FAMILIES IN THE COURTROOM: LAW, COMMUNITY AND GENDER IN
NORTHWESTERN MEXICO, 1800-1850

By
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ABSTRACT

This dissertation explores the history of family life in northwestern Mexico between 1800 and 1850 through the examination of around 700 state civil and criminal court records from the Sonoran state archives. It demonstrates that in spite of characterizations of ineptitude and underdevelopment, the local judiciary of Sonora, Mexico, was an important arbiter of social hierarchies based on ethnicity, class, gender and age, where people from across the social spectrum created, reconstituted and challenged these inequalities. Moreover, court proceedings reflect the persisting centrality of colonial law and legal process, as well as the growing influence of liberal ideology on judicial outcomes. Marriage, consensual unions, inheritance, sexuality, intergenerational relationships and hierarchies, children and servants are the central themes of this study. An examination of census data, parish records and court testimonies demonstrates the diversity of family patterns in Sonora during the first half of the nineteenth century, including large numbers of small farmers, a significant minority of female-headed households, as well as men and women living in consensual unions. These sources suggest that while Sonorans idealized marital fidelity and deference on the part of women and younger kin, and mutual reciprocity among family members, social practice was far more irregular than any regional patriarch could possibly hope. They also demonstrate that men and women looked increasingly to “the state,” in the form of the local courts, to resolve their familial disputes after independence.
INTRODUCTION

This study is about Sonoran families who used the local court system to punish misdeeds and seek reconciliation with each other, their employers, and their neighbors during the first half of the nineteenth century. María Trinidad Molina sued her husband to ensure he provide financial support for their children. Julian Morales sought aid from the courts to find and punish his wife Doña Luz Salazar for having an illicit relationship with his compadre Don Encarnación Estrella. Francisco Soto accused the Alcalde of Hermosillo of wrongly imprisoning his wife after she refused to pay a debt their daughter owed her employer. Doña Antonia Murrieta’s heirs presented her final will to the courts to initiate the process of collecting and paying outstanding debts. A group of parents angrily accused a teacher, Luis Domingo García, of indulging in “dishonest touches” of their male children. Dolores Díaz filed a suit against her father’s estate to obtain control over her share of the family’s inheritance.\(^1\)

During these judicial proceedings and hundreds of others like them, women and men from across the social spectrum disclosed their private grievances and ordered their personal and financial affairs before the state. Their pleadings both legitimated and challenged the growing role of the courts in mediating Sonora’s changing social

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hierarchies. These cases demonstrate that in spite of characterizations of Sonora’s state legal system as corrupt and weak, it was nevertheless an important venue for creating and reconstituting ethnic, gender and class power structures at the local level. Although remaining court records are concentrated on the region’s emerging urban centers, court proceedings throughout Sonora reflect the persisting centrality of colonial law and legal process, as well as the growing influence of liberal ideology on judicial outcomes.

This study uses the daily encounters of local citizens in state courtrooms to explore the social and cultural history of family life in Sonora, Mexico, between 1800 and 1850. During first half of the nineteenth century, Sonoran families were varied; they encompassed a diverse array of small households related by blood and fictive kinship.

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2 For examples of contemporaries who criticized the legal system for weakness and ineptitude, see, Biblioteca Central de la Universidad de Sonora, Colección Pesquería (BCUSCP), Vicente Calvo, Descripción política, física, moral y comercial del Departamento de Sonora en la República Mexicana, 1843; José Francisco Velasco, Noticias estadísticas del Estado de Sonora (Sociedad Mexicana de Geografía y Estadística, 1860-65).

3 Charles Hale defines liberalism as an ideology that stressed individual liberties, including freedom of press, religion, speech and property rights. Republican and secular form of government, laissez-faire economic policy and elimination of corporate privilege were also basic features of liberal ideology. More recently, historians have broadened the definition of liberalism in order to explain its distinct and often contested meanings to popular classes and to women. In this study, I identify the emergence of liberal ideology largely through the language plaintiffs used to describe themselves, particularly their increasing use of the term “ciudadano” or citizen, as opposed to “vecino” or landed resident with certain legal privileges. I also identify the accelerated commercialization of property and to how Sonorans discussed property rights, particularly in relationship to largely indigenous communal land holdings, as part of an emerging liberal ideology. In the area of property, however, it is important to remember that in Sonora as in other regions, privatization of landholdings was already occurring during the colonial period, thus, simply equating commercialization and privatization of land with liberalism is problematic in some cases. See Charles Hale, Mexican Liberalism in the Age of Mora, 1821-1853 (New Haven: Yale University Press, 1968), 39; Christine Hunefeldt, Liberalism in the Bedroom: Quarreling Spouses in Nineteenth-Century Lima (University Park, PA: Pennsylvania State University Press, 2000); Florencia Mallon, Peasant and Nation: The Making of Postcolonial Mexico and Peru (Berkeley: Berkeley University Press, 1995); Saúl Jerónimo Romero, De las misiones a los ranchos y haciendas: La privatización de la tenencia de la tierra en Sonora, 1740-1860 (Hermosillo: Gobierno del Estado de Sonora, Secretaría de Educación y Cultura, 1995).
Among them were a number of female heads, as well as large extended kin groups that included adopted children and servants.\textsuperscript{4} Nineteenth-century civil and criminal court records from Sonora's state archives underscore that Sonorans idealized marital fidelity and deference on the part of women and younger kin, and mutual reciprocity among family members. Nevertheless, these same judicial records, as well as census material and travel memoirs, highlight how social practice was far more irregular than any regional patriarch could possibly hope. Children were born outside of marriage, and in court testimony, couples reported living with unmarried partners, while neighbors and relatives attached little stigma to these arrangements. Wives questioned their husband's financial decisions in court while others committed adultery. And although most children respected their parents' authority, others ran away and married whomever they wished. Sonoran men and women from across the social spectrum looked increasingly to "the state," in the form of the local courts, to address these contradictions after Mexico gained its independence in 1821. In the process, the court system, albeit a skeletal bureaucracy, became an important arbiter of gender, ethnic, class, and age hierarchies and conflicts in first half of the nineteenth century.

During the years this study covers, the region of northwestern Mexico experienced political independence from Spain in 1821, and faced the subsequent loss of support for defense against indigenous mobilization from Apaches on the northern periphery and from Yaquis to the south. In addition to armed rebellions in 1825-27 and

\textsuperscript{4} See Tables 6 and 7 regarding household composition in Chapter One.
1832-33 among Yaquí, increasing Apache raids posed a grave challenge to Mexican colonization and commerce in the northern part of the state. Contemporaries often pointed to insurgencies among Yaquí, Apaches and Seris as the primary reason for slowed population growth and instability in key districts of the state.⁵

Moreover, protracted civil warfare among the region’s leading families was intertwined with and exacerbated indigenous rebellions. Political and military conflict was in part a result of rival families from different regions of the state competing for political and economic dominance. As the state’s economic orientation shifted from the Sonoran highlands to lowland urban centers closer to the coast, notable families from these diverse regions vied for control of the state capital. In 1832, for example, notables from Hermosillo, under the leadership of Leonardo Escalante, disputed the state legislature’s decision to move the capital to Arizpe. Arizpe had been the traditional military and political center of the Provincias Internas during the colonial era. Since the opening of the port of Guaymas after independence in 1821, however, communities such as Hermosillo, Ures, and Horcasitas in the desert lowlands achieved ascendance as sites of dynamic commercial exchange and communication between the

⁵ See José Francisco Velasco, Noticias estadísticas del Estado de Sonora, 172-73
coast and Sonoran highland communities. Regardless, notables from highland regions did not accept their economic and political decline without resistance.\(^6\)

By the late 1830s and 1840s, armed disputes among leading families were also rooted in broader national conflicts between federalists and conservatives. In general terms, federalists supported greater local control over politics and economic policy, and criticized the *fuero* system of the colonial era, which granted distinct privileges and separate corporate status to the clergy, the military, and indigenous communities. In contrast, conservatives generally favored a stronger central government, were proclerical, and supported the maintenance of corporate “privileges” the military, clergy and indigenous communities possessed. In the particular context of Sonora, confrontations between federalists and centralists culminated in protracted regional wars in 1838, and again in 1842 between federalist, José Urrea, and José María Gandara, a conservative. These hostilities became intertwined with grievances among the region’s indigenous communities when Gandara formed an alliance with Opatas, Yaquis, Mayos and Tohono O’odhams, who opposed recent laws that weakened traditional, communal

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land claims. Depending on which faction held state power, their opponents suffered violent plunder, as well as loss of political office and property.\(^7\)

It comes as little surprise, then, that contemporary writings and current historiography about Sonora have frequently described modernization in the region as a difficult and intermittent process, one in which isolated notable families engaged in bitter post-independence political struggles among themselves and bloody conflicts with indigenous peoples who resisted colonization.\(^8\) These works have provided valuable insights into the role of powerful families in shaping regional economies, political alliances, and regional culture. Nevertheless, they have also tended to approach these local “elites” as an isolated and detached social group, thus yielding less information about their relationships with workers, servants and less prosperous neighbors and relatives. Moreover, a tendency to focus on the public lives of notables in the realm of politics and commerce has overshadowed an examination of private life, sexuality and gender norms. A primary objective of this work, then, is to examine how patriarchal social relations constituted an integral aspect of Sonora’s transformation from a


\(^8\) I use Stuart Voss’s concept of “notable” to describe the region’s leading families, people who dominated local and regional commerce and politics. I stress, however, that families within this group could experience considerable upward and downward social mobility during the early national period. See also, Hector Cuauhtémoc Hernández Silva, “Las élites regionales y la formación del Estado de Sonora, 1790-1831”; Stuart Voss, *On the Periphery of Nineteenth-Century Mexico: Sonora and Sinaloa, 1810-1877*, 24-27.
marginal colonial outpost to a leading border state by the second half of the nineteenth
century.⁹

In spite of characterizations of sustained political turmoil in Sonora’s early
nineteenth century, an exploration of daily life through civil and criminal judicial
records underscores that for most Sonorans, life revolved around issues of family,
business and the transfer of property from one generation to the next. Small
landowners, artisans and rural workers, the groups that appeared in greatest numbers in
judicial records, usually discussed political conflicts in court testimonies in the context
of losing livestock to raids and pillage. Certainly rural families on Sonora’s northern
periphery suffered greater instability in the face of Apache resistance, while Mexican
families in the southern part of the state encountered periods of warfare and ruin during
Yaqui insurgencies. Nevertheless, judicial records underscore that most residents still

⁹ Gender, class, ethnicity, patriarchy and paternalism are central concepts in this study. My definitions of
these terms draw on scholarship that treats these theoretical concepts as social categories that are disputed
and subject to change over time, as opposed to fixed analytical classifications. See, Kathleen Brown,
*Good Wives, Nasty Wrenches, and Anxious Patriarchs: Gender, Race, and Power in Colonial Virginia*
(Chapel Hill: University of North Carolina Press, 1996); Sueann Caulfield, "The History of Gender in the
Ricardo Cicchini, "The Charm of Family Patterns: Historical and Contemporary Change in Latin
America," *Gender Politics in Latin America: Debates in Theory and Practice*, ed. Elizabeth Dore (New
Plebeian Society in Colonial Mexico City, 1660-1720*, (Madison: University of Wisconsin Press,
1994); Donna J. Guy, "Future Directions in Latin American Gender History." *The Americas* 51:1 (1994): 1-
9; Cheryl English Martin, *Governance and Society in Colonial Mexico: Chihuahua in the Eighteenth
Century* (Stanford: Stanford University Press, 1996); Cynthia Radding, *Wandering Peoples: Colonialism,
Mexico* (Chapel Hill: The University of North Carolina Press, 1995); Victor Turner, *The Anthropology of
Performance* (New York: PAJ Publications, 1986); Ann Twinam, *Public Lives, Private Secrets: Gender,
Honor, Sexuality, and Illegitimacy in Colonial Spanish America* (Stanford: Stanford University Press,
1999).
devoted most of their energies to planting and harvesting crops, mining, trading and raising and educating their children. The middle and lower strata of Sonoran society were not disinterested in politics. Rather, rivalries among notable families did not consume all aspects of daily life. Thus, in spite of civil wars and insurgencies, Sonorans, by this time an ethnically diverse group claiming European, indigenous and African ancestry, gradually built communities and furthered trade networks, and expanded state bureaucracies during the first half of the nineteenth century.

Moreover, some districts of the state prospered and grew during the first half of the nineteenth century in the face of insurrection and civil war. In was in these communities, largely located in the lowland regions of central Sonora, that an expanding judiciary was most evident.10 From 1821 onward, but particularly by the

1830s and 1840s, the number of civil and criminal disputes increased in key districts of the state. While these increases were in part a result of population growth, inventories of judicial cases from year to year demonstrate that over time, Sonorans also sought out their local courts for a wider variety of disputes. Their actions suggest that plaintiffs saw the judiciary as a potential arbiter in an increasing array of issues.

The process of actually going to local judges to settle grievances was not a new practice among Sonoran families. Although judicial records from the colonial period are scarce, remaining cases reveal important continuities between the colonial and early national periods regarding how Sonorans resolved their differences. Prior to 1821, plaintiffs were likely to go to colonial officials who held multiple responsibilities within the same community. Presidio captains and alcaldes, for example, often carried out a variety functions, including tasks related to being a judge. Thus, during the colonial period, judges often had little to no formal legal training, and they carried out their legal duties, along with other tasks related to administering local communities. In the most peripheral towns of Sonora, local officials, usually alcaldes, continued to fulfill multiple administrative duties long after independence. These men often belonged to leading family networks.

In larger communities, by the 1830s, however, justices of the peace and judges of the first instance, who were appointed by the state, were becoming increasingly
specialized. In 1832, for example, the state legislature passed new laws providing
clear guidelines for judicial administration, including the distinct responsibilities of
justices of the peace, judges of the first instance and members of the state supreme
court. Men such as José Elías, who served as judge of the first instance in Hermosillo
during the 1830s, displayed intimate knowledge of these procedures and
responsibilities. Local judges, prosecutors, and legal defenders also made frequent
reference to new state laws, as well as colonial law codes from the Novísma
recopilación de las leyes de España in their arguments. Their use of these references
demonstrates that at least in the more populated communities of the state, informally
trained legal officials were aware of, had access to and used important legal texts to
fulfill their duties. In addition, more officials received formal training before working
in the justice system, at least in districts of the state undergoing demographic and
commercial expansion. Licenciado José de Aguilar, for example, studied law in Mexico
City during the 1820s and served as State Attorney General in 1834, and later became a
district judge in Guaymas.12

In spite of increased specialization and professionalization of the judiciary in
selected districts beginning in the 1830s and 1840s, actual judicial procedures changed
little from the colonial period. Both before and after independence, plaintiffs filed a

11 For a discussion of appointments and who was legally qualified to become a judge of the first instance,
see BCUSCP, Leyes y Decretos del Estado de Sonora, 75-76.

12 Francisco Almada, Diccionario de historia, geografia y biografia sonorenses (Chihuahua City:
Chihuahua Mexico: 1952), 21; 241.
complaint, at which point judges gathered witnesses and took testimony, interrogated
the accused, heard competing arguments from prosecutors and legal defenders, then
filed a final decision about the case. Long after national independence, and even in the
midst of an expanding judicial bureaucracy, plaintiffs continued to have close contact
with the judges who presided over their cases. Exchanges between court officials and
litigants were often informal, and shortages of judicial staff persisted. Because of the
continued lack of *escribanos*, that is, court clerks or notaries, judges often used lay
personnel or had to write down testimony themselves, and depended on other respected
local citizens to serve as witnesses in order to notarize court documents. During the
early national period as with the colonial period, however, these shortages did not
disable the judiciary entirely, as the law itself allowed for improvisation by recognizing
the use of witnesses to notarize documents. Local officials were adept at using these
alternatives. In the process, they usually succeeded in keeping the justice system in
working order.\(^{13}\)

Even though the expansion of a local judicial apparatus was uneven throughout
the state, it was, nevertheless, an important forum through which families aired their
complaints and negotiated reconciliation. In the process, they used the law and the
local courts as both a creator and preserver of gender, ethnic, class and
intergenerational hierarchies, and as a tool of resistance to these same power structures.

\(^{13}\) For a discussion of how staff shortages and lack of training did not impede the judicial system in other
Thus, these legal records, for all the shortcomings of the actual judicial system, offer a rich opportunity to explore the ideologies and the actual practice of producing, maintaining, and challenging a social order based on gender, class, ethnicity and age.\(^\text{14}\)

Judicial records also reflect persistent conflict and competition among various social groups for scarce desert resources and labor, a well-established reality in Sonora during the colonial and early national periods. Rivalries and alliances over these resources often unfolded along overlapping ethnic and class lines.\(^\text{15}\) The changing configuration of labor organization in Sonora was a central dimension of class formation in regional society. Notables used rhetoric about the family to justify and make sense of transformations in labor relations during the early nineteenth century.\(^\text{16}\)

A central topic in the historical literature on ethnic relations and class formation throughout northern Mexico has been whether the harsh environment, finite resources, persisting ethnic conflicts and on-going labor shortages unified communities and thus mitigated strict ethnic, class and gender hierarchies or did more to reinforce these


\(^{16}\) I define ethnicity in Sonora as a social system of perceived differences based on physical appearance, place of origin, language, dress, and other cultural practices, and class as the systemic preservation of economic disparities among various social groups and the symbolic divisions in status these inequalities sustained. See, Kathleen Brown, Good Wives, Nasty Wenches, and Anxious Patriarchs: Gender, Race, and Power in Colonial Virginia, 4-5; Douglas R. Cope, The Limits of Racial Domination: Plebeian Society in Colonial Mexico City, 1660-1720, 5-7; Nanneke Redclift, "Conclusion: Post Binary Bliss, Towards a New Materialist Synthesis?" in Gender Politics in Latin America: Debates in Theory and Practice.
power structures. This study posits that social hierarchies were not fixed entities that were either rigid or weak, rather, Sonorans at all levels of society exercised political power in contradictory ways that both reinforced and challenged a social order based on ethnicity, gender, class and age. Moreover, these hierarchies were far from uniform throughout the state. Continued wars between Apaches and Mexicans, for example, sometimes encouraged alliances in northernmost communities among large landowners, merchants and peasants, and among Mexicans and some indigenous communities such as the Opatas. In the face of rebellion, land and water disputes, and persistent labor and cash shortages, however, this same group of overlapping landowners, merchants, and miners also sought to use discourses of patriarchy and paternalism to control women, children, and men of lesser status within their households and in their communities. They rationalized coercive labor systems that would ultimately further liberal commercial activities and perpetuate significant economic and ethnic rifts throughout the region.

In Sonora, “the family” was an ideology that justified a particular organization of gender, ethnic and class hierarchies as well as a diverse array of actual social

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relationships. Even if many Sonorans did not actually live within a “traditional” patriarchal family, the ideal of the patriarchal family was central to the lives of most Sonorans. It informed their daily relationships with relatives, employers, servants, state officials and the church. In Sonora, both church and state authorities before and after Mexican independence understood a patriarchal domestic order as the basis for a stable society and state. Conservative religious magazines distributed in Sonora during the mid-nineteenth century stressed that household heads should exercise firm, yet benevolent authority over wives, children and servants. Under the guidance of the father, morality emanated from the family to the rest of society, and ultimately to politics.

Writers with more liberal leanings, such as politician and former military commander, Ignacio Zuñiga, promoted the extension of patriarchal authority over indigenous peoples in Sonora through intermarriage and the reconfiguration of labor relations. He argued that intermarriage between Mexicans and Yaquis, for example, would introduce them to Mexican customs and moral values. Through their employment on estates and in other enterprises as artisans and agricultural workers, the state could better monitor the conduct of indigenous communities and control rebellion. For Zuñiga, the colonization of indigenous peoples required a reordering of their domestic life along

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19 El Museo de Alamos, A. Orueday Flores, La cruz: periodico exclusivamente religioso 6:10 (December 1857), 337-38.
patriarchal lines and the reconfiguration of their economic ties to notables as obedient workers.  

Linked to the practice of patriarchal authority was the rhetoric of paternalism. In Sonora, paternalistic discourses were most visible in state-sponsored reports and changing law codes that dealt with the inter-related issues of labor and controlling indigenous rebellion. Paternalistic discourses also shaped legal strategies and judicial outcomes in court disputes among wives, husbands, and children. Notables deployed this rhetoric, often couched in familial terms, to enlarge their influence over extended kin, poorer neighbors and servants.

While some employers practiced the benevolent side of paternalism by representing their workers in court, leaving them land and other gifts in wills, and paying for baptisms and weddings, these social ties also had a coercive dimension, evident in the development and maintenance of debt peonage systems. Notables also employed other labor recruiting strategies that were far from paternalistic, including sentencing convicts to labor in public works projects. Both paternalistic social relations and outright coercion were central to how notables, liberal and conservative, hoped to

20 University of Arizona Special Collections, (UASP), Ignacio Zúñiga, Memoria sobre el permiso de la navegación de los ríos Fuerte y Yaqui, México, 1841, 6.

21 I define paternalism as a set of social practices and discourses that ordered reciprocal, yet unequal and deferential relationships between workers and employers, wives and husbands, children and parents, and Indians and Mexicans. For insightful discussions of the distinctions between patriarchy and paternalism, see Kathleen Brown, Good Wives, Nasty Wenches, and Anxious Patriarchs: Gender, Race, and Power in Colonial Virginia, 322-24 and Cheryl English Martin, Governance and Society in Colonial Mexico: Chihuahua in the Eighteenth Century, 65-71.
organize regional society in Sonora. The early national period was a critical turning point for formalizing these labor systems through legal measures that both regulated the movement of servants and rural workers and formalized judicial processes that funneled convicts to labor in public works, mines and on private haciendas.

While these social relations were sometimes criticized as vestiges of colonial oppression, such labor arrangements likely grew more out of post-independence circumstances. "Traditional" patriarchy and paternalism underpinned liberal visions of commercial expansion. This was particularly true in regions of the state where conflicts with indigenous communities over land and labor grew more acrimonious and where processes of commercialization in land and mining accelerated.

Yaqui, Mayo and Opata peoples, among others, found themselves in an ambiguous position vis-à-vis the commercial designs of Mexican notables of Sonora. Indigenous people, along with poorer mestizos, served as needed workers in mines and on haciendas, and in the particular case of the Opatas, as military allies against the Apaches. Yet these same groups were more often the targets of coercive measures aimed at usurping their land holdings, limiting their mobility as workers and propelling them into a justice system that took advantage of their labor.

A primary and related theme that emerges from the exploration of gender relations in Sonora is the position and role of women in the region’s changing social

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22 See, for example, Manuel Escalante’s criticism of legislation that would have limited the movement of servants in 1861. AHGES, carpeton 365, 25 March 1861, M. Escalante, prefect, to Governor Pesqueira. Cited in Miguel Tinker Salas, In the Shadow of Eagles: Sonora and the Transformation of the Border during the Porfiriato (Berkeley and Los Angeles: University of California Press, 1997), 57.
order over the course of the late eighteenth and early nineteenth centuries. Some historical scholarship and contemporary observers have emphasized that women in Sonora experienced more autonomy and control over property when compared with women in the rest of Mexico. Male-centered labor migration and ethnic conflicts between Hispanicized communities and indigenous peoples, particularly Yaquis and Apaches, drew men away from local communities and contributed to high rates of mortality, widowhood and abandonment. Scholars have logically concluded that under these conditions, women were able to enter traditional male occupations such as managing land and commerce.

This study explores the status of women in Sonoran society by investigating how women used the local judicial system and how officials treated women’s agency in the courts over time. Evidence from court records suggests that the circumstances of widowhood and abandonment described above created mixed results for the gender hierarchy in Sonora. Clearly women maintained a significant presence in commerce and in the courts as a result of these conditions, but knowledge of their demographic situation

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discloses little about the obstacles women faced in these roles and their broader influence in shaping family relationships and local economies. All women encountered in their daily lives a gender system that accorded them less social, legal, political and economic power. Nevertheless, class status, ethnicity and life cycle provided both opportunity and placed significant limits on women’s power and their ability to negotiate with relatives, judges, lenders and business associates in local society in Sonora.

By employing such analytical categories as patriarchy and paternalism, this study does not intend to suggest that the northern periphery of Mexico was a place characterized by a static economic and social order where owners of large estates held unquestionable authority over women, children, and servants. Recent historical research on land-holding patterns and commercial activity does not support such a thesis. Records of land titles and transactions and census data from the first half of the nineteenth century underscore the presence of a large class of independent, small farmers or labradores throughout most of the region. They reflect the activities of both a vibrant peasant economy and an emerging orientation to domestic and foreign markets. In state civil and penal judicial records, the principal documentation for this study, this ethnically and economically diverse group of farmers inhabits a central place in Sonora’s changing social order after independence. Judicial proceedings hold valuable information about the


\[26\] Moreover, these estimations do not include squatters. See Cynthia Radding, *Wandering Peoples: Colonialism, Ethnic Spaces, and Ecological Frontiers in Northwestern Mexico: 1700-1850*, 243.
internal familial relationships of these agricultural families, their social ties to each other, and their precarious links to neighboring notable families, who often drew labor from this same class of increasingly displaced, small landholders.

Small landholders both accommodated and disputed economic trends in privatization and commercialization that threatened to hasten their displacement and the patriarchal discourses that underpinned these changes. They employed a number of concrete and rhetorical strategies to maintain their economic and social positions in their communities, from filing lawsuits to rebellion, to identifying themselves as independent farmers [labradores] when their employers called them sirvientes, servants or employees.

Small landowners and people of lesser status who had no land constantly disputed patriarchal practices and rhetoric among themselves as well. Men, regardless of ethnic and economic status, sought to exert authority over their female relatives, lovers and younger male kin, even when their own conduct did not conform to the social and moral prescriptions of notables. Women drew on discourses of benevolent patriarchal authority to shame husbands who physically mistreated them or withheld financial support, and in spite of meager resources, they capitalized on colonial legal traditions of community property to seek a measure of autonomy within their marriages.

This study is largely based on analysis of approximately 700 judicial cases from Sonora’s state archives from 1800 to 1850. These records permit both an exploration of daily familial and work relationships and reveal how ideological notions of “the family” were central to ordering ethnic, class, and gender hierarchies. Historians have long used judicial records to explore themes of ethnicity, race, class and gender over time. Their
work has uncovered valuable information about how men and women from various backgrounds exercised political power and reconstituted gender, ethnic and class differences in their daily lives.\textsuperscript{27}

In the particular case of Mexico, these studies have largely focused on central or southern regions during the colonial period or the late nineteenth and early twentieth centuries. As a result, historians know very little about local judicial systems in Mexico’s early national period, particularly in peripheral regions. By using court records from the first half of the nineteenth century, this study will address a range of themes related to family life and gender relations, including inheritance disputes, spouse abuse, guardianship of minors, illegitimacy and changes in women’s legal rights. In contrast to notary records, court records often contain more information about the daily lives of families and households from a variety of ethnic and class backgrounds.

A central question of this work has been how to assess the ability of the judicial system to enforce the law, shape actual conduct, and create a civic culture in the nascent state of Sonora. Most historians of Sonora and contemporary observers argue that

judicial power was weak in the region during this period due to lack of funds and knowledgeable officials to operate the courts. While the documents for this study certainly provide evidence to support some of these arguments, ultimately, the courts still operated more or less regularly, particularly in and near ethnically mixed communities that were the important agricultural and commercial centers of the region. Here, for all its imperfections, the courts were an important venue for establishing social hierarchies, setting examples, and finding vindication.28

The role of the courts as a kind of public and private arbiter likely took on added significance in light of the relative weakness of the Church outside of mission communities, and even there the official presence of the Church waned during the early half of the nineteenth century. Residents of local communities and government officials complained often about the lack of priests in many parts of the state. While church archives in Sonora serve as a rich source of demographic information, and thus provide insights into such issues as illegitimacy and patron-client relations, documentation about the Church’s role in mediating various kinds of family and community disputes is scarce and dispersed.

In spite of the apparent dearth of evidence in ecclesiastical archives about the Church’s formal role in settling domestic matters, state court records provide valuable information and clues about the influence of local priests in the daily lives of Sonoran families. Litigants often suggested in their testimony that they visited a priest to resolve

28 Charles Cutter, for example, has demonstrated how the courts in the northern frontier of New Mexico functioned similarly to those in central Mexico. See Charles R. Cutter, The Legal Culture of Northern New Spain, 1700-1810.
familial disputes, especially when the disagreement involved spouses at odds. This practice suggests another area of continuity in how families sought to resolve their differences from the colonial through the early national periods. Equally important, the court records themselves reflect the centrality of religious and moral values for both court officials and the people who used the courts as a means to amend grievances and pass on their estates. In short, civil and penal courts were meaningful settings for the expression of religious and moral sentiment.

Chapter one highlights Sonora's geographic and economic diversity, examines the region's demographic contours and underscores the variety of family patterns within Sonoran communities. This data provides evidence for the diversity of households and kinship ties in Sonoran communities, even while these arrangements contradicted dominant discourses about what constituted a respectable, well-ordered family. Nevertheless, ideals about the patriarchal family still had far-reaching implications for ethnic relations in the region. Above all, notables drew on these ideals as markers for defining civilization and barbarity, and in justifying brutal suppression of indigenous resistance to the Spanish colonial and Mexican national governments.

Chapter two explores both consensual unions and marriage, an institution that provided the basis for "legitimate" families and formalized affective, economic, sexual and legal relationships between men and women. Marriage provided the legal foundation for patriarchal authority and practice over wives in particular, but also over children and extended kin. Above all, court records demonstrate how extended kin and even neighbors in Sonoran communities were actively involved in the courtships, marriages
and consensual unions of their children, nieces, nephews and siblings. Marriage and even consensual unions did more than cement economic alliances among the wealthy and the less prosperous members of local communities. Court witnesses and judicial officials described marriage as the basis of community stability and tranquility. In practice, marital harmony was sometimes elusive, but wives still drew on these idealized notions of reciprocity and tranquility to gain a measure of autonomy from and rein in particularly cruel and neglectful husbands. Husbands, for their part, used these same notions of community tranquility to justify their patriarchal authority over wives, lovers and children. Finally, even though these cases underscore the continued importance of colonial legal precedent in legitimating women's control over property and their presence in the courtroom, defending patriarchal authority took precedence over more explicit goals of martial tranquility.

Using wills, estate inventories, and cases of inheritance disputes from the civil courts, chapter three examines death as a critical juncture in family life, particularly during the death of a spouse and parent. I argue that wills and inheritance disputes highlight the delicacy, complexity and informality of credit networks in Sonora in the immediate post-colonial period, when the region lacked a formal banking system, and relatives and neighbors often paid debts and conducted financial transactions in kind with grain and livestock. As a result, most people based their financial transactions on trust, thus making good relationships among kin and neighbors of utmost primacy. Moreover, such an economic system, combined with colonial legal precedent, provided women, especially widows, with considerable latitude to operate in the public sphere as
independent subjects. Nevertheless, inheritance disputes also demonstrate the limits of mutual obligation and support within the context of the family. Half-siblings and in-laws in particular utilized the local courts to settle differences over inheritance. Finally, while widows had the legal right to control their financial affairs, creditors and relatives, who were often one and the same, could also compromise their autonomy, especially that of poorer widows, who constituted the vast majority.

Chapter four examines illicit relationships and the ways these sexual transgressions and their punishment both reinforced and challenged gender, ethnic and class divisions in local society. While marriage provided a legal and moral framework for sexual relations that underpinned patriarchal values and legitimate families, in various ways Sonorans did not conform to these prescriptions. These cases underscore how sex was an important means through which men from various ethnic and class backgrounds exercised power over women, children and younger men, and reveal the unequal limits of male and female sexual prerogatives. Finally, more than other kinds of cases in which people aired their domestic concerns, illicit sex crimes underscore the pervasiveness and centrality of religious values and rhetoric in the courtroom. Justices, plaintiffs and defendants drew on religious teachings to justify their rulings and defend their actions.

Chapter five investigates extended family ties across generations, the experiences of minors in relationship to parents, siblings, extended kin, their activities in the court system and the significance of illegitimate status for children in later life. Due in part to high mortality rates among parents, extended kin, godparents, and neighbors played a critical role in children's lives well into adulthood. Intergenerational networks provided
support in the absence of institutions for widows and orphans that commonly existed in urban centers in central Mexico. This situation, however, also made widows and orphans more vulnerable to various kinds of abuses from neighbors and extended kin charged with their care.

Chapter six explores the formalization of debt peonage systems as a strategy for maintaining a stable labor force, the contradictory rhetoric that sustained relationships between employers or amos and servants, and the significance of growing conflicts between servants and amos in the nineteenth century. Foreign travelers in Sonora and even employers of domestic and rural workers often depicted these ties as an extension of familial bonds and as vestiges of a traditional, “pre-modern,” colonial era. In actuality, these labor relationships grew more routine and coercive over time and paved the way for “modern” liberal visions of commercial expansion.

Thus, this study is also reconsideration of social and economic relationships scholars have often associated with colonialism as well as an exploration of the elaborate ways colonialism and liberalism interacted in the particular context of northwestern Mexico. Finally, this work reflects on the influence of colonialism long after national independence on the lives of women, children and men who often held little formal power, but still worked creatively and steadfastly to shape their immediate circumstances and conditions in their communities.
This map is based on original drawings from Hector Cuauhtémoc Hernández Silva, “Las élites regionales y la formación del Estado de Sonora, 1790-1831,” 25-26. I have added communities that are included in the censuses cited in the following tables, as well as towns that were a source of several penal and civil proceedings.
### TABLE 1
Estimated Indian Population of Ostimuri and Sonora, 1530-1790

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<th></th>
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<th>1720</th>
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<td>5,900</td>
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<td>3,150</td>
<td>3,200</td>
<td>3,000</td>
<td>3,550</td>
<td>1,800</td>
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<tr>
<td>Ópataś</td>
<td>50,200</td>
<td>25,100</td>
<td>17,400</td>
<td>15,200</td>
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<td>200</td>
<td>150</td>
<td>70</td>
<td>100</td>
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<tr>
<td>Pimas Altos</td>
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<td>7,100</td>
<td>6,200</td>
<td>5,750</td>
<td>1,350</td>
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<tr>
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<td>150</td>
<td>200</td>
<td>150</td>
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<td>36,150</td>
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<td>17,850</td>
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<td>17,370</td>
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### TABLE 3
Comparative Population Counts for Selected Missions in Sonora, 1784-1806

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<th>Year</th>
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<th>Total</th>
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<td>1784</td>
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<td>1,789</td>
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<td>1799</td>
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<td>1802</td>
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<td>3,635</td>
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<td>1804</td>
<td>3,139</td>
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</tr>
<tr>
<td>1806</td>
<td>3,077</td>
<td>3,958</td>
<td>7,035</td>
</tr>
</tbody>
</table>

Source: Cynthia Radding, *Wandering Peoples*, 118
TABLE 4
Estimated Total Population for Selected Communities, 1822-1850

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<tr>
<th></th>
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<th>1840</th>
<th>1850 (approx.)</th>
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<td>13,665</td>
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</tr>
<tr>
<td>Ures</td>
<td>2,000 (approx.)</td>
<td></td>
<td></td>
<td>7,000</td>
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</tr>
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<td>Horcasitas</td>
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<td>3,300</td>
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<tr>
<td>Guaymas</td>
<td>1,000</td>
<td></td>
<td>3,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Arizpe</td>
<td>2,079</td>
<td></td>
<td>1,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Oposura</td>
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<td></td>
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</tr>
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<td>Altar</td>
<td>2,645</td>
<td></td>
<td>6,000</td>
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<td></td>
</tr>
<tr>
<td>Alamos</td>
<td>5,000-7,000</td>
<td></td>
<td></td>
<td>6,000</td>
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</tr>
</tbody>
</table>

CHAPTER ONE

The Courtroom and Community in Nineteenth-Century Sonora

On July 13, 1837, José Elías, judge of first instance of Hermosillo, visited the outskirts of town to investigate a crime and take testimony in the home of a farmer, Geronimo López. López had been suffering from severe machete wounds for almost a month, and on the previous day, López’s wife, Ana María Camacho, traveled into Hermosillo, probably by foot, to seek a personal interview with Judge Elías. Camacho came before Elías to accuse formally her nephew Miguel Santoyo of ambushing and attacking his own uncle, her husband, with a machete after they had quarreled over ownership of a female donkey. Camacho explained that as ignorant farmers of limited means, she and her husband had waited too long to report the crime.¹

Elías was a man of local prominence who later served as magistrate in the State Supreme Court and as a senator, but his face-to-face encounters with artisans and farmers such as Geronimo López and his wife Ana María Camacho remained routine in a growing community like Hermosillo. Many of Elías’s more prosperous plaintiffs would have known him personally as a neighbor, or perhaps even as a fellow politician or business associate. On his way to the López house, Elías likely passed by growing numbers of artisan shops and a few new houses for the town’s rising clique of

¹ Archivo Histórico del Gobierno del Estado de Sonora (AHGES), Fondo Poder Judicial, Civil (FJC), Hermosillo, Tomo 636, “Causa criminal contra Miguel Santoyo, por haber herido á su tio Germonimo López gravemente,” 1837.
landowners and merchants. His brief journey would have also taken him through more pastoral settings, including fig groves, guava patches, fields of wheat, corn, chile and vineyards for the production of aguardiente, or fermented cactus juice, reflecting the city’s overwhelming agricultural character in spite of its growth since Mexican independence in 1821. Hermosillo was quickly becoming the leading commercial center of the state, and increasing numbers of residents from all walks of life sought the aid of the courts to settle their grievances and seek reconciliation.

Throughout Sonora, women and men appeared before local judges in person as a matter of course, and particularly in smaller communities, they frequently knew local justices of the peace as fellow residents and neighbors. Judges were often people who were from a social status that was not markedly different from their own. Most court hearings were brief and simple, with only one to three court officials and witnesses present. The style of interrogation was informal, even conversational. The initial proceedings of a civil suit that an indigenous woman, Doña Josefa Tanon, filed in the pueblo of Batuc in 1840 was typical of the face-to-face interviews between judges and plaintiffs. Tanon went personally before José Antonio Silvas, the local justice of the peace, and presented herself as the widow of Juan Gonzáles. She came from the nearby pueblo of Alamos to complain against her own brother Menecio Tanon, accusing him of conspiring with the relatives of her husband’s deceased first wife to keep part of Gonzáles’s estate for himself. According to Josefa, Gonzáles had left the disputed
property to her in his will.² Like hundreds of other women in the first half of the
nineteenth century, Josefa Tanon viewed appealing to the courts as a viable way to order
her financial and familial affairs.

The cases of Geronimo López and Josefa Tanon underscore that through the
middle of the nineteenth century, Sonoran communities were overwhelmingly rural and
contact with local notables through the justice system remained informal, even
“intimate.” In spite of such familiarity, social differences along lines of ethnicity, gender,
age and class mattered greatly in the daily lives of Sonorans. Ideologies regarding gender
and “the family” played an important role in defining ethnic difference and notions of
civilization and barbarity in the region. They eventually legitimated the regulation of
laborers, many of whom were of indigenous origin. Yet even while these notions hinted
at an ideal of rigidity in gender roles and social hierarchy, most evidence from the period
points to the heterogeneity of family life and gender relations in nineteenth-century
Sonora. The local court system became an important forum where people grappled with
these contradictions and where they reproduced and challenged these social divisions and
the ideologies that supported them.

In the scant historiography that exists regarding the workings of legal systems in
northern Mexico, scholars have tended to assume that peripheral regions such as Sonora
were devoid of justice because of shortages in judicial staff, corruption and lack of formal

² AHGES, FJC, Hermosillo, Tomo 1233, “Doña Josefa Tanon contra sus hermanos por haberse
posesionado de los bienes de su finado esposo,” 1840.
training for legal officials. In the case of postcolonial nineteenth-century Sonora, contemporary writers such as foreign observer Vicente Calvo and Sonoran politician Francisco Velasco certainly complained about understaffed and incompetent legal administration. Calvo claimed that many people in Sonora refused to file reasonable legal complaints for fear of retaliation. According to both Calvo and Velasco, escape from jail was relatively easy, as was an acquittal from an incompetent judge. Judicial archives today are replete with formal complaints against local justices for everything from ineptitude to corruption. Yet in spite of limitations in Sonora's nascent state legal system, examination of routine court proceedings over time reveals that many judges carried out their duties faithfully. Moreover, the courts served as an important forum for neighbors and families to settle financial and personal disputes and above all to seek reconciliation.

Court proceedings, whether they happened in a municipal building, the residence of a local justice of the peace or the modest surroundings of an injured victim, provided a venue for reaffirming social hierarchies and for ordering public and private morality. Although most legal cases unfolded in intimate settings within rural communities where personal contact among farmers, merchants, artisans, hacendados, servants and court authorities was the norm, rural society in Sonora was not egalitarian. In the above case of

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Geronimo López, for example, his wife Ana María was mindful to articulate her social status in relationship to a local notable like José Elías by referring to herself and her husband as rural people [*pastorales*] ignorant of the law. The case of Doña Josefa Tanon underscores how local courts often regulated the prescriptions of public and private moral conduct, even in legal matters that did not initially involve moral transgression. Josefa Tanon lost her suit before Judge Silvas of Batuc and never received the inheritance Juan Gonzáles left her in his will. A local parish priest made her loss certain when he reported that the property Juan Gonzáles left Josefa in his will actually belonged to the estate of his deceased wife, Cristina. More importantly, Juan and Josefa were never married, and according to the priest, their public, adulterous relationship was precisely what hastened the death of Juan’s legitimate wife. The laws of inheritance, in addition to the counsel of a local priest and the weight of public scandal assured that Josefa’s status as a mistress would prevent her any access to her lover’s estate, even if Juan Gonzáles referred to her as his wife.

