

Pregnancy: Privileges and Protection in the Spanish Golden Age

El embarazo: privilegios y protección en el Siglo de Oro¹

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Abstract. Maternity protection in the Spanish Golden Age is a subject that has been only scarcely studied in this context. The objective is to find out to which extent pregnant women were considered worthy of protection, a concern that includes the closely tied aspects of body, imagination, and surrounding conditions. Matters regarding food, fasting, the «free» choice of the birthplace, and the midwife are presented by quoting a medical treatise from 1606 by Ruices de Fontecha, but also legal texts and specific illustrative cases of diverse social classes. Also, some proposed hypotheses might elucidate *why* the author insists on the extraordinary idea of privileges.

Keywords. Maternity protection, Pregnancy; Childbirth; Midwives; Alonso de los Ruices de Fontecha; *Diez privilegios para mujeres preñadas*.

Resumen. La protección de la maternidad es un tema poco estudiado en el contexto del Siglo de Oro. El objetivo es de averiguar en qué medida las mujeres preñadas eran consideradas dignas de protección, un asunto que incluye aspectos entrelazados como el cuerpo, la imaginación y el entorno social. Se hará especial hincapié en la comida, en el ayuno y en la posibilidad de elegir el lugar del parto y a la comadre, refiriéndose al tratado médico del año 1606 de Ruices de Fontecha,

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pero también a textos legales y casos ilustrativos de varias clases sociales. Además, algunas hipótesis propuestas podrían elucidar por qué el autor insiste en la idea extraordinaria de los privilegios.

Palabras clave. Protección de la maternidad; embarazo; parto; comadre; parteras; Alonso de los Ruices de Fontecha; *Diez privilegios para mujeres preñadas*.

También las que alimentan
en sus tiernas entrañas
el reparo del siglo venidero,
su libertad aumentan,
y con propias, y extrañas
leyes, se libran del común pechero².

«*La vida de la preñada ha de ser privilegiada*»³, a pregnant woman's life has to be privileged. This is the recurring motto of the unedited treatise *Diez privilegios para mujeres preñadas*⁴ (Ten Privileges for Pregnant Women), written in 1606 by the Spanish physician and professor Juan Alonso de los Ruices de Fontecha⁵.

The central question that motivates this article is whether there was a sense for maternity protection in the Spanish Golden Age and in which forms this was manifested, in theory and in practice. In order to illuminate this widely unresearched field, I suggest focusing on the most relevant privileges of Fontecha's treatise and to complement his statements with information from legal texts, cultural studies, and other real and fictional sources⁶. In the end, I am searching for possible motives the author might have had for emphasizing the significance of the privileged position of pregnant women.

PREGNANCY CRAVINGS AND THE PROTECTION OF THE IMAGINATION

Fontecha titled his first privilege «*Concede a la preñada lo que pide*» («Allow the Pregnant Woman what she wants»), a statement which applies to food. He argues for the privilege that an expectant mother should be given any aliment she craves

2. Ruices de Fontecha, *Diez privilegios...*, «Canción», parag. 11.

3. Ruices de Fontecha, *Diez privilegios...*, fols. 23r, 54r, 91v, 107v, 164r; respectively in the last paragraph of the introduction and of Chapters 4, 6, 7, and 8. «Vida de la preñá, vida previlehiá» was a saying in the 20th century, in the province of Cáceres. Cf. Domínguez Moreno, 1986, p. 5.

4. Ruices de Fontecha, *Diez privilegios...* This first edition is the only one existent until now, however, the appended Diccionario has been recently edited by Zabía Lasala, 1991. The only publication that exclusively studies the ten privileges is an article by Barbeito Carneiro, 2008.

5. In the following, I will refer to the author as Fontecha.

6. For relevant cultural studies concerning pregnancy and childbirth see Usunáriz, 1999; and Aichinger, 2018.

for, regardless of the norms of the Catholic Church⁷. Concern about how to eat is even more present in the fourth privilege, «La preñada no ayune» («The Pregnant Woman does not fast»), where the author gives two reasons for his cause in an almost empathic way. Firstly, he describes maternity sickness and other pregnancy-related problems, drawing the conclusion that whenever their sickness allows them to eat and they have an appetite, pregnant women should be able to follow their natural desire, for their own and the foetus' good⁸. Secondly, he reasons, fasting during pregnancy could even be considered a sin, since the mother does not only need to eat in order to function, but also does the creature depend on what she eats. So to refuse vital aliments could put the foetus at risk⁹.

