



A HISTORY OF RAPE

*Sexual Violence
in France
from the 16th to
the 20th Century*

GEORGES
VIGARELLO

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SEXUAL VIOLENCE IN FRANCE FROM
THE 16TH TO THE 20TH CENTURY

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Translated by Jean Birrell

Polity

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Introduction

The history of rape has never been written, but now may be the time to attempt it. Statistics and reports concerning sexual violence are stimulating historical research as never before; complaints have increased sharply in recent years, while convictions, those for crimes against children in particular, have risen sixfold over the last decade.¹ Once shrouded in relative secrecy, the crime is now glaringly visible, prominent as never before in police enquiries, court proceedings, newspaper articles and public concerns. There are new fears and different penal expectations; calls for heavier penalties for rape are growing, as are those for preventive measures, to the extent of demanding interminable courses of treatment for potential criminals. The image of the rapist, the paedophile in particular, now fills the place till recently occupied in the collective consciousness by the wicked murderer. Our horror has found a new focus; the old villain of the detective novel, who murdered and robbed, has been replaced by the more psychological figure of the tormented pervert, whose violence combines with lust and sexuality.² Sexual violence, that against children in particular, has become the ultimate evil. All of which raises the inevitable question: is it an illusion or has there been a real increase in the crime? Is this a violence less tolerated or a violence less controlled? A question of such importance calls for an investigation of the changes that may have occurred in our culture itself.

The statistics are not all-important, though they can be enlightening; research very quickly reveals, far from simple quantitative comparisons, how it is the boundaries and the meaning of the crime, and

the way of defining and judging it, that are subject to history. The juridical content of sexual violence was not the same only a few decades ago. Sensibility to violence neither had the same criteria nor had reached the same levels; it had long been determined by the status of those involved, their prestige or their vulnerability, and had long implicitly accepted an almost open brutality towards the less powerful.

The history of verdicts and of trials shows, at a deeper level, that the history of rape cannot be confined to that of violence. It must be the history of a complex interrelationship between the body, attitudes and morality. The shame, for example, inevitably felt by the victim, derives from the intimacy of the assault, the way it is represented and the possibility of it becoming public. From shame comes the obscure notion of a taint or degradation by contact, of evil transferred to the victim, transforming her in the eyes of others. This shame also inevitably varies with history, more painful when the world of sin condemns both participants jointly, deeper when reason remains insidiously a prisoner of this spontaneous conviction of degrading contact. This explains, for example, the enduring difficulty under the ancien régime of recognizing violence in an act of sodomy, the intense repulsion condemning the conduct of the sodomite to the extent of condemning his possible victim, an opprobrium so great that the injuries were forgotten and the participants associated. It also explains the desire sometimes shown to condemn the child victim of incest, to criticize a promiscuity with the father seen as too prolonged or a gesture of acquiescence by the child seen as too marked. This archaic enveloping of the participants in one joint universe of sin makes plain what in our society has been obscured, though it has never wholly disappeared: the scandal that taints the victim in tainting the rapist. This presumption of collaboration with the world of sin had to change before attitudes to the roles of the participants could change.

At a deeper level still, the judgment of rape raises questions about the possible consent of the victim and promotes an analysis of her decisions, of her wishes and her autonomy. A history of rape must therefore also reveal the imperceptible birth of a vision of the subject and of her inner life. It demonstrates the old difficulty of evaluating personal autonomy, and the need to rely on material indicators to attest to it. The classical judges only believed a woman's complaint if all the physical indicators, the broken objects, visible injuries and corroborating statements, made it possible to confirm her claims. The woman's non-consent and the manifest forms of her wishes existed only in their material traces and their bodily signs. The history

of rape, then, is that of the struggle to abandon too immediate a link between a person and their acts, and of the gradual recognition that a subject may be 'absent' from the deeds they are condemned to suffer or to perform. This supposes the realization that a consciousness can exist distinct from what it 'does'.

