have honor could gain it through the proper institutions in Spain and colonial Latin America. These would grant certificates in order to gain status associated with honor. According to Twinam, whiteness, legitimacy, citizenship or a title of nobility could be “dispensed by the king and Cámara through the process of *gracias al sacar*” (“Public” 43). Although attempts to gain honor through colonial and Spanish institutions were usual: “honor was always subject to the court of public opinion” (2). Therefore, although there were certain requirements *sensu stricto*, honor was also socially constructed, thus rendering it flexible and extremely ambiguous. Elizabeth Cohen illuminates the complexity of the term:

To understand honor, it is important to distinguish region from region, urban from rural, elite from popular, male from female and one era from the next.

Furthermore, despite its rhetoric, honor is seldom absolute, but rather subject to negotiation. However clear honor culture may appear in the scholar's theoretical construction, its application in social practice is riddled with ambiguity (32).

Twinam claims that women's honor was closely tied to sexuality and legitimacy. She argues that for elite women there was a strict code of conduct that placed them in either of two positions: "Presumably, a woman was either "in" sexual control, or "out of" such control, and society did not recognize anything "in between" ("Public" 120). However, her analysis reveals that the matrix of values and attitudes towards elite women was very nuanced and complex. Although a series of practices were in principle unacceptable, they were *de facto* tolerated by society. In this sense, elites frequently broke these strict codes of conduct and found strategies to circumvent them and still remain honorable ("Public" 125).

For instance, in seventeenth and eighteenth-century Latin America, a couple who engaged in premarital sex could restore the woman's honor if sexual intercourse was preceded by a promise of marriage. The woman could even be pregnant, but if marriage followed, her honor would be restored.^{3 4} In delicate situations that involved illegitimacy and honor, society would give the benefit of the doubt to the woman if both partners were from the elites: "if a couple were social equals and exchanged the promise of matrimony, an elite woman might lose her virginity and engage in a sexual relationship without immediate loss of her honor" ("Public" 39). Twinam does not approach relations between people of different classes, which is the situation in the case

³ These children could be legitimate as long as a promise of marriage preceded sexual relations and both parents were single at the time. If one of the parents had been married at the time of conception, for instance, they would need to be legitimized by requesting a *gracias al sacar*.

⁴ And also the legitimacy of her offspring (Twinam, "Public" 40).

I analyze. However, one can infer that the same benefit would not be granted to couples of different social levels.

Honor and class are closely tied together. Latin American elites created their own mythology so that they were the only ones who could claim honor: “Honor, their myth affirmed, existed only at the highest level of society. Everyone else, from the middle classes of small merchants and artisans to the lowest social ranks (...) could not claim to have honor” (Johnson and Lipsett-Rivera 8). Although the elite would dismiss any claim of honor from the lower classes, they in fact had their own complex systems of honor, which was an extremely valuable resource for everyday life.

According to Johnson and Lipsett-Rivera, notions of honor were more necessary for the people of the lower-classes than for the elites. They counted on social alliances to survive and thrive, compared to the elites, who, because of their wealth, could be more independent. Although the idea of people from the lower-classes having honor was inadmissible to the elites, it worked as an organizing construct of their lives. Although lower-class people “avoided the explicit use of the word honor in order to escape the ridicule of judges, colonial administrators and other powerful members of the elite, they made unambiguous references to the values and behaviors traditionally associated with honor” (Johnson and Lipsett-Rivera 11). This would change in the early nineteenth-century, when poor people would make claims of honor in the courts, as in my case.

With the independence of Spanish American nations, the democratic values and ideals of citizenship linked to republicanism would transform the construct of honor: “the more egalitarian political culture of the poscolonial era promoted recognition by the elite of the plebeian claims to honor, claims previously frustrated by colonial social justice” (Johnson and Lipsett-Rivera 14). Yet although the concept of honor was changing, especially in aspects related to racial purity,

this period still embraced notions of honor related to legitimacy, wealth and status. This idea of honor mostly point towards the existence of a strict social hierarchy.

Male honor was a matter of the public sphere, which was clearly shaped by class. According to Lyman Johnson, the honor of lower-class men, among other things, implied not accepting insults without retribution or duels, while that of upper-class men also involved competing for wealth and influence. Masculine honor also implied being the head of the household and protector of the family (Undurraga 24), which tied it to those of the women of a man's family: "Al violentar el honor de una mujer, se vulneraba el honor de la familia completa, incluyendo el de los hombres" (Figueroa 70). This is why the man had the task of restoring the honor of the household.

The ideal of woman of the period was very similar to that of the colonial period. In early nineteenth-century Chile, the honor of women was closely tied to their sexual behavior. Single women were expected to be mostly secluded within the home and to guard their virginity, and not to engage in adultery after marriage. Being from the upper class and belonging to a family of a high social rank were also important aspects of honor. According to Consuelo Figueroa, there were two images of women at the time, reinforced by the Catholic Church: Mary and Eve⁵. Although these two tropes have an universal scope and are part of a larger tradition of thinking about women, they were present in the early nineteenth century and shaped discourse around women at the time. The first one was the ideal, associated with purity and chastity, while the second one was associated with an uncontrolled sexuality and malefic powers (Figueroa 72).

Since the body of women was potentially perceived as sinful and a temptation for men, marriage was promoted by the Church as the only valid means for sexual and romantic

⁵ For a detailed analysis of this dichotomy see Araya ("La Pureza").

interactions (Figuroa 73).⁶ Married women could ostensibly keep their honor better than single women or widows, because their association with a man made others perceive them as unavailable and taken care of. Widows and single women—although they could be honorable and respectable—were a concern for society in terms of their sexual behavior. However, regardless of their status, all women could potentially be involved in sexual transgressions, which could have honor-related and legal consequences for them.

According to René Salinas, widows were a particularly ambiguous figure in Chile, “derivada de la incertidumbre de su estatuto sexual” (“Las Otras” 188). They were alternatively perceived as weak and lonely or as dangerous women who had autonomy and agency. Manuela’s alleged freedom—particularly sexual—was perceived as a threat to the social order and the patriarchy, so all their activities were the object of heightened scrutiny and suspicion. Society’s ideal for widows was extremely strict and there was a clear code of conduct expected of the woman after her husband’s death, particularly for elite women (“Las Otras” 193). However, according to Salinas (“Las Otras”), the way widows acted in reality differed much from the ideal, particularly because of their financial struggles, which led them to take part in sexual transgressions or economic activities allegedly associated with transgression and marginality.⁷ My case in fact concerns a widow, although, because of her young age and disputed widowhood, her father still has legal influence over her.

For honorable men and women, the righteous path that society and Church had delineated was marriage. Marriage had been since the colonial period a concern of the Spanish Crown, so

⁶ In the first half of the nineteenth century marriage was exclusively administered by the Catholic Church. However, lawsuits related to sexual transgressions or petitions for marriage could be filed in either ecclesiastical or civil courts.

⁷ Leonardo León (2015) discusses in detail how the economic agency of widows was perceived as a threat to society’s order for their association with sexually transgressive milieus. In the late 18th century, this perception caused a backlash against their agency from the upper-middle classes.

that in Hispanic America this institution would remain embedded: “en la tradición cristiana, europea y peninsular” (Cavieres y Salinas “Matrimonio” 21). Marriage was the very fabric of society, and reproduced the social hierarchy. According to the discourse of the Church, marriage was the only context for romantic relationships. However, it was common for people to transgress against this model. Concubinage, illicit friendship, adultery, illegitimate pregnancy, pre-marital sex, *rapto*, unfulfilled betrothal and clandestine marriage, among others, were some of the most common transgressions (Salinas y Corvalán; Cavieres y Salinas; Salinas “La Familia”; Goicovic “Es tan Corto”).

Both ecclesiastical and civil courts had jurisdiction in the first half of the nineteenth-century (to prosecute these crimes). These institutions would closely police individual’s sexual interactions, as would neighbors and communities, who usually would tip these institutions off if sexual transgressions against the marriage model were taking place. However, Salinas (“La Familia”) claims that the colonial period and the nineteenth century were characterized by a radical difference between ideal and reality, as sexual transgressions were pervasive but the Church and state zealously prescribed a public ideal of religious marriage. Many of these sexual transgressions are allegedly committed by the couple this study focuses on. Manuel Meneses is convicted of *rapto* by seduction the first time. Later, the couple is punished for concubinage. Manuela is also pregnant with an illegitimate child. Some of these transgressions will be highlighted more than others and have definite consequences in the case, such as the ruling against the couple for “escandaloso concubinato.” I will briefly address these two concepts since they are relevant in the case.

According to Nicolás Celis, the notion of scandal implied the public transgression of society’s norms. Although sometimes “rumors” could discipline these actions before their criminalization, if that did not happen, the public display of illicit conduct would usually trigger

prosecution. Celis notes that according to *Las Siete Partidas* and *La Recopilación*, it was the priest's and justices's responsibility to constrain these types of behavior. Scandalous behavior was usually punished with exile, however, according to Celis "la efectividad de este castigo fue relativa y muchas veces ignorada por los acusados y la propia comunidad" (109). The characterization of something as an "scandal" would work as an aggravating circumstance in cases of prosecution, as happens in my case.

Concubinage was the practice of man and woman living together as a couple but without marrying. According to Erickson Costa, although several legal regulations of Western society had historically allowed for some form of concubinage, it was prohibited by the Council of Trent and thus became a crime prosecuted by civil authorities in colonial Latin America. The definition of concubinage varies by author, with the focus on the lack of marriage, procreation, sexual relations, or longevity of the union. According to Saydi Núñez : "es claro que por lo común no se constituyó como encuentros pasajeros entre hombres y mujeres" (41).

Judges interpret the actions of the couple as an alleged situation of concubinage publicly displayed. Once concubinage was projected into the public sphere, this seems to have been considered a serious crime. Celis studies the case of an upper-class man who is sent to Argentina to be with his wife as punishment for his public concubinage. Yet the notion of "scandal" relates not just to the public aspect of the crime, but to threats to the social order. The upper class man in Celis's case is welcoming a *mulata* to his room every night. In Manuela's case, the daughter of a judge is escaping with an illiterate baker. Therefore, public exposure of sexual transgressions and transgressions to the social order configure the notion of scandal. Both of them are present in the case, since an unmarried unequal couple eloped with the knowledge of several individuals.

2. Rapto: a genealogy of its history from Rome to Chile

In this section I highlight some aspects of the legal history of *rapto* and examine the law applicable in early nineteenth century, which stemmed from the Roman- Hispano legal tradition. *Rapto* has been historically a manifestation of patriarchal societies which consider women as men's property, due to their disregard for women's consent and focus on male honor.

According to Caroline Dunn, in the Roman world "*raptus* usually referred to thievery, and classical authors broadened the notion of property theft to include people" (19). This original meaning of *raptus*, to seize, persisted in late Medieval Latin. However, in the later Middle Ages, the term expanded its meaning to encompass abduction, elopement, rape and adultery. Kelleher characterizes it in the Middle ages as "a catch-all legal category of "forcible taking" (125).

The ambiguity and all-encompassing scope of the term persists in colonial and nineteenth-century Chile, but constrained. "Estupro" was the legal term for rape, so *rapto* meant forcible abduction or abduction by seduction. However, the way *rapto* is understood legally in colonial and nineteenth century Chile excludes women's consent, so *rapto* turn out to have been a consensual event, the legal terminology must change to punish the man and woman.

Early Roman law punished *rapto* with death for the perpetrator, and also for the victim, if she had consented, although it was not officially coded as a crime until the 6th century. Later, Justinian abolished the death penalty for this crime and punished as property seizure the *raptus* of widows, unmarried women or nuns. Although the word evolved also to encompass the term "rape", it is not clear that at this time rape without abduction was punished at all. Punishment for *rapto* lessened with time, and marriage or the payment of a fine became possible punishments (Saunders 34).

This basic structure of the crime established by Justinian would be inherited by the later Visigoth-Hispanic-Roman legal tradition. *Rapto* points towards a crime that can be committed with or without a woman's consent. It remains a crime in the second case, because it is only

tangentially a crime committed against the woman, and primarily one against the man who guards her. Also, the crime is prosecutable only if the *raptio* is against certain types of women: widows, unmarried women or nuns. This last part seems to protect not exclusively a father's or husband's rights, but to enforce a hierarchy of women in society. This is fundamental for the case I approach, since the father desperately tries to argue his daughter is one of those women worth protecting. It also relates to the idea that honorable women seem to lack the ability to consent, while consent is ascribed to women of "bad reputation."

During the Middle Ages in Hispania, both the *Liber Iudiciorum* (seventh century) and the *Fuero Real* (thirteenth century) would follow the regulations established by Justinian. *Raptus* was a punishable crime only if perpetrated on certain women, usually virgins, nuns or widows, and punishment could be exchanged for marriage (in certain circumstances) and for financial compensation. In both compilations, the man associated with the woman, whether father, husband, or king is the one to be compensated (Benítez 2007).

Las Siete Partidas would innovate by establishing a difference between *raptio* by seduction or by force. This legal compilation is fundamental for the case, since it is cited. Title XIX addresses "de los que yacen con mujeres de orden o con viuda que viva honestamente en su casa o con vírgenes, por halaga o por engaño, no haciéndola fuerza." In this first regulation, the Roman heritage of "types" of women is repeated; the offense is only punishable if there was something women—or more precisely their families—had to lose. Seduction, persuasion and trickery seem to be a particular concern of Alfonso X of Castile: men may not excuse their responsibility if women were not forced, since convincing them through flattery or trickery was similarly problematic:

Y no se puede excusar el que yaciese con alguna de ellas que no hizo muy gran yerro, aunque diga que lo hizo con su placer de ella no haciéndole fuerza es

sonsacar y halagar las mujeres sobredichas con promesas vanas, haciéndoles hacer enemiga de sus cuerpos, a las que las traiciones en esta manera más pronto que no harían si les hiciesen fuerza (Alfonso X el Sabio, 2016: 144).

This line of argument stresses the idea that women who are honorable are not fully capable of consent, they are deemed innocent and vulnerable to persuasion. *Rapto* by seduction complicates things, since it is based on the alleged woman's innocence. How, then, does consensual *rapto* work? How can it be proved? The difference may lie in how consent is assigned based on the woman's reputation. Consensual *rapto* is not a category in Chilean legal history. However, the idea of a "consensual rapto" is part of the genealogy of the concept. In my case, when there is enough information to presume the woman's consent, the case does not turn into a "consensual rapto;" instead, both of them are sentenced for concubinage.

Title XX of the 7th Partida address: "los que fuerzan o llevan raptadas vírgenes o las mujeres de orden o las viudas que viven honestamente." In cases of *rapto* by force, the perpetrator had to face the death penalty and transfer all his possessions to the victim. However, if after the fact the woman consented to marry the abductor, the man's possessions passed on to the bride's parents. If the parents knew of the abduction and consented to it, the possessions passed on to the king. In the case of *Siete Partidas*, the Roman heritage of types of women is still present and emphasizes the relevance of the women's reputation (Plaza 167).

The *Fuero Juzgo*, *Fuero Real* and *Siete Partidas* were valid law in Hispanic-America in the colonial period (Bilot 9) and also through most of the nineteenth century in post-independence Chile. Crimes such as *rapto* continued to be addressed through these much earlier bodies of laws, even though new laws (in areas outside of criminal justice) were produced in the Americas, codified through the creation of the *Recopilación de Leyes de Indias* (1680). Upon their independence, most Hispanic-American countries created their own constitutions and laws

to expunge regulations that were incompatible with republics. Yet the older body of law related to criminal law remained valid. Thus the framework that legal actors in the early nineteenth century had for thinking about *rapto* was mostly that of *Las Siete Partidas*, since this was the most popular compilation.

Before independence of most Hispanic-American countries, but also in Spain itself, judges did not strictly apply these laws because of their severity and would usually apply judicial discretion.⁸⁹ In Chile, punishments for *rapto* usually included forced labor, exile and the payment of a “dowry” to the victim (Plaza 128). When alleged victims were determined to be complicit, their punishment was usually to spend some time in a monastery. Spanish law would be applied in nineteenth century Chile until the first Chilean penal code was promulgated in 1874 and included *rapto* among its punishable crimes, with different punishment for women of good and bad reputation. The term would remain part of Chilean law until derogated in 1990.

The topic of *rapto* is particularly understudied in Chilean scholarship. Nevertheless, a recent thesis indicates that materials exist, despite sparse scholarship. Camila Plaza wrote her master’s thesis on the topic of *rapto* and *estupro* in colonial Chile, encompassing the seventeenth and eighteenth centuries. She argues extensively that in those centuries, cases of *rapto* would be decided based on the woman’s status, legitimacy and reputation, that of their family and of the alleged perpetrator. According to Plaza, although punishments in general were not harsh or sufficiently enforced, men of lower status and class received harsher sentences. During the

⁸ Moreover, legal scholar Silvia Peña claims that this was not a phenomenon particular to pre and post-independence Spanish American nations, but that judges even in colonial Latin America found these laws too severe and did not apply them: “La administración de justicia en el tiempo de la colonia se caracterizaba por su indulgencia y humanidad, ya que los jueces no aplicaban las penas señaladas en la ley, sino que las atenuaban e incluso las conmutaban según su albedrío” (308).

⁹ However, judicial discretion would become one of the biggest enemies of Chilean legal thinkers in the nineteenth century who would work tirelessly to expunge it. The two protagonists of this fight between judicial discretion and the so called project of “empire of the law” would be judges *legos* and judges *letrados*, both present in the case I study.

period 1638-1776, she did not find a single case of consensual *rapto* (regardless of the legal terminology, as in my case) but all cases were either *rapto* by force or *rapto* by seduction. In 1776 Charles III of Spain promulgated a Pragmatic Sanction with to prohibit unequal marriages and grant parents the right to object to marriage partners until the age of 25. In Plaza's interpretation, this sanction set the stage for consensual *raptos* by placing constraints on individual freedom to marry.

Igor Goicovic ("El Amor") has studied *rapto* in Chile in depth. According to Goicovic, *raptos* were the most recurrent sexual transgression during the nineteenth century (97). As argued before, according to Roman-Spanish legal tradition, the word *rapto* encompasses two different situations that in the genealogy of the concept have been deemed abusive. Goicovic ignores the traditional dichotomy in Spanish law and speaks of "raptos by force" and "consensual raptos." Yet the idea of consensual *rapto* is something that he is proposing, we can infer it does not exist for the actors in the trial. From his study of judicial files, Goicovic collapses *rapto* by seduction with consensual *raptos*, by suggesting that seduction is a valid means for securing consent. This model, though at odds with law at the time, may still be useful for thinking about *rapto* and ascribing consent to women. Since in the period Goicovic studies there are actual cases of elopement, they may have been taking this phenomenon into consideration. I welcome the construct of "consensual rapto", (since it is part of the legal tradition of the term) and it is useful for thinking of actions that are not fully described by other terms.

According to Goicovic, cases of consensual *raptos* are usually situations in which a couple who wishes to be together are in violation of social norms due to an ethnic or economic disparity. Consensual *raptos* are generally a means to effect a marriage that was forbidden or made difficult by family. They were usually associated with other, more permanent, types of

sexual transgressions, such as illicit friendship or concubinage. But there were also occasions in which it was only the way for a man to have sex with a woman he had seduced or promised to marry through a “promesa de esponsales,”¹⁰ only to abandon her after having sex. This situation would usually be followed by lawsuits. *Raptos* by force, for their part, would take place between people who did not always know each other, but usually implied a man who wanted to sexually assault a woman, sometimes as a means to compel her to marry him, so as to improve his social position. *Raptos* by force were violent interactions. According to Goicovic’s study, in many cases the man would use a weapon—usually a knife—to threaten the woman or her family.

As Channele Delameillieure has argued, consent is very blurry and difficult to grasp in cases of *raptos*. For instance, in one of the cases studied by Goicovic, a woman initially gave consent, but withdrew it when they were by the door, yet the man took her anyway. This way, an initial consensual *rapto* could turn into a *rapto* by force. Just as in cases of sexual assault, in *raptos*, consent—among other aspects—is at the core of these cases. Delameillieure argues that a new paradigm is needed to better and more nuancedly address consent in cases of *raptos*. She claims that the paradigm has usually been to set a clear line between *rapto* by force or consensual *rapto*. Following her proposal, consent needs to be seen as an spectrum and a more complex concept with many nuances.

The concept of seduction also is very complex and blurry when used in cases of *raptos*. According to Goicovic (“Es tan largo”), seduction was a process, with different stages. First, the man approached the woman and established a channel of communication. Afterwards, a process of courtship would begin, and the man would show his affection to the woman through letters, whispers, caresses, and other endearments. At some point, there would likely be sexual relations depending on whether the man had promised to marry the woman. After sexual relations,

¹⁰ For more details on the ritual of “esponsales” see Goicovic (“El Amor”).

seduction was completed. In the trials for *raptos* by seduction, the term functions as a synonym for deception or enchantment, as parents would claim that their daughters only agreed to leave with a man because he had persuaded them in some way. However, it would only make sense to use it if the woman was “honorable” and “of good reputation.” By collapsing *rapto* by seduction with consensual *rapto*, Goicovic seems to simplify the complexities of consent.

So far I have addressed the legal genealogy of *rapto* from early Roman law to nineteenth-century Chile. The term has from its origins placed emphasis on the idea of seizure and theft of honorable women. However, they were not the main victim of the crime, but the men associated with them. This is why women’s consent seems irrelevant: *rapto* is an affront to men. Although the Roman-Hispanic legal tradition considered the possibility of a “consensual rapto”, they did not have a term for it, therefore all forms of *rapto* were, in principle, criminal. In the following section, I address the rhetorical and judicial strategies of actors in colonial and nineteenth-century Chile.

3. Judicial and Rhetorical Strategies of Legal Actors in Colonial and Nineteenth-Century Chile

Raptos in the eighteenth and nineteenth century took place at a specific period and stage of development of the settlements that would later become Chile’s urban centers. By 1870, only Santiago and Valparaíso were proper urban centers, the rest of the country was mostly semi-urban or had rural holdovers¹¹ in what Goicovic calls “the semi-urban town of Traditional Chile.” Goicovic argues that in urban settings legal institutions and state control were more prevalent and constraining than in rural areas. Eduardo Cavieres and René Salinas claim that “históricamente el ámbito más propicio para la normalización y sociabilización de la familia

¹¹ For a detailed account of Chile’s settlement at this time see Goivociv (“El Amor”).

española cristiana (...), ha sido el urbano” (31). According to these authors, urban centers are places in which the authority of Church and State have more power to enforce norms and persecute those who violate them. By contrast, then, less fully urban spaces would be scenarios in which improper behavior could have some leeway. Gerónimo Reynoso’s lawsuit lies somewhat in between, since he lives in Santiago and files the lawsuit there, but Manuel Meneses lives in a rural area and takes Manuela there.

Usually, *raptos* ended in both ecclesiastical and civil court, or at least in one of them. However, what families looked for was usually the same: “Los ofendidos, casi siempre familiares, buscaban la reivindicación pública de su honor con el encarcelamiento del ofensor y el depósito de la ofendida” (Goicovic 98). Punishments were harsher for women and people who belonged to vulnerable groups, such as the poor and people of ethnicities other than white and mestizo, so that the patriarchal and social norms would be upheld. Even if legal institutions were somewhat weak in these settings, traditional society was a vigilant one. They were the ones who usually denounced the sexual transgression of their neighbors or acquaintances.

Since there are no studies for *rapto* in nineteenth-century Chile and its implications for the judicial or rhetorical strategies that actors at the trial may turn to, I will briefly discuss a study of *rapto* in Oaxaca, Mexico during the nineteenth-century. This study, although illuminating in terms of the political context, deals only with cases of *rapto* of people of the same social background. I reproduce the author’s terminology of abduction/elopement, although I am critical of this move for a Latin American context.

Kathryn Sloan studied 212 cases of *rapto* in nineteenth-century Oaxaca, Mexico, an area that includes mostly working-class people of either indigenous or mestizo ancestry. Out of the 212 cases, only 8% were cases of abduction in which sexual violence was involved. All the rest were elopements of young people of the same social class who wanted either to concretize a

marriage not approved by their parents or to be set free from parental authority. Therefore, Sloan analyses *rapto* from the point of view of intergenerational conflict. In her interpretation, young girls would engage in these practices as a means to liberate themselves from parental authority and seek independence: “Whereas for some couples, *rapto* was simply a dramatic courtship ritual that originated centuries earlier, *rapto* in nineteenth-century Mexico was a personal and political act” (Sloan 4). Many girls would turn to the strategy of arguing mistreatment at their houses as a means for the judge to grant them emancipation. Most plaintiffs in her archive were aggrieved parents who did not approve of the marriage the couple intended.

Sloan’s analysis locates these cases against the backdrop of the independence of Latin American nations and nineteenth-century liberalism. These values resonated with judges who became more and more willing to reinforce and protect individual freedoms and rights associated with citizenship: “After Mexicans won their Independence from Spain in 1821, civil courts, like their ecclesiastical predecessors, favored the free will of children to choose a spouse over parental opposition” (6). Yet Sloan’s conclusions are very particular to the specific group she analyzes: mostly indigenous and working class. The fact that the couples had the same social origin encouraged judges to allow them to follow through with their marriage plans. Although the rise of liberalism helped establish a more democratic mindset, judges still made distinctions for the upper classes. For instance, they only make poor and indigenous girls go through shameful virginity tests, but they would exempt upper class girls from these exams.

Sloan argues that *rapto* cases have usually always been portrayed as instances of female abuse and victimization, in which women are powerless victims. Her study, however, shows that most of these women had tremendous agency in defying their parents and leaving their house with a man their parents did not approve of, sometimes engineering their own elopements, and afterwards defying their parents in court as they sought their freedom and self-determination.

Women in particular, seemed to manage the judicial system very well and were active participants: “Indigenous women of all classes regularly asserted their rights in the courts, providing witness testimony in legal cases” (21).¹² Judges seemed to infuse *rapto* with notions of female agency, and to accept it as a prenuptial practice, especially when the couple was of the same ancestry and social class: “Oddly, judges actually fostered *rapto* as a preliminary step to a civil union and the emancipation of minors, even as official rhetoric championed the overthrow of traditional and archaic customs” (Sloan 12). However, Sloan argues, collapsing *rapto* with marriage or family was still dubious in terms of female agency, especially in cases of abduction in which sexual violence had taken place. Marriage was tantamount to a pardon of the criminal.

Sloan’s conclusions on *rapto* recall that our understanding of this practice is strictly context-dependent. In a society in which women are empowered and know their rights, where most *raptos* occur within the same social group and against the backdrop of the ideology of liberalism, *rapto* can be seen by judges as a means for emancipation and female agency.

For the Chilean case, there is not yet a study of *rapto* in the nineteenth century that can provide overarching conclusions of the dynamics that explain *rapto* at a particular historical conjunction, or the agency that women deployed in cases of *rapto*. However, Sloan’s study is very useful since it addresses the exact same period that I look into, and speaks of how egalitarian ideals of citizenship and focus on the individual shaped judges’ decisions and the arguments deployed by the girls involved in elopements.

