

Przemysław Tyszka

SEXUAL VIOLENCE IN THE EARLY MEDIEVAL WEST*

The concept of 'sexual violence' present within the relevant literature, academic discourse, institutionalised language and colloquial speech is a contemporary construction brought about under the influence of current social and cultural phenomena.¹ Here of key importance is the idea of human rights, in particular those of women and children. The contemporary understanding of the acts and events lurking behind such a concept should not consequently be treated as universal, transhistorical or even as ahistorical. The phenomenon of sexual violence is a historical phenomenon and as such one undergoing changes. Acts of sexual violence, perceived as transgression against sexual norms in force in a given society – criminal acts, bad deeds,

* This article was published in Polish in *Kwartalnik Historyczny*, cxviii, 2 (2010), 207–30.

¹ Cf. Georges Vigarello, *Histoire du viol. XVIe–XXe siècle* (Paris, 1998); I have made use of the Polish edition, *Historia gwałtu od XVI do XX wieku*, trans. Anna Leyk (Warsaw, 2010), 59, 367–77, 392–6; cf. also the subject literature therein, particularly Françoise Héritier, 'Leffraction du corps conçu comme un territoire clos', in *Séminaire de Françoise Héritier: De la violence I* (Paris, 1996), 17; Roy Porter, 'Rape – Does It Have Historical Meaning?', in Sylvana Tomaselli and Roy Porter (eds.), *Rape: An Historical and Cultural Enquiry* (Oxford, 1986), 216–36; John Marshall Carter, *Rape in Medieval England: An Historical and Sociological Study* (Lanham, 1985), 35–45; Wolfgang Reinhard, *Lebensformen Europas. Eine historische Kulturanthropologie* (Munich, 2004), I have made use of the Polish edition, *Życie po europejsku. Od czasów najdawniejszych do współczesności*, trans. Jacek Antkowiak (Warsaw, 2009), 328–30; cf. also Ruth Mazo Karras, *Sexuality in Medieval Europe: Doing unto Others* (New York, 2005), 51, 112–16, 125–129; Sylvie Joye, 'Prática social e armadilhas das fontes as fontes historiográficas e normativas sobre o casamento por rapto na Alta Idade Média' [Social practice and the traps in the sources: historiographical and normative sources on bride kidnapping in the Early Middle Ages] *Varia Historia*, vol. 26, no. 43, (2010), <http://www.scielo.br/scielo.php?pid=s0104-87752010000100005&script=sci_arttext> [Accessed 15 Oct. 2011].

sins – obviously existed equally in the early Middle Ages. However, the people of the time did not treat these acts as directed against a conceptionally isolated ‘sexuality’ but against bodily inviolability and the virtue of the individual.² We should consequently characterise sexual violence in its early medieval form taking into consideration the specifics of this epoch, and in particular the then current principles and concepts of social order as well as the patterns of men’s and women’s behaviour. This postulate applies to research into any epoch and historical society.

The question as to the scope of the phenomenon under discussion is not only theoretical and methodological in character; it also has an exact practical dimension. We come across many varied acts and ways of behaviour within early medieval sources which involved (to a greater or lesser degree) the use of violence and that were linked to the sexual sphere. A researcher must therefore undertake a decision every time as to whether the given event or form of behaviour was or was not a manifestation of sexual violence.

The most general question relating to the definition and at the same time the scope of this phenomenon in the past, may be formulated thus: what is the relation between violence and sexuality? And also more precisely: how should one understand the concept of sexuality (the sexual sphere) within the context of violence? Consequently, there appear several important issues both general and specific in character. Firstly: what kind of acts do we consider as sexual violence in relation to the early Middle Ages? And in particular: does the phenomenon come down to a forced sexual act (in the broadest sense of the word, i.e. in a situation whereby somebody against the will of another person achieves sexual satisfaction)? Does it equally involve actions which are conducted against the will of another person and which require the use of violence to a greater or lesser degree but which do not result in a sexual act, such as the beating or murder of a rape victim with the aim of intimidating him/her or covering up the

² The term ‘sexual violence’ does not appear in early medieval texts; in medieval Latin there were in use the words: *violentia* (violence, impetuosity, insult, rape) and *sexus* (type, distinctness, sex organs, sex/gender), see Du Cange, *Glossarium mediae et infimae latinitatis* (Graz, 1954), viii, 346; vii, 446; Edwin Habel and Friedrich Gröbel, *Mittelateinisches Glossar* (Paderborn, 1989), 426, 364; cf. also the verb *violare* (damage/injure, violate/encroach, desecrate/defile), *violentare* (offend, insult).

identity of the perpetrator? Is sexual violence equivocal to the use of physical violence or just bodily contact? Does the concept imply, as if in principle, the arising of bodily harm or may it also represent first and foremost moral damage?

A second important question may be formulated as follows: who is the perpetrator and who the victim of sexual violence (broadly understood)? In particular: are we to suppose that its perpetrator, almost by the nature of things, is a man (or a group of men) while the victim – a woman or a child? In accepting that the aim of sexual violence is not always a sexual act or some other kind of sexual satisfaction we may ask as to whether offences of this type may be undertaken by a man in relation to another man or by a woman in relation to a man or a woman?

In summing up the above considerations let us indicate the most important problems for our research. The protection of a person's sexual sphere within the context of violence may encompass several elements, first and foremost bodily inviolability, particularly of the genitals, including: the protection of integrality and sexual potency (ban on mutilation, particularly castration), protection of nakedness (particular a ban on stripping off and watching a nude body), protection of reputation concerning sexual conduct (a ban on verbal insult). In attempting therefore to apply the concept of 'sexual violence' to the reality of the early medieval period we accept that it denoted harmful actions of various type, covering not only physical violence and bodily contact, directed against a person's sexuality broadly understood. We shall add that the phenomenon here under discussion has various degrees of intensity. It appears, therefore, that two similar dimension of this phenomenon can be distinguished: 1. sexual violence in the narrow sense (e.g. rape, sexual harassment); 2. violence conducted against a sexual background (e.g. the beating or murder of a woman or child in cases connected with sexuality, the abduction of a woman without rape, the mutilating of male genitals, the reviling with insults of a sexual character).

One should also draw attention to the fact that the concepts used in statements concerning, e.g., rape, both contemporary and in the Middle Ages, are not always unambiguous.³ According to the

³ Julie Coleman, in writing about the concept of rape in Anglo-Saxon England, points out that the contemporary understanding of the word as sexual intercourse convened without the woman's will does not correspond to the letter of the law

definition of Isidore of Sevilla, *raptus* – in its proper meaning – is unlawful sexual intercourse, called so from depravity.⁴ However, in this sense the word in the early Middle Ages either was never used or this was not its primary meaning. Pierre Payer has drawn attention to the fact that in the early medieval penitential books and synodal acts the word *raptus* rather meant abduction which in no way excludes the possibility that it could have been connected with a forced sexual act.⁵ A similar vagueness in meaning applies to the words *raptus*, *rapere* as they appear in Germanic law. Corrine Saunders, in discussing the concept of *raptus* in English secular law as well as in canon law during the High and late Middle Ages, advances the thesis that it possessed a wider conceptual scope than simply rape and meant the abduction and raping of a virgin. She also draws attention to the shift in meaning within the context of secular law between the Anglo-Saxon period when *raptus* (ravishment) meant first and foremost a sexual assault and the period following the Norman conquest of England, when the word could have meant rape, abduction of a virgin, or both of these acts concurrently.⁶

and its application in Great Britain and the United States. The laws of particular American states enumerate as an element constituting rape: ejaculation, full or partial penetration or mere genital contact, see *eadem*, 'Rape in Anglo-Saxon England', in Guy Halsall (ed.), *Violence and Society in the Early Medieval West* (Woodbridge, 1998), 193.