It seems that those cravings for a certain type of food (Spanish: *antojos*) were not merely seen as a fastidious fancy, but that it was, indeed, the husband's or servants' concern to make sure that those wishes would be fulfilled, motivated by the fear that such an unmet need could have negative effects. Those cravings represented a physical and medical matter, accompanied by the thoughts that strength is required during childbirth, and that the four humors —out of balance because of the pregnancy— might demand a certain food for a compensating and stabilizing effect. But, according to López Gutiérrez, cravings were just as well a matter of imagination as was the force attributed to it. Not only had a pregnant woman's body to be protected, but also her mind, as it was believed that a strong craving could lead to a mental «obsession» that would be transmitted to the foetus, e.g. by causing a birthmark or a wart in shape of the desired food on the baby's skin¹⁰. Even more superstitious myths circulated, such as the following told by the mystic Juan Eusebio Nieremberg: his grandmother had an appetite for strawberries that could not be satisfied, which is why she scratched her head in frustration, and months later she bore a child with five bumps on its head that resembled that fruit¹¹.

Moreover, the *antojos*-phenomenon can also be found in the Spanish Golden Age theater¹². In his comedy *El acomodado don Domingo de Don Blas*, the dramatist Ruiz de Alarcón deals with the topic in the opening scene, where lazy Don

7. «[La] preñada [...] puede en cualquier día de los prohibidos por la santa Iglesia Romana comer carne y todo aquello de que tuvo el tal apetito, aunque sea justamente en una mesa carne y pescado, no obstante la sinodal de Toledo» (Ruices de Fontecha, *Diez privilegios...*, fol. 34r). Bearing in mind that almost one out of three days was supposed to be a fasting day, this is a remarkable privilege. Fontecha justifies this exemption by saying that even the Supreme Pontiff stated this in the papal bull *De la santa Cruzada* (cf. fol. 34r).

8. Cf. Ruices de Fontecha, *Diez privilegios...*, fol. 64v.

9. Cf. Ruices de Fontecha, *Diez privilegios...*, fol. 42v.

10. Cf. López Gutiérrez, 2012, pp. 29-31.

11. Cf. Nieremberg, *Curiosa filosofía y tesoro de maravillas de la naturaleza*, 1630, fol. 68v.

12. And those ideas seemed to have persisted until at least the 18th century, which suggests the lecture of the comedy *La embarazada ridícula* by Ramón de la Cruz. The husband complains about his pregnant wife's odd and exaggerated *antojos* (vv. 35-76), the physician tells him about this strange case (vv. 519-530): «Una preñada miró / cierto día que pasaba / por la calle de Valverde / con la vista levantada, / la media naranja de / los Basílios; fue a su casa, / y malparió un niño con / una verruga en la cara / tan grande, ni más ni menos, / como la media naranja, / con su chapitel y todo. / Ándense ustedes con chanzas».

Domingo is not amused about his wife's wishes and starts a discussion about what is to be considered a «valid» appetite and what is not, for she wants to join a social event, whereas he argues that those cravings usually only concern things you can eat, and not things you see¹³.

Yet, we find that for a grand variety of *Siglo de Oro*-authors such as Pedro Mexía and Antonio de Torquemada¹⁴ the need to protect a woman and her mind from negative visual impressions starts at the very moment of fertilization, because whatever affects her imagination from conception to childbirth can influence the baby's physique considerably. As an example, I would like to cite the most discussed explanation for a newborn baby with black skin from white parents: during the decisive intercourse, the mother had her eyes fixed at a picture or statue of King Balthazar¹⁵. By 1673, the story was even added to the entry «*Imaginación*» of the second edition of the dictionary *Tesoro de la lengua castellana o española* by Covarrubias¹⁶. The advice that was given to future fathers was to create a nice atmosphere in the bedroom; to put it in the words of Juan Fajardo de Guevara, «se aconsejan pinturas hermosas en los aposentos de los que desean tales sus hijos»¹⁷.

To conclude, the husband or another responsible person was supposed to care for the child's mother by offering both material and mental support, protecting her from unpleasant or distressing impressions and situations, and providing all the food she needed.