By contrast, judicial and rhetorical strategies of legal actors in the nineteenth-century Chile on cases of *rapto* have not been sufficiently addressed. Víctor Branguier argues that judges and plaintiffs in nineteenth-century Chile were part of a “legal-judicial culture.” He claims

¹² Sloan argues in detail how in Oaxaca women seemed to have special agency and assertiveness compared to other indigenous communities.

that persuasion and reference to tropes that were common-sensical and culturally meaningful at the time were part of the repertoire of effective plaintiff strategies in their appeal to judges, since they were part of the same culture:

En efecto, se torna necesario definir aquí la noción de “culturas jurídico-judiciales” como recurso a disposición de los litigantes, formando parte de las herramientas discursivas y axiológicas capaces de utilizar en situación de justicia. Se trató de usos conscientes de nociones, conceptos y alegorías sobre situaciones legítimas, en el testimonio judicial, que tuvieron cabida plena como ideas verosímiles a lo largo del juicio (10)

Branguier analyzed the prevalence of these tropes in 50 cases of various crimes in the period 1824-1875. He approached judicial files focusing on three rhetorical moments he detected in the testimonies. First, the plaintiffs would embed themselves in values, legitimacies and legal goods of the time, such as “honestidad”, “cumplir roles familiares”, “bienestar colectivo” y “proceder según leyes” (18), claiming to represent and embody them.¹³ Next, they would name the values and norms that their adversary transgressed against, and finally, the anti-values, illegitimacies and non-legal actions that the adversary represented (9). The values that the plaintiffs argued the adversary violated, would usually be the same the plaintiff claimed to respect and embody. A particular transgression was of “Valoración autoridad, potestad y proceder judicial.” This trope stands out since it implies that the judiciary is not valued or respected by the adversary.

¹³ Legal goods are the values that legal norms intend to protect. For instance, the constitutional right to life implies that the legal system cherishes and considers life a *legal good*, something worth protecting. Another example is the fact that rape is codified as a crime, since sexual liberty is something considered valuable. Nicolás Carrillo-Santarelli and Carlos Espósito provide the following definition for the international sphere: “For the sake of clarity, it is convenient to provide a brief description of what we understand as global legal goods. We consider that, in their objective dimension, global legal goods are those interests, goals, and values protected in common by norms of different legal systems and by actors who interact and shape their content, being applicable in all those systems by those actors, guiding their actions.” (2012: 69).

Gerónimo Reynoso repeatedly claims that Manuel Meneses does not respect the court and laughs at its rulings: “A pesar de todas estas iniquidades comete lo segundo, de burlarse del juzgado y de su sentencia del destierro” (185v); “del desprecio, y burla que ha hecho a las disposiciones de este respetable Juzgado” (193r). Reynoso was surely in a privileged position and would have experience with these tropes, since he was a judge himself.

In a study focusing on lawyers’ strategies, Marcos Fernández claims that during the nineteenth-century lawyers defending men sentenced to the death penalty used rhetorical strategies in order to bolster their defendant’s cases. He claims that the strategies used in cases of pardon petitions are grounded in a tradition dating back to Rome: “Repetidos una y otra vez, anclados a metáforas siempre similares, dueños de una continuidad de sentido remontable a la mitología clásica, los textos de la jurisprudencia romana y las parábolas bíblicas” (Fernández 228). He argues that these lawyers appealed to a lettered-elite culture by referencing values shared by judges.

The strategies Fernández notes are generally linked to the men’s identities. In the case of soldiers who had committed a felony, lawyers would emphasize the glorious past of these military men and stress how they had risked their life for their country: “Como sangre de intercambio, (...) las heridas sufridas bajo la bandera justificaban la clemencia por las infracciones perpetradas ahora” (Fernández 228). If the accused had participated in uprisings or civil wars, lawyers would emphasize their disorientation and limited culpability as compared to the leaders of the rebellion, trying to depoliticize their actions.

Additionally, as Fernández notes, one of the most successful strategies was to present the accused as hard workers and providers, stressing that families would suffer scarcity and that the defendant—a committed father and husband—could save them from poverty. Furthermore, they would claim that poor men were innocently unaware of regulations, so that their crimes were the

result of ignorance rather than evil. Also, lawyers would argue that draconian colonial laws made justice for their defendants impossible and that the change of worldview in the nineteenth century required a focus on second opportunities rather than retribution. This emphasis on context is relevant for my case, in which the public defender stresses that the egalitarian and republican ideals of the nineteenth century must be taken into consideration when assessing events.

María Eugenia Albornoz studied cases of plaintiffs for cases of *injuria* and the use of the judicial resource of *caso de corte* in the period 1700-1874. Most of these plaintiffs were women. She argues that in the colonial period plaintiffs would resort to the petition *caso de corte* which was available for socially vulnerable people, such as poor people, widows, people who were filing a lawsuit against someone powerful. This resource was often used by widows who would highlight their vulnerability, implicitly appealing to their lack of protection by a man to receive a preferential treatment by the courts. Valentina Bravo also studied exclusively female plaintiffs in cases of *injurias* in the period 1800-1852, examining how poor women made honor claims at the courts, gradually introducing an idea that would slowly start to be accepted by the courts: that poor women had honor.

Carolina González studied the rhetorical strategies used by female slaves in 18th century Chile in petitions for their manumission. She claims that one of the most frequent strategies was to claim that slavery was the cause of family separation: “Todas plantean estrategias discursivas que se articulan desde la retórica de la familia y los vínculos de esta como un bien necesario para la armonía social que debe ser protegido por la justicia, por el orden colonial” (64). Many of these women longed to be reunited with their family members or their offspring. However, a particularly successful strategy was for a married woman to claim she wanted to be reunited with her spouse.

Socially vulnerable groups of people in different situations at diverse periods in Chile have found ways to both rhetorically and judicially deploy agency in their cases. These strategies may take different forms, such as appealing to an specific ethos, turning to values cherished by the judiciary, victimizing oneself to justify the right to file a particular petition, or appealing to shared patriotic ideals, among others. These studies show that there have been various “legal-judicial” cultures in Chile specific to particular groups and identities, and to particular crimes and felonies. These cultures prove that the judiciary was vulnerable to persuasion by shared values. Since the early nineteenth century was a time in which judges had broad discretion to apply the law, and very few judges had a legal education, it is very likely that for this case these strategies are successful.

These recent studies have focused mostly on “history from below”, they have neglected elite voices and perhaps overlooked the various simultaneous strategies deployed at the same trial by different actors. I will pay attention to strategic behavior from all legal actors, although I focus in particular on: Manuela Reynoso and Gerónimo Reynoso. Strategies can be very specific, depending on the plaintiff’s identities and experiences. For instance, for men soliciting a pardon for the death penalty, the strategies might vary according to their occupation and personal history. For a case of *rapto*, strategies might differ depending on the social status of the woman, and the perpetrator and their relationship to honor. Framed in the microhistory tradition, this study recovers the specificity of the case itself, but also puts it in discussion with larger historical questions.

Chapter 1: The Missing Woman's Voice

The absolute lack of female voices in this case is striking. In several cases analyzed by both Goicovic and Plaza, there is either a mother who is a plaintiff or a female victim who provides testimony. Since one of the paradoxes of this trial is that a woman is at the center of it but never appears, I will explore how discourse is constructed around the only woman involved in the trial: Manuela Reynoso. All of the judges, judicial clerks and witnesses are men.

Manuela's mother is barely mentioned once by Reynoso. Manuela herself never utters a word. However, we learn that her actions were fearless and in clear opposition to the foremost male authority in her life, her father, Gerónimo Reynoso. Curiously, we learn of her defiance as if by chance, in a detail revealed by the judge Santiago Etchevers that changes the course of things when he discloses that Manuela was following a parallel procedure to that of *rapto* filed by her father, to be able to marry Manuel Meneses.

In this chapter I analyze the construction of Manuela as a woman, her agency, and the rhetorical and judicial strategies she uses. First, I address two contrasting visions offered by her father and the public defender in order to bolster their arguments: honorable woman vs. widow-seductress. Though both men proffer ideals and archetypes of women that fit the conduct they claim for Manuela, they do so in nuanced ways. The father erases and underscores various aspects of Manuela's identity at different times. The public defender, who I claim puts forward the widow-seductress archetype, is careful not take it to the extreme. Furthermore, I contrast these images of Manuela with the image of her provided by Manuel Meneses himself, the alleged perpetrator. This image undoes the ideals and archetypes, instead presenting a woman in love, who is willing to risk her place in society in order to marry the man she is interested in. However, Manuel's discourse also reveals his own self-effacement strategies. By depicting

Manuela as the more enthusiastic party in the relationship, he diminishes his agency and portrays himself as indecisive about the relationship.

Second, I examine Manuela's agency in the trial. Although her voice is never present, her actions were extremely eloquent. By the end of the first trial, we learn that Manuela had separately sued to marry Manuel Meneses, a man she knew her father did not approve of and who also was being indicted by him. Although she lives with her father and knows his stance on Manuel Meneses, she nonetheless proceeds. I argue that the clearest image we get of Manuela is linked to the agency revealed by those ostensibly most removed from her: judges and judicial clerks. I also analyze how the parallel trial is perceived by other actors and how the judicial system both allows her to follow through with this procedure, but also punishes her for it.

1.1 Honorable wife or widow-seductress

The contrasting way men speak of the only woman in this case is directly related to their interests: is Manuela an innocent, honorable inexperienced young lady from the elite, vulnerable to persuasion, or a seductress, a sly widow who knows exactly what she wants and who because of her class and experience is hardly the subject of seduction and persuasion? A more nuanced version comes from the defendant himself, who will render Manuela without turning to archetypes or ideals, but who still manages to portray her as an insistent woman, thereby minimizing his own involvement or responsibility.

It is impossible to know if these discourses are true. However, we can assess if they were "saberés judicialmente admisibles" (Barriera 163-164) given what was at stake at the trial. Gerónimo Reynoso is interested in restoring honor to himself and his household, since his daughter's honor is in question and that is directly related to his. He needs to argue that she was not complicit in her *rapto* and somehow was a victim of events, since if she had been complicit in the crime, she would also have to be punished and would be dishonored. The public

defender's main interest is to absolve Manuel Meneses from any criminal wrongdoing. For this, he has to prove that Manuela willingly—and without persuasion or trickery—left with Manuel each time.

Gerónimo Reynoso overwhelmingly argues for the innocence of his daughter. He depicts her as an honorable and honest young lady: “una hija de familia, honesta y seducida” (175v). Also, she is someone from the upper-classes, well-behaved and grounded in an elitist world: “Es una señorita de educación notoria honesta y de honor” (180v). Class and honor are still closely interrelated in the early nineteenth century, although they slowly begin to disentangle in this period (Valentina Bravo 167).¹⁴ She is also a woman of honor because of her family: “hija legítima de un juez para el Gobierno, don Gerónimo Reynoso” (180v). Reynoso also claims that she is inexperienced and vulnerable to external influences: “como joven de edad 16 años sin ninguna experiencia, honesta, la engañó con facilidad” (185v). Manuela's innocence is directly linked to her lack of sexual experience. However, as we will see, this description is striking in its partiality.

Reynoso manages the different aspects of Manuela's identity by providing information in a somewhat gradual, scattered, and intermittent fashion. The first image of a privileged and honorable young lady is nuanced by the vision of her as a married woman. However, he does not provide information about his daughter's marriage until the third time she is allegedly abducted, when he includes a legal action for adultery: “y también de adulterio por ser casada con el Sargento Mayor de los Regimientos del Perú Teniente Don Joaquín Vásquez” (175v). This is also curious, since she has been married from the beginning of the trial. Reynoso's calculatedly

¹⁴ Valentina Bravo argues that although the first half of the nineteenth century was very conservative in terms of honor, lower-class women could claim honor by having “buena reputación y fama pública” (168). Curiously, this seems to be the aspect of honor that is most delicate for Manuela, since all the other facets of honor (legitimacy, class, status) are in place. It is her sexual honor that renders her vulnerable in this trial.

shifts between his characterizations of the chaste young lady and the married woman, as he weighs his chances of regaining his honor in the trial and accomplishing and punishing Meneses.

Reynoso discloses that Manuela is a mother. However, it is not until the third time that Manuel allegedly abducts Manuela that he reveals it: “mi hija infeliz, para siempre, ella su hijo de edad de dos años y meses y su demás familia” (180v). Why would Reynoso wait to reveal that Manuela has her own family and child? He only mentions it once more, after another alleged abduction: “mi desgraciada hija, cuyo Matrimonio con un Comandante de que tengo noticia está, lo llevo perdido para siempre, lo mismo que a su hijito de dos años y medio” (193v). The child seems to be here a marginal detail, someone who will also be tarnished by Manuela’s loss of honor. However, Reynoso does not dwell on the identity of Manuela as a mother and does not push this image as he does “honorable young lady” and “honorable married woman”. It might be that what is at stake here is potentially Manuela’s failure to care for the child. Since Reynoso argues that this was a case of *raptó* by seduction, she could still be portrayed as a bad mother who left her child in response to a man’s persuasion. Also, the argument that she is inexperienced may also be put in jeopardy by her motherhood, since she must have had her first sexual relation at age 13 for her child to be more than two years old at the time of the trial.

At times Reynoso collapses the innocent and inexperienced young woman and the honorable married woman, while the mother is completely elided. He repeatedly refers to her as “niña” (184v), as does the judge *diputado* Tomás Agüero (191r), infantilizing her in her purported victimhood. However, no one else in the trial ever addresses the fact that she is a mother, even though her child could have been presented as a much more pressing responsibility, since her husband was in Peru.

An identity that Reynoso zealously resists attaching onto Manuela is that of widow. Her civil status is a point of debate at the trial: Reynoso claims that she is a married woman, while

the public defender and Meneses claim she is a widow. They argue that Manuela's husband died in combat in Peru, and that Reynoso received letters that prove it. However, Reynoso's strategy is to completely ignore these arguments and to continue arguing that she is a married woman. Widowhood would not only allow Manuela to re-marry, but would complicate Reynoso's claims of innocence and chastity. Society perceived widows with suspicion and they were frequently perceived as vulnerable to sexual transgression.

Conversely, the public defender, José Hilario Ureta, tries to take advantage of the image of widows at the time to associate Manuela with sexual transgression. He collapses this image with another dangerous female archetype and presents her as a widow-seductress: "le dijo (...) verme contigo, vámonos, soy viuda, casémonos" (208r-209v). He claims exactly the opposite of Reynoso: that Manuela is experienced, as she has been married, and that she is the one who persuades Meneses to flee together: "Para demostrar que de parte de mi representado no hubo rapto o violencia no necesito esforzarme, ya consta que la mujer buscaba y solicitaba al hombre, que ella se confiesa la unica culpable de seduccion, engaño o persuasión" (208r). Ureta stresses Manuela's insistence and speculates about her strategies of persuasion.

The public defender also uses Manuela's position in society to undermine the claim that she was vulnerable to persuasion. Her education and elite status have provided her with the strategies to resist, he claims, especially someone who does not share her background:

Estas son armas del hombre de proporcionar contra una mujer indigente, del sagaz astuto eloquente contra una tonta, del malicioso y picaro contra una inocente o del todo desprevenida. La Reynoso hija de un comerciante que aun se precia de calidad ¿se dejaria? engañar con pan empetacado y alucinar por un humilde? Esta viuda de un Oficial militar, ni pobre ni tonta ni inocente etcetera, todos sus hechos y pasos pruevan la viveza y malicia necesaria para las aventuras. Es indudable que

buscó varias veces y en diversas partes a Meneses, le dijo (...) verme contigo, vámonos, soy viuda, casémonos (208r-209v).

The archetypal seductress is sly, scheming, devious, and intelligent enough to convince and seduce men. If in the case of men this characterization may be positive, women in this role are usually associated with “malicia” (208r-209v). However, the public defender still has an interest in the couple entering into marriage, since this seems the best chance to exempt Manuel from punishment. Thus, he cannot go too far on her depiction of Manuela as a seductress. Likewise, he does not emphasize too much the fact that Manuela is pregnant, except when he celebrates the love of the couple: “hayanse dichosos esos dos caros miembros de la Sociedad, hayase legitima esa prole” (209r). This is still a somewhat euphemistic and tangential way of referring to her pregnancy.

Is this perhaps because the pregnancy is an issue of honor and he wishes to move away from this conservative discussion? Yet Ureta chooses to foreground honor when he claims Manuel is honorable. However, he embraces a conservative approach when referring to the woman’s honor. He reproaches Gerónimo Reynoso for making public his daughter’s disgrace:

Por este principio ha perseguido al desgraciado Meneses sin reparar en el ultraje que hacia a su propio honor en el de su hija cuyas fragilidades ha hecho correr por pluma, vistos, oídos y Bufetes de tribunales, jueces, letrados, procuradores y demas subalternos. No hay hombre que instruido de la causa no la mire con rubor e impaciencia como si fuese propia (206v).

The public defender claims that Manuela’s dishonor is now public, and this is outrageous and a shame. One wonders why he did not take advantage of the fact that she was pregnant, which could magnify her shame. However, paradoxically, he downplays the dishonor when it comes to them as a couple and the transgressions they committed together: “Solo ha havido pecado carnal

no siempre sugeto al fuero contencioso: para lavar mancha tan comun, no hay otra piscina que el lecho nupcial” (209r). Again, Ureta does not push the stereotype of seductress to the extreme, because he has an interest in Manuela marrying Manuel.

So far, we have Reynoso’s nuanced portrayal of female honor, alternating between girl and wife, versus the public defender’s widow-seductress who has persuaded Manuel to escape together.

By contrast to these somewhat artificial and formulaic notions of women, Manuela’s lover provides us with a more realistic image of a woman romantically interested in him. However, his voice is mediated by judicial clerks.¹⁵ In the written trial, there are three documents labeled “confesión del reo.” These documents signal that Manuel Meneses is illiterate because his discourse is indirectly reproduced by the notary José Joaquín Vargas and state that he is unable to sign his own confessions. Therefore, unlike for the discourses of the other two men, who have written their own documents, his is a mediated voice. Surprisingly, there is a fourth document apparently written and signed by Manuel Meneses himself in which he requests his release to the court of Appeals, and declines to marry Manuela. In this document, he provides his own signature.

The three times that Manuel provides testimony, he speaks in a seemingly straightforward and unembellished way. In his first confession, he states that he came to know Manuela and her father when he was delivering bread to their house. He claims that both of them liked him and that the father thought he was a good-looking man for a baker: “le pareció bien el confesante a ambos dos, y haciendo un día admiración Don Gerónimo que un mozo de buen parecer anduviere en Petacas dijo a su hija que era una lastima” (171r). Manuela and Manuel

¹⁵ According to Brangier and Morong, the fact that several voices of illiterate and socially vulnerable people were mediated in the judicial files of the nineteenth century and others by judicial clerks has largely been overlooked by several scholars who study these files.

started to be in close contact after that first interaction and they had a mutual interest in one another.

Manuela's maid played a fundamental role in their communication by sending Manuel's messages to Manuela twice. Manuela replied with a message of her own through her maid so that they could meet in person. Apparently, Manuel did not believe that she wanted to meet him in person, but she surprised him by coming to the bakery and waiting for him in the evening.

Though Manuel does not describe Manuela in detail, we get a sense of her from her actions:

no dio credito, y se fue para otra parte, y que se bolvió antes de las siete de la noche, y encontró en la panadería a doña Manuela y un atado su ropa que esta había mandado con la dicha criada al confesante, y como estuviese allí se lo entregó a Don Domingo Riveros su Patrón: que habiendole expuesto que su fin era tomar estado con el confesante la hubo de trasponer de allí por mano de Don Antonio Figueroa a la calle de la compañía abajo donde se mantuvo cinco o seis días hasta que se le dio parte a su padre por mano del cura de la catedral del paradero de su hija (172v)

Manuel provides the details of the first interaction as initiated by Manuela. She first told her maid to let him know of her interest and sought him out by coming to his workplace. According to him, she was not only interested in speaking to him, but in fleeing with him somewhere or moving in with him, since she brought her clothes. Manuel's erasure of his own role and agency in the events renders him somewhat passive in following Manuela's plan. He explains that it is Manuela who addresses Manuel's boss and tells him that she wishes to marry Manuel, as if recognizing that in this traditional society they need to explain to an authority why they are leaving together. She, not he, seems to be in control of events.

After Gerónimo Reynoso finds Manuela, he sends her to the house of a gentleman named Ureta. However, according to Manuel, she leaves this house and goes to seek him. Her father then sends her to Domingo de Aris's house. Manuela leaves Aris's house at night to find Manuel at the bakery. When she finds him, she tells him that she is going to leave this man's house, probably to escape with him. Manuel claims that he tries to convince her not to leave the house, and tells her to talk to her father. However, she again comes to seek him at the bakery:

volvió Doña Manuela a la panadería en busca del confesante y visto que cansaba su solicitud: determinó el confesante llevarla a Guanguali al Rancho de Juana de tal por conocimiento de la criada María, donde estuvo cuatro días y de ahí la trajo su padre a su casa, y el confesante al día siguiente a la cárcel donde se halla el día: que el confesante hizo esto porque ella le dijo que era viuda, que su marido había muerto en el Perú por una carta que a ella trajo don Francisco Allende que tiene su padre (172r).

He depicts Manuela as relentless. Moreover, he explains that he takes her to the very distant province of Guanguali since Manuela "cansaba su solicitud" almost as if he did not want to go, but only took her there persuaded by her. This seems rather unlikely, since Guanguali is 373 km. away from Nancagua and it would have required resources and organization to make the trip. He also places the blame on Manuela by saying that he only acted the way he did because she told him she was a widow, as if suggesting he would have never fled with a married or an inexperienced woman.

In his second confession, after fleeing again with Manuela after illness gets him released from jail, the notary interrogates him as to when and where he was with Manuela:

Responde que no tiene presente el día; pero que se hará un mes a que el confesante pasó una noche por su casa y preguntó al mulatillo Ambrosio por su

señora Doña Manuela y le contextó fue a comprar zapatos, que eso sería como a las 8 de la noche y con esto dijo a Ambrosio dile a tu señora que venido a buscarla que me voy yo para casa: que a las 9 llegó doña Manuela sola al quarto del maestro de sombrería José Bravo que vive en la calle de San Antonio a preguntar por el confesante (...) Preguntando a qué parte llevó el confesante a Doña Manuela esa noche. Responde que la calle de La Merced llegó a un quarto y ofreció paga a la que lo habita para que le diera alojamiento (...) dijo a Doña Manuela se fuese a su casa, no quiso sino hasta la noche, que con ese motivo la llevó para San Miguel: (176v-176r).

In this second confession, he seems to grant himself more agency by claiming that he sought Manuela and went to her house to ask for her. He admits that after Manuela met him at the bakery, he took her to a boarding-house and rented a room for them. However, he always portrays himself as trying to stop her at a certain point and to encourage her to go back to her house, always justifying himself when he takes her to some other province or place: “dijo a Doña Manuela se fuese a su casa, no quiso sino hasta la noche, que con ese motivo la llevó para San Miguel”. It’s as if he only takes her somewhere when she insists on not leaving him.

A similar pattern appears in his third confession, after he is apprehended for fleeing the army leading him to his exile, and for taking Manuela from her house:

Respondió que supo Doña Manuela que el confesante andaba en esa Ciudad y lo mando llamar y que no fue y que a eso se determinó Doña Manuela a irlo a buscar a la Casa donde estaba el confesante (que era en lo del Maestro Jose Brabo) y que ese mismo dia lo llevó doña Manuela para su casa y que estuvieron hablando en la puerta de calle preguntandole Doña Manuela si era cierto que se iba el confesante para la otra Banda, y le respondio que no se iba y le contesto Doña manuela que

sabia que se iba, diciendole que porque no la llebaba y le contestó que no tenía proposición de llevarla concluyendo la conbersacion en decirle que no se saliera de su casa (188v).

In this initial part of his confession, Manuel seems to ascribe all the agency to Manuela, claiming that when she found out that he was in town, she called him to come to her house, and when he did not come, she went herself to find him. Moreover, she then took him to her house and tried to convince him to take her with him to wherever he would go, although he seems uninterested and emphasizes she should stay home. Also in this confession, when asked if he took him from her house, he claims that he did not, but that she went to his room, and that the owner of the house told her to leave “y no quizo irse entonces el confesante la llebó para otra casa” (188r). Here the trope is repeated again and the situation is portrayed as if he was compelled to take her somewhere else. Afterwards, he takes Manuela to Nancagua, where they try to get married through a priest who refuses since they do not have the permission of the father.

In this section, Manuel’s discourse seems to emphasize Manuela’s agency over his own, perhaps to try to seem more passive and less guilty in this trial of violating social and legal norms. However, his involvement cannot be completely erased, and though he seems to downplay his agency in the course of events, his determination to take Manuela to other houses and provinces and to try to marry her through a priest proves that he was determined to flee and be with her. A point that cannot be dismissed is that Manuel’s discourse was mediated by a notary. Paradoxically, the only time when he clearly states that it has been his intent all along to try to marry Manuela is at his final statement during the trial at the Appeals court, in which he somehow speaks in the first person and signs the document himself: “hace 6 meses que estoy preso en esta carcel por solo quererme casar con la Biuda Doña Manuela Reynoso con quien de antemano he tenido relaciones” (201v). Paradoxically, the first time we can grasp his own voice

is when he asserts he no longer wishes to marry Manuela, because of all the negative consequences he has had to endure.

Overall, Manuel represents Manuela as relentless in her purposes, willing to fight her father's authority and society's norms in search of what she wants. In Manuel's account, she appears persistent and unabashed in her pursuit of him, taking the lead, plotting to leave with him, bypassing her father's authority and fearlessly going from house to house and from province to province just to be with him. This was a very transgressive course of action for an upper-class woman in the early nineteenth century, since, as Valentina Bravo notes: "El ideal femenino impulsó papeles correctos sobre su cuerpo, afianzando la pasividad sexual" (175). Manuel was representing her in a very transgressive way, by depicting her as taking an active role in romantic pursuit. Therefore, surprisingly, the most scandalous image of Manuela may come from Manuel himself, since he provides a realistic image of an empowered woman.

Unlike the public defender, Manuel narrates Manuela's actions rather than assigning an identity and fixed traits to Manuela. Although he does not describe her in any specific way, as Geronimo Reynoso and José Hilario Ureta so passionately do, he is rather eloquent in the image that he provides of Manuela through the narration of her actions, but also of himself, as a passive and almost blameless party on this trial, only accidentally involved in the development of the alleged *rapto*. The image he provides of her, even if he did not intend to, is of someone fearless, who did not care about class divide, and willing to sacrifice much to accomplish her desire.

In this section I explored three approaches to the representation of Manuela in order to argue that two of them are based on ideals and archetypes, one based on ideals of female honor of the nineteenth century and the other one on core western archetypes of women. The third image, I argue, is free from labels although not from rhetorical strategies of emphasis and erasure. These three men have interests in play in their representation of Manuela, and the three

of them work hard in order to assign her the identity that best suits their narrative and their goals. The ideals and archetypes present in this case are closely related to what Plaza (2017) argues for the seventeenth and eighteenth century in terms of the way women are depicted in cases in *rapto*: either as honorable women secluded in the private sphere or as women systematically interacting with men and out of the parent's control. In this sense, the ideals of the colonial period continued to operate in the nineteenth century. This lack of change speaks of the resistance to change existing ways of thinking about women in terms of their sexuality and their sexual behavior. Except in this case, since there are so many complexities to be considered in terms of Manuela's identity both for both Reynoso and the public defender that the representations of Manuela are nuanced. These dyads of good and bad women are grounded in a larger legal tradition that qualifies which women are granted protection from *rapto* and which are not, although Ureta tries to turn the fact that Manuela is upper class against her.