⁴ Isidore of Seville, *Etymologiarum originum libri XX*, ed. Wallace M. Lindsay (Oxford, 1911), 5. 26. 14: 'Raptus proprie est illicitus coitus, a conrumpendo dictus ...'; the word *raptus* derives from the verb *rapere*, which meant in classical Latin 'grasp/seize', 'kidnap', 'acquire/gain' (loot), 'take away by force' (property), 'plunder', 'carry away', 'steal', 'rape' (a woman), see Peter G.W. Glare (ed.), *Oxford Latin Dictionary*, fasc. vii (Oxford, 1980), 1573, hence *raptus* is 'robbery', 'plunder/pillage', 'loot', and also 'grasping', 'tearing off', 'kidnapping', 'abduction', 'rape' (*ibidem*); similarly Egidio Forcellini and Giuseppe Furlanetto, *Lexicon totius latinitatis*, ed. Francesco Corradini and Iosepho Perin, iv (Passau, 1940), 10: 'seize (catch) by force and impetuously', 'kidnap', 'abduct'; Krystyna Weyssenhoff-Brożkowska *et al.* (eds.), *Słownik łaciny średniowiecznej w Polsce*, viii, 1 (Cracow, 2002), coll. 19, *raptum*, *i* – 'loot', 'robbery', *raptus*, *us (hominum)* – 'kidnapping', 'abduction', *raptus (virginis)* – 'kidnapping', 'seduction', 'rape', *abductio*, *vis*, *violentia*.

⁵ Pierre J. Payer, *Sex and the Penitentials: The Development of a Sexual Code, 550–1150* (Toronto, etc., 1984), 38.

⁶ Corrine Saunders, *Rape and Ravishment in the Literature of Medieval England* (Cambridge, 2001), 20, 35 f.; Marianne Elsackers, 'Raptus ultra Rhenum: Early Ninth-Century Saxon Laws on Abduction and Rape', *Amsterdamer Beiträge zur Älteren Germanistik*, 52 (1999), 27–53.

Of importance for our research is the question of the character and content of the source materials at our disposal. For the early medieval period we do not possess sources of a single type which would in addition be sufficiently rich in content that they could be used to exhaustively describe the phenomenon. For the same reason detailed research of even a single defined type of sexual violence is not possible. We shall have to resort consequently to various sources such as: law codifications, in particular Germanic law (*leges barbarorum*), historiographical narratives, penitentials.

Equally important in research into various historical sources is an analysis of the events about which the texts inform, and the way in which the actions of participating individuals are presented, and also whose point of view is herein reflected. For information about individual acts of sexual violence is incorporated into the discourse appropriate for the particular types of text. In the case of narrative texts the author bestows on the events described a definite interpretation resulting from the adopted literary convention as well as his understanding of the meaning of the recounted events. The codifications of laws have, in turn, a normative character: they contain regulations concerning human behaviour and do not convey information on actual individual events.

Early medieval sources speak of not only the victim and perpetrator of sexual violence but also of others, their rights and interests. These sources have, though, a common feature: none of them contain an account given by the victim of sexual violence, which would describe the course of events and the injustices (physical and moral) suffered. The authors of narrative texts at most (and here very rarely) would place into the mouths of the perpetrators concise statements on their acts. We do not have at our disposal court testimonies for the period, either of the victims or the perpetrators of sexual violence, we have no recourse to private journals, in which they would have been described. The acts of sexual violence are presented, therefore, by individuals who did not take part in them.

An analysis of the sexual violence presented in early medieval sources requires attention to be focused on two factors (and at the same time contexts): the social order and interethnic relations, which to certain extent conditioned the phenomenon under discussion. Within these sources women (the victims of sexual violence) are not treated as a uniform category. Germanic law distinguishes several

socio-legal categories: free women including those of noble birth, serfs (*litae*), and slave women. A separate group was composed of nuns or more broadly women affiliated to the Church. Additionally women freely born were divided into unmarried girls-maidens, married women and widows. Of important legal significance was also the division into women belonging to a given kinship (i.e. remaining under the custodial authority of the male head of a kinship) and women beyond this grouping.⁷

There is no mention in the texts from this period of a woman as such, but about a woman belonging to a given category defining her socio-legal and kinship position. This dependence also fundamentally influenced her legal situation as a victim of sexual violence. Similarly the social status of a man – the perpetrator of the violence – defined the scope of his responsibility. Another important question is linked with such characteristics of women as (potential) victims. Amongst the Germanic and Celtic peoples all women belonging to a given family were subjected to the authority of their male relations, and in their absence to the authority of the king. Therefore in early medieval accounts the female victim of sexual violence was not treated autonomously and subjectively. The damage brought about by a sexual crime affected not only the woman but also her kinship and particularly her legal male guardians. They were also touched by the infamy resulting from a deed directed against a woman.⁸

⁷ Cf. Katherine Fischer Drew, 'Introduction' in *The Laws of Salian Franks*, ed. eadem (Philadelphia, 1991), 39–49; eadem, 'Notes on Lombard Institutions', in eadem, *Law and Society in Early Medieval Europe: Studies in Legal History* (London, 1988), 15–23 (first published in eadem, *Notes on Lombard Institutions: Lombard Laws and Anglo-Saxon Doms* [Houston, 1956]); Alexander C. Murray, *Germanic Kinship Structure: Studies in Law and Society in Antiquity and the Early Middle Ages* (Toronto, 1983); Susan Fonay Wemple, *Women in Frankish Society: Marriage and the Cloister, 500 to 900* (Philadelphia, 1981); Heiko Steuer, *Frühgeschichtliche Sozialstrukturen in Mitteleuropa. Eine Analyse der Auswertungsmethoden des archäologischen Quellenmaterials* (Abhandlungen der Akademie der Wissenschaften in Göttingen. Philologisch-Historische Klasse, 3rd Series, 128, Göttingen, 1982); Karl Bosl, *Potens und Pauper. Begriffsgeschichtliche Studien zur gesellschaftliche Differenzierung im frühen Mittelalter und zum "Pauperismus" des Hochmittelalters*, in idem, *Frühformen der Gesellschaft im mittelalterlichen Europa. Ausgewählte Beiträge zur einer Strukturanalyse der mittelalterlichen Welt* (Munich and Vienna, 1964), 106–34.

⁸ Cf. Julia M.H. Smith, *Europe after Rome: A New Cultural History, 500–1000* (Oxford, 2005), 116–25.

Acts of sexual violence occurred in times of peace and within the limits of a single social entity, as they did in conditions of conflict between autonomous groups, particularly during intertribal wars. In the first case acts of this type were viewed as criminal deeds violating social order, but equally constituted an important element in kinship and local conflicts. Intertribal war constituted a separate scenario. Violence in its various manifestations is to some extent an integral and constituent element of this form of conflict. The perception of acts of violence fundamentally change. The raping of the women of an enemy (in a similar way to mass murders, pillage, arson) is not a violation of order but simply a demonstration on the part of the attackers that they defeated their opponent, for they have taken their most valuable chattel, which included for certain the female part of the community. In narrative sometimes more important than the factographic account of such events was their symbolic undertone, emphasised by literary convention (e.g. the ruler-aggressor who copulated with the wife or daughter of the attacked ruler, manifesting his domination and the taking into his possession of the defeated country).⁹ Acts of sexual violence within the framework of one's own community were treated differently than those meted out to outsiders. Similarly, acts of this type were perceived differently in a situation where the matter concerned an outside attack on one's community, and differently again when they were directed against another tribe.

A description of the source accounts in relation to varied manifestations of sexual violence must take into consideration the above mentioned circumstances, the conceptual and terminological difficulties. First of all we shall deal with the question of rapes, therefore acts by men against women. The specifics of sources conveying these acts lie in the fact that on the one hand we are dealing with relatively a large number of laconic notes contained within *leges*

⁹ E.g. the chronicle of Gallus Anonymus, written around 1112–17 (*Galli Anonymi Cronica et Gesta ducum sive principum Polonorum*, ed. Karol Maleczyński, Monumenta Poloniae Historica, s.n., ii [Cracow, 1952], lib. I, 7, p. 23), describes how the Polish monarch, Boleslav the Brave, during his expedition in Rus' in 1018, having taken Kiev, took Predslava, the sister of the local prince Yaroslav the Wise (and the daughter of prince Vladimir the Great) 'only one time', as a concubine, 'to the insult and dishonour' of the Ruthenians; cf. Jacek Banaszkiwicz, 'Bolesław i Peredslawa. Uwagi o uroczystości stanowienia władcy w związku z wejściem Chrobrego do Kijowa', *Kwartalnik Historyczny*, xcvi, 3–4 (1990), 3–35.

barbarorum,¹⁰ on the other hand – only a few, though far more developed passages in narrative texts. One should add straight away that in Germanic law rape was in certain cases linked to acts that may be defined as violation of bodily inviolability sexual in nature.

