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by

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**Marriage, Bigamy, and the Inquisition: Power and Gender Relations in  
Seventeenth-Century New Spain**

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**Marriage, Bigamy, and the Inquisition: Power and Gender Relations in  
Seventeenth-Century New Spain**

**by**

**Samantha Rose Rubino, B.A.**

**Report**

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## **Dedication**

To my role model and best friend, my mother, Ann Marie.

## Acknowledgements

“All that is gold does not glitter, Not all those who wonder are lost.”

–J.R.R. Tolkien (*The Lord of the Rings: The Fellowship of the Ring*, “Strider”)

Picking a dissertation topic is a hard, but important, first step into the wide world of academia. Beginning your research and articulating your first arguments on said topic is an undertaking that always takes longer than you think it will. My case was no exception. Along the way mentors, colleagues, friends, and family provided essentially support without which this report would not be complete.

My path to studying the history Spanish Empire began as a young twenty-year old undergraduate studying abroad in Toledo, Spain. There I became enrapt in the prevailing historical roots of Spanish culture. Upon my return to The Ohio State University, I met with Dr. Kenneth Andrien and Geoffrey Parker to begin my first peak into the historical study of the Hapsburg King Philip II’s royal court and administrators in the sixteenth century. Through countless hours of paleography sessions, historiography conversations, and edits, these two magnificent professors provided me with the tools to continue my passion for history as a career. For this I am indebted to you both. And I am greatly appreciative of the continuing friendship and mentorship.

The process of selecting marriage and family formation and regulation as my dissertation topic was a long one. Preliminary investigation into the topic of bigamy and family first began as a seminar paper in Dr. Julie Hardwick’s Early Modern World research seminar. The details and lives of the bigamists I studied fascinated me. I found myself reading more cases—probably when I should have been reading for my seminar courses—and discussing my findings with Dr. Julie Hardwick at any chance I had. The mentorship from Dr. Hardwick was crucial to the way this report was conceptualized. I

look forward to continuing our working relationship and sharing more exciting stories from my bigamists.

Above all, I am greatly indebted to my adviser, Susan Deans-Smith, for her steadfast support and patience during this report. Key discussions about historiography and my cases provided the theoretical framework and background for my research. Her astute comments during the months of writing and editing this report pushed me to produce a clearer and more analytically sound report than I would have without her guidance. Dr. Deans-Smith is one of the few historians who is as good a writer as she is a researcher, making her revisions and feedback particularly invaluable.

Finally, I would like to thank my family and close friends. My mother Ann Marie was my first cheerleader as I began my academic career. Her constant reassurance and excitement about my project continues to fuel my passion and enjoyment for history. Even though I am far away from home, I appreciate the undivided attention she gives me no matter what hour of the day I call. Moving away from my family and friends in Ohio was a big step. Multiple friends and colleagues were crucial to the production of this thesis and my sanity as a graduate student. My fellow cohort members Christina Villarreal, Jimena Perry, Juan Carlos de Orellana, Nicolás Gonzáles, and Brad Dixon became my Austin family. Each of them heard many stories about my bigamists and questioned the way I analyzed the lives of the bigamists. Dr. Julia Gossard reviewed multiple revisions and conference papers of this report while providing invaluable feedback. From coffee discussions, to late night rants, Julia remains my favorite editor and closest friend. Thank you for all your support and friendship. Last but not least, thank you to my partner Miguel Felipe Daza. Your constant love, support, and interest in my research propel me to be better than I was the day before.

## **Abstract**

# **Marriage, Bigamy, and the Inquisition: Power and Gender Relations in Seventeenth-Century New Spain**

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Abstract: “Marriage, Bigamy, and the Inquisition” explores the formation and dissolution of intimate marital partnerships in seventeenth-century colonial Mexico. This report is a preliminary investigation into the formation and regulation of family life through the language of lived experience depicted in bigamy cases from the Inquisition. The trials of María de Figueroa, Juan de Lizarzaburo, Baltasar Márques Palomino, Mariana Monroy, and Pedro de Valenzuela depict the way in which the accused, their family/witnesses, and the court contested what family meant during inquisitorial interrogation. In other words, this report examines the application of marriage law to these specific family histories and the accused bigamists’ interpretation of what they deemed acceptable within Spanish society. In order to accomplish this analysis, this paper focuses on four key elements of marriage and family construction: 1) *mala vida*; 2) power relations between men and women; 3) the role of race and honor; and 4) the role of the Inquisition as an institution and site of debate about family.

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## Introduction

In 1621, creole María de Figueroa married creole Alonso Martín Cabello in León, Mexico. Alonso abandoned her six months after their marriage, ‘abducted’ another woman, and remained out of contact with María for two and one-half years. As a result, María was forced to move back home with her father and grandfather. In the absence of Alonso, as María later testified in the Inquisition record, she suffered the *mala vida* (abuse, overwork, lack of support, beatings) at the hands of her father and grandfather while living at her father’s *estancia* (ranch). One day in December 1623, she reached desperation when they threw her out of the house. It was at this low point that she met a mulatto, Francisco Gómez. The Inquisition record does not say where she met him, but it may have been somewhere near the Jesuit hacienda where he worked. Francisco testified to the Inquisition: “one night about midnight, María de Figueroa came to this witness and begged him to take her, for ‘the love of God’, to Zacatecas or wherever he wanted, because her father Pedro de Ortega and grandfather Santiago [gave] her the *mala vida*.” Francisco hesitated to agree to María’s plan, for he worried that her husband would “come out and kill him, as she was a Spaniard and a married woman.” María responded that she was not married nor had she “any relatives who would be able to harm him.”<sup>1</sup> With that, she climbed up behind him on his mule, and they went off together.

By December 1623, María and Francisco were married in Zacatecas. A month later, in January 1624, Alonso appeared before a rural constabulary of León, Mexico petitioning that Maria, his legitimate wife, be arrested, arguing, “a mulatto named Francisco violently took her and abducted her.”<sup>2</sup> Six years later, on 7 October 1630, the Spanish Inquisition, which presided in Mexico City, arrested María de Figueroa in Zacatecas and charged her with bigamy. Why did María choose to marry Francisco rather than live in *amancebado* or cohabitation? How did this union change or challenge her

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<sup>1</sup> AGN, Inquisición vol. 370, exp. 3, Fs. 313-313v

<sup>2</sup> AGN, Inquisición vol. 370, exp. 3, Fs. 307-320

standing within society? Why did Alonso petition to have her arrested long after abandoning her? Moreover, why did she lie to Francisco stating she was not married?

Series of events like these revealed in court records complicate our understanding of 17<sup>th</sup>-Century New Spain and families. The evidence in bigamy cases, with stories of desertion, broken marriages, and prosecutions by the Spanish Inquisition, reveals wider patterns of family construction; the choices Spanish and creole men and women as well as indigenous people, slaves and people of mixed race made in establishing intimate relationships with broad social and legal consequences.

“Marriage, Bigamy, and the Inquisition” explores the formation and dissolution of intimate marital partnerships in seventeenth-century colonial Mexico as a preliminary investigation into the formation and regulation of family life through the language of lived experience depicted in bigamy cases. The seventeenth century offers a unique perspective into family life due to the resurgence of indigenous populations in 1650, increased migration throughout New Spain, and the beginnings of the *casta* hierarchies.

The case of María de Figueroa is only one out of six hundred and eighty-four documented, seventeenth-century bigamists in the Viceroyalty of New Spain—present day Mexico. Quick examinations of the 642 bigamy records demonstrate the racial diversity of seventeenth-century bigamists.<sup>3</sup> For example, in the sixteenth century the majority of females prosecuted were Spaniards; however, as geographic expansion and colonialism advanced in the seventeenth and eighteenth centuries, these females were classified as either being a *mestizo*, *mulatta*, and vary rarely a *creole*.<sup>4</sup> Males follow a similar pattern in that up until the 1650’s, those prosecuted for bigamy were usually of Spanish or European in origin. After the 1650s, however, the majority of males prosecuted for bigamy were of *mestizo*, *mulatto*, and *creole* in origin.<sup>5</sup> These

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<sup>3</sup> See figure 1 for a table of 17<sup>th</sup> C bigamists (gender & race)

<sup>4</sup> *Mestizo* = Spanish and indigenous heritage; *Mulatto* = mix of European and black lineage; *Creole* = of Spanish parentage but born in the New World.

<sup>5</sup> These observations were made after collecting a database of the 684 documented cases of bigamy in New Spain.

demographics are important in that they depict the new social, territorial, and racial geography of the New World. In addition, the new geography of New Spain impacted the way people constructed their relationships and families, as well as how officials responded to them.

## Sources, Methodology, and Historiography

Bigamy prosecution was a legal offense created by ecclesiastical and secular authorities as a form of social control. It existed to define deviants who violated the central rule of Christian marriage: that matrimony was monogamous and indissoluble. Officials deplored illicit coupling (seduction, informal unions of short or long duration) and either separated couples or forced them to marry. In a sense, alleged bigamists acted according to the basic rules of their Catholic society. They simply formed new families and structured new lives rather than live in “sin” through cohabitation.<sup>6</sup> Bigamy cases, preserved in Inquisition records, shed light on how couples defined and redefined family ties in the seventeenth century. Their cases can therefore be used to learn about marriage and, as we shall see, domestic life itself. We can learn about these sites of family and community through the presence and testimony of family members, neighbors, and acquaintances of the accused. The result of this cumbersome system of social control by secular and ecclesiastical courts was that a large element of uncertainty and caprice existed in the system set up to investigate and punish crime.

### METHODOLOGY

This report explores the formation and dissolution of intimate partnerships in seventeenth-century colonial Mexico as a preliminary investigation into the formation and regulation of family life through the language of lived experience depicted in bigamy cases. To do so, this report concentrates on the personal histories and testimony provided by the accused and the witnesses in bigamy cases, in order to understand the actual experience of marriage and family construction in seventeenth-century New Spain. This report examines five bigamy cases (María de Figueroa, Mariana Monroy, Juan de Lizarzaburo, Baltasar Márquez Palomino, and Pedro de Valenzuela) ranging from 1600-

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<sup>6</sup> In 1600, Hernando Díaz of Tlaxcala exclaimed to the Spanish Inquisition in New Spain, “it is better to live wrongly in cohabitation than to marry well.”<sup>6</sup> Hundreds of similar quotes survive from those living in cohabitation or in bigamous relationships in 17<sup>th</sup> century New Spain. Their perspectives demonstrate that no consensus of the definition of marriage existed.

1680 in New Spain. Such trial records can be divided into two types of material: legal and personal. For example, the first three pages of María de Figueroa's trial record listed the accusation of bigamy against María as well as her arrest and imprisonment. The rest of the document, roughly 27 pages, provide the personal history of the accused, depositions from witnesses—including Alonso Martín Cabello and Francisco Gómez (her first and second husband respectfully) and her father—and the defense's response to the prosecutor's arraignments as well as the depositions of witnesses.<sup>7</sup>

Inquisition documents illuminate more than “religious practices in the punishment of unorthodoxy.”<sup>8</sup> Statements recorded by the Inquisition describe the conduct and reflect the fundamental attitudes of married peoples and their families from a broad range of society rather than just the elites. The methodology here is to examine the language used in bigamy cases, as well as how individuals shaped their stories, in order to get at the lived experience of married couples and families in seventeenth century Mexico. Although the language may be imbedded with the prejudices of the court—based on the notion that a scribe from the Inquisition transcribed the trials—the documents contain summaries and direct quotes of the testimony provided by the accused, the defendant, and the witnesses.

### **PROJECT SIGNIFICANCE**

Ultimately, the historical study of gender and family in seventeenth-century New Spain seeks not merely to provide a more comprehensive picture of colonial society, but rather to modify some of the paradigms and complicate the sources (confessional manuals, theological treatises, codes of law, etc.) upon which many previous historical

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<sup>7</sup> The document raises many questions regarding the bureaucratic structure of the Inquisition, such as why was there a gap of six years from Alonso's accusation of bigamy in 1624, to María's arrest in 1630? We can speculate the slow process was due to the collection of information (such as copies of the parish registers in which María's first and second marriages were recorded) coupled with the correspondence between inquisitors in Mexico City and those in León; however, this is not the focus of this report.