In the following section, I address what I believe is a fuller version of Manuela's agency and will. Her character and intentions are demonstrated by the people one might least have expected to do so: judges and judicial clerks.

1.2 Manuela's Agency: a Struggle for Freedom

As stated earlier, no women speak in the trial and particularly not the woman whose actions or lack of action are at the core of it. For most of the file, we do not know her wishes or anything about her subjectivity. If it is best to be skeptical of ideals and archetypes, and of self-effacing discourses, it is also hard to trust the father, the public defender or her alleged lover as reliable sources on Manuela. I argue in this section that Manuela Reynoso, although completely silent in the trial, deploys a radical agency by challenging her father in judicial terms.

Paradoxically, Manuela's agency and rhetorical strategies are revealed by the people who are the least close to her in the trial: judicial actors and clerks. Three judicial actors reveal Manuela's

interests and will: judge Palma, the notary José Joaquín Vargas and judge Santiago Etchevers. Judge Palma, who probably had closer interactions with Manuela, reveals the most about her agency and the specifics of her situation.

It is never revealed if Manuela and her father disagreed about her marriage choice, but it is clear that they held a legal fight over where it should be legally adjudicated, when it is revealed that Manuela filed a separate procedure in a different court to be able to marry Meneses. This suggests that she trusted those judicial structures and those officials rather than her father as a means to achieve her goals.

Why would Manuela have wanted to file a petition in a different court than that where the case of *rapto* is debated? The judiciary at the beginning of the nineteenth century was hardly professionalized and 90% of the judges were “jueces legos” or with no legal background. During most of the first-instance trial, the judge *alcalde* Agustín Larraín was in charge of the case. Judges *alcaldes* were men of good reputation who participated in the judicial process.¹⁶ Much information is not provided about Larraín, but he seems to have a bias in Gerónimo Reynoso’s favor. Although his occupation and name situate him as a part of the upper classes, he seems extremely diligent and servile with Reynoso: “es quanto puedo informar a vuestro mandando en lo que sea útil su afectísimo y seguro servidor que sus manos besa” (177v). This obsequious treatment is inappropriate from a judge to a plaintiff in a trial, and may have caused some distrust on Manuela’s part, had she been aware of his deference towards her father. Larraín seems intimidated and dazzled by Reynoso, someone who is a “jues para el Gobierno”, and thus above him in the judicial hierarchy.

¹⁶ Judges *alcaldes* were: “vecinos que accedían a un cargo “concejil”, es decir asimilado a un servicio obligatorio y gratuito, que entregaban a sus conciudadanos y a la Patria. Una ley de 1838 explicitó que éstos se reclutaban por un periodo de dos años entre los hombres mayores de 25 años, alfabetizados, ciudadanos electores, y destacados por su “notoria reputación de probidad” (Bilot 10).

After Manuel Meneses is convicted of *rapto* and sent to exile in Concepción, he flees from the Army, which was leading him to his exile, and again he comes back to Manuela and they escape together. Gerónimo Reynoso reacts to the situation by addressing a new figure, lettered judge Santiago Etchevers directly in a deposition, entitling it “Señor Juez de Letras.”¹⁷ From this point on, Etchevers will be in charge of the proceedings and Larraín does not reappear until the Appeals trial. Etchevers has no special deference to Reynoso. The interactions between both judges and Reynoso are very telling of the processes taking place at the time regarding the difference between non-professional and professional judges. Judge’s *alcaldes* and other non-professional judges were always more vulnerable to the local sensibilities and cultural aspects than lettered judges were. The legal education of lettered judges predisposed them to apply the law, rather than uphold communities’s beliefs. In this context, it makes sense that a judge *alcalde* would be more respectful and biased towards a member of the elite than would a lettered judge.

It is unclear what specific information, besides the existence of this first-instance trial, Manuela Reynoso was familiar with. However, distrust towards judge Larraín may have been what caused her to file a petition in another court to be able to marry Manuel Meneses. She was willing to risk everything: to jeopardize her family’s and her own honor, likely risk a criminal conviction and have her reputation ruined publicly, but nonetheless proceeded. When judge Etchevers finds out that Manuela herself petitioned to marry Meneses, he puts an end to the trial by convicting both of them.

Vistos, y en atencion a que en el expediente que sigue doña Manuela Reynoso para contraer matrimonio con Manuel Meneses ha expuesto que ella lo ha

¹⁷ A judge with a legal background. Supposedly, these judges were more likely to uphold the law and would be less vulnerable to local sensibilities.

buscado, y que han sido voluntarias las salidas de la casa de su Padre, y a que en este caso debe penar de en ambos el escandaloso concubinato en que han vivido, se condena al citado reo Meneses a la pena de dos años de Panoptico y a doña Manueña a la de reclusion por igual tiempo en algun monasterio ; y respecto a que en la actualidad no puede recibirsele por hallarse en cinta, estando en estado, cuidará su Padre don Gerónimo Reynoso de dar quenta al juzgado para que solicite permiso del Ilustrisimo Obispo

This short ruling does not fully explain what happened exactly or who knew about this parallel procedure. Santiago Etchevers communicates this development almost as soon as he finds out about it, since the importance of this information is such that it ended the trial and changed the legal terminology around the actions of Manuel from *rapto* to the *concubinato* of the couple. Manuela's radical agency significantly challenges Reynoso's discourse, since it is compelling evidence of her desire to marry Manuel. Also, since this information is revealed by a professional judge, it seems legitimate and trustworthy.

This revelation deserves attention on several levels. The ruling is not only undeniable proof of her consent to the consensual *rapto* with Manuel, but it reveals her criminal conviction for a sexual transgression. The ruling also reveals that she is pregnant, which adds on to the sexual and social transgression of fleeing with a lower-class man the fact of an illegitimate pregnancy. The punishment given her is somewhat curious since it is the same exact solution that Gerónimo Reynoso had suggested for Manuela to re-gain her honor when she was considered a victim, before this ruling. The differential punishment for Manuela and Manuel is gendered and takes into consideration each other's honor and its relation to class in society. Manuela's conviction is surely what led Reynoso to file an appeal to this ruling. He was interested in both

exiling Manuel further south—probably to set more distance between him and Manuela—and to reach another ruling that would state she was a victim. However, it is the very appeals trial what makes even more evident Manuela’s agency and her desire to marry Manuel.

In the appeals trial which immediately follows Etchevers’s decision, Manuela is notified of the proceedings. It is not clear if this is because she becomes someone who has more interest in the trial, since she is filing her own suit to marry Meneses, or because she was convicted in the first-instance trial, and, since that ruling is being appealed, its outcome concerns her.

Paradoxically, the crime she committed grants her agency and individualization in a trial in which she had never been allowed to speak or provide her testimony.

The folios regarding Manuela’s parallel procedure are presented to the court and revealed at the appeals, by the public defender’s request. In the context of the appeals trial, there is a lack of clarity about the origin and purpose of these documents, and one could think her petition was filed in the very same court in which the first-instance trial was taking place, since the same notary José Joaquín Vargas was involved. Alternatively, one could think that the procedure started at the appeals trial, since the documents are only provided at this trial and with few explanations. However, a closer look reveals that Manuela went to a completely different court to file her petition to marry Manuel Meneses.

The issue of the parallel procedure is one of the most contentious topics during the appeals trial. José Hilario Ureta strives tirelessly to retrieve the folios regarding Manuela’s petition, since he claims these will clear his defendant of any wrongdoing. They are then copied by the notary and effectively clarify what had happened. Unfortunately, the documents do not include Manuela’s original petition or any information on the court except the judge’s last name: Palma. The folios begin with Reynoso’s opposition to this procedure on the base of a legal

formality. Paradoxically, even in the documentation that stems from Manuela's agency, the overwhelming voice of the father is most present:

Don Geronimo Reynoso de Zelaya vecino del comercio de esta Capital ante V.S en la mejor forma que haya lugar en derecho, y sin atribuirle mas jurisdiccion que la que por derecho le compete, y esa declinandola en forma digo: que ha instancias de mi legitima Hija Doña Manuela Reynoso, he sido citado por este Juzgado a comparendo verbal y habiendo comparecido en su obediencia me instruí de la solicitud de la recordada mi hija, dirigida a pretender Matrimonio con Manuel Meneses (203r)

By this deposition we realize that Manuela's petition was no surprise to Reynoso when Santiago Etchevers reveals it and condemns the couple on June 15, 1824, putting an end to the first-instance trial. Geronimo Reynoso wrote this deposition on May 6, 1824, trying to undermine his daughter's agency, while the trial for Meneses's alleged *raptó* was taking place. Even after learning that Manuela was trying to marry Manuel, the prosecutor continues to argue that Manuel committed a crime. Also, Manuela's petition made her father go to another court to address her request. This is proof of her tremendous legal agency since she became herself a plaintiff arguing for her own interests and independence in a completely different court. This means she must have had some knowledge of the judicial system and of the existence of different courts, perhaps since her own father is a "jues para el Gobierno".

This is rather impressive for the early nineteenth century, since there are no other cases resembling this situation and especially given that she apparently did not have a lawyer, but argued for herself. Valentina Bravo's (2010) study shows that young lower-class women in Chile in the first half of the nineteenth century displayed considerable judicial agency in cases of *injurias*, some of them even filing their own petitions without the permission of a required male

guardian. In this case, what is impressive is that an upper-class young woman would directly challenge her father's authority in trying to marry a lower-class man and a criminal in his eyes.

However, Reynoso tries to constrain the legal agency of his daughter by referring to legal formalities, attempting to limit Palmas's court jurisdiction to oversee her petition. He argues that her petition is an *incidente* of the trial he follows in Santiago Etchever's court, so that the procedure should be overseen by him, and begs judge Palma not to take the case.¹⁸ Reynoso repeats the very same argumentation he has been providing before, referring to his daughter's innocence and the abusive seduction of Meneses, while claiming at the same time: "si doña Manuela se estima libre para contraer nuevo matrimonio debe en aquel Juzgado gestionar como corresponde" (204v). There seems to be a disconnect here in Reynoso's discourse: he recognizes Manuela's desires and judicial agency, but at the same time refers to an abusive seduction that renders her a helpless and powerless victim. This also is evidence of his use of the law of *raptó*, which will be addressed in the next chapter.

In another document among the folios of Manuela's petition, judge Palma explains how Manuela addressed him and filed her petition:

Habiendo ocurrido en mi turno pidiendo el consentimiento paterno para contraer matrimonio Doña Manuela Reynoso, y dicho que a mas de no tener como seguir litis por escasez, y intermediación al parto, alegando que era cosa distinta de la causa que sigue contra su futuro esposo su padre Don Gerónimo; y habiendo en consecuencia la reunion del consejo a familia, conforme a la ley: pasese al otro

¹⁸ In procedural law, an *incidente* is something that arises during the trial that needs to be resolved. For instance, if a defendant has the right to be declared poor and therefore have the right to an attorney without cost. According to RAE: "En un proceso, cuestión distinta de la principal, pero relacionada con esta, que se resuelve a través de un trámite especial."

señor juez este pedimento para que con la brevedad que pide el caso resuelva la declinatoria, a cuya resolucion desde ahora difiero (204v).

This decision from judge Palma to defer jurisdiction on this matter to judge Etchevers illuminates many aspects of Manuela's situation at the time of her request. First of all, we learn that Manuela wanted her father to grant her permission to marry Manuel. She did not just want to follow a procedure in which eventually her widowhood could be proved and she could marry regardless of her father's will. This was a direct appeal she made to her father through the court so that he would officially allow her to marry. Although a widow, she still needed her father's permission to get married: "Legalmente, las mujeres estuvieron bajo la voluntad de sus padres (patria-potestad) hasta los 25 años" (Valentina Bravo 174). Although certain women were able to bypass this requirement, as Valentina Bravo details in her study, a couple who was fighting an unwilling parent to be able to get married had to make a very compelling case so that judges would bypass the parent, according to Cavieres and Salinas (97). Yet, these scholars do not address the situation of young widows: Manuela is a widow—supposed to be free and emancipated from his father—yet she is 16 years old.

One of the reasons judge Palma gives for deferring jurisdiction to another court is that Manuela does not have the financial resources to follow the course of this trial by herself: "a mas de no tener como seguir litis por escasez." Although she has the judicial agency to request a petition for marrying the man she loves, she does not have the financial agency to follow the course of this trial. Her judicial agency will be thus constrained, since she cannot follow the procedure in this separate court due to her lack of resources. Her situation contrasts with that of her father, who, although systematically complaining about his legal expenses, has the financial agency to pursue the criminal lawsuit against Meneses for as long as he wishes. Her financial

vulnerability is also suggested when it is discussed that Manuela had to sell some of her clothes when with Manuel (210r).

Judge Palma also claims that Manuela had an interest in her petition being addressed in his court court by claiming: “que era cosa distinta de la causa que sigue contra su futuro esposo su padre Don Gerónimo.” Did she realize that her petition could have rendered her actions criminal when overseen by the same judge who had to decide the case of *rapto*, or did she fear her father’s influence over the judge in the first case? Also, as discussed earlier, she may have feared that someone like judge Larraín—someone clearly favoring her father—would be in charge of that petition. In any case, it is valuable to hear her own legal—or perhaps strategic—argumentation, even if indirectly and reproduced by a judge, that this matter was unrelated to the criminal trial of *rapto*. Somehow being silenced in her father’s trial triggers her desire to be the protagonist in another trial in which she can fight for what she wants.

Manuela’s speaks of Manuel as: “su futuro esposo.” This formal expression clearly contrasts with the ways Gerónimo speaks of Manuel: “este malvado” (180v), “este infame” (185v), “hombre de (...) costumbres bajas” (180v). In this proceeding, she gets to name him in a more honorable and respectable way, by calling Manuel her future husband. Although so little is reproduced from her words, she gets to challenge her father in Manuel’s portrayal.

By this document we also find out that at this time Manuela was already pregnant: “a mas de no tener como seguir litis por escasez, y inmediación al parto.” She herself must have mentioned her pregnancy, perhaps as an argument for being granted permission to marry Meneses. Also, she must have given birth during the appeals trial, since the final ruling is not until December 10 1824. It can also be inferred that her father was aware of her pregnancy at least from this date (May 6, 1824) and he nonetheless fought relentlessly for his daughter not to marry Meneses. Honor must clearly be weighed against class, since he preferred his daughter to

give birth to an illegitimate child rather than marry someone of a lower class. In this case, honor works as a contradictory system. If a judge's daughter marries a lower-class man, Reynoso will be dishonored. However, if Manuela does not marry him, he will be as well¹⁹. According to Goicovic, parents in the nineteenth century preferred their daughters not to marry the man they eloped with if they did not like him, even if it meant they would be dishonored. Apparently, they weighed both scenarios and considered that the marriage involved a higher social price.

Besides suing to marry Manuel, Manuela spoke directly to the notary José Joaquín Vargas. She addressed him so that the record would show that she was trying to marry Manuel Meneses: “Doy fee haverme dicho Doña Manuela Meneses que trata de contraer matrimonio con Manuel Meneses dicho contra quien se sigue la causa, y para que conste lo pongo por diligencia” (204r). Why would Manuela have bothered with this, even after filing for her own procedure and after her father had come to declare in it? The timeline of these documents seems relevant. The documents of both her father's deposition and judge Palma's decision related to the parallel procedure are dated May 6th and 8th of 1824 respectively. However, Manuela came to talk to the notary on May 10th.

José Joaquín Vargas was the notary for both the marriage petition and for the criminal trial of *rapto* against Manuel Meneses. When Manuela addresses him, he speaks as the notary of the criminal lawsuit against Meneses: “Manuel Meneses dicho contra quien se sigue la causa.” This suggests that Palmas's court had already deferred jurisdiction to Santiago Etchevers's court for Manuela's petition. Why would Manuela would want to make sure that in that Etchevers's court they understood the exact nature of her petition? Perhaps she was afraid of how her father could distort her words and try to overcome her will did. She addresses the notary in order to re-

¹⁹ Nineteenth-century Chilean society was very hostile against single mothers: “la comunidad reaccionaba duramente contra una joven embarazada, de manera que la condena moral y el escándalo subsiguiente solo podían evitarse con el matrimonio” (Cavieres y Salinas 95).

assert her agency in another court, the one where Manuel was being judged, metaphorically her father's turf? Did she try to make sure her voice would not be erased, downplayed or misrepresented?

At the trial no one even raises the concern that the victim's testimony has not been provided. The fact that her voice is absent from the trial does not seem to be a concern. Yet, at the appeals trial, the public defender suggests why Manuela was never able to speak during the trial:

Los juzgados olvidaron algunas diligencias esenciales, y esta omision parece se hacia en obsequio del quereloso don Gerónimo, porque siendo una la causa de ambos jóvenes no se toma una declaracion, (...) no se le toma confesión a doña manuela Reynoso o una declaracion instructiva para que se inquiriese el hecho que deponen los testigos referentes a ella. Todo esto queriendo sin duda el Padre que los resultados cargasen solo sobre el y no se desbaratase su intento con la exposicion franca y judicial de la hija. (208v)

The problem of consent in cases of *rapto* was addressed by the Council of Trent. This council aimed to promote marriage, however, they decided that in cases of *rapto* women should be able to freely state and assert their consent. According to Valentina Cesco, the Church would have certain procedures in place for making sure the woman felt safe to provide her truthful testimony. This radically contrasts with the case I study, where the woman does not speak even once, and this does not seem to be a concern for the judges. Since Trent's regulations were still valid in the nineteenth century, perhaps if a lawsuit had been filed in an ecclesiastical court, the agency and testimony of Manuela would have influenced the trial for *rapto*, with the Church as a better ally for her than the Judiciary.²⁰ However, in its local instantiation the Church had not helped the

²⁰ This is something that would be relevant to look into in further studies of *rapto*.

lovers: a priest denounced them the very first time they escaped together, and, when the couple had asked a priest to marry them, he had refused: “vio este al Cura de aquella poblacion para que los casara a lo que se negó el citado Cura, porque no lleban el consentimiento de un Padre” (188r).²¹

Manuela was a fearless 16-year-old woman when she met Manuel Meneses. Not only was she able to defy her father by pursuing and escaping with a man her father loathed and criminalized, even after he knew she was pregnant, she was willing to fight her father through the judicial system in order to get what she wanted. Although her own suit risked so much—her father’s wrath, her own dishonor at the revelation of her illegitimate pregnancy, the exhaustion of her financial resources—nevertheless she persisted. Manuela’s judicial agency also challenges models of the ideal honorable woman. Passivity and decorum were fundamental tenets of the ideal honorable woman, who was to remain chaste and secluded inside her home. Manuela’s involvement with the courts exposed her tremendously, as she interacted with older men, assertively making her claims. We also find some very scarce information about the rhetorical strategies that she used, claiming that her petition was something completely different to the procedure followed by her father.

The judicial mechanisms at the time allowed this young woman to deploy tremendous agency and to challenge and defy her father to the extent that her actions shaped the course of the first-instance trial. Her actions led to her own conviction and punishment for concubinage.

Although her voice is completely absent from the trial, and we only find out about her actions

²¹ At the time, canonical marriage was the only one available and would be until civil marriage was signed into law in late nineteenth century (Bivallos y Brito 504). According to Henry Kamen, the Council of Trent declared that couples would need a priest in order to enter a valid marriage, but this priest was only a witness, not the one performing the marriage. Therefore, the practice of people who did not comply with the requisites for entering into marriage, would be to frequently ambush priests and begin saying the vows in front on them, so priests would leave the scene in order not to be a witness to an illegitimate marriage (Cavieres y Salinas 1991).

through judges and judicial clerks, and about her words through judge Palma, she becomes the true protagonist of the case.

Putting this case next to those addressed by Plaza and Goicovic, the particularity of Manuela's situation is striking. Goicovic's analysis is extremely general and his focus is on the dynamics of *raptos* and not on the judicial agency of women. Yet, in all of the cases analyzed by Goicovic in the nineteenth century there seems to be nothing near an upper-class woman fiercely fighting her father in order to marry a poor and illiterate baker, who also wanted to marry her. Also, if we consider the case in relation to Sloan's work on nineteenth-century working class/indigenous women in Oaxaca and the influence of nineteenth-century ideals in the nature of their *raptos*, Manuela's agency appears also as a means of self-emancipation from oppressive parental authority, although Judge Palma is the only one who was potentially exposed to this reasoning. Additionally, the republican and egalitarian ideals of the time also made it more likely that a woman would fight for marrying someone from such a different background. In the next, Chapter I address the issue of Manuel's origin in detail.

Chapter 2: Polemics of Honor in Relation to Class and Female Consent

Honor was a complex matrix of “nature and nurture” in Colonial Latin America. Birth, behavior, reputation and class shaped a person’s public status. The alleged *rapto* by seduction of Manuela Reynoso is shaped by the social position and identity of Gerónimo Reynoso and Manuel Meneses. This case would have most likely had a different development and outcome if Manuel Meneses had belonged to the Santiago elite, or if Gerónimo Reynoso had been from the lower-class. The alleged *rapto* alone does not explain Reynoso’s treatment of Meneses. Although the point most emphasized in Reynoso’s depositions is that Meneses has stained his honor, this claim is intertwined with the social status of the alleged perpetrator. Social class is a key factor in the discussion of Manuela’s and Reynoso’s honor.

In this section, I argue that there are two competing notions of male honor deployed at this trial. The first one, argued relentlessly by Manuela’s father, is infused with traditional imaginaries of status, legitimacy and class. This notion is seconded by some judicial actors. The second idea of honor, defended by don José Hilario Ureta, is infused with the worldview of republicanism and liberalism. He argues for a merit-based notion of honor, available to every self-made man, regardless of fixed status—a fledgling notion of honor that was slowly being argued and admitted in courts at the time (Undurraga; Bravo). Both visions clash in this very recent post-independence trial, as Reynoso looks backward and the public defendant pushes forward. I also explore how strategies have a performative function in relation to honor and enact a certain social order.

Secondly, I analyze Gerónimo Reynoso’s rhetorical and judicial strategies in order to argue for a case of *rapto* by seduction. *Rapto* has been historically a crime deeply intertwined with male honor and property and has seldom considered relevant a woman’s consent. In this sense the term “consensual rapto” is not within the legal imagination or legal repertoire of judges

in this case. In this last part, I analyze the strategies that the father puts in place to argue a case of *rapto* by seduction and the role of consent in it. Once consent is brought to the fore, the judge convicts the couple of concubinage.

2.1 Competing Notions of Honor in Nineteenth-century Chile: Aristocratic Imaginaries Versus Republican Ideals

Honor is at the core of Manuel Meneses's trial. Gerónimo Reynoso, Manuela's father, is willing to invest his time and financial resources to maintain the honor of his house. As discussed in the theoretical framework, in this period the honor of a woman is directly tied to her family's honor. There is no or little interest in how a violent abduction or sexual aggression may affect her subjectivity, since it is considered as an affront to the man who "owns" her, in this case her father. In this section, I examine Geronimo Reynoso's notion of male honor beyond his daughter's sexual behavior to contrast it with the public defender's take on the term. I particularly focus on the ties that honor has to class and social origin.

At the trial two very specific notions of male honor are at stake. This debate has several implications. Some of them refer strictly to the context of the trial: whether Manuel should marry Manuela, how he should be punished—both potentially and how is he actually punished—in how he is treated by the judiciary, among others. Some others—while also implicated at the trial—refer to larger social issues developing during the early nineteenth century: who has a right to make an honor claim, how do judges sentence a case when the culprit belongs to the lower-class, which criteria if any are acceptable in shaping a social hierarchy and, what is the social consensus around unequal marriages, among others. Also, the way that both Reynoso and Ureta navigate the trial, the ways Reynoso and Manuel are treated by the judiciary and the use of honorable forms of address, all reveal a social hierarchy in relation to honor. Strategies in this sense are not only rhetorical but performative.

Gerónimo Reynoso emphasizes the status, legitimacy, reputation and wealth of his family as the fundamental components of honor. The first characteristics are static traits, they cannot be easily changed. These are grounded in an aristocratic tradition, and passed on, not gained. In one of the first descriptions he provides of his daughter, he appeals to the honor he and Manuela have as members of a legitimate, middle-upper class family:

Para conocer los delitos de este individuo es preciso saber quién es doña Manuela Reynoso de Celaya: Es una señorita de educación notoria honesta y de honor, hija legítima de un juez para el Gobierno, don Gerónimo Reynoso y de doña Isidora García ?, y casada con don Joaquín Vásquez Sargento Mayor a los regimientos del Perú: estas son las circunstancias de mi hija y otras que omito (180v).

Reynoso boasts here of having a legitimate family which complies with society's ideals of marriage and legitimate birth. Consequently, he emphasizes his public reputation and alliances to other honorable women. He also notes his daughter's prestige by being associated to a high-ranking soldier.²² The use of "don" and "doña" as applicable to all the members of the family is an extremely important mark of honor and class. This term was a designation for the nobility in the 16th century (Johnson and Lipsett-Rivera 1). Later on the term evolved to encompass all the concepts associated with honor: legitimacy, class, status and reputation. It would not be until the nineteenth-century that the appellation "don" or "doña" would democratize itself and slowly begin to be associated with good reputation, something accessible to lower-class people.²³

²² Soldiers were considered honorable positions. They could not be stripped of their honor publicly, since they were prohibitions against whipping them (Johnson, Lipsett-Rivera 1998)

²³ In her study of lower-class women plaintiffs for *injurias* in the first half of the nineteenth century, Valentina Bravo claims that these women had a claim to honor even though: "ello implicara gastar altas sumas de dinero y exponer públicamente el caso ante la comunidad" (173). The women in this study speak openly about deserving the appellation "doña". Placing this insight in relation to Johnson and Lipsett-Rivera that in the colonial period the lower-classes would have never openly claim honor, this speaks to the changes brought by the post-independence period.

Additionally, since occupation was an aspect of status, being a judge sets him at the top of the social ladder. Public office was at the highest level of the honor system while manual work was dismissed and disdained. Although this was changing in early nineteenth century, these ideas still resonated with judges, particularly with those who did not have a legal background.

The bias that certain judicial actors exhibit towards Reynoso speaks of his privilege and the respect they have for him as a judge. Geronimo's claims are not based on long-gone fantasies of honor, but on prevailing social structures. Judge *alcalde* Agustín Larraín actually defers to Reynoso. Although this judge is himself part of the upper-middle classes, he is extremely diligent and servile with Reynoso. Larraín also insists on the delicacy with which Manuela needs to be handled when detained: “a efecto de que sean aprendidas sus personas y conducidas a mi juzgado con la posible seguridad principalmente del dicho Meneses y a ella con la moderación y cuidado que corresponde a su persona (...)” (179v). He is clearly observing a social hierarchy of honor and class. According to José Hilario Ureta, even in the appeals trial—which Larraín should have nothing to do with—Larraín keeps on favoring Reynoso: “el Alcayde que obró tan originalmente en el primer proceso y sentenció, es el que con imprudencia se apersona defendiendo a Reynoso en este continuativo de aquel, acusando con los resultados de su sentencia pidiendo como parte se ejecute lo que obró como Juez” (211r). In this sense, the very judicial behavior confirms and upholds Reynoso's notion of honor.