In the Germanic *leges* raping a woman was described by several formulations which accentuated varied aspects of this crime. The first variant is made up of terms for a sexual act brought about by force – e.g.: ‘Si quis uxori aliene adulterium intulerit violenter ...’ (‘If anyone should have intercourse with the wife of another by force’).¹¹ The formulation: *vim mulieri ingenuae fecerit* has a similar meaning,¹² which may be literally translated as: ‘inflict rape’ or ‘force [to copulate]’. The second variant contains words signifying raping and at the same time dishonour. These designations appear within the most extensive description of rape to appear in the *leges*. It also contains the first variant designation of rape: ‘si viduam quisque vel virginem ingenuam violenter adulterandam compresserit vel stupri forsitan conmixtione polluerit’ (‘If anyone should compel a virgin or widow, who is freeborn, to commit adultery or should pollute her

¹⁰ On the subject of sexual crimes, in particular rape and abduction see James Brundage, *Law, Sex and Christian Society in Medieval Europe* (Chicago and London, 1987), 107, 119, 133, 146–9; Katherine Fischer Drew, ‘The Family in Visigothic Law’, in *eadem, Law and Society, 7–8; eadem, Notes on Lombard*, 31–4; Wemple, *Women in Frankish Society*, 41.

¹¹ *Leges Visigothorum* (hereafter: L. Vis.), ed. Karl Zeumer, MGH, *Leges Nationum Germanicarum* (hereafter: MGN LNG), i (Hanover, 1902), III, 4, 1, p. 147, trans. from *The Visigothic Code: (Forum judicum)*, ed. Samuel P. Scott (Boston, 1910), <[http://www.documentacatholicaomnia.eu/03d/0506-0506,_AA_VV,_Leges_Romanae_Visigotorum_\[Scott_JP_Curatore\]_EN.pdf](http://www.documentacatholicaomnia.eu/03d/0506-0506,_AA_VV,_Leges_Romanae_Visigotorum_[Scott_JP_Curatore]_EN.pdf)> [Accessed 14 Oct. 2011]; *Pactus legis Salicae* (hereafter: PlSal.), ed. Karl A. Eckhardt, MGH LNG, iv, 1 (Hanover, 1962), XIII, 14, p. 63: ‘Si quis puella sponsata dructe ducente [ad maritum et eam] in uia [aliquis] adsallierit et cum ipsa uiolenter meochatus fuerit’ as well as ‘per uirtutem mechatus fuerit’; *Lex Salica* (hereafter: L. Sal.), ed. Karl A. Eckhardt, MGH LNG, iv, 2 (Hanover, 1969), (text D), XIV, 9, p. 55; L. Sal., XV, 2, 54: ‘Si quis cum ingenua puella per uirtutem michatus fuerit’ (‘violently copulated with her’); L. Sal. (text S), XXIII, 13, p. 209; so here are used verbs meaning adultery but with the addition of the term ‘with force’ (*per uirtutem*), ‘violently’ (*violenter*).

¹² ‘Liber Constitutionum’, ed. Ludvig R. von Salis, in *Leges Burgundionum*, MGH LNG, ii, 1 (Hanover, 1892), XXX, 1, p. 66: ‘Quicumque ingenuus ancillae violentiam fecerit’, and XXXV, 1, p. 68: ‘Si quis servus vim mulieri ingenuae fecerit’.

by fornication').¹³ A subsequent variant is the designation defining sexual intercourse against a woman's will, like, e.g.: 'concupuerit contra voluntatem eius' ('he copulated with her against her will').¹⁴ Of key significance here is the formulation *contra voluntatem eius*, for it conveys on the word 'to copulate' the meaning of rape. Another type of designation is possessed by the expression meaning abduction, connected or identified even with the dishonouring of a woman. An example may be the formulation: 'quis puellam virginem rapuerit et violatam dimiserit' ('who a girl-maiden should abduct and should send back raped [i.e. dishonoured]).¹⁵ The verb *rapere* meant in principle 'abduct', but in these two cases the matter referred to the abducting and dishonouring of a girl. In certain law codes, as may be noted, two different terms were used to signify rape. The said dualism in terminology appears in Visigothic law, where the verb *rapere* refers to the abduction and rape of a virgin or widow, in other words an unmarried woman, from whom there was expected sexual abstinence. While the formulation *adulterium intulerit violenter* was used in the case of the rape of a married woman. This act was contrasted with adultery committed with the woman's consent.

In relation to the early Middle Ages the rape of a woman cannot be discussed as a unified category of acts. In the light of the regulations of the *leges* the gravity of rape treated as a crime was relative in nature. This resulted from the principle appearing within the laws of the socio-legal inequality of different categories of individual subjected to the said laws. The factor differentiating the scope of responsibility for committed crimes (including rape) was first and foremost the status of the victim, but also that of the perpetrator. Little importance in the

¹³ L. Vis., III, 4, 14, p. 155–6, trans. from *The Visigothic Code* (with proofreading); see also *Edictum Rotarii* (hereafter: Ed. Rot.) in Claudio Azzara and Stefano Gasparri (eds.), *Le leggi dei Longobardi. Storia, memoria e diritto di un popolo germanico* (2nd edn Milano, 2005), 207, p. 66: 'Si quis ancillam alienam violentiaverit'; *Lex Alamannorum* (hereafter: L. Al.), in *Leges Alamannorum*, ed. Karl Lehmann and Karl A. Eckhardt, MGH LNG, v, 1 (Hanover, 1966), LVI, 1, p. 115: 'Si autem ab ea fornicaverit contra voluntate eius'.

¹⁴ L. Al., LXXV, 1, p. 139–40: 'Si quis cum alicuis ancilla vestiaria concupuerit contra voluntatem eius'. The word *concupere* meant 'copulate' or more descriptively 'to lie with someone with the aim of copulation'.

¹⁵ *Lex Frisionum* (hereafter: L. Fris.), ed. Karl A. Eckhardt and Albrecht Eckhardt, MGH, *Fontes iuris Germanici antiqui in usum scholarum separatim editi*, 12 (Hanover, 1982), IX, 8, p. 48.

legal evaluation of rape was given to the circumstances accompanying the crime.

The significance of the difference in legal status of the perpetrator and the victim in relation to punishment for raping a woman is most clearly visible in Visigothic law. For the rape of a widow or virgin (both freeborn) a free man was to be condemned to 100 lashes (*flagellum*) as well as ‘to be given forever to serve as a slave to her whom he has injured’ (‘*cui violentus extiterit, serviturus tradatur*’). A slave was to be burnt at the stake for the self-same crime.¹⁶ As can be seen in both cases the punishment was extremely severe, yet the difference between them is fundamental. In the case of raping someone else’s slave woman and the catching of the offender on the spot, a freeman would receive 50 lashes and be made to pay her owner 20 *solidi*, while a slave would be punished for the self-same act with 200 lashes.¹⁷

If the matter concerns the composition amount for rape on a woman, then we come across its systemisation in the Rothari’s Edict. The Lombard legislator focused in this case on the difference in the status of a woman, omitting the question of the social status of the perpetrator. It established three composition rates depending on the legal position of the victim. A free woman was to receive a staggering 450 *solidi*, with the same amount going to her relatives. A half-free woman (*aldia*) was to receive (‘merely’) 40 *solidi*, while a freedwoman (*liberta*) and a slave only 20 *solidi* each.¹⁸ A similar gradation appears in the *Lex Frisionum*, where the raping of a free born virgin required the payment to her of three wergilds (one for the girl herself, one for the king, one for relatives; a wergild was worth 53 and $\frac{1}{3}$ *solidi*), in the case of a freedwoman virgin the sum was a wergild for her (around 27 *solidi*) and 10 *solidi* for her lord. While if she was a slave-virgin the offender would pay her lord 4 *solidi*.¹⁹ In the case of raping a slave the regulations are detailed and deserve our insightful attention. For the sum of the composition paid to her lord was differentiated not only depending on whether a virgin had been raped but also on which subsequent time she had been raped: for the first time (a virgin), as mentioned above – 4 *solidi*, for the

¹⁶ L. Vis., III, 4, 14, p. 155–6; trans. from *The Visigothic Code*.