<sup>8</sup> Richard E. Greenleaf *The Mexican Inquisition of the Sixteenth Century*. (Albuquerque: University of New Mexico Press, 1969), 1.

studies of marriage and family have been based. My historical examination of how women and men from varying classes and ethnic groups dealt with religious and judicial proscriptions relating to their conflicting desires points to larger formative issues affecting Hispanic society, including perceptions of gender and criminality, popular religiosity versus doctrinal religion, shifting notions of tolerance and order, and the boundaries between secular and ecclesiastical. The examination of bigamy and marriage “re-construction” in seventeenth-century Mexico serves as a window into the interplay between gender, family, and colonialism. In practice, as the contradictions, complexities, and ambiguities of colonial culture and everyday life are examined through institutional processes, we see how individual, familial, and legal strategies together contested, from the bottom up and the top down, what marriage and family would mean in New Spain.

#### **GENDER AND FAMILY IN THE HISTORIOGRAPHY OF COLONIAL LATIN AMERICA**

While the case of María de Figueroa, and others like it, offer valuable details and glimpses into colonial life, accessing the file of the case is only the first step in understanding its social meaning. For that, we have to thank scholars who have successfully fostered the historiographical dialogue necessary to examine the meanings of familial relationships in colonial contexts. Initially, interest in such topics stemmed from contemporary social movements and political conditions, as the feminist and gay rights movements of the 1970s, and the growing presence of female historians within the discipline of history led to challenges of older patriarchal paradigms of history. One of the classic works in the new school was Verena Martinez-Alier's 1974 *Marriage, Class and Colour in Nineteenth-Century Cuba: A Study of Racial Attitudes and Sexual Values in a Slave Society*, which is based on data collected from interracial couples' petitions for permission to marry and on judicial documents dealing with elopement and seduction.<sup>9</sup> In 1978, Asuncion Lavrin's edited collection *Latin American Women*, the earliest English-

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<sup>9</sup> Martinez-Alier, *Marriage, Class, and Colour in Nineteenth-Century Cuba: A Study of Racial Attitudes and Sexual Values in a Slave Society*. (Cambridge: Cambridge University Press, 1974).

language anthology dedicated solely to female historical experiences in Latin America, called for historians to focus less on elite figures, like Sor Juana Inés de la Cruz or Eva Peron, and more on the quotidian experiences of ordinary women and their involvement in social, political, and economic spheres.<sup>10</sup> Pilar Gonzalbo Aizpuru's *Las mujeres en la Nueva España* looked at the experiences of women throughout New Spain.<sup>11</sup> Another important book regarding gender, ethnicity and sexuality in the quotidian context is the anthology *Indian Women of Early Mexico*, edited by Susan Schroeder, Stephanie Wood, and Robert Haskett, which utilized native-language sources to uncover new dimensions of indigenous experiences.<sup>12</sup> Excellent work by Silvia Arrom, Maria Rodriguez Atondo, Richard Boyer, Louise Burkhart, Carmen Castañeda, Jacqueline Holler, Patricia Seed, Lisa Sousa, Steve Stern, Kevin Terraciano, and Ann Twinam, among others, has delved deeply into the historical experiences of women in relation to childbirth, family, divorce, adultery, sexual violence, education, work, political roles and religious experience.<sup>13</sup>

This movement took many of its fundamental ideas and methodologies from a combination of the French *Annales* school of thought, which aimed to historically recover past collective mentalities, and the emergence of microhistory in the work of such

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<sup>10</sup> Lavrin, Asuncion. Ed. *Latin American Women: Historical Perspectives*. (Greenwood Press, 1978.)

<sup>11</sup> Aizpuru, Pilar Gonzalbo. *Las mujeres en la Nueva España: Educación y vida cotidiana*. (Mexico City: El Colegio de México, 1987.)

<sup>12</sup> Schroeder, Wood, and Haskett, *Indian Women of Early Mexico*. These studies must clearly be placed alongside important general and community-based historical works on Mexico including Ricard, *The Spiritual Conquest of Mexico*; Greenleaf, *The Mexican Inquisition of the Sixteenth Century*; Taylor, *Drinking, Homicide, and Rebellion*; Farriss, *Maya Society Under Colonial Rule*; Alberro, *Inquisición y sociedad en México*; Clendinnen, *Ambivalent Conquests*; Lockhart, *The Nahuas After the Conquest*; and Cope, *The Limits of Racial Domination*, among other important works. These works deal with the nature of conquest, spiritual conversion, the role of the Inquisition in Mexico, and changes in native languages, indigenous cultural practices, and religious beliefs.

<sup>13</sup> See Arrom, *The Women of Mexico City*; Atondo, *El amor venal y la condicion femenina en el Mexico colonial*; Boyer, *Lives of the Bigamists*; Seed, *To Love, Honor, and Obey in Colonial Mexico*; Sousa, "Tying the Knot"; Stern, *The Secret History of Gender*; and Twinam, *Public Lives, Private Secrets*.

historians as Carlo Ginzburg, who employed the tools of linguistics and anthropology to tease out meanings from archival files of investigations and trial transcripts. Such readings of the social history were consonant with the feminist historiographical project of shedding light on women's culture in the past. Further, the 1986 publication of Joan Scott's "Gender: A Useful Category of Analysis," first printed in the *American Historical Review*, called for a theoretical shift in historical scholarship from the category of "women" to that of "gender," taking power relations and the social constructions of femininity, masculinity, and gendered identities into account.<sup>14</sup> Indeed, the general acceptance of gender as a valid category of historical analysis has, over time, translated into a veritable explosion of works dealing with courtship practices, the politics of marriage, divorce, gendered violence, abortion and infanticide, bigamy, illegitimacy, sexual honor, and "homosexuality" in all historical subfields. For the historiography of colonial Latin America, as Sueann Caulfield notes, "[a] renewed interest in colonial history, focused now on sexuality, moral order, and everyday life, is one trend that highlighted women as subjects of history after the mid-1980s, particularly in Mexico and Brazil."<sup>15</sup> Focusing on popular rejections of certain behavioral models espoused by the Church in colonial Latin America, this body of literature provides valuable background and comparisons for the research questions that served as the impetus to this study.

In her introduction to *Sexuality and Marriage in Colonial Latin America*, Lavrin highlights the necessity of research on an array of topics that had, until then, received insufficient attention in the historical literature. Lavrin tells us "marriage was neither the only outcome of courtship nor the only channel for the expression of sexuality in colonial Latin America. Premarital sexual relations, consensuality, homosexuality, bigamy and polygamy, out-of-wedlock births, and clandestine affairs between religious and laypersons have been a common daily occurrence since the sixteenth century" — and each

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<sup>14</sup> Scott, Joan. "Gender: A Useful Category of Historical Knowledge." *The American Historical Review*. Vol. 91, No. 5. (Dec., 1986) pp. 1053-1075.

<sup>15</sup> Sueann Caulfield. "The History of Gender in the Historiography of Latin America." *Hispanic American Historical Review*. Vol. 81, Nos. 3-4 (August-November 2001), 453.



topic has subsequently inspired fascinating studies.<sup>16</sup> This current report focuses on two areas of historiography: the creation of early modern families and the imperial regulation of the personal lives of colonists. As Julie Hardwick, Sarah M.S. Pearsall, and Karin Wulf noted, “even as individuals or families were thinking about and acting on decisions to constitute [and create] their relationships, imperial and religious authorities were eager to prescribe and police those decisions.”<sup>17</sup> Historians of early modern Europe have explained the synergies between families and state at great length; however, the seventeenth-century Spanish colonial context and practices remain under explored and involve complex issues about race and ethnicity. By the end of the 17<sup>th</sup> century, the growing mixtures of Spanish, indigenous, and African peoples increasingly complicated New Spain’s demographic patterns. Additionally the church confronted the situation of “lax personal relationships and sexual interethnic encounters among the co-called lesser social elements.”<sup>18</sup>

An emphasis on official decrees and cases when secular or religious authorities investigated or punished individuals involved with illicit acts—such as bigamy and cohabitation—often led historians to interpret colonial family, gender construction, and sexuality as a manifestation of power and dominion, influenced by the work of Michel Foucault. However, recent studies of families demonstrated that formal families, sanctioned by the church and state, constituted a small minority. Historians, such as Ann Twinam, Nicole von Germeten, and Richard Boyer, concur with this statement, noting officials’ complacency with regards to extra-marital sex and a high level of acceptance

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<sup>16</sup> Lavrin, *Sexuality and Marriage in Colonial Latin America*. (Lincoln: The University of Nebraska Press, 1989.) 2.

<sup>17</sup> Julie Hardwick, Sarah M. S. Pearsall, and Karin Wulf. “Introduction” : Centering Families in Atlantic Histories” *The William and Mary Quarterly*. Vol. 70, No. 2 (April, 2013), Pg. 217

<sup>18</sup> Lavrin, Asunción. Ed. “Sexuality in Colonial Mexico: A Church Dilemma.” *Sexuality and Marriage in Colonial Latin America*. (Lincoln: University of Nebraska Press), 1992.

for these unions. While many married couples had relations outside of the confines of the marriage, all recognized the indissoluble nature of the sacrament.<sup>19</sup>

In *Lives of the Bigamists* for example, Richard Boyer examines bigamy records from the sixteenth to eighteenth century in order to look at the act of bigamy as well as the social structure and social dynamics of Colonial Mexico. While Boyer analyzes the lived experiences of bigamists, he does not account for the political and social transformations between the sixteenth and eighteenth centuries.<sup>20</sup> We do not see that there was any change among the bigamists, or the society that variously tolerated or denounced them. Boyer refers to cases from the mid-eighteenth century and from the mid-sixteenth century without major distinction. Throughout his study, he is skeptical whether the state had a role in the lives of these people, arguing that the rules and regulations of the state and church were not present. However, this statement negates the interaction individuals experienced daily while litigating their lives. This perspective is congruent with the scholar of empire and religion, Richard King, in that religion, the secular state, and imperial subjects are not separate entities.<sup>21</sup> While imperial authorities sought to regulate families, individuals sought to subvert, contest, and redefine imperial authority in their everyday lives.

One of the key debates in the historiography of colonial Mexico has been about the role and importance of honor. The monographs and articles that have dealt with the issue of honor have in general emphasized its critical importance as a key piece of the social logic of individual and family life in early modern Spain and the colonial Americas. Patricia Seed's monograph *To Love, Honor and Obey in Colonial Mexico*, exemplifies this perspective. She argues that the church in sixteenth and seventeenth

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<sup>19</sup> See Chapter 2, "Precedents: Sexuality and Illegitimacy, Discrimination, Civil Legitimation" in Twinam, Ann. *Public Lives, Private Secrets*. (Stanford: Stanford University Press), 1999.

<sup>20</sup> Richard Boyer. *Lives of the Bigamists: Marriage, Family, and Community in Colonial Mexico*. (Albuquerque: University of New Mexico Press), 1996.

