

Maria Marta Lobo de Araújo (coord.)

The City: Multifaceted Views

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THE CITY: MULTIFACETED VIEWS

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Representations of women, marriage, and conjugal life in two 16th century Portuguese avant-garde authors: João de Barros and Rui Gonçalves**

*University of Coimbra
Faculty of Arts
and Humanities.
Associate Professor with
habilitation for a Full
Professorship [Professora
Associada com Agregação]
at Department of History,
University of Coimbra.
coimbra.academia.edu/
MariaAntoniaLopes

Introduction

In mid-sixteenth century, two Portuguese jurists argued for equality of capabilities between the two sexes and strove for a change in the discourse on women and for greater equity between women and men. The first, João de Barros (not to be confused with his contemporary and namesake, João de Barros, the intellectual), published the book *Espelho de casados* (A mirror of married people) in 1540, in Porto, refuting the detractors of marriage and women, and praising married life. Seventeen years later, in Lisbon, Rui Gonçalves published *Dos privilégios e prerrogativas que o género feminino tem* (On the privileges and prerogatives of the female sex). After arguing that women are equal or superior to men, he systematises from the abundant legislation in force all situations that could, in any way, protect women.

In this chapter, I will try to highlight the innovative contributions of these authors and what their work reveals about the prevailing images and practices of their time.¹

Woman: 16th century conceptions

In order to understand the most relevant aspects of the two books under analysis, one needs to be familiar with the context of both authors as regards marriage conceptions and practices, legal norms in force, and prevailing stereotypes or representations of women. Or, better said, “the woman”, in the singular, as was usually said and written, for women were assumed to share the same innate essence. However, discourses also become lived reality (rather than just imagined reality), even when they construct images removed from concrete reality, for the reason that they mould people’s behaviour. And behaviours may force a change in mental representations. The ways in which these dialectical relations between what is thought and what is actually lived² in specific places, times, and social groups work is a much harder research topic than that of the analysis carried out in this chapter. From Antiquity, the discourse of theologians, physicists, and legal experts described female human beings as inferior, trapped in the *imbecillitas* of their corrupted nature.³ The growing derogation of women in western culture was a result of the combined action of the three types of intellectuals mentioned above. Based on the myth of the primal sin and the fall from Paradise with Eve being blamed for it, it was concluded that women had an evil nature and were responsible for human suffering. The patristic texts that demonised women and sexuality, disseminated a deep contempt for women, whose capacities were deemed inferior to men’s. All these fathers of the Church were still being quoted in the 16th century (and they would

continue to be so into the 20th century). João de Barros and Rui Gonçalves, like all intellectuals of the period, were well acquainted with such much-repeated assertions.

As concerns medicine, the medical knowledge of Antiquity continued to pontify during the Middle and Modern Ages. According to Aristotelian and Galenic thought, all that is hot and dry is superior to what is cold and wet (the frail, sick part) since heat and dryness promote the use of the mind, of reason, strength, creativity, and honesty, while cold and wetness generate lowness, unbridled desire, irrationality, etc. The male body was considered to be hot and dry while the female body was regarded as cold and wet. This medical axiom, which remained unchallenged for a long time, is also to be found in *A mirror of married people*. As regards gestation, Aristotle claimed that women were mere incubators and men were the genuine reproducers, a belief still shared by Thomas Aquinas as late as the 13th century. As distinct, superior beings, men could only generate men, although accidental circumstances pertaining to the female matrix in specific, particularly cold and wet conditions caused the semen to degenerate, producing females. Accordingly, all women were maimed, deformed, imperfect males. As for Hippocrates and Galen, who believed that women were a copy of men, having exactly the same organs though in a less perfect state, they believed that there existed both male and female semen, the latter being of a weaker kind, although it determined the child's sex. In the Middle Ages, although Aristotelian medical theories prevailed, Galen becomes increasingly important. By the 16th century, authors had concluded that resorting to permanent depreciation and insult would hardly contribute towards leading women to becoming good Christians. And thus, new texts gradually emerged discussing the good qualities that women also possess or can develop, which necessarily gave rise to opposing arguments. The *querelle des femmes*, which was of course far more than a mere literary dispute, is then born to last a number of centuries.⁴ Still very much alive in the 18th century, it seemed to be a key concern for many in that age.⁵ It indeed rekindled, has had happened before, in the Renaissance. Obviously, this was not a random phenomenon: in those times, where so many vital transformations aimed at enhancing human dignity occurred, women were, generally speaking, not considered. Hence the title of Joan Kelly-Gadol's classic "Did Women Have a Renaissance?" (1977). In many respects, they did not, in the same way as they did not derive any gains either from the many achievements of the Enlightenment or from the rights of citizenship guaranteed by the liberal revolutions. That is the reason why traditional historiographical periodization does not really have much to do with the actual situation of women's lives. In those periods of civilizational advances for men (or, to put it more accurately, for men who belonged to some minority segments), what actually happened to the women who

belonged to the social groups participating and benefitting from them was in fact an increase in the gap between them and the other sex. For that fundamental reason, and because the climate was favourable to questions and interrogations of all kinds, in those periods where paradigm shifts are prone to occur, the debate on the relative position of the sexes and their self-and hetero-representations exploded.