The prosecutor also bolsters Reynoso's aristocratic notion of honor, shaped, among other things, by wealth, status, legitimacy, class and social origin. He systematically emphasizes that Manuela and Manuel are not equals, by claiming that Manuel is of a lower-class and even “indecente respecto de la clase de Don Geronimo”(194r). He even brings to the fore notions of honor that allowed private vengeance and depicts Reynoso as a restrained gentleman, respectful of the laws. He addresses the judge:

pongase Ud en lugar de un Padre, que debe conservar el honor de su casa y de su familia por aquellos medios que dicta la prudencia, y hallaré que Don Geronimo aun procede con moderacion por conservar el honor de una hija que se halla prostituida a la liviandad de un hombre indecente respecto de la clase de Don Geronimo, y esta moderacion se hace mas demostrable si se atiende la L.b. Tit 20. Libro 8 de la Recopilacion, y la 13, tit 17, part 7 (194r)

The notion of honor deployed by the prosecutor also foregrounds the duties that honor implies. In this sense, Reynoso's behavior also magnifies his place as honorable father fighting for his family's honor and be in charge of the household. This is an aspect of male honor that Reynoso himself systematically revisits. He is the head of his house and he strives to regain its honor: "toda mi casa juiciosa queda con esta mancha" (180v); "mi casa quedase en sosiego" (184v); "mi casa toda trastornada, y yo abergonzado con esta tragedia" (193v); "No hay otro arbitrio ni temperamento que tomar en la presente causa para que esto se concluya y mi casa quede tranquila" (193r).

A fundamental part of Reynoso's positioning as a person of honor is to indirectly claim that Meneses does not have honor, because of his social origin and class. He describes Meneses as a low-life and lower-class: "Este infame (...) ha cometido todas estas bajeñas" (185v). He compares him to her daughter's husband by highlighting that the latter is fighting in Perú, appealing to the honor linked to being part of the military: "este hombre de (...) costumbres bajas, tiene enteramente perdido este matrimonio, sin que haiga remedio ni arbitrio, y nada menos que de un Jefe que ha peleado, y está peleando nuestra sagrada causa" (180v). Even though the husband is fighting for the independence of a neighboring nation with the Liberating

Expedition of Peru, Reynoso sees no contradiction between praising someone who is working for a nation's liberation from colonial rule and reinforcing aristocratic privileges.

Punishments themselves show how honor and class were intertwined. Historically, since the colonial period, lower-class subjects received corporal punishments, such as whipping and shackles (Araya "La Pureza"). Reynoso suggests both be applied to Meneses: "en su virtud es de necesidad ponerle grillos, insinuarle pena de azotes, si no confiesa y entrega a la dicha mi hija" (184r). According to Araya ("La Pureza"), whipping was a punishment of public humiliation, intended to dishonor someone. In this sense, it was intended to delineate the social hierarchy and reinforce the divide among people by honor and class. In 1818, a provisory Constitutional project established that whipping was a punishment only for those who had lost their *honra* because of the publicity or repetition of his crimes.

Later in the trial, Reynoso would not speak hypothetically about whipping Meneses, but of actually doing it: "es de necesidad que su justificacion mande se le pongan dos varras de grillos y si no confesase en el día en donde tiene a mi hija se le den cien azotes" (185v). That these types of punishments—considered dishonorable—were acceptable for lower-class people and could be argued in court is proof of how intertwined class and honor were during the early nineteenth century. These punishments also shed light on how Reynoso saw Manuel Meneses: as someone from an undignified social group who deserved humiliating penalties. Therefore, he would never welcome him in his family. Unequal marriage is implicitly an abhorrent transgression for Reynoso.

The prosecutor also emphasizes the relevance of class when discussing a place for Manuela's reclusion. He suggests that Reynoso can appeal to the Diocesan Bishop so that Manuela can spend time in a monastery to re-gain her honor, since this is the right place for women of her class "con respecto a no presentarse en el dia otro lugar que sirva de corrección a

las personas de la clase de Doña Manuela” (194r). He embraces this notion of differentiated punishment according to class.

Although it is not said explicitly that poor people do not have honor, it is strongly suggested that they do not. Yet, from the first time Manuel’s father speaks, he emphasizes that Manuel is his legitimate son: “Francisco Meneses natural de la población de Nancagua partido de San Fernando casado padre Legítimo de Manuel Meneses” (173v). Franco Meneses uses this strategy relying on conservative, non-merit based notions of honor. This speaks of how vulnerable groups would rely on what was at their disposal to make honor claims. Yet, José Hilario Ureta argues that all peoples can be honorable if they work for it.

The public defender provides a 10-page defense of republicanism, and of love regardless of social impediments, in which Reynoso functions as the embodiment of everything he fights against: “El acusador Don Geronimo Reynoso olvidó todos los tiernos deberes de Padre por haverse entregado al furioso desdén con que la codicia humana mira al pobre, al hombre indigente” (206v). José Hilario Ureta argues that Reynoso, inspired by greed, dismissed Manuel as someone poor and lacking any worth. However, he claims that although poor, a man can be honorable, if he works hard: “llenar el primer deber de hombre andando con sus petacas haciendose ellas la ejecutoria de su honor para merecer cualquier enlace ¿Y seria indigno para ser amado y no capaz de llamarse hijo de don Geronimo Reynoso?” (207v). Though he might have occupation as modest as delivering bread, a man is worthy of honor because the work ethic itself is what uplifts him. According to Ureta, this honor, stemming from hard work, is enough for any marriage and undoes any claim that Manuel wanted to take Manuela’s honor from her: “Quien tal honor para si tenia no podia ser odiado ni haver pensado manchar el honor ajeno” (207v).

Ureta argues that honor stems from a work ethic, especially for someone from the lower classes, since young men like Manuel Meneses are usually vulnerable to many temptations: “No profundicemos mas, el joven que no desdeñó arrastrar las petacas de pan por no arrastrarse en los crímenes, en la estafa, y en una infame miseria, es muy digno” (209r). Manuel’s dignity stems here from being a self-made man. Although he did not have class privileges by birth, he managed to resist all the alleged temptations associated to his world. Ureta claims, in a somewhat patronizing manner, that this is what usually happens to young men like Manuel: “Joven con aspecto recomendado que ufano con él pudo abandonarse al vicio y ociosidad, como dolorosamente lo vemos con frecuencia” (207v). Vagrancy, marginality, and vice were strongly associated with the lower classes at the time (Araya “Ociosos”).

Ureta’s notion of a work ethic is closely tied to republicanism and liberalism and the ideas associated with them. Individual value, meritocracy and equality were core tenets of both movements. Ureta underscores these values and claims Gerónimo Reynoso is completely outdated. Merit is the criteria by which to measure a man’s value at the Republic’s dawn:

Para impedir esto ¿de donde viene tanto alegar calidad y circunstancias del Señor reynoso, y alejar como indigente a Meneses? En un estado Republicano donde reina la igualdad, y solo interesa el merito, para todo beneficio dignidad y estado ¿se recuerdan todavia esas muertas, holladas y quiméricas prerrogativas? (...) hayanse dichosos esos dos caros miembros de la Sociedad (209r-210v).

The public defender describes Chile as a country in which the ideals of citizenship and equality have been sufficiently absorbed. With a rhetorical question he wonders if people actually even remember the basis of a conservative notion of honor. This is a strategy to dismiss his adversary’s concerns, although he is exaggerating. Though the ideas of liberalism were shaping

public debate, policy-making and intellectual life, they were also contested and even interpreted in several contradictory ways in Chile.

Ureta claims that a man like Manuel may reach anything through honor gained from hard work, including marriage to an upper class woman. He suggests that Manuel and Manuela are on equal footing in society, as which both of them have exactly the same rights. These ideals are core tenets of the notion of equality before the law of the nineteenth century. However, these ideals did not bring real equality, since they did not provoke structural change.

Also, Ureta addresses with irony certain distinctions that allegedly honorable people have such as the privilege of being referred to as “don” or “doña”: “de los desgraciados Manuel Meneses sin Don por pobre” (206r). Although at the beginning of his discourse he refers to Reynoso as “don” and to Manuela as “doña”, he deliberately dismisses those marks of honor at times and refers to Manuela as “la Reynoso” or to her father as “Reynoso” or “anciano invencible.” This strategy is not only discursive or rhetorical but performative. He is enacting a challenge to the core of the conservative system of honor: the hierarchy among subjects. Yet, it is interesting that he mixes these provocations with calling them “Don Gerónimo Reynoso” and “Doña Manuela.” Perhaps it was too dangerous to fully subvert the social norm and the privilege of being referred to as “don” or “doña.” Therefore, he only allows himself this restrained provocation, detaching them momentarily from their privilege. With this course of action, he himself proves that conservative ideas of honor are not yet completely irrelevant in early nineteenth century Chilean society.

In this section I have argued that two notions of honor are in contrast. Both Reynoso and Ureta provide a compelling, all-encompassing and articulate notion of honor that they strive to prove is the prevailing one in society. One, defended by Reynoso and other legal actors is a conservative, class-based notion of honor intended to uphold strict social hierarchies and to

assert honor as the construct through which everyone has an exact and fixed place in society. If this limit is crossed, punishment is—and should be—shaped by social origin, castigating insubordination from the lower-classes in humiliating ways. Consequently, unequal marriage is an affront to society's values, somehow referring the Pragmatic sanction of 1776 which bolster parental authority in order to avoid unequal marriages. In this sense, this concept of male honor reinforces the power of the father to administer and sanction his family's destiny, constraining individual freedom. In contrast, Ureta argues for a more egalitarian notion of honor which allows people of the lower classes to stake a claim to honor by working hard and being respectable. He challenges notions of honor based on inherited or fixed status unrelated to a person's efforts and merit. Therefore, he welcomes "unequal" marriage as a benchmark of a republican and egalitarian society.

Competing notions of honor are deployed at this trial as rhetorical strategies either to reject or embrace someone as deserving dignified treatment, being allowed to marry someone of a different class, or being awarded a certain punishment. Yet Reynoso's efforts in situating himself as honorable are performative. He not only argues for a notion of honor, but proves it still exists through the way he navigates the trial. He actualizes the use of "Don" at every deposition or petition and demanding and receiving special treatment by the judiciary, the social hierarchy associated with traditional honor is enacted. In this sense, his strategy has a scope and effect beyond appealing to a particular notion of honor or worldview, since he is doing this not only in the sphere ideas, but embodying his claims. Although it could be argued that Ureta does the same by calling him "anciano invencible" or calling Manuela "la Reynoso" he does this carefully, because the social hierarchy associated to honor is still prevalent. In this sense, Reynoso's notion of honor at this trial and the way it is received by the judiciary suggests that

this view is still the dominant one. However, emergent elements of a new worldview are also assertively—but carefully—displayed at the trial.

2.2 Arguing for *rapto* by Seduction: Geronimo Reynoso's Strategies for Ignoring Consent and its Relation to Honor

Since we know that Gerónimo was aware of Manuela's intent to marry Manuel because of her petition, it seems striking that he pursues a case of *rapto*. Yet, why does he argue for a case of *rapto* by seduction, when *rapto* by force would have been more serious and compelling? In *Las Siete Partidas*, *rapto* by seduction is one of the two modalities that Alfonso X crafted for the crime. He even devotes a paragraph to explain why it is a very serious wrong, since it makes women do things they would not have done without this persuasion. However, this crime required women to be honorable and of good reputation in both its modalities: “En ambos títulos era necesario que las mujeres fueran de buena fama, cuyas vidas fueran consideradas honestas y que las sacaran de su lugar de residencia” (Plaza 167). Only honorable women were considered valuable and worthy of protection. Consent for sexual transgressions was not presumed in their cases. Yet, if Manuela was willing to marry Meneses, what does it say about *rapto* by seduction that judges assume her lack of consent?

In this section I analyze the concept of consent and its relation to the crime of *rapto*. I argue that legal actors at the trial, and particularly Gerónimo Reynoso, radically ignore Manuela's consent and focus on formal legal aspects, actualizing a tradition that values *good* women as the valuable property of a man. Traces of Manuela's consent suffer attempted erasures and effective erasures by Gerónimo Reynoso and by the prosecutor even after they are unequivocally informed of her attempts to marry Manuel Meneses. Therefore, in this section, I focus on the father's strategies to argue for a *rapto* through the erasure of Manuela's consent. I

address Reynoso's case of *raptó* by seduction and how this concept works as a legal tool for hiding consent.

Reynoso thinks he only needs to prove that his daughter leads an honorable life, had a good reputation and was taken from her home to establish that a *raptó* has been committed. This actually works, for a while. However, from the beginning, evidence points in the direction of Manuela's consent. The first document that the written trial provides is a deposition from Antonio Figueroa. He is a man who was obligated by the judge to go and find Manuela and Manuel the first time she was allegedly abducted. The second deposition is from Leonardo Ibarra, a co-worker at the bakery where Manuel works who went with Figueroa to find the two of them. Part of his declaration states the following:

Que es cierto que había andado Manuel Meneses con doña Manuela Reynoso el tiempo que se expresa más o menos; pero fue porque ella misma en esta primera vez lo fue a buscar a la casa panadería donde trabaja Meneses y el exponente. Que después en la segunda ocasión hallándose ya la mencionada doña Manuela depositada en casa de Don Ramón Aris, también se salió ella y vino a la panadería a buscar a Meneses de donde resultó que se fuese con ella la segunda ocasión (168r-169v).

Paradoxically, Ibarra is Reynoso's witness. By the end of the written trial the public defender will make fun of this counterproductive testimony.²⁴ Ibarra establishes without a question that Manuela orchestrated the escape with Meneses and that she did this on a second occasion, as well. The following page after this testimony is missing (169r), so we are left in the dark as to if there was a reply from Reynoso to this testimony. On page 170v, Reynoso speaks of two

²⁴ "no habia mas que los dos Testigos que declararon contraproducentemente lo que se asustó Reynoso para continuarlo" (201r).

witnesses who went with Figueroa to find Manuel and Manuela the first time. Here he insists that these witnesses (someone else besides Ibarra who we do not know) should declare exactly what they saw and if they knew that Antonio Figueroa was “compadre” with Manuel Meneses, trying to imply that he influenced Ibarra.

The strategy he follows is to ask the judge to compel these witnesses to come to declare. If they do not come, according to Reynoso, they should be punished: “para que escarmienten se ha de servir mandar conforme a la ley de Castilla que el declarante Figueroa los haya de orden de V.S. bajo la multa de sinquenta pesos, y en su defecto tres meses de prisión [tachado, ilegible] si en el término de quatro horas no los presentase en la oficina” (170v). These witnesses do not ever appear at the trial and Reynoso does not follow up on this. Perhaps he considered it a better strategy to let go of them than trying to contest their damaging testimony. Paradoxically, both judges in charge of the first trial—Larraín and Etchevers—do not pay attention to Ibarra’s testimony. His low class status as a poor baker, just like Manuel, may have influenced his credibility.

One of Reynoso’s most compelling strategies of Reynoso to erase his daughter’s consent is the very claim that she was a victim of *rapto* by seduction “rapto de una hija de familia, honesta y seducida” (175v). Yet, why not pursue a claim of rapto by force, a more serious crime? Reynoso is aware that there are many factors that could challenge the claim that his daughter was taken against her will, although he also has some leverage to argue this because of the family’s position in society. First of all, his daughter is married—allegedly, since there is some debate about whether she is a widow— to a high-ranking soldier from the Liberating Expedition of Peru, a marriage that is honorable. Also, she is a member of the upper-middle class, which already assumes a status of chastity and respect. As discussed in the first chapter, these identities are linked to assumptions in the early nineteenth century about behavior, that at least primarily,

for an allegedly honorable woman, imply that it would be unlikely for her to commit sexual transgressions.

To Reynoso's disadvantage, by contrast, there are also several issues. Although Reynoso only alludes to this in passing, Manuela is also a mother of a 2-year-old baby, and pregnant. This also complicates his claims, because it speaks of her maturity and the improbability of her being seduced or persuaded. Moreover, although an important part of his argument as to why Manuela would not willingly escape with Meneses is that she is married to an honorable soldier, this seems at odds with claiming that she is inexperienced and therefore vulnerable to persuasion: "como joven de edad 16 años sin ninguna experiencia, honesta, la engañó con facilidad con sus palabras inicuas" (185v). This could in part explain why—as analyzed in the first chapter—Reynoso is so unsure about which of Manuela's identities to assert. It also seems very strange that Reynoso, with all his resources—which become apparent in the course of the trial, as he protests his expenditures²⁵—, cannot find someone who will declare regarding his daughter's innocence or chaste character.

Yet, Reynoso passionately argues that his daughter is innocent and was seduced and persuaded by Meneses: "ultimamente la seduccion, y poder fue de el, y ella no lo podrá obligar en manera alguna" (192v), as if implying that only men can practice seduction and reinforcing Manual's passive role. Reynoso was likely aware of the weaknesses in his case, especially

²⁵ Reynoso's complaints systematically about his expenditures: "gaste porcion de pesos en la causa, también en las diligencias de buscarlo y de recoger a dicha mi hija"(184v); "después de infinitos gastos" (184v); "Pasan de mas de seiscientos pesos en lo que este malvado me tiene grabado"(193v). Because of his continuous protests, the judge offered him the possibility of switching the modality of the trial to follow the procedure "de oficio" or by public initiative, which would spare him costs: "Sin embargo de que por escusar gastos a Don Geronimo Reynoso se habia mandado a fojas se siguiere esta causa de oficio, se le corre traslado y en su contestacion expondra si quiere se continue por la via de acusación" (189r). However, he prefers to follow with the modality of private accusation, since then he has more control in the trial and can keep on being the most present voice of it. This is a very clever judicial strategy, since this allows him to pay for parties to go look for the couple when he determines it, among other things. Yet his claims about his expenditures can be read as a decision rhetorical strategy to emphasize his wealth and commitment to the trial through his expenditures. Then, these complaints would only have a symbolic purpose, because he prefers to have control of events and does not really wish to yield power to the judges, particularly not to a lettered judge.

because he was himself a judge. In this sense, he may have chosen *raptō* by seduction since it is more difficult to contest than *raptō* by force and is an easier strategy for sidestepping the issue of his daughter's consent.²⁶ It would only take a witness declaring that he saw the couple together and Manuela seemed enthusiastic to dismiss the claim of *raptō* by force. However, *raptō* by seduction sidesteps the consent of honorable women by assuming they are inexperienced and are not ready to assess or fully understand a man's seduction efforts. Additionally, judicial actors in this case interpret *raptō* as its original meaning in early Roman law: as coerced seizure. Consensual *raptō* does not exist for them, then Reynoso is arguing for *raptō* as a legal loophole—in a loose sense—for dismissing Manuela's consent since there is no chance that her consent can find her way into a *raptō* accusation. He probably did not expect that his behavior would be later codified as another sexual transgression.

Reynoso's strategy is very successful since judge Larraín becomes convinced that Manuela was the victim of a *raptō* exclusively through his testimony: "Mi amigo y señor Don gerónimo Reynoso me avisó que le de esta en que acredite que Manuel Meneses está en la cárcel, a mi disposición para informarle causa por haberle robado su hija" (177v). Another voice that seems convinced that Meneses is guilty of *raptō* is the prosecutor. He alleges that the crime of *raptō* is proven already: "El delito se haya comprobado con todas sus circunstancias en la confesión del reo corriente a fojas 10 V.S es inclinado a la justicia y es necesidad que se escarmiente al delito como corresponde" (181v). However, all that is being considered to decide whether a crime was committed is Manuela's and her father's reputation, since nobody raises any concern at all about hearing her testimony. In this sense, the figure of *raptō* by seduction works effectively as a legal tool to hide Manuela's consent from the judges.

²⁶ Unlike other Latin American nations in post-independence, such as Mexico, Chile had not established an age limit for *raptō* by seduction, which made this modality of the crime very abstract.

Yet, once judge Etchevers learns of Manuela's petition to marry Meneses the situation abruptly changes since her consent can no longer be ignored. The legal categories switch radically from *rapto* by seduction to concubinage, and consequently Manuela goes from being a victim to a criminal. At the heart of this change is the unequivocal evidence of Manuela's consent, which was hidden behind the fragile and equivocal legal figure of *rapto* by seduction. However, this new development also turns her into someone who violated the law and deserves punishment for it. Since legal actors at this case did not have within their legal imagination or repertoire the notion of "consensual *rapto*" they subsume the couple's actions under a different crime. Consent is so alien to the notion of *rapto* in their legal framework that the actions undertaken by the couple need to be radically re-assessed, although the new crime adscription may be forced.

Reynoso, however, is not intimidated by the new developments and he appeals the ruling. He insists that his daughter was seduced from the beginning, and the fact that she may have fled with Meneses after this first seduction should not change things. In his depositions during the appeals trial, he never addresses the fact that Manuela was convicted, focusing instead on securing a harsher punishment for Meneses and repeating and enhancing his arguments about the alleged *rapto* by seduction. This way, he categorically ignores her consent and her agency both in the *rapto* and in her own petition, and keeps on arguing she was a victim. In this sense, the appeals itself works as a judicial strategy that allows him to continue to have a forum to both defend his family's honor and establish as much distance as possible between Manuela and Manuel:

La sentencia que hoy reclamo lo indulta del presidio de Baldivia en atención a que el ultimo rapto de la joven se dice no ser tal, y que ella voluntariamente lo buscó, notese que este dicho es del complice en el delito, y de la parte interesada en la

absolucion, asi es que nada prueba, y nada arguye en favor del reo, pero quando el dicho fuera de la mayor atencion y solemnidad, vease que ese hecho voluntario de Doña Manuela aunque el reo no la vuscase entonces ni la solicitara, el resultó del alago y de la primera seducion (199v).

Reynoso completely ignores that the ruling and the adscription of consent to his daughter came from the judge. He claims that it is only the public defender and the “complice del delito” Manuel’s father, who argues for Manuela’s consent.

During the appeal, he adds other arguments to his strategy by focusing on the alleged impossibility of the marriage because of Meneses’s criminal status: “como reo delinvente no puede casarse, ha pedido la ciudadanía para varios capitulos, de nuestra constitucion, y principalmente el articulo 13 del titulo 2º, por hallarse procesado criminalmente” (196v).²⁷ It becomes evident—in conjunction with other events—that Reynoso’s purpose all along is for Manuela not to marry Manuel, because of his social origin and class. However, one wonders why that is not asserted by Reynoso. His strategy seems to be to win on both fronts in terms of honor: establish that his daughter was a victim and prevent a dishonorable marriage. Therefore he desperately focuses on formal aspects of the law to protect his honor, which allows him to take his daughter out of the equation, while trying not to address the real reasons he does not want him within his family, since this would imply Manuela’s desire to marry Meneses. His rhetorical work is certainly masterful. His focus on formal legal aspects is a strategy that he develops since the first trial, during which he argued that judge Palma’s did not have jurisdiction to oversee Manuela’s petition because “la aspiración de doña Manuela es una incidencia de aquel Juicio.”²⁸

²⁷ This directly contradicts the judicial practice in cases of *rapto* where the process would be solved by victim and alleged perpetrator entering into marriage.

²⁸ See footnote 18 for “incidencia.”

His argument becomes even more formal²⁹ (in the sense that consent can be dismissed as long as the technicalities are present) when he seems to argue—in a somewhat contradictory and convoluted way—that just because the law thinks of *rapto* as something non-consensual, it is impossible that she had consented:

la Ley es terminante y llana, y declara violencia no solo la que resulta de la fuerza si no tambien aquella en que la mujer se rinde por alago, y los jurisconsultos reputan igual la violencia del rigor y amenaza a la del alago, y seduccion quando recae sobre alma debil pueril o femenil, a si es que aun en el caso de no tener parte el reo en el ultimo rapto, y aunque libremente se huviese hido a buscarlo Doña Manuela, ella yba violentada (...) amparada, y sustraída tan rapto este como lo demas, y burla el fundamento de la sentencia, por lo que nada importa que ella fuese por sus pies, y que por su voluntad, pues esta era seducida, y violentada porque el segundo modo de violentar que distinguen las leyes sobre los pechos debiles. (199v-199r)

Note the contradiction: “aunque libremente se huviese hido a buscarlo Doña Manuela, ella yba violentada.” Gerónimo Reynoso offers his own theory on *rapto* by seduction, as if we could withdraw women’s consent for good just because allegedly the first interaction was mediated by seduction. Gerónimo Reynoso erases and hides his daughter’s consent behind formal legal structures regarding the crime of *rapto*, the alleged impossibility of Manuel Meneses entering into marriage and other technical moves. This strategy is bolstered by the prosecutor who, among other things, claims that: “la mujer siendo honesta se presume forzada según la L 1a, tit 19, partida 7. a no ser que medien circunstancias que acrediten su consentimiento” (213v), therefore reinforcing the notion that all that matters is the woman’s reputation in order to annul the possibility of her

²⁹ Although I use “formal” in the sense of legal technicalities and of aspects in opposition to the content and purpose of the law, it could be argued that the “spirit” of the law of *rapto* was to dismiss consent all along.

consent. Both ground their arguments in a legal tradition that ignores women's autonomy if they are deemed honorable and respectable.

In this section I have analyzed Geronimo Reynoso's strategies for erasing his daughter's consent. He turns to both judicial and rhetorical strategies in order to hide his daughter's consent from the judges. The very first strategy is to file a lawsuit for *rapto* by seduction, since this is a much blurrier and difficult to disprove claim, especially given Manuela's identity as a married and upper class woman. Reynoso turns to several legal technicalities and formal aspects of the law in order to prevent the judges from noting his daughter's consent. Probably his legal training as a judge allowed him to know best how to navigate the trial. In this case, *rapto* by seduction works as a legal tool—or legal loophole, considering that there is no “consensual rapto”—for dismissing a woman's consent. Therefore, part of the strategy is to keep on arguing that this is what happened. Reynoso's rhetorical efforts are masterful since he is balancing two conflicting goals in a time where marriage was widely seen as a means for the restoration of honor: to re-gain his daughter's and his honor by portraying Manuela as victim and completely ignoring her agency, while dismissing the possibility of a marriage because of technical legal reasons.

Final Reflections

In this project I have looked at several legal actors at the trial and examined their strategic behavior both in terms of rhetoric and judicial moves through the lens of gender, honor and class in a case of *rapto*. The various strategies deployed by Manuela, Manuel, José Hilario Ureta, Gerónimo Reynoso, the prosecutor and the judges is evidence of a constellation of complex interactions guided by assumptions, social norms, and hierarchies. I believe that though studies focusing on legal-judicial cultures are a fascinating contribution to legal history and legal sociology, much is lost by not addressing these complex interactions—including alliances, rivalries, subtleties, deference, defiance, performative efforts, among others—between legal actors. The strategies are very varied and although some of them are neutral—they could be used in any trial for a different crime—, all of them are strategically deployed in this case. To challenge this claim, it would be necessary to assert that *all* legal-judicial behavior is strategic in nature, which I would primarily dispute, although certainly the judicial arena is an extremely strategic sphere.

Some of the strategies deployed are more closely linked to the fundamental aspects at play regarding a case of *rapto*. Strategies related to assumptions about women and their interplay with honor are at the core of the foundation and the tradition around this crime. Reynoso takes advantage of the tradition to erase Manuela's consent, by focusing on formal aspects of the law and her reputation to shield the judges from ascertaining it. Paradoxically, what would have benefited her in a case of sexual violence, hurts her here. However, she manages to defy Reynoso's parental authority and make her voice—albeit indirectly—heard at the trial. Although *rapto* is usually associated with female victimization, in this case—against all odds—it works as a means of self-determination and emancipation from oppressive parental authority. Yet, this practice seems to have been pervasive in nineteenth century Oaxaca. However, women in that

context received more support from judges because their marriages—although disapproved by parents—were among equals. This is one of the merits of Manuela’s struggle for freedom. The extreme disparity between lovers is one of the hallmarks of this case.