PLACE OF BIRTH: THE SEARCH FOR (PERFECT) SHELTER

The author's seventh privilege for pregnant women, «*del lugar para el parto*», is about the birthplace. He argues that it is obvious that a woman shall choose the place that she judges the healthiest, the most joyful or the best tempered to give birth, the one where she feels most comfortable¹⁸.

Thus, I wanted to find out whether there actually were cases where women could freely choose where to deliver their child, or where expectant mothers were offered

13. Cf. Ruiz de Alarcón, *El acomodado don Domingo de don Blas. Segunda parte*, vv. 529-547:

CONSTANZA.- Digo que se me ha antojado / ver las danzas e invenciones / de palacio.

[...]

DOMINGO.- Mas advertiros es justo / que una cosa es tener gusto / y es otra tener antojo, / que es más eficaz. Ved, pues, / cuál destes tenéis.

COSTANZA.- Yo creo, / según me aprieta el deseo, / que antojo, y no gusto, es.

DOMINGO.- [...] En antojos solamente, / según he visto y oído, / los manjares han caído.

14. Respectively in *Silva de varia lección* (1540) and *Jardín de flores curiosas* (1570). However, others, such as Huarte de San Juan (*Examen de ingenios*, 1575) refuted this kind of myths, appealing to reason.

15. This has already been thoroughly analyzed, e.g. by González Rovira, 1997.

16. Covarrubias, *Tesoro de la lengua castellana o española*, vol. 2, fol. 76r.

17. Fajardo de Guevara, *Días de jardín*, 1619, fol. 305r.

18. Cf. Ruices de Fontechea, *Diez privilegios...*, fols. 92r-94r. «Sea pues la conclusión, si para conservar la vida de una persona sola es justo y lícito y aun algunas veces necesario mudarse de un pueblo a otro y de un lugar a otro, privilegio tiene la preñada para pedir la lleven a mejor o más saludable o más alegre o templado lugar, o donde ella se hallará con más contento» (fol. 94r).

help or shelter for the crucial event. To give an example: The Castilian Queen Margarita de Austria-Estiria (1584-1611) decided where to stay during her pregnancy and chose the place for childbirth, enforcing her will against the powerful Duke of Lerma, Francisco de Sandoval y Rojas. Five years before Fontecha published his treatise, in 1601, she refused to deliver her first child in the royal palace in Valladolid, a place which reminded her of Felipe II's unfortunate first wife María Manuela de Portugal, who died in childbed after having given birth to Don Carlos¹⁹.

Now, what about those who, from the beginning on, did not have any privileges at all; the poor, unwed mothers, widows, prostitutes? Mary E. Perry gives revealing examples of cases in early modern Seville. When it came to the question of who would deserve the help of charitable institutions,

pregnancy and dependent children appeared to be the most common attributes of the people identified as «deserving poor» in the 1667 survey. [...] Too often a phrase followed the name stating that the woman did not even have a bed on which to bear her child. The men who took the survey could include expectant mothers among the «deserving poor» not because they were respectable, but because they were especially vulnerable²⁰.

Vulnerable seems to be the keyword here, defining the reason why poor pregnant women were considered worthy of receiving charity, and the resulting need of protection that could not be guaranteed elsewhere.

We can assume that several charitable organizations offered help and shelter to women who were close to giving birth. This is suggested by the fact that the *Albergue o Colegio de los Desamparados* in Madrid, from its opening in 1600 onwards, provided a room reserved for women who came to give birth. There was even a midwife always ready to assist. Likewise, the *Hermandad del Refugio* of Madrid, which administered around a million people's needs from 1618 to 1800, also seems to have helped pregnant women, as, for instance, in 1629, they documented having assisted 30 parturient women²¹.

Lastly, we find the importance of the place and the moment in which a child is born reflected in well-known stage plays of the Siglo de Oro. The circumstances of a protagonist's birth are often decisive for his or her personal destiny (e.g. in *La devoción de la cruz*), or even for his country (thinking, for instance, about Calderón's prince Segismundo)²².

19. Cf. Rubio, 2015, pp. 256, 126.

20. Perry, 1990, p. 173.

21. Cf. Reyes Leoz, 2003, pp. 336, 540, 527f.

22. Aichinger (2014 and 2015) has published studies concerning the symbolism of birth in Calderón's and Lope de Vega's plays.