**SONORAN COMMUNITIES: AN OVERVIEW**

Local courts in Sonora also reflected broader economic, political and demographic conditions and changes that were particular to the diverse regions within the state. The sheer volume of litigation stemming from Hermosillo and its surrounding communities, for example, attests to the commercial and demographic dynamism of these western, lowland communities in comparison to other regions of Sonora after

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5 AHGES, FJC, Hermosillo, Tomo 1233, “Doña Josefa Tanon contra sus hermanos por haberse posesionado de los bienes de su finado esposo,” 7-8.
independence. With the opening of the port of Guaymas to outside commerce, together
Guaymas and Hermosillo became the major distributors of foreign merchandise to the
rest of the state, as well as the outlet for goods exported from Sonora’s hinterlands.
Lieutenant William Hardy described Hermosillo in 1826 as “a place of considerable
commerce” with a small community of prosperous merchants. After a journey on the
road between Guaymas and Hermosillo that he repeatedly described as treacherous,
sandy and desolate, the British Lieutenant happily noted upon his arrival in Hermosillo
the presence of refined sugar, chocolate, fine china, coffee and tea from the East Indies,
the United States and Lima. Foreign merchandise traveled further north via Guaymas and
Hermosillo to highland communities of the Sierra Madres like Banámichi, Arizpe,
Oposura and further still to New Mexico. Silver, copper, gold, wheat, cattle hides and
serapes also flowed outward to Mazatlán, Acapulco and China.6

Eighteen years later, Francisco Velasco described Hermosillo as a place where
continued expansion was assured. Population was growing, agricultural production was
steady and the number of skilled artisans increased as the quality of their work improved.
While public architecture was still lacking at the middle of the nineteenth century,
prosperous merchants and landowners were building more opulent private dwellings and
the community claimed an active primary school for both boys and girls.7 In 1840,
Hermosillo was home to just over 100 merchants, almost 400 artisans, around 280
farmers and about 1,300 agricultural workers. The majority of residents of Hermosillo

6 Lieut. R.W.H. Hardy, Travels in the Interior of Mexico, in 1825, 1826, 1827, & 1828 (London: 1829),

7 José Francisco Velasco, Noticias estadísticas del Estado de Sonora, 34-41.
still worked in agriculture and the city possessed no industrial base with the exception of mescal production. Nevertheless, Hermosillo remained a growing community active in various kinds of commercial exchange.⁸

By 1853, Hermosillo’s gradual urbanization was clear. The city claimed slightly fewer farmers compared to thirteen years earlier, and a wider array of artisans and professionals, including a couple of trained lawyers, teachers, shop owners, blacksmiths and other metal workers, shoe makers and carpenters.⁹ Moreover, the rural economy in the region was taking on an increasingly commercial character as production shifted steadily from that of subsistence to market-oriented output, a process that preceded national independence.¹⁰ While small and medium-sized property owners still predominated in Hermosillo’s hinterlands and throughout the district, larger estates steadily expanded and competed for the most fertile lands with the best access to irrigation. Even smaller and medium-sized landowners began to shift their orientation from that of subsistence to competing on the local and regional market.¹¹

⁸ AHGES, Fondo Ejecutivo (FE), Tomo 1088, “Estado que manifiesta el censo general del partido de Hermosillo con respecto a su población é industria, agrícola y fabril, así como la clase de los ciudadanos que la componen,” 1840.

⁹ See AHGES, FE, Tomo 258, “Partido de Hermosillo, Estado que comprende todas las poblaciones,” 1853.


¹¹ Saúl Jerónimo Romero, De las misiones a los ranchos y haciendas: la privatización de la tenencia de la tierra en Sonora, 1740-1860, 134; 190-191.
On the whole, circumstances in the district and city of Hermosillo stood in sharp contrast to conditions in the rest of Sonora. Particularly in the years after independence in 1821, presidio defenses of the colonial era, the military forts scattered along Sonora’s northern boundaries, collapsed. Conflicts with Apaches escalated until some communities in the northern part of the state were completely abandoned. Towns located in districts such as Moctezuma and San Ignacio were most affected by persisting warfare with the Apaches. Governmental correspondence and census reports from these regions often provided a litany of pueblos and ranchos left empty due to raiding. Francisco Velasco claimed that the presidio of Fronteras and a host of other small communities were entirely depopulated by the 1840s. In fact a census from Fronteras in 1853 reported 353 residents. Moreover, not everyone who migrated in this vulnerable region left entirely, as many sought protection in nearby larger towns like Oposura, a community that continued to grow in the midst of frequent warfare with Apaches. Internal migration and depopulation also resulted from recurrent shifts in the demands of the mining industry, and were not strictly a result of attacks from Apaches.\(^{12}\)

In fertile river valleys like that of the Río Sonora that were the centers of early Spanish settlement in the region, populations slowly expanded, albeit more sporadically. Like Hermosillo, land consolidation and commercialization continued, although the

\(^{12}\) AHGES, FE, Tomo 258, “Presidio de Fronteras, Año de 1848”; AHGES, FE, Tomo 258, “Padrón de la población de Fronteras,” 1853; AHGES, FE, Tomo 258, Census Reports and Correspondence from Florencio Monteverde, Hermosillo, 1848; José Francisco Velasco, Noticias estadísticas del Estado de Sonora, 26; 29.
process was more delayed and irregular. Throughout most of the colonial period, highland communities near and around the city of Arizpe were among the most dynamic of the region. They were the earliest missions and mining centers, and important sites of local and regional trade that extended into the international market. Here, the influence of Jesuit and later Franciscan missionaries on Opata and Eudeve peoples was most visible. Colonial religious and state officials frequently praised these indigenous societies for adopting Hispanic religiosity and social organization in their communities, and they had long served as essential allies in the wars with the Apaches. Arizpe, the largest community along the Río Sonora, was a major Spanish settlement in northwestern New Spain and the administrative capital of the Provincias Internas during the late eighteenth century.

After independence, these highland communities lost their economic ascendance in relationship to western lowland centers. During the early 1850s, births rates still exceeded death tolls in communities such as Arizpe, Banámichi and Aconchi, but constant out-migration took a toll on the ability of many highland towns and cities to reproduce and expand. Persisting hostilities with Apaches, the attraction of new mining centers and more stable commercial expansion in lowland communities like Hermosillo were the major reasons for these demographic and economic changes.

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13 No community in the district of Arizpe reported having communal property within their urban districts in 1853. See AHGES, FE, Tomo 258, Arizpe, “Propios y arbitrios municipales,” 1848.


15 AHGES, FE, Tomo 258, “Noticias de los nacidos, casados y muertos en esta ciudad [Arizpe] en los cinco años corridos desde 1o. de Enero de 1848 hasta fin de diciembre de 1852, con distinción de sexos y edades,” October 8, 1853.
Farmers, agricultural workers and a few artisans populated most of the pueblos along the Río Sonora. The city of Arizpe was the only community with any notable diversity in occupations by the 1850s, followed by Banámachi and Huepac. Even in Arizpe, most residents were farmers or farm workers on larger landholdings.\(^{16}\) Smaller communities like that of the *Congregación* of San Felipe, with a population just under 700 in 1848, engaged exclusively in agriculture, including raising cattle, wheat, corn and a variety of fruits. Many of its more peripheral rural properties and mines were abandoned due to conflicts with Apaches. Yet even while these smaller population centers often lacked artisans, priests and operating schools, most did have local justices of the peace. San Felipe, for example, reported two judges in their 1848 census.\(^{17}\)

Farther south, the city of Alamos and its large surrounding district was among the most important commercial zones in all of northwestern Mexico due to the enduring supply of silver from a collection of wealthy mines in the state's southern highlands. Lieutenant William Hardy, in addition to staying in Hermosillo, spent a few weeks in the city of Alamos in 1826 during a major Yaqui rebellion. He praised the city's clean, orderly streets and the luxury of its white-washed private residences built around the main plaza, where an impressive stone church stood at the center. It was the only other community in Sonora besides Hermosillo where he commented on the extensiveness of

\(^{16}\) Arizpe was home to two blacksmith shops, one carpenter shop, four shoemakers, one tailor, four clothing stores, and had no industry. See AHGES, FE, Tomo 258, District of Arizpe, "Propios y arbitrios municipales," 1848; Census takers in Arizpe reported 200 farmers, five miners, eleven merchants, twelve artisans, six domestic workers, 84 *jornaleros* and 87 soldiers. See AHGES, FE, Tomo 258, "Padron de la población de la Ciudad de Arizpe incluza la fuerza presente del 5o. Batallón," 1853.

\(^{17}\) AHGES, FE, Tomo 258, "Padron general o censo de almas que comprende de la congregación de San Felipe, Sonora," 1848.
the region’s commerce. The port of Guaymas served as the main point of entry for quicksilver and foreign goods destined for Alamos, and the same families who operated the mines also controlled trade in and out of the district. Yaqui and Mayo Indians from the nearby Yaqui and Mayo River valleys made up the majority of the labor force in the region’s mines. They, along with Mexican haciendados and farmers who owned or rented private land, supplied the city of Alamos and its surrounding mining centers with food.18

In spite of southern Sonora’s eventual loss of economic dominance to central, lowland communities such as Hermosillo, the district’s economy was far from a state of collapse, even in the face of enduring indigenous resistance. Mining continued almost uninterrupted through the middle of the nineteenth century in the district of Alamos, and Yaquis and Mayos persisted in serving as the major suppliers of food and labor to the entire region, in spite of periods of intense rebellion.19 A report on conditions in the region of Alamos in 1849 by the prefect, Ignacio Alamada, described the lasting productivity of the city’s nearest haciendas and ranchos. Although regional trade slowed or halted entirely at critical periods of insurrection, a number of privately owned haciendas and ranchos operated and even prospered well into the nineteenth century.

The city of Alamos also claimed a number of active schools, with around sixty students attending the largest primary school in Alamos. All the students were boys, and many came from poorer and middle-class families. Smaller private schools also provided education for girls from the city’s most prominent families. Throughout most of the

18 Lieut. R.W.H. Hardy, Travels in the Interior of Mexico, in 1825, 1826, 1827, & 1828, 171-79.
19 José Francisco Velasco, Noticias estadísticas del Estado de Sonora, 112.
remaining district, however, formal education was lacking. Ignacio Alamada also lamented that the entire district did not have a *juez letrado*, a judge or lawyer formally trained in the law. Nevertheless, based on the scant judicial records that still exist from the region in this period, the court system still operated. Alamos and La Aduana, a neighboring mining center, had personnel in lower judicial positions, including neighborhood mediators [*jueces conciladores*] and prefect Ignacio Alamada also served as the judge of first instance in the city of Alamos. Like his counterpart José Elias in Hermosillo, his work put him in intimate contact with residents from across the local ethnic and class spectrum. Smaller populations in the district of Alamos had jailers [*celadores de policia*] and town council members [*regidores*] who arbitrated in local disputes.  

**FAMILY, GENDER AND DEFINITIONS OF BARBARITY**

Foreign observers and census takers often failed to gather information about other regions of Sonora, particularly the indigenous communities along the Yaqui River, the Apache-controlled northern zones of Sonora and some western Seri territories. Nevertheless, notables in the state wrote prolifically, almost incessantly, about the “barbarous” people from these geographic and ethnic expanses and why they effectively remained outside the jurisdiction of Mexican authority after independence. During times of rebellion, notables also predictably portrayed other ethnic groups, such as the Mayos and Opatas, as barbarous.

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20 Most judicial records from the district of Alamos perished in the nineteenth century.

21 AHGES, FE, Tomo 258, “Noticias geográficas y topográficas que formó ésta Prefectura del partido del la Ciudad Concepción de Alamos,” December 6, 1849.
Notable men of Sonora most clearly articulated their vision of a patriarchal social order, in which male-dominated households provided the basis for a well-functioning civil society, when they wrote about indigenous peoples who resisted Mexican rule and culture. Particular regions of the state, such as the *pueblos* along the Yaqui River and northernmost Sonora, became increasingly linked to an indigenous ethnic status associated with barbarity and disorder. In all cases, patriarchal familial structures became an important marker of civilization. Notables during the nineteenth century were quick to record and judge their observations about indigenous customs regarding sexuality, gender roles, raising children and treatment of elder relatives as manifestations of broader social ills and disarray, as were their colonial predecessors, such as Jesuit missionary Ignaz Pfefferkorn.

Ignaz Pfefferkorn was a missionary of German descent who showed almost as little fondness for the sexual and moral conduct of Spanish and *mestizo* colonists as he did for that of indigenous peoples. Nevertheless, his memoirs about his eleven-year tenure in Sonora during the mid-eighteenth century reflect how gender roles, family structure and sexual mores were critical symbols of how far an indigenous society had progressed toward “reason” and “civility.” Pfefferkorn made sexual conduct among married couples, for example, an important object of his attention, expressing dismay when several indigenous couples from a neighboring mission in northern Sonora secretly exchanged wives and formalized their agreement by attempting to participate in a marriage ceremony that he officiated. According to Pfefferkorn, the event reflected not
only the "cunning and crafty ingenuity" of the indigenous Sonorans, but also their lack of good upbringing.\(^{22}\)

Monogamous sexual relations within the context of a Christian marriage were often critical attributes of what differentiated civilization from barbarity for missionaries and colonists. In his observations of Apaches, for example, Pfefferkorn admired that married women were monogamous, but was horrified to learn that the relatives of an adulterous woman would cut off her nose as punishment and as a symbol of public shame, regardless of circumstances. Pfefferkorn concluded that the Apaches lacked the physical capacity for "reason" more than other non-Christian societies because punishing women for adultery in such a way was sacrosanct among Apaches. Provided Pfefferkorn was telling the truth, such cultural practices underscore the existence of a definite gender order within Apache communities that subjected women to harsh discipline for adultery. Nonetheless, he criticized what he viewed as a conspicuous lack of authority and hierarchy by complaining that, "each [Apache] is his own master and in every way lives according to his own pleasure."\(^{23}\)

Pfefferkorn believed indigenous Sonorans capable of "rationality" and thus justified their continued religious training, but he blamed their current supposed state of social and moral disarray on how parents raised their children. He was astonished that "maternal care lasts only until the child has grown up enough to procure its own food . . . parents are not at all concerned with the habits of the children. They give them no useful


\(^{23}\) Ibid., 145.
instruction; they do not encourage them to goodness, and they do not correct their faults." He even worried that mothers were reckless in how they held and cared for their young infants, to the extent that he wondered why he never saw any indigenous children with physical injuries or impairments during his entire stay in Sonora.

Pfefferkorn’s overall vision of how indigenous Sonorans would become “civilized” was distinct in important ways from how mostly liberal, nineteenth-century politicians, merchants and landowners later believed indigenous peoples would achieve Hispanic civility. Pfefferkorn, like many Jesuit missionaries, held that Indians would live best within a Christian moral order in isolation from Spanish and mestizo colonists. In contrast, nineteenth-century leaders in Sonora such as Francisco Velasco, Ignacio Alamada and Ignacio Zuñiga viewed a range of economic and social relationships, including intermarriage and sex between indigenous peoples and Mexicans, as inherently positive. Francisco Velasco, for example, believed that the Mayos of southern Sonora were more peaceful and open to interaction with Mexicans than were Yaquis in large part because they allowed Mexican colonists to move into their communities.

Nevertheless, colonial missionaries and nineteenth century Sonoran notables shared similar views about what the most important attributes of civilization were and how they related to a particular gender order and to sexuality. These features of civility

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24 Ibid., 169; 188-89.
25 Ibid., 164.
26 José Francisco Velasco, Noticias estadísticas del Estado de Sonora, 62.
included monogamous sexual relationships consummated through marriage, submissiveness of women to men, subordination of younger generations to their elders and a clear delineation of gender roles in work and warfare. When any indigenous society engaged in cultural practices different from these social prescriptions, notables generally concluded that they were uncivilized and their communities were completely devoid of justice and order.

Notables frequently commented on the supposed lack of importance some indigenous societies ascribed to monogamy. Depictions of communities that accepted multiple partners or serial monogamy implicated the masculinity of indigenous men and the sexual chastity of indigenous women. Politicians such as Francisco Velasco employed negative portrayals of “exchanging wives” to illustrate how indigenous men were unwilling or incapable of exercising authority over their wives by controlling and monitoring their wives’ sexual relationships with other men. For example, he viewed Yaqui cultural practices in marriage and sexuality as “diametrically opposed” to those of Mexicans, because they “lacked jealousy,” and “frequently exchange wives.”

Worse still from Velasco’s perspective, Yaqui wives left their husbands without consequence. Not only did Yaqui women’s presumed ability to leave their husbands to seek other partners challenge indigenous masculinity, these portrayals also served as a critique of indigenous female chastity and more broadly, implied that indigenous peoples had unregulated sexual appetites.

27 Ibid., 57.
Even when notables perceived a clear patriarchal gender hierarchy in relationships between indigenous men and women, they did not necessarily respond positively. In his writings about Apaches, for example, Francisco Velasco commented on the certain authority of fathers over their wives, and their young children and grandchildren. When indigenous male authority became manifest in the practice of polygamy, however, Velasco concluded that it only symbolized broader social disorder and immorality among Apaches. He further attempted to highlight the “barbarity” of the Apaches for a perceived absence of benevolence in how men exercised authority over women, chastising that “women are treated with the greatest harshness and severity, and their lives are frequently sacrificed to the jealousy of their lords.”

For many notables in Sonora, particularly those with liberal political leanings, intermarriage between Mexicans and Indians was the best means to introducing Hispanic culture into indigenous communities, but it was not necessarily a program that indigenous societies welcomed. The prefect of Alamos and mine owner, Ignacio Alamada, complained that when Mayos and Yaquis migrated from their pueblos to work in mining centers, the men preferred sexual relations with indigenous women who were married to other indigenous men as opposed to initiating legitimate and monogamous relationships with Mexican women. Alamada concluded that such intentional isolation demonstrated the sexual and moral corruption of the Mayos, due to their supposed indifference to exchanging partners within their communities, but equally important, he saw little possibility for cultural change when indigenous peoples purposefully avoided intimate

28 Ibid., 160-61.
contact with Mexicans. He never assumed that indigenous men's evasion of Mexican women was a result of their own experiences with discrimination, nor if most Mexican families would have accepted an indigenous son-in-law.\(^{29}\) For Alamada and other liberal notables, the isolation of indigenous peoples only compounded their "barbarity." He further complained, for example, that Mayo households had even resisted participating in a district census and he cited their resistance as a manifestation of their backwardness.\(^{30}\)

Fourteen years earlier, Ignacio Zúñiga promoted the establishment of military forts along the Mayo and Yaqui rivers, in part to suppress rebellion. Equally important, however, Zúñiga believed that the state should encourage Mexican soldiers to intermarry with indigenous women and reward them with land they could pass on to their children. Zúñiga argued that such intermarriage was the best means to improve morality among Yaquis and Mayos.\(^{31}\) Zúñiga's arguments implied that through colonization, Mexican soldiers would introduce order, male-dominated hierarchy and Christian sexual morality to indigenous households.

Notables also identified variations in gender roles in labor as an important way to distinguish between civility and barbarity. Francisco Velasco commented that Apache
women performed a significant amount of manual labor, including skinning wild animals, building huts, collecting fire-wood and shepherding animals, in short, "all the drudgery that is generally assigned to man."\textsuperscript{32} That women and children joined in hunting expeditions for rabbit and other small game also drew Velasco's attention. Velasco noted a similar division of labor among Seri women and men, stating that women harvested crops, fished and sold pottery in public spaces.\textsuperscript{33} Such discussions of gendered labor division among Indians often took place in the context of criticizing indigenous men for being prone to criminality and laziness. They served as a wider critique of and explanation for why nomadic indigenous household and community economies in particular were "impoverished" in comparison to agrarian Mexican society. These observations provided further criticism of indigenous masculinity, because they implied that men were unable to fulfill their duty as economic providers for their families. Moreover, much of women's work within nomadic societies in Sonora took them "outside" what notables perceived as acceptable spheres for women's work, and thus, implicitly lowered their status and called into question their sexual virtue.

Notables assigned great importance to how indigenous peoples treated their children and their elders as evidence of perceived social and moral depravity. More generally, notables adopted their own definitions of trust, reciprocity and respect among family members as a way to gauge the moral strength of indigenous societies. Perceived variations and "shortcomings" in relationships between parents and children and between

\textsuperscript{32} José Francisco Velasco, \textit{Noticias estadísticas del Estado de Sonora}, 161.

\textsuperscript{33} Ibid., 90-91.
other elders and young members of the society were portrayed as symbolic of broader social disarray and barbarity. In his discussion of kinship among the Apaches, for example, Francisco Velasco criticized that, “These savages pay no respect to old age; even those who have been renowned for their courage and ability, are treated with neglect when their youth and vigor have passed away.” Velasco did not elaborate on why he drew such conclusions, but by suggesting an absence of respect for older members of the community, he sought to place Apaches on a plane similar to that of animals. His arguments insinuated that when a society failed to protect its elder members, it lacked the most basic moral codes and its members were comparable to beasts without a social conscience.

For notables, respect for vulnerable elders, protection of the very young, and deference to male authority were central to how they delineated between culture and nature. In a further effort to demonstrate that Apaches were “animal-like,” Velasco contended that:

The Apache lives in a state of nature, recognizing no law except that of force. Their chiefs exercise no authority except in war . . . and each family or individual is governed by no rules except their own inclination . . . there is an utter want of security among them, the weaker being invariably plundered by the stronger . . . The father of a family exercised authority over his children during their infancy; but when they arrive at the age of puberty, they recognize no superior.

Any ambiguity in how men practiced their authority over subordinates, but especially over their own children, suggested a broader lack of respect between generations and

34 Ibid., 160.
resulting in chaos. Moreover, civilized patriarchs tempered their authority with benevolence and a desire to protect the weak.

Of all social relationships, the existence of trust among family members was unequivocally the most critical for Sonoran notables. Historians of the region have long observed that important commercial alliances were usually cemented through bonds of kinship, including marriage and compadrazgo. The ability to trust one's own family members for mutual support and protection was a critical attribute of civility. In order to persuade readers further of the "barbarous" character of the Apaches, Velasco commented that "... their disposition is crafty, fickle, bold, haughty and suspicious. They carry their distrust to an extent unequalled among other barbarous tribes, and this is especially manifested among relations and members of the same family." Velasco represented social relationships within Apache communities as a complete inversion of civilization when he argued that suspicion was above all evident among family members, the ties in which his readers would have most expected trust to exist.

FAMILIES AND HOUSEHOLD COMPOSITION

Notables of Sonora depended on biased observations of indigenous societies to define the role of the patriarchal family as the basis of a well-ordered civil society. Moreover, through such routine expressions as buenas costumbres, Sonorans articulated to each other and to themselves the importance of familial trust, respect for overlapping


gender and age hierarchies, sexual chastity among women, and the "benevolent" exercise of and regard for patriarchal authority. While Mexican Sonorans took the meaning of _buenas costumbres_ for granted, and seldom bothered to define it explicitly, the term was certainly gendered. It became a significant way to evaluate other members of a community and to define what it meant to be a "good" man or woman who conformed to the community's expectations regarding masculine and feminine behavior.

For Sonorans, _buenas costumbres_ referred to moral and upright qualities within an individual as well as actual behaviors or habits that ultimately formed a person's overall character. Most importantly, people did not simply inherit _buenas costumbres_. Elders, particularly parents, had a responsibility to instill noble qualities in impressionable children. Communities also emphasized the important role of teachers in developing their students' character. Prefect Ignacio Alamada of Alamos, for example, praised two single female teachers in his city first for their own stellar conduct, then for training local young women to acquire _buenas costumbres_, because they emphasized religion and domestic duties in their curriculum. For Alamada, _buenas costumbres_ were explicitly gendered, and he linked ideal femininity and religiosity to a domestic division of labor in which women were responsible for raising and educating children and maintaining a household. Above all, female teachers and mothers were responsible for educating girls

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38 _Diccionario nacional ó gran diccionario clásico de la lengua española_ (Madrid: Imprenta y Librería de Miguel Guijarro, 1875), 482-83.
to live within in a gender order in which they accepted their husbands as the ultimate authority of the family.\textsuperscript{39}

Sonorans also understood that certain familial and household arrangements were ideal for assuring moral character and exemplary comportment among women and men. For Mexican Sonorans, these households were not necessarily wealthy, but they did assume the presence of a married, male household head, or at the very least, that a respectable widow was guiding the family. Yet when the residents of most Mexican communities in Sonora observed the living arrangements of their neighbors and sometimes their own families, what they saw around them was far more heterogeneous than the rhetoric of civility and \textit{buenas costumbres} suggested.

By the mid-nineteenth century in both larger and small towns, Mexican Sonorans could encounter among their neighbors and relatives, for example, a significant number of women who headed households without the presence of an adult, male “authority.” By 1848, women headed between 16 and 44% of all households in the towns sampled in this study. The rates of female-headed households tended to be lower in more rural settings,

\textsuperscript{39} AHGES, FE, Tomo 258, “Noticias geográficas y topográficas que formó ésta Prefectura del partido del la Ciudad Concepción de Alamos,” December 6, 1849.
but in an urban community like Alamos, women headed close to half of all households (see Table 5).40

The overall composition of these female-headed households was far from uniform throughout the region, nor within any given town or district. Widows were present in all Sonoran communities and made up the majority of female-headed households. But while some widows maintained the appearance of *buenas costumbres* and headed households with their married children and legitimate grandchildren, others likely occupied a more precarious status when they lived with unmarried men or single daughters who had illegitimate children.

Sonorans also lived among single women and young widows who resided alone with two or three young children, particularly in more urban centers such as Alamos. Sometimes two or three younger single women lived together with several young children. Moreover, most Sonorans would have known women who claimed married status but lived alone with their young children. In these cases, some husbands left their communities temporarily to seek work while others likely abandoned their wives.

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40 Such high numbers of female-headed households, particularly those headed by widows, supports the findings of other historians of Sonora who have encountered high rates of widowhood during the late colonial and early national periods using parish and notary records. Some historians have ascribed high death tolls and resulting widowhood to warfare with the Apaches, particularly in the northern parts of the state. Others have suggested epidemics and perhaps abandonment when husbands left their homes to work in other regions as the primary reasons for large numbers of female-headed households. See, José Marcos Medina Bustos, *Vida y muerte en el antiguo Hermosillo (1773-1828): un estudio demográfico y social basado en los registros parroquiales* (Hermosillo: Gobierno del Estado de Sonora, 1997), 236-51; María del Carmen Tonella Trelles, *Las mujeres en los testamentos registrados en los distritos de Hermosillo y Arizpe, Sonora, 1786-1861: Una indagación acerca de la condición femenina en la frontera*, (Licenciatura Thesis, Universidad de Sonora, 2000), 82-85; 189-206; 218-20.
permanently (see Table 6). Together, the presence of these women reminded residents that not all women and children in their community lived under the direct authority a married man.

Nevertheless, the presence of women heading their own households did not necessarily imply that an alternative, more egalitarian gender hierarchy existed in some homes. First, being a female household head did not always indicate the total absence of an adult male in the house, as in the case of widows who lived with their adult married sons and daughters. Ultimately, the appearance of a widow at the top of a household census said little about the weight of her influence over her adult sons. Secondly, single and married women who were household heads still had to negotiate a patriarchal gender system in their daily interactions with neighbors and relatives, in their work and in their dealings with judicial and church officials. Single mothers, for example, had far more difficulty convincing local judges to punish men who sexually assaulted their children than did women who had a male representative, whether he was a spouse, father or brother. Moreover, many single women with small children lived with married siblings and parents under the authority of a male household head, suggesting that it was common for single mothers with illegitimate children to seek the financial, physical and moral "protection" of a man. This was particularly the case if the woman was from a higher social status.

Even among ostensibly more "traditional" male-headed households, Sonorans

41 Based on available evidence from the court records, it appears that a number of married women also abandoned their husbands.
encountered considerable heterogeneity among their neighbors and relatives. Married men headed the vast majority of male-headed households, but their size and composition was diverse. Among them, Sonorans observed larger, extended families that included married, single and widowed adult children and both legitimate and illegitimate grandchildren, dependent extended kin, servants and "adopted" children (see Table 7). Residents likely speculated on the moral and sexual comportment of the people who lived under the authority of these local patriarchs. Meanwhile in some smaller communities such as Aconchi and Rayón, married men were more likely to set up their own households as opposed to staying with older parents. As a result, male-headed households with just two people and smaller, nuclear families were not uncommon throughout the region.

Every community also claimed a small number of single men who established households without the blessings of the local priest. These men tended to be younger, they had smaller families and they seldom claimed servants and extended kin under their authority. They often worked as artisans or labored in agriculture as jornaleros or day laborers. Censuses provide few insights regarding the extent to which neighbors attached stigma to these households. Based on court testimonies, however, many single male household heads were long-time residents and claimed the status of vecino, so their ties to neighbors were likely substantial. While they may have occupied a more marginal social position by virtue of their marital status as well as occupation, they were certainly

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42 A vecino was a permanent resident of a community who held land and usually had significant familial ties within the local community. After independence litigants eventually began to use ciudadano or citizen in place of vecino. See Cynthia Radding, Wandering Peoples: Colonialism, Ethnic Spaces, and Ecological Frontiers in Northwestern Mexico, 1700-1850, 362.
not outsiders. It is also likely that some of these men married their partners later in life. Moreover, there is little evidence in memoirs and official correspondence that their presence caused notables to worry about growing social and moral disorder, as did indigenous communities that resisted Mexican authority altogether.

In addition to ethnic status and the presence of an upstanding, preferably married, male elder governing a morally restrained household of dependents, occupation was an important symbol of position and respectability within Sonoran communities. Sonora was overwhelmingly rural, and based on occupational classifications available in census data, even the most urban centers reflected a limited range of class differentiation compared to larger cities in central Mexico (see Tables 8 and 9). With its large class of small and medium-sized landowners throughout the region, Sonora did not conform to the strictly polarized, “feudalistic” portrayal common in earlier historiography on northern Mexico.

Nevertheless, variation in economic status was significant in the daily lives of Sonorans, even within the same occupations. In communities in which 75% of the men were farmers, for example, subtle differences took on added significance. While some small landowners could support a servant [doméstico], others sent their own children to serve as farm workers for a more prosperous neighbor. Thus, the occupational category labrador or farmer, included a range of people in terms of prosperity and household size. Some labradores were more akin to poor tenant farmers. They had limited access to the worst lands and needed their children’s wages, while other labradores were able to
support large families and claimed additional dependents. The same range of wealth and status among miners was also evident within a single community. Among “contracted” workers [sirvientes], some lived as dependants of their employer and others headed their own household.43

The organization and content of the censuses themselves reflected the gender ideologies of the census takers, most of whom were local justices of the peace.44 These biases were particularly evident in how recorders set down women’s work and how they described sirvientes and domésticos who lived as dependants within a household. With the exception of Huepac, for example, census takers never designated women’s work and how they contributed to the economic maintenance of their families, even among female-headed households. As a result, most censuses provided little insight into how female

43 While such evidence points to significant class differentiation within a single occupation, it is also a likely result of census takers not sharing the same definitions for the same occupations from one community to the next. Terms such as doméstico and sirviente were particularly fluid. In the town of Banámichi for example, sirviente likely referred to agricultural workers, but in other communities such as Anconchi and Huepac, sirvientes were usually domestic workers. Definitions of labrador varied from community to community as well. For example, in the Cumpas census, male children as young as six-years-old were listed as labradores, while in other censuses such as Santa Ana, even adult sons were not listed with an occupation. Obviously such variation does not imply that six-year-olds in Cumpas worked in the fields while the adult sons of labradores in Santa Ana did nothing other than serve dependants.

B.J. Barickman notes similar peculiarities in the 1835 census of Santiago do Iguape in Bahia, Brazil. He ascribes such patterns to issues of citizenship and property ownership. In the case of Sonora, the variations are more likely a result of arbitrary decisions on the part of the census takers. See B.J. Barickman, “Reading the 1835 Parish Censuses from Bahia: Citizenship, Kinship, Slavery, and Household in Early Nineteenth-Century Brazil,” The Americas 59:3 January 2003, 304-06. See also, AGHES, FE, Tomo 258, “Pueblo de Huepac, Año de 1848, Padrón del número de habitantes.”; AGHES, FE, Tomo 258, “Padrón general del Pueblo de Banámich, Año de 1848,”; AGHES, FE, Tomo 258, “Pueblo de Aconchí, Padrón que comprende el número de almas que hay en este pueblo y su jurisdicción practicado en 15 de marzo de 1848.”; AGHES, FE, Tomo 258, “Padron que contiene el número de habitantes de este Pueblo de Cumpas,” May 24, 1848.”; AGHES, FE, Tomo 259, “Santa Ana, 1,190,” 1848.

44 B.J. Barickman’s study of the 1835 parish census from Bahia, Brazil discussed above provides a rare example of how qualitative analysis of census data can highlight ideologies and programs regarding the constructions of kinship, gender, race and citizenship. See B.J. Barickman, “Reading the 1835 Parish Censuses from Bahia: Citizenship, Kinship, Slavery, and Household in Early Nineteenth-Century Brazil,” 287-324.
household heads survived, except in cases in which they had sons old enough to work as
jornaleros or labradores. Clearly some women who had more resources lived with adult
men who worked as their servants. Widows in particular employed the strategy of hiring
a younger, male sirviente, either to work land they owned or perhaps they contracted the
men out to work for other people.

The census of Huepac also provides some clues about what kinds of occupations
were available to women in a rural community (see Table 9). Most women with a
designated occupation were domésticas, but other more common vocations included
cook, laundry woman and seamstress [cocinera, lavadera and costurera]. Based on the
evidence from Huepac and from court testimonies, most communities also claimed at
least one midwife [partera]. Census takers in Huepac recorded a few women who
worked in “less traditional” occupations, such as labadora. Such “anomalies,” however,
reveal more about the biases of the recorders than they do about the kinds of work
women performed in their daily lives. The wives of labradores, for example, participated
actively in agricultural production, as did their children. Moreover, some married women
and widows in particular, had a principal role in managing the financial affairs and
property of their families, even though census takers rendered such roles invisible.45

Finally, the contradictory ways that census takers recorded such occupations and
conditions as doméstico, sirviente and criado also reflect the inherent ambiguity of these
terms as well as the uncertain position in which these women, men and children often
themselves in their daily lives. While some Sonorans characterized domésticos and

45 See Chapters Two and Three.
domésticas as members of the family, they also compelled them to perform agricultural work, cleaning, washing and cooking for little or no wages, and in contrast to spouses and legitimate children, they did not inherit an equal share of the family estate. Moreover, most domésticos were actually domésticas, young girls and women between the ages of nine and twenty who often lived under the authority of married men from larger and likely more prosperous households (see Table 10). Domésticas were at once dependents (i.e., adopted children, dependent extended kin, apprentices) and laborers within the household economy. Census takers often included domésticos and domésticas in the same columns as wives and children, not in the columns designated for occupational status. In the specific case of Huepac, for example, a census taker identified 20-year-old María del Carmen Bustamante as a doméstica living in the household of a widow, María de la Luz Paredes, but also designated that she was a cocinera under the column for occupational status. Such lack of definition points to how domésticos and domésticas often carried out their lives in an ambiguous position between “family member” and laborer. The existence of women, men and children such as María del Carmen Bustamante also underscores how notions of kinship in Sonora during the first half of the nineteenth century were flexible in the face of considerable and persistent demographic and economic change. Frequent migration, warfare and high mortality rates compelled

46 B.J. Barickman argues that in the case of Santiago de Iguape in Bahia, one should not confuse the term doméstico with “domestic servant,” even though they may have performed domestic work. Rather, the term more appropriately referred to someone who was a dependent of the household head. In the case of Sonora, however, I maintain that the term remains more ambiguous. In spite of possible kinship, affective ties and/or sexual relations, the primary purpose of domésticas in particular was to provide domestic labor. See Chapter Four & B.J. Barickman, “Reading the 1835 Parish Censuses from Bahia: Citizenship, Kinship, Slavery, and Household in Early Nineteenth-Century Brazil,” 302-304.
Sonorans to reconstitute households in creative ways, but these measures left some people in a subservient status as they lived among neighbors, extended kin and occasionally, complete strangers.

**CONCLUSION**

Overall, census data and memoirs of foreign travelers suggest that nineteenth-century Sonoran communities remained essentially rural in character. Familiar contact among residents across ethnic, class and gender lines was common, and local officials were usually accessible. Legal proceedings were informal and local residents had intimate contact with judges, in part because judges often fulfilled several judicial obligations at once in order to carry out their jobs. The informality and “intimacy” of the courtroom was in part a reflection of persisting colonial practices in communities where people from different social stations came into frequent contact.

Nevertheless, social hierarchies, while not as complex as compared to the more urban centers of central Mexico, still shaped the options women and men across the social spectrum possessed, and judicial records make clear that ethnicity, gender, age and class differences influenced one’s place in the justice system. Ethnic tensions and conflicts came to have a lasting influence on regional identity in Sonora, with gender norms and roles serving as a fundamental marker for defining civilization and barbarity. Politicians and judges employed ideologies about gender roles and family relationships to dehumanize indigenous peoples who challenged their authority, even while their own communities reflected considerable diversity in gender roles, household structure and

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47 AHGES, FE, Tomo 258, “Pueblo de Huepac, Año de 1848, Padron del número de habitantes,” 1848, 3.
sexual mores. "The courtroom," regardless of its location and appearance, became an important venue for Sonorans to struggle with these contradictions.
<table>
<thead>
<tr>
<th></th>
<th>Alamos</th>
<th>Aconchi</th>
<th>Banámichi</th>
<th>Pueblo de Seris</th>
<th>Rayon</th>
</tr>
</thead>
<tbody>
<tr>
<td>Male Headed Households</td>
<td>266, 56%</td>
<td>101, 81%</td>
<td>122, 76%</td>
<td>337, 84%</td>
<td>209, 75%</td>
</tr>
<tr>
<td>Female Headed Households</td>
<td>205, 44%</td>
<td>23, 19%</td>
<td>39, 24%</td>
<td>65, 16%</td>
<td>71, 25%</td>
</tr>
</tbody>
</table>

Sources: AHGES, FE, Alamos, Tomo 259, 1848; AHGES, FE, Aconchi, Banámichi, Rayon, Tomo 258, 1848; AHGES, FJP, Pueblo de Seris, Tomo 656, 1842.

<table>
<thead>
<tr>
<th></th>
<th>Alamos</th>
<th>Aconchi</th>
<th>Banámichi</th>
<th>Pueblo de Seris</th>
<th>Rayon</th>
</tr>
</thead>
<tbody>
<tr>
<td>Married</td>
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<td>3</td>
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<td>19</td>
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<tr>
<td>Single</td>
<td>67</td>
<td>3</td>
<td>6</td>
<td>13</td>
<td>9</td>
</tr>
<tr>
<td>Widow</td>
<td>101</td>
<td>17</td>
<td>27</td>
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<td>43</td>
</tr>
<tr>
<td>Unknown</td>
<td>4</td>
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<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Average Household Size</td>
<td>5.4</td>
<td>3.9</td>
<td>5.6</td>
<td>4.3</td>
<td>3.9</td>
</tr>
</tbody>
</table>

Sources: AHGES, FE, Alamos, Tomo 259, 1848; AHGES, FE, Aconchi, Banámichi, Rayon, Tomo 258, 1848; AHGES, FJP, Pueblo de Seris, Tomo 656, 1842.
### TABLE 7
Male-Headed Households, 1842 and 1848

<table>
<thead>
<tr>
<th></th>
<th>Alamos</th>
<th>Aconchi</th>
<th>Banámichi</th>
<th>Pueblo de Seris</th>
<th>Rayon</th>
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</thead>
<tbody>
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<td>Married</td>
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<td>90</td>
<td>106</td>
<td>285</td>
<td>188</td>
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<tr>
<td>Single</td>
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<td>4</td>
<td>6</td>
<td>26</td>
<td>9</td>
</tr>
<tr>
<td>Widow</td>
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<tr>
<td>Unknown</td>
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<tr>
<td>Average Household Size</td>
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<td>4.7</td>
<td>6.1</td>
<td>4.8</td>
<td>5.0</td>
</tr>
</tbody>
</table>

Sources: AHGES, FE, Alamos, Tomo 259, 1848; AHGES, FE, Aconchi, Banámichi, Rayon, Tomo 258, 1848; AHGES, FJP, Pueblo de Seris, Tomo 656, 1842.