<sup>21</sup> King, Richard. *Orientalism and Religion: Postcolonial theory, India and 'the mystic East.'* (London: Routledge), 1999.

century Mexico defended the right of young couples to marry against the objections of their parents. In the wake of the Trent reforms, the church emphasized the rights of young men and women to freely choose their spouses without parental pressure. The church also denied the prerogative of parents to veto their child's marriage choice, a right that was defended by Protestant patriarchs such as Jean Calvin and Martin Luther. Seed makes the concept of honor central to her argument and refers to honor as, "perhaps the most distinctive of all Spanish cultural traits." She argues that honor "was a transparent concept" in seventeenth-century Mexico and only needs explanation to a modern audience.<sup>22</sup> She claims that in the sixteenth and seventeenth centuries honor had two facets: "honor=precedence (status, rank, superior birth)" and "honor=virtue (moral integrity)." However, a key weakness in her argument is that her principal evidence that honor was key to early modern Spanish society derives not from the archival records of lives actually lived (at least as set out by notaries), but from the plays of Lope de Vega, the literature of Miguel de Cervantes and other *Siglo de Oro* poets and playwrights.<sup>23</sup>

Another key work on honor in colonial Latin America is the essay collection, *The Faces of Honor: Sex, Shame and Violence in Colonial Latin America*.<sup>24</sup> In it, in his article "Honor Among Plebeians: Mala Sangre and Social Reputation" Richard Boyer challenges the evidentiary basis of Seed's claims. Boyer suggests it is misleading to rely on literature to understand how everyday early modern Spaniards understood honor. Dramas that emphasize honor "must exaggerate rather than imitate life in order to place emphasis on their folly."<sup>25</sup> They are of little use to the historian. He argues that "our view

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<sup>22</sup> Patricia Seed, *To Love, Honor, and Obey in Colonial Mexico: Conflicts over Marriage Choice, 1574-1821*. (Stanford, Calif.: Stanford University Press, 1988), 61.

<sup>23</sup> *Ibid.*, 62-63.

<sup>24</sup> Lyman L. Johnson and Sonya Lipsett-Rivera, *The Faces of Honor!: Sex, Shame, and Violence in Colonial Latin America* (Albuquerque, N.M.: University of New Mexico Press, 1998).

<sup>25</sup> Boyer, Richard E. "Honor Among Plebeians: Mala Sangre and Social Reputation," *The Faces of Honor!: Sex, Shame, and Violence in Colonial Latin America*, by ed. Lyman Johnson and Sonya Lipsett-Rivera (Albuquerque: New Mexico University Press, 1998), 153.

of the honor complex draws too much from the playhouse and too little from the public house, too much from *comedias* staged to entertain and too little from everyday commerce.”<sup>26</sup> While Boyer offers a cogent rebuttal of the use of literature and theater to explain how people really acted, he still assumes that historians should use honor as a key concept. He argues that not just elites, but also plebeians and even slaves mobilized notions of honor. He argues that everyday life rather than dramatic works should provide the basis that historians use to understand honor.<sup>27</sup> In the same collection, Ann Twinam’s article “The Negotiation of Honor: Elites, Sexuality, and Illegitimacy in Eighteenth-Century Spanish America” contests Seed’s division of honor into two facets. Describing Patricia Seed’s work, Twinam writes:

Patricia Seed’s more recent (1988) analysis of honor in colonial Mexico relied on generalizations derived from sixteenth-century Spanish playwrights such as Lope de Vega and Calderón de la Barca to forward a concept of honor as “virtue” which was presumably characteristic of seventeenth-century Mexico.<sup>28</sup>

Ann Twinam uses official requests for legitimation of illegitimate children, (called *gracias al sacar* petitions) from the eighteenth century to show how elites used the notion of honor as a barrier of entry to political posts. Twinam cites the case of don Mariano de las Casas, who in 1786 was denied a position as attorney general of the Havana city council because of the illegitimate birth of his mother, despite having won the election. Don Mariano successfully petitioned the Cámara de las Indias, the regulatory body which heard petitions for legitimation.<sup>29</sup> The Cámara accepted his

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<sup>26</sup> Ibid.

<sup>27</sup> Ibid.

<sup>28</sup> Ann Twinam, “The Negotiation of Honor: Elites, Sexuality, and Illegitimacy in Eighteenth-Century Spanish America,” *The Faces of Honor!: Sex, Shame, and Violence in Colonial Latin America*, by ed. Lyman Johnson and Sonya Lipsett-Rivera (Albuquerque: New Mexico University Press, 1998), 71.

<sup>29</sup> Ibid., 69.

request to recognize his mother as legitimate and restore her honor. However, the scandal around his origins was devastating enough to still prevent him from holding any public office. According to Twinam, honor was “a condition inherited from both parents.”<sup>30</sup> However, unlike eye or skin color, the inheritance of honor was malleable with certain legal actions, such as the acceptance of a *gracias al sacar* petition by royal authorities. Twinam not only questions Seed’s use of Golden Age drama, but also her application of anthropological research on honor in the twentieth-century Mediterranean to seventeenth-century Mexico. However, rather than rejecting honor as an essential concept, she defines honor as the key concept that “rationalized hierarchy” of colonial Spanish American society.<sup>31</sup>

In addition to her criticism of Patricia Seed, Twinam’s argument is distinct from Sonya Lipsett-Rivera’s conception of how honor worked in colonial Latin America. Lipsett-Rivera sees honor as having “two faces” of “status and virtue” and being both relative and relational. For this reason “in a small Mexican village, those belonging to the local elite felt as imbued with honor as did the nobility of Mexico City; yet when the village gentry traveled to Mexico City, their honor would be overshadowed by the aristocracy of the capital.”<sup>32</sup> For Lipsett-Rivera, honor was a sort of a social claim to superiority. She sees honor in late colonial New Spain as having been virtually universal, rather than confined to the elite. While aristocrats could make the strongest claims to having honor, even “the mulatto wife of an artisan” could have some claim to honor, as she might feel better in some sense to many of her neighbors.<sup>33</sup>

Lyman Johnson argues that plebeians passionately defended their own distinctive

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<sup>30</sup> Ibid., 70.

<sup>31</sup> Twinam, *Public Lives, Private Secrets: Gender, Honor, Sexuality, and Illegitimacy in Colonial Spanish America*. (Stanford: Stanford University Press, 1999), 32.

<sup>32</sup> Sonya Lipsett-Rivera, “A Slap in the Face of Honor: Social Transgression and Women in Late-Colonial Mexico,” *The Faces of Honor!: Sex, Shame, and Violence in Colonial Latin America*, by ed. Lyman Johnson and Sonya Lipsett-Rivera (Albuquerque: New Mexico University Press, 1998), 180.

<sup>33</sup> Ibid.

notion of honor. Plebeian men occasionally resorted to violence to defend their reputations of honesty, courage, and sexual potency.<sup>34</sup> While they may differ in their definitions, each of these scholars gives honor a central place in their analyses of colonial society. I demonstrate that while honor was important to individuals it was not of sole importance to decisions made by individuals during their daily lives. The same can be said for patriarchy.

Patriarchy was a changing reality throughout the colonial period, and bigamy and *amancebado* records are one of the best ways to understand how this worldview was developed and propagated across time. The first generation of feminist historians of colonial Latin America described patriarchy as a social system that sanctioned male dominance of the political, social, religious and economic realms of human action. *Lives of the Bigamists* emphasizes that women's agency was severely limited by a legal and social system that perpetually treated women as minors.<sup>35</sup> In *Women's Lives in Colonial Quito*, Kimberly Gauderman challenges Boyer's notions of patriarchy. She argues that colonial authorities saw unchecked patriarchy as a threat to their own power. Patriarchy would be "disruptive" to a society based on limiting "all forms of central control."<sup>36</sup> Gauderman seems to be stating a more radical version of Patricia Seed's argument about the limitations of patriarchy. Seed's research into pre-nuptial conflicts in New Spain suggests that a father's patriarchal control over his child's choice of spouse was far more limited in the sixteenth century than in the late seventeenth and eighteenth centuries. She argues, "Patriarchalism was a powerful and persuasive ideology in society at large, but it was not monolithic."<sup>37</sup>

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<sup>34</sup> Burkholder, "Honor and Honors in Colonial Latin America," *The Face of Honor!: Sex, Shame, and Violence in Colonial Latin America*. Ed. Lyman Johnson and Sonya Lipsett-Rivera. Albuquerque: New Mexico University Press, 1998., 138.

<sup>35</sup> Boyer, *Lives of the Bigamists*. 61.

<sup>36</sup> Kimberly Gauderman *Women's Lives in Colonial Quito: Gender, Law, and Economy in Spanish America*. (Austin: University of Texas Press, 2003)., 126

<sup>37</sup> Patricia Seed *To Love, Honor, and Obey in Colonial Mexico: Conflicts over Marriage Choice, 1574-1821*. (Stanford: Stanford University Press, 1988)., 7

In contrast to Gauderman and Boyer's analysis of patriarchal authority, evidence suggests that clerics and royal authorities expanded their patriarchal authority by intervening in dysfunctional families in order to define what marriage and family meant. Thus men acted within a sphere of patriarchal privilege, which gave them advantages, but also placed limits on their behavior. It is important to highlight the institutional framework that was key in the development and general acceptance of a new patriarchal ethic. In the sixteenth and seventeenth centuries, church officials attempted to regain control over colonial elites by proposing a softer ideology of patriarchalism that linked paternal authority to good husbandry, fatherly love, and responsibility. Through bigamy cases, we can see how individuals appropriated, refuted, and understood this new patriarchal ethic and its relationship to marriage and family formation and lived experience.

The trials of María de Figueroa, Juan de Lizarzaburo, Baltasar Márquez Palomino, Mariana Monroy, and Pedro de Valenzuela—which will be discussed throughout this report—depict the way in which the accused, their family/witnesses, and the inquisitional court contested what family meant. In other words, this report examines the application of Tridentine marriage laws to these specific family histories and the interpretation of the accused bigamists regarding what they deemed acceptable within Spanish society. In order to accomplish this analysis, this paper focuses on four key elements of marriage and family construction: 1) *mala vida*; 2) power relations between men and women; 3) the role of race and honor; and 4) the role of the Inquisition as an institution and site of debate about family.

## Secular & Ecclesiastical Power and Social Control

The conquest of the Americas provided a new problem for Spanish religious and secular authorities in regard to the enforcement and regulation of marriage and family construction. Due to the continued growth and reach of the church and state, overlapping jurisdictions, and colonial demographic patterns, officials experienced great difficulty in enforcing the sacrament of marriage. Supervision from the mother country, Spain, was exceedingly difficult due not only to the distance from it, but also due to the slowness of communication.<sup>38</sup>

Here, it is important to acknowledge that institutional power and mechanisms of social control in an imperial society were far from monolithic, absolute, or transparent. First, the executive and judicial spheres—specifically, the office of the viceroy and the *audiencia*—were not separate. Second, there were no juries in criminal courts, and the threat of torture hung over many proceedings. Third, the statements of the accused—even those that seem to sincerely confess their crimes—must, therefore, always be contextualized to the system, which governed them.

### CRIME AND THE SECULAR COURTS

Secular authorities of the Inquisition relied on a number of sometimes conflicting codes of law including the *Siete Partidas*—the Spanish legal code promulgated by Alfonso X between 1256 and 1265— as well as the sixteenth-century *Leyes de Toro* (Laws of Toro), and the *Recopilacion de Leyes de las Indias* (compiled and codified in 1680 and reissued in 1756, 1774, and again in 1791). In addition, there were a number of laws emanating from colonial *audiencias*, viceroys, and *cabildos*. In New Spain, the *Sala del Crimen*—the highest-ranking judicial institution in Mexico established in 1568—held

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<sup>38</sup> European wars, the intrusion into America by Spain's maritime rivals—French, British, & Dutch—and religious tensions affected the West Indies more than any other Spanish colony. These variables effected communication and legal enforcement within the colonies. Thus we see the overlap in jurisdiction and confusion on the part of many imperial authorities over who has control and over what matters of state. See C.H. Haring's *The Spanish Empire in America* for more information.



ultimate authority over secular crimes and judicial matters. Most criminal cases, however, in any given *alcaldia mayor* were adjudicated at the local level, with the help of a local Spanish administrator (the *alcalde mayor* or *corregidor*) or, in the case of indigenous communities, by the indigenous *cacique* and the native officials of the *cabildo* (Spanish-style municipal council). As Peter Bakewell points out in his study of the silver mining town of Zacatecas: "titles issued to *corregidores* did not even make clear to which authority in New Spain they were immediately responsible in administrative affairs: whether to the Audiencia of New Galicia and its President, or to that of New Spain and the viceroy; or whether the sole controlling authority was the *Consejo de Indias*."<sup>39</sup>

Compounding this, jurisdiction over New Spain's indigenous inhabitants was another complex and often convoluted issue. Another legal body known as the *Juzgado General de Indios* (the General Indian Court) competed with other civil, criminal, and ecclesiastical courts over boundaries and jurisdiction. Woodrow Borah has shown how the General Indian Court, established in the late sixteenth century, was meant to ease the introduction of "Indians" into Spanish law and legal procedures by providing them access to "relatively simple, inexpensive, quick, and effective legal remedies."<sup>40</sup> One of the most significant results of the General Indian Court was the decision that indigenous individuals would be provided legal defense free of charge (except *caciques*, who would pay only a fraction of the cost that Spaniards paid), and that they would be punished less harshly than Spaniards for certain crimes. Furthermore, the indigenous inhabitants of New Spain were spared the costs for interpreters and notaries. The General Indian Court, however, never exercised exclusive jurisdiction over Indians, as *cabildos*, the lower courts, the *Sala del Crimen*, and the *Provisorato de Indios* also dealt with indigenous

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<sup>39</sup> Bakewell, Peter. *Silver Mining and Society in Colonial Mexico, Zacatecas 1546-1700*. (New York: Cambridge University Press), 1971. 84.