THE MIDWIFE IS THE KEY

Let us return to Fontecha, the physician from Daimiel (Ciudad Real), and his eighth privilege «*Para elegir comadre*», where he states that the pregnant woman has the privilege to search for a midwife who is best suited for this purpose and who will do an excellent job helping, and facilitating labor²³.

Interestingly, Fontecha wrote his treatise with the intention to instruct midwives, and indeed this chapter can be read like a manual for those sage women. This is also the reason why he drafted his work in Castilian and not in Latin, a remarkable choice which he justifies to the reader in a preliminary note²⁴.

Looking at archived documents, it seems likely that aristocratic women could choose their midwife or at least have a fair say, because, obviously, the family could afford the best possible assistance, which was considered to contribute substantially to a successful childbirth.

In 1566, the pregnant Queen consort Isabel de Valois, who was French but resided in Spain, was asked if she would like to have a French midwife sent to Madrid. Her mother Catalina de Médici had offered to make this choice for her. We learn this from Catalina's correspondence with the French ambassador at Felipe II's court, Fourquevaux, who finally informed her that Isabel assured that she would be content with the experienced Spanish midwife on site²⁵.

Almost exactly a century later, Empress and Queen Margarita Teresa de Austria (1651-1673, Margaret Theresa of Spain) who resided at the Court in Vienna, insisted on receiving a Spanish midwife in Austria, for two reasons which her husband Leopold I outlined in his letters to his ambassador Pötting. Firstly, because she did not yet have adequate command of the German language and, secondly, because she was afraid of intrigues, fearing that the Archduchess Claudia Felicitas of Austria could be preferred as Empress and that an Austrian midwife might, therefore, treat Margaret badly or deliberately put her at risk²⁶.

Needless to say, the average lower or middle-class woman were not given this choice, usually only finding the assistance of the local midwife or an experienced mother in her family or neighborhood. For those who did have the choice, Fontecha suggests some criteria that should help to seek out a decent midwife. Firstly, she

23. Cf. Ruices de Fontecha, *Diez privilegios...*, fol. 107v: «Tiene privilegio la preñada para pedir le busquen comadre la más a propósito y que más bien hará el oficio de ayudar y facilitar el parto». He further claims that not only the Arab school, but also the Greek and Latin authorities agree with this. Cf. fol. 108r.

24. «Al Lector», n. pag.: «Digo que como solo he pretendido y creído, se ha de servir a Dios nuestro Señor, por ir en este estilo, por la necesidad que tienen las comadres y Amas, como constará de los dos privilegios que ya desnudo de llamarme [...]».

25. «J'ai demandé à "madicte" dame si elle voudrait avoir quelque sage-femme française choisie de votre main; elle m'a répondu n'en être pas besoin; car elle a une Espagnole fort expérimentée et suffisante à telles mystères» (Ferrière, *Lettres de Cathérine de Médicis*, 1563-1566, p. 339).

26. Cf. Leopold I, *Privatbriefe Kaiser Leopold I. an den Grafen F. E. Pötting*, 1662-1673, p. 227f. After Margarita Teresa's death in 1673, Leopold did indeed marry, in the same year, Claudia Felicitas, so Margarita's concern was not made up out of thin air.

has to be calm, cautious, and compassionate by nature, besides other characteristics that are considered useful to making the birthing mother feel at ease²⁷.

Another important aspect for a suitable midwife is being «vergonzosa», making sure that the parturient will not feel ashamed of her genitals being exposed to the midwife's look. Accordingly, she shall lower her eyes or turn her head away, just not look at the pubic area, and keep a modest facial expression²⁸.

Furthermore, a specific physical quality was deemed necessary, so that nobody would get hurt when the midwife reached for the baby: long, thin, and soft fingers, with nails cut short²⁹.

It is surprising that Fontecha does not comment on the religious belief of the midwife³⁰, knowing that from the mid-sixteenth century on, «moriscas» were not allowed to practice this profession, and that, by law, traditional Christians should be preferred over converted Christians³¹. In case of a difficult and risky childbirth, the Catholic midwife was authorized to perform an emergency baptism, which was crucial in order to save the newborn's soul from an eternal limbo³², as the one experienced by the child in Calderón's *El gran teatro del mundo*³³.