¹⁷ L. Vis., III, 4, 16, p. 156.

¹⁸ Ed. Rot., 186, 205, 206, 207, pp. 52 and 60.

¹⁹ L. Fris., IX, 3 (slave woman), 8–9 (free virgin), 10 (freed woman), p. 48.

second time – 3, for the third – 2, for the fourth – 1, for the fifth and each subsequent time – 1/3 of a solid.²⁰ These regulations lead one to the conclusion that, firstly, in Frisian society young slave girls were notoriously raped (something that most surely occurred amongst other peoples); secondly, the authors of the Frisian law in penalising such acts relatively to the number of rapes experienced by the slave woman, judged her of lesser value each time and, in consequence, they reduced the composition to her lord.

The fact that this regulation concerned only another person's slave women was not a specific feature of Frisian law, but was a principle employed in all Germanic law codes in which regulations concerning the rape of slave women and half-free women were incorporated.²¹ If one is to treat the codes of Germanic law as a relatively complete set of the regulations of legal customs and practices, one may assume that the rape of one's own slave women and possibly half-free women, was not treated as a crime. Only the violation of someone else's property, something which these very women undoubtedly were, gave cause for the implementation of sanctions, in general in the form of compensation for the losses incurred. Equally in none of the researched codes does there appear a rule regulating the rape of a wife by her husband.²² This may suggest that Germanic legislators treated such cases as 'family problems' and for that reason had no intention of intervening.²³

²⁰ L. Fris., IX, 3–7, p. 48.

²¹ Cf. also: Ed. Rot., 205–7, pp. 65 f.; L. Vis., III, 4, 16, p. 156; L. Al., LXXV, 1–2, p. 139–40.

²² Mentions of marital rape appear somewhat later in narrative texts, e.g. in *The Chronicon* of the bishop of Meserburg, Thietmar, written in the years 1012–18 (*Die Chronik des Bischofs Thietmar von Merseburg und ihre Korveier Überarbeitung*, ed. Robert Holtzmann, MGH, SS rer. Germ., s.n., ix (Hanover, 1935), lib. I, 25; where the Magdeburg burgher, Uffo, is mentioned, who being drunk forced his pregnant wife to have intercourse: 'quae eadem nocte a viro alligata suo, cum incongruo tempore pareret infantem in pedibus digitos habentem retortos' ('when she, raped by her own husband, brought into the world a premature baby it had its toes turned back in the opposite direction').

²³ On the subject of domestic violence see Ross Balzaretti, "These are things that men do, not women": the social regulation of female violence in Langobard Italy', in Halsall (ed.), *Violence and Society*, 179; the author cites the regulation from the Laws of Liutprand (Title 120 of the year 731), which concerned the abuses committed by legal guardians in relation to those unmarried women under their

The question of forced sexual acts also appears (although significantly less often than in law registers) in another type of early medieval text, in the so-called penitential books. The main concern and reference point for their authors were the sinful deeds of a confessing person, understood as a danger for the salvation of his/her soul. As opposed to Germanic codes, which talked of crime, i.e. of the relation between the perpetrator and the victim as well as between the perpetrator and the victim's owner, the authors of penitentials, in defining the sentence of the penance bestowed on the sinner, were interested in the perpetrator's actions – in our case those of a rapist – and not the victim of his deed and the harm done to her.²⁴

The diversity in levels of accountability for the perpetrators of 'sexual crimes', depending on the status of the victim, but also on the position of the offender himself (e.g. in Visigothic law), was not a specific feature of the rules regulating this type of act. This diversity, clearly visible in the amount of material compensation for the victim or his/her lord for damages of another kind, e.g. for offences against the human body, was one of the most important features of Germanic law, and more broadly of the 'barbarian' inhabitants of Europe. Equally for this reason acts of violence of a sexual nature and the forms of their penalisation should be viewed within the context of violence and criminality directed in general against the physical integrity of the person. In rules on the rape of women there is, however, nothing about damage to the female sex organs. These regulations equally did not contain any provisions for other forms of violation of the injured woman's body. It seems most unlikely that such injuries did not arise if only as a result of the struggle of the woman with her attacker. This situation is all the stranger when one considers that in certain legal

authority (i.e. belonging to his family); amongst the acts herein mentioned are sexual relations.

²⁴ E.g. 'Poenitentiale Burgundiense', XXXVII (in Hermann J. Schmitz [ed.], *Die Bussbücher und das kanonische Bussverfahren nach handschriftlichen Quellen dargestellt* [Düsseldorf, 1898], 322): 'Si quis virginem aut viduam raptus fuerit, III. ann. peniteat cum pane et aqua' ('If he violates any virgin or widow, he shall do penance for three years on bread and water', trans. from John T. McNeill and Helena M. Gamer [eds.], *Medieval Handbooks of Penance: A Translation of the Principal Libri Poenitentiales and Selections from Related Documents* [New York, 1990 {1st edn 1938}], 277); on the subject of sexuality in penance handbooks see Payer, *Sex and the Penitentials*; Hubertus Lutterbach, *Sexualität im Mittelalter. Eine Kulturstudie anhand von Bußbüchern des 6. bis 12. Jahrhunderts* (Cologne, etc., 1999).

codes there are rules concerning the violation of a woman's body analogical to those inflicted on men, as well as rules referring to various offences against the body and against the bodily inviolability of a woman. These latter ones were for sexual assault with greater or lesser physical violence.

We shall start the analysis of these regulations from those few rules in which the said sexual assault was more or less connected with the act of rape. The first example comes from the *Lex Alamannorum*, a codification compiled at the beginning of the eighth century. In the Title LVI the following crimes are enumerated: 1. the stopping a free virgin or woman on a public road and the exposure through force (*per raptum*) of her head (hair); 2. the lifting up of the dress and to expose (*denudare*) the legs up to the knees; 3. the exposure of the woman's vulva or buttocks; 4. rape.²⁵ The first three acts were, so it appears, treated as violating the norm defining situations in which a woman could be naked. For they accentuate not the touching of the body but its exposure to public view. We should add, however, that the exposure of a woman's body is here presented in a sequence of actions leading to rape, consequently they may be interpreted as sexual assault, the aim of which was forced sexual intercourse.