<sup>40</sup> Borah, *Justice by Insurance: The General Indian Court of Colonial Mexico and the Legal Aids of the Half-Real*. (University of California Press, 1983), 79

peoples.<sup>41</sup>

### **THE MEXICAN INQUISITION**

Additionally, there was also the rival system of ecclesiastical courts set up under the Holy Office of the Mexican Inquisition. In this connection, the history of the Mexican Inquisition is best divided into three separate stages: the Monastic Inquisition (1522-1532), the Episcopal Inquisition (1535-1571), and the Holy Office (1571-1819). During the Monastic Inquisition, in lieu of tribunals, various friars assumed inquisitorial authority and haphazardly punished natives, Spaniards, and Africans for heretical transgressions and superstitions. During the second phase, fray Juan de Zumárraga assumed the position of archbishop and first apostolic Inquisitor in Mexico.<sup>42</sup> Zumárraga was noted for his exceptionally harsh punishment of indigenous peoples involving crimes such as superstition, bigamy, sacrifice, and dogmatizing against Catholicism during the early years of colonial rule. Such punishments culminated in the events of 1539, when Zumárraga sentenced the indigenous cacique of Texcoco, don Carlos Mendoza Ometochtzin (grandson of Nezahualcoyotl—philosopher, warrior, architect, poet and ruler of the pre-Colombian city state Texcoco), to die for idolatry. Don Carlos was hanged and burned at the stake, fueling much opposition to the excessive treatment of Indians on the part of Zumárraga, and eventually led to his removal as Apostolic

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<sup>41</sup> To make matters more complicated, as part of the Bourbon reforms in the early eighteenth century, the colonial regime established the Tribunal of the Acordada, which constituted a centralized police force initially, intended to combat highway banditry and contraband, but its jurisdiction soon expanded to include a number of other crimes. See Scardaville, "(Hapsburg) Law and (Bourbon) Order," 14. See also, Owensby, Brian P. *Empire of Law and Indian Justice in Colonial Mexico*. (Stanford: Stanford University Press, 2008.)

<sup>42</sup> See Greenleaf, *The Mexican Inquisition of the Sixteenth Century*. Here, Greenleaf asserts that under the reign of Zumarraga, among those who were punished for a variety of other crimes against religious orthodoxy, 56 people were tried for blasphemy, 5 for being Lutherans, 19 for being crypto-Jews, 14 for idolatry and sacrifice, 23 for witchcraft and superstition, 8 for heretical propositions, and 20 for bigamy. See also Greenleaf, *Zumarraga and the Mexican Inquisition*.

Inquisitor in 1543.<sup>43</sup> Most importantly, this event played a significant role in the removal of Indians from the jurisdiction of the Inquisition.<sup>44</sup> In the final half of the sixteenth century, the *Provisorato de Indios* (the Office of the Provisor of Indians) was established on the part of Episcopal courts to deal with and try the indigenous cases of idolatry under a different set of legal guidelines.

The Holy Office of the Mexican Inquisition actually came into being in 1571, following a 1569 *cédula real* issued by King Phillip II which ordered the establishment of two tribunals of the Holy Office—one in New Spain and another in Peru.<sup>45</sup> Given that the Inquisition operated largely on the basis of denunciations and self-denunciations, the Edicts of Faith—theoretically published annually during Lent in populous centers—were one of the more effective methods that the Church urged the masses to keep their consciences clean by denouncing their own sins as well as those of others.<sup>46</sup> The Edicts also informed the general population of what sins fell under the jurisdiction of the Inquisition and were therefore worthy of denunciation to priests and ecclesiastical courts. As we will see in this study, there was much confusion on the part of both laypersons and priests as to exactly which sins fell within the jurisdiction of the Inquisition.

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<sup>43</sup> For more information, see Boyer *Lives of the Bigamists*, Ch. 1.

<sup>44</sup> In practice, however, inquisitors continued to show interest in cases of native idolatries and paganism well into the seventeenth century.

<sup>45</sup> Only in 1610 was a third tribunal of the Inquisition established in Cartagena (what is now present day Colombia).

<sup>46</sup> The Mexican Inquisition was normally staffed by two general Inquisitors, secretaries, *alguaciles* (bailiffs), *fiscales* (prosecutors), *calificadores* (members of the secular clergy who served as theological evaluators and often influenced whether or not a denunciation would develop into a case), and *consultores* (theologians who offered counsel). Furthermore, the Inquisition relied on *comisarios* (locally appointed judges who were able to hear trials outside of Mexico City), *familiars* (anonymous informants who reported on the potentially deviant practices of the population at large), and a number of notaries, lawyers (*procuradores*), doctors, and jailers, among others. For more information see Henry Kamen *The Spanish Inquisition: A Historical Revision. 4<sup>th</sup> Edition* (New Haven: Yale University Press, 2014) and Chuckiack IV, John. *The Inquisition in New Spain, 1536-1820*. (Baltimore: John Hopkins University Press)., 2012.

### *Marriage According to Secular and Ecclesiastical Officials*

Marriage represented a private and public transaction. While this union was based on consent—from the parents and the individuals—it was also subject to pressure, which allowed for illicit sexual relations. Marriage marked the transition to adult standing, though more so for men than women. For men, they became the heads of the households, representing the family legally and controlling the finances. By contrast, for women they simply shifted from the custody of parents to that of their husbands. According to Nancy F. Cott in practice, law, and custom, the married woman’s situation had not changed.<sup>47</sup> In *Lives of the Bigamists*, Boyer taking a pessimistic view of the more “egalitarian” principles of gender relations set forth in canon law, argues that in practice husbands had an extraordinary amount of authority and control over their wives. Husbands held a “patriarchal mantel” that gave them almost unlimited “jurisdiction” and authority over their wives.<sup>48</sup> However, the cases presented in this report demonstrate that this is not uniformly true.

Canon law held a more egalitarian view of marriage, though its norms remained highly theoretical and rarely observed by the laity.<sup>49</sup> The Catholic Church defined marriage as a sacrament, but one that could only be enacted by the couple itself, and sanctioned by a priest. It did not proclaim to “perform” marriages but rather to set the rules on when, how, and who could marry. The Council of Trent (1545-1563) however, stated, more vigorously than before, that the church must administer marriages. They grouped together barriers and impediments to marriage: set a minimum age (twelve for girls and fourteen for boys), forbade the use of force, and debarred marital unions between closely related blood or affinal ties, and banned those from marrying who had a

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<sup>47</sup> In “Divorce and Changing Status of Women in 18<sup>th</sup> Century England,” Nancy F. Cott equates the status of the wife to that of “an indenture between master and servant” little different from other “dependency relations of traditional society.” P. 611-2

<sup>48</sup> Boyer, Richard. *Lives of the Bigamists*. P. 61.

<sup>49</sup> See Ramón A. Gutiérrez *When Jesus Came, the Corn Mothers Went Away: Marriage, Sexuality and Power in New Mexico, 1500-1846*. (Stanford: Stanford University Press, 1991)

living spouse.<sup>50</sup> Furthermore, the *Tametsi*, the decree on marriage, defined marriage as an indissoluble sacrament that united a man and a woman into one flesh before God.

The new requirements spelled-out by the *Tametsi* decree complicated the marriage process. The Spanish empire slowly came into full compliance with the requirements of *Trent* after the convocation of a series of provincial councils. In New Spain, the Third Mexican Provincial Council in 1585 took charge of the implementation of the new Tridentine requirements throughout Spanish America. In colonial Mexico, a valid marriage normally began with the engagement of the couple, a process known as *esponsales*. According to Pedro Murillo Velarde, a Jesuit canonist from the early eighteenth century, the engagement did not formally include the exchange of gifts from groom to bride (called *arras*) or the dowry (*bienes dotaes*) given to the groom by the bride's family. Rather, the engagement was an exchange of vows and a promise of future marriage, popularly called *esponsales de prometer* ("marriage promise").<sup>51</sup> Murillo Velarde called the engagement process a "promise of future marriage" while the actual marriage ceremony was called a "present marriage." This terminology highlights the key importance of the marriage promise in the engagement and the giving of consent in the marriage ceremony. To comply with canon law, an engagement (or marriage) could only take place between two parties eligible to marry, meaning a man and a woman (not children), free of other engagements and vows.

Marriage was one of the key institutions of colonial Mexican society. Although marriage was far from universal, church and royal authorities saw Catholic marriage as an institution that was beneficial for the maintenance of public and private order. Despite the insistence of Catholic dogma that celibacy was a more perfect Christian lifestyle than marriage, the church still insisted that the sacrament of marriage favored the personal and familial development of the individual and was the recommended lifestyle for the

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<sup>50</sup> *Ibid.*, 243.

<sup>51</sup> Pedro Murillo Velarde and Alberto Carrillo Cázares, *Curso De Derecho Canónico Hispano e Indiano* (El Colegio de Michoacán A.C., 2005), 1.

majority of believers. Throughout the colonial period, public authorities worked vigorously to preserve marriage, which they saw as a key institution in a well-regulated society.<sup>52</sup> Energized by Trent, and continuing in the spirit of reform that had characterized Spain since the fifteenth century, church officials attempted to impose Tridentine marriage on the diverse population of New Spain, where indigenous, African, and popular Spanish conceptions of sexuality and marriage clashed with the ideals of the Catholic church. Marital reforms begun at Trent had a strong impact on clergy in New Spain in the late sixteenth and seventeenth centuries. These marriage regulations, ecclesiastical and secular, while forming the legal structure of marriage, did not override individual invention and customary practices.<sup>53</sup>

The individuals within these Inquisition trials did not define family and marriage in the same way; rather their court cases demonstrate how they conceived of their respective understanding and characteristics of family. In *Lives of the Bigamists*, Richard Boyer suggests bigamists belonged to a “coherent” Hispanic early modern world; that

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<sup>52</sup> For commentary or questions concerning increased social control, see Mary Elizabeth Perry, *Gender and Disorder in Early Modern Seville*. (Princeton: Princeton University Press, 1990). Perry argues that male control over women was viewed as a literal and symbolic meaning of maintaining social order threatened by an influx of foreigners, jobseekers, families left behind by colonizers, and bureaucrats. She further argues that early modern Seville's patriarchal system was in crisis and responded by strengthening its "authority through a political system that was closed to women, through guild regulations that multiplied to restrict the economic activities of women, and through more careful enclosure of women in convent, home, or brothel" (p. 13)

<sup>53</sup> Ida Altman argues the “promotion of marriage and family in Spanish society was in the broadest sense matched by the fracturing of indigenous family life and unbalanced gender ratios in African slave communities.” However, through her research she asserts that, while these officials had every intention of regulating marriage and family life, those policies probably had a far less effect on the nature and growth of the islands population than the realities of Spanish labor demands. Through this is a case study of Cuba, it offers a unique view into the attempts Spanish imperial authorities made in order to regulate marriage in a colony populated with ethnically diverse peoples—similar to New Spain. Ida Altman “Marriage, Family, and Ethnicity in the Early Spanish Caribbean” *William and Mary Quarterly*, vol. 70, no. 2, (April, 2013) pg. 225-250

world, which encompassed Spain and the Indies, had its patterns of values, beliefs, and customs embedded in its ideas of family and gender construction.<sup>54</sup> However, the trial of María—as well as others—demonstrates that there was no public agreement of how the marital family should be formed. While the disagreement about the definition of family was universal, it did not stop imperial officials from attempting to control relationships outside of those sanctioned by the church and state.