Dr João de Barros' *A mirror of married people*, which was, for a number of reasons, though principally for its philogynous approach, a pioneering work in Portugal, is thus published in a context where women and marriage become subjects of dispute. The same can be said of the book of Rui Gonçalves, published in 1557, as well as *Bondade das mulheres vindicada e malícia dos homens manifesta* (*The goodness of women vindicated and malice of men made manifest*), a pamphlet authored by Paula da Graça (?-1730?)⁶ and published in 1715, against the background of a later dispute.

However, neither João de Barros nor his colleague Rui Gonçalves were successful in imposing their beliefs. Major 17th century Portuguese figures (such as António Vieira, Francisco Manuel de Melo, Manuel Bernardes, among others) continued to insist that women were intrinsically evil and a danger to men. The same was true as concerns humorous popular literature and its many texts on women's cunning and women's faults that were still being published in the 19th century. This explains why in 1715 Paula da Graça and, also in the 18th century, Félix José da Costa and Gertrudes Margarida de Jesus felt the need to refute the very same age-old arguments.⁷

Marriage: the evolution of conceptions and practices

For many centuries the Church avoided to get involved in the regulation of marriage and family life, which it did not really praise.⁸ Conjugal sex was never considered a sin in the preponderant Jewish doctrine, although Christianity developed in a Hellenic cultural environment, where flesh and spirit were seen as a dichotomy, a view which St. Paul shared and disseminated. For him, marriage had but one advantage: it was a means to which those unable to live in chastity could resort, as shown in his famous and much-repeated dictum Better to marry than to burn (1Cor 7: 9). If marriage was a remedy to fight concupiscence, then procreation was not the aim. And why should it be, since Paul was convinced that the world would soon come to an end with Christ's second coming?

However, many generations went by and the world continued to exist, while a negative view of women and sexuality was reinforced

with Patristics, which led many people, like St Jerome or, later, pope Gregory the Great, to conclude that sexual pleasure was necessarily sinful. In other words, married people were denied eternal salvation. In the early 5th century, St Augustine sought to reconcile married life and salvation through his doctrine of the three goods (*bona*) of marriage: *proles, fides, sacramentum* (offspring, fidelity, sacrament). The remedy against concupiscence, the utility which Paul had ascribed to marriage, was included in *fides*, with the “conjugal debt” (that is, a marital duty to have sexual intercourse whenever the spouse so wished) preventing one’s own incontinence as well as one spouse’s. However, Augustine of Hippo advised couples against continuing to engage in sexual intercourse as soon as procreation was ensured. He thus highlighted the procreative purpose of marriage, which deliberately comes first, deemphasising the aim assigned by Paul. The Augustinian conception is the one that will prevail in theological discourse, in which the horror of sexuality would continue to be present for many centuries. As regards *sacramentum*, in St. Augustine, and for many hundreds of years, it did not have the meaning later ascribed by the Church. In the 5th century it was merely a symbol or a sign of stability. The precise meaning of sacrament and the stabilisation of the number of sacraments – seven – will occur much later, as a result of the reflections of theologians and canonists.

Although in João de Barros’ time theologians liked to say that marriage was the first sacrament – an argument repeated by Barros -, invoking Adam and Eve’s union in Paradise, the historical reality is radically different. Christian marriage was only established as a sacrament in the late 12th century – and, at the time, a minor sacrament when compared to the others – as a result of a long process which was to continue for another three hundred years, until 1563, when Catholics set the doctrine and practice of marriage, as did also, around the same time or slightly later, the different reformed currents. However, despite the existence of such norms, in many European areas a considerable time elapsed before marriage conceptions and its rites finally changed.

Although this is self-evident, I would like to stress the fact that at the time when João de Barros wrote his book Catholic marriage had not yet been defined and regulated by the Council of Trent (1545–1563). And although some rules were already perfectly established – indissolubility, consanguineous exogamy, affinity, and spiritual kinship (created by baptism), sacramentality, and the need for the consent of both parties – at the time marriage rites were extremely varied because the only requirement for the validation of marriage was the consent of the intended spouses, and the fact that they were not relatives. Weddings were thus celebrated with or without a priest to officiate, inside a church or at its door, at the bride’s house, in the country, on a road or in a tavern, in the presence of witnesses or just the couple by themselves, “por

palavras de presente” (by words of the present) or “por palavras de futuro” (by words of the future). If the latter, which were a marriage pledge, were followed by the carnal consummation of the marriage, the act became valid and indissoluble.