This reluctance to exonerate the victim, in other words, is bound up with the image of women. Any prior prejudice or suspicion with regard to the plaintiff, any *a priori* doubt, however small, makes it impossible to comprehend her possible terror, her misunderstandings, her involuntary submission, those mental attitudes which, if forgotten or neglected by the observer, can make it appear that she yielded voluntarily. Every presumed 'weakness' or 'inferiority' on her part makes her evidence suspect. It is because this suspicion varies over time that there can be a history of rape; it changes in parallel with changes in the systems of oppression exercised over women, their permanence, their refinement and their displacement.

Judgments and discussion of rape today may therefore reveal a number of cultural changes capable of explaining in part the explosion of the figures: a greater equality between men and women, making increasingly intolerable the old violence and the model of domination to which it gave concrete expression; a revision of the image of the father and of authority, making suspicions and accusations more credible; the unprecedented importance attached to childhood, now seen as absolute innocence at a time when fathers are becoming less secure; a shift of attention towards intimate damage to the victims, transforming into irreparable traumatism what had previously been primarily moral shame and social insult. Everything changes when the psychological dimension is added to the more visible but more superficial dimensions which have long been dominant. The consequences are made more permanent, questions are raised regarding what the person experiences and what constitutes their identity.³ A long process of increasing awareness and a slow change in mental attitudes have gradually shifted our focus and made it possible to consider the very personal aspect of the injury, its inner and secret part, that very special form of crime which, in attacking the body, attacks the most incorporeal part of the person. A history of rape may therefore also help us to trace the birth of the contemporary subject. The importance attached to personal suffering and the emphasis on the hidden devastation and crushing blow, the psychic torment and murder, are so crucial because they have transformed the dominant image of criminality and its consequences.

PART I

**The Ancien Régime:
Violence and Blasphemy**

In a scene from his *Journal* conjured up in a few casual phrases, Jacques-Louis Ménétra, shopkeeper-glazier of the late eighteenth century, reveals a number of significant strands in attitudes to rape under the ancien régime. He describes in tones of evident amusement the key events in a little story:¹ Ménétra and his friend Gombeau, strolling in the forest of Vincennes one Sunday in the 1760s, discovered a 'human nest', a couple hidden away and locked in an intimate embrace, 'a young man and a young woman really going at it'; the two passers-by mocked and abused the couple before finding the lover's ripostes 'insolent' and suddenly launching into violence; Gombeau seized the young man's drawn sword, stuck 'as a precaution ... into the ground alongside him', so that 'the fool didn't dare come near us', then, one after the other, the two friends raped the girl, 'whom we didn't give any time to pull herself together', before tossing the young man his sword, once they 'had gone off a little distance ... because we looked out for each other'.

Ménétra seems unaware of the gravity of the act, and his victim makes no formal complaint; the glazier's *Journal* moves briskly on to other episodes in his life as a Parisian shopkeeper. His story is only one amusing anecdote among others, telling of a stroke of luck experienced on his travels as a journeyman. The use of the drawn sword reveals, however, the presence of violence in a world of men sure of their rights, a brutality silently accepted, familiar in its visible, not to say ostentatious, signs, and shared without great mystery by the ordinary people of Paris. The history of rape is first that of the presence of this diffuse violence, of its extent and its levels. It directly parallels the history of the sensibility that tolerated or rejected brutality. The absence of either emotion or complaint in Ménétra's story reveals how strangely commonplace the act was, though harshly condemned by the ordinances of the ancien régime. Its familiarity is strange to our eyes, even if the act is still among the least condemned. The rapists' conviction of their own legitimacy also reveals the very particular power wielded by Gombeau and Ménétra over a woman whose behaviour meant she belonged to no-one and enjoyed no protection. A violence relatively tolerated, the rarity of complaints, repeated references to the appropriation and possession of the victim: Ménétra neatly encapsulates, in his few chilling sentences, the axes round which rape was perceived under the ancien régime. They help us to understand how this crime was judged.