Despite the increase of the reach of the *audiencias* (high courts) and Catholic Church's control over marriage and family life, the inhabitants of New Spain, and certainly those of León, maintained a tense relationship with those institutions and values as they lived their daily lives. In terms of sexuality and family formation, the biggest issue for secular and religious authorities was mass concubinage and bigamy. This issue involved not only Spaniards who left behind families in Spain, but also of slaves, manumitted slaves, and indigenous people who cohabitated with each other. The Spanish Empire, and for the purpose of my analysis specifically Mexico, was a society that flouted the rules and regulations of marriage as composed by Catholic authorities at the Council of Trent.<sup>55</sup> However, the Spanish colonies offer a more complex view of marriage and family due to its diverse ethnic and class divisions. New Spain, as with other Spanish territories, represented a society in flux, one in which new family structures developed due to migration, plural cultures, distance, and unfamiliar settings.

#### **THE CRIME OF BIGAMY AND THE MEXICAN INQUISITION**

The date of the establishment of the Holy Office of the Inquisition in New Spain is of particular importance. The Inquisition arrived in the Indies after spending years

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<sup>54</sup> Richard Boyer. *Lives of the Bigamists: Marriage, Family, and Community in Colonial Mexico*. (Albuquerque: University of New Mexico Press, 1996), 4.

<sup>55</sup> In *Regulating the People: The Catholic Reformation in Seventeenth-Century Spain*, Allyson Poska examines the imposition of the laws of the Council of Trent in the peripheral area of Spain, Galicia. She demonstrates that the Catholic Reformation made little headway into the remote countryside of northern Spain. Furthermore, in *Women and Authority in Early Modern Spain: The Peasants of Galicia*, the historians depicts how, similar to Mexico, the region of Galicia also experienced a high volume of cohabitation.

extirpating major heresies in Spain. By 1571, it had embarked for a generation on its post-Tridentine project, “the consolidation of dogmas and moral teachings of the Counter-Reformation.”<sup>56</sup> The execution of the “heretical dogmatizer” don Carlos Ometoczin of Texcoco demonstrated to imperial authorities that the Inquisition should regulate the Hispanic population. In particular, the Crown was interested in weeding out crypto-Jews and prosecuting them for backsliding in faith and heresy. Yet, from the outset the tribunal examined and prosecuted minor offenses more than major heresies. In 1572, the first full working year of the Inquisition, the Inquisitor General Pedro Moya de Conteras had ninety-three cases of “heretical propositions” and forty-four cases of bigamy.<sup>57</sup>

From the mid-sixteenth century, the Inquisitions in the Old and New World occupied themselves with correcting practices and opinions rooted in popular culture and tradition. In doing so, the tribunals investigated matters of sex, morals, and popular beliefs concerning magic and superstition. Between 1540 and 1700, lesser offenses, such as bigamy, made up fifty eight percent of the Spanish Inquisition caseload in Spain.<sup>58</sup> These investigations affected not one specific race or ethnicity, but rather the Hispanic population as a whole. For centuries the royal and ecclesiastical courts in Spain had punished the crime of bigamy, but once the Inquisition arrived, they claimed the sole right to punish bigamists and other sexual transgressions against morality. The initial justification for the Inquisition’s claim to jurisdiction lay in the fact that many bigamists held erroneous conceptions of the church’s beliefs against the of dissolution of marriage prior to death.

As early as 1575, however, the inquisitors wrote to the head of the Spanish

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<sup>56</sup> Contreras and Henningsen, “Forty-Four Thousand Cases of the Spanish Inquisition (1540-1700): Analysis of a Historical Database” Henninsen, Gustav, and John Tendeschi eds. *The Inquisition in Early Modern Europe: Studies on Sources and Methods*. Dekalb, Ill: Northern Illinois University Press, 1986., p.115

<sup>57</sup> Boyer, Richard. *Lives of the Bigamists: Marriage, Family, and Community in Colonial Mexico*. Albuquerque: University of New Mexico Press, 1995., 18.

<sup>58</sup> Contreras and Henningsen, “Forty-Four Thousand Cases” p.113-114



Tribunal in Spain (the *Suprema*) stating the bigamists they encountered revealed no erroneous beliefs concerning matrimony. More often than not, these bigamists claimed they entered into another matrimonial union after they abandoned their first union for a variety of reasons, such as adultery, neglect, and abuse. The inquisitors deduced in a 1576 letter to the *Suprema*, that the real cause for bigamy was “the little care that the bishops and their clergy take in giving marriage licenses to men they do not know without any more information than their own personal declarations that they are single and unmarried, without any proof of another witness.”<sup>59</sup> As a result, the Inquisition of New Spain issued stern warnings to the region’s bishops not to issue marriage licenses without following the steps laid out by the Council of Trent. The result of the cumbersome system of social control by secular and ecclesiastical courts was that uncertainty and caprice existed in this system charged to police and define the boundaries of marriage and family.

What follows is a preliminary investigation into the formation and regulation of family life by imperial authorities and individuals, alike. This report focuses on four main themes of interest (derived from the testimony of bigamists and witnesses: (1) the *mala vida*; (2) power relations between men and women; (3) the role of race and honor; (4) the role of the Inquisition as an institution and site of debate about family. The first section highlights the many marital complications—such as impotence, neglect, and mal treatment—many couples experienced throughout marriage. It argues that rather than live complacent marital lives, men and women chose to begin new lives when their old ones became undesirable. Secondly, I turn to an examination of power within marital and familial relationships. This section argues that people learned the process of the politics of marriage by discovering that power was contested over familial and marital ideals. It examines the relationships between people and the institutions that had an effect on individual’s lives. While power relations are important, other social structures, such as honor and race, also played key roles in how family formation and regulation. The third

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<sup>59</sup> *Carta de los inquisidores al Consejo de Inquisición sobre el delicto de bigamia y su causa*. 22 de Mayo, 1575. AHN (Archivo Histórico Nacional, Spain), Inquisición. libro 1066, Fs. 397-298v.

section analyzes the formation of a *casta* system in New Spain, while demonstrating colonial Latin American historiography tends to overemphasize the role of honor in daily relations. I argue that honor, and indeed race, was just one part of a complex multifaceted identity appropriated by individuals to fit their respective situations. Finally, the report turns to an evaluation of the Inquisition as a site of debate about family. I contend that bigamy trials, presented in front of New Spain's Inquisition, demonstrate the overlapping jurisdictional authority between the secular, ecclesiastical, and inquisitorial courts. The ambiguity of which arm of the state held authority over matters of marriage and family fostered a debate about how to define and regulate marriage and family.

## **The *Mala Vida***

In real life, couples struggled and fought, engaged in the politics of marriage in which power and resentment, alliances and isolation, and practicality and idealism were muddled. When married life diverged from the patriarchal ideal—a household dominated by a patriarch, with the economic and social input of the family, women included—individuals disputed private matters in court. For females, the alternative to this public display was to acquiesce in a husband's tyranny and settle for the status quo to preserve some honor. While these females handled matters privately, it does not mean they did not question whether the law had been broken. The Holy Office was not interested in marital discord that resulted in physical dispute resolution. On the other hand, the accusation of bigamy was of interest. The inquisitors collected information on every transgression that would have led the accused to flee their first marriage. This section will highlight the direct dissatisfaction with marriages, often termed the *mala vida*, as an indication that men and women chose to begin new lives because their old ones had become unsatisfactory.

As with many types of intimate relationships, bigamy began with married men and women making choices, running away, and cohabitating together. Within these relationships, couples experienced one of three stages: abduction, concubinage, and marriage.<sup>60</sup> Women often engaged in elopements and seductions as a way to escape parental dissent and ill treatment. When María de Figueroa first encountered Francisco, she begged him to take her to Zacatecas or anywhere, because her father and grandfather were giving her the *mala vida*. Witnesses recalled María “coming and going [from her family home] without any permanent existence and [with] incessant abuse in word and deed.”<sup>61</sup> In her eyes, the only way to escape the hardships she faced living with her family, after Alonso left her, was to find another companion. Elopements were successful

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<sup>60</sup> See Ann Twinam *Private Lives, Public Secrets* Stanford: Stanford University Press, 1999.

<sup>61</sup> “sin hazer pie fixo sino yendo y viniendo y maltratando mucho a esta de obra y de palabara.” AGN, Inquisición vol. 370, exp. 3, Fs. 316-317

as a means to overcome parental dissent because it inflicted a concrete loss of family honor, which could only be made up, at least partially, through marriage.<sup>62</sup> However, elopements were designed as an overt affair. Word spread quickly in León, for only a month after Francisco and María ran away, Alonso heard of his wife's new relationship.<sup>63</sup> The decision of María to escape the *mala vida* with Francisco would prove to be even more contentious than just the act of bigamy however.

Having confessed to taking a second husband, María concurred with the testimony of Francisco that she had no contact with Francisco prior to that night in December [when she met him?] Her departure with a stranger contrasted with most bigamy cases where the two parties previously knew each other and often colluded together in running away. In approaching a strange man, and of a different casta, in this way while denying the fact that she was married, she opened herself to social scrutiny and disapproval. As we will see, Alonso's responses, as well as María's choice to run off with Francisco, demonstrate the rising racial tension and conflict in New Spain. Her indifference to this and her apparent impassivity regarding the location they would run to, demonstrates how desperately she sought to escape the confines of her family home. As a woman caught and victimized by her society— forced to choose between her husband's adulteries and abandonment, the cruelty of her patriarchal family, and the comfort of a mulatto working on a hacienda—she chose the latter in order to escape the other two.<sup>64</sup>

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<sup>62</sup> In *Marriage, Class, and Color in 19<sup>th</sup> Century Cuba*, historian Verena Martínez-Alier demonstrates that ill treatment and punishment often “[drove] a girl more quickly into the arms of her man.” Verena Martínez-Alier *Marriage, Class, and Colour in Nineteenth-Century Cuba: A Study of Racial Attitudes and Sexual Values in a Slave Society*. Cambridge: Cambridge University Press, 1974., 107.

<sup>63</sup> “a su noticia era venido que un mulatto criado de los padres de la compania de Jesus que estan en la stancia de la seneguilla desta Jurisdicion (de la madre espana) le avia hurtado (\*means robbed) a la dicho su mujer” AGN, Inquisición vol. 370, exp. 3, Fs. 309v.

<sup>64</sup> In 1624, María faced the prospect of living alone or remarrying. As one bigamist stated in *Lives of the Bigamists* “it is better to live in sin, than as a single woman in many.” This was a direct reference to the *Siete Partidas*' concern of *barranganía*—or informal unions—a legal principle, which at the level of popular culture, could be

Law and custom supported male dominance and assumed male superiority in the household. “In wisdom, skill, virtue, and humanity,” Juan Ginés de Sepúlveda wrote, men surpassed woman just as Spaniards exceeded Indians and children.<sup>65</sup> This role of husband and father, however, included reciprocal duties and the benevolence associated with ideals of paternalism. Mariana Monroy recognized the discrepancy between ideals and reality when she relayed her servant-like conditions as a wife to the Peninsular Spaniard Manuel de Figueroa. After being imprisoned by the inquisition in 1678, she stated she and Manuel married in 1663. One day, she said she rose at one o’clock in the morning to do the household chores, stating “if [I] did not do things to his liking he [would] abuse her and beat her many times.”<sup>66</sup> Three years passed in which Mariana received constant beatings from her husband for failing to serve him “as quickly as he wanted,” after which she fled to the house of Manuel de Escalante, a prior acquaintance and prosecutor of the *audiencia* (high court of justice) of Mexico City.