### TABLE 8
Occupations in Selected Communities, 1840-1853

<table>
<thead>
<tr>
<th></th>
<th>Aconchi</th>
<th>Banámichi</th>
<th>Cumpas</th>
<th>Hermosillo 1840</th>
<th>Hermosillo 1853</th>
<th>Huepac</th>
<th>Nacori Chiquito</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lawyer</td>
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<td></td>
<td></td>
<td></td>
<td>2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Blacksmith</td>
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<td></td>
<td></td>
<td>15</td>
<td>1</td>
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</tr>
<tr>
<td>Constable</td>
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<tr>
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<td></td>
</tr>
<tr>
<td>Muleteer</td>
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<td>1</td>
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<td>Artisan</td>
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TABLE 8 CONTINUED

Occupations in Selected Communities, 1840-1853

<table>
<thead>
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<th>Occupation</th>
<th>Aconchi</th>
<th>Banámichi</th>
<th>Cumpas</th>
<th>Hermosillo 1840</th>
<th>Hermosillo 1853</th>
<th>Huepac</th>
<th>Nacori Chiquito</th>
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</tr>
<tr>
<td>Goat Herder</td>
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<td></td>
<td></td>
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</tr>
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<td>Mineral Refiner</td>
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<tr>
<td>Cook</td>
<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
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<td>29</td>
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<td>Gunsmith</td>
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<td></td>
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</tr>
<tr>
<td>Domestic Servant</td>
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<td></td>
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<tr>
<td>Metal Worker</td>
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<td></td>
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<td>23</td>
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### TABLE 8 CONTINUED

Occupations in Selected Communities, 1840-1853

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<th></th>
<th>Aconchi</th>
<th>Banámichi</th>
<th>Cumpas</th>
<th>Hermosillo 1840</th>
<th>Hermosillo 1853</th>
<th>Huepac</th>
<th>Nacori Chiquito</th>
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</thead>
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<tr>
<td>Farmer</td>
<td>103</td>
<td>125</td>
<td>307</td>
<td>259</td>
<td>214</td>
<td>27</td>
<td>15</td>
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</tr>
<tr>
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<td></td>
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</tr>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Miner</td>
<td>23</td>
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<td></td>
</tr>
<tr>
<td>Production Worker</td>
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</tr>
<tr>
<td>Baker</td>
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<td>14</td>
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</tr>
<tr>
<td>Silver Worker</td>
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<td></td>
<td></td>
<td>31</td>
<td>1</td>
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<td></td>
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<tr>
<td>Teacher</td>
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<td></td>
<td>4</td>
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</table>
### TABLE 8 CONTINUED

Occupations in Selected Communities, 1840-1853

<table>
<thead>
<tr>
<th></th>
<th>Aconchi</th>
<th>Banámichi</th>
<th>Cumpas</th>
<th>Hermosillo 1840</th>
<th>Hermosillo 1853</th>
<th>Huepac</th>
<th>Nacori Chiquito</th>
</tr>
</thead>
<tbody>
<tr>
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<td></td>
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<td></td>
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<td></td>
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<tr>
<td>Rancher/Farmer</td>
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<td></td>
</tr>
<tr>
<td>Retired Official</td>
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<td></td>
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<tr>
<td>Retired Sargent</td>
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<td>Sexton</td>
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<tr>
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<td>23</td>
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<td>Worker/Servant</td>
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<td>12</td>
<td></td>
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<td>11</td>
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<tr>
<td>Hat Maker</td>
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<td>Cattle Worker</td>
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<td>66</td>
<td>3</td>
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Sources: AHGES, FE, Aconchi, Banámichi, Cumpas, Huepac, Tomo 258, 1848. AHGES, FE, Hermosillo, Tomo 1088, 1840; AHGES, FE, Hermosillo, Tomo 258, 1853.
### TABLE 9

Female Occupations in Selected Communities, 1848

<table>
<thead>
<tr>
<th>Occupation</th>
<th>Banámichi</th>
<th>Huepac</th>
</tr>
</thead>
<tbody>
<tr>
<td>Baker (Amasadora)</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Cook (Cocinera)</td>
<td></td>
<td>3</td>
</tr>
<tr>
<td>Seamstress (Costurera)</td>
<td></td>
<td>2</td>
</tr>
<tr>
<td>Domestic Worker (Doméstica)</td>
<td>25</td>
<td>10</td>
</tr>
<tr>
<td>Farmer (Labradora)</td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>Washer Woman (Lavadera)</td>
<td></td>
<td>3</td>
</tr>
<tr>
<td>Potter (Ollera)</td>
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<td>1</td>
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<tr>
<td>Midwife (Partera)</td>
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<td>1</td>
</tr>
<tr>
<td>Worker/Dependent (Sirvienta)</td>
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<td>1</td>
</tr>
</tbody>
</table>

Sources: AHGES, FE, Banámichi, Huepac, Tomo 258, 1848.
TABLE 10

*Domésticos* in Banámichi, 1848

<table>
<thead>
<tr>
<th>Domésticos</th>
<th>Total Households</th>
<th>Households with Domésticos</th>
<th>Average Household Size</th>
<th>Occupation/Status of Household Heads with Domésticos</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Male-headed Households</td>
<td>122</td>
<td>18</td>
<td>6.2</td>
<td></td>
</tr>
<tr>
<td>Female-headed Households</td>
<td>39</td>
<td>4</td>
<td>5.6</td>
<td></td>
</tr>
<tr>
<td>Households with servants</td>
<td></td>
<td></td>
<td>8.2</td>
<td></td>
</tr>
<tr>
<td>Farmer</td>
<td>13</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Miner</td>
<td>2</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Teacher</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Merchant</td>
<td>1</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Retired Official</td>
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</tr>
<tr>
<td>Widow</td>
<td>4</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Source: AHGES, FE, Banámichi, Tomo 258, 1848
Census data from the mid-nineteenth century suggests that the majority of Sonorans married at least once in their lifetime, and in the face of high mortality rates, many people married multiple times.\(^1\) Nevertheless, these documents say little about community expectations of married couples, and what married women and men hoped for in their partners. Court records provide some insight into community and individual expectations of marriage. They also demonstrate that ideals about what constituted a good wife and a good husband were often gendered and offered ample room for contention among family members.

Local judicial cases involving married couples in Sonora suggest that extended kin were actively involved in the courtship and marital lives of their siblings, children, nieces, nephews and cousins. Historians of Latin America have tended to emphasize the "corporate" nature of family structures in the late colonial period and early nineteenth century among elites, and have explained these patterns in terms of their economic logic,
that is, that marriage was the basis of economic alliances among wealthy families. This was certainly true in the case of Sonora, even among less prosperous families with little or no property at stake. Extended kin, including parents, in-laws and siblings, regardless of economic and social status, took an eager interest in the romantic and marital affairs of their relatives. Their involvement stemmed in part from economic claims on family property and labor, as well as strongly held values regarding the primacy of community and extended family in assuring that individuals fulfill their marital obligations for the wellbeing of the family and the community. Time and again, Sonorans linked "marital tranquility" and cooperation to the welfare of the extended family and to the existing social order. As the following cases demonstrate, however, collective values sometimes conflicted with the individual interests of a particular family member.

In the courtroom, women and men interpreted ideals of family tranquility in distinct ways and drew on notions of marital obligation and cooperation for different purposes. Women, for example, usually fashioned connections between marital peace and community welfare in order gain a measure of autonomy and security from an abusive or neglectful husband. Husbands, in contrast, often argued that the courts needed to respect their authority as household patriarchs in order to maintain the social order.

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Ultimately, women found little success in cases that threatened a husband’s authority, especially when a favorable outcome limited his ability to control his wife’s sexuality. Moreover, women who sought to protect the sexual honor of younger female kin faced skepticism from court officials. Thus, notions of “community and family tranquility” often touted in court testimonies ultimately served or became subordinate to maintaining male privilege.

In spite of clear biases in the judiciary toward female litigants, women sought to utilize colonial legal precedent and community sentiment to their favor as much as male counterparts. Moreover, local justices treated the presence of women as independent actors in the courtroom as routine, particularly in cases related to the management of financial affairs. In a few cases, judges paid no attention to the marital status of women whose financial duties and estates brought them into the courtroom on a regular basis.³ Mexico inherited Castilian law codes that accorded married women specific rights to own property and bequeath property to heirs. Dowries, for example, remained the wife’s property, even if husbands had the authority to administer them. Furthermore, married couples owned property acquired during the course of the marriage in joint title. Women routinely exercised these legal rights to property in the local courts in Sonora, often to the benefit of their husbands. Together these cases point to a basic contradiction that women in Sonora faced in their daily lives. They had a significant presence in the public sphere

because of their work and their need to manage their finances and property, even as they faced considerable scrutiny in their sexual and moral conduct.

Finally, while legitimate marriage was the ideal, couples lived together and raised children without taking formal vows. Their behavior appears to have caused little scandal among neighbors and kin, and the community took an active interest in the well-being of these relationships, as they did with married couples. Nevertheless, judges took grievances among unmarried couples less seriously, especially when women were plaintiffs. These cases underscore that in spite of limitations judges faced in their ability to enforce laws regarding cohabitation and concubinage in their communities, they still imposed a moral code that favored marriage where possible, while women and children were most often the casualties of their legal decisions.

**COURTSHIP**

In 1843, Vicente Calvo, a French traveler who spent an extended period of time living in Sonora, rendered a vivid, albeit maudlin portrayal of mid-century courtship among young residents from the Port of Guaymas:

On summer nights, when the sky is serene and the sea is calm, the pier provides a place for walks and is busy with traffic. There one can see the young enjoying themselves. It is a truly romantic place, one of the most sublime sights available to the eyes when the moon casts its dusky light and reveals in the distant shadows the fantastic and immense mountains that surround the bay. One hears the sound of sailors, and the melancholy songs of men with their guitars seeking to captivate

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4 It is difficult to know exactly how many men and women lived in consensual unions. Census data from the mid-nineteenth century suggests that single household heads ranged from 5% to 22% in some communities, but not every single household head lived in consensual unions. Moreover, these figures tell nothing of the number of couples who lived together before making formal marriage vows. Still, the practice receives frequent mention in court testimonies.
with their sad and somber music, the dark, smoldering and brilliant eyes of their lovers...⁵

Calvo’s anecdotes about flirting and courtship continued with accounts of evening gatherings in the homes of Guaymas residents, prime locations for conversation, dancing and romance. In rural interior communities, local landowners hosted Sunday socials after mass, and these were among the most common settings for courtship throughout the region, particularly during religious holidays. Calvo found the women especially striking at parties that sometimes lasted well into the next morning, where they rode horses, smoked tobacco, played games of physical risk, danced and gambled with the same enthusiasm and energy as men. Calvo obviously found such forward behavior among women astonishing and concluded that romantic intrigue, often with more than one suitor, was the primary aim of these diversions.⁶

Calvo’s accounts, especially regarding Sonoran women, likely reveal as much about his own fantasies as they do about actual courtship among Sonora’s youth in the nineteenth century. Nevertheless, his writings also highlight how and where lovers and potential spouses met. Sunday masses and subsequent gatherings did more than fulfill the spiritual needs of the community, they provided a venue for romance, as did parties in the

⁵ Biblioteca Central de la Universidad de Sonora, Colección Pesquería (BCUSCP), Vicente Calvo, Descripción política, física, moral y comercial del Departamento de Sonora en la República Mexicana, 1843, 39-40. “En las noches del estío, cuando el cielo está cereno y la mar en calma, el muelle sirve de paseo y su reunión es concurrida. Verse allí toda la juventud que se entrega al contento y al placer. Es un sitio verdaderamente romántico, un espectáculo de los más sublimes que se pudieran ofrecer a los ojos, cuando la luna refleja su luz incierta sobre el mar, y que se dibuja a lo lejos sombría y fantástica las inmensas montañas que lo rodean, el ruido de los marineros, el canto patético de los enamorados acompañado de la guitarra, que tratan de cautivar con canciones tristes y melancólicas, los ojos negros, húmedos y brillantes de sus queridas.”

⁶ Ibid., 122-24.
private homes of the more affluent members of local society. There, well-dressed daughters and nieces who sang, danced and conversed were the centerpieces of the evening’s entertainment. Based on court testimonies, these celebrations were not always the strict affairs of notables. They were sometimes open to neighbors from the across the social spectrum. While it is unclear if local farmers and artisans were invited, they at least showed up at the same festivities as notables, and the intrigues of dependents and servants occasionally took center stage at the gatherings.

In larger communities such as Guaymas or Alamos that either had a port or an ample central plaza, local residents gathered, walked and rode about in public spaces in search of romance as well as other socializing. Seventeen years before Calvo’s arrival to Sonora in the 1840s, British Lieutenant William Hardy noted that gambling, bull fights, cockfighting and promenading in the central square were favorite pastimes among the city’s residents in Alamos. The weekly ritual of driving around the central plaza in mule-drawn coaches was an excellent occasion for meeting and flirting with prospective lovers and spouses.7

Most people in Sonora married at least once in their lifetime and many romances begun during promenades and parties after Sunday mass likely ended in marriage. But courtship, unless it went terribly amiss, was not punctuated by an encounter with judicial officials.8 As a result, judicial records that touch on courtship deal almost exclusively


8 Under the most auspicious circumstances, couples did not go before judicial authorities until they acted as executors of a deceased spouse’s estate. The Church was responsible for maintaining marriage, birth and death certificates until the Liberal Reforms of the 1860s.
with the most conflicted relationships. They primarily included situations in which the parents and other relatives did not approve of a partner and the couple chose to elope. Sometimes men deceived women with the promise that they would marry in return for sex or more rarely, men kidnapped women by force and raped them in the hope of forcing both the woman and her family to accept a marriage proposal. The plaintiffs and the judicial officials defined these diverse situations as seduction and kidnapping \[\text{rapto or robo de una hija}\], but sometimes families came to blows over ill-fated romances among their children and siblings and found themselves in court over assault charges. Together these cases of rapto and assault demonstrate that courtship, regardless of its outcome and one’s social status, concerned the entire family and was not simply a matter of importance to the couple involved.

It was most obvious that courtship was a collective undertaking when a couple fled their homes against the wishes of at least one parent, particularly the father. Parents and judges understood these rapto cases as disputes between the male suitor and the father. Suitors committed the grave crime of undermining a father’s right to exercise authority over his daughter by “stealing” her from his household. Such an understanding of the conflict ultimately rendered the daughter’s individual wishes—and her occasional allies—of little importance, and in some instances, officials did not even bother to take testimony from the women involved in the cases. Nevertheless, when a daughter eloped with a potential husband whom her father did not approve of, her actions posed a direct

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9 This chapter will focus on rapto cases that were more clearly consensual. Cases of forced kidnappings were more akin to rape and are discussed in Chapter Three.
threat to a father’s authority to guard and control sexual access to the women in his household. Fathers and even judges carefully avoided making the daughter’s challenge to his authority explicit in court proceedings.\(^\text{10}\)

The case of Juan José López and María Refugia Nogel clearly demonstrates that even if parents and officials understood *rapto* cases as a conflict over patriarchal authority between fathers and suitors, women sometimes had different interests in mind. One evening in May 1835, Maria Refugia Nogel fled with her lover Juan José López from Hermosillo to the city of Alamos to get married. Juan José, a twenty-one-year-old tailor, and fifteen-year-old Maria Refugia, the daughter of a *labrador*, left Hermosillo in secret because Maria Refugia's parents did not approve of their courtship. In his testimony, Maria Refugia’s father, José Nogel, tried to convince the court of his daughter's innocence in the crime or at least her passivity by declaring that Juan José easily seduced her because of her tender age as well as her sex.

But María Refugia and her lover undermined her father’s efforts to render her passive in her own elopement. Juan José López claimed that María Refugia was no

\(^{10}\) The definition of *rapto* assumed that for a woman to be respectable, her suitor had to have taken her away by force or that she was seduced because of her weak character, a condition inextricably linked to her sex. A central question in studies dealing with *rapto* and *estupro* is the agency of the women involved in the cases. See, Carmen Castañeda García, *Violación, estupro y sexualidad: Nueva Galicia, 1790-1821* (Guadalajara, Jalisco, México: Editorial Hexágono, 1989); Bernardo Caycedo Acosta, “El supuesto rapto de Manuelita Sáenz,” *Boletín del Archivo General de la Nación (Venezuela)*, 71:240-241 (1981), 130-135; Eugenia Rodríguez Sáenz, “Pecado, deshonor y crimen: el abuso sexual a las niñas; estupro, incesto y violación en Costa Rica, 1800-1850, 1900-1950,” *Iberoamericana (Germany)* 2:8 (December, 2002), 77-98.
longer a virgin and consented to sex when he promised to marry her.\footnote{Si la conoce que hace un año (poco más o menos) y que atenido acceso carnal con ella bajo la palabra de casamiento, que ambos se han dado, lo que no se ha efectuado por no querer los padres de ella." \(AHGES, \text{Fondo Poder Judicial, Penal (FJP), Hermosillo, Tomo 632, "Contra Juan José López por sacó una hija,"} 1835, 3.}} Maria Refugia herself confirmed Juan José’s claims that she left her father of her own free will in order to marry. Ultimately, the father pardoned Juan José, but only after Juan José became ill in jail and the courts chastised him for taking María Refugia away from her father’s home—and authority—at such a young age and against the wishes of her parents. Juan José eventually won a pardon, but only after he spent time incarcerated, he became ill and María Refugia’s father and the local judge were satisfied that Juan José was sufficiently remorseful that he had compromised José Nogel’s influence over his daughter. Even if María Refugia wanted to accord herself agency in her courtship with López and in her own \textit{rapto}, her father and the courts refused to do so.

Above all, \textit{rapto} cases threatened masculine parental authority, as a \textit{rapto} accusation against Reyes Durazo and his ill-fated relationship with Carlota Melendrez in 1838 illustrates. The case of Reyes Durazo and Carlota Melendrez also highlights how adults, even parents, were sometimes complicit in \textit{rapto} cases. After his arrest, Reyes Durazo defended his actions with Carlota by arguing that Carlota’s own mother agreed that Reyes should flee with Carlota against the will of the father José María Melendres. José María’s legal representative [\textit{apoderado}] tried to minimize the damage of Durazo’s claim by maintaining that the \textit{rapto} was above all an offense against the father José María, his authority and more broadly, the crime undermined public decency. Thus, parents and the legal representatives conceptualized \textit{rapto} as a collective offense, one that
compromised the family and especially male guardians, in addition to the entire community. Equally important, the judge never called Carlota nor her mother as witnesses, illustrating the court’s complicity in minimizing the role of both the daughter and mother in the case, especially since their wishes may well have contradicted the will of the father.12

While women who actively participated in their own rapto subverted proscribed courtship rituals and patriarchal authority by pursuing their own wishes over those of their parents, they also took great risks for themselves and their families, because their suitor could at any time back out of the agreement. Manuel Parra, a labrador and the father of twenty-three-year-old Francisca Parra, charged her lover Cruz Velande with rapto after it was clear that Cruz backed out of his marriage promise to Francisca. Manuel Parra had first tried to arrange that the rapto end in marriage. Like the previous case, Parra clearly argued that Cruz Velande’s crime was above all an insult to his honor and to his entire family, not simply to his daughter. One of the witnesses who testified on behalf of Manuel Parra claimed that he thought the crime was not only an offense against political morality, but also against religion, underscoring the centrality of religious sentiment in judicial disputes that touched on issues of morality.13 In Sonora, men from a higher social status, particularly merchants, estate owners [hacendados] and politicians tended to use the language of honor more often, but not exclusively. Artisans and

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12 AHGES, FJP, Hermosillo, Tomo 641, “Contra Reyes Durazo por rapto,” 1839.

13 AHGES, FJP, Hermosillo, Tomo 660, “Contra Cruz Velande por rapto,” 1844.
farmers also employed ideas of honor to defend their actions in court. Defending honor, however, was more clearly a male prerogative.

Women did not identify honor as the reason they defended their daughters and sisters in cases of *rapto*, suggesting that they were reluctant to make explicit, public claims to defending family honor. In fact, mothers and sisters seldom appeared in court on behalf of their daughters and sisters in *rapto* cases, and women had less success in their efforts to defend publicly their younger female kin during disputes over sexuality. Nevertheless, when rebellious daughters participated in their own *rapto* and fled against the wishes of a mother, they still injured the reputation of the entire family in the process.

In 1837, Juana Prieta came before Judge José Elias to accuse Trinidad Bueno of *rapto* against her sister Anastacia Prieto. She did so in an almost apologetic tone, explaining that she only appeared as a plaintiff because her own husband was not available to file the complaint due to his work in the mines, while her mother was ill. She avoided discussing her father's absence at all. In her testimony, Juana described her sister Anastacia as a young virgin, but also one who clearly played an active role in her own *rapto*.

Anastacia's mother, Dionicia Prieta, was the first to notice that her young daughter had not come back from her last trip of carrying water and later discovered that all of Anastacia's clothing was missing. But unlike many of the male plaintiffs, Anastacia's mother did not try to minimize her daughter's role in the crime. In fact, in a letter to the court, she publicly chastised her own daughter for bringing dishonor to the entire
Although she took her young daughter back into her home after Judge Eiias sent Trinidad Bueno into exile, she openly renounced Anastacia first, arguing that both Anastacia’s and Trinidad’s actions disgraced her family. Dionicia Prieta never tried to frame the conflict as one exclusively between herself as the household matriarch and Trinidad Bueno. Implicit in her strategy was the recognition that courts would more willingly accept her assertion of authority over her own daughter as opposed to a direct and exclusive challenge to a male suitor. These cases illustrate how justices and plaintiffs understood *rapto* as a dispute between a male parental authority figure and a male suitor, even if the women involved in these cases left willingly and actively planned their escape with their lovers.

*MARRIAGE AND PROPERTY*

While most couples managed to avoid legal disputes in the course of their courtship, married life was rife with possibilities for conflicts over money, property, children, labor and fidelity, among other issues, and historians have generally emphasized how court testimonies expose the most acrimonious aspects of marriage. Nevertheless, judicial cases also reveal how couples sustained each other’s interests in the courtroom, particularly regarding the management of property and debt. In fact, among the available

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14 “[N]o pudo menos, que castigarla, por la desonra que le hizo, y su escandalozo delito.” AHGES, FJP, Hermosillo, Tomo 636, “Contra Trinidad Bueno, raptor,” 1837, 9.

civil suits in Sonora involving spouses, couples appeared far more often as allies than as adversaries. Husbands in particular represented their wives in court over property and debt disputes with outside parties. They also represented their in-laws and mothers in civil disputes over credit and property, which suggests that families continued to form the basis of local and regional economic alliances well into the nineteenth century in Sonora, and secondly, that marriage was critical to cementing these ties.

The presence of husbands representing their wives in civil suits also underscores that many men took an active role in managing their wives’ estates. Don Calistro Guevara, for example, served as apoderado on behalf of his wife and mother-in-law in a land dispute with Don Joaquín Astaracan in 1836. Juan Maria de la Madrid from Cumpas appeared in civil court to represent his wife, Doña Manuela Ballesternos, against Don Manuel José Carillo over a bad sales contract. Don Victor Dávila pursued a civil suit against Don Francisco Monteverde on behalf of his wife and her siblings over property they inherited from their deceased father Juan José Buelna. Don Antonio Beloc carried

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16 Even if husbands and wives disagreed privately over how to manage their estates, they seldom went to court over internal disputes regarding property and debts unless they were already separated.

17 Although social and economic conditions varied between Sonora, Mexico, and São Paulo, Brazil, Muriel Nazzari’s study of family enterprises in São Paulo during the 17th, 18th and early 19th centuries provides useful insights into the changing role of the family as a business unit in local and regional economies. Moreover, she emphasizes how women played a central role in reproducing and maintaining these systems. See Muriel Nazzari, Disappearance of the Dowry: Women, Famililies, and Social Change in So Paulo, Brazil, 1600-1900 (Stanford: Stanford University Press, 1991), 3-14.

18 Monteverde, the executor of Buelna’s estate, claimed the land for himself.
out a civil suit against Don Gregorio Durazo over a house that he claimed his wife and minor sister inherited from their father.\textsuperscript{19}

These cases and others also suggest judges and the plaintiffs themselves likely found it more befitting for men to appear publicly in court on behalf of their female kin. Nevertheless, a husband’s active legal role was not simply a result of gender biases against female plaintiffs. In the above cases, for example, all the husbands knew how to read, sign their names and exhibited basic knowledge of state property laws. Not all the men were necessarily wealthy, but they were propertied and educated, and the families were strategic in choosing a representative who was not only male, but also educated and knowledgeable of court proceedings. Don Victor Dávila in particular served often as an \textit{apoderado} for people who were not related to him in addition to representing the financial interests of his spouse and extended kin in court. The constant presence of men like Dávila underscores that in Sonora, family ties and business transactions remained deeply intertwined well into the nineteenth century. Moreover, in the absence of banks and the relative institutional and economic weakness of the Church throughout most of the region, families and individuals were a primary source of credit. Merchant houses played an increasing role in extending credit in the nineteenth century, but they too were often established on and ordered along kinship ties.\textsuperscript{20}

\textsuperscript{19} AHGES, Fondo Poder Judicial, Civil (FJC), Hermosillo, Tomo 1247, "Testimonio de expediente instruido sobre interdiction de poseción de una casa, promovido por Don Antonio Beloc," 1844; AHGES, FJC, Hermosillo, Tomo 1212, "Promovido por Víctor Dávila contra Don Francisco Monteverde, reclamando la ‘Labor de Abajo,’” 1833; AHGES, FJC, Hermosillo, Tomo 1252, Juan María de la Madrid contra Don Manuel José Carillo, 1847; AHGES, FJC, Hermosillo, Tomo 2479, “Expediente promovido por Don Calistro Guevara contra D. Joaquín Artiasaran,” 1836.

In some civil cases involving spouses, husbands were not simply acting as representatives on behalf of their wives because of their education, greater legal experience or gendered assumptions about women’s place in the courtroom. Rather, in an effort to avoid debt or embargoes on their property, couples collaborated together to benefit from laws that accorded women the right to hold property and manage their own financial and legal interests. Doña Juana Contreras, for example, filed a formal protest in Hermosillo when the court of the first instance placed a lien on her property for debts that her husband, Don Bernardo Gastelum, failed to pay. In her initial complaint, Contreras explained that the lien affected her dowry, in addition to other assets she brought to her marriage with Gastelum that were hers exclusively, and the judiciary had no right to use her property to compensate for her husband’s debt. In a final ruling, the judge of the first instance, Don Toribio Menendez did honor part of Contreras’s demand. He concluded that the judiciary could not seize the value of Contreras’s original dowry, but it did ultimately confiscate all additional income and assets she earned from her dowry subsequent to her marriage to Gastelum.

Doña María Jesús Félix and her husband Don Francisco Moreno y Heredia pursued a similar strategy when Don Jesús Moreno placed a lien on a house for an outstanding debt against Moreno y Heredia. Félix and her husband claimed that the house was the exclusive property of Félix. This time the courts decided in favor of the

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21 “[Q]ue los Bienes marcados con la marca que representa son de mi propiedad, y estos por ningun título deben ser embargados por deuda de mi esposo.” AHGES, FJC, Hermosillo, Tomo 1237, “Oposición que hace Doña Juana Contreras al embargo de bienes que se hizo á su esposo D. Bernardo Gastelum,” 1841, 2.

22 Ibid., 21.
creditor Jesús Moreno, in part because Félix could not clearly demonstrate that the house was hers exclusively or belonged to her dowry. Even if Contreras’s and Félix’s efforts to separate their assets from their husbands’ was part of a strategy to simply avoid paying debts, their tactic also underscores the value that women placed on their legal right to maintain control over their assets, particularly those they owned before they were married. The case also demonstrates the continued importance of the dowry in some property suits in Sonora during the middle of the nineteenth century.

While it was common for husbands to represent their wives’ financial interests in court, men in Sonora did not necessarily stand a significantly better chance at winning civil disputes over property and debt than did women who represented themselves or hired outside legal counsel. Judicial records provide examples of married women, single women and widows who represented themselves or hired unrelated apoderados as a matter of course, as did many men who had the financial means to do so. In short, even though the significant presence of husbands, sons-in-law and other male relatives representing women in court hints at a stigma attached to women representing themselves in a public forum, it did not preclude many women, even married women, from appearing in court to protect their own interests.

For almost twenty years, Doña Ramona Robles from the port community of Guaymas pursued civil suits over debts and occasionally appeared in court as a defendant. She successfully sued the alcalde of Guaymas, Don José María Tapia, for
unpaid debts in 1832. In all her legal disputes, neither the judges, nor she herself ever explicitly identified her civil status, but based on the evidence she presented in court, she was certainly involved in buying and selling cloth and other imported goods, as well as foodstuffs. Court testimonies make references to her frequent association with merchants and local politicians that involved financial agreements as well as card playing. She did not know how to sign her own name, but like many men who had the means to do so, she always hired apoderados to represent her in court, and none of these men identified themselves as her relative, as was customary. Robles was an important creditor as well as debtor in her community who routinely made independent financial decisions about how to manage her estate. She handled her own financial affairs effectively in a community where the development of a local market economy and the preponderance of private ownership were particularly evident by the middle of the nineteenth century. Her active presence in the courtroom, like that of other female litigants, suggests that at least some women were able to capitalize on transformations in the region that eventually favored an economic system based on private ownership and individualism. In contrast, historians who examine women’s property rights in other regions of Latin America have tended to link the emergence of liberal economic arrangements to the decline of women’s legal

23 AHGES, FJC, Hermosillo, Tomo 1210, “Ejecutivo promovido por Doña Romona Robles contra Don José María Tapia por pesos” 1832, 19.

rights to property and to their decreasing presence in the civil courts. In Sonora, liberal reforms eventually had similar effects, but high morality rates and frequent migration among men likely provided some women the possibility to take advantage of trends toward commercialization and privatization.25

In Pueblo de Seris in 1836, Doña Josefa Salcedo successfully represented herself in a land dispute with her neighbor, Don Santiago Gutiérrez, after he planted crops on land that Salcedo argued belonged to her property, the Rancho de las Avizpas. She also carried out a suit against a neighboring Seri community over communal landholdings, in which she lauded the virtues of private ownership over communal property. Like Ramona Robles above, Salcedo did not discuss her civil status. She only presented herself as a vecina of Pueblo de Seris and the sole and legitimate owner of the Rancho de las Avizpas, as did the witnesses who testified in the case.26 Salcedo could also sign her own name on legal documents and did not hire an apoderado or ask a male relative to represent her. Lawsuits involving women like Robles and Salcedo, who acted independently in the management of their financial and legal dealings, did not make up


26 AHGES, FJC, Hermosillo, Tomo 1224, “Promovido por Ma. Josefa Salcedo, contra Don Santiago Guierrez por un terreno,” 1836; AHGES, FJC, Hermosillo, Tomo 1227, “Instancia civil, en que pide amparo Doña Josefa Salcedo sobre el despojo que intentan hacerlo los indigenas del Pueblo de Seris, intimandole salga de aquel fundo con sus bienes,” 1837.
the majority of all civil cases. Nevertheless, their presence in the courtroom was not unusual, and widows in particular used the courts while settling their financial and legal affairs. The routine legal and financial transactions of women such as Robles and Salcedo reflect the continued importance of colonial law to the daily lives of women in nineteenth-century Sonora. For decades after independence, these laws formed the basis of what allowed women, specifically widows and single women over the age of twenty-five, the right to own property and enter into contracts, and women in Sonora acted habitually on these legal rights.\footnote{Edith Courturier, “La mujer y la familia en México del siglo XVIII: legislación y práctica,” \textit{Historias} 36 (1996) 27-37.}

Yet it was this same colonial legal tradition that made married women particularly vulnerable in their efforts to manage property, litigate, extend credit and contract debts. In Sonora, married women with absent husbands were most conscious of their disadvantage before the law in controlling their estates and engaging in commerce. For example, due to her husband’s extended absence, Doña Carmen Aguilar from Guaymas went before the civil courts in 1844 to receive formal permission before establishing a merchant house and entering into contracts.\footnote{AHGES, FJC, Hermosillo, Tomo 1247, “Promovido por Doña Carmen Aguilar solicitando se le de permiso para contratar por ausencia de su esposo Don José Maria Oceguera,” 1844.} And although they were often successful at keeping their property when they provided sufficient evidence of ownership, married women whose husbands abandoned them still sometimes had to contend with parties trying to collect their absent husband’s debts.\footnote{See AHGES, FJC, Hermosillo, Tomo 1256, “Instancia de Doña Rosalía Ruelas en que pide el desembargo de unas bestias mulares y caballares contiene otros documentos relativos al mismo embargo,” 1849.}
Moreover, married women with absent husbands were careful to guard their public reputation as being morally and sexually chaste, because their reputation had implications for their ability to control successfully their financial affairs. In 1848, Doña Francisca Botella sued Don Francisco Uruchurto for 120 pesos, accusing him of carving insults about her into the bark of an orange tree while he was renting an orchard from her near Hermosillo. Witnesses stated the insults referred to Botella as a "whoring thief" and an "old woman of the devils."[^30] Botella was married and in her fifties, but her husband had lived outside of Mexico for several years at the time of the suit.[^31] Botella was able to present witnesses who implicated Uruchurto in the crime, but the case did not include a final sentence. For her part, Botella was deeply anxious about the danger the insults posed to her reputation, especially in light of her husband’s long absence. In her initial brief, Botella stressed that Uruchurto’s writings were injurious to her reputation and gave no thought to the fact that she was married, her husband was still living, and above all, that her conduct had not given Uruchurto nor anyone else reason to soil her reputation.[^32] Botella’s willingness to litigate over insults was more than a question of pride; rather, it demonstrates that for married women with absent husbands, an


[^31]: As a result, she frequently represented herself in court in a variety of legal suits, from debt disputes to failed contracts, to a *rapto* case involving a niece.

[^32]: "[U]nas letras injuriosas á mi reputación sin atender á que soy casada á que aun vive mi esposo, y sobre todo, que aun cuando fuera lo que indican a primera vista las letras iniciales de que he hecho merito ni el Señor Uruchurto ni ninguna otra persona." AHGES, FJC, Hermosillo, Tomo 1255, "Promovido por Doña Francisca Botello, contra Don Francisco Uruchurto por pesos," 1848, 3.
unquestioned reputation of sexual and moral conduct was critical to their economic well-being and ability to conduct business effectively in their communities.

Still, in the realm of civil suits over debts, contracts and property, women did not experience as much discrimination in the courts as they did when involved in legal suits regarding issues of morality and sexual conduct. Many women were successful in protecting their financial interests, both with and without the representation of male kin. Such relative parity in civil suits over property and debt did not imply that women had the same economic opportunities as men, nor that, as in the case of Botella above, they were not held to a higher standard of moral conduct in order to simply manage their financial affairs. Nevertheless, both their routine appearance in the courtroom and their accomplishments before an exclusively male judiciary point to the continued importance of colonial legal precedents which, depending on their civil status, accorded women the right to buy, sell and manage property and enter into other commercial contracts. In addition, their continued presence in court suggests that at least through the middle of the nineteenth century, families were a basic economic unit in local and regional commercial exchange, and this was true not simply for the wealthiest families, but for those with more meager assets as well. Moreover, at the same time that women actively worked to benefit from colonial legal traditions that conceptualized the family as a “corporate” economic entity, some, like Doña Josefa Salcedo above, also drew on liberal notions of private property to justify their claims to land and financial independence.
LA MALA VIDA: ABUSE AND SEPARATION

While civil court records provide ample evidence of women’s centrality and agency in the management of financial and legal matters within and outside of marriage, criminal suits demonstrate the reality of abandonment and physical abuse, even to the point of death in some cases. On rare occasions, married women sought ecclesiastical divorces and separations to escape violence or economic abandonment, then later went to civil court to sue for financial support or the division of their assets from their estranged husbands. By far, however, the most common cases of marital dispute involved criminal litigation against husbands who physically assaulted their wives. These suits, like similar conflicts in Hispanicized communities in other regions, often highlight how wives, husbands and judges shared and disputed notions with unequal reciprocity within marriage. In theory at least, husbands were obligated to provide financial support and “protection” to their wives, and in return, husbands expected obedience. In practice, such an arrangement allowed husbands tremendous latitude for mistreatment and abandonment, as they often determined for themselves what constituted “protection,” “support,” “obedience” and “moderate punishment.”

33 These cases of physical abuse and economic neglect were often referred to as *mal trato*, but on most occasions, judges used expressions such as “dar golpes” and “dar heridas” to describe domestic assaults, the same terms used in assault cases among non-related parties.

In Sonora, ideologies that validated a husband’s authority over his wife held
significant consequence for the outcome of *mal trato* cases. The Attorney General of
Sonora, José de Aguilar, for example, recommended a pardon for Rafael Salgado from
Hermosillo for beating his wife, María Sacramento Sobrano. According to Aguilar,
Sobrano had quarreled unduly with her husband when he returned home after serving jail
sentence for unpaid debts. Salgado was angry with his wife because she had not
delivered food to the jail during his incarceration. In fact, she had done so, but Salgado’s
and Sobrano’s son, who was in charge of delivering the meals to his father, told his
mother that Salgado had wanted Sobrano to stop sending food. When Salgado searched
for his son to punish him, Sobrano came to his defense and told Salgado that she herself
had hidden their son. Salgado instead attacked Sobrano by grabbing her by the hair and
beating her brutally with his fists.

While the judge of the first instance José Ellías thought that the beating was
excessive and therefore punishable, the attorney general José de Aguilar reasoned that as
heads of the household, men had the authority to “correct” their wives with moderate
corporal punishment. Sobrano’s main contention was that her husband had been
excessively cruel in punishing her, something that some of the judges involved in the
case, such as José Elias, even conceded. Aguilar acknowledged that the beating was
excessive, but still recommended pardon for Salgado in light of the fact that he had just
gotten out of jail and his wife had quarreled with and insulted him. Moreover, Aguilar
stressed that the couple should try to reconcile and find tranquility in their marriage, as
Salgado and Sobrano had had other disputes in court. Aguilar’s recommendations reflect
the overall tolerance judicial officials exhibited for physical assaults as a form of “correction” for wives who questioned their husband’s authority and the arbitrariness of how men, both husbands and court officials, defined “moderate punishment.” Discretionary definitions of “moderation” served the interests of husbands more than wives.

In Sonora as in other regions, the goal of the judiciary in mal trato cases was not to condemn all physical mistreatment of women. Rather, judges sought to determine if the husband had abused his authority over his wife and overstepped his position within a “natural” hierarchical order that allowed men to “punish and correct” their wives. Judges most often cited the severity of a woman’s wounds in an assault as the central explanation for whether they chose to punish or pardon a violent husband or lover. In 1848, for example, José Elías sentenced Sacramento Yanes, a jornalero, to three months in obras públicas, in part because of the severity of damage he did to his lover’s left arm in an assault. Yanes and his lover, María Agustina Grijalva, had been arguing about whether Yanes had brought home enough money for Grijalva to prepare his meal. A doctor who observed Grijalva feared that she would lose permanent use of her arm as a result of Yanes’s attack. In 1840 in Guaymas, justice of the peace José María Serrano set a tailor Victoriano Ibarra free after he assaulted his wife and a neighbor with a knife and bayonet, in part because in the course of a long investigation that found Ibarra guilty,

35 AHGES, FJP, Hermosillo, Tomo 667, “Información sumaria por delito criminal seguida á Sacramento Yanes por acusación de la agraviada María Agustina Grijalva,” 1848.
the victims' wounds had healed. Francisco Cantua, a sirviente to Francisco Uruchurtu, beat his lover Loreta Romero in an orchard outside of Hermosillo with a sword [espada], but received a pardon because Romero's wounds had healed during the two-month investigation that Cantua spent incarcerated.

Above all, the judiciary worked under the assumption that estranged couples should reconcile in the name of "restoring domestic harmony" and more broadly, to avoid public scandal and disorder. Neighbors, relatives of the couple and local officials, who most often reported these disputes and initiated criminal proceedings, expressed concern over how fierce beatings disturbed pubic and domestic tranquility. They seldom discussed physical or emotional damage to the individual victims. In 1841 in Ures, for example, the justice of the peace Corme Peña stated that the overall purpose of an investigation in a domestic conflict between Don Ignacio Colosio and his wife Doña Hermenegilda Saldamando was to "end their domestic differences in favor of familial tranquility." When local notables in Hermosillo, Don Manuel Iñigo and José María Escalante, heard screams coming from the house of a carpenter Don José Aguirre, they feared that he was murdering his wife and discovered him beating her with a pistol. Neighbors and relatives begged Aguirre to stop and unlock the door, but Aguirre replied

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36 AHGES, FJP, Hermosillo, Tomo 642, "Sumario criminal en aclaración de las heridas que Don Victoriano Ibarra inferió a Jesús Moreno, y golpes que dió a su esposa Josefa Rainonet" 1839.

37 AHGES, FJP, Hermosillo, Tomo 699, "Toca á la causa criminal seguida en el juzgado de 1a. instancia de Hermosillo contra Francisco Cantua por golpes" 1848. Cantua's amo was a justice of the peace in Hermosillo, but there is no evidence that Uruchurtu's position influenced the outcome of the case.

38 "[A] fin de terminarán las diferencias domésticas, que se notan, en favor de la tranquilidad de la familia." AHGES, FJP, Hermosillo, Tomo 652, "Contra Don Ignacio Colocio, por heridas inferidas á su esposa," 1841, 4.
with curses and insults and later threatened to shoot onlookers. Some of the bystanders who later testified against Aguirre complained that his behavior had scandalized the entire neighborhood and such excessive mistreatment of his wife was an affront to public order and tranquility in the community. These justifications for intervening in violent domestic disputes illustrate that although local officials and bystanders often took action in the most extreme mal trato cases, their goal was not to undermine a husband’s authority over his wife, but rather, to avoid collective disorder. Thus, local judges almost never viewed permanent separation or placing a husband behind bars for an extended period of time as a viable option, even if this was what his abused wife may have wished for.