The Church forbade (but did not invalidate) weddings with no witnesses and suggested that a priest should be present at the constituting rite, but had not yet imposed this requirement. Thence the diversity of marriage rites in the 16th century. In Italy, most weddings were celebrated without the presence of a priest, with the upper classes preferring to have a notary to endorse the material provisions of the marriage contract. The absence of ecclesiastic authorities may seem strange to us now, especially to those who think that this is a recent practice, but it did make sense in the past because the ministers of a Catholic wedding have always been the contracting parties themselves. There is, however, a fundamental difference: after Trent, for a marriage to be valid, the rite must be celebrated in the presence of the parish priest of one of the members of the couple (or an authorised priest), besides a minimum of two witnesses. However, since that was not the case before, so-called clandestine weddings were frequent, with couples ministering their own marriage without the presence of witnesses. The reason why we know of the existence this type of wedding is that, as is easily understandable, it often led to much controversy and to conflict: either because parents would not accept the marriage, claiming that the bride had been abducted, or because one of the newlyweds would reconsider. Indeed, how could something that had happened solely between the two be proved if one of them denied it? Had the words been pronounced or not? Had it been mere merrymaking or was it a genuine marriage? In practice, these could hardly be distinguished. We can find references to such cases in João de Barros’ book, since the author had dealt with this problem during the course of his professional activity.

Finally, we should note that in the 16th century the issue of the supreme will of the intended spouses *versus* parental consent was a source of fierce debate, since both humanist Catholics and reformed Christians rejected the principle whereby the mere will of two young individuals was enough to bind them for life, with all the ensuing legal consequences for both themselves and their families. And to conclude the topic, although this resolution was posterior to the books under analysis, it must be added that the Protestants imposed the condition of paternal authorisation while the Catholics proclaimed that marriage is the result of two free wills (which would become three should the father’s consent be additionally required), although the principle of consensualism was mitigated or annulled through the imposition of rules and the punishment of those who married against their parents’ will, even though such marriages were considered valid. Therefore, the new Catholic clandestine marriages belong to a different type: they are

irregular because they lack the families' permission, the three previous announcements and a written record (all of which were conditions laid down by the Council of Trent), but now, in order to be considered valid, marriages must necessarily be performed in the presence of witnesses and the parish priest – even if against the will of these persons and even including the use of force against the priest, since the presence of this one was enough in itself as there was no Tridentine provision concerning the need for his assent.

João de Barros

Not much is known about the life of João de Barros, a contemporary of his far more famous namesake, the author of *Décadas da Ásia* (*Decades of Asia*); to avoid him being mistaken for the latter, references to our João de Barros usually include his academic title of Dr. He was probably born in the north of Portugal, in Braga or Porto, and took a degree in Law at the University of Salamanca, which was attended by many Portuguese students, especially from the north, since the Portuguese university was located in Lisbon at the time and it was undergoing a period of considerable decline. By 1529 he had obtained his degree and was married and living in Porto, and in 1540 he was citizen of the city of Porto and a widower. During this decade he was appointed judge of the Supreme Courts in Lisbon.

A mirror of married people was studied by Eugenio Asensio back in 1949, although, from my point of view, his much-cited analysis is not particularly adequate.⁹ A much more pertinent, correct approach can be found in the work of Maria de Lurdes Fernandes, which I cannot but recommend.¹⁰ As for this study of mine, it was developed from an historian's perspective, which is necessarily different from a literary approach. I am not exactly interested in literary issues, which have been discussed and analysed before, my focus being the history of representations, matrimonial law, marital life, including ideas and practices, and marriage itself as concerns its nature and constitutive rites. *Espelho de casados* was the first work published in the Portuguese language on the subject of marriage, the roles of husbands and wives, and their relationship. It was also the first Portuguese text to protest against the detractors of women, highlighting the fact that faults and qualities depend on personality rather than sex, which was in itself a quasi-revolutionary notion. Another interesting fact about this book is its publication date, 1540, a time when the practice of marriage, which was the result of a centuries-long evolution, was the object of criticism by both Protestants and Catholics before the Tridentine model was established.

Objectives and structure of "A mirror of married people"

A "mirror" was a guidebook, a kind of "roadmap", a meaning which the author's reading audience could immediately identified. However, the full title of João de Barros' book is much longer:

"A mirror of married people which includes a copious discussion of how excellent, beneficial, and necessary marriage is, as well as many maxims, examples, pieces of advice, and doctrines and doubts that are necessary for married people, and finally, the requirements for a perfect marriage in the Lord's service".

In other words, the author wishes to leave no room for ambiguity, spelling out his intention in the very title: this is an apology for marriage as the perfect state both in earthly life and for eternal salvation, and includes a set of instructions meant to assist married couples in living well according to their state, and calls for a change in wrongful behaviours. As the Introduction also makes clear, it is also a guide that instructs single people on how to choose their adequate spouse, since marriage is good in itself, provided status and personalities fit each other. Although he does not mention this in so many words, his target audience also included women, as can be inferred from some passages of his text. By approaching marriage as something very positive, Dr João de Barros starts from the following premise: he rejects the gloomy views on women that were so widely shared by others. This book is therefore also an apology for women as human beings, because they are conceived of as possessing the same dignity and the same weaknesses that the author identifies in men.