The decision to flee her husband came after considerable thought, for by then it seemed “she hated him and always lived in discord with [Manuel] because he made her work so much.” Perhaps more telling of their rocky relationship was that Mariana devised an argument for divorce stating, “she married against her will.”<sup>67</sup> Mariana intended to have her argument placed before the courts, arguing for an annulment because the doctrine of consent had been violated. However, after waiting nearly 24 hours for Escalante to appear, Mariana gave up her fight for annulment and instead took up refuge in the convent of Santa Catalina.<sup>68</sup> She remained in the convent “from Shrovetide until

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stretched to suit individual purposes. See Boyer, Richard. *Lives of the Bigamists: Marriage, Family, and Community in Colonial Mexico*. (Albuquerque: University of New Mexico Press, 1995), 103.

<sup>65</sup> Sepulveda, Juan Gines de. *Democrates Alter, Or, Concerning the Just Cause of War Against the Indians*. Spain, 1547.

<http://www.columbia.edu/acis/ets/CCREAD/sepulved.htm>

<sup>66</sup> AGN, Inquicision, vol. 441, exp.2 fs. 356-411v

<sup>67</sup> *ibid.*

<sup>68</sup> In her study on *recogimiento* in Lima, Nancy E. van Deusen argues that many abused or repentant women from Lima or the provinces sought the security of institutional

Holy Week” a period of about six weeks. Only when she believed the viceroy was going to punish Manuel by sending him to the Philippines, did she take leave of her sanctuary. However, this belief was proven wrong.

Manuel, who was anxious to bring his wife back home to resume her household duties, conceived of a plan to bring Mariana back home. He enlisted the help of his wife’s friend, Francisca de Garibay, who (as Mariana recounts it) went to the convent and told Mariana to go back to her house and she would support her in any way possible. Moreover, Francisca asserted that Mariana was not to be afraid, for she informed the viceroy of the “ill behavior” that had befallen Mariana, “her dear friend.” The viceroy, the Márques de Mancera, stated his intention to send Manuel to China [that is, the Philippines]. Upon hearing this, Francisca stated Manuel had fled.

The fact that Mariana left her place of sanctuary demonstrates her trust in the way society worked. For Mariana, it was natural to believe the highest official of the kingdom of New Spain—the Viceroy—would concern himself with her *mala vida* and, based on the basis of her friend’s complaint, exile her husband. In this sense, we can see the reality of historian Alejandro Cañeque’s characterization of the viceroy as the living image of the king; a man who embodied and became the benevolent protectors of the weak, the abused, and the victimized.<sup>69</sup>

In her autobiographical statement to the inquisitors, Mariana stated she returned

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support in the sacred spaces of convents and recogimientos, like Santa Catalina in Mexico City. Furthermore, colonial regulations required ecclesiastical and secular judges to place women who sued for divorce and annulment in protective enclosure, meaning that the benefit of court custody was universal for all women participating in marital litigation. See van Deusen, Nancy E. *Beyond the Sacred and the Worldly: The Institutional and Cultural Practices of Recogimiento in Colonial Lima*. Stanford: Stanford University Press, 2002.

<sup>69</sup> Cañeque, Alejandro. *The King’s Living Image: The Culture and Politics of Viceregal Power in Colonial Mexico* (Series. New World in the Atlantic World). Routledge, 2004

home and received multiple beatings a day from her husband. To Manuel, Mariana's loathing was also a protest and evidence of her lack of subservience, a challenge to his male authority which intensified and justified his harsh treatment. Summing up their relationship, Mariana characterized it as one of "constant war, disagreement, and disunion." Manuel's defensive character, Mariana concluded, accounted for the trouble, and in an attempt to use the inquisitional court to her advantage, she associated this with heresy.

The shift of arbitration of the disunion and marriage contracts, to claim Manuel was a heretic was a direct strategy employed by Mariana. After further questioning of the abuse, she stated, "he has a perverted nature, so bad and so disturbing that [I] decided that the said marriage was null and void and invalid." In her view it was as if he were a heretic and she considered "[the marriage] no longer binding." The shift from Manuel's bad treatment to his defective character is of importance. In her depiction, Mariana was being savvy about what was secular and religious about heresy and marriage; for the Inquisitions main charge was to weed out heretics. By claiming the act of heresy, Mariana hoped to obtain an annulment, putting Manuel in prison for heretical acts, allowing her to escape from his constant abuse.<sup>70</sup>

While females experienced the brunt of abuse and discord—both physically and emotionally—they were not the only victims of the *mala vida*. Testimony by men who experienced the *mala vida* at the hands of their wives underscores the notion that the politics of marriage was more about power than gender. Juan de Lizarzaburo grew up in Renteria (province of Guipuzcoa, diocese of Pamplona) on the Bay of Biscay in the 1640s. At the age of fourteen, he "ran away" from his parents' home and embarked on a ship headed to Andalusia. Aboard the Spanish coastal vessels, he travelled from Cádiz, Seville, Córdoba, Andújar, Badajoz, and eventually ended up in the Indies. While there, Juan continued in maritime trade. He served as a soldier in coastal fortifications in Puerto Rico (for three years) and in Santo Domingo (for twelve years). At the end of his tour in

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<sup>70</sup> "en su concepto como si fuse un hereje" AGN, Inquicision, vol. 441, exp.2 fs. 356-411v

Santo Domingo, Juan fell ill. He had contracted syphilis somewhere along the way and travelled to Mexico City to receive mercury ointment treatment. “After the long wait,” said Juan, the hospital admitted him and treated him; from then on, he remained ashore, working as a peddler in Mexico City and San Juan Zitácuaro (province and bishopric of Michoacán). Juan made Zitácuaro his home base for the next ten to twelve years, married Angela Muñoz in 1674, and made a living running six mules to points “throughout the diocese of Michoacán.”<sup>71</sup> In 1690, when Juan appeared in the Inquisition dock, he was no longer working, and was living apart from his wife in Copandaro, an Indian town ten miles from Zitácuaro. The trajectory of Juan’s life—from the self-assured grown boy fleeing his parents’ home, to the spent fifty-year-old agonizing that “his natural forces were failing” (July 10, 1690)—demonstrate a man overtaken by age and disease due to a life of travel on both land and sea.<sup>72</sup>

At the time of his imprisonment, Juan had been weak for some time, since he no longer worked as an itinerant peddler. When asked if he knew why he had been imprisoned, Juan could only recall the raucous quarrels he sometimes had with Angela Muñoz, his wife of thirteen years. He stated “she has a harsh temperament and on one occasion, during an argument last Easter, said to him ‘be gone Jewish dog;’ he does not know why she would have said such a foolish slur because he is a Christian and the son of Christians.” Three days later, on 9 June, Juan returned to the same theme when he asked the court to secure his property (five pigs, a horse, and a saddle) in the Indian pueblo of Copandaro, where he had lived for “many days” because “he could not live with his wife [any longer in Zitaquaro] because of her harsh temperament and the little or no attention that she paid to [him].” This begs the question: why did Angela treat Juan with such disdain?

There can be little doubt that Angela had a strong personality and spoke forcefully enough with Juan to discomfort him. However, since the Inquisition file does not contain

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<sup>71</sup> AGN, Inquicision, vol. 657, exp. 3. Fs. 300-323

<sup>72</sup> AGN, Inquicision, vol. 657, exp. 3. Fs. 300-323



Angela's testimony, we must infer why she insulted and neglected Juan. Perhaps the answer lies in Juan's weakened condition, which became more and more pronounced, provoked a strident reaction from his wife. For years, he had been battling syphilis, having picked it up during his twenty-year tenure as a seaman, traveling between Spain and the Indies. Although he had undergone mercury ointment treatment, his health continued to deteriorate. At the time of his arrest, Juan suffered from fevers, weakness, and *cursos* (or loose bowels). Angela's dominance and Juan's fragility inverted the domestic politics of the household. She abused him actively with insults and passively with neglect. This all culminated when Juan, suffering the *mala vida* from his wife, retreated to Copandaro nearly four leagues away from Angela. The harshness of Angela's insult may point to her disdain for her husband Juan. However, Angela had a general grievance. Due to his illness, Juan ceased to contribute to their household. In a society that expected men to be the breadwinners, Angela lost all respect for her husband as she witnessed him become increasingly unable to carry out his roles as a patriarch.

Thus, the politics of the family derived from two sources: one legal, and the other practical. The latter shaped the experience more directly, for, however persuasive ideas refined by the law, practice and example filtered into daily life. While the *mala vida* demonstrates the disruption of a patriarchal household, it also provides a window into the power relations between men and women.

## Power Relations Between Men and Women

Society and law heavily constructed the power relations between men and women. From the days of the primitive church to early modern times, patriarchalism was the underlying principle of all social relationships. Its fundamental expression was the family, with the husband dominant over the wife, children, and any others in the household; they, in turn, freely subordinated themselves to his authority. Since the family was “the original social institution,” it was the primary manifestation of the “the pattern of the divine plan for the whole formation of society from the smallest beginnings to the formation of a nation.”<sup>73</sup> Focused on the family, “the original form of, and preparation for, all social relationships,” the church called for an infusion of “the Christian virtues of love.”<sup>74</sup> If this “softening of patriarchal authority” was implied, it did not affect the fundamentals of organic inequality. As the trials of María, Mariana, and Juan demonstrate, people learned the process of the politics of marriage by discovering that power is contested—however cynically—over familial and marital ideals. Thus, politics takes on meaning in the interactions between the people and the institutions that impinge upon their lives.

Similar to the report by Juan de Lizarzaburo, the Spaniard Baltasar Marques Palomino also experienced the *mala vida* from his wife. In 1613, Baltasar sailed to the Indies and married Agustina de Buitren six years later. Shortly after the nuptials, Juan became impotent. Agustina and her mother, Gerónima de Palido, were understandably upset, insulting and threatening Baltasar with a lawsuit to annul the marriage. Distressed the Spaniard ran off to Gúastepec and conferred with a friar Natera at the Dominican monastery. He testified to the inquisitors that in 1634

he asked for a cure so that he could consummate the said marriage and, after examining him, the friar said that he had no disease of impotence but that

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<sup>73</sup> Troeltsch, Ernst. *The Social Teachings of the Christian Churches*. Trans Olive Wyon. New York: Harper, 1960. 1:418n

<sup>74</sup> *Ibid.*, 1:313

Agustina must have put a curse on him and therefore the witness must commend himself to God.<sup>75</sup>

From there, Baltasar left, tired of the whole business and in Las Amilpas [an *alcadía mayor*, formerly part of the Marquesado del Valle de Oaxaca, but escheated to the crown in 1583, now in the state of Morelos] began to serve don Juan de Aguero. From time to time, Baltasar recounted how he would return to Mexico City and try again, but “every time he came to see his said mother-in-law and wife they treated him so badly that he was forced to agree to a separation and so the three of them went to the house of a lawyer named Contreras, now dead, and drew up a petition” which they presented to the Vicar General of the city. On the vicar’s orders, two midwives examined Agustina and declared her a virgin. Baltasar refused to submit to an examination and fled.