So, the «comadre» was often much more than just an obstetrician, the Spanish term designing both the midwife and the godmother. As the mother's intimate she was sometimes the person entrusted with the most confidential secrets, e.g. who the child's father was³⁴. In some cases, the midwife was also summoned to testify as witness before a court³⁵.

27. Cf. Ruices de Fontecha, *Diez privilegios...*, fol. 108r: «Digo que ha de tener dones de naturaleza y gracias adquiridas por discursos, por trabajos, y por experiencia. Ha de ser pacífica, y blande de condición, compasiva, cauta, vergonzosa, diligente, obradora con paz, prudente, y no avarienta».

28. Cf. Ruices de Fontecha, *Diez privilegios...*, fol. 108v: «Ha de estar la comadre cuando [...] trata de recibir la criatura [...] los ojos bajos y con figura modesta en su rostro. [...]. Y puesto el rostro bajo, o vuelto, y no mirando a la vergonzosa que pare, no causará ella alguna falta».

29. Cf. Ruices de Fontecha, *Diez privilegios...*, fol. 109v.

30. He only mentions that the «right provenance» (*providencia justa*) is important. Cf. Fontecha, *Diez privilegios...*, fol. 110v.

31. Cf. García Ballester, 1984, pp. 103, 116.

32. Cf. García Barranco, 2007, p. 249.

33. «Ahora, noche medrosa / como en un sueño me tiene, / ciego, sin pena ni gloria» (Calderón, *El gran teatro del mundo*, vv. 1508-1510).

34. Or the other way around, when not only the Queens could count on the most experienced and best reputed midwives, but when this help was also provided for the King's mistresses and their illegitimate children, for instance Juan José de Austria (John of Austria the Younger), the best-known and the only acknowledged bastard son of Philip IV. The highly reputed midwife Inés de Ayala is also registered as his godmother. Interestingly, Ayala's name was written down in the certificate of baptism, yet crossed out again afterwards. Cf. Maura Gamazo, 1942, p. 71.

35. See the in-depth study about midwives from the 16th to the 18th century: Usunáriz, 2016, p. 327. For further information, also see Ortiz, 1993.

It did not go unnoticed by Fontecha that the care a midwife should provide goes beyond medical issues. He advises the sage women to be reassuring during labor, to be comforting, and to tell some encouraging stories of exemplary childbirths³⁶.

Considering all the aspects mentioned above, and underlining the importance that was attributed to the midwife for a successful childbirth, I suggest that this choice (if given) contributed to women's self-empowerment³⁷.

MATERNITY PROTECTION BY LAW

Even though «maternity protection» as a concept did not yet exist as such during the Golden Age, we do find notable legal texts that aimed at protective measures for pregnant women, even long before the treatise was published.

The seventh part of the Castilian 13th century statutory code *Siete Partidas*, for instance, which covers criminal law and criminal proceedings, comprises a clause about pregnant women and death penalty³⁸. Noting that this clause was quoted in 1603 by Hevia Bolaños in his famous *Curia Philippica*, one can assume that this law was still relevant and respected during the Golden Age³⁹. It states that if death penalty was imposed on an expectant mother, the execution shall be suspended until after she has given birth⁴⁰. Furthermore, it says that whoever would deliberately put a pregnant woman to death despite that order shall be punished with the exact same sentence⁴¹.

Likewise, physical punishment of expecting women was strictly forbidden. A notorious thief, Constanza López, was sentenced for two hundred whippings and banishment in 1611, but then a complementary document stated that, due to her pregnancy, the sentence should be suspended not only until after the delivery, but until fifteen days after the child's birth⁴². This roughly coincides with the corresponding paragraph in the *Curia Philippica* which says that anybody can be tortured except children below the age of fourteen, old decrepit people, pregnant women, and *paridas* who have recently given birth. The latter shall be protected for at least forty days, and even longer if breastfeeding is still necessary and no wet

36. Ruices de Fontecha, *Diez privilegios...*, fols. 144v, 145r.

37. The author also advocated for the free choice of a wet-nurse, in the ninth privilege. About wet-nurses in Early Modern Spain, see Bergmann, 2002. However, he also claimed that the mother's own milk would be the most beneficial for the child. Concerning «Maternal Roles and the Nurturing Body», see Bergmann, 2000.