Husbands for their part drew on accepted patriarchal assumptions when they defended their claim to use violence against their wives. For example, they most often cited perceived infidelities and disobedience as the motive for assaulting their spouses and lovers, and these were reasons that often won the sympathy of local judges. In Arizpe in 1833, for example, Carlos Miranda explained that he beat his wife because he was convinced that she was having an illicit relationship with another man. As evidence, he pointed out that his wife had left their home without permission and Miranda had found the couple talking in a nearby house. Even though Miranda’s wife Josefa Gallego denied any wrongdoing and Miranda himself provided no other reasons to believe that his wife was having an affair, the judge set him free. In 1840, Antonio Fontes assaulted his

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39 AHGES, FJP, Hermosillo, Tomo 603, “Contra Don José Aguirre por mal trato,” 1823.

40 AHGES, FJP, Arizpe, Tomo 2783, “Sumario promovido a Carlos Miranda por haber golpeado á su mujer,” 1833.
estranged wife Calletana Subianta and her employer José María Valenzuela with rocks when he saw his wife sitting on Valenzuela’s lap on the front step of Valenzuela’s house near Hermosillo. Even though Subianta countered that her husband had mistreated her previously and withheld economic support, which was why she began working for Valenzuela in the first place, the judge of the first instance in Hermosillo had her and Valenzuela arrested for adultery.\textsuperscript{41} In contrast, in Ures in 1848, Antonio Alcanta Robles, a 25-year-old agricultural worker, received a sentence of four months to public works because he attacked his wife in her sleep. Earlier, he saw her leaving their house with another man, but because he could not present further evidence of an affair, the justice Juan Antonio Grijalva found him guilty.\textsuperscript{42}

Men were not always successful with charges of infidelity and disobedience, as the case of Antonio Alcanta Robles demonstrates. Nevertheless, their expectations of fidelity and their perceived right to monitor and control the movements of their wives still received a sympathetic hearing in the courts on the whole. In cases in which men were not successful, such as that of Robles above, the husband’s age and social status likely played a role. Judge Grijalva noted Robles’s young age and referred to him as a minor, even though he was married. Robles’s defender even tried to justify his actions not through his “right” to punish his wife, but rather, he cited Robles’s young age, poor education and incapacity for reflection as the reasons why Robles attacked his wife. This

\textsuperscript{41} AHGES, FJP, Hermosillo, Tomo 654, “Criminal seguida en oficio contra Antonio Fontes y José María Valenzuela por riña,” 1840.

\textsuperscript{42} AHGES, FJP, Ures, Tomo 2549, “Causa criminal seguida contra Antonio Alcanta Robles por heridas que dio á su esposa Anamaria Ochoa,” 1848.
did not imply that only men of higher status had the prerogative to use violence against their wives. Rafael Salgado above, for example, was a butcher who had just been released from jail for not paying his debts, and beat his wife severely without consequence. Nevertheless, a man’s age, economic status, and social connections within the community also shaped the outcome of mal trato cases.

In addition, some judges treated instances of mal trato within “illicit unions” differently than violence within a legitimate marriage. Jacinto Morales, for example, a 25-year-old baker and servant, received a sentence of two months in public works after he attacked Guadalupe Valenzuela, a widow over thirty, who was his lover. Morales explained in his defense that he beat Valenzuela in part because he was drunk, but he also wanted to “correct” her and teach her to have more respect for the men with whom she had affairs.43 Morales’s amo, Don Francisco Pavia, testified on behalf of Morales, petitioned for his release and even served as his legal defender. Pavia also readily admitted that he wanted Morales free so that he could work in order to pay off debts. But with a sentence of two months in public works, the state ultimately gained access to Morales’s labor through its public works program for convicts, at least for a time. Morales’s punishment underscores that the courts did place some limits on men’s prerogative to use violence against women. Younger men who were already in a subordinate status as Morales was vis-à-vis his amo, and who could not make a legal claim to punishing a woman to whom they were legitimately married were more

vulnerable in their effort to assert authority over women. This was especially true when
the state wanted to lay claim to their labor. In this case, Morales went to work dredging
the harbor in Guaymas, along with hundreds of other inmates.

As in other regions, women in Sonora involved in *mal trato* and separation cases
worked to demonstrate to judges, relatives and neighbors that their husbands and lovers
had used excessive punishment and failed to provide the “protection” and financial
support required of them as household heads. Women were resourceful in drawing upon
ideals of reciprocity within marriage in their efforts to carve out a measure of autonomy
and safety for themselves, even if their complaints came after years of violence and
permanent injury in some cases. Lack of financial support was a particularly common
theme among women’s complaints and justifications for accusing their husbands or
lovers of *mal trato*, and for pursuing more drastic measures such as leaving their husbands
or seeking a separation. In the dispute between Sacramento Yanes and Maria Agustina
Grijalva above, for example, Grijalva was adamant that Yanes had not brought home
enough money for her to buy food, and that she therefore was not obligated provide him
with meals. The judge was ultimately sympathetic to Grijalva’s reasoning when he
explained why he sentenced Yanes to three-months of public works. Grijalva’s
complaints underscore that even if judges accorded violent husbands and lovers
considerable latitude for determining punishment, they also took obligations of financial
support seriously.44

44 Richard Boyer notes similar strategies among women before the Inquisition in central Mexico. See
In 1835 in Arizpe, when Antonio Arandul filed a complaint that his wife, Josefa Denojian, had left him and demanded that the courts place her in a *casa de depósito*, Denojian retorted that everyone in Arizpe knew her husband was a notorious drunk who could not support his family. She further argued that going to a *casa de depósito* would make it impossible for her to support herself and her son. Apparently, in light of her husband’s reputation, the judge agreed to allow Denojian remain outside a *casa de depósito*, and he did not order Denojian to return to her husband. Men such as Arandul, who failed their patriarchal obligation to provide economic support, risked losing the right to control their wife’s movements and actions. Nevertheless, the court still ordered their son to remain under the custody of Arandul, the father, even though Denojian argued that their son wanted to stay with her and that she would be better able to support him. Even if the courts allowed Denojian some measure of autonomy in this case, the laws of *patria potestad*, a father’s ultimate legal authority over children, sill favored Arandul in allowing him custody over his son.\(^{45}\)

Given the uneven conditions and accessibility of parish archives in Sonora, it is difficult to estimate how many unhappy marriages actually ended in formal separations.\(^{46}\) Civil court records contain relatively few cases of disputes between spouses who acquired formal ecclesiastical separations, but references to abandonment or escape were


\(^{46}\) Divorces were illegal in Mexico and throughout Latin America during the nineteenth century. Colonial laws regarding formal separation still applied, which allowed spouses to live separately and divide their assets, but they could never remarry. See Edith Courturier, “La mujer y la familia en México del siglo XVIII: legislación y práctica,” *Historias* 36 (1996) 27-37.
more common, and both husbands and wives were agents in these situations. Depending on whether the husband or the wife initiated a complaint about abandonment, their demands were often quite different. María Bojorques from Guaymas, for example, sought the aid of the civil court after her husband Don Teodoro Parrá had left her for over a year and established a household with another woman in Hermosillo. Like other women in her circumstances, however, Bojorques did not request that Parrá return to her; rather, she primarily wanted him to provide financial support to her and their children.

In contrast, abandoned husbands often pursued legal measures with the intent to force their wives to return to them and consistently used rhetoric about patriarchal authority to justify their claims. In 1835 in Hermosillo, for example, Nicolas Altamirano complained that for over a year, his wife had left him to live with her parents, even though he had given her no justification for doing so. She had even refused to appear in court during earlier proceedings in which Altamirano sought formal reconciliation. Above all, in his appeals before the judge of the first instance, José Elias, Altamirano stressed that his wife’s parents had overstepped their authority by allowing their daughter to live with them, as he was convinced his in-laws had even encouraged his wife to ignore earlier court orders. Ultimately, Elias was sympathetic to Altamirano’s complaints about his wife’s parents, to the extent that he ordered Guadalupe Santoyo to

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47 The civil court records contain few references to formal ecclesiastical separations, but there were likely more such cases, as civil judges sometimes referred estranged spouses to ecclesiastical judges when they were unable to overcome their differences through actas de conciliación in civil court.

move away from her parents and into a *casa de depósito*, in fear that the parents would interfere with any further investigation of Altamirano’s and Santoyo’s separation.\(^49\)

Even in the few cases in which wives did successfully charge their husbands with *mal trato* or petitioned for a legal separation or ecclesiastical divorce, husbands often appealed. Husbands usually argued that neither extended kin nor judicial authorities had the right to “interfere” in marital disputes and sabotage a husband’s authority over his wife. In Ures in 1841, for example, Don Francisco Colosio sued judges from Rayón and Ures, arguing that the judiciary had overstepped its power and in the process, undermined his legal and divine rights as husband to rule over his wife Doña Guadalupe Varela. The judges in Rayón and Ures ruled previously that Colosio beat Varela excessively, who was pregnant at the time, had a notoriously public affair with another woman and neglected to provide his legitimate wife Varela with economic support. In light of the neglect, Varela went to live with her brother Joaquín Varela, who represented her in the initial suit against Colosio. In spite of the decisions of the lower courts, the state Supreme Court ordered Varela to return to her husband. Colosio was successful in arguing that the judges of the lower courts were friends of the Varela family, and were thus biased against him. Moreover, his appeals to patriarchal authority likely carried more weight with judges of the higher court, who had less intimate knowledge of Colosio’s abuses.\(^50\)

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\(^49\) AHGES, FJC, Hermosillo, Tomo 1217, “Promovido por Don Nicolas Altamirano solicitando la union de su esposa Guadalupe Santoyo,” 1834.

\(^50\) AHGES, FJP, Hermosillo, Tomo 652, “Contra Don Ignacio Colocio, por heridas inferidas á su esposa,” 1841.
In conclusion, the cases of Doña Guadalupe Varela in Rayón and Guadalupe Santoyo in Hermosillo, among others, underscore that circumstances of *mal trato* and separation were seldom the exclusive concern of the couple directly involved. Guadalupe Santoyo turned to her parents when she left her husband Nicolas Altamirano, and clearly they supported her decision to remain separated from Altamirano for over one year. Guadalupe Varela depended greatly on the material support and legal participation of her brother Joaquin Varela in order to leave Colosio and then fight his later appeals in court. Neighbors and extended kin involved themselves in the most extreme cases of *mal trato*, often in the name of maintaining “domestic harmony” and “tranquility” within the community and extended family, just as they took an active interest in cases of troubled courtship, debt and property.

Situations of *mal trato*, abandonment and separation were different, however, because court officials were more obviously conflicted over a desire to maintain “tranquility” among the extended family and the community at the same time they were reluctant to potentially undermine a husband’s authority over his wife. Husbands, meanwhile, argued that marriage disputes were the strict concern of the husband, not the community nor even the judiciary. As a result, court officials often went against the wishes and better judgement of relatives and neighbors who had more direct knowledge of the husband’s conduct, as in the case of Francisco Colosio above. In these instances, judges, particularly if they lacked personal contact with the couple, more often sided with the husband’s interpretation of marriage, one that was exclusive and made his treatment
of his wife his business alone, and did not take into account the interests and concerns of extended kin.

CONSENSUAL RELATIONSHIPS

The line between courtship, marriage and an illicit relationship was vague on occasion, and census data, parish records and court documents suggest that couples lived together but never married. Perhaps the unavailability of priests and the cost of a Church ceremony encouraged some couples to postpone marriage or avoid it entirely. Particularly in cases in which the couple came from distinct class backgrounds or when issues of age and respectability were at stake, no one expected marriage, or one partner chose to end the relationship before a formal marriage promise materialized. Single men of higher social status, for example, sometimes hired female servants who became their lovers with whom they raised children. Widows occasionally had affairs with younger men, but such couples seldom left evidence of their liaisons unless their relationship ended acrimoniously, as with the above case of the widow Guadalupe Valenzuela and her affair with a young baker and servant, Jacinto Morales.

Although these relationships may have enjoyed less respectability than more formal courtships and marriages, parents and siblings were no less concerned with their trajectories. As a result, “illicit unions” often became community affairs as much as legitimate marriages. For example, Ramón Cañas and his brothers pursued and insulted Tomás Coronel relentlessly for almost two years because he had an “illicit relationship” with their sister, but ultimately refused to marry her. The feud culminated in a
confrontation between Coronel and the Cañas brothers in which Ramón Cañas brought assault charges against Coronel in Hermosillo in 1842.\(^{51}\)

Above all, the various cases that involved men and women in consensual relationships, from *mal trato* to disputes over alimony and inheritance, underscore that the couples in these relationships often conducted themselves under the same assumptions of reciprocity and obedience as couples in legitimate marriages. Nevertheless, the judiciary was much more unpredictable in recognizing these claims of mutuality and obligation, particularly when women sought the aid of the courts to gain access to their lovers’ resources. Men too were in a more precarious position when they argued that their female lovers owed them fidelity and obedience.

For example, Navor Ruiz, a 26-year-old soldier and ranch worker, faced a sentence of six months public works after he pursued and harassed his ex-lover Ramona Barboa in Hermosillo in 1848. Ruiz broke into Barboa’s house where she lived with her mother and brother, then later assaulted and robbed Barboa and her brother on a road as they returned from delivering washed and ironed clothing to the house of Barboa’s employer, Jesus López. In the process, Ruiz stole clothing from Barboa that she received as payment for her work for López. Ruiz argued that he was justified in taking the packages Barboa was carrying because he was trying to reclaim some clothing he had purchased for Barboa as gifts when they lived together, including rebozos, a couple of pairs of shoes and some petticoats. Ruiz, in an effort to demonstrate that Barboa had

\(^{51}\) AHGES, FJP, Hermosillo, Tomo 654, “Causa criminal de oficio contra Tomás Coronel por heridas que infirió a Ramon Cañas,” 1842.
been unfaithful to him, argued that he wanted these items back because he had seen Barboa around town with another man. Thus like many married and unmarried men involved in *mal trato*, Ruiz maintained that he was justified in attacking Barboa, along with members of her family, because she had been unfaithful to him.

Justice José Elías instead sided with María del Carmen Soto, Barboa’s mother, who filed the initial complaint against Ruiz. Soto’s involvement in the case first underscores how extended kin, including parents and siblings, often involved themselves in consensual relationships, particularly when money, labor or other financial resources were at stake. Barboa, for example, credited her mother for urging her to leave Ruiz in the first place, for providing her with a place to live, and for helping her to find employment as an ironing woman for Jesus Lópes. For her part, Barboa’s mother argued that she was not suing Ruiz strictly for her daughter’s sake. She wanted restitution for the damaged and stolen items of clothing that Barboa earned with her own labor. Soto never mentioned how Ruiz’s assaults in her house, nor on the road affected the welfare of her daughter. She focused instead on how Ruiz’s unhappy relationship to her daughter had caused discord and financial loss to her family as a whole.

Secondly, Soto de-legitimized Ruiz’s relationship to her daughter and in the process, minimized Ruiz’s claims to Barboa’s fidelity. Soto and Barboa both stressed that although Barboa had been involved in an “illicit union” with Ruiz before, she had done so out of weakness and had since repented from her bad conduct. Soto and Barboa characterized Barboa’s previous relationship as inherently flawed from the beginning because of its illicit nature. In the process, both Soto and Barboa called into question
Ruiz’s claim that Barboa ever owed him her fidelity as a legitimate spouse would and they questioned the legitimacy of consensual unions in general. Justice José Elias likely realized that to accept Ruiz’s arguments that he was justified in stealing clothing from Barboa and demanding her fidelity would have placed an illicit relationship on a similar plane as a legitimate marriage.\(^5\)

In contrast to men such as Navor Ruiz, women involved in court disputes with their unmarried partners seldom made claims of obligation or reciprocity. On the rare occasions when it happened, judges were decidedly unsympathetic. Doña Margarita Velarde, for example, filed two suits against her ex-lover and employer, Don Domingo Durazo, in which she demanded alimony payments for their children, compensation for back-pay during the years that she worked for Durazo and she later accused him of molesting one of their daughters. In the end, Velarde lost all of her suits while in his testimonies Durazo frequently mentioned that many of their neighbors from Pueblo de Seris thought that Velarde had become insane and court officials chastised her for taking their time and resources. In short, her neighbors and the courts viewed Velarde’s demands on a man with whom she lived for several years as irrational and illegitimate given that they had never married.

Velarde’s relationship with Durazo apparently began as one of employment, but evolved into a nine-year liaison in which they raised three children, and ended when Durazo left Velarde in order to marry someone else. Durazo’s decision to leave a woman who seemingly started out as his employee was not necessarily unusual, but

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52 AHGES, FJP, Hermosillo, Tomo 667, “Navor Ruiz Pedro Rivera por robo de una hija,” 1848.
Velarde’s persistent and public demands on his resources after the relationship ended were. In her first suit, Velarde claimed that Durazo owed her 2,000 pesos for nine years of domestic service to him, in addition to continued support for their three children. Durazo countered that Velarde never “worked” for him, rather, they had a long-term, “illicit relationship,” and he thus owed her nothing. Like Ramona Barboa and María del Carmen Soto above, Don Domingo Durazo drew upon broader moral and religious rhetoric about how his relationship with Velarde had always been illegitimate and sinful, and he claimed that he left her in order to clear his conscience. Under the counsel of the Attorney General José de Aguilar, the justice in Hermosillo, Antonio Fresco, concluded that Velarde’s relationship to Durazo was that of “concubinage,” not employment, so by law, Velarde could not claim payment for her years of domestic service to Durazo. Moreover, because their children were illegitimate, Durazo was under no obligation to pay alimony.

The experiences of Navor Ruiz and Doña Margarita Velarde underscore that men and women involved in consensual unions conducted themselves under similar assumptions of reciprocity and obedience as legitimate husbands and wives, and clearly, many men and women in Sonora were involved in consensual unions. Regardless of official marriage vows, men expected obedience and faithfulness from their female lovers and to a lesser extent, women hoped for economic support, especially when children were involved. Nevertheless, women’s ability to count on local courts to

53 AHGES, FJC, Hermosillo, Tomo 1247, “Promovido por Doña Margarita Velarde contra Don Domingo Durazo por pesos,” 1844.
enforce these standards was far more precarious compared to husbands and to women in legitimate marriages, regardless of the length of their relationship.

CONCLUSION

Civil and penal cases involving married couples and women and men in consensual unions demonstrate that both communities and judges viewed the local courts as a legitimate arbiter of moral conduct and social order. Ultimately, however, judges enforced a double standard within marriage and within informal unions that accorded men authority over their wives and their female lovers, even when their decisions contradicted more explicit goals of restoring marital and community harmony.

In spite of the fact that women often faced discriminatory outcomes in the courtroom, they still used familial alliances, community sentiment and a colonial legal tradition that provided them a venue to play a leading role in litigation on their own behalf well into the middle of the nineteenth century. While women enjoyed more success in civil suits involving property and debt, their failures in cases related to moral conduct, sexuality and abuse did not prevent many women and their families from looking to the courtroom to mediate their marital conflicts.
CHAPTER THREE
Death, Debts and Inheritance

The death of a parent or a spouse marked a period of mourning among surviving heirs, and often, a significant turning point in the economic welfare of the family. Inheritance disputes and wills underscore that Sonora’s credit system during the first half of the nineteenth century was delicate and informal, based primarily on informal networks of kinship and trust. The region did not have formal lending institutions, with the notable exception of merchant houses, and they largely catered to notables. Thus, neighbors and relatives often paid their debts in kind, usually in the form of livestock or grain. Such arrangements made trust and personal reputation extremely important to one’s ability to conduct the routine business of buying and trading. Above all, these civil records demonstrate that extended families were a basic financial unit in the regional economy, based on systems of trust and mutual obligation. Moreover, women were often central agents in a family’s economic projects and welfare.

At the same time, however, civil disputes over inheritance and debt reveal how the ideals of trust and reciprocity within families had their limits. In-laws and half-siblings were particularly vulnerable to disputes over debt and property. Creditors and relatives were especially likely to challenge widows in court, even though these women held legal claim to the management of their estates. All heirs, whether male or female,

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faced the possibility of downward mobility, depending on their deceased relative’s place in Sonora’s complex and much-used credit system.

Collectively, these cases reflect the persistence of colonial economic systems that made extended families a basic financial unit. At the same time, however, while people with surviving heirs generally distributed their estates evenly among children, regardless of gender, they also exercised a fair amount of autonomy in how they divided their property, sometimes to the benefit of a favored child, servants, or illegitimate heirs.

Finally, court records involving inheritance and debt disputes provide far more than a window on the litigious aspects of daily life in Sonora. They also highlight the most routine credit arrangements among relatives and neighbors during the first half of the nineteenth century.

DEATH

On March 29, 1820 in the city of Arizpe, the Teniente Letrado Don Manuel Fernández Rojo went to the home of the deceased Doña Maria Nicolasa Corella to review her will and likely to pay his final respects. As a Teniente Letrado, Fernández Rojo held both judicial and administrative responsibilities. He had learned that Corella died on the previous day and her body remained in her home. It was common for local officials such as Fernández Rojo to visit the homes of the recently deceased to officiate over the division of an estate. There, they also met with extended family and neighbors, many of whom were also debtors and creditors of the departed. In this particular instance, Fernández Rojo likely found most of Doña Corella’s eight legitimate children, two
criadas, María Rosa and Beatriz, and several in-laws, including her son-in-law and the Administrador de Rentas Unidas, Don José Perez, who was the primary executor of her estate. Don José was among the most important colonial officials in the region, responsible for managing government revenues. Doña Corella was the matriarch of a local notable family whom officials such as Don Manuel Fernández knew personally.

Like Teniente Letrado Don Manuel Fernández Rojo in Arizpe, Alcalde Pasqual Iñigo from Pueblo de Seris went personally to the home of the deceased Don Vicente Antúnez in 1828. Antúnez was not a wealthy man, but he did have some livestock, and Iñigo needed to carry out an inventory of his estate and verify if Antúnez left a will. When he arrived, among Antúnez’s family he also found Ambrosio García Noriega, a major creditor who had heard of his debtor’s passing and came immediately to collect the considerable sum of 225 pesos. Antúnez also owed many neighbors smaller amounts, usually between 5 and 50 pesos. He owed some neighbors livestock and meat as well, including mules and sides of beef. His estate inventory is representative of other inventories to the extent that neighbors and relatives in Sonoran communities often developed credit relationships and paid their debts in-kind in addition to cash. By the time Antúnez’s estate was divided among his creditors, including Ambrosio García Noriega, his family had few assets. Like Antúnez, many rural Sonorans established informal credit relationships with neighbors and relatives in order to conduct routine

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3 AHGES, FJC, Hermosillo, Tomo 1205, “Testamento hecho por el finado Don Vicente Antúnez y autorizado por este Juzgado,” 1828.
business. While forming such ties was often an effective strategy for dealing with the lack of a more formal lending system, an ill-timed death could still be disastrous for heirs.

The events following Corella’s and Atuñez’s deaths were common to the extent that they were at once public and intimate affairs, and the business of settling their estates began in their homes among mourners as opposed to taking place in an actual courtroom. These deaths, like many others recorded in civil court records, reflect the frequency with which local officials came into intimate contact with residents in their communities in the course of their routine duties. Antuñez’s case in particular demonstrates that news of death traveled quickly in Sonoran communities. Among mourning relatives and neighbors one also found creditors who wasted little time before they came to collect their debts.

Historians have often used wills to explore patterns in inheritance and to search for clues about conditions in local and regional economies, but wills also uncover information about the state of emotional ties within a family and were important venues of religious expression. In communities with a continual shortage of priests where the Church had limited institutional presence, and where few people knew how to write, wills are among the only remaining records of personal religious sentiment. Doña Corella, for example, set aside money for masses for her soul and in honor of chosen saints, as did

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many notables in Sonora. Like women and men of more humble origins who left wills, Corella also began with an extensive profession of her faith in an all-powerful God, a benevolent Virgin Mary, and in the mystery of the Holy Trinity. While these declarations often had a formulaic quality, variations in length, in how will writers emphasized particular aspects of their faith, such as their devotion to particular saints, reflected the individuality of pious expression. Corella had the religious zeal and the financial means to use several pages of her will to express her life-long and fervent devotion to the Catholic faith. Other will writers, however, whether for lack of means or lack of conviction, only wrote a few short lines of devotion or even left out matters of faith entirely.

Many notables also used their final wills and testaments to extend a final gesture of gratitude and generosity to servants, underscoring elements of paternalism in their relationships with at least some of their workers, particularly criados, that is, servants or “adopted” children who provided household service. While not all notables engaged in the practice of leaving assets to their servants or forgave debts, many of them left clothing to servants, gave away prendas, or religious icons, such as images of saints or rosaries, as well as livestock. Some amos absolved all debts as a show of gratitude for faithful service. Don Rafael Morales from Arizpe, for example, forgave several of his

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5 For other examples, see AHGES, FJC, Hermosillo, Tomo 1200, “Testamento del finado Don Juan José Buelna,” 1818; AHGES, FJC, Hermosillo, Tomo 1225, “Testamentaria formada por los finados Don José Baldes y su esposa María Rosario Salas,” 1837; AHGES, FJC, Hermosillo, Tomo 1202, “Relativo á la declaración testamentaria de Don Francisco Iturralde,” 1824.

6 This stands in contrast to what Cheryl English Martin found among notables in Chihuahua City during the late eighteenth century. There, employers rarely forgave debts or left gifts to slaves or workers. See Cheryl English Martin Governance and Society in Colonial Mexico: Chihuahua in the Eighteenth Century (Stanford: Stanford University Press, 1996), 66-67.
smaller debtors. In the process, Morales and others like him demonstrated to servants, relatives and to the community as a whole that even in death, their estates were wealthy enough to afford the largess of forgiving debts. The practice also likely elevated the status of surviving heirs.

Ultimately, it was more common for notables to leave gifts to servants and dependants. Doña Corella above, for example, left all her everyday clothing to two criadas, María Rosa and Beatriz. Don Juan José Buelna left ten young female horses and one young stallion [potro] to a criado named Xavier, and six female horses and a stallion to second criado, Rafael. Buelna further stated in his will that he had raised Xavier and Rafael in his household from the time they were children. Such expressions of affection toward criados show how household servants were sometimes at once laborers and family, but always subordinate in relationship to legitimate children. In spite of Xavier's and Rafael's loyalty and in spite of whatever affections Buelna expressed in his will to his "adopted" children, by law they did not inherit equal portions of his considerable estate alongside his four legitimate children.

Wills were also platforms for expressing gratitude and revenge toward relatives. Don Juan José Buelna above, for example, left 100 pesos to a niece named Barvara because she had cared for him during the illness that eventually led to his death, and he explicitly mentioned his gratitude for her devotion to his care. In 1832, Ignacio Araiza

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7 AHGES, FJC, Hermosillo, Tomo 1208, “Diligencias y apertura y protocolización del Testamento de Don Rafael Morales,” 1832.

8 AHGES, FJC, Hermosillo, Tomo 1200, “Testamento del finado Don Juan José Buelna,” 1819, 4-6.

9 Ibid., 4-6.
from Pueblo de Seris left one daughter, María Jesús, three cows in addition to her regular share of inheritance as a token of his gratitude, apparently for her loyalty and willingness for care for him during illness. Meanwhile two other daughters, Juana and Candelaria, received nothing from the estate because of “the ingratitude” they had shown their father by bringing a previous lawsuit against him.¹⁰

Men in particular also sought to leave at least some of their estate to illegitimate children. Don Florencio Chacón in Hermosillo left land to his illegitimate son, Joaquín Chacón, and urged his wife and two legitimate sons who were his executors to treat Joaquín as a son and brother and to not contest his decision to leave him land.¹¹ Don Trinidad Duarte also left a part of his estate in the form of livestock to an illegitimate son amid protests from his two legitimate children.¹² Both Chacón and Duarte had anticipated resentment on the part of their legitimate heirs and implored that their children maintain peace within the family. It was common for will writers such as Chacón and Duarte who made unorthodox requests to predict inheritance disputes before their death. As a result, many urged their children and spouses to accept the terms of the will and to not dispute their inheritance.

On occasion will writers made requests for reconciliation a central message to their heirs. Juan Pablo Huandurraga’s concerns that his children from two separate

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¹² AHGES, FJC, Hermosillo, Tomo 1224, “Instancia del Juez de Paz de Movas pidiendo se le clare á quien corresponde el conocimiento de formar el testamento de Don Trinidad Duarte,” 1836.
marriages would quarrel compelled him to write a brief message in his will urging peace.

When the Alcalde Antonio Andrade and witnesses from Hermosillo arrived at Huandurraga’s home to help him notarize his will, he begged his children to not question how he divided his estate, and above all, to not resort to the courts to resolve any disputes. Ignacio Araiza, cited above, who excluded two of his legitimate daughters from his will, concluded by acknowledging that some of his children from his first marriage were disgruntled with how his first wife’s estate was divided, thus hinting at the reasons his daughters may have sued him in court previously. To “clear his conscience” over previous confrontations, he hoped that the division of his estate would rectify any perceived inequalities. Thus, wills were not only forums for gratitude and revenge for past deeds among relatives, they were also places where the dying sought to persuade and exert a measure of control over their heirs in the future as well.

INHERITANCE DISPUTES

The pleadings of dying relatives above reveal how the death of a parent or a spouse had the potential to exacerbate old grievances within a family. Divisions among family members show certain patterns. Disputes were more likely between children with different statuses of legitimacy, among in-laws, and between children from different marriages. While siblings did turn to the courts to settle differences over inheritance, they did so less often, and suits between parents and children were even rarer. With the notable exception of spouses, these cases reveal greater possibilities for tension and

disagreement among people related by marriage and not by blood. Thus, marriage was an imperfect institution for cementing familial alliances among stepchildren and in-laws.

The inheritance disputes among half siblings, stepchildren and stepparents demonstrate the legal complications that could arise from multiple marriages, especially when parents did not leave clear guidelines for their heirs. And in light of Sonora’s high mortality rates, it was fairly common for people to marry multiple times, thus leaving greater possibilities for ambiguity and distrust between siblings and spouses from different marriages. For example, María Fanorí sued her stepbrothers and stepsisters for livestock and house that she claimed belonged to her deceased father. She was the daughter of Don Bruno Fanorí’ from his first marriage. After María’s mother died, her father married Josefa Muñoz and they had more children. According to María, her stepsiblings did not inform her about the contents of her father’s will, nor her stepmother’s will. Instead, they kept cattle, horses, mules and a house that rightly belonged to María because her father owned the property before he married Josefa Muñoz.15

María Fanorí’s stepsiblings responded to the suit with considerable bitterness, particularly because her father had been dead for almost twenty years. They claimed María showed little interest in her Bruno Fanorí’s welfare during an illness that proceeded his death, nor did she offer to contribute to the expenses of his funeral. Throughout their defense they articulated the importance of reciprocity in caring for older

15 AHGES, FJC, Hermosillo, Tomo 1252, “Promovido por María Tanori contra los herederos del finado padre Don Bruno Tanori,” 1847, 3-4.
relatives and receiving a share of the inheritance. Moreover, they claimed that the house María demanded was of little value, and their mother, Josefa Muñoz, had built the house with her own labor long after Bruno Fanori died. In fact, they needed to sell their mother’s house in order to pay for her burial, while Yaquis had long ago stolen all the livestock María claimed well before her father died.  

Judge of the first instance, José Elías, was ultimately sympathetic to the defendants’ arguments that it was they, the children of Don Bruno’s second marriage, who cared for their father and attended to his funeral. They were able to prove that all the livestock María claimed was stolen before his death. Regarding the house, Elías concluded that María was indeed entitled to a portion of its value, but because she did not contribute to the costs of her father’s burial along with his children from his second marriage, she still would not receive any money or property from her stepsiblings. Thus judges such as Elías as well as children took ideals of reciprocity between parents and children into consideration when settling inheritance disputes to the extent that Judge Elías was critical that Doña María had neglected to pay for a share of her father’s funeral.

The suit involving Don Bruno’s descendants was exemplary of other inheritance disputes involving stepchildren because it was the child from the first marriage, María Fanori, who found herself excluded from the inheritance. The children from first marriages were more often the plaintiffs in these cases. This tendency suggests that when men and women remarried, their children from their previous marriages were more vulnerable to losing their share of the inheritance compared to children from more recent

16 Ibid., 7-9.
marriages. In many cases, children from first marriages had little contact with their surviving parent as adults when their parents remarried and started a second or third family. Thus, while remarriage was sometimes a viable way to reconstruct a family after a spouse died, some parents started anew and effectively abandoned their ties with children from previous marriages, especially when the children were already adults.

Disputes among in-laws were also common and gender differences were an important element of these suits, because widows were particularly susceptible to estate disputes with their husband's family. Their involvement in these cases suggests that while widows had greater legal rights to control their estates when compared with married women, relatives were more willing to challenge them in court or even usurp their holdings through illegal means. The experiences of Carmen Arvizu and Dolores Valenzuela exemplify the hazards some widows faced in claiming and maintaining their husbands' estates in the face of challenges from their in-laws.

The case of Carmen Arvisu also highlights how economic relationships and business associations in Sonora were often intertwined with ties of kinship and based on trust. For years, Carmen's husband, Victor Araiza, managed his father's property and at the same time acquired his own assets in land and livestock. According to court testimony, the father and son routinely exchanged livestock, grain and real estate in the course of conducting their respective businesses. Most of these transactions were based on verbal agreements and neither party kept accurate records of their mutual purchases and debts, until their estates were virtually indistinguishable. While this arrangement
apparently worked well while both Victor Araiza and his father, Ambrosio Araiza, were alive, it led to near-violent clashes among their respective heirs.

In 1848, Ambrosio’s other son, Ramon Araiza, leveled a suit against Carmen Arvisu, his sister-in-law, for livestock, a house, some land and cash. According to Ramon, who acted as his ailing father’s legal representative in the case, Carmen usurped all of Ambrosio’s livestock, his house and some land, leaving his father without any assets or a place to live. In his opening arguments, Ramon emphasized his father’s illness and Carmen Arvizu’s willingness to take advantage of an old man’s vulnerability. He accused her of selling cattle clandestinely even after an earlier judicial ruling determined that she could not sell the cattle during the litigation process.\(^\text{17}\) Ramon Araiza claimed that the cattle belonged to his father because they carried his father’s registered brand.

For her part, Carmen Arvizu claimed the livestock as her and her children’s inheritance from her husband, and she accused her brother-in-law of trying to take away the livestock by force. Ramon countered that his brother, Victor, never actually owned the cattle, rather, he was only responsible for managing the livestock and other property on behalf of his father. Regarding the house and land, Don Ramon claimed his father only allowed Victor and his family to move in to his house, he never actually sold his home. Ramon further criticized Carmen for claiming the house as part of her husband’s inheritance, and for forcing her ailing father-in-law to move out and live with his other children. According to Carmen, however, her husband purchased both the house and

\(^{17}\) AHGES, FJC, Hermosillo, Tomo 1253, “Promovido por Ramón Araiza y Valencia como apoderado de Don Ambrosio Araiza, contra Doña Carmen Arvizu reclamándole varios bienes que esta tiene en nombre de su esposo de la propiedad del demandante,” 1848, 11.
some disputed land before his death, and she provided the court with evidence of the purchases.

Judge of the first instance José Elías wrestled with Ramon’s and Carmen’s competing claims and even passed the dispute to the State Attorney General for consultation. The dispute was further complicated by the fact that Ambrosio Araiza did not keep records of his estate and business transactions while living. When his wife died, she did not write a will, nor did Ambrosio inventory of her assets. His son, Victor Araiza, also neglected to inventory his estate or write a will before his death. The Attorney General concluded the father and son left their heirs with little evidence to aid them in sorting out the intertwined estates. He was sure that the courts would never arrive at a fair resolution to the dispute.

Thus, Judge Elías made decisions based on what few records existed. He ruled that the house and disputed land would go to Carmen Arvizu and her children because she had bills of sale to prove that her husband, Victor Araiza, indeed purchased the house and other property from his father before his death. Still, she had to turn over most of the livestock to her brother-in-law because they carried a brand registered under Ambrosio Araiza’s name.

Beyond demonstrating the intertwining of business and family in most Sonoran communities, disputes among families such as Ambrosio Araiza and his daughter-in-law, Carmen Arvisu, illustrate the potential delicacy of relationships between widows and their in-laws. In contrast, sons-in-laws were seldom involved in such legal confrontations with their wife’s relatives, in part because women usually outlived their husbands. More
importantly, the precarious position of widows in defending claims to property against relatives suggests that even if the law permitted a widow to control her assets, her husband’s family could be more reluctant to respect her claims to inheritance, especially when one or both parties kept poor financial records. Such cases also underscore the potential limits of mutual support and cooperation among families who conducted business together, and the role of gender in defining those limits.

A dispute involving a widow named Dolores Valenzuela demonstrates that for at least some Sonoran couples involved in consensual unions, issues of property and inheritance were the primary reasons to legitimate their marriage. Dolores Valenzuela and Pedro Muñoz lived together for several years and raised three children before making formal wedding vows to each other. The couple only called upon the local priest from Hermosillo, Juan Francisco Escalante, to perform a marriage ceremony just a few days before Muñoz died. Based on later testimony, both Muñoz and Valenzuela were concerned with assuring that their children could eventually enjoy legitimate status and that, as a widow, Valenzuela would be able to claim lawfully Muñoz’s estate.

Their concerns about whether Valenzuela would be able to inherit her husband’s estate proved true. Valenzuela’s mother-in-law, Luz Espinosa, claimed all of her son’s estate, including about 50 fanegas of grain from crops that she and Pedro planted together, as well as horse saddles, horses and some salt.\textsuperscript{18} In the initial presentation of her suit against her mother-in-law, Valenzuela was especially careful to provide the justice of the peace of Pueblo de Seris with evidence that she and Muñoz were legitimately

\textsuperscript{18} Fifty fanegas of grain was a considerable amount, and required approximately 50 to 75 acres of land.
married. She called three witnesses to testify on her behalf and had the priest from Hermosillo, Juan Francisco Escalante, present their recent marriage certificate, as well as the birth certificate of their youngest child, who was of legitimate birth since she was born after her parents married. Moreover, Valenzuela argued that although she and Muñoz had only recently formalized their relationship, they lived together and raised children “as though they were married”¹⁹

Valenzuela tried to present her relationship with Muñoz as “legitimate” when she argued that they had lived together “as though they were married” for several years previous to their actual marriage ceremony. Her argument demonstrates that the line between marriage and consensual unions was sometimes ill defined among the general community, and Valenzuela highlighted these subtle notions about the “legitimacy” of consensual unions in her testimony. If a couple appeared monogamous, left no doubts about the paternity of their children, and lived together for long periods of time under the same assumptions of reciprocity as married partners in how they cared for children and divided labor, neighbors and relatives recognized the relationship. Valenzuela drew on these popular assumptions about consensual unions in her effort to claim her husband’s estate.

Valenzuela and Muñoz also demonstrated a clear understanding of the law when they chose to legitimate their marriage only days before his death. Their decision shows how marriage was at least in part, a pragmatic maneuver to ensure the passage of

¹⁹ “Don Pedro Muñoz (que en pas descanse) tuvo algunos hijos si como fuera y dentro del matrimonio que celebramos en los últimos días de su vida.” See, AHGES, FJC, Hermosillo, Tomo 1223, “Promovido por Dolores Valenzuela contra Luz Espinosa por restitución de algunos enseres,” 1836, 13-15.
property from one generation to the next. When presenting her claims against her mother-in-law for grain, Valenzuela needed more than the informal approval of her neighbors regarding her conduct with Muñoz. She had to demonstrate that she and her children could claim a legal right to Muñoz’s estate.

The court decided in favor of Valenzuela and ordered her mother-in-law to return half of the disputed grain. But even after the ruling Luz Espinosa did not give her daughter-in-law twenty-five fanegas of grain and she ignored two subsequent court orders, because she claimed she no longer had the grain. In the face of continued demands from the court, Luz argued that she would not pay Valenzuela because of other debts her deceased son owed her, including labor costs for raising the crops under dispute. The case was inconclusive, and the ongoing dispute between Dolores Valenzuela and her mother-in-law reveals the inability or unwillingness of the courts to enforce a ruling, as well as the vulnerability of widows to their in-laws in their efforts to claim inheritance.

In the first half of the nineteenth century in Sonora, the intertwining of business and family among full siblings and among parents and children was extremely common and usually functioned without visits to the local justices. Scholars throughout Latin America have long recognized the importance of the family as the basis of the local and
regional economies and the role of marriage in cementing these economic alliances.\textsuperscript{20} Within this literature, the assumption often existed that marriage was a successful means through which families formed lasting economic affiliations. Nevertheless, in the case of Sonora, inheritance disputes among families demonstrate the limits of marriage in consolidating ties among in-laws, half siblings and stepchildren. The shortcomings of marriage as an institution for creating such alliances were especially apparent when widows had to enter into disputes with their in-laws over their husband's estate. The tendency for widows to become involved in such suits highlights both the gendered nature of inheritance disputes and the vulnerability of women when relatives challenged their access to their estates. These cases suggest that even if the law granted widows authority over property and other holdings, in practice, relatives were more than willing to question their legal claims.

\textit{PAYING AND COLLECTING DEBTS}

Cases involving debt collection, like inheritance disputes, often highlight the personal, informal nature of most credit relationships. As the above cases demonstrate, most credit arrangements were based on ties of kinship, \textit{compadrazgo}, or people borrowed from and lent to trusted neighbors. In the absence of formal banking institutions, individuals usually turned to more prosperous relatives, friends and

neighbors for loans. More often, they exchanged grain, cattle, horses, and animal hides. The fact that such a system worked for several decades in Sonora points to the enduring importance of mutual trust and reputation in rural communities. One unintended result of this particular economic order, however, was that the death of a parent or a spouse could be disastrous for families and even for the local credit network. Heirs in propertied Sonoran families struggled to both collect debts from people who owed their deceased relative an array of cash, grain and livestock even while they avoided creditors who left little time for mourning before they came to collect against the deceased’s estate. Given the demographic realities of the region, widows and children were most often at the center of skirmishes over debt collection.