Fearing the threat of his mother-in-law—that she would have him “banished to China”—he stayed away from Mexico City for three years. However, this is a strong threat towards a man who was only impotent. Agustina and her mother sought to recover the dowry of 3,000 pesos, which were delivered to Baltasar upon the day of their nuptials. After the death of his mother-in-law, Baltasar reestablished contact with Agustina and once again attempted to consummate the marriage. In her testimony in 1633, she recalled the occasion. Speaking of Baltasar’s impotence to the inquisitors, she said that “he did not return to Mexico City for three years and then for three nights they were on good terms (*buen amistad*).” She continued saying, “Baltasar tried to consummate [the marriage] and it seems that he does not have a member capable of knowing a woman although he appears to have semen because she has sometimes felt some wetness underneath.”

Baltasar, admitted that he had been unable to consummate the marriage, and was perplexed that “when trying to have access to her he was not potent within the natural receptacle yet away from it he was.” Agustina suspected that Baltasar was purposely withholding his semen to nullify the marriage; on the other hand, Baltasar was ashamed,

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<sup>75</sup> AGN, Inquisition, vol.374, exp. 11. Fs. 146ff

confused, and worried about giving back the dowry. Together with friar Natera, he probably believed he was under some kind of a spell, for he had explained to Agustina that “with other women who were not virgins he was not impotent but with virgins he was.” From this Baltasar drew a reasonable inference that Agustina shared part of the blame. The Spaniard argued,

for when he was absent from her, he had normal intercourse with many other women, fathered children with several of them, and twice impregnated the one he married in Agua del Venado [under the jurisdiction of Charca]: the first a miscarriage and the second to be born, he has heard, in four or five months.

Through the defense of his manhood, via the sexual exploits while away from Agustina and his relation with them, Baltasar had confessed to bigamy.

This raises the question: why did it come to this? Could Baltasar have continued to live his itinerant life and the enjoyment of sex with many women? His response to the inquisitors demonstrates the answer to these questions. He argued that “from Zacatecas, he went to the mines of Papagayo where he spent the little money he had. There friar Geronimo Pangual asked him if he were married and whether he wanted to marry a young virgin who was poor but virtuous.” Envious of seeing other villagers living quietly with their wives, Baltasar, after a month, agreed to marry the girl, his second wife. This answer demonstrates through the unsatisfactory relationship with Agustina, he had clung to a more idealized notion of married life: one in which a young man settled down, had a family, and continued his trade.

Baltasar triumphantly asserted the details of his relations with his second wife stating “the same night he consummated the marriage without any difficulty, even though he found her a virgin.” However, the perplexity of his newfound domestic life weighed heavy on his shoulders, for he confided his secret to his friend Jusepe Ramos. In 1632, Jusepe testified in front of the inquisitors, “Baltasar Marques wrote him a letter divulging that he married a second time and asked that he keep it a secret because his honor was now in Jusepe’s hands.” This statement underscores the relationship between family and honor, — an honor that grew from self-respect and the personal contentment from an

untroubled family base—which was the basis of Hispanic society. The fact that Baltasar confided in Jusepe—and in a tangible way via a letter—demonstrates that he wanted his private reality to be publicly legitimized.

When Alonso Martín Cabello claimed his wife María de Figueroa had been “abducted” by the mulatto Francisco Gómez, this language mirrored closely the structural, rather than the lived, reality. In theory, women, except for widows, were under the jurisdiction of men. “As far as men were concerned” Edward Shore states, “she did not make things happen; they happened to her.”<sup>76</sup> To remove a woman (without permission or leave of the church or patriarch) was seen as a form of robbery. While this language excludes the agency and actions of women, it does call attention to the role of the legal system in the lives of early modern people.

Alonso’s choice to call upon the constabulary courts (local courts in León) to arrest Francisco and María represents the role of the legal system in the daily lives of individuals in the early modern world. Through choosing a legal avenue and framing his claim in terms that fit legal requirements, Alonso was not necessarily conveying actual lived experience. That is to say, though he stated the mulatto Francisco had abducted his wife, Alonso seems to have appealed to the secular court, in legal terms, in order to achieve the proper arrest of Francisco and return of his wife.

While adultery stranded marriages, it did not necessarily break them. This is evident in the Alonso’s testimony. In this sense, we see the double standard accepted by society; men sought sexual liaisons while demanding the social fidelity of their wives. Adultery, filial or spousal, was considered such a devastating blow to the victim's reputation that no one but the woman's husband and her immediate family was allowed to accuse her of infidelity. This gave the woman's guardian three choices, as laid out in legal commentaries: a man could kill his wife or daughter, bring her up on charges in secular

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<sup>76</sup> Shorter, Edward. *The Making of the Modern Family*. New York: Basic Books, 1975., 73

or ecclesiastical courts, or ignore the transgression.<sup>77</sup> The question thus arises: why did Alonso Martín Cabello decide to seek recompense from the court system for the damage to his honor rather than go use physical force? Moreover, did he expect his plea to reach the Inquisition?

It is hard to say whether Alonso expected his denunciation to reach the Inquisition. Since he went to the rural constable of León and pled that his wife was “abducted,” it is conceivable he expected the state to arrest the mulatto, Francisco, and deliver María back to her father. However, another explanation could be the effectiveness of the Holy Office in publicizing denunciations. The Holy Office depended on accusations of “sin-crimes,” such as bigamy, made by the populace in general. This prompted individuals to make denunciations by reading aloud and posting an Edict of Faith—a statement exhorting the public to declarations of other people’s sins before the Tribunal. Through this process, individuals could use the Holy Office to further their side of personal conflicts as well as regain their honor and reputation.

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<sup>77</sup> Alfonso X el Sabio *Las Siete Partidas: El libro de fuero de las leyes*. ed. José Sánchez-Arcilla Bernal. Madrid: Editorial Reus, 2004., 949.

## Honor and Race

By the seventeenth century, social and cultural diversity in Mexico City had become a hallmark of the capital, acknowledged (though sometimes uneasily) by residents and visitors alike. Mexico's social structure was based on two fundamental principles: (1) the division between Spaniards and Indians; and (2) the maintenance of internal stability within each sphere. Spaniards believed that the castas threatened both principles. Biologically, of course, the castas did not really fit into either *republica*—republic of Indians and republic of Spaniards. More important, they had no legitimate socioeconomic niche. The ideal community, in Hispanic political theory, was composed of faithful Christians, each performing the function appropriate to their lineage and their position in the status hierarchy. Yet, the castas had no pre-assigned place. They were not Spanish "citizens" (*vecinos*), nor could they claim the legitimacy of the land's original inhabitants.<sup>78</sup> In short, the castas were an anomaly. Even when castas could not be ignored, they tended to be treated as a rather offensive, disorderly mass. These racial tensions added to Alonso's sense of betrayal and the direct attack María made on Alonso's honor.

The testimony provided by Alonso depicts the importance of honor in early modern life. Even though he was living with another woman, he expected his wife to live modestly and chastely. It is curious that the same act he accused Francisco of committing—abducting his wife—he had also perpetrated as he too had abducted another. For Alonso, the mulatto was a violent perpetrator, for males assumed the 'right' to steal women but not to have their women stolen.<sup>79</sup> To add insult to injury, as Francisco commented above, a man of mixed race had run off with a creole woman.

While men frequently presented themselves as full of righteous anger at affronts to their honor, women cast themselves in the role of sexual victims. In the end, María

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<sup>78</sup> R. Douglas Cope, *The Limits of Racial Domination: Plebeian Society in Colonial Mexico, 1660-1720*. (Madison: University of Wisconsin Press, 1994), 9-26.

<sup>79</sup> *Ibid.*, 309v.

chose to ignore cultural assumptions about male-female relations and ideas of race, for Alonso had forsaken married life and abandoned her to mistreatment at the hands of her family. For the first two centuries of Spanish colonial rule, a considerable amount of interracial sexual contact existed. The castas, of which Francisco was one, owing to prejudice rather than to laws prohibiting intermarriage, were the product of miscegenation that occurred only occasionally in marriage and largely outside it.<sup>80</sup> Non-marital unions, especially concubinage, were commonplace among Spanish men and black, racially mixed, and indigenous women, were the principle factor in creating this small but distinctive group in the sixteenth and seventeenth centuries. In those centuries, mestizo and mulatto were synonymous with illegitimate.<sup>81</sup>

The system of Hispanic status distinctions laid over racial differences was thus maintained in marriage throughout the sixteenth and seventeenth centuries: Spaniards married Spaniards, Indigenous married Indigenous, and Africans married Africans. Since most racially mixed people were incorporated into the status categories of one or more of these groups, for a long time those actually classified, as castas remained a small minority of the population. Thus, castas were socially invisible.<sup>82</sup>

Beginning in the middle of the seventeenth century, this racially mixed population began to grow and increasingly participate in legitimate marriage—rather than cohabitation, *barranguia*, or concubinage. As is the case with María de Figueroa, and indeed other bigamists, the race of the second marriage tended to be from a lower casta. While further investigation needs to be conducted, it is interesting to speculate why this is so. What were the social and political advantages or disadvantages of interracial marriages? How did this affect public perception? Did this affect the number of trials brought or denounced to the Inquisition? We can infer from the language used by Alonso

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<sup>80</sup> Seed, Patricia. *To Love, Honor, and Obey in Colonial Mexico: Conflicts Over Marriage Choice, 1574-1821*. Stanford: Stanford University Press, 1988. 24.

<sup>81</sup> Martínez, María Elena. *Geneological Fictions: Limpieza de Sangre, Religion, and Gender in Colonial Mexico*. Stanford: Stanford University Press, 2008. 214.

<sup>82</sup> *Ibid.* 224



(María's first husband) that her marriage to the mulatto caused more of an uproar than her "betrayal" in the first place.

Individuals in New Spain, and indeed throughout the Spanish Empire, frequently utilized prescription of honor in order to create stories to explain away transgressions, such as illegitimacy.<sup>83</sup> In this same vein, female bigamists and their accusers referred to a woman being "abducted" by another, rather than her leaving by choice. Ramon Gutiérrez, a scholar of Hispanic honor, stressed that this culture rewarded male sexual aggression as a critical factor in colonial domination. Further arguing he wrote, "in terms of honor it was the adulterer's conquest of another man's woman that made him the paragon of virtue."<sup>84</sup> This conclusion casts females as sexually passive and trapped between repressive institutions, families, and aggressive men. The case of María suggests that honor was more often a rhetorical weapon deployed before the courts than the inspiration of male sexual aggression. For in her testimony, María corroborated Francisco's account that she willingly left in search of a new life and family.

Still, honor was not the only defining principle of colonial society as represented in the discourse of bigamy. *Siglo de Oro* dramas and much of the recent historiography would have us believe that honor was a real, tangible thing for many *Novohispano* men and women. From this perspective, honor was something worth fighting for, a rigid series of rules and postures that defined one's social worth and was more valuable than gold or slaves. In contrast, this study suggests that the recent historiography vastly overemphasizes the role of honor in daily relations. Honor was just one part of a complex multifaceted identity that men and women defined and redefined on a daily basis. While honor was not the only key preoccupation for most colonial individuals, they were willing to risk money, social ostracism, and even death in the defense of it. The various presence of honor as critical to self-defense or in an attack on others meant sexual activity and reputation played an essential role in the rhetoric of these cases.

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<sup>83</sup> Ann Twinam, *Private Lives, Public Secrets*. Stanford: Stanford University Press, 1999., 32.

<sup>84</sup> Ramón A. Gutiérrez *When Jesus Came*, 242.

## The Role of the Inquisition as an Institution of Debate about Marriage

The Spanish Inquisition in the Old and New World was a site of debate for officials and early modern society. When Alonso chose to report his case to the constabulary courts of León he began the process of engaging with the state what he deemed as licit and illicit relationships. While the constabulary courts were not a part of the Spanish Inquisition, they were both arms of the state.<sup>85</sup> The constabulary would be charged with alerting the Inquisition of any act of heresy. The Inquisition shared a common legal tradition with secular jurisdictions, especially that of criminal law. For example, both courts took confessions to be “perfect proof” because accused persons confirmed their direct guilt. More importantly, confession unburdened one’s soul. Since crime was a sin, the court-imposed remedy was the voluntary submission of the individual to penitence. Inquisitorial courts made this link more firmly than secular courts since heresy could be best corrected through penitence and confession.

