

Mitleidenschaft gezogen. Auch die Tatsache, dass die in den 1740er Jahren zur Welt gebrachten unehelichen Kinder sich nicht mehr vor solchen Strafen zu fürchten brauchten, die ihren Müttern (bzw. den Eltern) noch drohten, mag für die Beteiligten nur ein geringer Trost gewesen sein.

SUMMARY

Peccatum contra sextum:
*Sins against the Sixth Commandment
in Pärnu County Court in the 1740s*

In Early Modern times, misconducts categorised as sexual crimes were, owing to their private nature, definitely one of the most challenging areas for administrative power. On the one hand, the governing regime at the time could not overlook the violation of the principles of Christian morals; on the other hand, the confidentiality of these violations rendered their discovery and public retribution far more complicated than in other areas of life. Although extramarital sexual relations were punishable by law, only cases that resulted in the birth of a child were brought to court. The majority of court trials that were categorised as violations in Pärnu County Court in the 1740s – constituting more than thirty court cases a year – were extramarital pregnancies.

At least once a year, church pastors informed county courts of illegitimate children baptized in the parish. Only single unwed women were not brought to trial, either because they had fled from the estate or for some other reason, but this did not preclude their later punishment.

The article discusses the testimonies of single mothers in 67 trials at Pärnu County Court during 1744 and 1745. According to the testimonies, the trials could be divided into three categories: 25 cases of alleged rape; 22 cases of sexual relations in hope of marriage (*sub spe matrimonii*); and 20 cases that could be categorized as “misconducts committed of free will”.

28 of the men that were accused by women in court of having fathered an illegitimate child were Russian soldiers billeted in the area. In 21 cases a woman testified to having been raped by soldier(s); in seven cases a woman had lived with the soldier of free will, including four cases in hope of marriage. In at least two cases, the accusation of rape by a soldier proved a white lie, told for the purpose of concealing the child’s biological father and/or in the hope of avoiding punishment.

A woman who claimed that the reason behind her extramarital pregnancy was rape was cleared of the charges only after she presented to the court a witness who confirmed the incidence of rape or testified that the woman had reported the incident at once, and not after she began to show the symptoms of pregnancy. In only two cases out of 25, the court ruled that the woman's testimony was correct.

In cases where the conception of an illegitimate child had occurred after marital agreement, the parties were not found guilty. Out of 22 statements by single mothers who claimed that the child was conceived in the hope of marriage, the court accepted five. In all these cases, the man charged of being the father of an illegitimate child confirmed his wish to marry the child's mother. In case the man denied having promised to marry, the woman had to give the court proof of the plight of troth, which rarely convinced the court. Without exception, in the case of all *sub spe matrimonii* cases the alleged fathers of illegitimate children that were brought to trial affirmed having had intercourse with the said woman or girl, though four of them denied accusations of paternity.

The regular penalty for extramarital sexual relations was five pairs of strokes for women and ten for men. In addition, both the woman and the man were sentenced to a sacramental penance. In cases where a single mother stood before the court for a second time on the same charge, she received a double penalty. Double penalties were also imposed when sexual relations involved adultery. The person found guilty could buy him/herself out of corporal punishment by paying 50 kopecks for each pair of strokes.

Out of 67 court trials, 63 of which reached a verdict (in four cases the court's decision was postponed), a woman was found guilty in 55 cases and in only seven cases escaped punishment. (On one occasion the single mother had died at childbirth and the alleged father was brought to court.) Only 27 men appeared before the court, of whom 19 were found guilty and sentenced. Five men were released from punishment upon their marriage to the child's mother, in three cases the man testified under oath that he had not had sexual relations with the woman who claimed him as the father. If a man's paternity had been ascertained by the court, but he and/or she refused marriage, the man was sentenced to pay alimony to support the child in the amount of a cow and four bushels of rye. Of the court cases discussed in this study, this happened in only eight cases.

The hearing and punishment of unwed mothers indicates the facility of the court system, but also raises the question of the extent to which the impossibility of avoiding a court trial forced women to conceal extramarital pregnancies and kill the newborn. The very reason that many women had killed their newborn children out of shame was used to justify the limitation of discrediting punishments in mid-18th century

Europe, including the Baltic area. The senate's ukase on March 30, 1764 excluded incidents of adultery from the list of crimes in the Baltic provinces and being sentenced to pillory was replaced with a reasonable fine.