38. See also Mentxaka Elexpe, 2013.

39. Cf. Hevia Bolaños, *Curia Philippica*, 1619, p. 172, §17.

40. This is justified by the thought that the unborn child should not be punished for the mother's crime.

41. «Decimos que si alguna mujer preñada hiciera por que debe morir, que no la deben matar hasta que sea parida. "Ca" [pues] si el hijo que es nacido no debe recibir pena por el yerro del padre, mucho menos la merece el que está en el vientre por el yerro de su madre. Y [...] si alguno contra esto hiciera justificando a sabiendas mujer preñada, debe recibir tal pena, como aquel que a tuerto mata a otro» (following the edition of Gregorio López, *Las siete partidas del sabio rey don Alonso el Nono*, 1555, 7,31,11).

42. Cf. Ortego Gil, 2002, p. 860f.

nurse can be found⁴³. In the inquisitorial trials concerning accusations of witchcraft, there too, certain norms existed that exempted pregnant women and minors from being tortured⁴⁴.

Now, one might argue that those measures are more of an attempt to protect the unborn baby rather than the mother, whose life, when it came to the dilemma, was often considered less worthy of being saved than the (unbaptized!) child's⁴⁵. However, other legal texts and documents prove that the privileges went beyond matters that only concerned the child⁴⁶; there were attempts to ensure the widow's financial maintenance, and even to protect the illegitimate mother's honor in society.

For the former, the inheritance law in the *Curia Philippica* serves as an example. It reveals an interesting privilege given to pregnant widows concerning their late husband's inheritance. The expectant mother is the heiress and she has to be given the inheritance in the name of the unborn child, even if the legitimacy of the pregnancy cannot be unequivocally proved⁴⁷. Again, Hevia Bolaños refers to the *Partida*⁴⁸.

For the latter, there's an illustrative case of the situation in early modern Seville, where «a combination of ecclesiastical and secular rules and a hodgepodge of local ordinances» made sure that a man had to provide for a woman he had impregnated⁴⁹. Combing through the archives, I discovered that men who were not willing to marry the pregnant woman or to pay the corresponding compensation were, in fact, put on trial. Several cases between 1519 and 1598 can be found, and the women concerned were usually simple «vecinas» without aristocratic names or titles that would indicate a special privilege due to their class affiliation⁵⁰. In those cases

43. «Regularmente a todos se puede dar tormento, sino a los prohibidos, que son estos: el menor de catorce años, el viejo décrepito, la mujer preñada, o parida, en el ínterin que convalece del parto, que es por espacio de cuarenta días [...] y aun después de ellos por el tiempo que fuere necesario criar a sus pechos la criatura, no habiendo otra mujer que lo pueda hacer» (Hevia Bolaños, *Curia Philippica*, 1619, p. 167).

44. Armengoll, 2002, n. pag.

45. Following the Christian doctrine, Fontecha clearly condemns the abortion of the foetus, also referring to the legal situation and the punishment that followed. Cf. fol. 66r-v: «En cuanto a las penas puestas por las leyes humanas, véase el derecho así Civil como Canónico, donde se dice [...] si estaba ya animado el feto, tiene las mismas penas que el homicida al cual entrambos derechos ponen pena de la vida».

46. According to Duden, we might need to overthink our modern, binary concept of the relation between the expectant mother and the foetus: Up to the mid-eighteenth century, or at least until the anatomical studies of some renaissance physicians gave better insight, the mother and the baby in her womb were perceived as an inseparable entity, often compared with a tree and its fruit. Only with the gradual dominance of the scientific perspective, people began to picture the child as a (more) autonomous, independent being that grows rather like a little plant on its own. Cf. Duden, 2002, pp. 107f, 116.

47. For more detailed information about pregnant widows' rights see Dulmovits, 2018.

48. «La mujer que queda preñada del marido difunto, constando ser su mujer legítima y estar preñada de él, por algunas presunciones o pruebas, aunque no sean muy ciertas, y se ha de dar a ella en nombre de la criatura, aunque haya contradicción, así lo dice una ley de Partida (7,22,3)» (Hevia Bolaños, *Curia Philippica*, 1619, p. 120).

49. Perry, 1990, p. 135.

50. Cf. e.g.: «Ejecutoria del pleito litigado por Catalina Ruiz, vecina de Arenzana (La Rioja), con Pedro Sanz de Rosales, vecino de Uruñuela (La Rioja), sobre ciertas relaciones carnales entre los litigantes rea-

where the child was already born, the father also had to provide money for its food and the woman's dowry⁵¹.