Early post-independence nineteenth century Chile provides a crucial moment for examining how social systems are reinforced, challenged, or not challenged at all. Although a traditional system of honor and its intersection with class is slowly being challenged in the light of the ideas of the period, the same is not true for gender. Early nineteenth century held oppressive, dichotomic images of women which were upheld at this trial. This speaks of the complexity and discontinuity of social change. Although access to honor from the lower classes was opening as a possibility, women still had to be honorable and respectable for their allegations to be taken seriously.

Archival information

This case stems from research I conducted in the Chilean National Archive of cases of *rapto*. During the colonial period, most cases are either kept on the catalog of the *Real Audiencia*, the highest court of appeals during the colonial period in Chile or in the catalog of *Capitanía General de Chile*. Although the latter was not a judicial institution, during the colonial period it was not unusual from executive authority to have jurisdiction over judicial matters. In late 18th century, most larger cities began keeping their own judicial archives called “Judiciales.” Many cases of *rapto* are also found in these catalogs.

The case under study is a 1823 criminal lawsuit filed in a first-instance court in Santiago, Chile. The complete file of the case includes 96 folios. Although it is classified as belonging to the catalog of the *Real Audiencia*, by 1823 this tribunal had been shut down, so the case was most likely misclassified³⁰. The trial follows its course in this court until the ruling is appealed and taken by the newly founded Santiago court of Appeals. The first-instance court specifics are unknown, however, the names of judges and judicial clerks are provided.

I accessed the manuscript of the trial was accessed from an online digital collection of the Chilean National Archive called “Mujeres al Monte en el Chile Colonial: historias de fugas, anhelos y amor”³¹, which also provides other judicial files of *rapto* and other sexual transgressions committed at the time. The very first two pages of the document (167v-167r) only provide half of the image, so they were not transcribed. The way the digital photographs were taken left a little bit of each lower and upper margin of most of the pages missing. Before

³⁰ This may have been because cases of *rapto* were deemed extremely serious and thereby fell into the jurisdiction of the *Real Audiencia* (Albornoz 54).

³¹ The case can be accessed here: <http://www.archivonacional.cl/sitio/Contenido/Objeto-de-Coleccion-Digital/71931:Manuel-Meneses-criminal-en-su-contra-por-rapto-de-Manuela-Reinoso-1823>

providing the full transcription, I include a detailed summary of the case. Pages 169r, 178v 197r are missing.

I transcribed the document relying on the norms established in the “First Inter-American Archival reunion” (Cortés 97). For capitalization, the rules of contemporary orthography apply. I added accent marks and punctuation only when necessary for clarification. I expanded abbreviations in titles and in the body of the text. I have included the word “rubricado” when legal actors draw their signature next to their printed name and the word “rubrica” when only the signature is present. I also have separated words when two or more words are written together. In relation to spelling, I respected all the rules established in the First Inter-American reunion (Cortés 97):

-the letter *h* remains if unnecessary and I did not add it if missing

-contractions *del, della, dello, desta, ques, questa* remain

-Letters *f, g, j, h, ph, th, x* remain as present in the document

-Letters *c, ç, s, z, ss* remain as present in the document

-Double letters remain only in the cases of *ss* and *nn*

-The sign & is transcribed as *e* or *y*

-Capital *r* with the function of *rr* will be transcribed as the latter, except at the beginning of the word

-In case of different usage, letters *b, v* and *u* are transcribed as are most often used in the document.

Transcription of the case: “Manuel Meneses criminal en su contra por rapto de
Manuela Reinoso”

168v

(...) salido en su busca, que a eso le convenció que ella será la culpada en esa parte y no el: que es cierto que al declarante como apoderado de ambos se le obligó para el señor juez en esta causa a que la entregase creyéndose era savedor de su paradero de la precisada Doña Manuela concediéndosele sólo el termino de veinte y quatro horas en q tuvo q practicar muchas diligencias para no allargo: que el exponente consiguió sorprender a ambos con peligro de su vida qué eso lo consiguió a eso de la una de la noche conduciendo a ella a casa de su Padre, y a Meneses a la del exponente. que lo que lleva expuesto es la verdad a so cargo del juramento dicho en que se afirmó y ratificó siendole leyda su declaracion es de edad de más de treinta años, no le tocan las generales de la ley y la firmo de que doy fee

Antonio Luis Figueroa [rubricado]

Ante mí,

José Joaquín Vargas
Escribano Público [rubricado]

2º

Leonardo Ibarra

En veinte y siete del mes de agosto del presente año. La parte de Don Jerónimo Reynoso de Celaya para la información que el tiene ofrecida presentó por testigo a Leonardo Ibarra quien juramentado en la forma acostumbrada prometió decir verdad en lo que supiere y le fuere preguntado y siendo examinado al tenor del escrito de querrela ...dijo: Que es cierto que

dos reales

168r

SELLO CUARTO VALE PARA LOS AÑOS DE MIL
SSSSS OCHOCIENTOS VEINTE Y TRES, Y VEINTE Y CUATRO

había andado Manuel Meneses con doña Manuela Reynoso el tiempo que se expresa más o menos; pero fue porque ella misma en esta primera vez lo fue a buscar a la casa panadería donde trabaja Meneses y el exponente. Que después en la segunda ocasión hallándose ya la mencionada doña Manuela depositada en casa de Don Ramón Aris, también se salió ella y vino a la panadería a buscar a Meneses de donde resultó que se fuese con ella la segunda ocasión. Que habiendose obligado a Don Antonio Figueroa por el señor juez de esta causa para que buscarse a Meneses y a Doña Manuela, convidó al declarante una noche para buscarlo, y al cabo de varias diligencias dieron con ellos en el lugar que llaman Guangualí en un rancho como a las doce de la noche; que allí los encontraron á los dos durmiendo [tachado] juntos estando también en dicho rancho la criada de Doña Manuela y otra mujer que no conoce la que expuso ser la dueña de casa: que a esa misma hora los trageron a los dos, quedando la suso dicha en poder de su Padre y Meneses pasó al destino en que se halla que el mencionado Don Antonio Figueroa es compadre de

Meneses solamente de boca porque así llama al exponente y a otros varios de la panadería. Y que esta es la verdad en que se ratificó, siendole leída su declaración que es mayor veinte y cinco años, y que

Medio real

169v

SELLO QUINTO, VALE PARA LOS AÑOS DE MIL
SSSSS OCHOCIENTOS VEINTE Y TRES, Y VEINTE Y QUATRO

aunque le tocan las generales de la ley por parentesco que tiene el exponente con el mencionado Meneses no ha faltado a la verdad y Sagrada obligación del juramento no firmó porque dijo no saber de que doy fé

ante mí

Jotae? [rubricado]

Dos reales

170v

SELLO CUARTO VALE PARA LOS AÑOS DE MIL
SSSSS OCHOCIENTOS VEINTE Y TRES, Y VEINTE Y QUATRO

U.te

Don Gerónimo Reynoso de Celaya en la causa criminal contra Manuel Meneses, por raptó, conforme a derecho digo. Que a mi derecho conviene que los dos testigos que acompañaron al declarante Figueroa y que a estos solo dicho declarante los conoce como que fueron con el a traer a dicho Meneses; y que estos hagan su declaración al tenor del escrito presentado, declarando asimismo en que lugar encontraron a Meneses que clase de avitación y si estaba con él dicha Señora Doña Manuela y si de allí y a que hora de la noche los trajeron a los dos juntos, y si saben que el citado d. Antonio Figueroa, es compadre de [Manuel Meneses]³² todo lo expuesto bajo del mismo juramento : por el conducto de don Antonio a nombre de vuesta señoría. Los he reconvenido varias veces a [dichos testigos como man]³³daba moderación para que presten su declaración, se resisten aserla aun de orden de V.S. y para que escarmienten se ha de servir mandar conforme a la ley de Castilla que el declarante Figueroa los haya de orden de V.S. bajo la multa de sinquenta pesos, y en su defecto tres meses de prisión [tachado, ilegible] si en el término de quatro horas no los presentase en la oficina. Por tanto a V.S. suplico se digne proveer en todo como llevo pedido que Justicia y que evacuada la diligencia se me entregue para usar de mis derechos.

Don Oxgena?
[rubricado]

Gerónimo Reynoso de Celaya
[rubricado]

Santiago y Agosto 25 de 1823

³² Se presenta borroso el documento.

³³ Se presenta borroso el documento.

Como se pide

Larraín
[rubricado]

Vargas
[rubricado]

170r

(...)
vuelva a Don Geronimo Reynoso doy fe

Vargas

En veinte y seis del mismo lo hice saver y le enteré de su contenido a don Antonio Figueroa
doy fee

Jotae
[rubricado]

[al margen] Pagada con la (...) de que por don Gerónimo (...)

Dos reales

171v

SELLO CUARTO VALE PARA LOS AÑOS DE MIL
SSSSS OCHOCIENTOS VEINTE Y TRES, Y VEINTE Y CUATRO

Señor Alcalde

Don Gerónimo Reynoso de Celaya en la causa criminal contra Manuel Meneses por rapto digo
que se halla ebaquada la información y solo un testigo está ausente: su justificación sea de servir
mandar se le tome su confesion al reo al tenor de lo pedido en mis dos anteriores [tachado,
ilegible] concluida la diligencia a pido se me entregue: Olaé?
a V.S. suplico lo decrete en Justicia.

a V.S. suplico lo decrete en Justicia.

D. Ozqueraz?
[rubricado]

Geronimo Reynoso de Zelaya
[rubricado]

Santiago y Septiembre 4 de 1823

Como se pide

Larrain
[rubricado]

Vargas
[rubricado]

En el mismo día hice saber el anterior decreto a Dn. Geronimo Reynoso doy fee

Vargas
[rubricado]

(...)

171r

Confesion del reo

a su presencia a un hombre que se halla preso en esta carcel a efecto de tomarle su confesion a quien por ante mi el presente escrivano se le apercibio a que digiese berdad en lo que supiere y le fuere preguntado, y siendo sobre q exprese como se llama, de donde es natural, su edad, estado, exercicio, calidad y si sabe la causa por que esta preso.

Responde llamarse Manuel José Meneses natural de Nancagua, su edad de veinte y cinco años, soltero, de ejercicio Petaquero de Panaderia, americano y que la causa de su prisión es por que con motivo de andar el confesante dejando pan hubo de tomar casería en la casa de Gerónimo Reynoso y conocer de vista a su hija Doña Manuela: que con ese motivo le pareció bien el confesante a ambos dos, y haciendo un día admiración Don Gerónimo que un mozo de buen parecer anduviere en Petacas dijo a su hija que era una lastima; que esto le conto Doña Manuela al exponente la primera vez que se salió de su casa: que antes precedieron las circunstancias que la criada María dijo al confesante un día estando en la panadería que Doña Manuelita le quería mucho: que en esta virtud se determinó el confesante un papel de amores que no tiene presente su contenido que condujo la propia María a su señora Doña Manuela: quien le contesto que quería hablar con el exponente a solas: que segunda vez le volvió a escribir a dicha Doña Manuela con la propia María, a que contextó para el propio conducto que quería hablar con él: que con la María le manda decir (...) en la noche se (...)

Ojo [al margen]

Dos reales 172v

SELLO CUARTO VALE PARA LOS AÑOS DE MIL
OCHOCIENTOS VEINTE Y TRES, Y VEINTE Y CUATRO SSSS

no dio credito, y se fue para otra parte, y que se bolvió antes de las siete de la noche, y encontró en la panadería a doña Manuela y un atado su ropa que esta había mandado con la dicha criada al

confesante, y como estuviere allí se lo entregó a Don Domingo Riveros su Patrón: que habiéndole expuesto que su fin era tomar estado con el confesante la hubo de trasponer de allí por mano de Don Antonio Figueroa a la calle de la compañía abajo donde se mantuvo cinco o seis días hasta que se le dio parte a su padre por mano del cura de la catedral del paradero de su hija y de que quería casarse con cuyo motivo fue su padre con ella; y la depositó en casa del caballero Ureta de adónde se salió ella sola en busca del confesante mandándolo llamar de la casa donde estuvo antes y fue a las 12 del día y estuvo hasta las cinco, y ahí la volvió a mandar el confesante con Don Antonio Figueroa a casa de dicho Ureta: que no estando Reynoso contento con el depósito de su hija en dicha casa la trajo a casa de Don Ramón Anis: que a la segunda noche se fue doña Manuela a buscar al confesante a la panadería, y habiéndole encontrado le dijo yo me voy a salir de lo de Anis: que a esto le repuso que no se (...) saliese dijiese a su padre la (...)

172r

llevaba se disparaba sola (...) volvió Doña Manuela a la panadería en busca del confesante y visto que cansaba su solicitud: determinó el confesante llevarla a Guanguali al Rancho de Juana de tal por conocimiento de la criada María, donde estuvo cuatro días y de ahí la trajo su padre a su casa, y el confesante al día siguiente a la cárcel donde se halla el día: que el confesante hizo esto porque ella le dijo que era viuda, que su marido había muerto en el Perú por una carta que a ella trajo don Francisco Allende que tiene su padre y que esta es la verdad so cargo de la promesa que tiene echa en que se afirmó y ratificó siéndole leyda esta su confesion, y la firmó con el señor juez de que doy fee

Agustín de Larraín
[rubricado]

Ante mi, Vargas
[rubricado]

Medio real

173v

SELLO QUINTO, VALE PARA LOS AÑOS DE MIL
SSSSS OCHOCIENTOS VEINTE Y TRES, Y VEINTE Y QUATRO

Señor Alcalde

Francisco Meneses natural de la población de Nancagua partido de San Fernando casado padre Legítimo de Manuel Meneses preso en esta cárcel pública por una falsa imputaciones que se le acusan y lo demás deducido digo: que la prición en que mi hijo sufre ha dado mérito a que el suplicante haiga llegado a esta corte dicha que quedo en el todo mi hijo vindicado segun manifiesta el sumario grado; mas allándose mi hijo preso y enfermo gravemente de un par de incordios opuso? a la justificación de V.S para que en justicia se sirva de mandar que lo reconozcan un cirujano y certifique este en forma del estado en que se haya para que con el resultado tratar de una curación formal que combenga por tanto

A V.S: pido y suplico se sirva de haberme por presentado y mandar según y como de lo pedido por ser justicia que pido.

173r

Don Bartolomé coronilla reconozca al suplicante certificando su estado con citacion en la parte coronaria= y evacuada trahigase=

Larrain
[rubricado]

ante mi
Vargas
[rubricado]

en el mismo día notifiqué el anterior decreto a la parte de Manuel Meneses doy fee
Vargas
[rubricado]

En el propio lo notifiqué a Don Gerónimo Reynoso de que doy fee
Vargas
[rubricado]

En cumplimiento del superior decreto he reconocido al reo Manuel Meneses con un incordio reventado, [incompleto] y llagas en el miembro, es quanto puedo certificar. Santiago, y Septiembre de 1823

Bartolomé Coronilla
[rubricado]

Santiago, 10 de septiembre 1823

Resultando de la anterior certificación la enfermedad y estado en que halla Manuel Meneses dando fianza de la Haz con pensión [incompleto] de abono pongasele en livertad; y hagase saver a don Gerónimo Reynoso lo decretado.=

Dos reales 174v

SELLO CUARTO, VALE PARA LOS AÑOS DE MIL
OCHOCIENTOS VEINTE Y TRES, Y VEINTE Y CUATRO SSSS

Don Gerónimo Reynoso de Celaya en autos criminales contra Manuel Meneses por raptó conforme a derecho digo que en esta causa no se ha oído al Agente Fiscal por un delito tan trascendental perpetrado en violación de las leyes, en corrupción directa de las buenas costumbres y en que no puede menos de interesarse la vindicta pública: en esta virtud dignese usted oír al Agente fiscal y con lo que diga se me entreguen los autos para pedir lo que combenga

Por tanto

suplico a V.S usted probea como pido por tener justicia

don Ozquenaz
[rubricado]

Gerónimo Reynoso de Zelaya
[rubricado]

Otrosí digo que al presentar este escrito a la escribanía se me ha hecho saber un decreto de V.S, en que a virtud de un reconocimiento del cirujano Coronilla, se manda poner en libertad al reo Manuel Meneses y bajo la fianza de la Az y sin haberla otorgado, ni notificadoseme el decreto se le ha puesto en libertad: reclamo este atentado en toda forma y pido se ponga al reo en la misma prisión en que se hallaba. pues la naturaleza de la causa no es de las que permiten la libertad con fianza (...)

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santiago y septiembre 11 de 1823

Para mejor prover pase en asesoría al doctor Don Bernardo Bera para que aceptando en forma proceda.

Larrain
[rubricado]

Vargas
[rubricado]

en el mismo día hice saber el anterior decreto a Don Gerónimo Reynoso doy fee
Vargas
[rubricado]

Mi enfermedad (que empieza con síntomas de ser dilatada) no me permite asesorar.
Santiago el 12 de septiembre de 1823

Dr. Bernardo Bera
[rubricado]

Santiago y Septiembre 22 de 1823

Admítase la excusa y en su lugar se nombra al licenciado Don Carlos Aguilera para que aceptando en forma proceda

Larrain Vargas
[rubricado] [rubricado]

en el mismo día hice saber el anterior decreto a Don Gerónimo Reynoso doy fee

Vargas
[rubricado]

Dos reales

175v

SELLO CUARTO, VALE PARA LOS AÑOS DE MIL
SSSS OCHOCIENTOS VEINTE Y TRES, Y VEINTE Y CUATRO

Sr. Alcalde

Gerónimo Reynoso Celaya en la causa criminal contra Manuel Meneses por raptó de una hija de familia, onesta y seducida, en la forma deducida digo: que esta causa estaba paralizada desde 22 de Septiembre en que havia dejado de agitarla por quanto se puso al reo en libertad a pretexto de enfermedad y con protesta de rendir la fianza de la haz que nunca dió y apenas pasaron pocos días cuando volvió de nuevo al mismo ejercicio ; 27 o 28 días hacen que volvió por tercera vez a sacarse a la niña de mi casa y otros tantos días la ha tenido oculta hasta el día de ayer 11, que lo sorprendieron, y se trajo preso a la cárcel en dónde está en este tiempo ha vendido las alajas y ropa que con su seducción hizo en esta su casa a la víctima de sus engaños, de modo que mi acción es doble, y no sólo de raptó, en orden a una joven onesta, sino tambien de urto por lo que queda expuesto, y tambien de adulterio por ser casada con el Sargento Mayor de los Regimientos del Perú Teniente Don Joaquín Vásques, que está ausente, y en la confianza que mi hija estando en casa de su padre está con todo el onor y circunstancias que corresponde:

Sería ocioso extenderme mas en la materia, V.S ve de los autos y de este último acontecimiento la reincidencia, y el cumulo de crímenes en que nuevamente ha perpretrado el reo; y aunque es tan doloroso verse precisado a una secuela de esta naturaleza yo trato de apartarme de la demanda exigiendo sólo que se destierre al delincuente y a que se ponga en un monasterio a la seducida donde le suministraré las asistencias necesarias: Por tanto

A V.S suplico que siendo lo pedido el temperamento que corresponde de Justicia se sirva a adoptarlo y terminar así este odioso juicio que es justicia y por ello ?

Gerónimo Reynoso de Celaya

175r

Por el nuevo mérito que se halla, tómesese confesión al reo Meneses y encarguese la custodia al Alcaide

Larraín
[rubricado]

Vargas
[rubricado]

Barros
[rubricado]

En el mismo día hice saver el anterior Decreto a Don Gerónimo Reynoso doy fee

Vargas
[rubricado]

En el mismo día notifiqué el anterior Decreto al Alcayde doy fee=

Vargas
[rubricado]

2ª confesión del reo

En diez y siete de dicho mes: El señor juez de esta causa a efecto de tomarle su confesión a un hombre que se halla preso en esta cárcel lo hizo venir a su presencia, a quien para ante mi el presente escribano se le apercibio digiere verdad en lo que supiere y le fuere preguntado y siéndolo sobre que exprese como se llama de donde es natural, su edad, estado, ejercicio, calidad, y si sabe la causa de su prisión.

Responde llamarse Manuel Meneses natural de Nancagua, su edad vein

Dos reales

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SELLO CUARTO, VALE PARA LOS AÑOS DE MIL
SSS OCHOCIENTOS VEINTE Y TRES, Y VEINTE Y CUATRO

te y cinco años soltero, sin ejercicio, Americano y que la causa de su presión es por haberse ido a sacar segunda vez (pero mas abajo dice tercera vez) de su casa a doña Manuela Reynoso. Preguntado qué tiempo ha que sacó de su casa a doña Manuela, a qué horas de la noche, a donde la llevó.

Responde que no tiene presente el día; pero que se hará un mes a que el confesante pasó una noche por su casa y preguntó al mulatillo Ambrosio por su señora Doña Manuela y le contextó fue a comprar zapatos, que eso sería como a las 8 de la noche y con esto dijo a Ambrosio dile a tu señora que venido a buscarla que me voy yo para casa: que a las 9 llegó doña Manuela sola al cuarto del maestro de sombrería José Bravo que vive en la calle de San Antonio a preguntar por el confesante, qué de primeras se lo negaron porque había encargado a dicho Maestro respondiese que no estaba allí y dentrando lo encontró.

Preguntando a qué parte llevó el confesante a Doña Manuela esa noche.

Responde que la calle de La Merced llegó a un cuarto y ofreció paga a la que lo habita para que le diera alojamiento para aqu (...) a Doña Manuela (...)

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dijo a Doña Manuela se fuese a su casa, no quiso sino hasta la noche, que con ese motivo la llevó para San Miguel: que esa misma noche la traheya, y unos cigarreros dijeron a Doña Manuela no se fuese a su casa porque su padre la buscará para ponerla en la cárcel lo mismo que al confesante pues le iban a remachar dos pares de grillos; y que por esto ha andado con doña Manuela hasta ahora hace dias a que prendieron al confesante y lo trajeron a esta cárcel.

Preguntado: que alajas, o ropa le ha vendido el confesante a doña Manuela.

Responde que ningunas, que ella de su voluntad vendió un charlé, y nada mas. Ojo [al margen]

Preguntando cuántas ocasiones ha estado preso y por que delitos.

Responde que 3 veces por esta misma causa. Y aunque se le hicieron otras preguntas, y repreguntas dijo no tener mas que confesar, que esta es la verdad en que se afirmó y ratificó haciéndole leer esa su confesión, no firmo para no saber

Lo hizo el señor juez de que doy fee=

Larrain Ante mi Vargas

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Santiago y Agosto 6 de 1823

(...)

Mi amigo y señor Don Gerónimo Reynoso me avisó que le de esta en que acredite que Manuel Meneses está en la cárcel, a mi disposición para formarle causa por haberle robado su hija y 2 caballos a un vecino sullo, es quanto puedo informar a vuestro mandando en lo que sea útil su afectísimo y seguro servidor que sus manos besa,

Agustín Larraín
[rubricado]

Santiago y Agosto 6 de 1823

Por este recibirá la Hermana? M.c Abadesa de Santa Clara a doña Manuela Reynoso en su monasterio, poniéndola con alguna religiosa que esté a la mira de su conducta sin permitirle salidas a puertas, tornos y locutorios por espacio de quince días, en los que su padre Don Gerónimo Reinoso hará diligencias de allanar el asunto que motiva esta reclusión, y

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durante ella, le suministrará lo que sea preciso para su subssistencia.

Eyzaguirre

178r

Señor ? Don ? Eyzaguirre

Dos reales

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SELLO CUARTO, VALE PARA LOS AÑOS DE MIL
SSSS OCHOCIENTOS VEINTE Y TRES, Y VEINTE Y QUATRO

Don Agustín Larraín alcalde ordinario de esta capital de Santiago del estad de Chile sus términos y jurisdicción

Por cuanto en mi juzgado y por el oficio del presente Don Jeronimo Reynoso vecino y del comercio de esta capital ha demandado de palabra y por la urgencia de la materia el echo criminal de haber sustraído de su lado a su legítima hija Doña Manuela Reynoso un Manuel Meneses como de edad de 24 años color blanco y entre Rubio ojos azules: estatura regular poca barba: manta blanca vestidos de emañ? azul y blancos: se lleva dos caballos ambos color negros y de estimación; la doña Manuela es casada con Don Joaquín Vásquez Sargento mayor de Ejército de los Regimientos de Lima: Es niña como de 17 años poco más o menos, su color un poco trigüeño: su estatura más baja que regular metida en carnes. Por tanto, y a efecto de que sean aprendidas sus personas y conducidas a mi juzgado con la posible seguridad principalmente del dicho Meneses y a ella con la moderación y cuidado que corresponde a su persona: ordeno y mando a cualesquiera de los ju(...)

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de Nancagua y Chépica en dónde se presume pueda haver tocado por ser aquellos los lugares de la residencia de Meneses En dónde quiera que se les encuentren y de ellos tengan noticia: Que luego que con esta carta sean requeridos por parte del referido don Gerónimo Reynoso o de la persona o el ministro que esta les presente, procedan a su cumplimiento sin contemplación ni disimulo franqueando cuántos auxilios sean conducentes al efecto: Que si así lo hicieren como lo espero, cumplirán con las obligaciones de su oficio como yo al tanto haré lo mismo: hecha en Santiago de Chile a quatro de agosto de 1823 años

Agustín de Larraín

por mandado del señor alcalde Francisco Mauricio Silva
Escribano público

Dos reales

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SELLO CUARTO, VALE PARA LOS AÑOS DE MIL
SSSS OCHOCIENTOS VEINTE Y TRES, Y VEINTE Y QUATRO

Don Gerónimo Reynoso de Celaya en la causa criminal contra Manuel Meneses por rapto digo: Que de su confesión de fojas 9, del mérito del proceso y documentos que en forma presento, resulta de ellos en justicia, que V.S mande asegurar al reo con prisión de grillos para así conducirlo a uno de los castillos de Valparaíso, con el oficio que corresponda para el Señor Gobernador de aquella Plaza, para que en primera ocasión lo remita al presidio de Valdivia por diez años: esto es el mérito que vierte con equidad el proceso, según los crímenes del reo: Pero la atención de V.S en la confesión que hace a fojas 10? y expone que sabe de la causa de su prision, que es por haberse sacado de su casa por segunda ocasión a Manuela Reynoso que andado un muy con ella, por San Miguel, y otros parajes en donde la tuvo escondida y lo más oculta que pudo para que no la encontrasen, haciéndola a propósito de este modo, perder su honor y amenazándola si no lo seguía: también confiesa ha estado tres ocasiones preso por esta

misma causa? está V.S convencido de los crímenes de este reo ¿se entiende a más sus maldades; sírvase leer medítadamente los documentos número 1 y 2 presentados y verá los hechos de este malvado: Para conocer los delitos de este individuo es preciso saber quién es doña Manuela Reynoso de Celaya: Es una señorita de educación notoria honesta y de honor, hija legítima de un juez para el Gobierno, don Gerónimo Reynoso y de doña Isidora García ?, y casada con don Joaquín Vásquez Sargento Mayor de los regimientos del Perú: estas son las circunstancias de mi hija y otras que omito: Solo la perversidad de Meneses, acompañado con el influjo que tenía de mis criadas sus ? y creo que parientes del, todos en masa fraguaron esta picardia, y la persuadieron como tan joven honesta exponente: últimamente, este hombre de nación y costumbres bajas, tiene enteramente perdido este matrimonio, sin que haiga remedio ni arbitrio, y nadaménos que de un Jefe que ha peleado, y está peleando nuestra sagrada causa: todos estos respetos ha atropellado y echado por tierra este malvado: Es imposible deje de llegar a noticia de su marido el presente pasaje y según su mucho honor ? la vida: de todos modos es perdida? mi hija infeliz, para siempre, ella su hijo de edad de dos años y meses y su demás familia: toda mi casa juiciosa queda con esta mancha:

yo todo corridos?, avergonzado y trastornado, sin poder atinar ni a mis negocios todos estos males, trabajos y escándalos, ha hecho este reo, sus circunstancias de maldades, ya he dicho las puntualizan, los documentos(...) a pesar de todas estas iniquidades y de haverme (...)