The second example of legal regulation concerning assaults on physical integrity and on the sexual intercourse come from King Alfred's Anglo-Saxon code of laws, compiled around 890. In Title 11 there are mentioned: 1. seizing a woman by the breast; 2. throwing her to the ground, without sexual intercourse; 3. coitus with a woman. In

²⁵ L. Al., LVI, 1, p. 115: 'Si quis libera femina virgo vadit itinere suo inter duas villas, et obviavit eam aliquis, per raptum denudat caput eius, cum sex solidis componat. Et si eius vestimenta levaverit, usque ad genucula denudet, cum sex solidis componat. Et si eam denudaverit usque genitalia eius appareant vel posteriora, cum 12 solidis componat. Si autem ab [cum] ea fornicaverit contra voluntate eius, 40 solidis componat. 2. Si autem muliere haec contingerit, omnia dupliciter componat, sicut antea diximus de virgine'. – 'If some free virgin goes her own way [makes her journey] between two villages, and someone blocks her way, and by force uncovers her head, he shall pay 6 *solidi* in composition. And if he raises her dress, [and] exposes her right up to the knee he shall pay 6 *solidi* composition. And if he exposes her [so that] her vulva or buttocks are visible he shall pay 12 *solidi* in composition. While if he copulates with her against her will he shall pay 40 *solidi* composition. 2. While if something befalls the woman he shall pay for everything double composition; in proportion to that which earlier we have said about a virgin'.

this case we are dealing with the direct forced physical contact of the offender and the victim. It seems also that the first two offenses were perceived, to a greater degree than in the above quoted Alamannic law, as acts preceding forced sexual intercourse or as ones leading to this.²⁶

The authors of both of these codes treated acts of assault on a woman's physical integrity (including exposure) and of forcing her into a sexual act as offences linked to each other. An analysis of other collections of Germanic laws shows that such an approach was by no means something widespread and obvious. In the Laws of Æthelberht, the oldest collection of Anglo-Saxon laws (from the beginning of the seventh century), the regulations concerning unlawful sexual intercourse (10) or abduction of women (82) do not contain any norms on other forms of sexual assault.²⁷ In the *Lex Frisionum* there are listed cases of the illicit squeezing (*stringere*) of the breast of a free woman as well as grabbing her (*comprehendere*) by the vulva.²⁸ In both cases there is added the clause that these regulations concern another's woman (*femina ... non sua*) – not belonging to the offender's family. In the law of the Salian Franks (the oldest edition is from the first half of the sixth century) we find a title devoted to several offences involving the touching of a woman's body. The Title XX of the *Pactus legis Salicae* refers initially (§ 1–3) to the touching of (*stringere*) the hand, arm or finger of a woman (free or otherwise). In

²⁶ 'The Laws of Alfred', in *The Laws of the Earliest English Kings*, ed. & trans. Frederick L. Attenborough (Cambridge, 1922), 11, p. 70. Following the three quoted resolutions two important points occur: 1. if another man had earlier copulated with the woman, the compensation was to be a half lower (not 60 but 30 shillings); 2. if the woman was accused of having sex she had to clear herself by oath or lose a half of the owed compensation. These regulations could be interpreted in such a way that the perpetrator's scale of responsibility for sexual violence was dependent on whether the woman was a virgin or not; cf. Coleman, 'Rape', 198.

²⁷ 'The Laws of Æthelberht' (hereafter: Æthel.), in *The Laws of the Earliest*, 10, p. 4: 'Gif man wið cyninges mægdenmnan geliegeþ, L scildinga gebete' ('If a man lies with a maiden belonging to the king, he shall pay 50 shillings compensation', p. 5); 82, p. 14: 'Gif man mægþmon nede genimeþ: ðam agende L scillinga 7 eft æt þam agende sinne willan ætgebigce' ('If a man forcibly carries off a maiden, [he shall pay] 50 shillings to her owner, and afterwards buy from the owner his consent', p.15).

²⁸ L. Fris., XXII, 89 : 'Si quis liberam feminam, et non suam, per mamillam strinxerit, IIII sol(idis) comp(onat), et duos solidos pro freda'; 90: Si per verenda eius comprehenderit, IIII solid(is) comp(onat), et duos solidos pro freda' (p. 78).

turn in paragraph 4 of this title, on breasts, besides the word *stringere*, there appears a descriptive formula: *sciderit, quod sanguis egressus fuerit* ([‘if anyone] should squeeze a woman’s teat or split so that blood should come out’). The verb *scindere* means ‘to tear, ‘to split’ ‘to cut’. There were, therefore, two acts possibly similar to each other: the first – the squeezing of the breasts, while the second should be understood as wounding resulting in bleeding. In the *Lex Ribuarica* we find an almost identical regulation, which, however, related only to the arm below and above the elbow.²⁹

The rules cited so far refer to events in which the perpetrator had direct or indirect physical contact with a woman’s body. He used in relation to her some form of physical violence. We may also include within these acts of sexual assault one that did not involve any contact between the perpetrator and the victim, which did not lead to rape and yet despite this constituted a serious infringement of a woman’s virtue, one perceived within a sexual context. We may find a description of such a crime in the collection of the Lombard laws of King Liutprand (*Leges Liutprandi*), originating from the first half of the eighth century. Title 135 of this code (of the year 733) describes a man who in a perverse way took away all the clothes of a woman bathing in a river. Liutprand gives a detailed account of the consequences of this act: ‘as a result the woman was naked and everyone who walked and passed through that place considered her turpitude as a misconduct. She could not, moreover, remain forever in the river, but returning naked to her home made her blush with shame’.³⁰ All the features of this kind of offence are emphasised in the case described: the exposure in public of a woman’s body resulting from the insidious deprivation of clothing, carnal and sexual shame (this is probably the only use by

²⁹ *Lex Ribuarica* (hereafter: L. Rib.), ed. Franz Beyerle and Rudolf Buchner, MGH LNG, iii, 2 (Hanover, 1954), (B) 41, p. 96: ‘Si quis ingenuae mulieri manum strinxerit, 15 solidis culpabilis iudicetur. Certe si super cubitum manum miserit, 30 solidis multetur’.

³⁰ ‘Liutprandi leges’, in Azzara and Gasparri (eds.), *Le leggi*, 135. VI, p. 220: ‘Adnuntiatum est quidem nobis, quod aliquis perversus homo, dum quedam femina in fluvio lavarit, pannus eius, quos ibi habuit, totus tollisit, et ipsa remansit nuda, et qui ibant ei transiebant per locum illum, pro peccatis vedebant turpiditinem eius; ipsa autem in fluvio semper stare non potuebat, revertere autem ad casam suam nuda erubiscibat’; trans. (with proofreading) from Katherine Fischer Drew, *The Lombard Laws* (Philadelphia, 1973), 205.

a Germanic legislator of the term *turpitude* in such a context) and finally social evaluation of nudity as a manifestation of the woman's sinful promiscuity. The obvious result of this type of situation was the humiliation of a woman and defamation of her reputation, as equally that of her family. Liutprand in a further part of the code regulates the matter of revenge which the father or husband of the wronged woman could inflict on the offender.

A specific feature of early medieval narrative texts, even extensive ones (like, e.g., *The History of the Franks* by Gregory of Tours or *The History of the Lombards* by Paul the Deacon), is that they devote a surprisingly small amount of space to sexual violence. This fact is characteristic as in all works of this type the violence connected with intertribal wars, local conflicts, kinship disputes, conflicts for royal power or simply common criminal acts was one of the most important problems of interest for their authors. This was the preserve of male activity, for the heroes of the tales are first and foremost men although it occurs that the violence was also directed against women. Surprisingly rarely, however, was this to be of a sexual nature. The authors do not even recall the instances of rape (less or more mass in nature) which occurred during the occupation of towns and settlements by armed groups.

Against the background of this restraint the few fragments in which there is mention of rape are all the more valuable for their content. Especially complex and rich is the tale of the attack of the Avars on the Duchy of Friuli, incorporated by Paul the Deacon into his *History of the Lombards*. This campaign took place at the beginning of the seventh century. The main protagonists in the narrative are the king of the Avars (the khagan) and Romilda, the wife of Gisulf, the Lombard duke of Friuli. Gisulf, as the author recounts, fell in battle with the invaders, while Romilda together with a part of the civilian population took shelter at Cividale del Friuli. The Avars plundered the duchy and then laid siege to the town in which the princess was sheltering. The Avar leader together with his warriors rode around the town to find the best places to storm. Here occurs the passage of interest to us:

Romilda gazed upon him from the walls, and when she beheld him in the bloom of his youth, the abominable harlot was seized with desire for him and straightway sent word to him by a messenger that if he would take

her in marriage she would deliver to him the city with all who were in it. The barbarian king, hearing this, promised her with wicked cunning that he would do what she had enjoined and vowed to take her in marriage.³¹

It is easy to realise that the khagan did not keep his word. The Avars looted the town, burnt it down and carried off its populace. On route to their country they murdered the men, while the women and children they divided amongst themselves as personal slaves. The most important fragment for us is that on the fate of Princess of Friuli:

Romilda indeed, who had been the head of all this evil-doing, the king of the Avars, on account of his oath, kept for one night as if in marriage as he had promised her, but upon the next he turned her over to twelve Avars, who abused her through the whole night with their lust, succeeding each other by turns. Afterwards too, ordering a stake to be fixed in the midst of a field, he commanded her to be impaled upon the point of it, uttering these words, moreover, in reproach: 'It is fit you should have such a husband'. Therefore the detestable betrayer of her country who looked out for her own lust more than for the preservation of her fellow citizens and kindred, perished by such a death.³²

³¹ Paulus Diaconus, 'Historia Langobardorum' (hereafter: Paul., HLong.), ed. Georg Waitz, MGH, *Scriptores rerum Langobardicarum* (Hanover, 1878), lib. IV, 37, p. 129: 'Horum rex, id est Cacan, dum circa muros armatus cum magno equitatu perambulet, ut, qua ex parte urbem facilius expugnare posset, inquireret, hunc Romilda de muris prospiciens, cum eum cerneret iuvenili aetate florentem, meretrix nefaria concupivit, eique mox per nuntium mandavit, ut, si eam in matrimonium sumeret, ipsa eidem civitatem cum omnibus qui aderant traderet. Quod rex barbarus audiens, eidem malignitatis dolo quod mandaverat se facturum promisit eamque se in matrimonium accipere spondit'; trans. from Paul the Deacon, *History of the Lombards*, trans. William D. Foulke, ed. Edward Peters (Philadelphia, 1974), 181. Cf. also Walter Goffart, *The Narrators of Barbarian History (A.D. 550–800): Jordanes, Gregory of Tours, Bede, and Paul the Deacon* (Princeton, 1988), 378–42; Walther Pohl, 'Paulus Diaconus und die "Historia Langobardorum"'. Text und Tradition', in Anton Scharer and Georg Scheibelreiter (eds.), *Historiographie im frühen Mittelalter* (Veröffentlichungen des Instituts für Österreichische Geschichtsforschung, 32, Munich und Vienna, 1994), 375–405.

³² Paul., HLong., IV, 37, p. 130: 'Romildam vero, quae totius malitiae caput extitit, rex Avarum propter iusiurandum, sicut ei sponderat, nocte una quasi in matrimonio habuit, novissime vero duodecim Avaribus tradidit, qui eam per totam noctem vicibus sibi succedentes libidine vexarent. Postmodum quoque palum in medio campo configi praecipiens, eandem in eius acumine inseri mandavit, haec insuper exprobrando inquit: "Talem te dignum est maritum habere". Igitur dira proditrix patriae tali exitio periit, quae amplius suae libidini quam civium et

We are dealing here with a specific situational context as well as with a clear interpretation given by Paul the Deacon as to the events presented. He described the rape of Romilda, to be precise: gang rape. Of fundamental importance for our analysis is the fact that initially the princess was not in danger of sexual violence. What is more according to the author's words it was she herself who proposed marriage, in the hope to satisfy her lust for the khagan. Paul the Deacon interprets Romilda's behaviour with dual condemnation. Firstly, he negatively evaluates her sexual desire, referring to her as an abominable harlot (*meretrix nefaria*). It follows to add that in a society in which women remained under the authority of men, the concluding of marriage by a woman (even by a widow, which our heroine was) without the approval of kin was treated as a violation of their rights. Secondly, Romilda was condemned as a traitor. This idea is expressed by Paul in the final sentence of the cited fragment. The rape suffered by Romilda as well as her cruel death fulfil in his narrative the role of punishment for the princess' ignoble behaviour.³³

The handing over of Romilda to twelve warriors and their lust, examined as a 'bare' event (out of any topic) is an example of male sexual violence. Equally the impalement of the princess may be interpreted likewise. This is borne out by the utterance, according to the author, of the Avar king: 'It is fit you should have such a husband'. The sentence being an ironic link to the unkept marriage promise. The impaling on the stake takes on here a new meaning. For it is a repeat in a changed and enhanced form of the first as if marital sexual act. In this story the woman is not an innocent and defenceless victim of violence but almost its perpetrator, with her attitude – vileness and submission to sexual lust – resulting in it.

The end of Romilda's story equally brings with it a description of sexual violence and a moralising message relating to the former, although one somewhat different in significance. For Paul the Deacon

consanguineorum saluti prospexit'; trans. from Paul the Deacon, *History of the Lombards*, 182.

³³ Cf. Balzaretti, "“These are things”", 183; the author claims that the tale about Romilda is an example that rape or abducting a woman was not always treated in the epoch under discussion as an evil act. Paul the Deacon's perception of women was shaped by stereotypes about both sexes, the source of which could have been patristic works; the author refers to the views of Joyce E. Salisbury (*Church Fathers, Independent Virgins* [London, 1992]).

writes that Romilda and Gisulf had four sons and four daughters. They were taken by the invaders together with the other inhabitants of the captured town. Paul writes about the said daughters that they

indeed, did not follow the lustfulness of their mother, but striving from love of chastity not to be contaminated by the barbarians, they put the flesh of raw chickens under the band between their breasts, and this, when putrified by the heat, gave out an evil smell. And the Avars, when they wanted to seize them, could not endure the stench that they thought was natural to them, but moved far away from them with cursing, saying that all the Langobard women had a bad smell. By this stratagem then the noble girls, escaping from the lust of the Avars, not only kept themselves chaste, but handed down a useful example for preserving chastity if any such thing should happen to women hereafter.³⁴

This anecdotal and exemplary story is one of only a few examples of rape perpetrated on women by foreign forces during war. It does not present, however, the vile deeds of the barbarian warriors rather the ingenious and effective measures which allow one to protect oneself from them. The author clearly juxtaposes the attitudes of the princess and her daughters: lascivious desire – care for preserving chastity. One can see in this the author's specific viewpoint (that of a Christian writer and Benedictine monk), who, as it seems, was less interested in the brutality and sexual debauchery of the Avar invaders and more in the moral attitudes of Lombard women.³⁵ One may suppose that his reference point was concern about the state of morals in his own times (i.e. at the end of the eighth century) and not of a war from the beginning of the seventh century when the said events had their place. It follows to add, however, that Paul also draws attention

³⁴ Paul., HLong., IV, 37, p. 130: 'Filiae vero eius non matris libidinem secutae, sed castitatis amore studentes ne a barbaris contaminarentur, crudorum pullorum carnes sibi inter mammas sub fascia posuerunt, quae ex calore putrefactae odorem foetidum exalabant. Cumque eas vellent Avarae contingere, non sustinentes foetorem, putabant eas naturaliter ita foetere, procul ab eis cum execratione recedentes atque dicentes, omnes Langobardas foetidas esse. Hac igitur arte Avarorum libidinem puellae nobiles evadentes, et ipsae castae servatae sunt et utile servandae castitatis, si quid tale feminis contigerit, mandaverunt exemplum'; trans. (with proofreading) from Paul the Deacon, *History of the Lombards*, pp. 183 f.

³⁵ Cf. Coleman, 'Rape', 194 f.; the author claims that in Anglo-Saxon sources of the 8th century there were contrasted the more severe customs that had been in force in earlier times with the sexual promiscuity of contemporary times.

to the social value of virginity, i.e. the state opposite to the defilement by rape, when he writes somewhat further on about two of the daughters of Gisulf and Romilda – despite being sold as slaves – that one wed the king of the Alamanni, the second a Bavarian prince.

It appears that at the basis of this story or more exactly the means by which events are presented, one may discern the following idea: the invaders (in particular barbarians) as a rule aim to satisfy their sexual desires (in a similar way to the taking of loot). Such is, one could say, the normal order of things. In the face of such a situation the attitude of the women belonging to the attacked society is of huge significance: chastity or promiscuity. In this understanding a clear asymmetry is visible: on the one hand – the omission of a clear condemnation of the use of violence against civilians, while on the other – an evaluation in moral categories of the behaviour of women in the face of the aggressors' actions.