WHY PRIVILEGES?

Fontecha's prominent use of the word «privilege» is striking, when comparing the *Diez privilegios para mujeres preñadas* to other obstetric treatises —whether in Spain, Italy, France, or Germany. The guiding motive or the mere idea that pregnancy and maternity is a prerogative cannot be found neither in similar oeuvres composed by Francisco Núñez or Damián Carbón, nor in those written by Scipion Mercurio, Ambroise Paré or Eucharius Roesslin, to name just some examples. It seems safe to say that the debate about maternity was dominated exclusively by male authors (scientists, clerics, judges) and that the used tone was generally distanced, if not pejorative. Even though some exceptions favorable to women existed⁵², the hegemonic discourse in 15th-century Spain tended to be contemptuous and condemning, and seemed to go from bad to worse throughout the 16th and 17th century, e.g. due to the Council of Trent⁵³.

So, what were the reasons for our professor in Alcalá to approach the topic differently? I have tried to develop some hypotheses, which take the following aspects into account: a renaissance of the ancient Greek two-seed theory, a demo-

lizadas bajo la promesa de matrimonio, que posteriormente el citado Pedro Sanz se negaba a cumplir, habiendo dejado embarazada a Catalina Ruiz» (16-5-1556), Archivo de la Real Chancillería de Valladolid, Signatura: Registro de Ejecutorias, Caja 859,7. «Ejecutoria del pleito litigado por Alonso Moreno, cura y vecino de Cenera de Zalima (Palencia), con Pedro Gutiérrez, vecino de dicho lugar, sobre incumplimiento de la promesa de matrimonio hecha por Pedro Gutiérrez tras haber cometido estupro con María Moreno, sobrina de Alonso Moreno, a la cual dejó embarazada» (23-3-1577), Archivo de la Real Chancillería de Valladolid, Signatura: Registro de Ejecutorias, Caja 1347,24. «Ejecutoria del pleito litigado por Juana Jiménez, viuda, madre de Catalina Jiménez, con Alonso García, todos vecinos de Talavera de la Reina (Toledo), sobre incumplimiento de la promesa de matrimonio hecha por Alonso García tras haber cometido estupro contra Catalina Jiménez, a la cual dejó embarazada» (17-11-1598), Archivo de la Real Chancillería de Valladolid, Signatura: Registro de Ejecutorias, Caja 1875,3.

51. «Ejecutoria del pleito litigado por María Martín de Gauría con Juanes de Aldazo, vecinos de Oyarzun (Guipúzcoa), sobre el cumplimiento de la promesa de matrimonio hecha por Juanes de Aldazo a María Martín de Gauría, o en su defecto, pago de la dote y alimentos gastados en la crianza de los 2 hijos que tuvo siendo soltera» (16-2-1519), Archivo de la Real Chancillería de Valladolid, Signatura: Registro de Ejecutorias, Caja 335,9. «Ejecutoria del pleito litigado por Juana del Campo, vecina de Espinosa de los Monteros (Burgos), con Sancho de Velasco de Ribero, vecino de la Merindad de Montija (Burgos), sobre el pago a Juana del Campo de los daños causados por incumplimiento de promesa de matrimonio hecha por Sancho Velasco, a quien reclamaba además, una cantidad como dote y los alimentos debidos al hijo natural que tuvo con él» (12-1523), Archivo de la Real Chancillería de Valladolid, Signatura: Registro de Ejecutorias, Caja 366,39.

52. See e.g. the works described by Vargas Martínez, 2009.

53. Cf. Vargas Martínez, 2009, p. 327. See also Bolufer Peruga, 2007, p. 69: «La maternidad aparece en los textos de los siglos XVI y XVII como un destino y un deber [...], una función a la que se alude con distanciamiento y hasta con desprecio, una tarea menor cargada de molestias y sufrimientos [...]».

graphic change and a childbirth crisis in aristocratic circles, as well as the devotion to the Virgin Mary during Counter-Reformation.