To support his case, in the manner of his day, he resorts to an extensive inventory of quotations from both the Old and the New Testaments, from ancient Greek and Latin authors, the Church Fathers, medieval theologians and canonists, and humanist authors. He also illustrates his arguments using concrete examples of women and men who were the protagonists of different mythological, pagan, biblical, and historical episodes from Antiquity to his day. Being a member of the legal profession, he abundantly cites other authors of the field, as well as a large number of his own professional cases.

Also noteworthy is the fact that the author draws on two other areas of his life experience: that of a man who used to be married and a father, and that of a man who lived with women and listened to their opinions. Right at the beginning of his book, João de Barros explains: "I who practiced the married profession now have decided to write this book". Now a widower, he claims to know what he is talking about, suggesting that he is in a better position to do so than the clerics or laymen who vilify marriage without ever having experienced it. *A mirror of married people* clearly reflects

the feelings of someone who had had a happy marriage and who had experienced both the joys of parenthood and the death of his children. Dr. João de Barros was also unique in that he occasionally used women's judgements and opinions to support his arguments, which meant that he actually listened to women and believed that they deserved credit.

The book is organised into four parts: in the first part "twelve reasons against marriage are described all of which [...] will subsequently be rejected". The readers are immediately warned that they will encounter unreasonable arguments in the book. Wishing to expound such commonly invoked reasons to later refute each one of them, the author presents them as if they had been written by a friend. For the sake of stylistic harmony, all the parts contain twelve arguments. The first, the letter supposedly written by his friend, includes the following: 1) "because of the responsibilities of marriage", 2) "because of children and their death", 3) "because it is a kind of servitude" for the husband, 4) "because of the simpleness of women", 5) "because of women's inconstancy", 6) for the "fundamental reason against women that has to do with their lack of self-restraint", 7) "in consequence of the discord between the husband and the adulterer",¹¹ 8) "because the husband does not live with the adulteress", 9) "because of women's faults and cunning", 10) "because of poverty, sickness, and old age", 11) "because the woman is poor or wealthy", 12) because it can never be undone.

The second part of the book sets out the arguments in favour of marriage, which the author shares: 1) "because man is perpetuated"; 2) "because of he who commanded it"; 3) "because of the glory and joy of marriage"; 4) "because it follows our ancestors' tradition"; 5) "because it follows the Moderns"; 6) "because of offspring"; 7) "because of honour"; 8) "out of respect for friendship"; 9) "because marriage is in favour of the republic", 10) "because the woman helps the husband"; 11) "out of respect for the police", i.e., law and order in society, and 12) "to avoid sin".

In the third part of the book, the arguments supposedly put forward by the author's friend are addressed. The declared objective of this work, as becomes clear throughout the text and is stated at the beginning of this third part, in which the "reasons invoked against it [marriage] and against women" are refuted, is not only to uphold the worth of marriage, but also that of women. And this was inevitable: how could the excellence of marriage be supported without denying the evilness and foolishness supposedly inherent in women? Having demonstrated both the excellence of marriage and the moral and intellectual equivalence between women and men, in the fourth part of the book the author guides his readers in choosing their spouse, by stipulating a number of rules: 1) "appropriate age"; 2) "the man's wealth"; 3) "she/he should be healthy"; 4) "he/she should have no children"; 5) the woman should be "a virgin"; 6) "wealthy woman"; 7) "equal woman", 8)

the woman should be "honestly handsome", 9) the man should be "potent"; 10) both should have "good morals"; 11) the intended spouses should know each other; 12) they should not be relatives. As Eugenio Asensio stresses, Dr João de Barros published his book at the end of an historical period where there was considerable freedom of thought and also the freedom to write, and he did not fail to take advantage of it. It suffices to quote his assertion: "Plato, whom everyone calls divine, in whose writings one finds nearly all of John's Gospel"; or to notice how he cites and admires some authors who will be proscribed in the future. But this proved to be a swan song: it will not be long before books start to be scrutinised by bishops and the Inquisition, which was established then in Portugal.

Lastly, everything seems to indicate that *A mirror of married people* was not widely disseminated. The book was never cited, there was no second edition and there are almost no copies of it left. The root causes for this failure may have been the syncretic character of its author, his doctrinal broad-mindedness, and a certain degree of tolerance towards different lifestyles, which the days of Counter-reformation no longer permitted.

Misogyny rejected by João de Barros

The first part of the book lists the catalogue of supposed female faults and incapacities generally identified with the female sex at the time and which have been mentioned above. Some of those misogynous commonplaces are immediately highlighted and included in the list of reasons against marriage: weak understanding, volubility, lasciviousness, character flaws and defects, and a cunning personality. Others emerge as the text develops those topics. They are "opinionated, arrogant, and deceitful", incapable of keeping a secret, fickle, greedy, etc. As regards their love for their husbands, "most of them do not love them except when moved by self-interest, even though the husband may be a saint". Arguments are put forward which will be much appreciated centuries later: "A woman has a dissimilar head to that of a man, with no more than one brain, or commissure, while the man has three".