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hija porque tenía con que (...) y como estos crímenes son está en un corto arresto: sus delitos son probados y confesados por el mismo: ? ha mandado en tres ocasiones que lo he tenido preso: Ya no queda más arbitrio que su despatriación: Yo exigo se asegure con las prisiones dichas, y que a la mayor brevedad, con prisiones, se remita a uno de los Castillos de Valparaíso, y de allí y en la primera oportunidad a Valdivia por diez años, y la Doña Manuela a las monjas: Este es el único temperamento que hay en la presente causa: Por tanto a V.S suplico se sirva decretar como tengo expuesto sin más figuras de Juicio, entregándoseme el proceso para quemarlo, por las circunstancias expuestas, y que corresponde hasi en justicia

Geronimo Reynoso de Zelaya

Santiago y Noviembre 22 Marzo 1823

Vista al Agente Fiscal

Larrain,

Barros,

Vargas

En el mismo dia notifiqué el decreto de enfrente a d. Cruz Usurrún

Doy fee

Vargas

En el mismo día hice saber el anterior decreto a Don Cruz Osarrun doy fee, Vargas

J.H

El agente fiscal dice: Que el hecho de que acusa a Don Gerónimo Reynoso de Celaya a Manuel Meneses es el lance más triste que puede acontecer a un padre de honor y de los mejores sentimientos en la educación de sus hijos: Las leyes se previenen con severidad de castigar un delito en que se interesa la vindicta pública y la devida satisfacción que exige un honrado Padre y que se haya vulnerado en su honor, en sus? y en los respetos que le tributa la misma naturaleza. Don Gerónimo (...)

Dos reales

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SELLO CUARTO, VALE PARA LOS AÑOS DE MIL
SSSS OCHOCIENTOS VEINTE Y TRES, Y VEINTE Y QUATRO

Ley, si así como ha usado de prudencia, hubiera hecho víctima de su venganza al Amasio de su hija Doña Manuela: El delito se haya comprobado con todas sus circunstancias en la confesión del reo corriente a fojas 10. V.S es inclinado a la justicia y es necesidad que se escarmiente el delito como corresponde, para contener un abuso que ya en unos días lo va adoptando con frecuencia la inmoralidad y libertinaje; y también porque su escarmiento es una medida que debe tomarse en precaución de los días de Don Gerónimo, de su seguridad pública, y para consultar así a la honra que le es devida a su casa y a su familia; en consecuencia le acusa el ministerio al citado Manuel Meneses, q que en conduciendose prontamente a los castillos de Valparaíso, de allí sea confinado en la primera oportunidad al presidio de Valdivia por el espacio de 6 años, a ración y sin sueldo, o como la justificación de vuestra señoría estime sea condigno castigo para un delito tan execrable? [tachado] y que dicho se le entregue el espediente al expresado Don Gerónimo, quedando una constancia de la condena para que se sepulte en el olvido un asunto que no deve divulgarse, y que puede ser trascendental al honor de las familias.

Santiago y Noviembre 26 de 823

D or González Álamo

Santiago y Noviemnre 26 de 1823

Traslado al reo y con su contestación o sin ella dentro de tercero dia para resolver

Barros

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En el mismo día hice saber el anterior decreto a Don Geronimo Reynoso doy fee

Vargas

En el mismo día notifiqué el Decreto de la vuelta a D. Cruz Usurrún doy fee

Vargas

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SELLO DE OFICIO. VALE PARA LOS AÑOS DE MIL OCHOCIENTOS VEINTE Y TRES Y VEINTE Y QUATRO

Señor Alcalde

El procurador de pobres en lo criminal para Manuel José Meneses, preso en la cárcel, por amores con una joven digo que en mi contestación a la acusación fiscal he fundado el ningún delito de mi parte, y me he allanado a que se determine su salida de esta capital al lugar de su nacimiento que es Nancagua: en la actualidad está aquí su padre Francisco Meneses y con ninguno mejor que con este se le puede remitir: el dicho su padre se allana a ello, y aún dice que lo mandaría a Concepción. Sírvase

V.S así determinarlo que es justicia,

Doctor Santa María

Cruz Usurrún

Santiago y diciembre 12 de 1823

Vistos y en atención a qué Francisco Meneses padre del reo se personó en este Juzgado verbalmente por su pobreza, y aseguró que lo quería remitir a la ciudad de Concepción dónde tiene parientes: estiéndase sentencia la tenía declarando la confinación a la Concepción por los seis años que pide el Agente Fiscal y con la calidad de que si quebrantare y (...)

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será remitido sin más trámite ni juicio al presidio de Valdivia, y en estos términos considere la presente causa archivandose y en caso de tener efecto la calidad del recibimiento

Larrain

Barros

Vargas

En el mismo día notifiqué el anterior a don Gerónimo Reynoso doy fee,

Vargas.

[rubricado]

En el mismo notifiqué el anterior auto a D. Cruz Usurrún doy fee=

Vargas

[rubricado]

SELLO DE OFICIO. VALE PARA LOS AÑOS DE MIL OCHOCIENTOS VEINTE Y TRES Y
VEINTE Y QUATRO

En la causa que en este mi juzgado se ha seguido criminal por Don gerónimo Reynoso de Celaya contra el reo Manuel Meneses con lo expuesto por aquel, y alegado por el reo sobre la extracción que hizo este de una hija de Reynoso de estado casada; yo conformándome con él dictamen del asesor de este juzgado V.S-

Fallo atendidos los méritos del proceso que debo condenar y condeno al reo Manuel Meneses a 6 años de extrañamiento en esta capital a la ciudad de Concepción y con la calidad de que si quebrantase este mi juzgamiento y saliese de aquella Jurisdicción antes de cumplir el término de su confinación, será remitido sin más trámites ni sustanciación al Presidio de Valdivia archivándose la presente causa para el caso (...)

es el que se ha hecho cargo de conducir al reo a su destino entréguesele al efecto para el alcaide de esta cárcel pública; haciendo constar su padre a este juzgado la confinación de su hijo en aquella ciudad con credenciales judiciales. Y por esta mi (...) definitivamente juzgado así lo pronuncio y mando. Santiago y diciembre dieciseis de 1823

Agustín de Larraín
[rubricado]

Por mando del Señor Alcalde
José Joaquín Vargas
Escribano Público

Probeyo mandó y firmó al anterior sentencia el Señor Alcalde Don Agustín de Larraín en el día de su dicha doy fee,
Vargas
[rubricado]

SELLO CUARTO, VALE PARA LOS AÑOS DE MIL OCHOCIENTOS VEINTE Y TRES, Y
VEINTE Y QUATRO SSSS

Señor secretario de la [tarjado]

Señor Juez de Letras

Don Geronimo Reynoso de Celaya como mejor proceda a derecho ante V.S parezco y digo que se ha seguido para mi, causa criminal a Manuel Meneses por hurto que hizo de mi hija, juzgado y fenecido el negocio se puso en libertad al reo, y a la niña en mi poder creyendo que escarmentase al poco tiempo volvió otra vez a sacarla de mi casa y entonces con la experiencia de la primera vez sacó alajas, toda su ropa ,y varias cosas que vendió y dispó, volvió a prisión gaste porción de pesos en la causa, también en las diligencias de buscarlo y de recoger a dicha mi hija, nada se recogio de las especies extraídas y después de infinitos gastos se sentenció la causa conmutando el destierro a Valdivia que pide el Fiscal, en que fuera a la Concepción donde tenia parientes el reo: así se resolvió por equidad, creyendo que en tanta distancia se cortase el vicio y mi casa quedase en sosiego, se tomó la providencia que el reo marchara con el ejército para seguridad, con otras precauciones que constan de la causa, pero este malvado se fugó, volvió a esta, y se volvió a hurtar a dicha mi hija, hace porción de dias que es (...)

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tiene a pesar que se le ace el cargo y que solo con el ha salido de casa, en su virtud es de necesidad ponerle grillos, insinuarle pena de azotes, sino confiesa y entrega a la dicha mi hija, sirvase V.S pedir el proceso que se alla en la escrivania de don Joaquín Bargas y de el verá V.S quanto quejo relacionado y otras circunstancias agravantes que omito para que con su merito se sirva V.S decretar como dejo pedido en la inteligencia que para el castigo pedido sobra mérito con la fuga que ha hecho cuando no fuera el nuevo raptó.

Hasi mismo hago presente que ya estoy cansado de gastar y dar pasos en este asunto, el delito es grave y las leyes previenen su ejemplar escarmiento, para lo que se ha de servir V.S ordenar se continúe la causa de oficio, y se castigue como es debido al delincente en todo según y como corresponda al mérito del proceso a que me referí que es justicia y para ello juro.

Barros
[rubricado]

Otrosi- Presento en devida forma la carta de ruego y encargo con que se ha buscado a mi hija Doña Manuela, casada con el Sargento Mayor de los Reinos de la Patria de Lima en donde ha peleado y pelea nuestra sagrada causa: no se ha dejado parte alguna en Nancagua (en donde lo vieron con ella a caballo) San Fernando, Rancagua y todos sus continentes, y en esta Capital en donde no se ha vuscado, por lo que es muy presumible o que la ha muerto o que la tiene muy escondida.

Dos reales

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SELLO CUARTO, VALE PARA LOS AÑOS DE MIL SSSS OCHOCIENTOS VEINTE Y TRES, Y VEINTE Y QUATRO

Después de las alajas y ropa que le ha vendido, me ha hecho gastar en estas diligencias porción de dinero, y los ratos más tristes que son incomprensibles: Si está viva quien sabe las miserias en que estará, y una persona de su línea y comodidades expuesta a todos los riesgos de una situación tan infeliz; dividido este matrimonio de demasiado honor : Este infame y de nación ruin ha cometido todas estas bajarías, ha manchado mi honor tan acrisolado y tan notorio, y del mismo

modo el de mi hija: que como joven de edad 16 años sin ninguna experiencia, honesta, la engañó con facilidad con sus palabras inicuas. A pesar de todas estas iniquidades comete lo segundo, de burlarse del juzgado y de su sentencia del destierro; ha hechado por tierra las disposiciones del Mayor General de las Fapas? Don Luyz de la Cruz, bajo cuyo mando caminaba a su destino de Concepcion, pero todo lo ha arrollado ? Quiere V.S ver mas crimenes es este reo y ultimamente sostiene el no confesar en donde la tiene: no hay mas arbitrio y es de necesidad que su justificacion mande se le pongan dos varras de grillos y si no confesase en el día en donde tiene a mi hija se le den cien azotes, y más si fuese preciso hasta que confiese en donde está: Que en su confesión se le pregunte el tiempo que hace se la robó= Como es cierto lo vieron que andaba con ella en Nancagua y como también es cierto lo vieron con ella en la Cañadilla de esta ciudad = Que diga a los quantos dias y de que par...te'? (...) el la conducia= Que exprese en

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aquella ciudad y como es cierto se quedó en su casa en Nancagua sin cumplir con lo que se le mandó: La justificación de vuestra señoría (V.S) se ha de servir mandar que en el día o ala mayor brevedad se le tome su confesion al tenor; y evacuada la traiga el actuario, con los autos seguidos en el particular, para que VS en fuerza del mérito que arrojen determine de oficio lo que sea de justicia

Gerónimo Reynoso de Zelaya
[rubricado]

Santiago y Enero 30 de 1824

Continúese de oficio la causa criminal que tiene pendiente el reo Manuel Meneses; y según su estado, el actuario la llevará al juzgado para que se le tome confesion, previniendo inmediatamente al alcayde lo asegure con una barra de grillos, lo que certificará.

Echevers

Ante mi, Vargas

En el mismo dia hice saber el anterior decreto a Don Geronimo reynoso doy fe,
Vargas.
[rubricado]

En el mismo dia hice saber el anterior Decreto a Don Jorge Ilario Ureta procurador de pobres
doy fe

Vargas
[rubricado]

Dos reales

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SELLO CUARTO, VALE PARA LOS AÑOS DE MIL SSSS OCHOCIENTOS VEINTE Y
TRES, Y VEINTE Y QUATRO

Señor juez de letras

Don Geronimo Reynoso de Zelaya conforme a derechos ante VS digo: que a consecuencia del escrito que acompaño, y merito del proceso, ordenó su justificación continuar la causa criminal que tiene pendiente el reo Manuel Meneses y que se asegurase con una barra de grillos, en el concepto que estaba preso en esta carcel y era un equivoco pues el preso tenido por Meneses estaba ignorante y salió libre: Volvi a mandar otro encargado al lugar donde esta dicho reo que es Nancagua, vive con su Padre en su casa y a su antojo; y Doña Manuela mi hija en casa de Don Agustín Paderes: El gobernador de San Fernando recibió la carta de ruego y encargo expedida de ante mano por este Juzgado y por suscrita por el Alcalde Don José Gimenes: Se burló el gobernador de esta diligencia, no quiso darle los auxilios que le pidio el comisionado, y con este motivo no trajo a los reos que alli estaban y están en dicho Nancagua: Así es, que sin perdida de tiempo, y por las graves consecuencias que pueden resultar suplico a VS. autorice en forma bastante a Don Tomas Aguero, Juez diputado de aquel lugar para que aunque no esten en su jurisdiccion dichos reos los haga aprehender (...)

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ciones del juzgado: Deven venir asegurados con una barra de grillos, y custodia correspondiente a esta carcel, y a disposicion de V.S para la sequela de la causa criminal y nuevo merito en que han incurrido: Sino los trahen con prisiones vuelve Manuel Meneses ha desertarse como lo hizo del ejército del mando del Señor Don Luyz de la Cruz que lo conducía a su destierro por seys años a Concepcion. Todo consta del Proceso: Mandando asimismo que a doña Manuela, inmediatamente la entregue Don Paderes al Juez comisionado D. Tomas Aguero quien pasará arrecibirse de ella, y tratarla con la consideracion que corresponde; si resistiese a la entrega dicho Paderes que le declaren asi incurrido en la multa de quinientos pesos aplicados a gastos del Estado, los que le exigirá el mismo Juez comisionado, dando a usted cuenta de todo: Asimismo sirvase VS ordenar que inmediatamente sea conducida mi hija a esta mi casa, al segundo dia la ponga en el Monasterio de Santa Clara, Que al quarto dia de la salida de mi hija de Nancagua sean conducidos los reos, guardándose el orden ya pedido; bajo la multa de quinientos pesos que devera entregar inmediatamente y pasa el mismo fin el citado Doctor Tomas Aguero en el caso de no cumplir a su tenor las respetables órdenes.

VS tenga bien a disponer por tanto.

A VS pido y suplico se sirva decretar como tengo pedido en noticia cortas.

Geronimo Reynoso de Celaya
[rubricado]

Dos reales

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SELLO CUARTO, VALE PARA LOS AÑOS DE MIL SSSS OCHOCIENTOS VEINTE Y TRES, Y VEINTE Y CUATRO

Santiago y Feb. 28 de 1824.

Se despacho. Librese despacho cometido a Don Tomás Agüero para la aprehensión de los reos Meneses, y a la joven Reynoso en los términos que se pide en este escrito, poniéndose por diligencia cualquier resultado en contestación.

Palma Ante mi Vargas
[rubricado] [rubricado]

En el mismo día hice saber el anterior Decreto a Gerónimo Reynoso doy fee. Vargas.

Santiago y Marzo 30 de 1824

Habiéndome dado cuenta por el actuario que se haya en el carcel el reo Meneses en virtud del anterior requerimiento, pongaselo incomunicado hasta que se le tome su confesión, por lo que se llevará los autos al juzgado el día de mañana.

Echevers ante mi Vargas
[rubricado] [rubricado]

En el mismo día hice saver el anterior decreto al (...) Carcel Don Santiago Pobeda doy fee

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Vuelta a Don Gerónimo Reynoso doy fee
Vargas
[rubricado]

3ª confesión del reo

En la Ciudad de Santiago de Chile en treinta y uno de marzo de mil ochocientos veinte y cuatro años. El señor Juez de letras, a efecto de tomarle su confesión a un hombre que se halla preso en esta carcel lo mando sacar de la prisión y preguntado como se llama de donde es natural, su edad, estado, calidad, ejercicio tiene y si sabe la causa de su prisión.

Responde llamarse Manuel

Meneses, natural de la población de Rancagua, de edad de veinte y cinco años, soltero, americano, que es petaquero de Panadería que la causa de su prisión es por haberse desertado cuando lo llevaban para Concepción a disposición del Señor Comandante Don Luiz (...)

Preguntado en que punto fue de donde se desertó responde que inmediato a la Chácara Ochaga via viniéndose al día siguiente para la ciudad, y que alojó en casa de Jose Brabo y al otro día se fue para San Miguel y que alojó en una casa que no conocio a los dueños de ella. Preguntado sino supo que iba preso y destinado a la Ciudad de la Concepción a la disposición de aquel Señor Delegado de aquella Ciudad,

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Responde que solo supo quando lo llebaron para el quartel de la Guardia de honor al salir la gente para arriba.

Preguntado como se volvió a juntar con Doña Manuela Reynoso, y en que parte y quanto tiempo despues de la salida a su destino

Respondió que supo Doña Manuela que el confesante andaba en esa Ciudad y lo mando llamar y que no fue y que a eso se determinó Doña Manuela a irlo a buscar a la Casa donde estaba el confesante (que era en lo del Maestro Jose Brabo) y que ese mismo dia lo llevó doña Manuela para su casa y que estuvieron hablando en la puerta de calle preguntandole Doña Manuela si era cierto que se iba el confesante para la otra Banda, y le respondió que no se iba y le contesto Doña manuela que sabia que se iba, diciendole que porque no la llebaba y le contestó que no tenía proposición de llevarla concluyendo la conbersacion en decirle que no se saliera de su casa.

Preguntado como y adonde fue la reunion de Doña Manuela con el confesante que la sacó de su casa, responde que el confesante no la saco sino que Doña

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dentró Doña Manuela al cuarto, y lo alló diciendole que la llebare para donde se fuese y que a esto le contestó el dueño de casa que se fuera para su casa y no quizo irse entonces el confesante la llebó para otra casa que fue la de Don Tomás Pras y luego el confesante la llevó para arriba viéndola enferma hasta alcanzar con ella la poblacion de Rancagua teniendo alli su casa el confesante y luego vio este al Cura de aquella poblacion para que los casara a lo que se negó el citado Cura, por no llebar el consentimiento de su Padre.

Preguntado que hizo el confesante al haberle negado el Cura el casarlo respondió que cosa ninguna porque inmediatamente la deposita el parroco en casa del juez don Agustin Paredes.

Preguntado como la saco del poder del Juez a quien estaba encargada por el Cura. Respondio que se benia el Confesante para esa Ciudad, lo supo Doña Manuela y se salió de aquella Casa juntandose en casa del Confesante hasta su llegada de ambos a esa Ciudad.

Preguntado de adonde estuvieron quando llegaron aqui y quantos dias la tubo hasta que los prendieron.

Responde que en casa de un tal Gutierres que no se acuerda su nombre que hacian a que havian llegado como siete u ocho dias.

Preguntado quantas veces ha estado preso en una carcel y porque delitos.(....)

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mismo delito. y aunque se le hicieron otras preguntas dijo no tener mas que confesar que lo que tiene dicho y en la verdad en que se ratifico leyda que le fue su Declaracion no la firmo porque dijo no saver lo hizo el señor Juez de que doy fee

Etchevers
[rubricado]

Ante mi, Vargas
[rubricado]

Santiago y Abril 1 de 1824

Vista al Fiscal del crimen

Etchevers
[rubricado]

Ante mi Vargas
[rubricado]

En el mismo día hice saber el anterior decreto a don José Ylario Ureta procurador en lo criminal doy fee

Vargas
[rubricado]

Señor Juez letrado

El Agente fiscal dice que don Gerónimo Reynoso de Zelaya se ha presentado en el Juzgado de V.S y es parte principal en esta Causa criminal, y así es de sentir el Ministerio se le comuniqué traslado para que ponga su acusación en forma, y que para la seguridad del reo Manuel Meneses se haga como pide el citado querellante en su evento de fojas 19

Santiago y Abril 10, de 1824

Doctor Gonzalez

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SELLO DE OFICIO, VALE PARA LOS AÑOS DE MIL OCHOCIENTOS VEINTE TRES Y VEINTE Y QUATRO

Santiago y Abril 26 de 1824

Sin embargo de que por escusar gastos a Don Geronimo Reynoso se había mandado a fojas Se siguiere esta causa de oficio, se le corre traslado y en su contestación expondra si quiere se continúe por la vía de acusación

Echevers Artemio Vargas
[rubricado] [rubricado]

En el mismo día hice saver el anterior decreto Geronimo Reynoso, doy fee

Vargas
[rubricado]

En el mismo día lo hice saber a Don José Mario Urera procurador en lo criminal doy fee.

Vargas
[rubricado]

Doy fe que las dos fojas que faltan en este proceso que son 23 y 24 se mandó de desmembrarse para formas que no separado. Y que para que conste lo pongo para diligencia. Santiago y Junio quatro de mil ochocientos veinte y quatro, Vargas. [al margen]

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SELLO DE OFICIO, VALE PARA LOS AÑOS DE MIL OCHOCIENTOS VEINTE TRES Y
VEINTE Y QUATRO

El señor Don Santiago de Echevers juez de letras de esta capital y de Santo ? un término y jurisdicción por el supremo gobierno

Hago saber al juez diputado de Nancagua como en el expediente criminal seguido por Don Gerónimo Reynoso contra Manuel Meneses por haberse este sacado de su casa a doña Manuela Reynoso hija del primero se ha presentado un pedimento que con su proveído en cómo sigue =

señor juez de Letras =

Don Gerónimo Reinoso de Zelaya conforme a Derecho ante Usia digo: que a consecuencia del escrito que acompaño y mérito del proceso ordenó su justificación continuase la causa criminal que tiene pendiente el reo Manuel Meneses y que se asegurase con una barra de grillos en el concepto que estaba preso y en esta carcel y era un equivoco, pues el reo no? tenido por Meneses estaba inocente y salió libre. Volvió a mandar otro encargado lugar donde este dicho reo que en Rancagua vive con su padre en su casa y a su antojo; y doña Manuela mi hija en casa de Don Agustín Paderes: el Gobernador de San Fernando recibió la carta de encargo expedida de antemano por este juzgado por el alcalde Don José Gimenes: Se burló el gobernador de esta diligencia no quiso darle los auxilios que le pidió el comisionado (...)

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(...) cias que puedan resultar, Suplico a usia autorice en forma vastante a Don Tomas Aguero, Juez diputado de aquel lugar para que aunque no esten en su jurisdicción dichos reos, los haga aprender y a su Padre de dicho Manuel Meneses, y que uno y otro han incurrido en aquel crimen, y se han burlado de las respetables disposiciones del Juzgado: deben venir asegurados con una barra de grillos, y custodia correspondiente a esta carcel y a dispocision de Usia para la secuela de la causa criminal, y mucho merito en que han incurrido. Si no los traen con prisioneros, vuelve Manuel Meneses a desertarse, como lo hizo del Ejercito del mando del Señor don Luis de la Cruz que le conducia a su destierro por seis años a Concepcion. Todo consta del Proceso: Mandando asimismo que a Doña Manuela inmediatamente la entregue dicho Paderes al Juez Comisionado Don Tomas Aguero, quien pasara a recibirse de ellas, y traerla con la concideracion que corresponde, si resistiese a la entrega dicho Paderes, que sele declare haber incurrido en la multa de quinientos pesos aplicados a gastos del Estado, los que le exigira el mismo Juez comisionado, dando a Usia cuenta de todo. Asimismo, sirvase Usia ordenar que

inmediatamente sea conducida mi hija a esta mi casa, para que al segundo día la ponga en el monasterio de Santa Clara, que al cuarto día de la salida de mi hija de Rancagua, sean conducidos los Reos, guardandose el orden ya pedido y vaya la multa de quinientos pesos que deberá entregar inmediatamente, y para el (...)

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ordenes que Usia tenga ? disponer. Por tanto, a Usia suplico se sirva decretar como tengo pedido en justicia costas Etcetera= Doctor MaRtinez de Luco= Geronimo Reinoso de Zelaya=. Santiago y Febrero veinte y ocho de mil ochocientos veinte y quatro=

Librese despacho cometido a Don Tomas Agüero, para la aprension de los reos Meneses, y de la joven Reinoso en los terminos que se piden en este escrito, poniendose por diligencias cualquier resultado en contestacion= Palmas= Artemio Vargas= En el mismo dia hice saber el anterior decreto a don Geronimo Reynoso- doy Fee= Vargas= En cuya atencion de parte de la Supremacia de este Estado, exhorto y requiero, y de la mía ruego y encargo al citado Jues Diputado de Rancagua don Tomas Agüero, que inmediatamente que esta le sea presentada, proceda al cumplimiento de lo que en el pedimento inserto se solicita, con la actividad que la materia exige y dandome cuenta de todo, para dictar las providencias que correspondan al caso. La fecha esta despacho en la capital de Santiago de Chile a quatro de Marzo de mil ochocientos veinte y quatro.

Santiago de Echevers

Por mando del Señor Juez de Letras= Jose Joaquin Vargas, escribano publico.

Diligencia

En cumplimiento de lo que arriba se me ordena pase a la diputacion de Paniaque y disipose a la casa del juez Agustin Paredes fui informado de su mujer (por no estar (...)) sacada ocultamente

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SELLO DE OFICIO, VALE PARA LOS AÑOS DE MIL OCHOCIENTOS VEINTE Y TRES Y VEINTE Y QUATRO

su destino se ignora: hice al padre de dicho reo que viniere conmigo, mas informado le di soltura, porque habiendo venido su hijo con la niña de Santiago al momento dio parte al cura y al juez; amas pasa soltarlo examine sus bienes y supe muy bien ser de todo pobre

Es quanto ocurre

Plazilla de Nancagua, y Marzo 10 de 1824

Thomas Agüero

Dos reales 192v

SELLO CUARTO, VALE PARA LOS AÑOS DE MIL OCHOCIENTOS VEINTE Y TRES, Y
VEINTE Y CUATRO. SSSS

Señor Juez de Letras

Don Geronimo Reynoso de Selaya, en la causa criminal contra Manuel Meneses por rapto conforme a derecho digo: Que este hombre es uno de los mas delincuentes que han ocupado esta carcel, confesado sus delitos por el mismo en sus confesiones de foja 5 vuelta, y nueve vuelta; y en los documentos de fojas 11 y doce: justificando estas sus iniquidades; todo lo que expuse en mi escrito del foja 13 que se refrendó y pido se tenga presente: Este malvado en lo que le combiene se disculpa con mi hija, creyendo con este arbitrio aminorar sus delitos: el save donde yo vivo: save donde viven los jueses, y pudo haberla llevado para ebitar su desonra; ultimamente la seduccion, y poder fue de el, y ella no lo podrá obligar en manera alguna: El Agente Fiscal a fojas 14 lo condena a “este reo a “seys años al presidio de Valdivia, a ración y sin sueldo: El juzgado a fojas 15, husando de conmisericordia, combiene en los seys años de destierro, pero á la Ciudad de Concepcion, con la precisa calidad, que si el Reo quebrantse, y saliese de aquella jurisdiccion antes de cumplir el termino de su confinacion, sera remitido sin mas tramite, ni Juicio al presidio de Valdivia: Asi conta de dicha centencia (...)