Historian Bennassar refers to the decline in the birth rate at the end of the 16th century as the «crisis at the end of the century», a phenomenon that affected the whole country⁵⁴. After a rather continuous growth from the 1550 to the 1580/90ies, this alarming change did not remain unnoticed by contemporary authors, such as Pedro de Valencia, who especially worried about the situation in the noble classes⁵⁵. One can imagine what a decisive event the long anticipated birth of a possible heir to the throne represented. Felipe IV, born in April 1605 —one year before the *Privilegios* was published— was the first male descendant of the Royal Family after 27 years⁵⁶. Another relevant detail in this context is that Fontecha's treatise was dedicated to Juana de Velasco y Aragón, a duchess, countess and marchioness herself, who had given birth to eight healthy children and who the author presents as an example of how to «defend and conserve human nature», a phrase which he also repeats at the end of the dedication as a main purpose⁵⁷.

When it comes to the female participation in the process of reproduction, the question whether we descend from a paternal seed only or whether father *and* mother are actively involved in procreation can influence the cultural and political perception and estimation of «the male» or «the female» considerably⁵⁸. At the turn of the 17th century, this was still a topic of discussion, and Fontecha followed the school of Hippocrates and Galen (later also advocated by Arab authorities like Avicenna) and insisted on women's equal, strong and vital activity in the process⁵⁹, contradicting Aristotle's idea that the mother only serves as *matricula* and has a minor and passive role (*De generatione animalium*). Though Fontecha might not be the first Spaniard who recognized this truth, his long (around 45 pages⁶⁰) and passionate defense of the female reputation and honor is, indeed, remarkable⁶¹. When this close relation between mother and child is accepted by the father, it might contribute to give the woman a certain emotional power that she can also exert on her husband, who might even feel in her debt for all she has done for their offspring⁶².

54. Cf. Bennassar, 2015, pp. 188, 194.

55. In his «Discurso contra la ociosidad» he criticizes the noble women's low fertility, contrasting it with slaves' and *gitanos*' numerous children who usually seem strong and healthy. Cf. Pedro de Valencia, quoted by Gómez Alfaro, 2010, p. 595.

56. Cf. Rubio, 2010, p. 260.

57. Cf. Ruices de Fontecha, *Diez privilegios...*, «A doña Juana de Velasco y Aragón...», n. pag.: «[...] ser vuestra excelencia tan preciosa piedra para la defensa y conservación de la humana naturaleza[...]; «[...] todo derechamente para conservación de la humana naturaleza [...]».

58. Vargas Martínez, 2009, p. 320.

59. Cf. Ruices de Fontecha, *Diez privilegios...*, fols. 16v-21r.

60. Cf. Ruices de Fontecha, *Diez privilegios...*, fols. 2v-22v.

61. He goes even further claiming that women are capable of one thing that men are not: conception. Cf. Ruices de Fontecha, *Diez privilegios...*, fol. 10v: «[...] todo cuanto el hombre es capaz lo es ella, y aun para más, pues pueden concebir, lo cual les falta a los hombres». For other written defenses in Spanish literature, see Vélez-Sainz, 2015.

62. Cf. Bolufer Peruga, 2007, p. 71. See the case of Margarita de Austria and Felipe III: «As Margarita fulfilled her wifely duty and bore Philip III children, she gained greater influence with and affection from

Lastly, the utterly important Marian devotion that was particularly strong in Spain and especially during Counter-Reformation might also have allowed a more positive concept of motherhood, at least of its spiritual component, Immaculate Mary presenting and emphasizing «the antithesis of earthy, carnal Eve»⁶³.

To finish, after having named some possible causes for the importance of «privilege», I do not want to leave unmentioned what I do not dare to call an effect, yet a remarkable fact: In 1611, five years after the publication of the *Privilegios*, Covarrubias indicated the following in his essential dictionary, under the entry «pregnant»: «Woman who carries a creature in her womb. She is very privileged»⁶⁴.

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her husband» (Sánchez, 1993, p. 135).

63. Perry, 1990, p. 41: «Earlier representations of Mary had shown her pregnant or nursing her Child, but in the sixteenth and seventeenth centuries she mores often appeared as innocent maiden or sorrowing mother». For further studies about the veneration of the Virgin, patron saints, and goddesses during pregnancy, see e.g. Carlos Varona, 2006; Cobo Delgado, 2016; Aichinger, 2017, and Fischer-Monzón, 2018, among others.

64. Cf. Covarrubias, *Tesoro de la lengua castellana o española*, vol. 2, fol. 147v: «La mujer que trae criatura en el vientre. Es muy privilegiada y repútase por dos personas».

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