After Ignacio León’s death, it was his widow and the executor of his estate, Lugarda Zúñiga, who faced credit lawsuits and protracted negotiations with loan collectors. Ignacio León was typical of many propertied Sonorans who owed anywhere from ten to two hundred pesos to neighbors, in-laws and to his compadre, Manuel Vidal. His will even listed a debt he owed the judiciary for two pesos for a fine his servant, Francisco Fernández, incurred. In 1849, the heirs of Ignacio Monroy sued Ignacio’s estate and Lugarda Zúñiga for failing to pay a debt of 166 pesos and attempted to place a lien on her property. Lugarda, however, was able to convince a local justice from Hermosillo that Monroy’s heirs waited too long to place a lien against Ignacio’s estate, since the courts had already overseen its division.²¹

²¹ AHGES, FJC, Hermosillo, Tomo 1256, “Promovido por Angel Martínez y Aniceto Gómez, el primero en representación de su esposa y el segundo como curador de Don Miguel Monry, contra Doña Lugarda Zúñiga como albacea de su finado esposo Don Ignacio León sobre pesos,” 1849.
It was not uncommon for heirs such as Lugarda Zúñiga to employ an array of legal strategies to avoid paying their relative’s debts. Although such efforts likely raised suspicions about the family as a credit risk, heirs worked to evade creditors, particularly if they already had few assets. In Lugarda’s case above, for example, she initially argued that she lacked the means to pay her deceased husband’s debts before arguing that the estate was divided and thus, not subject to lien.

Sometimes heirs disavowed any claim to their deceased relative’s debts. Widows in particular tried to convince the courts that their husbands had incurred debts prior to marriage, and they were thus not responsible for paying creditors. Widows who could provide accurate documentation of their husband’s credit history were often successful at convincing the courts to nullify claims against their inherited estate. Estefana Sánchez, for example, refused to pay a debt of 165 pesos her deceased husband owed to Manuel Ainza on the grounds that he incurred the debt before they married. The local court canceled Ainza’s suit against Sánchez when she supplied sufficient proof regarding when her husband borrowed money from Ainza.22

Most cases of debt dispute, however, suggest that heirs had to face creditors and negotiate payment arrangements. This was particularly true of families who had ties to far-away merchant houses. In spite of the fact that most civil suits over debt indicate that debtors knew their creditors personally as relatives or neighbors, many credit relationships extended over long distances. Moreover, civil cases over debt collection

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22 AHGES, FJC, Hermosillo, Tomo 1221, “Promovido por Manuel Ainza, contra el Juez que conoció en un juicio de jurados Ciudadano Juan Luis Orozco, interponiendo el recurso de nulidad,” 1835.
involving notables highlight the growing importance of distant merchant houses as lenders to propertied Sonorans living in the hinterlands. In turn, these local notables in outlying communities were important sources of credit for their employees and neighbors of lesser means. While many civil suits suggest the continued importance of family and neighbors to local credit systems, increasing numbers of cases involving notables also suggest the growing role of merchants and the emergence of a class of people whose primary work involved serving as loan guarantors and negotiating long-distance credit arrangements.

A debt suit involving the estate of Don Lorezo Martinez of Altar illustrates both the geographic breadth of credit relationships and emergence of merchant houses as primary sources of credit among notables. Martinez’s widow, Doña Francisca Mendes, was the heir responsible for managing the considerable debts her husband left behind. Martinez died owing the weighty sum of 1,245 pesos to a merchant house in Guaymas, as well as addition sums to other creditors. In light of her husband’s numerous debts with distant creditors, Mendes contracted Don Mario Paredes, an agent from Hermosillo, to set up a payment schedule. Paredes arranged that all the creditors would receive portions of their payment on a regular schedule in Hermosillo.

A dispute arose when Paredes refused to recognize Martinez’s debt to Don Luis Gayón from the merchant house in Guaymas.23 Gayón was able to prove Martinez’s estate owed his merchant house 1,245 pesos, and demonstrates the extent of credit ties

23 AHGES, FJC, Hermosillo, Tomo 1254, “Poder especial otorgado por Don Luis Gayón, a Don José Camon del Comercio de Hermosillo, para cobros,” 1848.
between coastal merchant houses and inland Sonoran during the early nineteenth century. Moreover, Paredes’s role as an intermediary on behalf of a widow, Francisca Mendes, suggests the established presence of a class of merchants and loan guarantors, largely located in Hermosillo and Guaymas, whose primary responsibilities involved negotiating and managing long-distance credit arrangements. Other scholars have already suggested that men such as Mario Paredes played a key role in commercializing property around lowland communities such as Hermosillo, Ures, and Horcasitas, and their financial ties to widows were central to these economic changes in these specific regions of Sonora.\(^24\)

Civil debt disputes also indicate the growing role of merchants and loan guarantors in transforming credit ties from those based exclusively on personal relationships to more detached business associations that were likely to extend over longer distances. Moreover, their reach extended beyond the economically dynamic lowland communities into highland and more northern settlements such as Altar, Arizpe and Oposura.\(^25\)

Heirs such as Doña Lugarda Zúñiga, Doña Francisca Mendes and Doña Estefanía Sánchez devoted considerable time and energy to managing or avoiding inherited debts, but they, like many heirs, also sought to strengthen their estates by collecting debts owed to their deceased kin. In fact, one of the first tasks of heirs usually involved tracking


\(^{25}\) For another case example, see AHGES, FJC, Hermosillo, Tomo 1257, “Promovido por Don Lucas Rodríguez como apoderado general de la casa de comercio de Don Manuel Íñigo y Cía contra la esposa y herederos del finado Don Fernando Escobas sobre pesos.” 1850.
down creditors and demanding payment. Again, the primary actors in these cases were usually widows or adult children of the deceased. Sons, sons-in-law, husbands, brothers, and uncles also fulfilled the duty of filing suits and ordering liens, which strongly suggests the continued links between family and business, and the importance of extended kin in protecting a family’s economic interests.

The dispute between the estates of the deceased Doña Dolores Maitorena and Don Bernardo Gastelum reflects the frequent involvement of sons and sons-in-law in collecting unpaid debts. Maitorena named her son-in-law, Don Bernardo Lancana, one of the executors of her estate. Lancana and Dolores Maitorena’s sons spent considerable time in the courts ordering a lien on Gastelum’s estate to collect a debt of around 430 pesos. When Gastelum contested the lien, the suit persisted for a number of months, and her male heirs spent countless hours working to collect the unpaid sum. Lancana and his brothers-in-law were typical of other men who visited the courts to acquire assets on behalf of their extended family. Lancana’s efforts benefited his nieces and nephews as well as his own children. His work and that of men like him underscores the persistence of social practices that made conducting business an integral part of participating in the life and wellbeing of the extended family.

The libros de actas de conciliación provide evidence that debt disputes were among the most common civil suits. Muriel Nazzari has explored the changing role of the family as creditor in São Paulo, Brazil during the nineteenth century and found similar patterns as in nineteenth-century Sonora. While families continued to play a significant role in the local economy as creditors, their importance waned gradually to merchant houses and other businesses that essentially functioned as banks. See Muriel Nazzari, Disappearance of the Dowry: Women, Families, and Social Change in São Paulo, Brazil (1600-1900), 107-13.

AHGES, FJC, Hermosillo, Tomo 1241, “Cuaderno de autos que sigan los Albaceas de la finada Doña Dolores Maitorena contra Don Bernardo Gastelum,” 1842.

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27 Muriel Nazzari has explored the changing role of the family as creditor in São Paulo, Brazil during the nineteenth century and found similar patterns as in nineteenth-century Sonora. While families continued to play a significant role in the local economy as creditors, their importance waned gradually to merchant houses and other businesses that essentially functioned as banks. See Muriel Nazzari, Disappearance of the Dowry: Women, Families, and Social Change in São Paulo, Brazil (1600-1900), 107-13.

28 AHGES, FJC, Hermosillo, Tomo 1241, “Cuaderno de autos que sigan los Albaceas de la finada Doña Dolores Maitorena contra Don Bernardo Gastelum,” 1842.
Some scholars have suggested that families needed adult, male relatives in order to collect debts successfully. In Sonora, widows, and more rarely, daughters were actively involved in the courts as they sought to call in loans. In 1848, Doña Dolores Casillas, who identified herself as a vecina and resident of the port city of Guaymas, took over the task of collecting debts on her deceased husband’s estate. Her husband owned a large store in which he sold foodstuffs and often extended credit to his customers. Doña Dolores sued Dolores Espinosa for 154 pesos and 1 real for unpaid debts to her husband’s business. Based on court testimony, Casillas was actively involved in her husband’s estate before his death and she knew intimately the details of her husband’s finances. She was typical of many widows who took over her husband’s financial affairs, accounting for a large percentage of women in Sonora who used the civil court system.

Casillas’s case raises questions about the vagaries of economic mobility in Sonora, especially for women, as she presented herself to the courts as an impoverished woman left with the task of raising her children alone. Nonetheless, Casillas possessed less tangible resources, as she knew enough about the court system to represent herself and she knew how to sigh her own name on court documents. Her situation suggests that some impoverished litigants with sufficient knowledge and education were skilled at avoiding court costs. Unfortunately, the case does not provide an outcome regarding Casilla’s dispute with Espinosa. Nevertheless, her activities in the courtroom demonstrate how widows, along with male heirs, were deeply involved in debt collection on behalf of

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their families. Secondly, the case highlights that women with knowledge of the courts and business were still vulnerable to poverty.\textsuperscript{30}

Another widow, Doña María Islas, carried out a successful lawsuit to collect a debt of 123 pesos and 4 reales. Her case, like many others involving widows, illustrates the frequency with which they and their legal representatives discussed their vulnerable economic status as women and as mothers. Unlike Dolores Casillas, Islas did not attempt to appeal to the courts as an impoverished widow. Nevertheless, rhetoric about Islas's unfortunate and vulnerable status as a widow with young children figured prominently in her case, even though she was suing another widow, Doña Vicenta Sierra. Islas's legal representative, Francisco Reyna, pointed out on numerous occasions that Islas's responsibility as the executor of her deceased husband's estate, as well as her responsibility for the welfare of her children, entitled her to a favorable ruling.\textsuperscript{31}

The frequent involvement of widows in debt collection shows that families did not depend exclusively on male relatives to protect their estates. Nevertheless, widows and their legal representatives often employed rhetorical strategies that highlighted their gender status in order to bolster their cases. The continual references in court records to widows as women vulnerable to poverty, especially when they were responsible for raising young children, certainly resonated with broader assumptions that women and children were the most vulnerable members of the community. Moreover, court

\textsuperscript{30}AHGES, FJC, Hermosillo, Tomo 1253, “Promovido por Doña Dolores Casillas contra Don Dolores Espinosa por pesos,” 1848.

\textsuperscript{31}AHGES, FJC, Hermosillo, Tomo 1257, “Don Francisco Reyna como apoderado de Doña Ana María Islas, contra Doña Vicente Sierra sobre pesos,” 1850, 3.
testimonies indicate that many widows did indeed experience downward mobility after their husband’s death. Most widows remarried quickly, perhaps to avoid such a fate. At the same time, however, these records suggest that widows were adept at managing their inherited estates, and rhetoric about the vulnerabilities of widowhood was one of many strategies to protect and consolidate their estates for themselves and for their families.

The evidence cited above shows that widows were deeply involved in an array of cases related to inheritance and debt. Their activities in business and in the courtroom demonstrate their central role in local economies. At the same time, frequent references to widows and orphaned children as being especially vulnerable to poverty and other dangers suggests marginality. This discourse on widowhood also served a number of strategic purposes, both for the widows themselves, and for the community as a whole. For example, the welfare of widows and orphans figured prominently in increasingly bitter rhetoric of ethnic conflict with Apaches and other indigenous communities that resisted Mexican rule. Their conditions became a powerful tool for highlighting the inherent barbarity and difference of Apache peoples from the perspective of Sonoran Mexicans. When the Justice of Peace in Tumacacori sent a report on widows and orphans in his jurisdiction as a result of Apache attacks, he briefly discussed María Antonia Creipa. In his letter, he stressed how Creipa “lost
both her parents at the hands of cruel enemies, the Apaches." A persistent motif of official Mexican correspondence was that the Apaches attacked and potentially destroyed entire families and communities, not just individuals. Such discourse contributed to views of Apaches as barbaric in their willingness to harm even women and children who appeared on numerous lists as unfortunate widows and orphans. At the same time, measures to publicly recognize the costs of ethnic conflict to women and children created a sense of unity and solidarity among men across lines of class and ethnicity within Hispanicized communities in northern Sonora over the issue of widowhood. Presumably both poor and more prosperous families faced the possibility of widowhood, an undesirable status that highlighted women's inherent vulnerability based on gender, and jeopardized the reproduction of the community as a whole.

Whether these harsh conditions and ethnic conflicts resulted in greater possibilities for widows to enter traditional male occupations such as managing land and commerce deserves further consideration. Historians of Sonora have certainly entertained the thesis, and some contemporary observers commented on the forthright and independent nature of Sonoran women. The available information on specific

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widows in northern Sonora, however, suggests that ethnic conflicts created mixed results for the gender hierarchy in northern Sonora. As Miguel Tinker Salas has surmised for a later period in Sonoran history, class and ethnicity, not to mention life cycle, placed significant limits on women’s social status.

The conditions of widows and orphans in the district of Moctezuma in 1842 and 1843 provide some insights into the status and economic fate of women who became widows as a result of ongoing conflict with Apaches. Local judges in several communities of the district reported that some women did not have any means of subsistence. Other women lived from the labor of their children, who sold petty merchandise or went to work as domestic servants or jornaleros for neighbors. The ages of the children in these arrangements ranged from six to nineteen years. Several widows worked as servants, seamstresses, ironing women, or officials simply listed “trabajo corporal” or “trabajo personal” to describe their labor. Based on reports from Moctezuma, the social and economic conditions of most widows and their children declined as they entered low-wage work of little status or forms of servitude that ultimately placed them in a subservient relationship vis-à-vis neighbors and relatives. The general poverty of these widows reveals two distinct possibilities. First, less affluent families bore the brunt of the conflict with the Apaches. Second, the justices who compiled these reports likely chose to focus their attention on the poorest,

most vulnerable women in their communities to bring attention to the destructiveness of
the Apaches and their need for financial and military assistance from the rest of the
state.

Based on records dealing with widows in communities that did not experience as
much warfare, it is clear that many widows faced economic hardships in interior
communities of the region as well. For example, in 1827 in Horcasitas, María de Jesús
Tresierra, the widow of Don José Buelna, came before the civil courts in order to sell a
mill and an orchard that formed part of her children's inheritance. Tresierra and Buelna
were certainly local notables, as only the most affluent members of the community
could afford to own a mill. In her request, Doña María explained that she lacked the
capital to operate and maintain the mill and as a result, both the mill and the
surrounding orchard were unproductive and in a state of disrepair. Moreover, she
needed the money from these assets in order to provide a dowry for a daughter who
was preparing to marry. Several witnesses who testified on behalf of Doña María
explained that the condition of the mill and the family's fortunes declined shortly after
Don José's death. Tresierra's husband left her with numerous unpaid debts that
ultimately compromised his estate and the economic security of his family. Doña
María's economic woes highlight how widows from notable families were also
susceptible to financial misfortune. 35 Her experiences were reflective of the
vulnerabilities many heirs experienced in communities where even notables were often

35 AHGES, FJC, Hermosillo, Tomo1204, “Información practicada á solicitud de María de Jesús Tresierra,
Viuda de Don José Buelna, para vender un molino y una huerta,” 1827.
short of cash, and thus, extended and received credit from an array of neighbors, relatives, and merchants.

Widows such as María Tresierra continued to encounter misfortunes well into the nineteenth century, since most Sonorans still depended heavily on credit in order to manage their assets effectively. A little over twenty years latter in Horcasitas, another widow, Doña Guadalupe Huquez, made a similar request as Tresierra above, when she asked the courts for permission to sell some arable land from her husband’s estate in order to feed her four young children. Her husband, Don Fernando Escobosa, died without a will and he owed a number of creditors. The local court allowed Doña Guadalupe to sell the property, but she only received a portion of the proceeds to feed her children, as most of her husband’s estate went to his creditors.36

Thus, while scholars have found examples of widows in Sonora who were able to consolidate and expand their husband’s estates, evidence from civil court records involving debt and permission to sell assets suggests that many widows were not so fortunate, even when they came from propertied families.37 Their conditions, however, had as much to do with the local credit system as with their gender status. Because Sonorans from across the socio-economic spectrum depended on credit, the death of a parent or a husband could quickly result in the loss of a considerable estate. Widows

36 AHGES, FJC, Hermosillo, Tomo 1257, “Promovido por Agustín Jiménez como apoderado de Doña Guadalupe Huquez, para vender una de las labores del intestado de Don Fernando Escobosa, en Horcasitas,” 1850.

and their children were most likely to confront the consequences of these financial arrangements.

CONCLUSION

Collectively, the cases involving debt and inheritance demonstrate the persistence of a "colonial" family ethic in the sense that the family unit worked as a business and individuals in the family worked for the benefit of the family as a whole. The first half of the nineteenth century in Sonora was a period of transition in how families operated within the local and regional economy. Civil court records contain countless examples of individuals working for the financial welfare of their extended family. Yet at the same time, Sonorans exercised considerable autonomy in how they chose to divide their estates among family and servants. These practices had roots in colonial practice, and often resulted from high mortality rates among spouses and children, but they may also suggest the development of a liberal ideology in how people managed their assets. Both men and women utilized liberal rhetoric in the courtroom to buttress their cases when they identified themselves as political citizens with certain legal entitlements as property owners. Above all, these cases demonstrate the vagaries of social mobility for all Sonorans, even notables. Women, particularly widows, were often at the center of these shifts in the economic fortunes of the family.

38 María del Carmen Tonella Trelles, "Las mujeres en los testamentos registrados en los distritos de Hermosillo y Arizpe, Sonora, 1786-1861: Una indagación acerca de la condición femenina en la frontera."
CHAPTER FOUR

Illicit Relationships

Patriarchal gender relations provided an important ideological framework for how Sonorans, particularly notables, defined social order and public morality. Nevertheless, people from various social classes and ethnicities, including notables themselves, did not abide by the sexual mores that underpinned these values. Parish records from the first half of the nineteenth century reflect growing rates of illegitimacy, and census data also hint at high numbers of female-headed households and illicit relationships.\(^1\) Judicial cases from state penal records dealing with adultery, concubinage, bigamy, rape, bestiality and sodomy demonstrate that many Sonorans did not abide by prescribed sex and gender norms.

But these cases reveal much more than an obvious gap between prescription and reality. More generally, they illustrate the various ways women and men across lines of social class and ethnicity reproduced and defied gender norms and hierarchies through their participation in the judicial process. They demonstrate, for example, women’s strategies in challenging a sexual double standard within marriage that husbands and court officials often sought to

\(^1\) José Marcos Medina Bustos, *Vida y muerte en el antiguo Hermosillo (1773-1828): Un estudio demográfico y social basado en los registros parroquiales* (Hermosillo: Gobierno del Estado de Sonora Secretaría y Cultura, 1997), 134-42; 164; 306. See also tables regarding household composition in Chapter One.
maintain. And in contrast to male perpetrators of adultery, judges and witnesses portrayed women who committed adultery as acting against nature and the community as a whole.

Men from all social classes, more often perpetrators than victims in these cases, frequently committed sex crimes in ways that asserted their gender power over women, younger men and over children of both sexes. Although not held to the same standards of sexual conduct as women, there were still limits to how men could find sexual gratification and exercise their power. For example, local judges tended to discipline offenders in proven cases of estupro committed against young female children when male relatives filed complaints on behalf of their kin. This pattern suggests that, as allowed within the framework of the law, estupro was punishable only when the victim was a virgin and physical evidence of her lost virginity existed. Moreover, judges trusted the testimony of male witnesses who acted on behalf of their younger female kin more than they trusted female witnesses. Finally, neither mestizo nor indigenous communities showed tolerance for men who committed sodomy, and of all crimes, litigants and court officials characterized sodomy in religious terms, as an act against nature, community, and God.  

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2 Martin Nesvig maintains that characterizations of homosexuality in terms of sin versus sociology or medicine mark an important turning point in the history of how homosexuality was conceptualized. He also argues that religious interpretations of homosexuality were persistent long after the early modern period. See Martin Nesvig, “The Complicated Terrain of Latin American Homosexuality,” Hispanic American Historical Review 81:3-4 (2001) 713.
Sonorans understood illicit sex crimes as social and moral offenses, not personal crimes, particularly when the perpetrators were women. These cases highlight then, that even if the Church held little institutional power in Sonora during the nineteenth century, both judges and litigants drew on religious rhetoric of sin, retribution and forgiveness during legal proceedings. In spite of the state’s and the Church’s limited resources to enforce moral conduct in the northern borderlands, moral and religious discourses regarding sexuality were nevertheless pervasive in state judicial records.

**ADULTERY, CONCUBINES AND BIGAMY**

By far, adultery and concubinage [*amancebamiento*], along with other illicit relationships between men and women, were the most common of all sexual transgressions in the mostly Hispanicized communities from which the court records come. Scholarship on adultery in Mexico and in Latin America has largely emphasized the double standard in sexual conduct within marriage, stressing that women who committed adultery were severely punished, while wives and communities tolerated men’s extramarital liaisons, provided they were discrete. A wronged husband could punish his wife and her lover as he saw fit, including the punishment of death, so long as he punished both transgressors equally.³ While such scenarios clearly happened in

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³ Julia Tuñon, for example, stresses that in colonial New Spain, the courts punished women who committed adultery more harshly than male perpetrators. See, Julia Tuñon Pablos, *Women in Mexico: A Past Unveiled* (Austin, University of Texas Press, 1999) 31-32. Richard Boyer also argues that society tolerated husbands' adulterous liaisons, but there was no such latitude for adulterous women. See Richard Boyer, *Lives of the Bigamists: Marriage, Family, and Community in Colonial Mexico* (Albuquerque: University of New Mexico Press, 1995), 140. See also, *Novisma recopilación de las leyes de España* Tomo V Libro XII.
Sonora, these cases were not necessarily the norm any more than cases of women who were never formally punished for adultery. This is not to argue that gender relations in nineteenth-century Sonora were the inverse of everywhere else in Mexico at the time. Rather, when women displayed seemingly aberrant behavior in adultery disputes as perpetrators of extramarital sex and aggressors against errant husbands and their mistresses, they drew on traditions of reconciliation, mutual obligation and community property that were no less meaningful to them than the sexual double standard was to their husbands.

More recent scholarship on adultery underscores the huge gap between societal prescription and reality. In practice, wives committed adultery and husbands faced censure for having affairs. In adultery cases in Sonora, local judicial authorities certainly sought to apply laws regarding adultery in ways that would enforce a double standard within marriage, thus, according men more sexual freedom and more control over the sexual conduct of their wives. Nevertheless, women who committed adultery

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4 In nineteenth-century Lima, Christine Hunefeldt found that between 1800 and 1820, men charged women with adultery 42% of the time out of a total of 171 cases. See Christine Hunefeldt, *Liberalism in the Bedroom: Quarreling Spouses in Nineteenth-Century Lima* (University Park: Pennsylvania State University Press, 2000), 288; 303. Steve Stern explores cases in which women used violence to attack husbands and mistresses, although he questions whether these attacks were truly a challenge to patriarchal gender relations. See Steve Stern, *The Secret History of Gender: Women, Men, and Power in Late Colonial Mexico* (Chapel Hill: The University of North Carolina Press, 1995), 97-98; 133-134.
engaged in a number of strategies to at least postpone punishment if not escape it entirely.\(^5\)

Conversely, women whose husbands committed adultery found ways to punish or shame their husbands and their husbands' mistresses, sometimes in defiance of the law and in a strategic manner that asserted their right to communal property and income within the marriage. These cases do not necessarily contradict the ideal of a double standard in adultery disputes that local judges and husbands certainly held dear. Yet the wives' actions in these cases do contain patterns and illustrate how women sought to use the judicial system to obtain autonomy from cruel spouses, avoid punishment, or gain support in their efforts to maintain widely accepted rights to marital property and income. At the same time, however, these cases demonstrate that in their efforts to avoid punishment from husbands and the courts, women also pursued strategies that required them to draw on gender ideologies that argued for women's inherent weakness and inferiority, and ultimately, these women were most successful at avoiding punishment.

Women's actions in these cases as adulteresses and perpetrators of violence against husbands and mistresses were more than deviations from the rules of patriarchy. Rather, women often acted in ways that asserted accepted norms of mutual obligation within marriage and demonstrate that women in early nineteenth-century Sonora took

community property laws inherited from the colonial era very seriously—more seriously than did state judicial officials. Secondly, violence perpetrated in the context of adultery and concubinage disputes carried different implications for men and women as a result of disparate social expectations regarding sexual conduct and authority within marriage. Finally, Sonorans articulated their understanding of adultery as a community offense, not a private one, particularly when the offender was a woman.

Among the existing adultery cases, women were perpetrators roughly half the time, and very few of these cases contained actual sentences. It was more common for judges to request reconciliation or for husbands to suddenly drop charges against their straying wives without explanation. Still, men found a more sympathetic audience as cuckolded husbands when compared with their female counterparts who tried to sue their husbands for adultery. Adultery charges against women cut across ethnic and class boundaries in Sonora, but the most extensive cases tended to involve people who would have characterized themselves as notables. These cases were usually more extensive and were more likely to lead to a sentence, but this pattern may be as much a reflection of the husband’s financial resources and knowledge of the legal system as of greater scandal because the litigants were notables. Among the few sentences against women for adultery that did occur, punishment always resulted in seclusion in a *casa de depósito*.

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6 Twenty-nine adultery cases and assault cases that stem from adultery still exist in the Sonoran state archives for the years between 1820 and 1850, but this number is likely an underestimation of how common adultery actually was in these communities. Crime statistics from several years, for example, list cases that no longer exist among the penal records, and some complete cases still in the archives today were never listed in the annual crime tallies, so it is impossible to arrive at precise numbers. Moreover, testimonies from adultery disputes routinely describe how family members and priests sought to intervene before these controversies arrived in the courts, so it is likely that many disputes were settled informally before spouses were frantic enough to turn to state judicial officials.
Because there were virtually no convents or *casas de recogimiento* in Sonora at this time, these women usually fulfilled their sentences in private homes (*casas de honor* or *casas de depósito*) under the supervision of a local *vecino*. In 1848, for example, Doña Luz Salazar received the longest sentence of six years of seclusion from an Hermosillo court. Her lover, Don Encarnación Estrella, an Alamos landowner with commercial ties to Hermosillo, was sentenced to six years of exile from the state of Sonora. Salazar’s husband, Julián Morales, requested her seclusion in perpetuity, perhaps in part because he had already consented to a permanent separation from his wife before her relationship with Estrella was public knowledge.\(^7\)

Judges usually tried to order reconciliation before they turned to punishment for both male and female perpetrators. In some cases, judges forced women who had affairs to reconcile with their husbands. Reconciliation, however, did not necessarily mean the wives enjoyed more freedom or better treatment. The justice of the peace of Hermosillo ordered Rafael Salgado’s wife, María Sacramento Sobrano, to reconcile and return to her husband after she had sex with a neighbor. She left her husband a second time and defended her actions by recounting his bad treatment of her and their children, and she complained about his failure to provide material support for his family. María Sacramento maintained their six children through ironing. She had also already sought the help of a priest to repair her marriage in spite of her husband’s bad treatment [maltrato], but after discovering that Salgado had raped one of their daughters, she no

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\(^7\) Archivo Histórico del Gobierno del Estado de Sonora, Hermosillo, (AHGES), Fondo Poder Judicial, Penal (FJP), Hermosillo, Tomo 667, Doña Luz Salazar, adulterio, 1848.
longer wanted to live with him. In spite of María Sacramento’s testimony, the judge ordered a second reconciliation. A coerced reconciliation may have been worse than seclusion or imprisonment for women who would have to continue to live with brutal punishment at the hands of a bitter spouse.  

In other cases, reconciliation was a greater compromise for the husband and underscores how difficult it sometimes was for court officials and husbands to control a married woman’s sexual conduct. On multiple occasions husbands simply dropped charges against their wives with no explanation. Sometimes husbands did not have enough evidence or they leveled false charges, but in other cases their reasons were more ambiguous. For instance, José María Barba reconciled with his wife, Veronina Castelo, one time and dropped charges a second time after she continued an affair with Simón Galavéz, a local agricultural worker. Barba dropped charges even after Galavéz threatened his life and his wife admitted to having an affair with Galavéz in earlier testimony, saying that she did not want to live with her husband, and preferred to stay with her lover Galavéz. Barba only requested punishment for Castelo and Galavéz when they fled Hermosillo on a third occasion to a nearby mining center.  

In another case in Arizpe, Don Francisco Navarro filed a complaint against his wife for serving as a poor example before the community with her immoral conduct [conducta corrumpida]. His wife Lorena Grijalva presented a petition explaining that her

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8 AHGES, FJP, Hermosillo, Tomo 623, “Sumario informacion seguida de oficio, contra Ramon Miranda, por adulterio que cometio con la mujer de Rafael Salgado, y desavio el estado,” 1833.

9 AHGES, FJP, Hermosillo, Tomo 636, “Causa seguida por José María Barba contra su esposa Veronina Castelo y contra Simon Galavéz,” 1837.
husband was irrational and that she had formally separated from Navarro according to a legal agreement made in Hermosillo after several unsuccessful attempts at reconciliation. After reviewing the case, the state Attorney General suggested that Navarro place his wife in a casa de depósito, but Navarro instead suddenly dropped charges against her. Navarro was never able to present compelling evidence that his wife had been unfaithful, and Lorena Grijalva remained separated from her husband and lived instead with her parents in Arizpe.¹⁰ Navarro’s failure to prove his wife’s misconduct and place her in a casa de depósito demonstrates local courts did not automatically uphold men’s authority over their wives. Nevertheless, it is also likely that Grijalva’s moral reputation was more solid and her ability to stay out of a casa de depósito was more assured because she lived with her parents. Thus, women like Grijalva who chose to separate from their husbands were more likely to opt for living under a different form of patriarchy, that of parents or relatives, than to do away with male authority all together.

On rare occasions, women flouted the authority of both husbands and the law. In Pueblo de Seris near Hermosillo, Manuel Valencia’s wife María Elena Arvisu was able to successfully stall her husband’s efforts to charge her with adultery by accusing him of vagrancy and arguing that he filed a suit in a district where he was not a resident. Judges from both Pueblo de Seris and Hermosillo became involved in debating Valencia’s residence, which took precedence over Valencia’s initial charges against his wife for

¹⁰ AHGES, FJP, Ures, Tomo 2545, “Promovido por Don Francisco Navarro contra su esposa, Juzgado de Primera Instancia de Arizpe,” 1835. For an example of another case of a husband who falsely accused his wife of adultery, see, AHGES, FJP, Hermosillo, Tomo 636, “Causa criminal seguida contra Eduardo Olea por delito de adulterio,” 1837.
adultery. Valencia had won an earlier case in which the courts sentenced Arvisu to enforced seclusion [reclusión o riguroso depósito] for committing adultery, but she never complied with the order. The suit ended abruptly when Franscico Robles, the judge from Hermosillo, concluded that he could not pursue reconciliation of the couple as long as Arvisu refused to appear in court. Robles’s dilemma highlights how difficult it was to enforce an edict and a court sentence, but the case also raises questions about the limits placed on men of marginal status when they sought to exercise their influence over rebellious wives, given Manuel Valencia’s reputation as a vagrant.11

Thus, although the law accorded men more support in their efforts to punish their wives for adultery, this advantage did not necessarily lead courts to dispense severe sentences against these errant wives. In the cases in which sentencing occurred, it usually took place as a result of the persistence, legal knowledge and willingness on the part of the husband to spend the resources to pursue the case. It is in this context that many men punished their wives themselves with violence, either before suing their wives for adultery or after reconciliation.

Women, in contrast, did not even enjoy legal sanction when they charged their husbands with adultery.12 María Candelaria Martínez’s case in Ures provides some insight into how the local courts enforced a sexual double standard among married

11 AHGES, FJP, Hermosillo, Tomo 1256, “Competencia de jurisdicción susitada entre el Alcalde Secundo de esta ciudad y Juez de Paz del Pueblo de Seris, en una demanda promovida por Manuel Valencia contra su esposa,” 1849.

12 In one case, the mother of a single man who was having sexual relations with a married woman accused formally her son of adultery. See AHGES, FJP, Arizpe, Tomo 2783, “Contra Jesús Valencia y Gertrudis Fuentes por delito de adulterio,” 1832.
couples. When Martínez accused her husband, Jesús Gómez, of adultery with Juana Rios, she presented compelling evidence that Gómez’ affair with Rios was public knowledge. One of her witnesses was a former justice of the peace who had arrested Gómez before and sent him to jail, but Gómez persisted in returning to live with his mistress Rios. The presiding judge was also convinced of Gómez’s guilt. Yet when he consulted with Manuel Espinosa de los Monteros, a higher state official from the district of Alamos, Espinosa argued that Martínez could not accuse her husband of adultery. According to Espinosa, the laws for adultery only applied to husbands accusing their wives, not the inverse. The local judge instead charged Gómez with concubinage, a crime that would carry a less severe sentence.¹³

María Loreto Barrios from Arizpe accused her husband Teodoro Arreola of concubinage, complaining to the courts that her husband lived with his lover Juana Cano as if she were his wife. Like many suits, however, actual punishment was not the end result, was it likely Barrios’s ultimate goal. When Barrios filed her formal complaint against her husband, she stressed that she wanted him to end his liaison with Juana Cano; she did not want to separate from her husband. After Cano escaped from jail, Barrios dropped charges against her husband and they formally reconciled.

In addition, the dispute between Barrios and her husband demonstrates how women with adulterous husbands were often concerned about loss of income to a competing mistress. In her initial complaint, Barrios also wanted her husband to pay her

¹³ AHGES, FJP, Hermosillo, Tomo 650, “Causa sumaria seguida contra Jesus Gómez, por el delito que en ella se expresa (delito de adulterio),” 1841.
six pesos that he received from her employer, Sacramento Estrada. Barrios had intended the money to pay for prayers during a mass, but her husband instead diverted the money to his lover."¹⁴ For women whose husbands had mistresses, complaints over the loss of income was a persistent theme in the testimonies, as with similar cases in other regions of Latin America."¹⁵ Loreta Barrios, however, was particularly indignant that her husband had diverted money to his mistress that came from her employer—it was not a question of her husband Arreola misspending money he earned. Thus, her complaint provides insight into the entitlement some women felt to wages they earned with their own labor.

Women turned to violence more often than to the courts to retaliate against unfaithful spouses. But because the law allowed men and women different privileges and obligations regarding adultery and its punishment, violence took on different meanings depending on whether men or women were the perpetrators. While husbands tended to justify physical threats and abuses as a rightful response to “correct” their wives’ adulterous conduct, women who used violence to punish husbands or mistresses did not make such arguments."¹⁶

The courts were certainly less sympathetic to women who tried to justify their use of violence in adultery disputes. Women sometimes argued that they were reclaiming

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¹⁴ AHGES, FJP, Ures, Tomo 2546, “Seguida contra Teodoro Arreola por petición de su esposa Loreta Barrios por infidelidad que le ofendia por estar el primero amancebado con Juana Cano,” 1839.


property or resources that rightfully belonged to them when they attacked a mistress. More commonly, they argued that their actions were motivated by passion, that they were overwhelmed with emotion and jealousy. This explanation certainly won them more sympathy with judges, a fact that was probably not lost on women bent on a pardon or a lighter sentence. Thus, how the courts interpreted and punished violence varied according to the perpetrator's gender. Women who resorted to violence did so from a compromised status, because the courts were less likely to take their charges of adultery seriously, and as discussed above, they had to resort to lesser charges of concubinage when they denounced their husbands. Men, however, were able to justify their use of violence as their inherent right to "correct" dishonest wives and set a public example for other wives in their communities.

Although violence took on different implications depending on whether the perpetrator was a husband or a wife, both sexes turned to violence in adultery disputes. In contrast to men, however, women were more likely to attack a mistress, a common pattern in other regions of Mexico. Richard Boyer argues that these attacks on the mistress highlight the uneven power relations between husbands and wives. Less risk was involved in targeting a female rival. Steve Stern maintains that by attacking mistresses, wives were actually according their rivals a measure of parity and publicly demonstrating their inability to contain their husbands.17

In Sonora, local courts primarily charged women with assault for attacking a husband’s lover. Women were more likely to appear before judges for assaulting a mistress than a husband, as Stern and Boyer found with similar cases in central Mexico. Boyer’s argument that these patterns point to men’s power within marriage is certainly relevant to adultery cases in Sonora, but the cases contradict Stern’s argument that violence between wives and mistresses had a leveling effect between rivals. The disputes confirm another aspect of Stern’s arguments about the importance women placed on their husband’s obligation to contribute material support within marriage. Moreover, women attacked mistresses in ways that made clear that they were claiming rights to diverted resources and marital property that the women considered theirs as much as their husbands. In this respect, violence toward mistresses was not strictly a confrontation between female rivals, because in the process of the attack, wives reclaimed property and lost income, at least symbolically, and in the process, they delivered shame.

A confrontation between Ana Fontes and Rosaria Casanova at a local dance demonstrates how wives could turn a physical attack into a public claim to marital property. Ana Fontes tore Rosaria Casanova from a horse and cut Casanova’s sister Francisca on the face when she saw her husband arrive at a local dance [tesguin] with both women. Rosaria Casanova had been having an adulterous relationship with Fontes’s husband and had apparently done little to hide the fact from public view in Guaymas, where the couple lived. Rosaria’s sister Francisca initiated the case against
Fontes for the injury to her face, and she identified herself as a *vecina* and the wife of Don Jacinto Soto.¹⁸

In her defending testimony, Fontes explained that she had suspected her husband was in an “illicit friendship” [*ilícita amistad*] with Francisca’s sister Rosaria, but the *tesguin* appeared to be the first time she saw her husband arrive at a public event with his lover. She also emphasized that Rosaria Casanova, to whom she referred as a *criada*, or a servant girl of little status, was riding a horse she believed belonged equally to her and her husband. For Fontes, ownership of a horse explained why she, in the words of one witness, “tore Rosaria from the beast with ample force.”¹⁹ Her anger was not strictly over her husband’s relationship with Casanova, although the spectacle of seeing her husband with another woman at a public event should not be underestimated. Fontes attacked Casanova in a way that unambiguously asserted her right to property she owned with her husband.

In contrast, when Fontes’s defender explained her actions before the judge, he stressed that Fontes’s attack was an act of jealous rage, impulsive and typical of her sex. Several men served as witnesses on Fontes’s behalf, and they focused their attention on the scandalous conduct of the Casanova sisters. Although no one said it was wrong for Fontes’s husband to have a mistress, per se, some saw the public nature of his relationship with Rosaria Casanova as a transgression of respectable conduct for a

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¹⁸ AHGES, FJP, Hermosillo, Tomo 627, “Contra Ana María Fontes por heridas que dió a María Francisca Casanova,” 1834.

¹⁹ Ibid., 5.
husband. They ultimately accused the Casanova sisters, not Fontes’s husband, of dividing the town over the scandal. Although no one sought to defend the Casanovas, the Justice of Peace in Guaymas sentenced Ana Fontes to two months in a casa de depósito, following the council of Licenciado José de Aguilar, who reasoned that Casanova’s immoral relationship should not preclude Fontes from punishment. Moreover, Fontes had to pay some of the court costs and repay Francisca Casanova for a shawl [rebozo] she damaged during the confrontation.

In Fontes’s case, it was not necessarily her use of violence that earned her punishment. On other occasions judges pardoned women who attacked husbands and mistresses. Two factors may have contributed to Fontes’s ultimate punishment. First, while her defender tried to argue that Fontes acted in a fit of irrational jealousy, Fontes herself stressed that she was justified in attacking Casanova in order to defend her ownership over the horse, one that according to her, represented a share her marital property. In her testimony, Fontes certainly did not abide by her defender’s efforts to characterize her a woman prone to senseless retaliation, a condition he linked to her sex. Perhaps her assertion of rights to property as a justification for violence seemed too premeditated and more importantly, unsettled the justices’ notions about why a woman might use violence. Secondly, both Fontes and Francisca Casanova characterized themselves as respectable women, Doñas married to local vecinos. Based on the testimonies of other witnesses, both families were well known, and the spectacle of violence between these two families may have caused the justices to see their conduct as a model for others to avoid.
Local courts did not punish all women who assaulted husbands and mistresses. The social class of the perpetrators, in addition to their explanations for their crimes, likely played a role in their pardons. Justices ultimately showed more sympathy for women who explained their crimes as acts of passion, in contrast to women like Ana Fontes who argued that she lashed out largely over property. Josefa Galavez’s assault on Balentina Rosa in a church after Easter mass certainly supports the hypothesis that social class and the defendant’s own explanation of the motives for the crime played a role in whether judges chose to pardon or discipline. Galavez, a married seamstress from Hermosillo, delivered several blows to Balentina Rosa and tore off her shawl \textit{[rebozo]} and head covering before onlookers were able to separate the women and take Rosas out of sight. Galavez found herself in court because news of the confrontation spread rapidly by word-of-mouth, especially because the confrontations happened in a church “before the images of God.”