João de Barros's views on marriage

Seeking to rehabilitate marriage, João de Barros uses a variety of arguments, sometimes converging them into the same "reason". Here is a passage from reason n.11:

"Political, perfect life consists in one of two states: marry or join religion, and those who do not live in this manner are

considered to live with no order. And, therefore, Plato was very sorry for having lived unmarried, which was a barren life. And since not all of us can join religion and there is much honesty and justice in marriage, it is better to marry than to burn, as St Paul says”.

By this he means: although a religious state is more perfect (from the standpoint of the Catholic Church), a married man does contribute to good social organisation and is therefore useful both to the Republic (Plato) and to his own salvation, since he avoids falling into the sin of concupiscence (Paul’s argument). João de Barros makes a point of also mentioning the then-recent arguments in favour of the marriage of Christians. However, because this was not the position of the Catholic Church, he always approaches it with extreme caution, explaining that it is not the true doctrine. He nonetheless argues that married people may be more virtuous than those who chose sanctified celibacy, and that they may find their path to sanctity and contribute to a more perfect society on Earth.

Among the book’s topics are the controversies surrounding marriage, which included its legitimising foundations, its indissoluble nature, the intended spouses’ free will, marriage rites, the dispensation from kinship prohibitions, and the issue of subsequent marriages. As mentioned above, for Paul of Tarsus the purpose of marriage was to avoid succumbing to sin, while for Augustine of Hippo it was progeny, faith/fidelity and *sacramentum*. Procreation as a justification for sexual intercourse will remain a key argument up to the 20th century, as we know, with many claiming that the only thing that prevented marital sexual activity from being a sin was the conscious goal of reproduction. For some people, marriage without reproduction was unjustifiable. But Dr João de Barros has a different opinion and he refers his readers to more advanced theologians who proclaim that the grounds for marriage rest in its own intrinsic merit: “this is a better opinion” because “besides the good of progeny, God granted married people a glory in the family and the contentment of the married state”.

Yet, his position concerning marriage between relatives was less liberal. He did not like consanguinity dispensations, but he had to be careful since such marriages were a common practice among monarchs, including the Portuguese ones. As for the marriage of widows or widowers, it was a common practice given the high mortality rates prior to old age. Although St Paul disapproves of them and the Church never encouraged them, these marriages were dictated by specific demographic and socioeconomic circumstances and, among the upper classes, by political or lineage reasons. João de Barros did not exactly appreciate this practice, but he considered people’s individual circumstances, including those of widows with children, and he concluded with the following kind, humane words: “But sometimes fathers and mothers will

marry so rightly that they will satisfy themselves and their children, and anything may happen”. He characteristically tends to refuse general, cold, coercive rules that have no regard for people.

Backed by his legal experience, Barros also provides brief, but precious information on the act of marrying: he explains that the words pronounced were enough to grant validity to a marriage and that informal weddings during festivities and village festivals were a frequent practice among the lower classes.

João de Barros’s views on women

Challenging the stereotype of female silliness, João de Barros begins his argument, as was typical in his time, by providing concrete examples of knowledgeable women. Surprisingly, his second example is Pope Joan, whom he mentions in order to illustrate women’s commendable capacities, not condemning her in the slightest for her acts. He then argues that aptitudes do not depend on people’s sex, that “women are as able and wise as men” because “they do not lack in art, ingenuity, subtlety, and discretion. And if you tell me that many of them are not like that, I will answer that there are also many men who are ignorant and unreasonable”. He then adds an argument that may seem obvious, but which is not yet self-evident: were women to have access to authorship and other truths would be taught. For example, when women are accused of being inconstant, he argues: “variation is a natural state of both men and women because our state consists in perpetual motion and it should not be a matter of reproach”. He then mentions a number of examples of constancy and strong spirit in women and reminds his readers that there have been as many female as male martyr saints. By this he means that women and men are equal also as regards moral and spiritual virtues.

Rui Gonçalves

Rui Gonçalves was born in the island of S. Miguel, Azores, and he studied both civil law and ecclesiastical law at the University of Coimbra, where he lectured since 1539. When his book *On the privileges and prerogatives held by the female sex...* was published, in 1557, he was no longer a Professor at Coimbra and worked as an attorney at law in the *Casa da Suplicação*, the kingdom and empire’s supreme court, in Lisbon.

Structure and objectives of "On the privileges and prerogatives of the female sex"

The book is divided into two parts: the first, comprising one-third of the text, expounds "some virtues in which women were equal to and preceded men"; the second is a detailed systematisation of the legal framework and related practices concerning Portuguese women in mid-16th century. For lovers of literature and the history of culture and representations, or for our contemporary readers, not necessarily interested in the legal meanders of the time, this is the most interesting of the two sections, but for the author it was just a kind of prelude to the core of this work. That is perhaps why it is absent from the title, whose full version runs: *On the privileges and prerogatives held by the female sex by common law and the kingdom's ordinances above those of the male sex*.