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(...) el ejército de esta capital al mando del Señor Don Luis de la Cruz que lo conducía a su destierro, por oficio que para este fin le pasó el Juzgado: Al siguiente día me aguaita que no esté en casa, la ceduse para llevarla a Nancagua que vaya a ver dos asiendas que litiga su Padre; que no tenga miedo, que no será incomodada, ni el por jues alguno: le hase sacar toda su ropa, y alajas, y se la lleva: Me hace gastar una porción de dinero en buscarla, hasta que supe su paradero: Manda el Alcalde Don José Gimenes un oficio de ruego, y encargo a a Don Agustin Paredes juez de aquel lugar para que los dirija con seguridad a esta capital ; el Jues Paderes consultó con el Governador de San Fernando este despreció la disposición de este juzgado., no quizo remitirlos, y se la entregó al citado Juez Don Agustín Paderes, para que la hubiese en su casa hasta segunda orden: Me presenté ante U.S para que librase providencia acometida a Don Tomas Aguero Juez de Rancagua para que aprendiese a dicho reo Manuel Meneses y a su Padre, por haver incurrido este en el crimen de haver faltado alas ordenes que le dio este Jusedado, para que conduciere a su hijo a su destierro de Concepcion, todo lo que consta de la centencia de fojas 15, lo que hizo este viejo fue acompañar a su hijo para que se deserte y que hiciera las maldades ya dichas: Presto en debida forma la contestacion que en segunda ha dicho Don Tomas Aguero en el decreto que su justificacion le ordeno y haello contesta que hace un mes que Manuel Meneses se habia robado ocultamente a Doña Manuela, de casa del Jues Paderes en donde estaba (...)

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en la Chunba de esta Ciudad, y si parte a U.V por el escrivano de la causa. Yo protesto mis derechos contra el juez don Tomas Aguero por haber obrado con parcialidad con su padre del reo Manuel Meneses, pues confiesa en su contestación lo prendió y le dio soltura, quebrantando el respectable decreto de V.S, en que le manda los remita a su juzgado con prision y custodia correspondiente y me ha ocasionado crecidos gastos: Los delitos del reo manuel Meneses son de demaciada gravedad, y por no ocasionar gastos no le justifico otras picardías que ha usado con

otros: Pasan de mas de seiscientos pesos en lo que este [ilegible] me tiene grabado, con las sustracciones que ha hecho con mi desgraciada hija, cuyo Matrimonio con un Comandante de que tengo noticia está, lo llevo perdido para siempre, lo mismo que a su hijito de dos años y medio: mi casa toda trastornada, y yo abergonzado con esta tragedia; de que estaba libre si el Juzgado lo remite a valdivia como pidió el Ministerio Fiscal a fojas 14: Este reo necesita de un castigo de duplicarle la centencia para Valdivia: Este no tiene enmienda. Cinco o seys ocaciones lo he tenido preso por esta misma causa, y la enmienda es la que ministra el proceso: y ultimamente este es un delito en que se interesa la vindita publica, y las leyes disponen un castigo ejemplar a los de este caso: ultimamente V.S tiene demasiadas suficiencia para conocer mi Justicia: Pido el cumplimiento de la centencia de fojas 15 de 12 de octubre de 1823, con la diferencia que en aquella se mandó que en el caso de quebrantarla fuese remitido a Valdivia, sin más trámite ni (...)

Dos reales

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SELLO CUARTO, VALE PARA LOS AÑOS DE MIL SSSS OCHOCIENTOS VEINTE Y TRES, Y VEINTE Y CUATRO.

de la deserción del Ejército? que lo conducía, del desprecio, y burla que ha hecho a las disposiciones de este respetable Juzgado; y demas expuesto, y que lo acusa el Jues de Rancagua a Tomas Aguero en su contestación; por lo que resulta de su misma confesión de fojas 20 vuelta; por todos estos motivos lo acuso y pido sea remitido al presidio de Valdivia, a racion y sueldo asegurandolo como esta mandado a fojas 18 vuelta, y alerte? el Ministerio a fojas 22; remitiendolo a los castillos de Valparaíso a la mayor brevedad: y a mi hija luego que este en estado al Monasterio de Nuestra Señora de Santa Clara, por el término que U.S tenga a bien en Justicia, o hasta la llegada de su Marido. No hay otro arbitrio ni temperamento que tomar en la presente causa para que esto se concluya y mi casa quede tranquila. Por tanto,

A U.S suplico se sirva mandar como tengo pedido y es de Justicia
Gerónimo Reynoso de Zelaya
Barros

Señor Juez de letras,

El Fiscal dice que en esta causa ha conocido el Agente Fiscal, cuyo dictamen se nota a fojas 13. El punto del dia es una incidencia de la primera causa y por eso recibí dictamen el mismo Agente a fojas: En su virtud, sirvaseles mandar

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SELLO DE OFICIO, VALE PARA LOS AÑOS DE MIL OCHOCIENTOS VEINTE Y TRES, Y VEINTE Y CUATRO

el mismo Agente, 2 Mayo 11 de 1824

Santiago y Mayo 11 de 1824

Ulizalde
[rubricado]

Como se pide,

Echevers Ante mí, Vargas
[rubricado] [rubricado]

En el mismo día hice saber el anterior decreto al Procurador de Pobres Don Jose Ylario Ureta, doy Fee Vargas

Vargas
[rubricado]

En el propio lo hice saver a Don Geronino Reynoso doy Fee

Vargas
[rubricado]

Señor Juez de Letras

El Agente fiscal dice que Don Geronimo Reynoso de Celaya reclama con justicia los atropellamientos y seducciones con que el Reo Manuel Meneses ha corrompido la honestidad de su hija Doña Manuela Reynoso: ella es Casada con el Sargento Mayor Don Joaquín Vasquez residente en Lima que fue con la expedición de Chile ha llenar los justos objetos que en (...)

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sorprender el juzgado de VS^a y motivan el proveydo de fojas 23 buelta. El reo Meneses lejos de cumplir con la sentencia equitativa de fojas 15 la ha hecho ilusoria y se ha valido de ella para hacer mayores atropellamientos: sirvase U.S notar la diligencia fojas 26 estampada por el Diputado Don Agustín Paredes el sello aquanto pudiera oponerse con difusión? en esta materia: pongase Ud en lugar de un Padre, que debe conservar el honor de su casa y de su familia por aquellos medios que dicta la prudencia, y hallaré que Don Geronimo aun procede con moderación por conservar el honor de una hija que se halla prostituida a la liviandad de un hombre indecente respecto de la clase de Don Geronimo, y esta moderación se hace mas demostrable si se atiende la L.b. Tit 20.Libro 8 de la Recopilación, y la 13, tit 17, part 7: en estas circunstancias el Ministerio no puede menos que reproducir su vista de fojas 14, pues habiendo el Reo Meneses quebrantado la condena que se le impuso por la sentencia a fojas 16 es de necesidad se le escarmiente con la que tiene pedida en la citada Vista a fojas 14 y que haciendo merito del escrito de fojas 23 se le condene a Francisco Meneses Padre del citado reo en las costas de la causa como complice en los delitos de su hijo: que al mismo tiempo se le pase oficio

al Ilustrísimo don Obispo para que se sirva mandar poner en el Monasterio de Santa Clara por modo de reclusión a Dona Manuela Reynoso por el tiempo que fuese de la voluntad de su Padre Don Geronimo cuyo paso puede hallarse facilmente siempre que interponga su respetable autoridad, el Ilustrísimo Son Obispo Diocesano con respecto a no presentarse en el dia otro lugar que sirva de corrección a las personas de la clase de Doña Manuela, ni ha que preste la seguridad que en esta ocurrencia pide el caso de la materia. Santiago y mayo 25 de 1824.

D. Or Gonzalez

195v

SELLO DE OFICIO, VALE PARA LOS AÑOS DE MIL OCHOCIENTOS VEINTE Y TRES,
Y VEINTE Y QUATRO

Junio 15 de 1824

Vistos, y en atencion a que en el expediente que sigue doña Manuela Reynoso para contraer matrimonio con Manuel Meneses ha expuesto que ella lo ha buscado, y que han sido voluntarias las salidas de la casa de su Padre, y a que en este caso debe penar de en ambos el escandaloso concubinato en que han vivido, se condena al citado reo Meneses a la pena de dos años de Panoptico y a doña Manueña a la de reclusion por igual tiempo en algun monasterio; y respecto a que en la actualidad no puede recibirsele por hallarse en cinta, estando en estado, cuidará su Padre don Gerónimo Reynoso de dar quenta al juzgado para que solicite permiso del Ilustrisimo Obispo

Echevers

Ante mi Vargas

En diez y nueve del presente mes hice saver el anterior sentencia a Manuel Meneses quien espuso que se conformaa con ella doy fee

Vargas

195r

al procurador de pobres en lo criminal doy fee

Vargas

En veinte y dos hice saver la anterior sentencia al Agente Fiscal del Crimen doy Fee
Vargas.

196v

SELLO CUARTO, VALE PARA LOS AÑOS DE MIL SSS OCHOCIENTOS VEINTE Y
TRES, Y VEINTE Y CUATRO

Señor Juez de letras

Don Geronimo Reynoso de Celaya en los autos criminales contra Manuel Meneses sobre raptó de mi hija en la forma deducida digo: que ayer 23 el juez? hizo saber el auto definitivo en que V.S ordeno condena al reo a dos años de Panoptico, y ablando con el debido respeto esta resolucion me es agrabiente por quanto esta condenado al reo de echo al presidio de Valdivia, segun el merito de los autos.

Asi mismo se ha desmembrado de este proceso el dirigido para matrimoniarse dicho reo con mi hija, y con la misma fecha se ha resuelto el concejo de familia que se me hizo saber anoche 23, y hago presente a V.S que no está en el caso de procederse al concejo para que como reo delinquente no puede casarse, ha pedido la ciudadanía para varios capitulos, de nuestra constitucion, y principalmente el articulo 13 del titulo 2º, por hallarse procesado criminalmente y en su birtud apelo para la Ilustrisima Corte de justicia por tanto

A U.S suplico que abiendo por interpuesta la apelacion en tiempo y forma se sirva concederla lisa y llanamente que es Justicia y para ello

Geronimo Reynoso de Zelaya

196r

Se otorga sobre todo; y no le admitan en la oficina escrito con la informalidad de ocurrir en uno por apelacion de dos. Cau (...)

Etchevers
[rubricado]

Ante mi

Vargas
[rubricado]

En veinte y seis del mismo hice saver el anterior decreto a don Geronimo Reynoso doy fee

Vargas
[rubricado]
En el mismo lo hoce saver a Doña Manuela Reynoso
doy fee

Vargas
[rubricado]

En la ciudad de Santiago de Chile a veintiuno de junio de 1824 años. Ante los S.S de esta Excelentísima corte de Apelaciones se hizo presente el anterior decreto en que se otorga la apelacion interpuesta y mandaron se de cuenta por el Relator. doy fee Tiza?

En dicho dia notifique el anterior Decreto a Don Geronimo Reynoso doy fee

Urra
[rubricado]

En el mismo al Procurador de pobres en lo criminal doy fee

Urra
[rubricado]

197v

SELLO CUARTO, VALE PARA LOS AÑOS DE MIL SSS OCHOCIENTOS VEINTE Y TRES, Y VEINTE Y QUATRO

Santiago y Julio 10 1824

Vistos: Entreguense a la parte apelante para que exprese agravios

[rúbricas]

Proveyeron y rubicaron el anterior auto los señores Jueces del margen el dia de su dicho doy fee

Urra
[rubricado]

En dicho dia notifique el anterior auto a don Generonimo Reynoso doy fee.

Urra
[rubricado]

En el mismo a doña Manuela Reinoso doy fee

198v

SELLO CUARTO, VALE PARA LOS AÑOS DE MIL OCHOCIENTOS VEINTE Y TRES, Y VEINTE Y QUATRO SSSS

Ilustrisima Corte

Don Cruz Ossurrun por Don Gerónimo Reynoso de Zelaya en el expediente criminal contra Manuel Meneses sobre rapto de doña Manuela Reynoso en la forma deducida digo: Que se me

han entregado los de la materia para expresar agravios y verificandolo en forma se ha de servir V.S rebocar el auto apelado del 15 de Junio corriente a fojas 30 en que se condena al dicho a dos años de panoptico declarando en su lugar sea remitido al Presidio de baldivia conforme a lo juzgado y a si es justo por lo siguiente.

Veanse los autos,

y a fojas 14 se halla la vista Fiscales que fue acusado el reo a seys años de presidio a Baldivia a ración y sin sueldo por los primeros excesos, y dos raptos que había hecho, en seguida se cortó la causa af 15 y dies y seis conmutando al dicho la justa pena merecida, en mandarlo a la ciudad de la Concepcion, vease la blandura con (...) escarmentar esperando la emmi (...)

198v

en su lugar, se notificó el Procurador del reo como se ve a fojas 15 vuelta, y se le previno amonestarse, y aconsejase al delincuente sobre la materia haciendole ver la gracia que se le dispensaba, y la pena en que incurría en el hecho de quebrantar la condena, podra testificarlo el mismo procurador. Se extendió pues la sentencia de su remision a Concepcion declarandolo incurro sin más trámite ni sustanciación en la pena de destierro a Baldivia en caso de quebrantar y en estas circunstancias no solo burló la resolución judicial, y se fugó sin llegar a Concepción, sino que con toda desvergüenza el mismo día primero de la marcha se fugo de la Chacara de Don Silvestre Ochavarría (Ocharavía?) en la primera jornada: V.S que por este solo hecho trajo sobre si la condena a Baldivia sin mas ? y sin mas tramite ni sustanciación: No pasó en esto si no que no contento con este crimen hizo otro mayor y volvió al antiguo, y horroroso delito de sacar nuevamente de su casa a la joven reducida y llebarsela a extraña jurisdiccion, y por mucho tiempo cohabitar con ella en escandaloso concubinato, procuró casarse como consta de los autos, y atento sorprender a los curas de los lugares para donde andubo, vendió y disipole estos nuevos (...)

199v

incurrió sin ellos, y con sola la fracción de su destino a Concepcion. La sentencia que hoy reclamo lo indulta del presidio de Baldivia en atención a que el ultimo rapto de la joven se dice no ser tal, y que ella voluntariamente lo buscó, notese que este dicho es del complice en el delito, y de la parte interesada en la absolucion, asi es que nada prueba, y nada arguye en favor del reo, pero quando el dicho fuera de la mayor atencion y solemnidad, vease que ese hecho voluntario de Doña Manuela aunque el reo no la vuscase entonces ni la solicitara, el resultó del alago y de la primera seducion, la Ley es terminante y llana, y declara violencia no solo la que resulta de la fuerza si no tambien aquella en que la mujer se rinde por alago, y los jurisconsultos reputan igual la violencia del rigor y amenaza a la del alago, y seducccion quando recae sobre alma debil pueril o femenil, a si es que aun en el caso de no tener parte el reo en el ultimo rapto, y aunque libremente se huviese hido a buscarlo Doña Manuela, ella yba biolentada (...) amparada, y sustraída

199r

SELLO CUARTO, VALE PARA LOS AÑOS DE MIL OCHOCIENTOS VEINTE Y TRES, Y VEINTE Y QUATRO SSSS

tan rapto este como lo demas, y burla el fundamento de la sentencia, por lo que nada importa que ella fuese por sus pies, y que por su voluntad, pues esta era seducida, y violentada porque el segundo modo de violentar que distinguen las leyes sobre los pechos debiles. Por tanto, y protestando cambenir? mas plenamente en estados .

A V.S suplico que habiendo por eso pasados los agravios se sirva resolver como pedi en el exordio y respeto y es Justicia

Geronimo Reynoso Zelaya
[rubricado]

Barros
[rubricado]

En la Ciudad de Santiago de Chile en veinte y tres de Julio de mil ochocientos veinte y quatro, ante los S.J de esta Corte represento esta posicion y mandaron comunicar traslado, doy fee

En otro dia lo notifique a D. Cruz Usurrun doy fee

Urra
[rubricado]

En el mismo al Procurador de Pobres doy fee

Urra
[rubricado]

Medio real

200v

SELLO QUINTO, VALE PARA LOS AÑOS DE MIL OCHOCIENTOS VEINTE Y TRES, Y VEINTE Y QUATRO SSSS

Ilustrisima Corte

Pide se le mande entregar el expediente que falta para responder a los agravios sin que entretanto corra término.

El procurador de pobres en lo criminal por Manuel Meneses acusado de rapto y adulterio con la hija de D. Geronimo Reynoso de cuya sentencia ha apelado este digo: Que el recurso lo

interpuso por el pronunciamiento en la causa referida y el de otro expediente procedente de este y cuya vista importa a la defensa del reo. Por ello para responder ala expresion de agravios en yo traslado tengo pendiente=

Suplico a Vuestra Señoria Ilustrisima se sirva mandar se me entregue el que falta, sin que entretanto me corra termino. Es Justicia

José Hilario Ureta
[rubricado]

En la ciudad de Santiago de Chile en veinte y ocho de agosto de mil ochocientos veinte y quatro años. Ante los S.S de esta Corte de Apelaciones se presentó esta petición y mandaron se haga como esta parte pide doy fee.

Urta
[rubricado]

En otro dia notifique el anterior decreto a Don José Hilario Ureta, doy fee

Urta
[rubricado]

Notifique a don Geronimo Reynoso

[rubrica]

200r

201v

Excelentísima Corte

Manuel José Meneses natural del partido de San Fernando Ante V.S Ilustrísima
Respetuosamente digo: que hace 8 meses que estoy preso en esta carcel por solo quererme casar con la Biuda Doña Manuela Reynoso con quien de antemano he tenido relaciones pues dicha doña Manuela acredita ser legitimamente biuda y dueña de su voluntad. Este es el delito que tengo para que se me haga temir, tanto tampoco nada mas que por el influjo de su padre el que dice existir aun su finado Marido. Yo Señoría Ilustrísima de todos modos desisto del casamiento con dicha mujer por tanto

A V.S. Ima. Rendidamente Suplico que se digne su Ima decretar mi livertad para volverme al seno de mi familia que yo juro y protesto cumplir quanto llevo expuesto será gracia y Justicia que espero recibir de la venignidad de su Excelentisima Corte, otrosí digo que se han de serbir su señoria dispensarme el que haga uso de este papel porque mis circunstancias me lo permiten dicha ¿

Manuel Meneses

[rubricado]

Santiago y Septiembre 23 de 1824

Agreguese a los autos y téngase presente

[rubrica] [al margen]

Proveyeron el anterior decreto con los señores Jueces que rubrican
doy fee,

Urta

[rubricado] [al margen]

En dicho notifiqué que el anterior decreto a Manuel Meneses doy fee,

Urta

[rubricado] [al margen]

202v

SELLO DE OFICIO, VALE PARA LOS AÑOS DE MIL OCHOCIENTOS VEINTE Y TRES,
Y VEINTE Y QUATRO

Ylustrísima Corte

arriva

El procurador de Pobres en lo Criminal por Manuel Meneses acusado de rapto y adulterio con lo demás obrado Digo: Que por contestar a la expresión de agravios del apelante Don Gerónimo Reinoso, pedí el expediente que falta y se mandó se me diere segun mi peticion. Esto no se ha verificado con perjudicial retardacion de la causa por expresarse ya en cuita?, ya por un modo extrajudicial que dicho expediente se halla en el Juzgado de primera instancia no en estado de traerse a este Tribunal, y que a mas de ello es muy distinto y no tiene conexion con el presente.

Sin embargo, mi solicitud es absolutamente justa y no se puede pasar adelante sin que ella tenga efecto. Meneses es acusado de rapto y adulterio, y su principal excepcion o defensa consiste en que la hija que se dice robada se unio al reo por voluntad, y la aficion fue el movil para que reiteradas veces dejare la casa paterna, sin diligencia, esfuerzo, persuasion, ni engaño del acusado, y todo por que la mu (...)

202r

previar al matrimonio. Estos pasos espontaneos destruyen la accion de rapto sobre la confecion conteste y judicial de ambos amantes; ellos mismos convienen la maliciosa calumnia de adulterio que contra su hija viuda fulminó Reinoso olvidando la piedad paternal. Este es el contenido que reclamo separado por el hecho ilegal de haber desglosadose del Proceso dos fojas con que se formó aquel expediente sin justicia, Decreto, ni consentimiento de partes como se ve por la Diligencia marginal a la vuelta de fojas 22. Se dividió la continencia de la causa motivo legal para la acumulacion que pido, pues se le desarma al Reo de las defensas a más de dejar el

Proceso desglosado y diminuto con cuyos vicios nada importa que aquel se halle pendiente en el Juzgado inferior.

Esto se corrobora con la apelacion misma del contrario cuyo recurso a fojas 31 se queja del desmembramiento referido. Siendo contradictoria la providencia de uno y otras, apelo de ambos procesos y por decreto de la vuelta se le otorgó la apelación por la providencia de los dos cuerpos de autos. Hallandose tan demostrada la justicia de mi proposito, no tengo porque cansar mas la superior atencion del Tribunal que visto lo que puntualizo por los mismos autos que envió? dará la providencia de justicia y para la acumulación esencial a la defensa al reo sin que entre tanto se me exija la contestacion de

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justicia.

Dr. Arellano José Hilario Ureta
[rubricado] [rubricado]

Santiago y Septiembre 28 de 1824

Dese cuenta con el Expediente que se indica recogíendose del Actuario.

[rúbricas]

S.S Jueces
Vial
Tocornal
Infante
Aguirre
[al margen]

Proveyeron el anterior Decreto los Señores Jueces del margen el dia du se dicha?

doy fee

Urta

[rubricado]

En dicho dia notifiqué el anterior Decreto a don Jose Ylario Ureta

Urta

[rubricado]

Santiago y Septiembre 30 de 1824

Vistos: Sacándose Testimonio de las dos fojas que se dicen desglosadas del quaderno criminal y agregandose a el, esta parte contestose al Traslado pendiente

203r

SELLO DE OFICIO, VALE PARA LOS AÑOS DE MIL OCHOCIENTOS VEINTE TRES Y
VEINTE Y QUATRO

Certifico y cumpliendo con el anterior auto que las dos fojas que demandan testimonios, se conste que las dos fojas que demandan testimoniar su contenido es el siguiente= Hoy a las diez de la mañana se me entregó este Escrito con cargo Santiago y Mayo cinco de 1824= Vargas=. Don Geronimo Reynoso de Zelaya vecino del comercio de esta Capital ante V.S en la mejor forma que haya lugar en derecho, y sin atribuirle mas jurisdiccion que la que por derecho le compete, y esa declinandola en forma digo: que ha instancias de mi legitima Hija Doña Manuela Reynoso, he sido citado por este Juzgado a comparendo verbal y habiendo comparecido en su obediencia me instruí de la solicitud de la recordada mi hija, dirigida a pretender Matrimonio con Manuel Meneses; y en su conformidad V.S mando ocurreremos para otro día a tratar del negocio, a lo que conteste que no podria entrar en el matrimonio por motivos fundados que para ello tenia el Juzgado se halla único? de los antecedentes que han ocurrido sobre este asunto: Sigo causa criminal en el Juzgado del Señor Licenciado Don Santiago Echevers contra el mencionado Manuel Meneses por haber este extraido furtivamente de mi casa a la citada mi hija repitiendo su delito por una o seis ocasiones, causandome los males e incomodidades consiguientes a este [ilegible] el ha violado los respetos de mi casa, y con sus seducción la onestidad de una joven pero que joven una mujer es casada con el sargento mayor Don Joaquín Basquez residente en el Peru en su respectivo cuerpo (.....)

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de su marido al cuidado y proteccion mia, manteniendola de lo preciso como a su familia: la solicitud del matrimonio a que aspira es un mucho delito estando vivo su marido, y solo dirigido a eludir el castigo a que es condenado Meneses porque el Juzgado; esto manifiesta que la aspiración de doña Manuela es una incidencia de aquel Juicio; y que si doña Manuela se estima libre para contraer nuevo matrimonio debe en aquel Juzgado gestionar como corresponde donde yo deberé contentar comparencia de los antecedenes por estas consideraciones = A Usia suplico se sirva abstenerse del conocimiento de la causa mandando a la Doña manuela ocurra ante aquel Señor Juez donde penden los antecedentes del asunto que es justicia. Juro en forma, y lo necesario. Us= Villegas = Geronimo Reynoso de Zelaya=

Santiago y Mayo seis de mil ochoscientos veinte y quatro= Habiendo ocurrido en mi turno pidiendo el consentimiento paterno para contraer matrimonio Doña Manuela Reynoso, y dicho que a mas de no tener como seguir litis por escasez, y inmediatez al parto, alegando que era cosa distinta de la causa que sigue contra su futuro esposo su padre Don Gerónimo; y habiendo en consecuencia la reunion del consejo a familia, conforme a la ley: pasese al otro señor juez este pedimento para que con la brevedad que pide el caso resuelva la declinatoria, a cuya resolucion desde ahora difiero= Palma = Ante mí = Vargas=

En el mismo día hice saber el anterior decreto a don Geronimo Reynoso doy fee= Vargas =

Santiago y Mayo ocho de 1824= Vista al el Ministro fiscal de lo civil que evacuará con presencia de todos los antecedentes, y poniendose ante fee de la persona con quien pretende contraer matrimonio doña Manuela Reynoso.

Echevers= Ante mi o Vargas=

En el mismo día (...) a don Gerónimo Reyno

204r

Vargas= Doy fee haverme dicho Doña Manuela Meneses que trata de contraer matrimonio con Manuel Meneses reo contra quien se sigue la causa, y para que conste lo pongo por diligencia Santiago y Mayo 10 de 1824 Vargas= Enmendado= Procurador= Vale=

Santiago, octubre de 1824.