In her defense, Galavez acknowledged that it was horrible for her to commit such a crime in a church, but she explained her behavior as an act of passion. She continued her defense by discussing how her husband had been living with Rosas for some time. Her husband had purchased the \textit{rebozo} that Galavez tore from Rosas, and Galavez argued

\begin{itemize}
\item \textit{AHGES, FJP, Hermosillo, Tomo 628, “Causa criminal seguida a las Balentina Rosa y Josefa Galavéz por desacato al templo de Dios,” 1834.}
\item \textit{Ibid., “Que antesedente hubo de agravio para haber cometido tal exceso, y si ignora que aquel es un lugar en donde esta las imagines del Señor?” 12.}
\item \textit{Ibid., “que ahora que se ha recobrado conoce que ha hecho muy mal de haber cometido el delito en el templo de Dios, que solo por un acto de pacion ó violencia pudo haberlo hecho.” 12.}
\end{itemize}
that the money her husband spent on the rebozo should have gone to her and her family. For her, the rebozo symbolized a loss of income. Moreover, the term rebozar referred to the act of covering shame. Galavez’s attack on Rosas carried symbolic weight when she acted on an item of clothing that symbolized lost income and quite literally exposed Rosas to public shame.

In contrast to Ana Pontes, however, Galavez stressed how her crime was born of passion and she conceded that she was irrational at the time of the attack. Her defender Encarnación Estrella maintained that she had to have been senseless to commit the sin of fighting in a sacred place. He also emphasized that Galavez’s husband left her and her children in a state of misery and thus had not fulfilled his basic duties as a husband and a father. He argued that the courts at the very least owed some sympathy to Galavez, a “pathetic being” [desdichada ser]. Estrella emphasized Galavez’s weakness and vulnerability, an argument that judges may have found more agreeable if it conformed to their vision of acceptable gender norms. Unlike Ana Fontes, Galavez did little to contradict her defender’s arguments. In his final statement, the judge of the first instance José Elias concluded that in spite of starting a fight inside the church, he thought Galavez was sufficiently contrite and had not caused a public scandal. He absolved Galavez of any crime.

It is likely that Galavez’s and Rosas’s lower social status also played a role in Galavez’s absolution. Galavez was a seamstress and Rosas was single and ironed clothing for a living. Neither woman identified themselves as vecinas, nor did Rosas link
herself formally to any man during her testimony. Galavez presented herself as married, of course, but she did not introduce herself as someone’s wife in her opening testimony. In contrast to Ana Fontes, an aggressive seamstress may have been less disturbing to judicial officials than when a woman of higher standing fought in public.

Galavez’s use of passion in her defense was common among women who committed assault, and it was one with which judges seemed to sympathize. Both men and women perpetrators ascribed their assaults and murders to passion in adultery disputes, and the concept of passion as a defense was widely accepted in Spanish and Latin American legal literature in the late eighteenth and early nineteenth centuries. Jurists such as Joaquín Escriche and Joaquín Francisco Pacheco described passion as an illness, a form of madness that should exonerate the perpetrator of any act of violence. Clearly, however, court officials interpreted passion in gendered terms, and their interpretations likely varied over time and from place to place. In the urban centers of northwestern Mexico, legal defenders described men’s passion as a justifiable response to the painful situation of knowing that his wife had ruined his honor. Women’s passion, in contrast, was a result of weakness inherent in their sex. Defenders described these women as pathetic creatures who lacked self-control, and thus turned to violence.

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23 This stands in contrast to Kristin Ruggiero’s findings among women in late nineteenth-century Argentina. Ruggiero argues that while men’s passion in crime was widely accepted, the judicial community in Argentina interpreted passion among women as a medical condition, and women were less likely to turn to passion as a defense. Ruggiero provides an extensive analysis of passion as a medical condition during the late nineteenth century. See Kristin Ruggiero, “Passion, Perversity, and the Pace of Justice in Argentina at the Turn of the Last Century,” Crime and Punishment in Latin America, eds. Ricardo D. Salvatore, Carlos Aguirre and Gilbert M. Joseph (Durham: Duke University Press, 2001), 216-17.
Although it was more common for wives to attack their husband’s mistresses, on very rare occasions they lashed out against husbands. Josefa Camacho severely injured her husband Santos León by stabbing him several times in Hermosillo’s public plaza when she saw him at a dance with another woman who worked as his cook. The couple was already separated at the time of the assault, apparently at Camacho’s request. Like Josefa Galavez, Camacho pleaded that the assault was an act of passion, and Hermosillo’s judge pardoned her.25 In her testimony she described in detail the events that led up to her attack on her husband, recounting her growing anger and humiliation over her husband’s behavior with his lover, highlighting that they had shared food, drink, and left the square for a nearby field before Camacho confronted them.

Galavez’s and Camacho’s testimonies underscore that women who used violence against husbands and mistresses did not necessarily receive punishment, particularly if their explanations of the crime did not overtly challenge expected gender norms. Justices were less sympathetic to the women’s claims to property as a justification for punishing errant husbands. In cases in which defendants described their crime as an act of passion and in which they stressed their vulnerability and status as victims before their spouses, women received pardon. These cases illustrate the importance of strategy as a factor in understanding how women characterized themselves and their actions in judicial records. Their behaviors and the decisions of court officials also highlight how both men and

24 Ibid., 212-13.

25 AHGES, FJP, Hermosillo, Tomo 638, “Causa criminal que se le sigue a Josefa Camacho, por haber herido a su marido Santos León,” 1837.
women reproduced patriarchal social relations and gender ideologies that justified women’s subordination in the courtroom, albeit for different motives. For women, drawing on a defense like passion, which perpetuated views of women as weak, emotive, and unpredictable, often won them pardon. In addition, these adultery disputes that revolved around women’s access to marital property provide insight into how women and local judges had conflicting interpretations of the meaning of women’s property rights inherited from the colonial period.

In sharp contrast to women, men’s use of violence to punish adulterous wives received social and legal sanction, and mal trato was common in adultery cases. Some husbands did not see going to the courts to complain about their wives’ unfaithfulness as necessary since they felt entitled to punish their wives themselves. When Ignacio Villa denounced his wife in Hermosillo in 1801, he stated that only his friends kept him from killing his wife and her lover, José de Buelna. His friends apparently convinced him to present his grievance to a judge instead, even though he stated in his initial complaint that he knew he was the true judge of his own home.26

Women resisted mal trato in various ways; perhaps the most common strategy was to flee. In these cases, a husband’s punishment may have been the catalyst for an adulterous affair, as women sometimes saw their lovers as a way to leave an abusive husband permanently. Guadalupe Luna fled Arizpe with Juan

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26 My emphasis. AHGES, FJP, Hermosillo, Tomo 602, “José de Buelna, adulterio,” 1801.
José Mesa because she believed her mother was going to tell her husband that she was having an illicit relationship with another man. Fearing retaliation, she left town with Mesa and began an affair with him during their flight. Some women also sought out the judicial system for protection. In Arizpe Desiderio Islas, a miner, sued his wife Teresa Mange for committing adultery with Pedro Minjarez, who had served as a judge in Baviacora. His wife fled Arizpe after she was apprehended and the court placed her in a casa de depósito. Islas, who was convinced that local officials were not responding his wife’s escape quickly enough, sought to detain Mange himself. When Islas found her, he attacked her and stabbed her with a bayonet.

Mange survived and recovered from the attack and the judge in Arizpe, Alonso María Tresierra, ordered Islas’s arrest for assault. Islas defended his actions by arguing that his wife’s adultery was a far worse crime than assault. According to Islas, the courts were infringing on his obligation to “correct” an unfaithful wife. He cited Spanish laws that permitted husbands to kill their wives for adultery. Islas also maintained that the courts were at least partially responsible for his wife’s transgressions because they let her escape from a house of good repute while she was under arrest for adultery. He believed that it would have been better to maintain his wife under his supervision, an arrangement Mange understandably sought to avoid.27

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Judge Tresierra found Islas’s arguments convincing enough to set him free. He tried to arrange reconciliation between the couple, but Mange resisted. Tresierra also ordered a lien on Mange’s mining property for another lawsuit from Don Manuel Carrillo, who accused her of robbing silver from his mine. Mange instead sued the Arizpe judge for mishandling the case from a court in Baviacora. She requested separation from Islas and she wanted Islas punished for his earlier assault. Mange’s complaints went to the state Supreme Court, where Mange was able to demonstrate that Judge Tresierra had a vested interest in placing an embargo on her property. The Supreme Court also found that Islas should have been in jail at the time he attacked his wife in 1839, but Tresierra apparently set him free because he lacked food for his prisoners. Mange won her case against Tresierra for the embargo and Islas was incarcerated.\(^{28}\)

Iglesias filed a counter suit, lamenting that his wife had avoided punishment for adultery because her lover had business connections with court officials in Baviacora. He complained that the justice system had failed in its duty to protect the sanctity of marriage by undermining his status as a husband who had the authority to punish his wife. Islas’s case also went before the state Supreme

\(^{28}\) AHGES, Fondo Juzgado Civil (FJC), Hermosillo, Tomo 1235, “Juicio de responsabilidad, por acusación de instruido, Doña Teresa Mange contra el juez de primera instancia de Arizpe, Don Alonso María Tresierra,” 1840.
Court, but it did not rule in his favor. Documentation on the couple ends with Islas still in jail, unable to get access to paper in order to pursue his suit against his wife for adultery, while a judge in Baviacora investigated whether Islas had caused a public scandal with his accusations against officials there.

In the end, Teresa Mange was able to get the courts to keep her husband in jail for assault and she regained control over her property. Nevertheless, she endured years of *mal trato* and unwanted reconciliation, and Islas nearly killed her with a bayonet before she achieved her ends. Mange was also exceptional in her ability to advocate persistently on her own behalf within the local court system. Her ability to write, in addition to her possible relationship with judicial officials in nearby Baviacora, likely afforded her options that many women did not enjoy.

Some men did kill their wives for committing adultery, and in all cases, they were pardoned. In Banamichi, a community in the Rio Sonora Valley, José Figueroa, an agricultural worker, murdered his wife María Petra Valenzuela in a river by striking her with a stone after he supposedly found her in a nearby field with another man. In his defense, Figueroa, who was still of minor age, claimed his wife had numerous affairs with multiple men, many of whom were called to testify during the investigation of the murder. When the judge asked why

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29 AHGES, FJC, Hermosillo, Tomo 1236, “Acusación que el reo Desiderio Islas hizo contra el juez de primera instancia de Arizpe sobre faltas cometidas en el ejercicio de sus funciones,” 1840.

30 AHGES, FJP, Arizpe, Tomo 2783, “Averguación sumaria practicada contra Desiderio Islas por escándalo,” 1840.
Figueróa did not go to authorities to denounce his wife’s illicit conduct, he replied that he was too embarrassed. The couple had already been separated before because of his wife’s illicit relationships with other men. Figueróa claimed that while he and his wife worked on a nearby hacienda, he once walked into their kitchen and found her having sex with another worker.31

Figueróa’s defender and guardian [curador], Justo Timbres, ultimately worked to characterize his wife Valenzuela as having an unnatural and voracious sexual appetite, and argued that Figueróa killed his wife by accident in the moment he was justifiably trying to recuperate his honor by punishing her for adultery. The judge ultimately pardoned Figueróa. Figueróa’s case touches on a number of important themes regarding adulterous women, first that their affairs were the result of an unnatural and unbridled sexual appetite and secondly, unlike men, their transgressions posed a threat to the community, not just an individual marriage.

The case of Doña Luz Salazar demonstrates how husbands were much more likely to articulate a wife’s offense as a crime against the entire community and as a threat to the broader social order. This was particularly true among litigants who held property, and likely enjoyed a higher social status within their community. Julián Morales denounced his wife Salazar, with whom he was

31 AHGES, FJP, Ures, Tomo 2545, “Jose Figueroa por homocidio a su esposa,” 1835.
already separated, for having an adulterous relationship with his *compadre* Don Encarnación Estrella. Unlike Figueroa, Morales showed no reluctance in seeking the help of the justice system to punish his wife. Throughout the investigation, Morales described his wife’s crime as an injury to the whole society, and argued that the community should be as interested in punishing the crime as he. When Salazar fled Hermosillo with Estrella, Morales also highlighted his wife’s willingness to leave their older children as unnatural for a woman. Ironically, he later requested that justices take Salazar’s youngest child, whom Salazar was still breast feeding, from her custody once she returned to Hermosillo.

Thus, husbands were able to characterize adulterous wives as having sexual appetites that overwhelmed their “natural” instincts of maternal devotion. They also effectively described their wives’ crimes as a threat to communal stability. In contrast, wives whose husbands committed adultery never make such claims, but there were limits to what men could do, as cases involving *estupro* and sodomy demonstrate.

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32 *Compadre* refers to the godfather of one’s children.

33 “[Salazar esta] agravando más y más con su impugnidad a la sociedad entera, que se halla tan interesada como yo mismo en el castigo del delito,” AHGES, FJP, Hermosillo, Tomo 667, “Dona Luz Salazar adulterio (bienes),” 1848, 3.

34 Courts also aggressively investigated accusations of bigamy against men. See AHGES, FJP, Hermosillo, Tomo 645, “Causa Criminal instruida contra Francisco Solano Romero por el delito de doble matrimonio,” 1840.
ESTUPRO

In legal terms, _estupro_ referred to illicit sexual relations with an honorable woman, including a virgin or a widow.\(^{35}\) The victims in _estupro_ cases in Sonora tended to be very young and always came from a lower economic and/or ethnic status. The victims' humble origins attest to the vulnerability of young girls of marginal social status in Sonora's urban centers and rural surroundings. They were orphans or their parents were agricultural workers or labored in low-paying jobs as artisans or ironing women [plancheras], and some were identified as indigenous. The ages of the victims ranged from five to eighteen years, and the victims' average age was nine years.

The case of Loreta Yanes, an eight-year-old girl from Alamos, Sonora, is representative of other _estupro_ victims. Her attacker, Cesario Palacio, violently raped her while she was alone and running an errand for her mother. Another victim, Catrina Rojas, the daughter of a jornalero in Horcasitas, was attacked and raped while drawing water from a river near her home. The victims were often alone and in the countryside doing chores before they were attacked. The perpetrators were clearly strategic in their decision to target young girls and they usually knew their victims before they raped them. They chose victims who were less likely to offer physical resistance, who were unescorted, and whose parents or guardians had few resources to pursue an extensive lawsuit. Among the cases that

\(^{35}\)_Joaquín Escriche, _Diccionario razonado de legislación civil, penal, comercial y forense_ (México, D.F.: Universidad Nacional Autónoma de México, 1996; Primera edición 1993), 244.
are complete and include sentences, the parents lost or dropped charges eight out of twelve times. Women plaintiffs [quejosas] were even less likely than men to win a sentence, suggesting a gender bias among judicial officials toward the plaintiffs.

Almost all the victims in the estupro cases were children, most of them between the ages of six and nine years, and based on the physical evidence and the testimonies of the victims, they were all brutally raped. Some of the victims almost died from their injuries. Clearly, as noted above, these children were less able to resist, and they were easier targets by virtue of being alone in an isolated physical setting, and their lower social status likely played a role in their rape. Still, it is difficult to know definitively if some other systemic attraction to young girls existed for the perpetrators, for example, that their virginity rendered them more likely targets. The violence of these attacks underscores that the rape of young girls was not simply born out of sexual gratification, but also reflects the brutal exercise of power over some of the most vulnerable members of the community. And while most of the perpetrators were of marginal social status themselves and worked as cowhands, servants, blacksmiths and day laborers, a few were men who received the title “Don” in the court records, and worked as teachers and merchants.

This pattern of young children as victims also likely reflects that older women almost never tried to redress rape through the court system. For women over the age of sixteen to accuse a man of estupro involved many risks, because
the charge required her to first prove her honorable sexual reputation, a process that many women likely found too humiliating in the first place. Perpetrators could easily argue that sex was consensual, thus focusing the judicial officials’ attention on the woman’s sexual conduct and broader reputation, a risk that older women were evidently unwilling to take.36

The experience of María Yoquigun, an eighteen-year-old married woman of Yaqui descent, demonstrates how court officials scrutinized the sexual conduct of “older” victims in estupro cases and how perpetrators often tried to convince judges that the crime was actually a case of consensual sex. Miguel Chacón and Vicente García, also Yaquis, raped María Yoquigun while she was selling piñones and her husband was away working. In her testimony, Yoquigun described the rape in brutal terms, recounting that Chacón, García and a third man raped and beat her until her own blood stained her clothing.37 García and Chacón, however, used completely different language as they sought to convince the judge that Yoquigun was a willing participant in sex. García argued that Yoquigun chose to leave with the men by horse and Chacón used the term adulterio to describe sex with Yoquigun. While adultery was also a crime,

36 In the case of colonial Peru, Ward Stavig found single, indigenous women and their families never brought formal charges of rape against indigenous men, and he argues that these kinds of disputes were likely dealt with internally. Ward Stavig, The World of Túpac Amaru: Conflict, Community, and Identity in Colonial Peru (Lincoln: University of Nebraska Press, 1999), 32-33.

37 “Los tres individuos fueron a forsaria como en efecto los hicieron . . . que la golpearon y le sangraron sus trajes,” AHGES, FJP, Hermosillo, Tomo 627, “Miguel Chacón y Vicente García por el delito de violación cometido en una mujer casada,” 1834, 12.
at least Yoquigun could also be implicated in the crime. García’s emphasis that the men met Yoquigun while she was alone and outside of her house highlights that he understood her to be available for sexual advances. García’s assumptions, even if they were a strategy to minimize his responsibility in the crime, demonstrate the vulnerability of indigenous women of lower social status to unwanted sexual advances while conducting routine business.

Much of the remaining interrogations hinged on whether Yoquigun had sex with the men voluntarily. Eventually, the judges concluded García and Chacón were guilty of “forced and violent sex” [fuera y violencia], in part because a third accused man, a minor, provided testimony consistent with Yoquingun’s, claiming that Chacón and García raped her. In addition, the testimony of Yoquingun’s amo, who filed the original complaint, and her husband’s testimony on her behalf certainly bolstered her claim of rape. At the time of the sentence, García had already escaped from the public jail but Chacón received a sentence of three months to public works.

Even younger women faced close scrutiny when their relatives brought charges of estupro. Four aunts filed a suit of estupro on behalf of a thirteen-year-old orphaned niece named María Josefa, but when the niece’s sexual conduct before the crime became critical to the outcome, they abruptly dropped charges. The aunts denounced the couple with whom María Josefa was living, Miguel Cruz and his wife Luz Salazar,
for forcing the girl to have sex with Don Antonio Aguirre, a man of status in the community.

María Josefa claimed that Miguel forcibly placed her in a room with Don Antonio after she had lived with Miguel and Luz for about three weeks, and told the judge that Luz was always saying that she and her husband would make María Josefa a prostitute. In contrast, Luz described María Josefa's relationship with Antonio Aguirre as one of courtship gone awry, in which María Josefa tricked Don Antonio about her previous sexual experience and was open to his advances during walks in which Luz Salazar escorted the couple. Secondly, Salazar raised doubts about the girl's sexual and moral conduct before ever meeting Don Antonio by claiming that Don Antonio had called her a whore [puta] during their first sexual encounter. Her version of what happened considerably weakened the charge of estupro, by definition sex with an honorable and chaste woman.38

In all cases, the testimony of the female victims carried little weight if they did not also have male witnesses who could corroborate their stories, as in the case of the married woman María Yoquingun above. Most importantly for girls who claimed the status of virgins, however, was the physical evidence of rape drawn from the testimonies of midwives and doctors who examined the victims after the crime. Once a parent or guardian filed a formal complaint, the judge ordered a local doctor or midwife to examine the girl's genital area, and if the

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38 AHGES, FJP, Hermosillo, Tomo 614, “Causa contra Miguel Castro y su esposa por estupro,” 1832, 4.
midwife or doctor found no evidence of lost virginity, such as a torn hymen, then the case was usually dropped. Families of victims dropped cases or eventually lost cases, even if midwives or doctors found other evidence of physical abuse and injury.

A medical doctor in Alamos claimed that while the body of María Encarnación Ocampo's eight-year-old daughter bore physical evidence of a sexual attack, he still maintained that he could not conclude that the girl had lost her virginity. The doctor's emphasis on whether or not the girl lost her virginity and the court's eventual pardon of the accused perpetrator reflect how estupro was conceptualized as moral and social offense. According to the testimonies of parents and guardians, specifically men, the loss of a woman's virginity implied disgrace for the entire family and resulted in fewer prospects for marriage later in life. Thus, as Christine Hunefeldt has argued in her study of Lima, these crimes were not necessarily understood as a violation of the woman's body or a physical attack. Rather, they were a collective offense against the entire family.

The gender of the plaintiff also played a critical role in the outcome of cases, and female plaintiffs faced a number of disadvantages compared to their male counterparts. Among the available cases, women were just as likely as men to file charges on behalf of their daughters and nieces, but in the twelve cases that resulted in

39 AHGES, FJP, Hermosillo, Tomo 606, “Causa contra José María Acanto por estupro,” 1828.

actual rulings, male plaintiffs won three out of five cases and female plaintiffs only one out of seven. So while having a male relative or guardian who filed charges would not guarantee punishment, female relatives, particularly mothers, stood little chance of winning estupro cases.

María Encarnación Ocampo’s suit in Alamos on behalf of her eight-year-old daughter demonstrates how local judges often presumed that women in particular had motives to lie in court, and were therefore less trustworthy plaintiffs and witnesses. The judge of the first instance concluded that Ocampo persuaded her daughter to lie because the man she accused, Cesario Palacio, was a former lover and she likely held a grudge against him. Palacio received a pardon, even though he had already escaped from jail. In Hermosillo, María Margarita Velandes also lost a case against a former lover, Don Domingo Durazo, for molesting their six-year-old daughter. Durazo argued that Velandes was crazy and bitter that he had ended their illicit relationship to marry someone else. Like Ocampo’s case in Alamos, the courts concluded that Velandes likely filed charges against Durazo out of malice and had convinced her daughter to lie about her father’s assault.⁴¹

In spite of women’s overwhelming lack of success as plaintiffs in estupro cases, their presence on behalf of their daughters and nieces raises some important questions regarding the conventional wisdom that it was primarily the man’s role to defend family

⁴¹ AHGES, FJP, Hermosillo, Tomo 606, “Causa contra José María Acanto por estupro,” 1828; AHGES, FJP, Hermosillo, Tomo 658, “Contra Don Domingo Durazo por el delito de estupro o desfloramiento que ha hecho con una niña de seis años,” 1843.
honor. By going to court to defend the virginity of their young female relatives, these women were engaged in an ambiguous exercise of simultaneously reinforcing and challenging prevailing gender norms that accorded men more power. In their testimony, these women, mostly from the lower social orders, stressed the importance of the victims’ virginity, and thus reinforced a social hierarchy which linked women’s chastity to the privileges that accompanied having a legal marriage and legitimate offspring. On the other hand, by filing lawsuits, women were attempting to claim access to a status of respectability that elites generally reserved for themselves. In addition, the quejosas were likely challenging notions of masculinity that permitted men to sometimes use violence to gain sexual access to women, particularly in cases in which the man was older and enjoyed a higher social status. Perhaps for these reasons quejosas found it especially difficult to defend successfully their female relatives in court.

SODOMY

Accusations of sodomy were extremely rare, but judicial officials and local communities tolerated sodomy the least among all sex crimes. Punishment for sodomy reveals the limits placed on male sexuality and the prerogatives of older men to exercise

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42 Victoria Chenaut, for example, argues that men were responsible for defending female honor among family members. See Victoria Chanaut, “Honor y ley: la mujer totonaco en el conflicto judicial en la segunda mitad del siglo XIX,” Familias y mujeres en México: del modelo a la diversidad, eds., Soledad González Montes and Julia Tuñón (México: El Colegio de México, 1997), 111-16

43 Not all elites married, however, chastity and marriage were privileges that were essential to becoming a member of the local elite.
power over boys through sexual violence. Like the *estupro*, most sodomy cases were nonconsensual and violent. The victims were younger, between the ages of three and seventeen. In contrast to *estupro*, however, parents or guardians, regardless of their gender, faced little difficulty convincing local judges to apprehend and pursue aggressive investigations of sodomy. Judges also meted out more severe punishment for sodomy in comparison to *estupro*, adultery and *mal trato*. For example, one perpetrator from Hermosillo, Don Luis Domingo García, a teacher from Hermosillo, received a sentence of nine years of forced military conscription and hard labor in Guaymas, which was among the longest sentences for any crime available in state penal records. Indigenous residents of a hacienda nearly beat another perpetrator to death before his case was transferred to Hermosillo. These more severe punishments at the hands of judges and community members suggest that of all sex crimes, sodomy was the most transgressive. They certainly highlight the limits of acceptable male sexuality, but the fact that all the cases involved male children, and most were violent, does complicate what aspects of the deed judges and community members perceived as most criminal.

Local judges, witnesses, and guardians who filed complaints described sodomy as a crime against God, nature, and a source of public scandal. So while judges and plaintiffs never accused adulterous men who committing a social crime, residents understood sodomy as an offense against an entire community, thus highlighting the

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45 AHGES, FJP, Hermosillo, Tomo 603, “Contra el reo Luis Domingo García sobre tocamientos desonestos con los jóvenes discípulos de su escuela,” 1822.

46 AHGES, FJP, Hermosillo, Tomo 669, “Averiguaciones en orden al delito inmaturo sodomía de que se acusa al indígena Bartolo Buitemea,” 1848.
distinct boundaries of acceptable male and female sexual conduct. Witnesses, as well as the presiding judge of the García case in Hermosillo, for example, described his relationship with male students as an offense to Christian morality and a crime against the entire community, one that caused unprecedented public scandal.

Another sodomy case demonstrates how the understanding of sodomy as a communal offense crossed ethnic boundaries, and reveals the workings of indigenous justice outside the confines of traditional landholdings. In 1848 on the Hacienda del Alamito, where the majority of residents and workers were Yaquis, Juana Felix, accompanied by the Gobernador de Yaquis, Francisco Buitemea, accused Bartolo Buitemea of raping her three-year-old son, Juan Buitemea. Two other women supported Felix, claiming that they saw Buitemea commit the crime. Manuel Iñigo, the jailor and judge [celador] of the hacienda, recorded the initial complaint, collected testimony, and took Buitemea into custody, and reported the case to the nearest judicial court of the first instance in Hermosillo, where he apparently planned to transfer the case if he collected enough evidence. But within days the Yaqui Gobernador and eighty Yaqui residents of the hacienda went before Iñigo and argued that they were convinced of


48 AHGES, FJP, Hermosillo, Tomo 603, “Contra el reo Luis Domingo García sobre tocamientos deshonestos con los jóvenes discípulos de su escuela,” 1822, 28.

49 Although the Gobernador de Yaquis, the perpetrator and the victim share the same last name, no kinship was established in the judicial record.
Buitemea’s guilt and wanted to punish him “according to their own customs.” When Inigo questioned their plans, the group threatened him with rocks, machetes, and knives. They took Buitemea out of Inigo’s custody, beat him brutally with rocks and sticks, and left him for dead. When Inigo saw Buitemea again, he was in his home and near death, preparing for his last will and testament.

Whether Yaquis had always dealt with same-sex rape in this way is unclear, as no previous historical records discuss their attitudes about same-sex relationships, coerced or consensual. Still the case does reveal the workings of indigenous justice even when removed from traditional Yaqui territory. It also suggests that indigenous communities likely placed less trust in the ability of Hispanic courts to dispense justice. Above all, each case reflects the persisting importance of sodomy as a sin and crime against the community into the middle of the nineteenth century.

CONCLUSION

Cases involving “illicit sexuality” in Sonora reveal that state courts played an active role in regulating morality and sexual conduct in local communities. Community members often embraced the judiciary’s role in monitoring and mediating domestic grievances related to sexuality, particularly in light of the weak institutional presence of the Church in northwestern Mexico during the nineteenth century. Scholars have tended to emphasize growing tensions between “the State” and ecclesiastical officials over

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50 “El Gobernador de los yaquis Francisco Buitemea, manifestandome con más de ochenta de aquel origen que si note les entregaba a Bartolo Buitemea también yaqui para castigarlo según sus costumbres por que estaban persuadidos que él fue él que cometió tal delito,” AHGES, FJP, Hermosillo, Tomo 669, “Averiguaciones en orden al delito inmaturro sodomítico de que se acusa al indígena Bartolo Buitemea,” 1848, 9-10.
jurisdictional territory, particularly in disputes over marriage choice. Nevertheless, in the
arena of public and private morality in Sonora, local judges drew heavily on religious
rhetoric and ideologies to justify their authority, and community members also
understood sex crimes in religious terms, as offenses against Christian teachings and
community wellbeing. These cases demonstrate that in spite of the Church’s weak
institutional presence on Mexico’s northern periphery, Sonorans from across the social
spectrum legitimated religious sentiment within the context of the state courtroom, at
least to the extent that they used it strategically to defend their actions and justify
punishment.
CHAPTER FIVE

Intergenerational Ties and Age Hierarchy

You were lavished with paternal love,
The care, the caresses, and attention
That nurtured you.
Your pitiful mother
Whose breasts nourished you
And sustained your very life,
Her arms were your crib.
In soft, tender arms you rested,
Your caring parents watched over you.
Now you forget, ungrateful child . . .
Come back, come back to your home and refuge
For my final years have come
Death, with its cutting scythe
Prepares my way,
In you, your precious family finds protection!
With your hands, find my trembling arms,
Take care of me, I am weary in old age.¹

By the second half of the nineteenth century, topics about the family and idealized prescriptions for how parents and children should relate to one another appeared on the pages of Sonoran newspapers, as well as in magazines from Europe and Mexico City. The above poem relates the story of an ungrateful child who rejects the teachings and protection of his mother and father. Written from the perspective of aging parents, they describe their unconditional dedication to their infant child, and declare their bitterness

¹ "Un paternal amor te ha dispensado su esmero, sus caricias y cuidad; Te ministró el sustento por medio de una madre enternecida cuyos pechos te dieron alimento de la sustancia de su propia vida. Tu cuna eran sus brazos, y entre blandos tiernísimos abrazos tus miembros reposaban. Tus padres cuidadosos te velaban. Hoy olvidas, ingrato . . . Vuelva, vuelva á tu patria y á tu asilo, y pues mis años el dintel ya tocan. De oscura huesa y la guadana el filo a mi cerviz prepara. Halle en ti amparo tu familia cara! Hallen mis brazos trémulos tus manos, para apoyarme en mi vejez cansada." El Museo de Alamos, MSC 4424, M.M. Alvarez, "La maldicion de un padre," La Cruz: periodico esclusivamente religioso, 6:10 (December 1857) 203-05.
when he grows to reject their love and instruction. Still, they plead with their disobedient offspring to return and care for them in their old age, and thus, complete the expected cycle of mutual love and responsibility between parent and child. The poem underscores the centrality of reciprocity in parent-child relationships, including the obligations of parents to provide for, educate, and sustain their children. In turn, the poem emphasizes the duties of children to their parents who depended on them in their old age.

By the middle of the nineteenth century, such literature was distributed among notables even in distant Sonora. Poetry and essays were especially popular venues for expressing sentiments about family relationships. The above poem appeared in the pages of *La Cruz*, a religious magazine from Mexico City in 1857, a time of tremendous political upheaval throughout the republic. Conservative forces, including leaders of the Church, were convinced that liberal reforms would bring about complete social disorder and destroy the family by undoing mutual bonds of obligation between husbands and wives, workers and their employers, and between parents and their children.

One can certainly debate how much weight such prescriptive literature had in shaping the attitudes Sonorans held toward parenting and children. Nevertheless, court records involving children show that most Sonorans embraced their right to exercise authority over children, as well as their parental obligation to raise, care for, and educate them. Equally important, however, were children’s duties to care for and protect the interests of parents, especially as mothers and fathers aged. Moreover, these intergenerational ties of obligation and reciprocity encompassed extended and fictive kin, including aunts, uncles, cousins, godparents, grandparents, and in-laws. During his
travels in Sonora in the 1820s, British Lieutenant William Hardy visited Arizpe and was astonished at the authority older, poorer relatives exercised over their younger, more prosperous kin, in spite of the vulnerabilities of age and poverty:

... if a person has a rich relation, he may go and live with him without shame and without being considered a burthen, and at the same time command that obedience and deference from the younger branches of the family ... Those who are his elders in the family, exact the same obedience and respect from him. And thus the younger branches of a family are always servants, if not fags or even slaves, to the elder, although these should be dependent or reprobates.²

Hardy was certainly disposed to overstatement in his accounts of daily life in Sonora. Like other foreign observers, his judgements sometimes revealed more about his own value system as a young man of British origin than about Sonoran culture during the early nineteenth century. Nevertheless, his observations regarding the workings of intergenerational hierarchies suggest that age had as much bearing on one’s place with the community and within a family as one’s gender, ethnic and class status.

While children were at least in theory deferential to elder kin, as Hardy suggested, parents, aunts and uncles ultimately depended on the good will of their adult children, nieces and nephews for their physical and financial welfare. Thus, rhetoric about being grateful to elders for providing protection and nurturing, as reflected in the above poem, served as a powerful reminder to children of their obligation to reciprocate and care for older relatives. Ultimately, judicial records illustrate that most children made a good-faith

effort to fulfill these obligations, and cooperated with their parents to protect the interests and welfare of the entire family. In fact, relationships between parents and their children were often less fraught with conflict and tension than relationships between spouses.

Most court cases involving parents and their children arose from situations in which adult children assisted their aging parents, aunts, and uncles in managing their estates. These proceedings again demonstrate how the family was the primary institution through which Sonorans conducted business. Moreover, they illustrate that court records provide much more than a window into the nature of discord among parents and children, rather, families frequently allied with each other in the courtroom to protect their status and their collective financial interests.

A case involving Don Santiago Vidal and his father, Don Antonio Vidal, reflects how adult children often acted on behalf of their parents and other aging relatives in the courtroom. In 1840, Santiago represented his father in a land dispute against Juan Noriega. Years earlier, the father, Antonio, allowed his sister, Josefa Vidal, to use harvests from the disputed property as a source of income. Unfortunately for the Vidal family, Josefa sold the land to Juan Noriega before her death, even though she did not have legal title to the property. In spite of Noriega's claims, Santiago was able to demonstrate successfully that the land belonged to his father. Such cases of younger, adult relatives acting on behalf of parents, in-laws, aunts, and uncles were a common

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\(^3\) Archivo Histórico del Gobierno del Estado de Sonora (AHGES), Fondo Poder Judicial, Civil (FJC), Hermosillo, Tomo 1235, “Promovido por Don Santiago Vidal a nombre de su padre Don Antonio contra Juan José Noriega, por una labor,” 1840, 1-12.
aspect of daily life in the courtroom.\(^4\) Clearly, Santiago Vidal stood to benefit personally from protecting his father’s property, as would his siblings and heirs, since they would eventually inherit their father’s estate. Nevertheless, by helping his father in a court dispute to regain title to arable land, Don Santiago also fulfilled a basic expectation that children should reciprocate the care their parents provided to them in early childhood.

Judicial cases involving children also reveal, however, that migration, abandonment, illegitimacy, and marital separation strained and severed ties between parents and children. Wills, parish records and numerous court cases reflect the impact of high rates of mortality among children and their parents. In this context, extended kin played a critical role in raising and caring for surviving children. These same conditions, however, also made orphans vulnerable to various kinds of economic and physical exploitation, and often at the hands of trusted relatives and neighbors.

High mortality rates resulted in the frequent appearance of orphans and their guardians in court over issues of custody and estate management. Consequently, as with marriage, sexuality, and labor relationships, court records provide more information about some dimensions of childhood and minor status than other aspects. Court testimonies highlight the experiences of orphans, people involved in custody and alimony battles, those challenging their status as illegitimate children, as well as children who became involved in disputes with their parents or other older relatives. They reveal less

\(^4\) For another example of sons and nephews who acted on behalf of parents and older extended kin, see AHGES, FJC, Hermosillo, Tomo 1204, “Promovido por M. Rodriguez contra J. A. Oyarum,” 1828.
about legitimate children with living parents who were not involved in some kind of disagreement, at least until these children were old enough to act on behalf of their parents in the courtroom, as Santiago Vidal did for his father.

**CARING FOR AND EDUCATING CHILDREN**

Based on court testimony involving infants and minors, Sonorans recognized infancy as a distinct stage of development and they adhered to Spanish colonial law in their definitions of infancy and minor status. Sonorans generally identified the years between birth and age three as the first stage of life, or infancy. This period was distinct because of legal and social expectations that the mother would be the primary provider of care and sustenance. Based on census data, some judges and priests in Sonora identified seven years as the first critical stage of development, known as *la infancia*.

Vicente Calvo, who recorded his observations of childbirth and infant care in Sonora, wrote that almost all Sonoran women breast-fed their children themselves, even

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6 Minor status or *menoria/minoridad* referred to a life stage in which a person, because of their age, was considered incapable of acting on his or her own behalf in legal matters, including managing his or her estate. All individuals, regardless of gender, were minors until they reached the age of 25. Nevertheless, the law recognized various stages of development before age 25, and these stages varied somewhat according to gender. Ages one to seven comprised *la infancia*. Girls ages seven to twelve and boys ages seven to fourteen were identified as *próximo a la infancia* or *próximo a la pubertad*, depending on whether they were younger or older than ten-years-old. After twelve years for girls and fourteen years for boys, individuals were identified as *pupilos*. Men needed permission from their parents to marry until they were 25, and women needed permission until they were 23 years old. See Joaquín Escriche, *Diccionario razonado de legislación civil, penal, comercial y forense* (México: Universidad Nacional Autónomo de México, 1996) [1837], 433-35.
when they had the means to pay wet-nurses. Women viewed breastfeeding as a basic and expected task of motherhood regardless of their place in Sonora’s ethnic and economic spectrum. Still, women with sufficient resources also hired one or two wet nurses. While wet nurses ensured adequate nutrition in a society that experienced high death rates among young infants, Calvo suggested that having two additional wet nurses also provided a means for the most affluent notables of Sonora to engage in a conspicuous display of wealth.7

Calvo also observed that women in Sonora married young, as early as eleven or twelve years, and generally bore several children. Like other foreign writers, Calvo maintained that in the late eighteenth and early nineteenth centuries, Mexican and indigenous women encountered few complications during childbirth and their recoveries were rapid.8 Death records, however, tell another story. Parish registers, for example, show higher death rates among women of childbearing age, and contradict anecdotal observations of foreign travelers about the ease with which Sonoran women delivered

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7Biblioteca Central de la Universidad de Sonora, Colección Pesquería (BCUSCP), Vicente Calvo, Descripción política, física, moral y comercial de Departamento de Sonora en la República Mexicana, 1843, 155.

8 Ignaz Pfefferkorn recorded a similar impression of indigenous women in Sonora during the mid-eighteenth century. Based on other sources that offer glimpses into mortality during childbirth, however, these observations ring false. See Ignaz Pfefferkorn, Sonora: A Description of the Province, translated by Theodore E. Treutlein (Tucson: University of Arizona Press, 1949 and 1989) [1794-95], 187.
infants. As with other regions at this time, pregnancy and childbirth presented considerable risks to women.

While pregnancy and childbirth contributed to the deaths of many women, infant mortality was a far more common reality. In Hermosillo during the final years of the colonial period, for example, death among children between the ages of birth and four years made up 53% of all deaths among its non-indigenous population, and the infant mortality rate was 217 per 1000 births. Marcos Medina argues that Hermosillo is typical of other communities in New Spain during this period with respect to the proportion of deaths among infants and young children. This figure was consistent with other regions of Sonora during the middle of the nineteenth century. For example, in Arizpe Sonora between 1848 and 1852, deaths among children between the ages of birth and seven years made up between 33% and 60% of all deaths.

Provided they survived childbirth, mothers bore most of the responsibility for the subsistence and education of their offspring in the earliest years of childhood. Religious authors, for example, stressed that during the first seven years of a child’s life, mothers,

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9 In his study of demographic patterns in Hermosillo, Sonora during the late colonial period, Marcos Medina recognizes complications from pregnancy and childbirth as a major reason why women of child-bearing age experienced higher death rates. See José Marcos Medina Bustos, *Vida y muerte en el antiguo Hermosillo, 1773-1828* (Hermosillo: Gobierno del Estado de Sonora, 1997) 186-89. In Ures, Sonora between July and December, 1848, for example, death from childbirth accounted for approximately 15% of deaths among adult women. See AHGES, Fondo Ejecutivo (FE), Ures, Tomo 258, “Estado que manifiesta el número de bautizados, casados y muertos,” 1848. In the mid-nineteenth century, authors of death records from some communities neglected to include death from complications in childbirth. See AHGES, FE, Hermosillo, Tomo 258, “Estado que manifiesta el número de nacidos, casados y muertos habidos en esta parroquia de Hermosillo,” 1849; AHGES, FE, Hermosillo, Tomo 258, “Estado que manifiesta el número de nacidos, casados y muertos habidos en esta parroquia,” 1847.

10 See, AHGES, FE, Tomo 258, “Noticias de los nacidos, casados y muertos en esta Ciudad [Arizpe] en los cinco años corridos desde el primero de enero de 1848 hasta fin de diciembre de 1852, October 1853; José Marcos Medina Bustos, *Vida y muerte en el antiguo Hermosillo, 1773-1828*, 181-84.
above all others, were accountable for instilling religious faith in their children.\(^\text{11}\)

Thereafter, instruction in matters of faith and morality was the responsibility of fathers, priests, and increasingly in nineteenth-century Sonora, teachers of primary schools.