In the words of Sebastião de Pinho, "this is the first Portuguese book to deliberately set as its main objective the defence of a true anthropological equality between man and woman", a study that argues for "principles of social equality in a bold, unprecedented way in the 16th century in Portugal".¹² I do not agree with Pinho. Rui Gonçalves was not the first to uphold the equivalence of capabilities between the sexes, since this pioneering role undoubtedly belongs to Dr João de Barros. Also, an equivalence of capabilities did not presuppose or signify "social equality" either for Gonçalves or for Barros, since this would be an unimaginable concept in their time. Besides all this, the work of Rui Gonçalves was far more pragmatic and less comprehensive than his predecessor's, since his aim was to write a law compendium within the existing legal framework that might facilitate the legal protection of women. And I disagree even more with Pinho's title (*The first Portuguese "feminist" book*) even with the word feminist being placed between inverted commas. Being feminist essentially means repudiating two types of behaviour: to evaluate someone's personality and worth as a function of their sex and to assign that person one or more social roles because they "naturally" belong to her/his sex. Obviously, neither Rui Gonçalves nor João de Barros or, for that matter, anyone in their time conceived of the world in this manner.

The qualities of women

The virtues "in which women were equal to and preceded men" selected by Rui Gonçalves in the first part of his book belong to the following areas: "doctrine and knowledge", "counsel", "fortitude", "devotion and fear of God", "liberality", "clemency and mercy", "chastity", "conjugal love" and, in contradiction to these, "idleness", where he should have written diligence since this is a

list of positive values. The author simply followed the Seven gifts of the Holy Spirit as defined by the Catholic Church: wisdom, understanding, counsel, fortitude, knowledge, piety, and fear of the Lord. He then continued by listing a different set of seven heavenly virtues, the qualities of liberality, chastity, diligence, patience, and kindness, omitting only abstinence/gluttony and humility/pride and very aptly adding conjugal love. Not a lot of effort was required to compose this section of the book: the author followed the two well-known sevenfold gifts, illustrating them with examples of women who personified these virtues, which had been detailed and established many centuries before.

This first part of the book indeed appears to be an addition to the laborious legal compilation that the author had organised, with the intent of providing his book with the erudite doctrinal input of other authors rather than just the legal experts on whom he draws intensively in the following section. However, there is no doubt regarding the philogynous quality of his approach, and, after *A mirror of married people*, this is a pioneering text in its peremptory affirmation of the equality between women and men as far as intellectual and moral capacities are concerned. And therefore, "it is easy to understand that it [the female sex] is clearly as perfect as the male one, and that men are not more perfect than women". Rui Gonçalves goes as far as to attack those who devote themselves to "writing against the life and customs of the female sex, nearly blaming Nature for producing females rather than males", and he does not shy away from using an argument which is, to this day, raised by the Catholic Church to defend (and deny) the ordination of women: such authors "forget that our Redeemer, Jesus Christ, could have assumed humanity in the female sex".

The legal prerogatives of Portuguese women

In the second part of his work, Gonçalves details 106 legal prerogatives pertaining to Portuguese women. These provisions are arranged alphabetically according to their Latin term or expression, followed by comments based on seventy jurisconsults who are mentioned in nearly 500 footnotes, and elaborated on by the author, who, as a legal expert, discusses the laws which concern women "under common law and Ordinances of the realm". A brief description of the 16th century Portuguese legal system is therefore pertinent.

Western Europe was governed by international civil and canon laws provided that they did not collide with specific territorial laws, and the combination of those two formed common law. Civil law was heir to Roman law and its medieval glossators, notably: Roman laws collected from *Instituta* and *Digesto*, Accursius' glosses (13th century), Bartolus' commentaries (14th century) and the opinions

of magistrates. Canon law had been systematised in Gratian's Decretum (12th century) and Gregory IX's Decretals (13th century). As regards Portuguese laws (territorial laws), in 1557 they had been compiled in the definitive version of *Ordenações Manuelinas* (King Manuel's Ordinances) dated 1521. That is why Rui Gonçalves has to necessarily base his research on common law and the Ordinances of the realm. As stressed by António Manuel Hespanha a propos of women's supposed legal privileges,

“Although many of these restrictions are presented by the authors as honours due to the status of women, if we seek their grounds we are bound to find the virtue of honesty. And if we examine the archaeology of this virtue as a female quality, we will soon find its opposite: women's natural lasciviousness. In women, honesty is a virtue contrary to nature, a brake used by righteous reason to compensate for the violence of the drives of desire and the weakness of women's natural will to resist them”.¹³

Another key element to understanding the work under analysis as well as the admissibility of privileges (laws applicable only to specific people) is the corporative or organicist conception underlying 16th-century society. This is why Rui Gonçalves would never be able to envision a society that granted equal opportunities to all people, a society where each person would be able to choose their social role irrespective of their place in it, with gender being only one of the crucial categories.

As Sebastião de Pinho noted, “by implying the other side of the coin, prerogatives demonstrate women's obviously inferior position”.¹⁴ Maria de Lurdes Fernandes has a similar opinion, questioning (and very rightly so) the supposed beneficial effects of some of those prerogatives such as an earlier legal age to get married, prosecuting by proxy, etc..¹⁵ Most prerogatives concern dowries, and therefore, they mostly include provisions relating to a type of property or wealth that is distinct from other assets in its composition, its nature, its owners, and the rules that govern its transfer by inheritance. Since these issues tend not to be properly understood I will add a few additional notes on the subject.