Another story, the subject of which is the sexual violence of a man against a woman contained within *The History* by Gregory of Tours, depicts not so much the case of rape as the brutal acts that were supposed to lead up to a sexual intercourse. This account has (at least in one sense) a different character than the story of Romilda and her daughters. An important feature in bishop of Tours' story, one which fundamentally differs it from that of *The History of the Lombards*, is that it occurs within a period of peace, while the perpetrator of the violence, his helpers as well as the victim belong to the same, presumably Frankish, community. The author does not mention any ethnic differences amongst the event's participants. The story occurred at the end of the 580s, in the environs of Chalon, at one of the residences of Amalo – the magnate (*dux*) ruling in Burgundy. He is also a negative protagonist. The victim of his actions becomes a young girl (*puellula*), whose name the author does not divulge. What is known of her is that she was free born and, as one may presume, lived on his estate or in the close vicinity. An additional circumstance is that Amalo has sent his wife away at this time to another estate. Gregory presented the events in the following way:

And hen it was night and Amalo was drunk with wine he sent his men to seize the girl and bring her to his bed. She resisted and they brought her by force to his house, slapping her, and she was stained by a torrent of blood that ran from her nose. And even the bed of the duke mentioned above was made bloody by the stream. And he beat her, too, striking with his

fists and cuffing her and beating her otherwise, and took her in his arms, but he was immediately overwhelmed with drowsiness and went to sleep. And she reached her hand over the man's head and found his sword and drew it, and like Judith Holofernes struck the duke's head a man's blow. He cried out and his slaves came quickly. But when they wished to kill her he called out saying: 'I beg you do not do it for it was I who sinned in attempting to violate her chastity. Let her not perish for striving to keep her honor'. Saying this he died.³⁶

The quoted fragment although short contains details on the use of physical violence with the aim of forcing a sexual act, details that are extremely rare in early medieval accounts. Attention is drawn to the fact that the girl was initially beaten by prince Amalo's people, who were not to have intercourse with her. It follows to emphasise that Gregory bestowed on this event a certain undertone: an unequivocally negative evaluation of Amalo's conduct, with the girl presented as the victim of brutal sexual assault. The moral condemnation of the perpetrator is expressed in his own words: 'it was I who sinned in attempting to violate her chastity'. The author does not, however, limit himself to an evaluation of these acts in religious categories (sin). An interesting and characteristic feature of the cited story is that the molested girl not only does not break down but takes revenge, which is the just punishment for Amalo's deed. We should draw attention, however, to the fact that she acts like a man (in a similar way to the Biblical Judith referred to in the story). It is not a coincidence that Gregory writes that she 'struck the duke's head a man's

³⁶ Gregorii episcopi Turonensis, *Historiarum libri decem* (hereafter: Greg., Hist.), ed. Rudolf Buchner, ii (Berlin, 1956), IX, 27, p. 276: 'Et facta nocte, crapulatus a vino, misit puerus, ut detrahentes puellolam eam toro eius adsirent. Illa quoque repugnante et violenter in eius mansione deducta, dum ea alapis caedunt, sanguinis unda / ex narium meatibus decurrente perfunditur. Unde factum est, ut ipse quoque stratus ducis antedicti hoc rivo cruentaretur. Quam et ipse pugnibus, colaphis aliisque ictibus verberatam ulna suscepit, et statim oppressus somno dormire coepit. At illa, extensa manus trans capud viri, gladium repperit; quo evaginato, capud ducis ac velud Iudith Olofernis ictu virili libravat. Illo quoque voces emittente, concurrunt famuli. Quam cum interficere vellent, excalmavit ille, dicens: "Ne faciatis, quaesco. Ego enim peccavi, qui vim castitati inferre conatus sum. Nam haec, qui pudicitiam studuit conservare, omnino non pereat". Haec dicens, spiritum exalavit'; trans. (with proofreading) from Gregory of Tours, *History of the Franks*, trans. Earnest Brehaut (New York, 1916), <<http://www.fordham.edu/halsall/basis/gregory-hist.asp>> [Accessed 14 Oct. 2011].

blow'. This element suggests that the author did not want to present the abused girl as a defenceless victim.

An interesting feature in Gregory's interpretation is the theme of defending chastity. The discussed fragment concludes with the statement: 'Moreover we know that by God's help the girl's chastity was not in any way violated by her savage ravisher'. This is an element which appears in Paul the Deacon's story of Romilda's daughters. The category of sexual chastity and its defence seems here key to the thinking of both authors on the problem of the forcing of sexual acts on women. Let us draw our attention to the fact that these writers are not interested in the essence of the question of psychological damage brought about by sexual violence. In Gregory's story the brutality of Amalo is contrasted with the heroic behaviour of the girl. Chastity was for Gregory and Paul a religious-moral category, yet in the epoch under discussion it had a markedly social character. The loss of chastity was for a woman a loss of honour and an affront to her kin.

The quoted story has an equally interesting ending. After Amalo's death the girl escapes from the estate and makes for Chalon, to the king of the Franks, Guntram (561–92), to whom she recounts her dramatic experience. The hearing takes place in a church, which may be interpreted as a place additionally protecting the individual from threatened revenge. The ruler takes a decision on the matter:

Then the king was merciful and not only gave her her life but commanded that an order be given that she should be placed under his protection and should not suffer harm from any kinsman of the dead man.³⁷

The heroine is therefore indeed treated by the king as the perpetrator of the murder yet one deserving of special mercy. Consequently, not compensation for her harm, but the annulling of her responsibility for Amalo's death and royal protection from any potential revenge taken by relatives of the murdered man are the issue. It follows to note, in order to allow for a complete explanation of the royal decision, that the matter it concerned was in a legal sense not a simple one. Firstly, here the question is not one of rape but attempted rape. In the understanding of early medieval Frankish law (and in general that

³⁷ Greg., *Hist.*, vol. ii, IX, 27, p. 276: 'Tunc rex misericordissimus non solum ei vitam donavit, verum etiam praeceptionem tribui iussit, ut, in verbo suo posita, a nullo umquam parentum defuncti illius in aliquo molestiam pateretur'; trans. v.s.

of the barbarians) these constituted two separate situations. Secondly, the deadly blow which she administered to the sleeping (again, this is an important circumstance) magnate was presumably treated as revenge. While this and particularly the use of armed violence in its realisation was a male prerogative. The use of weapons by a woman in a male way against a man was surely treated as adopting a form of behaviour not in keeping with her sex. Sexual assault was presumably not the subject of Guntram's sentence.

In early medieval texts the perpetrators of various acts of sexual assault are in general men while their victims are women. As we have earlier stated it follows to also examine other situations. Acts involving the use of force within the sexual sphere were also directed against men. A manifestation of which is, in our opinion, the damage caused to masculine genitalia, which may be collectively termed 'castration'.³⁸ Crimes of this type (we are not talking here about castration as a punishment) were usually, though not exclusively, carried out by men. In a way similar to the case of the rape of a woman they were often the subject of barbarian *leges*. They were to appear less frequently in narrative sources.

I consider castration and other damage to the genitalia to be sexual violence as these require the use of force, concern the sex organs as well as, and this is extremely important, bring about fundamental and irreversible consequences in sexual life as well as in relation to the victim's social situation. The most important although far from the only consequence of castration was depriving a man of fertility. In societies in which procreation along with its associated kinship relations constituted one of the most highly rated values, mutilation had an importance equivalent to murder. Castration drastically lowered the position of the injured man as a member of male society, in a similar way to how rape resulted in the disgrace (defilement) of a woman. It deprived a man of sex in the social aspect. Hence equally the perpetrators of criminal castration were obliged to pay extremely high compensation to the victim.

³⁸ Cf. Paul Browe, *Zur Geschichte der Entmannung. Eine religions- und rechtsgeschichtliche Studie* (Breslauer Studien zur historischen Theologie, s.n., 1, Breslau, 1936); Mathew S. Kuefler, 'Castration and Eunuchism in the Middle Ages', in Vern L. Bullough and James A. Brundage (eds.), *Handbook of Medieval Sexuality* (New York and London, 1996), 279–305.