Regardless of a child’s developmental stage, however, state politicians from across the political spectrum in Sonora understood parental commitment to providing moral education to children as the foundation to a stable, well-ordered society.\(^\text{12}\) While parental responsibility and its importance to social order were not constant topics among politicians and writers in Sonora, these issues often entered the public discourse during periods of political upheaval and indigenous rebellion.

For example, when the Sonoran state congress sought to promote the expansion of public, primary education throughout the region during the early 1830s, indigenous residents of in the Río Mayo threatened rebellion. They suspected state authorities of trying to usurp their authority over their own families through the primary schools.\(^\text{13}\)

Subsequent correspondence about indigenous resistance to public education between the

\(^{11}\) El Museo de Alamos, MSC 4424, “La madre, el sacerdote, los malos libres, los desórdenes del corazón, la vida pública,” La Cruz, 139-40.


\(^{13}\) In June 1834, the state congress passed a law that ordered communities to establish primary schools. The congress stipulated that in addition to teaching children to read and write, primary school teachers were responsible for instructing students in their political and religious duties to society. See, AHGES, FE, Educación Pública, Tomo 846, Referencia 702, Expediente 2-B, “Plan que el Consejo de Gobierno presenta la Honorable Congreso con arreglo al Capítulo 90, Artículo 113 de la Constitución Política del Estado para la Instrucción de la Juventud,” 1834.
state governor and the Alcalde Mayor of the Río Mayo, José Isidor Goycochea, demonstrates how state officials judged parental ignorance and poor guidance within indigenous families as the root cause of social upheaval among Sonora’s indigenous communities. Their arguments provided a role for public education in the lives of Sonora’s indigenous and poor families that was distinct from its purpose for “respectable families.” While primary education among Sonora’s honorable mestizo and Spanish families would serve to buttress good training at home, in the case of indigenous and destitute families, notables understood primary education as a welcome alternative to poor parenting. For example, José Isidor Goycochea argued that if household heads did not maintain order within their families by assuring that their dependents were law-abiding and productive, then the state had the right to usurp parental authority and compel children to attend public school. In this context, Goycochea envisioned teachers as the most important purveyors of moral, political, and religious instruction to indigenous children.

The state’s efforts to promote public education met considerable resistance in the Río Mayo for a variety of reasons. Part of their insubordination to officials like Goycochea grew from the financial burden the new schools placed on families. The costs of paying for the establishment and maintenance of the primary schools during the 1830s fell to local communities. Each municipal government faced the task of raising money from their immediate jurisdictions. Officials sometimes sought some money from taxes on local trade. Most, however, attempted to compel individual families to pay for a
significant share of the costs involved in educating their children in the form of tuition fees paid monthly, or even asked families to contribute seeds and labor, in order to provide food for teachers. As a result, parents also feared that they would lose access to their children’s labor, whose contributions were critical to the survival of the entire household. Many families, particularly in indigenous communities, viewed these additional taxes and demands on labor with suspicion. Moreover, in the Río Mayo, communities were required to pay for the rental of town squares and parks for festivals, so the proceeds would go to public schools. Most of the festivals held in public squares at this time were religious in nature. Demanding income from these events directly threatened the authority and earnings of the indigenous confraternities that sponsored these events.

In the Río Mayo, raising money to build schools and pay teacher’s salaries was a primary responsibility of the Alcalde Mayor, José Isidor Goycochea. While Goycochea was fearful that demanding families to pay for tuition could provoke rebellion, he also believed strongly that public schools would aid in subduing social unrest in his jurisdiction. Thus, he wanted to make public education compulsory in the indigenous communities of the Río Mayo, reasoning that it was the only means to ensure that Mayo children would avoid criminality and vagrancy, and learn their religious and civil responsibilities. Goycochea tried to highlight the need for public education in his

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14 In a letter to the state governor, for example, Alcalde Mayor of the Río Mayo, José Isidor Goycochea, wrote that the municipal government in Etchojoa decided parents of non-indigenous families would pay a fee of one peso per month and families of indigenous children would plant and harvest a crop for the teacher twice a year. See, AHGES, FE, Educación Pública, Tomo 846, Referencia 702, Expediente 2-B, Etchojoa, September, 1834.
communities by emphasizing the supposed ignorance of Mayo parents and grandparents. He noted, for example, that some of the oldest members of his community did not know how to make the sign of the cross. Goycochera concluded that such incompetence made Mayo parents unfit to educate their children, and he looked to “the state” as a logical alternative to the family as the provider of civil and moral guidance.

Goycochea’s superiors, including the state governor, Fernando Grande, and members of a state council that investigated the dispute over public education in the Rio Mayo, were reluctant to support Goycochea’s efforts to make public education compulsory. In part, the council was fearful of overstepping its authority and appropriating parents’ rights to exercise power over their children, and they were particularly concerned with maintaining the father’s authority. Nevertheless, they agreed with the Alcalde that “the state” should take a more aggressive stance vis-à-vis parents who did not fulfill their duty to provide their children with moral and civic education:

“[T]he father is the immediate head and judge of his family, and may very well prefer private education over the public education of his children. This does not detract, however, from the government’s ultimate authority to enforce laws that ensure order within the family, which is the basis of social order. In communities in which the inhabitants provide no direction to their youth, neither through private nor public education, in which the youth are like vagrants and prone to vice, without question the government is responsible for enforcement, and must exercise its authority to remedy these kinds of abuses. [T]herefore, the commission recommends that the state should complete a report to conclude if some parents in these communities have abandoned

15 “Los habitantes de estos contornos y generalmente hablando... es gente sumergida en una profunda ignorancia tanto y tan envejecida que hay hombres y mujeres de edad de 80 años menos y más, que no conocen la insignia o seña del cristianismo.” See, AHGES, FE, Educación Pública, Tomo 846, Referencia 702, Expediente 2-B, Etchojoa, September, 1834.
their children, leaving them without occupation, a condition that would lead any youth to a life of criminality.\textsuperscript{16}

The council’s statement reflects how officials in Sonora believed the state government should play an important role in shaping children's understanding of religion and their civic obligations when their parents failed to do so. While the council acknowledged the authority of household heads over their families and dependents, they also suggested strongly that certain obligations accompanied parental power. Their arguments made clear that even if the Sonoran state government did not necessarily have the means in the 1830s to actually lay claim to parental authority in the name of promoting and maintaining social order, they certainly had the ideological foundation to do so under suitable circumstances.

The council’s characterizations of social discord in the Río Mayo also indicated state authorities’ continued disdain and distrust of indigenous citizens who questioned openly state policies, in this case, on education. Thus, issues of familial authority and order provided a venue for highlighting ethnic difference in Sonora, and gave officials a conceivable pretext for exercising state power over indigenous communities if they

\textsuperscript{16} “El Padre es el Jefe y Juez inmediato de su familia y puede muy bien preferir la educación privada a la pública; pero no se puede negar por esto al Gobierno, la sobre vigilancia que todas las leyes le conceden en el orden de las familias, del cual resulta el acuerdo de la Sociedad, y así en un pueblo donde sus moradores no dan ninguna dirección a la juventud, ni por una educación privada ni por otra pública, y donde se viera que todos los jóvenes como vagos y mal entretenidos, es fuera de toda cuestión que el Gobierno, encargado de todas las policías en todos sus ramos, puede tomar y dictar providencias que refieren esa clase de abusos... y así la Comisión opina que el Gobierno le pida un informe sobre si en aquellos pueblos algunos padres de familia tienen en un total abandono de la juventud, dejándola sin ocupación alguna y entregada a una ociosidad que necesariamente formará de cada joven un criminal.” AHGES, FE, Educación Pública, Tomo 846, Referencia 702, Expediente 2-B, “Parte resolutiva del Dictamen emitido por el Consejo de Gobierno, a la representación del Alcalde Mayor del Río Mayo, José Isidor Goycoocha,” September, 1834.
questioned state authority. As with missionaries such as Ignaz Pfefferkorn in the previous century, notables of nineteenth-century Sonora made parental obligation an important emblem of civilization—or barbarity—for indigenous communities. By the 1830s, however, their solution to problems among families was not increased intervention from the Church. Rather, they proposed that “the state” offered a better alternative in the form of public education.

**DISPUTES BETWEEN CHILDREN AND ELDER KIN**

The above controversy over public education in the Rio Mayo underscores that notables most often articulated their understanding of parental obligation when they believed these duties were breached. Likewise, exceptional legal disputes between children and their parents or older extended kin expose the parameters of what Sonorans viewed as acceptable and customary behavior in relationships between children and their older kin. Lawsuits among children and their elders generally fell into a few categories. Children did sometimes enter into civil disputes with their parents, aunts, uncles, and godparents over property. And on rare occasions, children came to blows with their parents and older extended kin over a variety of issues, and thus found themselves in criminal court.

When children did enter into civil suits against their parents, by far, it was usually when they were still minors and wished to gain access to their inheritance, because they believed the surviving parent was mishandling their estate. In addition, some parents were reluctant to give up control of their children’s inherited assets once they reached
adulthood. Nevertheless, property disputes among full siblings and between parents and children were less common than disputes among extended kin. When civil suits did occur, it was often in the aftermath of a parent’s death, and involved a disagreement over the distribution of inheritance, usually land, livestock, or a house.

When parents and children disagreed over property, they worked tenaciously to avoid airing their grievances in a public forum such as the civil courts. A dispute over arable land and a house between a daughter, Doña Jesús Vidal, and her mother, Doña Teresa Felix in Hermosillo in 1841 reflects how children and their parents diligently evaded the embarrassment of a public suit. In this case, Vidal filed a complaint against her mother for income from land she inherited from her deceased father. Although Vidal was only fifteen years old, and was thus a minor, the judge of the first instance, Ricardo Palacio, accepted her petition against her mother. Vidal was the illegitimate daughter of Juan José Vidal, who left her and three other siblings land with the intention that income from the property would maintain her and her siblings until they reached adulthood.

According to Vidal, however, her mother, Teresa Felix, neglected to share the income from the property as Juan José requested in his will.

Rather than contest her daughter’s accusations, Felix chose to divide a portion of the disputed land with Vidal as the judiciary saw fit. Perhaps Felix chose this response to

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17 For example, see AHGES, FJC, Hermosillo, Tomo 1205, “Pedro del Pino contra madre sobre legitima,” 1830; Francisco García sued his father on his own behalf and on behalf of his younger brother when his father would not give them their maternal inheritance. See AHGES, FJC, Ures, Tomo 2483, “Francisco García contra su padre sobre legitima,” 1850.

18 For example, see AHGES, FJC, Hermosillo, Tomo 1205, “Interdicta interpuesto por Francisco Paz, para recuperar la posesión de una casa y una huerta de que se considera despojado por sus hermano de madre, Pedro Guadalupe Paz,” 1829.
her daughter’s suit because she had indeed withheld income from her children, and foresaw little chance of winning a formal legal suit. Nevertheless, when Felix explained in a written statement to the judge why she acquiesced to her daughter’s demands so quickly, she reasoned that her daughter’s legal actions against her were burdensome [gravosa], and brought potential dishonor to her and her family. She concluded it was better to settle the dispute immediately, rather than turn her differences with her daughter into a public spectacle. The controversy between this mother and daughter demonstrates that immediate kin were reluctant to air private grievances over property in the courtroom. A primary concern among family members such as Felix was likely the onerous cost of becoming involved in a lawsuit. Equally important, however, were issues of trust and respect before one’s peers. In communities in which ties of mutual trust and faithfulness were critical to the economic wellbeing of individuals as well as extended family, involvement in an ugly lawsuit with full-blooded kin could compromise one’s access to credit with neighbors and other family members.

As a result of the cost and the potential scandal and loss of respect within the community, generally, only families wealthy enough to pursue a lengthy suit and those who were already estranged turned to the courts to resolve disputes over property. For example, Doña María Josefina Herrera sued her husband, José María Figueroa, and her son, Joaquín, over a debt from a land sale that they had forgiven without her permission and knowledge. Herrera no longer lived in the same town as her husband and son, as they

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19 AHGES, FJC, Hermosillo, Tomo 1238, “Promovido por Doña Jesús Vidal contra la señora su madre Doña Teresa Felix, sobre partición de herencia,” 1841.
had been separated for over nine years when the suit began.²⁰ Given that Herrera was
already antagonistic toward her husband and son, she likely had little to lose by making
public her grievances over a debt. Such cases, however, were rare.

Some disputes among children and their elders resulted in physical assaults, or
more rarely, in murder. Both children and elders were perpetrators in these cases, but the
circumstances and outcomes of these acts were very different, depending on who was
involved in the dispute and the motives for the crime. Although assault disputes among
family members were rare and homicide was even more unusual, the existing cases do
follow certain patterns.²¹ For example, the disputes often resulted from similar issues.
Some of the most common reasons for disagreement were unpaid debts, property and
finally, there were cases of children and mothers protecting blood relatives against
abusive husbands.

Assaults over property and debt tended to involve extended kin, including uncles,
nephews, and cousins. Like the inheritance disputes discussed in the previous chapters,
such cases indicate that ideals of mutual support and obligation among extended kin had
their limits. In the Villa of Guadalupe in 1832, for example, Rafael Grijalva’s uncle
confronted him and demanded payment of four reales, even though Grijalva implored
that he needed the money to feed his family. The confrontation escalated into physical

²⁰ AHGES, FJC, Hermosillo, Tomo 1234, “Juicio civil que versa Doña María Josefa Herrera contra su
esposo y su hijo sobre terrenos,” 1840.

²¹ There are not enough assault cases involving family members to carry out a quantitative analysis. Assault
within families was likely more widespread, however, than the existing assault cases suggest. Suits
involving mal trato, for example, often mention other confrontations among family members that never
arrived in court. Only the most extreme disputes were litigated, and families usually turned to the courts as
a last resort.
violence when Grijalva struck his uncle and cousin several times. Grijalva received a sentence of fifteen days of obras públicas, which he fulfilled in his own community. Such cases involving disputes over debt and property suggest that while family members were expected to provide help to relatives in need, these obligations could also lead to considerable tension, especially among families with limited resources.

Assault cases involving relatives usually led to formal sentencing that was similar to assault cases involving unrelated parties, such as Grijalva’s conviction to service in obras públicas. In other instances, however, family members negotiated pardons. These cases reflect how in spite of the tensions and volatility inherent in doing business with relatives, sometimes ideals of familial obligation either mitigated or replaced formal sentencing. Such resolutions to a dispute, however, were more common when children were perpetrators, and occasionally ended with the younger generation in virtual servitude to their older, extended kin. On the rural outskirts of Hermosillo in 1837, for example, Miguel Santoyo quarreled with his uncle, Gerónimo López, over the ownership of female donkey, when their differences ended with Santoyo ambushing his uncle with a machete and causing him severe head wounds. Although López survived, the injuries did require medical treatment he could not afford and impaired him enough that he could not work. Miguel Santoyo escaped from jail during his sentencing, but while he was a fugitive, he agreed to pay his injured uncle and aunt forty pesos to cover López’s medical costs and to provide financial support for his uncle’s family, since López could no longer

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22 AHGES, Fondo Poder Judicial, Penal (FJP), Hermosillo, Tomo 618, “Contra Rafael Grijalva por golpes que dió a su tío y primo,” 1832.
work. Such agreements suggest that as in *mal trato* cases involving spouses, the ultimate goal of the judiciary in assaults involving relatives was not necessarily punishment, rather, some form of reconciliation. In the Santoyo case, the end result was also the formal assertion of the established age hierarchy, with an uncle holding power over his nephew, since Santoyo became responsible for his uncle’s welfare.

In addition to feuding over property and debt, family members also became involved in the *mal trato* disputes of their mothers and daughters, sometimes with fatal results. In Rayón in 1842, María Rafaela Tipurichi poisoned and killed her son-in-law because, according to her and other witnesses, he beat her daughter. The crime mortified officials involved in the case, and in a statement in which he recommended death by firing squad, the state attorney general, Licenciado Espinosa de los Monteros, specifically argued that María’s punishment should serve as an example for others in her community. The prosecutor, Miguel Hidalgo, made clear his distress over a crime that represented an inversion of the gender order, with old women carrying out premeditated retaliation against abusive husbands on behalf of their children. He wrote, “to see justified such a horrendous and frightening cruelty committed by an old woman of some sixty years of age; and to think as well by a woman, whose sex, generally speaking, is

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23 AHGES, FJP, Hermosillo, Tomo 636, “Causa criminal contra Miguel Santoyo, por haber herido á su tío Geronimo López gravamente,” 1837.

24 AHGES, FJP, Hermosillo, Tomo 655, “Causa criminal seguida contra los reos, Martín Cupitin, María Fuara la Chapa, María Rafaela Tipurichi y María del Carmen Najar [por envenenamiento],” 1842; In another case resulting from *mal trato*, a son who killed his stepfather because he feared he stepfather would murder his mother. José Vega received a sentence of eight years presidio service. See AHGES, FJP, Hermosillo, Tomo 622, “Causa criminal seguida contra José Vega por homocidio perpetado el día ocho de mayo de 1833 en la persona de Jorge,” 1833.
more dedicated to piety and compassion.”  

In this case, however, the prosecutor thought that women’s “natural” disposition toward submission had to be enforced with punishment that would serve as an unmistakable warning to other relatives, especially women, contemplating revenge for mal trato.

Cases involving children as perpetrators of assault and homicide, like those of Rafael Grijalva and Miguel Santoyo above, suggest that children were at a disadvantage in defending attacks against elder kin, due in part to the importance placed on respecting age hierarchies. But while judicial officials seldom made respect for elders an explicit issue in disputes involving extended kin, the rare occasions in which children assaulted their parents caused considerable dismay among judges. In addition to the issue of scandal, officials enforced stricter sentencing in these cases, which may in part explain why assault against one’s parent was almost unheard of in the courtroom. The case of Juan José Castro, who struck his mother one late evening after coming to her home drunk, shows that assault against a parent, and above all, against one’s mother, was a grievous offense. While the circumstances of the quarrel remained unclear, since two witnesses to the dispute provided different versions of what happened, all parties still agreed that Castro struck his mother, Doña Vicenta Cásares. Juan José’s defensor tried to argue that he should receive only a few days in jail because he was drunk. The presiding judge, however, concluded that, “Juan José Castro committed a crime that has caused

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25 “[A]l ver justificada tan horrenda como espantosa [frightening] crueldad cometida por una vieja de sesenta y tantos años; por una madre política; y por decirlos de una vez, por una mujer, cuyo sexo generalmente hablando es más dedicado a la piedad y compasión.” AHGES, FJP, Hermosillo, Tomo 655, “Causa criminal seguida contra los reos, Martín Cupitin, María Fuara la Chapa, María Rafaela Tipurichi y María del Carmen Najar [por envenamiento],” 1842, 24.
grievous injury, considering that his behavior displays a complete lack of respect and veneration he owes his mother by all laws, divine, positive, natural, and civil.\textsuperscript{\textcircled{26}} The judge was above all concerned that Castro made his mother the target of his wrath. In doing so, he defied a basic aspect of the social order, that of age hierarchy, and in light of this infraction, Castro was sentenced to two years \textit{obras públicas} in the Port of Guaymas. In contrast, men who committed similar offenses against their wives were seldom charged at all, and assaults against an unrelated party resulted in such a heavy sentence only when the assailant caused more permanent physical injury, which did not happen when Castro struck his mother.

The judge in Castro’s case chose such a heavy sentence to make an example of Castro for his peers, but also to restore the established age hierarchy between Juan José and his mother Vicenta Casares. In fact, it was unlikely that punishment was the ultimate goal of the suit for Csares and the judge. Castro’s mother ultimately pardoned him for his crime against her, but only after he begged her forgiveness on hands and knees before court officials. In doing so, Juan José reestablished publicly his deference to his mother. Such acts reflect the judiciary’s growing role in restoring peace among families, and no less important, it’s capacity to reinforce and recreate a social order. While differences in gender, ethnicity and class clearly marked lines of authority and deference, court officials and familial elders understood age hierarchies as no less important.

\textsuperscript{26} “Juan José Castro ha incurrido con el delito de injuria grave, atendiendo á que con hechos faltó al respecto y veneración debido por el á su madre; respeto y veneración impuesto por todas las leyes, divinas, positivas y naturales y por las civiles.” AHGES, FJP, Hermosillo, Tomo 642, “Causa criminal seguida contra Juan J. Castro por haber dadole de bofetadas a su madre Doña Vicenta Casares,” 1839, 17.
In contrast, parents and other elder kin had legal sanction to use corporal punishment against their children. And cases in which parents, aunts and uncles were perpetrators of assault and murder almost always happened in the context of long-standing physical and/or sexual abuse. This was especially true in proceedings involving fathers who assaulted or killed their own daughters. In these extreme situations, however, officials exhibited little tolerance for the perpetrators.

The case of Antonio Tapia, an indigenous man from the pueblo of Guasabas, who received the death sentence for murdering his own daughter, demonstrates the extent to which parents could abuse their offspring physically and sexually. But the outcome of his murder trial but shows potentially fatal consequences for parents of lower status who mistreated their children, particularly if they were indigenous. According to the testimonies of several witnesses, Tapia’s daughter, María Elena, had run away in order to escape beatings and prostitution at the hands of her father. An alcalde from the nearby town of Oposura, who was unaware of the abuses María Elena’s father committed, ordered her to return, and shortly thereafter, Tapia stabbed her to death. Tapia argued that he killed his daughter because he feared she would run away again and he needed to maintain his honor and authority over his children. But in the judge’s sentencing statement, he retorted that Tapia was a man with no education and little status, and
moreover, one from an indigenous village. Thus he could not possibly appeal to honor to justify murdering his daughter.27

The judge’s arguments are significant for a number of reasons. First, his ruling reveals that by law, under certain circumstances, some parents could justify killing their children. If, for example, a daughter from a respectable family damaged her father’s honor in some way, he could end her life without consequence. Thus, Tapia was working under assumptions that were not completely outside the realm of the law. Nevertheless, court officials deciding Antonio Tapia’s fate concluded that notable families had an exclusive claim to honor, and parents of lower social status could not appeal to honor to justify killing their own offspring.

Together, these cases demonstrate that while in practice, some children endured physical and sexual abuse at the hands of their parents before court officials intervened, parents of more marginal status, whether due to class or ethnicity, received harsher sentences for committing crimes against their children. Finally, judges often stressed how these parents violated a basic obligation to care for and protect their offspring, and thus, committed a crime against nature itself.

Thus, the practice or breach of reciprocity and mutual obligation across the generations was a central theme in many civil and criminal proceedings. As with

27 “Es verdad que ha habido padre que quite la vida de su hija por haber manchado el honor de su familia, pero estos casos han sido muy raros y han concurrido las circunstancias, de que el padre haya sido de aquellos hombres ilustres y de rango en la sociedad, para quienes el honor, según las costumbres del país en que vivían, era más apreciable que la misma vida; pero de Antonio Tapia hombre obscuro sin nombre en la sociedad... Educación, como es la que reciben todos los que conocemos con el nombre de indios principalmente en nuestro Estado, no puede decir se que en el hallan tenido tanta fuerza las ideas del honor.” See AHGES, FJP, Hermosillo, Tomo 604, “Contra Antonio Tapia por parricidio,” 36.
marriage, however, reciprocity was unequal between older relatives and younger kin, with elders entitled to the deference and respect of youth. These cases demonstrate that for Sonorans, age hierarchies had as much bearing on daily life and judicial process as ethnicity, gender and class, and as with gender, the legal foundation of these inequalities changed little over the course of the nineteenth century.

_HUÉRFANOS AND HIJOS NATURALES_

Census records, wills, and penal and civil court cases reveal that many children grew up outside the guardianship of their biological parents. Children were exchanged among extended relatives, fictive kin, and even among people unrelated by biology or _compadrazgo_. While children with two living parents also circulated among extended kin, orphans and illegitimate children were especially likely to move from place to place, living with relatives, friends, or even strangers.²⁸

Martín, the illegitimate son of Don José María Carlueyo, was typical of other children who moved from household to household. His mother, a wet nurse, gave Martín to her sister when he was a young infant. Martín’s aunt in turn sent him to live with a

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²⁸ In her dissertation, Nara Milanich uses the expression, “circulation of children,” to describe the widespread movement from household to household, often away from biological kin in nineteenth-century Chile. This concept aptly describes similar processes in nineteenth-century Sonora. Cynthia Radding examines this practice among Opata and Pima communities during the late eighteenth century. She found exchange especially prevalent when children were of working age. Moreover, she discovered circulation crossed ethnic lines, and included indigenous and Spanish families. Radding argues that the practice created social bonds between families of diverse ethnic status, but civil cases from the mid-nineteenth century also suggest that such arrangements often developed from inauspicious circumstances of orphanhood poverty, and/or illegitimacy. These circumstances made children potentially vulnerable to the whims and abuses of their hosts. See Nara Milanich, “The Children of Fate: Families, Class, and the State in Chile, 1857-1930” (Ph.D. Dissertation, Yale University, 2002), 197-206; Cynthia Radding, _Wandering Peoples, Colonialism, Ethnic Spaces, and Ecological Frontiers in Northwestern Mexico: 1700-1850_ (Durham: Duke University Press, 1997), 126-27.
man named Don Carlos Rivera, who had no biological connection to Martín’s family. 

Martín’s circumstances were also similar to other displaced children in that he appeared as both “adopted son” and servant in court testimonies. While Martín’s biological father accused Don Carlos of treating Martín as a common servant [criado], Don Carlos argued that he alone provided Martín with sustenance and education, as if Martín were his own son [como hijo]. Martín’s movement from household to household and his ambiguous status as “adopted son” and servant were typical of many children who grew up separated from biological parents. Moreover, the practice of circulating children and utilizing child labor was not uncommon throughout Sonora during the nineteenth century.

Historians have paid scant attention to the phenomenon of children living and working outside their natal households in Sonora. In peripheral regions of Latin America like Sonora, the practice was more often associated with kidnapping that occurred in the context of warfare and raiding between indigenous and Spanish or mestizo communities. Mestizo and Spanish Sonorans, as well as Apaches, certainly engaged in the practice of raiding and pressing children into servitude and slavery. Nevertheless, the origins and circumstances of children like Martín, who appeared in state court records because of custody battles or inheritance disputes, were usually distinct from indigenous

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29AHGES, FJC, Hermosillo, Tomo 1244, “Promovido por Don José María Carhueyo reclamando un hijo bastardo á Gertrudis Miranda,” 1843.

children captured during raids. First, while they were likely from ethnically diverse backgrounds, as Cynthia Radding has argued about child exchange in Sonora during the eighteenth century, they still came from within Hispancized communities. Most often, these children lived among aunts, uncles, grandparents or an unrelated widow who wished to raise an infant or young child. These children often lived with their “guardians” with the consent of at least one biological parent. More rarely, children were removed from their parent’s custody by force, but this was more likely to happen to poor families, particularly single mothers, and usually under very specific circumstances.\(^\text{31}\)

The reasons behind why children moved from household to household were particular to each region, but the practice was not unique to nineteenth-century Sonora. Scholars of various regions and time periods have explored the phenomenon within the context of illegitimacy, orphanhood and abandonment. Scholars of the periphery often cite regional tradition, ethnic warfare and high mortality rates as the root cause of child abandonment and circulation, while historians of Europe have usually pointed to industrialization to explain abandonment and adoption. Latin American research has suggested commercialization, mass migration and urbanization as the primary factors contributing to the circulation of children, and have understood the phenomenon as “a medium through which social inferiors and superiors interacted with one another.”\(^\text{32}\)

\(^{31}\) On such case involved an adult son, who accused his widowed mother of being unfit to raise his three youngest siblings. He took the children from his mother in secret. See AHGES, FJC, Guaymas, Tomo 1715, “Doña María Jesús Angulo contra su hijo por despojo,” 1846.

Historians have also linked the phenomenon to the emergence of coerced labor strategies after the end of slavery.\(^{33}\)

In Sonora, the movement of children was a result of multiple factors, both old and new. It was in part rooted in the region’s indigenous history of raiding and kidnapping.\(^{34}\) Circulating orphans and illegitimate children within Hispanicized communities, however, was also had European origins. Persistent warfare between Mexican and indigenous communities, particularly Apaches, increased orphanhood on Sonora’s northern periphery. At the same time, commercialization of property and labor migration contributed to the movement of children from household to household in other parts of the state. In particular, mass emigration resulting from the California gold rush and the growing need for labor on expanding estates and in mines made finding cheap labor a pressing concern during the second half of the nineteenth century. These movements disrupted households and families, as parents and other relatives moved to find work.\(^{35}\)

Evidence of children living among extended kin and unrelated guardians is pervasive in wills, as well as in custody disputes in Sonora’s civil court records. Among sixteen available custody disputes, for example, only four involved estranged spouses.


\(^{34}\) In this respect, James Brook’s work has bearing on the circumstances of at least some children in Sonora who were raised outside their natal households due to warfare and raiding in the state’s northern periphery.

\(^{35}\) Dislocation caused by migration, sometimes coerced, was not a new phenomenon, nor was it unique to northern Mexico. See Bianca Premo, “From the Pockets of Women: The Gendering of the Mita, Migration and Tribute in Colonial Chucuito, Peru, *Americas* 57:1 (July, 2000) 63-94.
The other twelve cases involved either a mother or a father trying to reclaim a child or children from an extended relative, such as an aunt, or from someone unrelated. Collectively, these cases suggest the importance of extended family in raising and caring for children, but also the vulnerability of displaced children to various kinds of abuses, particularly labor exploitation. Issues of child labor, however, were often understood within the context of reciprocity and obligation between guardian and child. If guardians provided food and education, they expected children to reciprocate with their labor, especially once they became older, usually around age eight or nine. Thus, it is not coincidental that most custody disputes involved children between the ages of eight and eleven.

Finally, custody battles between parents and extended kin highlight a tension among court officials over whether informal guardians had a greater claim to children than biological parents. While fathers of legitimate children could appeal to patria potestad to reclaim their biological offspring, extended kin and others who acted as informal guardians called on ideals of obligation and reciprocity to maintain custody over children.\textsuperscript{36} Except when fathers could legitimately appeal to patria potestad, judges were overwhelmingly sympathetic to unrelated guardians who could prove that they had cared for, fed, clothed and educated a child. Thus, ties of reciprocity and obligation between children and their caregivers took precedence over biology for most judges.

\textsuperscript{36} Patria Potestad refers to a father's legal authority over his legitimate offspring. Mothers did not have the legal rights and authority over their children that accompanied patria potestad. See Joaquin Escriche, 
*Diccionario razonado de legislación civil, penal, comercial y forense*, 515-16.
Widows were especially likely to take in orphaned and illegitimate children, and they were well represented in the custody disputes discussed above. Census data from throughout the region also suggests that widows, especially those without direct heirs, took in and raised children with the expectation that these children would reciprocate and provide them with support as they grew older. In her examination of women's wills in Arizpe and Hermosillo, Carmen Tonella Trelles found a number of widows who raised orphans, as well as some who maintained indigenous servants, mostly children. They often recognized those children who obeyed them and remained in their service with property, and explicitly chastised and disinherited those who betrayed them. Antonia Murrieta of Arizpe, for example, withdrew sixty pesos from a child she had raised because he had been “ungrateful” for her care and education. The money instead went to another, a *criado* of Apache descent, whom she had also raised.37

Widows involved in custody battles over children consistently appealed to the idea that custody should belong to anyone who fulfilled basic parental obligations of feeding, clothing and educating a child. But in return, they expected companionship and assistance from their charges. Judges were almost always sympathetic to these appeals. One of the earliest recorded cases in the Sonoran state judicial records involved a custody dispute between a widow, Doña Isabel Pullol, and Jacinta Morena, the mother of a seven or eight-year-old boy named José Antonio. Isabel received the boy from her brother, Don

Francisco Pullol, when he was a young infant. José Antonio was the illegitimate son of Pullol and Morena. According to Isabel, she raised and cared for her nephew from the time he was a young infant, and now that she was growing older, she depended on him to take care of her errands and other obligations. Doña Isabel also called on a local priest from the nearby mission whom she enlisted to teach José Antonio to read and to learn a trade. The case reached the Intendente Gobernador, Don Enrique de Gumarest, who concluded that José Antonio should remain under the custody of his aunt, unless his mother paid for the costs Isabel incurred while raising her son. Isabel won the case in part because she was able to convince Gumarest that she, and not his biological mother, was deserving of José Antonio’s companionship and assistance now that she was an aging widow. It was she who made the necessary sacrifices to ensure that he was fed and educated. Thus, issues of reciprocity and obligation between children and extended kin who raised them figured prominently in the outcomes of custody disputes.

Around fifty years later in the town of Rayón, a father, Don José María Varela, sued a widow, Gertrudis Contreras, for custody of his illegitimate daughter, María del Rosario Varela. This time, the court sided with the father. Don José María could not claim his daughter as his legitimate heir; nevertheless, he appealed to the notion that under patria potestad, he had the right to have custody of his daughter, especially since she had reached an age in which laws prescribed a child’s education falls to the father.

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38 “[C]on agravio y perjuicio notable mio, pues habiendo criado a dicho mi sobrino hasta la edad referida y estando ya viuda me servía de compañía, a ayudaba en algunas mandaditos, por lo cual a Usted suplico y pido que mande en Justicia ó que se me entregue el dicho mi sobrino pues no es razón que después de haberlo criado con mucho trabajo otro lo logrè ya criados. AHGES, FJC, Hermosillo, Tomo 1200, “Promovido por Isabel Pullol contra Jacinta Moreno reclamando un niño hijo de la Moreno,” 1792, 3.
Moreover, he claimed that he paid for the cost of feeding and clothing his daughter, thus demonstrating that he still fulfilled his parental obligations, even when she did not live under his direct guardianship. Ultimately, it was likely Valera’s willingness to support his daughter during her infancy that won him custody.

Custody disputes similar to the ones above, along with civil proceedings over inheritance, suggest that illegitimacy involved men and women of varied ethnic and class status. Some illegitimate children, however, were more likely to appear in civil court than others. These children tended to be products of illicit relationships involving men and women with respected public reputations to defend, and the children were usually raised by extended kin, including aunts, uncles and grandparents. In spite of clear attempts to hide their identity, court testimonies indicate that neighbors and friends knew the true origins of illegitimate offspring living among notable families. For example, in 1832, Ignacio Salazar, the illegitimate son of Josefa Salazar, filed a civil suit in Santa Ana to claim a share of his maternal grandfather’s inheritance. Witnesses in the case consistently testified that everyone in the community knew Ignacio was the illegitimate son of Salazar, even though his grandfather had raised him as a son in his own household.

39 AHGES, FJC, Ures, Tomo 2481, “Promovido por Don José María Varela contra Gerturdis Contreras sobre una niña que le reclama,” 1846.

40 In contrast, illegitimate children of consensual unions seldom appeared in custody and inheritance disputes. It is likely that men and women in consensual unions raised their children themselves, and when property was at stake, they married later in life, as the case of Dolores Valenzuela and Pedro Muñoz discussed in chapter three illustrates. Dolores and Pedro only married when Pedro was on his deathbed, in part to ensure Dolores and his children would inherit his estate. See AHGES, FJC, Hermosillo, Tomo 1223, “Promovido por Dolores Valenzuela contra Luz Espinosa por restitución de algunos enseres,” 1836.

41 AHGES, FJC, Hermosillo, Tomo 1208, “Don José Ignacio Salazar contra José Martín Salazar en que el primero reclama al segundo la herencia que le pertenece como hijo natural de la Señora Josefa Salazar,” 1832.
Arizpe in 1841, three illegitimate children of Don José María Almón initiated a claim to his estate after his sudden death en route from Chihuahua to Arizpe on business. Don José had a wife and legitimate children at a residence in Chihuahua, but witnesses in Arizpe testified that everyone knew [público y notorio] he also had three illegitimate children with Doña Felipa Grijalva in Arizpe, where the children lived with their mother. These cases illustrate that even when illegitimacy had the potential to cause scandal because of one’s public reputation or because an involved party was married, the children’s identity was usually public knowledge. Ironically perhaps, children from such unions, who often had at least one parent of some means, were more likely to be displaced, living among extended kin or strangers, with little chance of receiving an inheritance.

The experiences of orphans also diverged according to social class. The dilemmas of orphans from propertied families were quite different from those of poorer orphans raised separately from their biological parents. Propertied orphans most often appeared in court in the context of routine civil procedures, such as naming guardians of their estates. As already discussed in chapter three, collecting and avoiding debts was a primary concern among surviving heirs. Like widows, orphans were often at the center of

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42 AHGES, FJC, Ures, Tomo 2480, “Finado Don José María Almon, Hijos Naturales,” 1841.

43 By definition, an orphan was any child of minor age with one or two deceased biological parents. See Joaquín Escriche, Diccionario razonado de legislación civil, penal, comercial y forense, 298-99.

44 For example, see AHGES, FJC, Hermosillo, Tomo 1209, “Menor Don Fernando Rodriguez, nuevo curador,” 1832; AHGES, FJC, Hermosillo, Tomo1215, “Don José Aguilar, curador de menores,” 1834; AHGES, FJC, Hermosillo, Tomo 1248, “José María Moreno, nuevo curador,” 1845; AHGES, FJC, Hermosillo, Tomo 1235, “Don Francisco Escobas, curador de hermanas menores,” 1840; AHGES, FJC, Hermosillo, Tomo 1257, Juana Real, nuevo tutor y curador,”1850.
these disputes. Civil cases also reveal that their guardians were frequently involved in selling property, suggesting that even orphans from propertied families faced the risks of downward mobility, unless a surviving parent was able to remarry someone else of means.

In contrast, orphans of lower social rank, along with illegitimate children and others, who circulated among extended and strangers, usually confronted a life of servitude at the hands of their “guardians.” They were sometimes targets of abuse from the people charged with their care, although these occurrences were difficult to quantify, since only extreme mistreatment of any child concerned court officials. For example, Florentina Reina of Hermosillo regularly beat and mistreated an “adopted son,” Juan Martínez Encinas. Neighbors who served as witnesses expressed their disgust about how Reina dealt with Juan, since he was only five to seven years old. Nevertheless, they did not intervene on his behalf until she burned the child’s feet, likely impairing his ability to walk normally for the rest of his life. While some legitimate children likely also faced abuse at the hands of older kin, it is clear that children “adopted” into the households of extended kin and strangers were more vulnerable to certain kinds of exploitation, particularly with regards to their labor.

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47 “Sabe que Florentina Reina le da mala vida al niño que tiene como hijo adoptivo.” AHGES, FJC, Hermosillo, Tomo 654, “Criminal contra Florentina Reina por haber encendido depravadas a su hijo adoptivo,” 1842, 7.
Court records provide evidence that children who grew up separated from their natal households usually occupied an ambiguous status of servant and extended relative or “adopted child.” In a number of the custody disputes discussed above, for example, witnesses explicitly mentioned that these children provided unpaid labor to their guardians in exchange for food, clothing, shelter and education. It is clear from these records that the practice was widespread and likely not limited to “adopted children,” but access to labor was often a primary reason people agreed to raise children other than their own.  

A case of flight by fourteen-year-old Manuel Moreno from his uncle’s home in San Felipe underscores that “adopted children” were often treated as servants, even by extended kin. When Manuel’s uncle, Rafael Quijada, went before the judge in Arizpe to complain that Manuel had fled his custody to live with another uncle, he referred to Manuel interchangeably as a “servant” [sirviente] and as his “nephew” [sobrino]. Manuel Moreno fled his uncle’s charge more than once, and on one occasion, Rafael Quijada had his sons and other servants hunt for Manuel, bring him back, and whipped him publicly as punishment for leaving his employment. Rafael paid Manuel for his labor, and in his initial suit, he also complained that Manuel owed him around three pesos because Rafael had advanced Manuel his monthly salary before his flight. Such arrangements between

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48 For example, see AHGES, FJC, Hermosillo, Tomo 1244, “Promovido por Don José María Carlueto reclamando un hijo bastardo á Gertrudis Miranda,” 1843; AHGES, FJC, Hermosillo, Tomo 1200, “Promovido por Isabel Pulio contra Jacinta Moreno reclamando un niño hijo de la Moreno,” 1793.

49 AHGES, FJP, Hermosillo, Tomo 658, “Promovido por Rafael Quijada contra su sobrino como sirviente por fugo y como respetados su tío Marcelo Quijada,” 1842.
Rafael and Manuel suggest that their relationship was more one of employment as opposed to kinship.

CONCLUSION

The cases examined above demonstrate that in nineteenth-century Sonora, age hierarchies had as much bearing on one’s experience as ethnicity, gender and class status. The local court was an important forum for the reproduction of age hierarchies, as judicial decisions routinely bolstered parents’ authority over their children, on the important condition that parents fulfilled their obligations to provide for and educate their offspring. Thus, ideals of reciprocity and obligation across generations shaped the outcome of disputes between children and their elder extended kin. Providing food, clothing and education became the basis of who was entitled to custody of children, taking precedence over biology. These records demonstrate the uncertain fate of orphans and illegitimate children who frequently moved from household to household. While their experiences highlight the importance of extended kin in raising children, they also provide a glimpse into the lives of those destined for servitude, the topic of the subsequent chapter.
CHAPTER SIX
Amos y Sirvientes

The primary purpose of the family is to place the weak under the protection of the strong . . . What would become of a woman without a husband to meet her needs? What would become of a child? What, finally, would become of a servant who contracts his labor for fair pay? The existence of all these individuals would be unbearable.\(^1\)

The first half of the nineteenth century marked a critical juncture in labor relations in Sonora, as ties between employers \([\text{amos}]\) and workers \([\text{sirvientes}]\) became more coercive in a context of ethnic conflict and difficulty in recruiting labor sufficient to meet notables’ designs for liberal economic expansion.\(^2\) In spite of these growing tensions, notables embraced the ideal described above, of the worker-servant as an integral part of the family. Within this framework, \textit{amos} were father figures to their workers, dispensing justice, punishment, moral teachings and gifts, in addition to wages.