First, it is important to distinguish between the legal capacity to manage and the legal capacity to hold property, since the latter was the same for women and men. However, unlike today, the marital property system in force was community property, i.e., all their estate was jointly owned by both spouses, irrespective of having been acquired prior to or after their marriage. Exceptions to this communion, or joint marital ownership regime were majorats (*morgadios*), when these existed, as well as the bride's dowry, whose sole owner was the wife, despite being managed by the Znly member of the couple who was legally entitled to do it: the husband. Also different from the current Portuguese

inheritance law was the fact that spouses were not entitled to each other's inheritance. Each of them passed on their estate to their descendants or, if there were none, to their relatives in the ascending line, and only after them, to relatives collateral to the decedent. The inheritance was equally shared by all children, of both sexes, except in the case of Majorat estates, which were inalienable assets whose inheritance was governed by the principle of male progeniture.¹⁶ As happens today, there were restrictions on the freedom of testators to make dispositions of their property upon death, since they could not completely disinherit their forced heirs, from whom only one-third of each parent's assets could be withheld. The heirs were entitled to the remaining two-thirds, which were compulsory succession, with each heir's share being, then and now, called the “legítima” (reserved share). The dowry is frequently said to be provided by the father. Although fathers could provide dowries, these generally corresponded to an early payment of the daughter's reserved share. One may therefore say that the father provided the dowry only in the sense of an advancement on the bride's inheritance, which indeed depended on his will. However, on the one hand, as Rui Gonçalves notes, refusing to provide a dowry had to be properly justified, and, on the other, since all children inherited both from their mother's and their father's estate, the dowry came from the maternal as much as from the paternal reserved share.

To summarise: since the dowry regime was meant to facilitate family building and support by providing a compensatory protection to married women, whom the general law deprived of the capacity to manage their family's possessions, the numerous legal provisions that pertained to dowries – which in themselves showed the many different ways in which the dowry regime could be violated – can in no way be seen as women's prerogatives.

The remaining privileges catalogued by Rui Gonçalves can be classified as follows: those which did nothing to improve women's lives, whose mention could be dispensed with; those which were not even enforceable under Portuguese territorial law; those resulting from an obsession with female sexuality; those which amounted to nothing but an occasional exemption from discrimination against women; and, finally, those which amounted to flagrant, outright discrimination. Such “privileges” are therefore not women's prerogatives vis-à-vis men, which was simply a legal impossibility however great the efforts made by the author to try and find them among the existing national legal provisions. But they certainly were useful instruments to be used in the interests of greater fairness and dignity for the lives of women.

Conclusion

Considering what has been summarised above with regard to the prevailing gender stereotypes in the 16th century, we understand how the two authors depart from them, being indeed pioneering in their perception of women and the relationship between women and men. João de Barros was also ground-breaking with respect to marriage (specifically the objectives of marriage and the conjugal model he proposes) and both Barros and Gonçalves intended their work to be practically applicable, changing mindsets and behaviours, and improving the lives of concrete people. Contrary to what was still claimed centuries later, they believed in the equality of moral and intellectual capacities of both sexes, although they accepted that the “natural” social roles of each of the two sexes were predetermined. However, the husbands and wives, the men and the women in *A mirror of married people* are never mere abstract categories. João de Barros does indeed resort to his vast ancient and modern erudition as well as to biblical, mythological, and historical cases, but to those he adds others which he witnessed or heard about, besides the opinions of both men and women, his personal and professional experience, and a ponderation of the specific life circumstances of each person involved. Now, if one knows how to mobilise these resources, one is certainly able to escape dogmatism. That is why we find passages that resonate with the pulse of real life, and insights that show how the author pays genuine attention to the behaviours he seeks to understand in a book that praises conjugal union and appears to be implicitly driven by a longing for marital bliss.

As for Rui Gonçalves, he was the first to systematise from the general legal system – which was unfavourable to women as a specific, minoritised social group – all the norms, regardless of how small and fragile they were, that allowed for a degree of protection or that enabled women to escape discrimination. He thus proved to be a legal professional who was attentive to the situation of Portuguese women, providing them with instruments to alleviate their problems. Although he does not call for women and men’s equality before the law, he seeks to enhance women’s dignity within the existing legal system, which was intrinsically unequal and would certainly collapse if it were to be otherwise.

Notes

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1. This text is a translation-summary of two longer texts: “Uma visão pioneira das mulheres e da união conjugal em Portugal de 1540: o *Espelho de Casados* de João de Barros”, in Franco, José Eduardo & Fiolhais, Carlos (coord.), *Obras Pioneiras da Cultura Portuguesa*, vol. 3, Lisboa, Círculo de Leitores, 2019, pp. 76–117; “Um jurista em busca da proteção das mulheres nos meandros da lei quinhentista”, *idem*, vol. 14, pp. 19–34. Both books are integrally published with my explanatory notes (vol. 3: pp. 697–807; vol. 14: pp. 169–264).