Crimes involving the mutilation of male genitalia were the subject of regulation in the majority of Germanic *leges*. In these rules there appear certain types of damage: the complete cutting off of the genitalia, the cutting off of the testicles, the cutting off of the penis or damage resulting in impotency.³⁹ The amount of composition which the perpetrator was obliged to pay the injured party varied depending

³⁹ PLSal., XXIX, 17, p. 117: 'Si quis hominem ingenuum castrauerit aut uiriculam suam transcapulauerit, unde mancus sit, mallobergo gaferit sunt, solidos C culpabilis iudicetur'; PLSal., XXIX, 18, p. 117: 'Si uero ad integrum tulerit [uirilia], mallobergo alacharde sunt, VIII M denarios qui faciunt solidos CC culpabilis iudicetur <excepto medico nouem solidos>'; 'Cap. legi Salicae addita', *ibidem* (text I), LXXI, 1, p. 241: 'Si Salicus Salicum <uiolenter> castruerit et ei fuerit adprobatum, CC solidos culpabilis iudicetur, excepto medicatura solidos IX <conponat>'; *ibidem*, LXXI, 2, p. 241: 'Si quis antrustionem castruerit et ei fuerit adprobatum DC solidos culpabilis iudicetur, excepto medicatura solidos IX <conponat>'; LSal. (D), XLVIII, 14, p. 88: 'Si quis ingenuos ingenum castrauerit aut uiriliam transcapulauerit, unde mancus sit, mallobergo uuidardi, <VIIIIM dinarius qui faciunt> solidus CC culpabilis iudicetur'; LSal. (S), XVI, 18, p. 206: 'Si quis ingenuus ingennum castruerit aut uirilia truncauerit, ut mancus fiat, IV M denariis qui faciunt solidos C culpabilis iudicetur'; *ibidem*, XVI, 19: 'Si uero ad integrum tulerit, VIII M denariis quis faciunt solidos CC culpabilis iudicetur'; L. Rib., 6 ['De castratione'], p. 76: 'Si quis ingenuus ingenum castraverit, 200 solid. culpabilis iudicetur. Aut si negaverit, cum 12 iuret'; *ibidem*, 28 (27) ['De castratione servorum'], p. 84: 'Si autem eum castraverit, 36 solid. culpabilis iudicetur, aut cum 6 iuret'; L. Al., LVII, 58, p. 127: 'Si aliquis alium genitalia ab totum absciderit, 40 solidos conponat'; *ibidem*, LVII, 59, p. 127: 'Si autem castraverit, ita ut uirilia non tollat, cum 20 solidos conponat'; *Lex Baiwariorum*, ed. Ernst von Schwind, MGH, LMG, v, 2 (Hanover, 1926), IV, 16, p. 328: 'Si quis aliquem castraverit, cum XX solid. conponat'; L. Fris., 57, p. 72: 'Si weretrum quis alium absciderit, weregildum suum conponat'; *ibidem*, XXII, 58, p. 72: 'Si unum testiculum excusserit, dimidium weregildum, si ambo, totum compon(at)'; 'Additio', *ibidem*, III, 60, 94: 'Qui testiculos alii excusserit, ter L tres solidos et tremissem'; Æthel., 64, p. 12: 'Gif man gekyndelice lim awyrdeþ, þrym leudegeldum hine man forgelde' ('If anyone destroys the generative organ, he shall pay for it with three times the wergeld', p. 13); *ibidem*, 64, § 1: 'Gif he þurhstinð, VI scill' gebete' ('If he pierces it through, he shall pay 6 shillings compensation); § 2: 'Gif man inbestinð, VI scill' gebete' ('If he pierces it partially, he shall pay 6 shillings compensation'); 'Die Lex Saxonum', ed. Claudius von Schwerin, in *Leges Saxonum et Lex Thuringorum*, MGH, *Fontes iuris Germanici antiqui in usum scholarum* (Hanover, 1918), XI, p. 20: 'Testiculus, si unum abscisum fuerit, DCCXX solidos. Si ambo MCCCCXL solidos conponat'; 'Lex Thuringorum', ed. Claudius von Schwerin, in *ibidem*, XVI, p. 59: 'Qui adalongo unum vel ambos testiculos excusserit, CCC solidos conponat'; *ibidem*, XVII: 'Si libero C solidos conponat vel iuret ut superius [sc. cum XII]'; *ibidem*, XVIII: 'Si vectem similiter'.

on the type of damage but also on the victim's social position. Composition for total castration in Salic Law was 200 *solidi*, while for the rape of a free maiden 62 ½ *solidi*, but if she was engaged – 200 *solidi*. In *Lex Alamannorum* the composition for castration was 40 *solidi*, for the rape of a virgin 40 *solidi*, and of a married woman 80 *solidi*. There was, however, a difference with regard to the context within which the rules on castration and rape were located in the particular *leges*. The former in all codifications belonged to the group of regulations on bodily damage, while the latter were found amongst the rules on female abduction (Salic Law), prostitution and adultery (*Lex Frisionum*, the Edict of Rotari) or in separate paragraphs (*Lex Alamannorum*). Consequently it results from this that though the damage caused by castration and that caused by rape were evaluated in the *leges* as being similar, here castration belonged to the category of bodily damage while rape was an indecent crime and referred only to women.

The regulations of the Germanic *leges* do not usually define the perpetrators of castration. There are, however, rules from which it results that these mutilations were carried out by men. However, it is difficult to equivocally state whether all the compilers of barbarian *leges* treated the said deeds as the domain of male activity or whether they also took into consideration women's involvement. While the latter we come across in texts of another type.

Castration, in a way similar to sexual assault by women, appears very rarely in narrative sources. An interesting account of this type of event is presented by Gregory of Tours in his *History*. The matter here concerns the wife of Baudegisile, the bishop of Le Mans – Magne-trude. Gregory writes that during the lifetime of her husband, who plundered the property of inhabitants of his diocese, she ruined his already terrible nature, for 'she persuaded him through exceptionally vile advice to take to crime'. Following Baudegisile's death there developed a dispute with his successor Barnard over Church property. The most interesting for us is the following sentence:

For she was a woman outrageously malicious in behaviour, as more than once had she chopped off men's penises together with the skin on the belly, while she had burnt the genitals of women with red-hot iron.⁴⁰

⁴⁰ Greg. Hist., vol. ii, VIII, 39, p. 216: 'Erat enim ineffabili malitia. Nam saepius viris omnia pudenda cum ipsis ventris pellibus incidit, feminis secriciora corporis loca lamminis candentibus perussit et multa alia inique gessit, quae tacere melius potavi'.

Attention is drawn by the fact that a woman castrated men. An analysis of Gregory's work in relation to mutilations carried out (e.g. the cutting off of hands, feet) shows that the perpetrators were almost exclusively men. The second interesting element is that Magnetrude also mutilated women's sexual organs (in such a way may be understood *secreriora corporis loca*). Besides which it seems that she conducted such acts on repeated occasions. Deeds of this nature related therefore to both men and women. The quoted fragment does not, unfortunately, contain information about the circumstances in which Magnetrude carried out the acts. We do not therefore know the motives that directed her in the concrete cases, and first and foremost we do not know who her victims were. However, this excerpt is significant. For it is a clear indicator that in the early Middle Ages the phenomenon of acts of sexual violence conducted by a woman was indeed noted.

In concluding the above considerations we shall add a reflection more general in nature. Acts of sexual violence in the early Middle Ages were presented (perceived) as events social in character. They were not understood as events concerning the very victim of the crime but – particularly in the case of a woman – as a violation of the position of her kin. Acts of this type were examined within the context of the social and moral order. Although they constituted a violation of bodily inviolability and a person's virtue the social organisation of the time and the relationships of authority meant that the said acts were perceived as a disturbance in public order. For the sexual sphere was not treated in categories of the personal (private) goods of the individual but as a subject of interest and control exerted by the kinship, local society and ruler. The analysis herein presented obviously in no way is an exhaustive treatment of the subject but rather constitutes an attempt to become acquainted with the most important (in the author's view) problems comprising it.

trans. Guy Torr