José Joaquín Vargas
[rubricado]

Dos reales 205v

SELLO CUARTO, VALE PARA LOS AÑOS DE MIL OCHOCIENTOS VEINTE Y TRES, Y
VEINTE Y CUATRO

Señor Juez de la Ilustrísima Corte

Don Geronimo Reynoso de Zelaya, en la causa criminal con el reo manuel Meneses por raptó digo: Hace mas de tres meses y medio que el procurador Ureta sacó estos autos para contestar el traslado que su justificación ordenó: El abogado don Santiago Montes los tuvo dos meses, los devolvió sin contestar: Se mandaron entregar a otro abogado, y este para demorar el curso, pidió el segundo expediente: Su Ilustrísima conociendo esto, mandó se le diere copia de las fojas que considero precisas; y estan entregadas mas aun : Son 4= apremios con este, con los que he exigido la entrega de autos, con escrito o sin el, y nada se ha avanzado a pesar de mis fatigas: Es de necesidad que la justificación de S.Y mande que en el día se entreguen los de la materia en la oficina y se determine la causa con el merito del proceso: Esto es lo que corresponde por su demora= Asi

A S.Y suplico lo decrete en Justicia

Geronimo Reynoso Zelaya
[rubricado]

En la Ciudad de Santiago de Chile veinte y tres de Octubre de mil ochocientos veinte y quatro Ante los SS Jueces de esta Ilustrísima Corte se presento este Apremio? y mandándose se despache contra el Procurador Don José mario Uretra, doy fee

Urra
[rubricado]

En el mismo día notifique el anterior

205r

decreto a dn Gerónimo Reynoso doy fee
Urta

En el mismo a don José Ilario Uretra doy fee

Urta
[rubricado]

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SELLO DE OFICIO, VALE PARA LOS AÑOS DE MIL OCHOCIENTOS VEINTE Y TRES,
Y VEINTE Y QUATRO

expresion de “agravios”. Al otro dia pide providencia, aun tiempo [al margen]

Ilustrisima Corte

El procurador de pobres en lo criminal por Manuel José Meneses calumniado de rapto y adulterio de parte de don Geronimo Reynoso de Zelaya, contentando a la expresión de agravios de este apelante Digo: Que la integridad de este tribunal se ha de servir absolver a mi parte de los crímenes que se le imputen , y en su consecuencia declarar no haber lugar a la pena grave que Reynoso apetece, eximirlo aun de la pena menor apelada por el descontentadizo acusador para que los infelices procesados amparados por la justicia laven con el matrimonio la mancha que en mejores paños se suele borrar con solo este remedio.

El acusador Don Geronimo Reynoso olvidó todos los tiernos deberes de Padre por haverse entregado al furioso desdén con que la codicia humana mira al pobre, al hombre indigente. Por este principio ha perseguido al desgraciado Meneses sin reparar en el ultraje que hacía a su propio honor en el de su hija cuyas fragilidades ha hecho correr por pluma, vistos, oídos y Bufetes de tribunales, jueces, letrados, procuradores y demas subalternos. No hay hombre que instruido de la causa no la mire con rubor e impaciencia como si fuese propia. Parricidio imperdonable, pues pudiendo curar el mal moral que lastimava a su hija, (...) honor paterno, solo

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(...) toria que el proceso presenta de los desgraciados Manuel Meneses sin Don por pobre y doña Manuela Reynoso hija de aquel.

El marido de esta Dn. Joaquín Vásquez habia pasado al Perú con la expedición libertadora y entre minas y Cordillera del Departamento de Farma a las caveras de Lima murió el Oficial en manos de los Enemigos. la noticia “recibió” Reynoso por carta y se lo comunicó a su hija. Como han venido tantos de la citada expedición, las voces de algunos llegaron también a oídos de esta. Quien ha provado matrimonio le apetece siempre, nada malo es, y por ello hace muy bien este no se verifica sin el preludio de amorcillos o pasiones grandes. La Reynoso se creyó viuda y presentándosele un joven de aspecto alagueño sintió presa su alma. No faltó a lei alguna, ni delinquirió en amar.

No lo primero porque le bastó la primera impresión de viudedad sin que se le pueda hacer atingencia. Ella no ha recibido correspondencia de su marido y si difiere Reynoso lo contrario pruébelo, esto bastaba para presumirlo muerto y avivar el animo de aquella para buscar otra alianza honesta. Es verdad que a nadie se tiene por muerto por sola su ausencia y silencio a menos que pase el largo tiempo de diez años para una presunción de derecho. Pero el de este Oficial es caso especial y distinto: si a esto se agregan los datos que maliciosamente ha negado el vigoroso Padre, se resolverá el animo (...) reposado y cuerdo justamente a nuevo matrimonio sin manchar el lecho primero que ya se reputa cenizas.
Tampoco la Reynoso delinquiró (...)

207v

propio misero destino causó la ilución para ser amado. ¿Y qué era pequeño objeto? Nada menos para ojos tiernos y sencibles esa encanto grande; para una alma honrada era objeto preferible: Joven con aspecto recomendado que ufano con él pudo abandonarse al vicio y ociosidad, como dolorosamente lo vemos con frecuencia, llenar el primer deber de hombre andando con sus petacas haciendose ellas la ejecutoria de su honor para merecer cualquier enlace ¿Y seria indigno para ser amado y no capaz de llamarse hijo de don Geronimo Reynoso?

Quien tal honor para si tenia no podia ser odiado ni haver pensado manchar el honor ajeno, y es ? queda Manuela Reynoso joven sencible, con un corazón mostrenco ya sin dueño, fijó el suyo a la primera saeta o la vista en el honrado y pobre Meneses, ella se insinuó, se entregó, había simpatía, estaban destinados para amarse como se han amado, y de consiguiente correspondió a la joven amante. Acaso conocia insuperable a los ojos del Padre la nota de pobreza y se huye con su amado, no prevé mayores inconvenientes, no las resultas actuales: ese no fue crimen sino deficiencia, enfermedad, conturbación de la razon, fueron amantes.

Si Reynoso fugase? de esta defensa diría que yo me implicaba haciendo honrado y no osado si Meneses, y luego enamorado huyendo con su querida. Sin embargo forzosamente es lo que digo. Hasta el momento anterior a esa pasion era todo lo dicho, eso mismo lo hacia amable pues el padre mismo se las (...)

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timaba de el y no omitió explicarse con su hija con lo que acaso encendió la primera chispa. Es notable sobre esto el dato que va señalado a fojas 5 buelta

El amor, mal que acomete a la Juventud, como la avaricia y la usura a la vejez, obra rapidamente y llegado su momento incendia tanto el combustible que las leyes, la razon. los jurisconsultos equiparan al amante con el furioso y lo excusan de pena.

Si a la primera vez que fueron havidos estos tristes profugos, sin la imprudente repreva del padre a tanto ímpetu con la persecucion, prision y demas, se hubiese tratado de aplicar anodinos a la

violencia, hoy nadie sabia ni veria fragilidades amorosas que piden un velo y no la terrible publicidad del foro. La porfia pues de don Gerónimo Reynoso, su decisión a ocultar el caso de viudedad de su hija por no dar ingreso a la pobreza honrada de Meneses, el horror y rubor con que era natural mirase aquella al Padre sin que nada de esto fuese curacion del mal, tomó grados que causó una, otra, y otra fugas o mas bien intima adhesion a estar con su amante, sin que el tímido Meneses pusiese de su parte mas diligencia que

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dejarse llevar de la corriente y puesta ya a su lado la mujer excusarla de desaires y no abandonarla. Digase lo que se quiera, hacer lo contrario habria sido una infamia.

Esto es lo que aparece de las diligencias de fojas 2 y 3 que comprueban la declaracion espontanea de la Reynoso sobre su propio hecho, y va conteste con las confecciones de meneses de fojas 6, 10 y 21. Los juzgados olvidaron algunas diligencias esenciales, y esta omision parece se hacia en obsequio del quereloso don Gerónimo, porque siendo una la causa de ambos jóvenes no se toma una declaracion, no se evacua una cita de las varias que hace Manuel Meneses, no se le toma confección a doña manuela Reynoso o una declaracion instructiva para que se inquirese el hecho que deponen los testigos referentes a ella. Todo esto queriendo sin duda el Padre que los resultados cargasen solo sobre el y no se desbaratase su intento con la exposicion franca y judicial de la hija. Sin embargo todo el proceso convence indubitablemente acerca del origen y progreso de hechos que han referido, advirtiendo que los testigos mencionados son presentados por Don Geronimo quien ceso de continuar el examen sucesivo porque estos le salieron (...)

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A pesar pues de que estos hechos han sido de la hija de Reynoso, que ellos han sido efectos de una pasion, que desde el primer paso se propuso aquella contraer matrimonio como se lo expresó a Meneses, el inevitable Padre acusa de raptó, de adulterio, y hasta de hurto a mi infeliz defendido. Contra lo manifiesto se esfuerza a convencer que hubo seduccion, engaño, persuasion a su hija, que estos lazos equivalen al raptó. Quando las causas no se profesan de buena fe, se tropieza gravemente y se dan manotadas. Para demostrar quede parte de mi representado no hubo raptó o violencia no necesito esforzarme, ya consta que la mujer buscaba y solicitaba al hombre, que ella se confiesa la unica culpable de seduccion, engaño o persuasión debio provar el acusador ¿pero de que modo contra lo confesado que resulta de sus propios pareceres? Estas son armas del hombre de proporcionar contra una mujer indigente, del sagaz astuto eloquente contra una tonta, del malicioso y picaro contra una inocente o del todo desprevenida. La Reynoso hija de un comerciante que aun se precia de calidad ¿se dejaria? engañar con pan empetacado y alucinar por un humilde? Esta viuda de un Oficial militar, ni pobre ni tonta ni inocente etcetera, todos sus hechos y pasos pruevan la viveza y malicia necesaria para las aventuras. Es indudable que buscó varias veces y en diversas partes a Meneses, le dijo (...) verme contigo, vámonos, soy viuda, casémonos, y mi (...)

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que es una refinada malicia detentada y reprochada por la Ley la de acusar en estos casos a uno solo de los Delinquentes.

Esto urge mas con Ley irresistible quando se trata de adulterios segun supone Reynoso. Y hablando de este ¿que se puede esperar de un hombre que contra su intimo conocimiento acrimina, infama y pone en juicio a su misma hija atribuyéndola una mancha que en todos tiempos y partes ha sido abominable y producido efectos ruinosos y cruentos? Para obrar de este modo abusando de la autoridad paterna se reservó la carta o aviso de la viudedad de la hija.

Aqui llamo la atencion del Tribunal para fijarla en el otro proceso que es una seccion de este y cuya continencia de causa no admitia dimision como lo promovi por articulo antes de esta contestación. En él se ven dos testimonios contestes de oficiales militares que fueron al Perú y de allá han vuelto, ellos hacen ver la muerte del ya mas antes nombrado consorte de la Reynoso. Esta en parte de prueba exige que su Padre enseñe aquella primera carta que la anunciaba su viudedad de que ya se ha hecho mencion, y de don Geronimo sordo a los estímulos de la conciencia, invencible a los deberes de la Paternidad, e indiferente a los atractivos del honor ha negado el dato por llevar adelante su capricho. Pero ya aparece proveído el intento.

Bajo tales antecedentes si la niña por (.....) se procedió en sus diligencias

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y en este supuesto la recibió Meneses ¿qual es el adulterio, qual el rapto, qual la infamia? Es enorme la distancia que hay de la seduccion y del rapto a la amistad y fuga. Solo ha havido pecado carnal no siempre sugeto al fuero contencioso: para lavar mancha tan comun, no hay otra piscina que el lecho nupcial. Para impedir esto ¿de donde viene tanto alegar calidad y circunstancias del Señor reynoso, y alejar como indigente a Meneses? En un estado Republicano donde reina la igualdad, y solo interesa el merito, para todo beneficio dignidad y estado ¿se recuerdan todavia esas muertas, holladas y quiméricas prerrogativas? No profundicemos mas, el joven que no desdeñó arrastrar las petacas de pan por no arrastrarse en los crímenes, en la estafa, y en una infame miseria, es muy digno, ademas, está en el corazon de Doña Manuela, y de su seno donde va de salir el fruto de ese amor: hayanse dichosos esos dos caros miembros de la Sociedad, hayase legitima esa prole y no sea victima

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al capricho de un anciano invencible.

Se ha dicho por este en alguna parte del Proceso que no podria juntarse su hija con un reo que ha estado en Carceles. Esto mismo lo recomienda: no consta que jamas haya sido procesado ni preso, solo el crimen infama, y unicamente Don Gerónimo es autor de su entrada a la carcel por tres veces castigando enfermedades de amor. El defensor mismo de esta causa para enseñarle a

pensar, publica honradamente con ello, que ha estado en diversas prisiones por amor a su Patria sin que el chamucamiento? con facinerosos lo haya infamiado ni manchado como no se manchan los rayos de luz en la misma inmundicia.

No nos revistamos de preocupacion, de rigidez, de intolerable humor, de ridicula seriedad: el pobre Meneses es ahora mas digno que nunca de la mano de esa muchacha.

Paso a contratarme al robo que Don Geronimo atribuye a mi defendido y a la primera sentencia de que se hace merito. Habla de robo de la ropa y alajar de su hija. ¿Porque no da ella razon de estas especies? Pero no puede evitar el (...)

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razon del matrimonio con el finado oficial por ministerio de la Ley estaba emancipada. dadas por el primer marido o por el Padre ya eran suyas, cargó naturalmente con ellas como dueño para su adorno, para su auxilio o lo que mas le conviniere: nadie se roba a si mismo. Finalmente en cuitas este punto y lo demas no tiene otro apoyo que el dicho de Don Gerónimo en sus escritos siempre inmundos, enmendados, tostados y falsificados, hecho cargo Meneses de la venta de estas especies responde a fojas 10 bta, que doña manuela vendió de su voluntad un chale. El que a esto y a lo demas contradijere, examine oiga también a Doña manuela, haya un careo con el Reo y con el acusado, mucho mas quando no hay prueba.

Aquella sentencia de confinacion por seis años para la Ciudad de Concepcion, por cuya transgresion y fuga se le creia digno de ir a Valdivia por doble termino es un aparato insubstancial. Un procedimiento injusto y nulo, no tiene fuerza para obligar en el fuero interno ni externo. Hasta ese pronunciamiento no hubo mas que un sumario iniciado que todo resultó en favor del que llaman reo, pues no habia mas que los dos Testigos que declararon contraproducentemente lo que se asustó Reynoso para continuarlo. Le tomaron confesion sin resultar culpa, y ella se vio conteste con dichos Testigos: sin mas que esto se ve el pronunciamiento o puntos de la sentencia, y el fallo. Alli se expone que habiendo comparecido vervalmente el Padre de Meneses ofreciendo alejarlo a su hijo a la ciudad de Concepcion sea para ella la confinacion por seis años pedida por el Agente Fiscal. Este apuntamiento apenas apenas se hizo saber al Procurador (...)

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Este extraño modo de concluir una causa criminal con la grave pena de destierro por seis años, sin habersele citado al reo, sin defensa ni audiencia suya, sin elevarse la causa al Tribunal superior es lo mas escandaloso que se puede imaginar en el foro y llevada a efecto la responsabilidad de las Leyes debe ser ese fallo contra los Jueces y Asesores. De este modo lo entregan al desgraciado Meneses para que camine a su destino con el Ejercito que entonces salió para aquella Provincia, en ese acto de su marcha le hacen saber que ese es su destino como lo refiere Meneses en posterior confesión. Se huyó hizo muy bien, conoció que la cosa se manejó con injusticia y nulidad, ni podía estar cierto de que había sentencia, se creyó que lo llevaban para servir en el Ejercito, evitó esas penurias y en ello hizo muy bien pues no se hallaba ligado. Cuando los magistrados obran jure tempestatis et non jure potestatis el subdito no esta obligado a obedecer, y en este caso dice el jurisconsulto Tomás Carrasco que puede resistir con la fuerza.

Asi pues aquella no fue cosa juzgada, de consiguiente en el hecho no se agregó circunstancia agravante a los amores de Meneses que sin el fomento de la niña Reynoso- su diligencia y tradicion de su persona jamas se hubieran consumado.

Es pues una injusticia, un insulto a la razon y a la Ley pretenderse en este proceso que se le agrave a Meneses el pronunciamiento por esta razon, aun cuando claudicaran las demas solidas defensas. Esa sentencia fue nula, inicua, escandalosa, tomando por pretexto la diligencia del padre que no consta sino por el testimonio del Juez. El Padre no era el reo, y no valorifica el proceso

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en que este no fue oido.

No es de admirar se procediere de este modo: el Alcayde? que obró tan originalmente en el primer proceso y sentenció, es el que con imprudencia se apersona defendiendo a Reynoso en este continuativo de aquel, acusando con los resultados de su sentencia pidiendo como parte se ejecute lo que obró como Juez. Véase a fojas 9bta, fojas 15, fojas 28bta, fojas 31 y fojas 34 bta. No se lo que las Leyes llaman prevaricato, ni las penas que imponen a él, solo hago presente y recomiendo al Tribunal lo que aparece notorio en autos y las disposiciones con accion popular contra el prevaricato. Por todo ello

Suplico a VS que haciendo por contestador los agravios figurados del apelante por los remarcables que ha sufrido mi defendido y por lo demas expuesto, se sirva decidir segun mi exordio condenando en costas al malicioso y temerario acusador en justicia.

Otrosi Digo: Que por la vista de esta Causa y resolucion es al todo necesario el expediente que ya se ha citado seguido ante el Juez de letras sobre la Viudedad de la hija de Reynoso y el ascenio paterno para el matrimonio pretendido con Manuel Meneses mi representado, el qual se formó con fojas desfojadas del Expediente principal de que hoy se trata, no pudiendo haber pena ni absolución(...)

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Por ello se ha de servir V.S.Y mandar que para el dia en que se ha de ver la causa venga el Escribano actuario a hacer relacion de dicho proceso o dar la providencia que mas convenga a mi proposito. Pido justicia

Suplica,

José Hilario Ureta

[rubricado]

Dr. Arellano
[rubricado]

En la ciudad de Santiago de Chile el 26 del mes de Octubre de 1824, ante los Señores Jueces de esta Ilustrísima Corte de Apelaciones se presentó esta petición y mandaron traer los Autos en relacion para de terminos doy fee.

Urta
[rubricado]

En dicho dia lo notifique a Don Jose Ilario Ureta Doy fee
Urta
[rubricado]

En el mismo a Don Geronimo Reynoso de Zelaya doy fee
Urta
[rubricado]

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Santiago y Noviembre 2 de 1824

Vistos: Vista al Señor Fiscal, y al otrosi tengase presente para su tiempo.
[rúbricas]

SS V. S.Y.A Señores Jueces Vial, Tocornal, Infante y Aguirre. [al margen]

Proveyeron el anterior ante los Señores Jueces de margen rubricándolo el dia de su dicho doy fee
Urta
[rubricado]

En dicho dia notifique el anterior decreto a don Jose Ureta doy fee
Urta
[rubricado]

En el mismo lo puse en noticia del señor Fiscal doy fee

Ilustrísima Corte.
El fiscal dice: que está implicado para determinar en esta causa
Santiago Noviembre 6 de 1824

Ulizalde
[rubricado]

En la Ciudad de Santiago de Chile en seis días del mes de noviembre de mil ochocientos veinte y quatro ante los señores de esta Ilustrísima Corte se presento esta escusa del Señor Fiscal, y mandaron corra la Vista con el Agente doy fee

Urta
[rubricado]

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En dicho dia notifique el anterior decreto a don José Ylario Ureta doy fee.

Urta
[rubricado]

En ocho dias del mismo lo puse en noticia del Agente Fiscal doy fee.

Urta
[rubricado]

Responde

Ilustrísima Corte

El Agente Fiscal dice que Manuel Meneses por el suyo de fojas 36n se desiste del matrimonio que intentava contraer con Doña Manuela Reynoso de Zelaya. De consiguiente es intempestivo el expediente, que se solicita sobre la biudedad de Doña Manuela y de mas diligencias, que obren en la materia aquel desistimiento de Meneses pueda ser caprichoso y queda siempre subsistente, el peligro de continuar en el concubinato con doña Manuela y en que ha reincidido tantas veces si no se separa de este reyno de lo contrario, está expuesto don Jerónimo Reynoso a ser perturbado en la tranquilidad de su casa, y que el delincuente cometa una infracción escandalosa de sus derechos: mejor es ocurrir en tiempo para evitar un perjuicio que no provea de remedio cuando ya llega tarde este arbitrio, según el axioma prudente de nuestros códigos y el abuso de Meneses puede terminar acaso una escena lastimosa y desgraciada de que la común experiencia ha ofrecido en todas épocas ejemplares bien circunstanciados : la mujer siendo honesta se presume forzada según la L 1a, tit 19, partida 7. a no ser que medien circunstancias que acrediten su consentimiento. Este no está justificado en nuestro caso, antes si se convence por el mérito del proceso, que doña Manuela Reynoso fue inducida (...) Meneses, que con violentas persuasiones la imbitó.=

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Este delito o como adulterio, o como un concubinato escandaloso, que vulnera los derechos del ciudadano, y pervierte el orden público, corresponde al magistrado su corrección, y escarmiento. No ? contar lo expuesto, lo alegado porque Meneses en el suyo de fojas 41 y si la suavidad con que el pronunció la sentencia de fojas 30 no es bastante a contener la continuación de sus

excesos se persuade el ministerio ser de necesidad, se lleve adecuado efecto la de fojas 16 sobre que reproduce su vista de fojas 14 y fojas 29 para que vuestra señoría ilustrísima se sirva revocar la citada de fojas 30 en esta parte confirmándola en lo que respecta a la condena de doña Manuela con cuyo concepto decidirá D.S.I resolver lo que estime más justo y arreglado como siempre.
Santiago noviembre 13 1824.

Doctor González
[rubricado]

En la ciudad de Santiago de Chile en trece días del mes de noviembre de 1824 a los señores de esta ilustrísima corte de apelaciones represento esta vista fiscal y mandaron traer los autos en relación doy fee
Urta
[rubricado]

En dicho día notifique el anterior decreto a don José Ilario Ureta Vista doy fee
Urta
[rubricado]

En el mismo a don Jerónimo Reynoso doy fee
Urta
[rubricado]

En quince del mismo a la gente fiscal doy fee
Urta
[rubricado]

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Santiago y Diciembre 10 1824

Vistos : Se declara que Manuel Meneses ha conpungado su delito con la prisión que ha sufrido, y que ha fin de evitar nuevos males, que pudieran originarse entre tantos se sustancia, y se resuelve precisamente en el término de un mes la causa sobre la viudedad de doña Manuela Reynoso, saldrá dicho Meneses al lugar de la residencia de su padre, dando antes la correspondiente fianza a satisfacción del juez de letras. De no personarse en esta corte, hasta que recaiga la resolución definitiva de la indicada causa; o en su defecto se pondrá en el panóptico por el mismo plazo de un mes que se ha señalado; pudiendo también entre tanto don Jerónimo Reynoso disponer de la seguridad de su hija, o bien manteniéndola en su casa, o depositándola en un monasterio, en su virtud se revoca la sentencia apelada a fojas 30 y se devuelven.

[rubricas]

Proveyeron el anterior auto los señores jueces del margen rubricándolo el día de su fecha doy fee
Urta
[rubricado]

SS Jueces: Vial, Tocornal, Aguirre, Mardones [al margen]

214r

En cuatro días de citado mes y año: notifique el auto de la buelta A don Gerónimo Reynoso de Celaya de que doy fee

Valencia
[rubricado]

Hoy a las 11 del día se me hizo saber esta providencia a 4 de diciembre de 1824
Reynoso
[rubricado]

En seis del presente mes hice saber el anterior auto de la vuelta a Manuel Meneses y enterado del ?; que el mes a que se le destina en su re (...) cida.? O en el panoptico bajo de fianza lo sufrirá con la misma cárcel. Y porque conste lo pongo para diligencia dicha un supra

Vargas
[rubricado]

EL nueve del mismo hice saber la anterior providencia al agente fiscal del crimen doy fee

Vargas
[rubricado]

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El procurador de pobres don Manuel Meneses ante V.S según derecho digo: fue revocada la sentencia de fojas 30 proveida en los autos criminales seguidos contra mi parte por concubinato con doña Manuela Reynoso, se mandó por la ilustrísima corte de apelaciones que Meneses, cuyo delito se estimó compungado con la dilatada prisión que ha sufrido, fuese encarcelado bajo de fianza, o en su defecto se le trasladare al panoptico por el término de un mes, en el cual debía precisamente resolverse la causa de la viudez de dicha Reynoso. Mi parte tuvo a bien quedar en la cárcel donde se hallaba. Y cuando cumplido el mes debió ser puesto en su altura sin condición alguna en fuerza del pronunciamiento superior, han pasado 21 días el plazo señalado y permanece en la misma prisión. Para evitar un perjuicio semejante, que es indebido y contravisto resuelto en la materia. Suplico a vuestra señoría se sirva mandar que inmediatamente se le ponga en libertad por ser así justicia imploro, jurando

Don Novoa
[rubricado]

José Cabrera
[rubricado]

Santiago y Enero 24 1825

Póngase a Manuel Meneses en libertad, y hágase saber este decreto a don Jerónimo Reynoso para que cuide de la seguridad de su hija

Etchevers
[rubricado]

Ante mí
Vargas
[rubricado]

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Inmediatamente le hice saber al Reo Meneses.
doy fee
Vargas
[rubricado]

En el propio día hice saber a don Gerónimo Reynoso
doy fee
Vargas
[rubricado]

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Contra el reo Manuel Meneses por ayer 25 del corriente enero a las 8 de la noche me hizo saber el actuario una providencia
Enero 24 de 1825: Póngase al reo Manuel Meneses en libertad, y hágase saber este decreto a don Gerónimo Reynoso para que [ilegible] a la seguridad de su hija para ab.... a más de hoy convenga, suplico a su justificación se sirva que el actuario [ilegible] las preguntas siguientes = es cierto que ayer veinte y uno de Enero, a las 9 de la mañana, yo mismo a su oficina [ilegible] la providencia que había del escrito presentado por el reo Meneses, y me contestó no tenía el escrito en si oficina, solamente los autos que me los enseñó = segunda sentifique, como es verdad que a las 8 ½ de la noche, el mismo día 25, fue a mi oficina de comercio y me hizo saber la providencia al día anterior [ilegible] en que se manda la libertad del reo = 3a que asimismo justifique como me hizo saber que ayer mismo 25 a las doce del día fue a la moneda servido en el expediente de la causa, sobre el cumplimiento a la [ilegible] citaba, y el mismo J.I lo mandó a echar fuera poniéndolo en libertad en la calle a dicho reo Manuel Meneses sin que le hiciese ni previniere ningún apercibimiento, en manera alguna:

Concluida esta diligencia sírvase V.S mandar se me entreguen los autos criminales que sigo contra este reo y el escrito que motivo [ilegible] de su libertad : sin estos documentos no puedo exponer mis derechos V.S mandar como tengo pedido en justicia

Gerónimo Reynoso de Celaya
[rubricado]

Exponiéndose lo que haiga de verdad en el particular porque pudiera yo haberme equivocado en alguna cosa, lo que no vale Reynoso

[rubricado]

Santiago enero 27 de 1825

como se pide

[rúbrica]

ante mi

Vargas

[rubricado]

En veinte y ocho del presente mes hice sa

215r

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Yo el [ilegible] escribano en cumplimiento demandado [ilegible] En cuanto a la primera [ilegible]

Sus escritos ser contenidos pues ha llevado al escrito para ser saber al reo verifique el mismo día [ilegible] don Jerónimo Reynoso de Celaya y a su tienda de comercio y no lo pude encontrar hasta la hora que expone, que fue que [ilegible] dicha tienda.

En lo tercero digo que estando el señor juez en la moneda me preguntó que si ofrecía alguna cosa y le contesté que iba a darle su cumplimiento al decreto de libertad de Manuel Meneses y estando presente el alcaide le dijo el juez lo pusiese en libertad. Es cuanto tengo que certificar sobre lo pedido y por [ilegible] los efectos que ya lugar en [ilegible] doy la presente, Santiago y febrero 4 de 1825

José Joaquín Vargas

[rubricado]

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