Both institutions and mental tools here indicate the differences from our own times; these many and crucial differences remind us of the degree to which sexual violence and the way it is judged are indissociable from a collective world and the way it changes. We need

to look closely at this world, and carefully identify its elements, if we are to discover, in the sulphurous context of sexual violence, the reasoning that humiliated, defended and judged. These elements were heterogeneous, numerous and often implicit: the familiarity of physical violence; the image of crime and of sin, so powerful that it doomed the victim to degradation and shame; the image of women, their subjection long seen as legitimate; the image of consciousness, the still-faltering and opaque analysis of which in France at that time did little to shed light on the victim's non-consent; the state of knowledge, lastly, inadequate in our eyes but called on to provide bodily and material proofs. Changing over time, the particular nature of these elements under the ancien régime gave a special character to rape and the way it was judged.

A Violence Like Any Other?

Rape, like many forms of violence, was fiercely condemned by the texts of classical law but little punished by judges. The parlements were ready to 'understand' rape just as they were ready to 'understand', if not to justify, other types of physical brutality. They both condemned and pardoned, oscillating between indulgence and repression, alternating between what would today be unacceptable tolerance and unacceptable ferocity. The juridical response to rape was in many ways similar to the juridical response to ordinary violence; it was the act of a furious, frantic man, sometimes brutally punished, more often forgotten in the hurly-burly of everyday life. It is this parallel with a familiar and commonplace violence that we need first to consider. Rape, in ancien régime France, was part of a whole world of violence.

The leniency and severity of judges

The trials of the ancien régime reveal a different sensibility, a world where the shedding of blood did not always trigger legal proceedings, where sword-thrusts still had their financial compensation and deliberate murders their inevitability; the same scenes are endlessly repeated in memoirs and in the legal files of *bailliages* and parlements: cut-throats lurking in the undergrowth, men carrying knives in the street, parlements protecting the possible indolence of judges. This is the Artois of Robert Muchembled, the Anjou of François Lebrun, or the Languedoc of Nicole Castan,¹ with their physical confrontations

and their blows ‘struck for a nothing...in the town and in the country, among ordinary people and among the nobility’,² sudden, impulsive acts, regarded as all the more legitimate if they appeared to be a matter of ‘honour’. They transposed head-on force into virile self-assurance, that of men readier to depend on themselves and take instant revenge than to rely on a legal machinery that was distant and threatening, feared and open to manipulation. This is not to say, of course, that traditional society was ‘constantly raging and bloody’,³ or that a brutal settling of scores was the normal outcome of conflicts, in which case no collective equilibrium could have been achieved: ‘It would be difficult to ascribe a pathological bloody rage to all the culprits’,⁴ and compromises and agreements existed. But it was a society that tolerated a ready resort to action and ‘hyper-aggressiveness’.⁵

Those ancien régime courts where many forms of brutality were tried, and where the confrontation was not restricted to that of rapist and victim, are the most revealing of this widespread tolerance. They present a general attitude, a particular way of judging bloodshed and blows. This was illustrated by the Auxerre affairs, for example, in 1733, in which brawling and revenge featured in addition to rape and could be dealt with separately. Four soldiers had ‘committed violence’ on a ‘young and pretty’ passenger spotted in a coach; the young woman defended herself and witnesses came to her aid; the men drew their swords; the coachman was killed and a sailor wounded. The trial began in the absence of the soldiers, their commander undertaking to ‘represent [them] when necessary’, and it was soon suspended: a royal pardon was produced after the soldiers had ‘silenced, in return for ten thousand *livres*, the widow and children’.⁶ Several acts of violence went unpunished: the murder, the injury to the sailor, the attack on the young woman; some, like the ‘liberties’ taken with the traveller, were omitted from the investigation.

There was a similar story and an almost identical outcome in the case of Bernier, a young soldier who, in 1762, mortally wounded with a sword-thrust a man who had come to the aid of a young girl he was pestering on the Antony road. Bernier had met the young woman, about whom almost nothing was said at the trial, by the *barrière de Vaugirard*. He had ‘taken her hand’, ‘said foolish things’ to her, then followed and ‘harassed’ her to the point where Louis Clérault, the gatekeeper, had tried to come to the ‘rescue’ by saying that her mother was looking for her. Amidst cries and appeals, the young woman had fled and managed to hide in a house, where Bernier found her. In the end, a fight broke out, during which Bernier ‘pierced’ with his sword a passer-by, a young man who had tried to defend the girl with his fists.