\(^1\) "Es de notar que el objecto exclusivo de la familia es poner al débil bajo la protección del fuerte. Cuál sería la suerte de la mujer, si el marido no le ministrease cuanto necesita? Cuál la del niño? Cuál, finalmente, la del sirviente que contrata su trabajo por un precio fijo? Sería imposible la existencia de todos estos individuos." El Museo de Alamos, MSC 4424, J.J. Pesado, 6:10 (December 1857) 338.

\(^2\) \textit{Amo} refers to employers of servants, but the terms also implied household head and patriarch. \textit{Sirviente} was a more ambiguous term, which could refer to a domestic servant, or an agricultural worker who had little contact with his or her employer. Apprentices in artisan trades were also referred to as servants. Some \textit{amos} also used \textit{criado} and \textit{sirviente} to describe the same servant/dependant. In law and in court testimony, \textit{sirvientes} were often held in contrast to "\textit{vagos}" and day laborers, who did not have an \textit{amo}. See Biblioteca Central de la Universidad de Sonora, Colección Pesqueria (BCUSCP), \textit{Leyes y decretos del Estado de Sonora, 1831-1850}, 26-33.
This chapter explores the ambiguous status of servants at a time in Sonora’s labor history when notables used rhetoric that cast servants as part of the extended family, even as actual labor relations became more coercive. For example, during the first half of the nineteenth century, several laws dealing with amo-servant relations, referred to here as the “servant laws,” included articles that bolstered amos’ authority to provide religious and moral instruction to workers, particularly among young domestic servants. These articles strengthened paternalism in amo-servant relations, and blurred the legal and practical boundaries between worker and subordinate family member. The vague status of servants is evident in how they were included in censuses. There, census takers sometimes listed them as family members alongside children and spouses. These sources also suggest that the practice of taking in dependants and calling them criados or sirvientes was not exclusive to the wealthy. Notables were more likely to have dependants, but their presence in Sonoran society was more widespread.\(^3\)

In wills and other legal records, familial language was pervasive in how Sonorans articulated their relationships with workers, particularly domestic servants who were “adopted” into the household at a young age. As discussed in previous chapters, both men and women left income and gifts to faithful criados and sirvientes. They noted when they raised and educated these dependants “as if they were their own children.” They also revealed their sense of betrayal when they perceived any show of ingratitude. Given the paternalism of nineteenth-century labor laws in Sonora, and the

\(^3\) See further discussion of domésticos and criados in census material in Chapter One.
widespread use of familial rhetoric to describe amo-servant relations on the part of Sonorans themselves, a discussion of workers, their status and labor law is central to understanding how Sonorans defined “the family.” In practice, it was likely a small percentage of sirvientes who developed “familial” ties with their employers, mostly domestic workers, and in the long run, the paternalism of the servant laws probably did more to increase coercive labor ties for all workers.4

Amos certainly engaged in paternalist practices vis-à-vis their servants. They rewarded loyal service by bequeathing property, clothing and religious items in wills, practices that clearly had a colonial precedent. Court records dealing with amo-servant relations, however, also reveal that this idealized notion of reciprocity between employer and worker, modeled on the parent-child relationship, was not a shared vision. Servants seldom appealed to paternalist rhetoric in their disputes with amos. Equally important, although the actual law codes of the early nineteenth century reinforced the amo’s paternalistic role as moral compass and father figure responsible for meting out restrained punishment, local judges interpreted these laws in a manner that made employers’ control over servants more coercive. Moreover, the use of convict labor in public works projects highlights the growing role of force in labor relationships in nineteenth-century Sonora. Indigenous communities were often the targets of coercive measures aimed at usurping their land holdings, limiting their mobility as workers and propelling them into a justice system that took advantage of their labor. Thus, the local court played its part in shaping

4 See Miguel Tinker Salas, In the Shadow of Eagles: Sonora and the Transformation of the Border During the Porfiriato (Berkeley and Los Angeles: University of California Press, 1997), 57.
labor relations in ways that both increased coercion and exacerbated ethnic tensions in Sonora during the nineteenth century.

THE SERVANT LAWS AND LABOR COERCION

Lawmakers in Sonora, and prior to 1831, in Occidente, understood labor regulation as a central element of the region's commercial and economic development along liberal lines. Several articles in the 1825 Constitution of Occidente, for example, underscore that notables embraced some aspects of a liberal political order, such as freedom of speech, freedom and the press and equality of citizens before the law. At the same time, however, their definitions of citizenship reveal considerable ambivalence about domestic servants, the region's increasingly rebellious indigenous population, and all people of the lower social orders who were not attached to an amo. Collectively, these articles demonstrate that even as national laws broadened definitions of citizenship to include all castes, in Occidente and later, Sonora, notables worked to maintain a hierarchical social order along class lines. In practice, some of these restrictions, particularly regarding domestic servants, vagrants and others sentenced to petty crimes, affected members of indigenous communities disproportionally.

Article 28 of the state constitution of Occidente, which cataloged the various ways an individual could lose rights associated with citizenship, underscored the growing importance of occupation and conduct as a way to maintain social order. Constitutional sections dealing with servitude and vagrancy were not new strategies for
reproducing social hierarchy. Rather, they were increasingly important ones for addressing persistent and worsening ethnic conflict in a context in which explicit disenfranchisement based on ethnicity contradicted national law. For example, section eight specifically excluded domestic servants from citizenship. All domestic servants were not necessarily indigenous, but many were, including those captured and brought into Hispanicized households during raids. Moreover, the exclusion of domestic servants from citizenship highlights another way notables understood this particular group of servants as “child-like,” under the necessary tutelage of a “father-figure” amo, like all individuals under the age of 21, who were unable to practice the rights of citizenship.6

Other sections of Article 28 focused more on excluding individuals from citizenship based on social and moral conduct, including anyone accused of vagrancy, anyone who engaged in various kinds of “social vice,” and did not have an occupation. Others excluded anyone found guilty of a criminal offense. These articles affected indigenous and non-indigenous convicts alike, but during periods of rebellion, indigenous people who did not have a relationship with an amo were particularly vulnerable to accusations of vagrancy and other crimes, including theft.

5 For a helpful discussion of citizenship in Mexico at the national level during the early nineteenth century, see Richard A. Warren, Vagrants and Citizens: Politics and the Masses in Mexico City from Colony to Republic (Wilmington: Scholarly Resources Inc., 2001), 32-33.

6 BCUSCP, Constitución política del Estado Libre de Occidente, 1825, 5.
After Sonora became a separate state in 1831, its earliest legislation bestowed amos with tremendous power over the physical mobility and day-to-day conduct of their workers. In 1831, law makers established legal guidelines for how amos were to keep financial records for their servants, and it allowed amos to pay workers in kind. This law and later ones limited the mobility of servants and their ability to seek work elsewhere when they owed debts to their amos. While the law warned amos not to mistreat or overwork servants in very general terms, it also spelled out circumstances under which amos could use corporal punishment and administer local justice themselves on haciendas and in mining centers. It allowed amos to pursue and punish servants who fled their work. Domestic servants’ mobility was even more circumscribed, as they could only leave the houses of their amos with formal permission. Amos could also mete out punishment themselves in these cases or have a male servant declared a vagrant and sent to public works. Amos could send female servants who fled their work to a casa de depósito. Collectively, these law codes granted amos tremendous legal, moral, and physical authority over their workers.

Why did the state legislature pass these servant laws at this particular time and what do they indicate about the status of the labor supply and labor conditions during the first half of the nineteenth century? In part, the repeated passage of servant laws in Sonora during the nineteenth century was a response to long-standing difficulties with recruiting labor on haciendas and in mines, and to persisting indigenous rebellion.

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7 BCUSCP, Leyes y decretos del Estado de Sonora, 1831-1850, 26-33.
Correspondence between colonial officials from the late eighteenth century underscores that notables had long held paternalistic attitudes toward servants and used coercive tactics to recruit labor, particularly indigenous labor. In a statement on the status of his jurisdiction in 1790, for example, Gobernador Pedro Garrido y Durán wrote disparagingly of house servants and manual laborers, who in his view, lived only to engage in drinking and other vices. And although he opposed the practice and ordered its cessation, Garrido y Durán reported that mine owners and land owners, both large and small, forced Indians to work in agriculture and mining, leaving indigenous farmers no time to tend their own land.\(^8\) Thus, labor coercion, per se, was not a new phenomenon in Sonora after independence, nor was paternalist rhetoric about the inability of house servants and workers to sustain a moral lifestyle without the "guidance" and supervision of an amo.

Over the course of the nineteenth century, however, issues of labor supply and rebellion became increasingly serious. With the breakdown of the presidio system, indigenous rebellions became more frequent and damaging to notables' interests after independence.\(^9\) Secondly, with the acceleration of commercialization of property and the consolidation of mines, land and water holdings, landowners and mine owners


needed a large and dependable labor force to sustain economic expansion, particularly in regions experiencing growth, like lowland desert communities in the districts of Hermosillo and Guaymas. As a result, older strategies of labor coercion and the use of paternalist rhetoric vis-à-vis servants, while often viewed simply as vestiges of colonialism, served a new purpose in the context of commercial expansion by the second half of the nineteenth century. The continued codification of amo-servant relationships underscores that notables were actively engaged in the reproduction of paternalistic ties with workers well after independence as a means to sustain liberal economic policies, particularly related to land and water use.

In 1843, state lawmakers again passed legislation that formalized a debt peonage system that restricted the movement of servants, and permitted corporal punishment. The law also contained additional measures that ultimately strengthened the paternalistic character of employer-servant relations. Amos, for example, were long obligated to ensure the religious and moral conduct of their servants, but for the first time, article 36 of the 1843 law emphasized the importance of this responsibility in the cases of young male and female servants and all domestic servants. These laws certainly buttressed the image of the employer as a kind of “father figure” to his workers by codifying the amo’s authority over the moral and religious conduct of his workers. Their relationship was not

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11 See Miguel Tinker Salas, In the Shadow of Eagles: Sonora and the Transformation of the Border During the Porfiriato, 55-56.
simply a contractual arrangement limited to the exchange of labor for wages.

Another article obligated amos to maintain social and political order with regular inspections of servants to insure they did not involve themselves in rebellion, and stressed the scrutiny of indigenous servants in particular.\textsuperscript{12} The legislators’ periodic preoccupation with servant laws usually occurred within the context of major indigenous rebellions. During this same period, the early 1840s, Yaquis and Mayos, along with Opatas and Pimas, participated in a large-scale rebellion against the state regime of federalist José de Urrea. Several other laws and pronouncements specifically targeted indigenous workers by requiring them to carry passports when leaving their work or communities, prohibiting them from carrying arms, and obligating amos to submit lists of Yaqui servants to the state and to guard the quarters of indigenous workers at night.\textsuperscript{13}

Correspondence from military officers such as Lieutenant General Juan Sáenz to state Governor José Urrea demonstrate that the military enforced these laws during periods of rebellion. In May, 1843, for example, Sáenz wrote that he had detained Yaquis who did not carry passports and had them returned to the custody of their amos. He apprehended people identified as vagrants and had them sent to Hermosillo to stand trial.\textsuperscript{14} Numerous lists of Yaqui servants from estate owners throughout the Río Yaqui

\textsuperscript{12} BCUSCP, \textit{Leyes y decretos del Estado de Sonora, 1831-1850}, 424-25.

\textsuperscript{13} BCUSCP, \textit{Leyes y decretos del Estado de Sonora, 1831-1850}, 408;442

\textsuperscript{14} Archivo Histórico del Gobierno del Estado de Sonora (AHGES), Fondo Ejecutivo (FE), Guaymas, Tomo 21, Expediente 9, “Carta de Juan Saenz a Juan Urrea,” May, 1843, 1-3.
also suggest that the level of surveillance and coercion of Yaqui servants in particular increased dramatically during the first half of the nineteenth century.\(^{15}\)

It was during this same period that the number of judicial confrontations between *amos* and *sirvientes* over debt, flight, and theft increased, particularly in the 1830s and 1840s. The increase in disputes were likely in part a reflection of a developing judicial bureaucracy, since the number of all court cases grew during the 1830s and 1840s. But they also suggest that amo-servant relationships were becoming more widespread and coercive, especially in districts such as Hermosillo and Guaymas, that were undergoing more rapid commercialization and more intense ethnic conflict. In addition, it is possible that servants were beginning to understand and interpret their relationship with their employers differently, from one of paternalism and reciprocity to one that is more contractual, "businesslike," and litigious.\(^{16}\)

*THE PRACTICE OF UNEQUAL RECIPROCITY*

The frequent mention of servants in wills, their appearance in court because of disputes with *amos* over debt and robbery, as well as the appearance of *amos* on behalf of their servants, indicate the complexity of relationships between *amos* and servants. Their ties had the potential to be fractious, uneasy, occasionally amicable, and always inequitable. Certainly paternalistic relations between *amos* and servants did exist in some

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\(^{15}\) See AHGES, FE, Guaymas, Tomo 21, Expediente 1, "Listas de sirvientes," 1843.

\(^{16}\) Thanks to Marcos Medina Bustos for suggesting this final interpretation.
cases, and was particularly evident in the wills of local notables. For example, in the city of Arizpe, Antonia Ana de Murrieta left one of her workers, Gabriel Padilla, a house in her will. Gertrudis Corella, also from Arizpe, left an Apache servant named José Corella fifty pesos, while another servant received an orchard. Many times, however, these generous bequests happened in a particular context. These favored servants and criados were often orphans or captured indigenous children who had lived with their amos from a very young age. In their wills, amos like Gertrudis Corella and Antonia Ana de Murrieta often described their relationship with these servants in familial terms, explaining that they had raised them from early childhood [infancia]. Thus, these gestures of largesse again underscore the ambiguous position of criados who were at once “adopted children” and servants, as discussed in previous chapters.

Court records involving theft reveal that servants sometimes helped their amos to identify and capture thieves. For example, Ignacio Ruiz, a rural worker from Pueblo de Seris, reported Antonio Salguero to local justices when he saw Salguero riding a horse that bore his amo’s brand. Ruiz later testified in court against Salguero. While servants likely guarded their employer’s livestock and other property out of self-


18 Ibid., 58.
interest, with the hope of reward for their vigilance, genuine loyalty probably motivated some workers.\(^{19}\)

In spite of evidence of cooperation and even affection between \textit{amos} and their workers, most court records dealing with \textit{amo}-servant relationships underscore the tensions that arose from the obvious power \textit{amos} exercised over their servants. For example, \textit{amos} enjoyed overwhelming advantage in the court system over their workers when servants sought help from the courts for protection from debt and physical danger.\(^{20}\) While the servant laws were clearly designed to benefit \textit{amos}, on rare occasions, servants challenged the most egregious abuses by appealing to articles in the servant laws which spelled out the limits of punishment. In most cases, however, the servant’s relatives or other authorities initiated charges, suggesting that the servants themselves had little access to the courts, even if articles in the servant laws protected them from fraud or extreme physical abuse. Martín Lopes and Josefa Tapia, for example, filed a complaint on behalf of their son, a \textit{jornalero}, protesting that a judge had unjustly punished and publicly beaten him under the orders of his \textit{amo}.\(^{21}\) Investigations of murders of

\(^{19}\)\textit{AHGES}, Fondo Poder Judicial, Penal (FJP), Hermosillo, Tomo 654, “Causa criminal seguida en este juzgado contra el reo Antonio Salguero,” 1842.

\(^{20}\) The documentation likely provides an incomplete portrayal of relationships between \textit{amos} and servants, because state laws allowed \textit{amos} to administer justice themselves and settle most disputes with servants directly on haciendas and in mining centers.

\(^{21}\) \textit{AHGES}, Fondo Poder Judicial, Civil (FJC), Hermosillo, Tomo 1231, “Acusación que Martín Lopes y Josefa Tapia, Vecinos de la Villa de Rayón hacen contra el Juez de Paz de su residencia Don Ignacio María Encinas por haber castigado y azotado á un hijo suyo,” 1839.
servants at the hands of *amos* and administrators, which seldom led to formal legal charges, also attest to the harsh physical punishment some servants endured.\(^{22}\)

In May, 1835, Gaspar Gallo, an indigenous mine worker from the mining center of Los Llanos de San Francisco de Asís, carried out a suit against his *amo*, Don Ignacio Salazar, for excessive physical punishment. Gallo’s case demonstrates that while some workers sought to use the servant laws to restrain corporal punishment at the hands of their *amos*, they ultimately had little success. Gallo accused Salazar of suspending him over a mining shaft by one arm because he had admitted he was an accomplice to theft in Salazar’s mine. Several witness testimonies confirmed Gallo’s accusations against his *amo*, and while no one knew how long Gallo remained suspended above the shaft, all agreed that it was for a long time, at least an hour. In spite of clear evidence that Salazar had indeed used an extreme form of punishment, Rafael Maraga, the presiding judge of the first instance from Guadalupe, concluded that he would not sentence him because the punishment had not led to lasting physical disfigurement. To support his decision, Maraga pointed out that Gallo had since left Salazar’s employment and found work for another *amo*, Miguel Ramírez.\(^{23}\)

Gallo’s case suggests that workers were aware of the servant laws and sought to use them to prevent abuses when possible, but justices were reluctant to enforce articles

\(^{22}\) For example, see AHGES, FJP, Hermosillo, Tomo 663, “Información sumaria instruida en averiguación de los autores de unos golpes efectuados en Ramo Ochoas (a) Rio Anqueño,” 1846; AHGES, FJP, Hermosillo, Tomo 659, “Contra José María Presiado por haber dado muerte a un vaquero,” 1844.

\(^{23}\) AHGES, FJP, Hermosillo, Tomo 631, “Información sumaria practicada por el Juez de Paz de los Llanos contra Don Ignacio Salazar y á pedimento deGaspar Gallo su sirviente, como dentro resulta,” 1835.
that emphasized the law’s paternalism. So in practice, the servant laws were by and large coercive. While some articles maintained the rhetoric of paternalism by stressing the amo’s responsibility to provide a “fatherly” presence in the lives of workers by dispensing “just” and restrained correction, employers who exceeded these limits rarely faced consequences for their abuses. Moreover, in the process of trying to use the servant laws to derive some justice for their injuries, servants like Gaspar Gallo ultimately legitimated the overall framework of the amo-servant relationship. Gallo, for example, explicitly allowed that he expected corporal punishment for being an accomplice to theft in Salazar’s mine. The servant laws only permitted him to take issue with the severity of the punishment, not with punishment per se.

Cases in which amos brought charges against their workers for debts or for fleeing work also suggest that justices were primarily interested in enforcing the most coercive elements of the servant laws. By the late 1830s, amos used debt as a strategy to maintain their labor force on haciendas and in mines. In fact, debtors who were not servants risked a sentence of servitude to their creditors when they could not pay their debts with cash. Antonio Mesa, for example, sued a local judge from Hermosillo for forcing him to work for José María Leiva, to whom he owed around sixty pesos. The

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24 Steven Stern argues that indigenous communities in early colonial Peru faced a similar dilemma by using the Spanish justice system. See Steve J. Stern, Peru’s Indian Peoples and the Challenge of Spanish Conquest: Huamanga to 1640 (Madison: University of Wisconsin Press, 1982; 1993), 115.

experiences of Antonio Mesa suggest that the coercion of debtors to provide labor to creditors was a potentially important strategy for augmenting the labor supply, especially since debt was widespread, with most Sonorans dependent on credit in order to conduct routine business.

_Amos_ also actively pursued workers who fled their employers while they still owed debts, and in some cases solicited the aid of the courts to recapture servants. In March 1841 in Hermosillo, for example, Lorenzo Martínez came before the Judge of the First Instance, Leonardo Escalante, to complain that one of his servants, simply identified as Ramón, had fled his employment. had advanced Ramón some of his salary, a fairly common practice among employers. Although the case does not provide evidence that officials ever captured Ramón, Judge Escalante did formally acknowledge Martínez’s request and ordered a search for Ramón, so that he could be apprehended and made to work off his debt or pay it in cash. Thus, both _amos_ and judges took seriously the enforcement of debt in the servant laws, revealing the coercive effects of the legislation.

Ramón’s escape from his _amo_ touches on an important theme in the historiography of debt peonage. More recent scholarship has posited that debt peonage was not as coercive as previously assumed since workers could escape abusive

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26 AHGES, FJC, Hermosillo, Tomo 658, “Promovido por Rafael Quijada con tratar sobrino como sirviente por fugo [de] su tío, Marcelo Quijada,” 1843; AHGES, FJC, Hermosillo, Tomo 1240, “Lorenzo Martínez manda un escorte para perseguir ‘un individuo que se ha fugado de mi servicio debiéndome una cantidad de pesos.’” 184, 5.

employers and find better working conditions elsewhere, given that labor was always scarce on the frontier. In fact, workers invited salary advances, and like Ramón above, some left without fulfilling their contract and providing labor.²⁸

The practice of leaving an employer after receiving wage advances clearly occurred in Sonora as well, and some workers succeeded in finding protection from their new amos. For example, Dolores Núñez escaped one employer and attached herself to a new amo who was willing to defend her in court against her first employer. With her new amo's legal assistance, Núñez did not have to return to the custody of her former amo.²⁹ Most evidence regarding servants, however, indicates that Núñez was likely exceptional. When servants sought to escape, their amos often sent out their own parties to search for them, in addition to seeking the aid of the local courts. And when amos captured their servants, they redressed the escape with corporal punishment, usually in public as a way to set an example for other servants. During periods of rebellion, soldiers provided added surveillance of workers attempting escape, above all, targeting indigenous travelers. Thus, while the Sonoran case in the early nineteenth century provides some evidence of workers fleeing their amos without consequence, judicial records also supply substantial proof that escaping workers risked reprisal, underscoring that debt peonage was in large part a coercive practice.


Nevertheless, some amos also went to court on behalf of their servants, another illustration of paternalistic practice that was similar to how parents would behave toward children involved in a legal controversy. For example, amo Don Rafael Eliás brought charges against Antonio López, the Alcalde of Santa Cruz, because he fined and imprisoned one of his servants, Concepción Valenzuela, for committing assault.³⁰ Elías accused López of mistreating his servant during her sentence of three days to obras públicas, but self interest also inspired his complaint, since judges could hold amos responsible to paying their servants’ fines.

By far, however, most legal suits involving amos and their servants were rooted in conflict. While debts, flight, and mistreatment were common sources of discord between servants and amos, accusations of robbery were by far the most common. The prevalence of robbery, along with other conflicts between amos and servants, underscores the inherent fragility of paternalistic arrangements between servants and amos. These cases also show that there was no “moral economy” between servants and their amos, through which servants were entitled take a certain amount of food or other property from their amos, and amos were expected to acquiesce to these practices as a symbol of their largesse.³¹

A case involving a servant named Juan Malquín demonstrates the lack of a “moral

³⁰ AHGES, FJP, Ures, Tomo 2543, “Don Rafael Eliás contra Alcalde Antonio López,” 1832.

“economy” between amos and servants, and illustrates that most servants stole common goods from their employers, including grain, livestock, clothing, or small household items. The widespread theft of basic foodstuffs and livestock also suggests that most employees were stealing out of necessity to supplement meager wages. In Malquín’s case, witnesses saw him stealing small amounts of wheat grain, beans, corn, and watermelon on several occasions before his amo, Feliciano Arvisu, actually caught Malquín with some wheat grain hidden under his coat and a few cups of beans under his hat. Although Malquín argued that he stole from his employer only out of necessity, he never tried to argue that he was entitled to the grain and other food, and Arvisu certainly never suggested that his employee had a right to supplement his wages with stolen goods. Moreover, in his testimony, Arvisu never discussed Malquín’s theft as a betrayal. Thus, cases of theft between amos and servants, like that of Juan Malquín, were usually dealt with and discussed similarly to theft cases among strangers, and did not involve rhetoric of disloyalty, and nor did servants speak of entitlement.

VAGRANCY AND CONVICT LABOR

In addition to codifying debt peonage and more coercive labor ties between amos and servants, officials used people charged with vagrancy and other crimes to meet labor needs, although notables appear to have used this strategy for less time and on a smaller scale than that of debt peonage. According to vagrancy legislation passed during the 1830s, anyone without an occupation or without a relationship with an

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32 AHGES, FJP, Hermosillo, Tomo 616, “Causa seguida contra Juan Malquín por ladrón,” 1832.
employer or amo could be charged with vagrancy. Even rural workers who did not work full days or weeks were subject to punishment. Furthermore, the legislation authorized amos in more isolated regions of the state to monitor vagrants who entered their property. Amos could force suspected vagrants to work or expel them from their property and the community if they refused to do so. Anyone who begged without permission, including orphans or abandoned children, who wandered the streets and begged, were defined as vagrants. The 1830s legislation also deemed anyone who drank excessively, gambled or was an itinerant musician a vagrant.

As with legislation that regulated labor relations between amos and servants, new laws regarding vagrancy showed that notables were deeply concerned with buttressing labor supplies and viewed rebellion, social chaos and familial disorder as related issues. Vagrancy legislation allowed judges and other local officials to take away orphaned and “abandoned” children who begged or appeared to not receive moral and practical instruction from parents. Although rare, local judges did sometimes intervene and take custody of children from families thought unfit, under the assumptions that these parents would only teach their children to become vagrants. This occurred even before legislation codifying the practice was in place. In May 1835, for example, a widow, Josefa López, complained that the justice of the peace from Pueblo de Seris, Don Manuel Cabrera, took

33 BCUSCP, Leyes y decretos del Estado de Sonora, 1831-1850, 31.
custody of her children. He sent one to work as a servant for his own father-in-law. Cabrera accused López of not providing her children with a proper education by allowing them to wander the streets. Although López was ultimately able to regain custody of her children, her dilemma reflects the chilling results of linking vagrancy to “disordered families” and poor education. Her experiences also suggest that the children of poor widows were easier targets of vagrancy legislation.³⁶

Lawmakers and officials throughout Mexico had long defined and depicted vagrancy as an inherently subversive, a status that carried moral as well as economic connotations. According to official interpretation, vagrants were people who were physically capable of laboring but willfully chose not to do so. Moreover, officials understood vagrants as people who lacked clear social and familial connections, even if an absence of familial ties did not reflect the reality of most vagrants.³⁷ Discussion of the immorality and disruptiveness of vagrants often extended to complaints about how they passed their time when they did not have an occupation, family or a clear relationship with an amo. Vagrancy cases in Sonora, for example, reflect a concern on the part of local judges and witnesses that vagrants were engaged in gambling, fighting,

³⁶ AHGES, FJC, Hermosillo, Tomo 1220, “Promovido por Josefa López relamando sus hijos,” 1835.

and illicit sexual relationships, thus linking vagrancy to immorality and lack of social and familial connections and obligations.\textsuperscript{38}

Legal definitions of vagrancy in Sonora were largely based on vagrancy laws that originated from Mexico.\textsuperscript{39} But while the national law ordered sentenced vagrants to reform houses, in Sonora, no such institutions existed and jails were often inadequate. Local judges instead sentenced convicts to between two months and three of public works, a common punishment for other petty crimes, such as theft and minor assault. Among the available 50 vagrancy cases in the state penal records, most people were sentenced to public works between 1821 and 1847, and the bulk of these sentences occurred between 1829 and 1834.\textsuperscript{40}

A striking feature of vagrancy cases in Sonora was that men were overwhelmingly accused. The only women charged with vagrancy appeared when they were with men, suggesting that above all, state officials used these laws to gain access to coerced labor. The overwhelming use of public works as a form of punishment over imprisonment for vagrancy, robbery, and assault also reflects that state officials were concerned with establishing a stable source of cheap or free labor in the region. Clearly state legislators who were actively experimenting with convict workers as a strategy for

\textsuperscript{38} For example, see AHGES, FJP, Hermosillo, Tomo 636, “Domingo Arbayo por amancebamiento y vagancia,” 1837; AHGES, FJP, Arizpe, Tomo 1225, “Miguel Acuña por vagancia y mal entretenido,” 1836.

\textsuperscript{39} See Sylvia Arrom, \textit{Containing the Poor: The Mexico City Poor House, 1774-1881}, 41.

\textsuperscript{40} These cases are largely available in the AHGES, FJP, Hermosillo, Tomos 602-636, 1821-1837. Because vagrancy cases were also handled in a separate court known as the Vagrant Tribunal, and these records were lost, this number is likely an underestimate of actual vagrancy suits.
both overcoming persistent labor shortages and for decreasing the expense of maintaining convicts with state funds, as most private employers agreed to pay for the maintenance of convicts. This strategy suggests that a "weak state" could sometimes better serve the interests of notables who pointed to insecure jails as the primary rationale for using convict labor in mines, agriculture, and various public works projects.

Documentation regarding the conditions of convicts sentenced to public works and the mechanisms which shifted them to labor on private haciendas and mines is disperse. The evidence available indicates that the process was largely an informal one in which employers went directly to local judges or alcaldes to ask for laborers. An important exception, however, was the passage of a state law in 1833 to send convicts to work in the mines of D. José Maria Almada, a member of a prominent political and commercial family from Alamos in southern Sonora. The law allowed convicts sentenced to specific *presidios* to instead work in Alamada’s mines La Aduana and Promontorios in the district of Alamos. Lawmakers explained that such an arrangement served state interests considering that overcrowding in jails threatened the social order. Moreover, lawmakers added, Alamada’s suggestion of using prison labor promised to save the public funds and make good use of otherwise idle convicts, as Alamada agreed to pay for the maintenance of the convicts while they labored in his mines.41

41 BCUSCP, *Leyes y decretos del Estado de Sonora, 1831-1850*, 125. For further information regarding this particular arrangement, see AHGES, FE, Tomo 1086, “Decreto expedido por el Ejecutivo del Estado, el 26 de octubre de 1834, declarando provisionalmente lugar de detención para los reos sentenciados a Obras Públicas, la mina llamada “La Balbaneda,” en jurisdicción de Promontorios, perteneciente a Don José María Almada,” 1-12.
Clearly many convicts went to work on state projects, including construction and repairs on the public jails in Hermosillo in 1832 and in San José de García (Guaymas) in 1839, and the dredging of the Port of Guaymas in 1834. Numerous sentenced convicts continued to go to *presidios* in the early half of the nineteenth century.42 Those who worked on private haciendas or mines usually appear to have done so in smaller numbers of eight or nine and on an informal basis. For example, nine Yaqui convicts managed to escape while they were working on the construction of a house outside of Arizpe in 1832. All convicted of theft, their sentences required that they go to work in *obras públicas* for five years in Chihuahua. Until they were transferred out of the state, however, the local judge of the first instance Francisco Mendoza allowed the convicts to go work for various private employers in order to “avoid the grave results that maintaining these convicts in jail would have on the state treasury.”43 From the perspective of local judges, sending prisoners out to work served the dual purpose of saving money and fulfilling the labor needs of local employers.

Based on the high incidence of escape and the numerous complaints of prisoners, however, a disproportionate number of them indigenous, the judicial system had a different meaning for its convicts. The judicial system was an important, albeit nascent arm of the state that sought to control the movement of the state’s marginalized people, it


43 AHGES, FJP, Ures, Tomo 2543, “Presos fugandos de obras públicas y trabajos particulares,” 1832, 1.
procured labor and ultimately, intensified ethnic and class divisions in the state of Sonora during the early nineteenth century.

CONCLUSION

An examination of servant and vagrancy law codes and their application suggests that in at least some contexts, servants occupied an ambiguous status of worker and "family member." Laws that made *amos* responsible for the religious education of servants and the practice of leaving gifts to *criados* suggest that *amo*-servant relations were paternalistic during the first half of the nineteenth century. Nevertheless, these same law codes, which limited the movement of workers and allowed for corporal punishment, indicate that labor relations were also coercive, as reflected in the repeated passage of vagrancy laws and the use of convict labor. Moreover, judges enforced these laws in ways that only increased employers' control over their workforce, and ultimately suggest that the family rhetoric used to describe *amo*-servant relations seldom reflected actual working conditions for most laborers in the state. Thus, in a context in which nation law opened citizenship to all regardless of ethnicity, class became an important marker of political status through servant and vagrancy codes of the nineteenth century.
CONCLUSION

The courtrooms of early nineteenth-century Sonora reflected both the influence of colonialism on daily life and institutions after independence, and the growing role of liberalism in transforming social relations throughout the rest of the century. Well after 1821, families remained the basic unit of social organization and business in the region. Judicial procedures changed relatively little, and local court officials continued to have close contact with plaintiffs and defendants in most communities. At the same time, however, Sonorans used new language in the court records by the 1830s, identifying themselves as *ciudadanos* or citizens, more often than as *vecinos*, a colonial term referring to a Hispanic landholding resident. Some residents, such as Doña Josefa Salcedo of Pueblo de Seris, used rhetoric about the inherent advantages of private property in their legal disputes with indigenous landholders, suggesting the emergence of a liberal ideology with regards to land tenure.¹

Thus, civil and criminal court cases from Sonora’s early nineteenth century reflect the region’s transition from a colonial outpost of New Spain to an emerging border state with increasingly strong ties to United States and the world. This shift did not hold immediate consequences for all aspects of family life, and individuals both affected and responded to these changes in different ways, depending in part on their ethnicity, gender, age and economic circumstances. Regardless of their status, people were often strategic

¹ See Archivo Histórico del Gobierno del Estado de Sonora (AHGES), Fondo Poder Judicial, Civil (FJC), Hermosillo, Tomo 1227, “Josefa Salcedo contra indígenas sobre terrenos,” 1837.
in how they embraced and resisted both colonial precedent and liberal modifications. Sonoran women, for example, drew on a colonial legal framework to maintain an active presence in the courts and to control property well into the nineteenth century, even as some employed liberal rhetoric of private property rights to maintain control of their estates.

The transition to nation had both liberative and coercive potential, a fact most evident in emerging definitions of citizenship in the new state and national constitutions. National law accorded individual political autonomy regardless of ethnicity or race, making it difficult for Sonoran state legislators to craft discriminatory legislation directed specifically at its most defiant indigenous residents. Thus, Sonora’s state constitution constructed rights to citizenship along class lines by declaring servants ineligible for citizenship, a group of disenfranchised individuals that grew ever larger after the 1843 servant code broadened the definition of servant to include most artisans. In practice, the exclusion to citizenship along class lines worked to disenfranchise much of Sonora’s indigenous population, since they were also primary targets of the state’s coercive labor laws, as well as laws designed to dismantle communal land holdings.

An exploration of Sonora’s transition from a peripheral corner of the Spanish empire to a state of the Mexican nation, however, demonstrates that scholars of the early republic have more to do than strictly identify vestiges of colonialism and liberal, nation-state innovations. Rather, colonial practices sometimes occupied a central role in facilitating the economic transformations associated with nineteenth-century liberalism. An examination of Sonora’s complex and informal credit network offers an
excellent illustration of this point. Civil court records reveal the continued importance of trust, reputation and kinship to the circulation of credit. But it was within this very system, however, that many errant debtors became obligated to work for their creditors, thus expanding the pool of dependent labor for nineteenth-century commercial expansion.

Persisting debates about the relative effectiveness of the court system in outlying regions like Sonora touch on recent developments in historical scholarship within borderland studies, as well as literature on the law and judicial processes in general. Historians of northern Mexico, like scholars of other peripheral zones, have argued about the influence of isolation from “the center,” as well as the capacities of ethnic warfare and a harsh environment to shape a unique regional identity. The evidence presented in the preceding chapters supports the view that competition for scarce resources, labor shortages and continued indigenous resistance to Mexican rule did in part create labor conditions, notions of citizenship and a regional identity specific to Sonora.

At the same time, however, familial experiences in Sonora, as understood through the courts, shared similarities with the rest of Latin America, as well as Europe, supporting suggestions that some historical processes in northwestern Mexico are best understood in relationship to broader, political, and economic global changes. For example, the circulation of children, while a result of frontier inter-ethnic warfare and servitude, was also a consequence of the long-held practice of orphans and illegitimate children living among extended kin, common throughout Latin America and parts of
Europe. Sonora’s gender order, which accorded women autonomy in the courts and over property, and at the same time, circumscribed their sexuality, was a result of colonial law codes that influenced gender hierarchies in urban centers of central Mexico as well as at the nation’s rural fringes. Some of these similarities suggest, as Charles Cutter has argued, that in spite of its skeletal bureaucracy, judicial culture on Mexico’s northern periphery was not completely removed and distinct from that of “the center.”

Such evidence does not imply that people throughout Mexico responded in a uniform manner to colonial and national law; rather, nineteenth-century Sonora was not entirely isolated from economic, political and legal processes taking shape in the rest of the nation and the world. If anything, the nineteenth century marked a period in which Sonora’s global economic and cultural links became more vital after 1821. The opening of the port of Guaymas to international trade, the influx of foreign merchants into northwestern Mexico, the California Gold Rush and mass migrations to mines in Arizona during the 1850s signaled an acceleration of these trends.

Moreover, in spite of characterizations of weakness and ineptitude, families of varied ethnic and class status viewed the emerging state judiciary as an important arbiter of their disputes and as a tool for cementing economic and political alliances based on kinship. Through their participation in the judicial process, families challenged and reproduced social hierarchies based on gender, ethnicity, age and class. For individuals

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who questioned their marginalization, however, their involvement in the courts also
unwittingly legitimated the judiciary’s role as an architect of the very power structures
they hoped to contest.

As such, the preceding judicial cases have bearing on broader debates about the
state, and the judiciary’s capacity as a blunt instrument of domination over marginalized
subjects, including, Indians, women and children. Certainly the enforcement of vagrancy
laws and debt peonage codes provides evidence of the Sonoran judiciary’s coercive
potential. Judges also tended to enforce and reproduce a sexual double standard within
marriage that accorded men more sexual freedom and increased husbands’ authority over
their wives. So in spite of its limitations, the state judiciary still had enough power to
shape labor relations and reproduce a patriarchal gender order.

In contrast, Susan Hirsch and Mindie Lazarus-Black, among others, have
characterized the law and courtroom as potential sites of contestation, where
marginalized people could resist domination. In the specific case of Sonora, for
example, servants did indeed attempt to use the courts to curb mistreatment at the hands
of their amos. Women, along with concerned neighbors and kin, went to court to punish
abusive and neglectful husbands. Even more common, women, albeit marginalized in
terms of sexuality and custody over children, practiced their legal rights to community
property inherited from the colonial period by buying and selling land and livestock, and
by passing their estates on to both male and female heirs. Women were thus deeply

4 Susan F. Hirsch and Mindie Lazarus-Black, “Performance and Paradox: Exploring Law’s Role in
Hegemony and Resistance,” in Contested States: Law, Hegemony and Resistance eds., Mindie Lazarus-
involved in civil courts as active agents on their own behalf and on behalf of their extended family, underscoring how the Hispanic legal framework provided women possibilities for considerable autonomy.

Collectively, these records support John Comaroff's characterization of the law as "Janus-faced," both an instrument of discipline and a potential tool for justice, or at the very least, a forum for airing grievance about injustices. Ultimately, however, the law was not dualistic in the strictest sense, since both coercion and resistance carried their own internal contradictions. For example, litigants who hoped to challenge existing hierarchies based on gender, ethnicity, age and class were often constrained by legal processes and rhetoric that ultimately limited the courts' potential as a tool of liberation. For example, women and servants who challenged husbands and amos for mal trato always worked within a legal framework that allowed for corporal punishment. Women who brought rape charges on behalf of younger female kin embraced an ideology that emphasized the importance of virginity, and thus, bolstered a sexual and social order that tied female chastity to rights of protection from sexual violence. These kinds of cases, among others, point out the contradictory outcomes of using the courts as a means to resist abuses at the hands of the powerful. At the same time, however, when the courts relied too heavily on coercion, as in the case of the enforcement of the servant laws,

judges ultimately undermined their own paternalistic rhetoric, and thus risked more overt forms of resistance and rebellion.\(^6\)

The routine involvement of women, men and children in the Sonoran state courts also has relevance to historical and anthropological scholarship on the law as form of discourse and communication. Specifically, plaintiffs and defendants in Sonoran courts were adept at using popular and legal rhetoric about the family and ideals of obligation and reciprocity in a strategic manner to win suits, avoid punishment or at least minimize their sentences. Yet even when these discourses were largely tactical in nature, their use underscores how both justices and litigants embraced ideologies regarding the importance of maintaining familial harmony and fulfilling obligations between younger and older generations, and between men and women in marriage and consensual unions.

In addition to shaping rhetorical strategies in custody disputes, inheritance suits, and assault cases, Sonorans routinely put ideals of familial obligation and reciprocity into practice by going to court on behalf of sons, daughters, nieces, nephews, siblings, parents and in-laws in civil and criminal suits. These cases made up the primary reason why families went to court. They demonstrate how the law was more than a forum for familial disputes, and highlight the importance broadening characterizations of the court strictly as a site of contestation so that a wider variety of familial experiences are explored in judicial archives.

\(^6\) In this respect, the concept of a “moral economy” offers a useful explanation for understanding both the rhetoric of and disruptions in amo-servant relations. See James C. Scott, *The Moral Economy of the Peasant: Rebellion and Subsistence in Southeast Asia* (New Haven: Yale University Press, 1976).
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