Once the Inquisition learned of the act of heresy, in this case bigamy, they would then go through a long process of testimony and consultation. These officials heard evidence from the accuser and consulted with theologians who would give their opinion and determine whether the case would be heard by the institution or not. From the onset of the trials, witnesses were asked to testify for or against the accused. As noted previously, these testimonies provided information in legal terms, as well as individuals’ lived experience. While cast in legal terms, these witnesses used the courts to convey their understandings of marriage and family construction. For María the choice to run off with Francisco was due to the infidelity and mistreatment of the patriarchs in her life—her husband and male relatives. Here we see María demonstrating to the courts the dissolvability of marriage in her eyes.

María’s official sentence to endure the *auto de fe* (profession of faith) represents

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<sup>85</sup> Papal Bull of 1492 granted the Catholic Kings, Ferdinand and Isabella, monarchical control of the Inquisition. For more information see, Henry Kamen *The Spanish Inquisition: A Historical Revision. 4<sup>th</sup> Edition* (New Haven: Yale University Press, 2014), 36-73

the cyclical nature of the Spanish Inquisition within society. As with many Inquisition trials, María confessed to her sins, in front of a large crowd of people, and then returned to society without further punishment. Through there is no record of the three parties involved—María, Alonso, or Francisco’s—actions after the trial, we can assume that Alonso went back to León to work in the mines, while María and Francisco continued to cohabitate with one another. In this light, the Inquisition became a site of debate about what was considered orthodoxy (according to state and ecclesiastical officials) and what was an actuality (according to New Spain’s society).

The court, acting on behalf of God, removed the sinners from religion, family, and community, and through the drama of trial, the humiliation of punishment, and efficacy of penance, returned them as reconciled individuals. As heroes of their own stories, bigamists set the stage to receive mercy and reintegration into the society from which they had been purged. In the privacy of the courts, individuals were able to convey their understanding of marriage law, even though the regulations for marriage were set. Tribunals that wanted to understand motive and circumstance needed to elicit full details of the accused’s everyday situations. The dialogue between bigamists and inquisitors provides a view into the worldview of the population of New Spain; as well as the ways in which individuals and the inquisitors in New Spain interpreted the Council of Trent’s regulations for marriage. The case of Pedro de Valenzuela demonstrates these marital debates and exchanges, while positing legal jurisdiction played a large role in how individuals defended their choices to enter willingly into bigamy.

In 1600 after traveling from Spain to Lima, Peru, Pedro de Valenzuela married Juana del Castillo. After receiving word that his father had died, he set out for Spain to collect his inheritance. For his journey, he took with him Juana’s gold chain, worth nearly 400 pesos, which had been part of her dowry. Upon reaching Cartagena, the Spaniard decided not to proceed any further. After acquiring goods in Cartagena to resell in the interior, Pedro began his return trip to Lima across the viceroyalty of Nueva Granada.

In Tocayma, he met Francisca de Sosa, a Spaniard and daughter of a local merchant, whom he later termed a “woman of the world.” According to her multiple

witnesses, although Francisca was from a respectable family and still living with her mother, she apparently was not a virgin and tended to approach men frequently. During his stay in the city, Pedro had sexual relations with her one or more times and then, as he claimed during his inquisition trial, “she pleaded with him to take her to Lima as she had others before him.”<sup>86</sup> Similar to claims made by the mulatto Francisco in the abduction of María de Figueroa, Pedro portrays Francisca as taking the initiative and him merely acquiescing to her desires. They traveled as far as Timana, nearly sixty leagues away from Tocayma. There the local constabulary (*hermandad*) arrested Pedro based on a warrant issued in Tocayma. The local judge (*alcade de hermandad*) ordered Pedro secured with “two pairs of shackles and a chain” and for good measure, ordered him placed in the stocks and watched by two guards. The judge sequestered Pedro’s belongings; these items included his porter, a black slave, and his most valuable possession, his wife Juana’s gold chain. Evidently, no one entertained one typical solution to situations of this kind. Pedro was required to pay a sum to endow Francisca, on the pretext that he was compensating her for the “loss” of her virginity.<sup>87</sup> Pedro, however, offered a standard defense that Francisca, “a woman of the night,” had come on her own initiative and was not abducted. Unfortunately, this statement fell on deaf ears. Concerned with the prospect of returning to Tocayma in shackles and having to confront Francisca’s family, Pedro agreed to marry her “in order to regain [my] freedom” and as he notes later “to get back [my] possessions.”<sup>88</sup>

Marrying Francisca solved the immediate problems Pedro faced. A priest in the city of Timana officiated at the wedding, with local residents acting as witnesses. Among them were two “soldiers,” apparently Pedro’s former guards. Now free, but shackled with a second marriage, Pedro resumed his journey to Lima. Ten leagues away from Timana, Pedro ran into a muleteer. He paid the man to take Francisca back home to Tocayma, to her mother’s home. With her, he provided a letter, which explained he already had a wife

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<sup>86</sup> AGN, Inquicision, vol. 466, exp. 14. Fs. 329-82.

<sup>87</sup> 158 boyer 99

<sup>88</sup> AGN, Inquicision, vol. 466, exp. 14. Fs. 329-82.

in Lima and therefore could not be married again. From there, by the way of Campeche, Pedro went straight to Mexico City and denounced himself to the Holy Office. Why did he choose to denounce himself to the Inquisition in Mexico City rather than Cartagena? He responded to the inquisitors' question stating Cartagena was under the jurisdiction of the Holy Office in Lima, and he hoped to avoid the notoriety of the imprisonment and punishment in his home city. Except for his hope of minimizing his dishonor, Pedro seemed resigned to the punishments set out by the inquisitors for the malfeasance of bigamy.

Men and women through their own agency came together in various forms of spontaneous coupling, and sometimes their unions were set into motion as a reaction to policing forces. If they began as “abductions” and carried on as “friendships” they remained part of a quasi-marital arrangement—such as cohabitation and *amistades ilícitas* (illicit relationships). These informal unions, for example, avoided the veto that was sure to be given when impediments would have prevented sacramental marriage. The story of Pedro de Valenzuela demonstrates how individuals used the courts—in this case the Inquisition— to further their own agendas.

## Conclusions

The cases presented in this report, demonstrated how imperial institutions expanded their patriarchal authority by policing debates about marriage and family. The two ultimate patriarchal institutions of the Hispanic world, the Catholic Church and the Crown, strengthened their authority by supporting a refined discourse of patriarchy that tempered masculine authority with Christian love. To support this project at once idealistic and convenient to the interests of Spanish authorities, the church made ecclesiastical courts accessible by waiving most fees for legal processes related to the family and marriage and making legal representation available to the poor.<sup>89</sup> The church curtailed the patriarchal authority of husbands by interfering in the domestic government of their households. Ecclesiastical courts heard testimony from neighbors, servants, and children in addition to the married couple. Judges acted on the behalf of abused or abandoned wives, awarding them financial damages and pensions, and imprisoning and even occasionally excommunicating misbehaving husbands.

The church was particularly interested in regulating the conduct of elite men. While the Church was chary about dissolving marriages or authorizing legal separations, church courts nonetheless circumscribed the patriarchal authority of powerful elite men by forcing them to acknowledge church-defined standards of proper conduct. By hearing and considering the testimony of women, servants, and others, ecclesiastical courts supported the rights of social subordinates to opine on the bad behavior of their masters. This process served to reinforce the Catholic Church as the arbiter of moral standards and appropriate conduct and to expand the patriarchal authority of church and crown at the expense of that of elite men.

For individuals who challenged their spouses' bigamy prosecutions, other marital litigation could represent a threat not just to their lifestyles but also to their identities as men. Husbands and wives in New Spain had very clear expectations of their spouses.

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<sup>89</sup> The same *procuradores* that represented wealthy clients represented poor clients on a pro bono basis. However wealthy clients tended to have longer case files meaning that as paying clients they received more attention than the pro-bono clients.

Most marital discord seems to have resulted from a failure of one or both spouses to live up to the standards established by public discourses of marriage.<sup>90</sup> Asunción Lavrín suggests that there were four major expectations of a husband's behavior in marriage.<sup>91</sup> First, he had to provide economic support (food, clothes, and housing) for his wife and family. Second, he had to "respect the wife's person" meaning no unjustified physical abuse. Some wives and the general community seem to have tolerated mild physical correction under certain circumstances. Next, "propriety in sexual relations"; this meant that he must not make excessive or perverted sexual demands on his wife. Finally, sexual fidelity to his wife; some wives and the community tolerated occasional, discrete affairs, but open and hence scandalous adultery was unacceptable as humiliating to the wife.<sup>92</sup> The expectations of appropriate behavior by husbands and wives were gendered, hierarchical and clearly defined. The Church and the Inquisition acted as the policing force of state-sanctioned marriage, while providing a site for individuals to debate what marriage really meant.

"Marriage, Bigamy, and the Inquisition" also argued that honor was not the only driving force for presenting marital discord in front of the courts. Many historians of colonial Mexico, including Patricia Seed, Richard Boyer, and Ann Twinam have argued that a *strong* notion of honor was a *key* part of the social logic of New Spain.<sup>93</sup> Seed uses evidence from *Siglo de Oro* literature and drama to propose "the supremacy of honor as virtue in the Spanish value system."<sup>94</sup> She suggests that early modern Spaniards and colonial Mexicans were obsessed with honor. While Boyer rejects Seed's use of literature

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<sup>90</sup> Lavrín, *Sexuality and Marriage in Colonial Latin America*, 349

<sup>91</sup> Lavrín, "Review: Estructuras, personalidades y mentalidades populares: la nueva historiografía de la iglesia en México," 349.

<sup>92</sup> *Ibid.*

<sup>93</sup> Boyer, "Honor Among Plebeians: Mala Sangre and Social Reputation"; Seed, *To Love, Honor, and Obey in Colonial Mexico: Conflicts over Marriage Choice, 1574-1821*; Twinam, "The Negotiation of Honor: Elites, Sexuality, and Illegitimacy in Eighteenth-Century Spanish America."

<sup>94</sup> Seed, Patricia. *To Love, Honor, and Obey in Colonial Mexico: Conflicts over Marriage Choice, 1574-821*. 71

to make inferences about real life, he agrees that honor was a key part of how not just the elite, but plebeians, understood their world.<sup>95</sup> I reject this trend in the historiography, suggesting instead that an understanding of gender roles and exercise of power provides a window to understanding much of the sort of behavior that has been explained with a generalized notion of honor. The paucity of discourses of honor in the extensive documentation of colonial extra-marital litigation puts the centrality of the “honor thesis” of Seed and other historians in doubt.

The trials of María de Figueroa, Juan de Lizarzaburo, Mariana Monroy, Baltasar Márquez Palomino, and Pedro de Valenzuela, provide a window into Spanish regional and imperial discussions of marriage and family construction and regulation. While Spanish imperial institutions—such as the Spanish Inquisition—sought to designate the family as a legal and religious binding contract, individuals shaped their own definition of family through lived experience. Domestic life functioned as a fluctuating system, where gendered politics based on patriarchy played out. The married lives of these bigamists and their spouses serve as both as reference points and vantage points for viewing a larger system, that is a system of marriage and family construction which was constantly in flux. While María, Juan, Mariana, Baltasar, and Pedro had to endure the humiliating process of the *auto de fe* (procession of faith), no further punishment was enacted by the Inquisition. Like many other bigamists, they returned to church and society as the institution’s “example” of how one should conduct their private and public married and family life. Moreover, they represented the ideal marriage—partners until death parts them—in the eyes of the institutions. Through testimony provided by the bigamists and their witnesses, as well as the final penance designated by the Inquisition, we see the mutual dialogue between family construction and regulation in seventeenth-century Mexico.

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<sup>95</sup> Boyer, Richard. “Honor Among Plebeians: Mala Sangre and Social Reputation.” 153.



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