2. I use this rather cursory distinction merely for linguistic convenience since thought is as vivid and real as actual action.

3. A synthesis from Delumeau, Jean, *La peur en Occident (XIVe–XVIIIe siècles)*, Paris, Hachette, 1999; Lopes, Maria Antónia, *Mulheres, espaço e sociabilidade [...] século XVIII*, Lisboa, Livros Horizonte, 1989; Bock, Gisela, *Le donne nelle storia europea*, Roma, Laterza, 2008; Beauvalet-Boutouyrie, Scarlett, *Les femmes à l'époque moderne (XVe–XVIIIe siècles)*, Paris, Belin, 2003; Wiesner-Hanks, Merry, *Women and Gender in Early Modern Europe*, Cambridge, Cambridge University Press, 2015; Lopes, Maria Antónia, “Estereótipos de “a mulher” em Portugal dos séculos XVI a XIX (um roteiro)”, in Rossi, Maria Antonietta (coord.), *Donne, Cultura e Società nel panorama lusitano e internazionale (secoli XVI–XXI)*, Viterbo, Sette Città, 2017, pp. 29–46.

4. Cf. Bock, Gisela, *Le donne nelle storia europea*, *cit.*, pp. 7–50.

5. Bolufer, Mónica, *Mujeres e Ilustración*, Valencia, Diputació de València, 1998, p. 11.

6. Cf. Lopes, Maria Antónia, “Da igualdade entre os sexos e da opressão das mulheres: alegações de uma portuguesa em 1715”, in *Obras Pioneiras da Cultura Portuguesa*, vol. 14, *cit.* pp. 60–66 and the pamphlet with my notes in pp. 341–358.

7. Cf. Lopes, Maria Antónia, *Mulheres, espaço e sociabilidade*, *cit.*, pp. 29–37.

8. Cf. Duby, Georges, *Le chevalier, la femme et le prêtre*, Paris, Hachette, 1981; Burguière, André et al. (dir.), *Histoire de la famille 3. Le choc des modernités*, Paris, Armand Colin, 1994; Bologne, Jean-Claude, *História do casamento do Ocidente*, Lisboa, Temas e Debates, 1999; Sarti, Raffaella, *Casa e família. Habitar, comer e vestir na Europa Moderna*, Lisboa, Editorial Estampa,

2001; Seidel Menchi, Silvana & Quaglioni, Diego (dir.), *Matrimoni in dubbio: Unioni controverse e nozze clandestine in Italia dal XIV al XVIII secolo*, Bologna, Il Mulino, 2001; Lazard, Madeleine, *Les avenues de Fémynie. Les femmes et la Renaissance*, Paris, Fayard, 2001; Walch, Agnès, *La spiritualité conjugale dans le catholicisme français (XVIe–XXe siècle)*, Paris, Cerf, 2002; Silva, Nuno Espinosa da, *História do casamento em Portugal*, Lisboa, Universidade Católica, 2013; Pelaja, Margherita & Scaraffia, Lucetta, *Due in una carne. Chiesa e sessualità nella Storia*, Roma, Laterza, 2014; Lombardi, Daniela, *Storia del matrimonio dal Medioevo a oggi*, Bologna, Il Molino, 2016.

9. Asensio, Eugenio, “Les sources de l’*Espelho de casados* du Dr. João de Barros” in, Eugenio Asensio, *Estudios portugueses*, Paris, FCG/CCP, 1974, pp. 259–284. See my critique of Asensio’s analysis in Lopes, Maria Antónia, “Uma visão pioneira das mulheres...”, *cit.*

10. Fernandes, Maria de Lurdes, *Espelhos, Cartas e Guias. Casamento e espiritualidade na Península Ibérica, 1450–1700*, Porto, ICP/FLUP, 1995.

11. An adulterer was the man who had sexual intercourse with a married woman, not the married man who had extra-marital affairs.

12. Pinho, Sebastião de, “O primeiro livro “feminista” português (séc. XVI)”, in *A mulher na sociedade portuguesa. Visão histórica e perspectivas actuais*, Coimbra, FLUC, 1986, p. 216.

13. Hespânia, António Manuel, “O estatuto jurídico da mulher na época da expansão portuguesa”, vol. I, Lisboa, Comissão para a Igualdade e para os Direitos das Mulheres, 1995, pp. 53–64.

14. Pinho, Sebastião de, “O primeiro livro “feminista” português”, *cit.*, p. 214.

15. Fernandes, Maria de Lurdes, “Literatura moral e discursos jurídicos. Em torno dos ‘privilégios’ femininos no século XVI em Portugal”, in *Revista da Faculdade de Letras. Línguas e Literatura* 17, Porto, 2000, pp. 415–416.

16. This special regime, only applicable to majorats, which were restricted to a small elite, has led to the belief that Portuguese women were treated unequally when it came to inheritance.

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Instituto de Ciências Sociais
Universidade do Minho
Campus de Gualtar
4710-057 Braga

Escola de Arquitetura
Universidade do Minho
Campus de Azurém
4800-058 Guimarães

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