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Gender, Power, and Authority in Indigenous Mexico City, 1700-1829

Margarita R. Ochoa

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GENDER, POWER, AND AUTHORITY IN INDIGENOUS MEXICO CITY, 1700-1829

BY

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DISSERTATION
Submitted in Partial Fulfillment of the Requirements for the Degree of

Doctor of Philosophy

History

The University of New Mexico
Albuquerque, New Mexico

July, 2011
DEDICATION

Para mis padres, Francisco y Catalina Ochoa, quienes siempre han apoyado mis sueños al igual que los de mis hermanos. Gracias.
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The shortcomings of this work are, of course, all mine.

Margarita R. Ochoa

Los Angeles, CA
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ABSTRACT OF DISSERTATION

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The question that has long tantalized historians, observing the process of Mexico City’s transition from indigenous center to Spanish capital, was what became of the vast indigenous populations organized into “cities and villages…and towns” that so amazed Bernal Díaz, Hernando Cortés, and others. This dissertation aims precisely to answer that question, especially for the late colonial period when it would seem that multiple generations of the indigenous and non-indigenous would have so intermingled in the city as to be the dominant portion of the population. In addition to this demographic hybridization or mestizaje, there is the cultural question: After nearly three hundred years of Spanish presence and domination in New Spain, is it possible to speak of distinctly
indigenous cultural customs in Mexico City? To answer these questions, this study focuses on examining the cultural, gendered, and legal customs of eighteenth-century Mexico City residents, concentrating especially on the “Indians” (a designation which must be made by the historian after careful analysis, but which was made by the people at the time as well), using their own criteria to distinguish the indigenous from the mainstream cultural context of the Spanish city. As the most important administrative center in Spain’s American kingdoms, Mexico City’s governing institutions were constantly registering and trying to control the prevalent gendered and cultural customs among its residents, which gives us many rich sources of archival information. As the largest city in Spanish America, Mexico City reveals the multiple levels of living at the center of a vibrant political, ecclesiastic, social, legal, and economic network connected to even the most remote areas of present-day North and Central America. The temporal focus of the research is from 1700 to 1829, a period in which reforms enacted by the Bourbon monarchy and the establishment of a new Mexican nation are thought to have drastically marked structures and practices of bureaucratic and social authority. Through analysis of a variety of Spanish and Nahuatl sources, this study illustrates cultural, gendered, and legal customs practiced by indigenous residents of the city, which marked them as distinctively “Indian” within their mainstream, non-indigenous urban milieu.
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CHAPTER 1

INDIANS AT THE HEART OF SPANISH RULE

During the morning, we arrived at a broad Causeway and continued our march towards Iztapalapa, and when we saw so many cities and villages built in the water and other great towns on dry land and that straight and level Causeway going towards Mexico, we were amazed and said that it was like the enchantments they tell of in the legend of Amadis, on account of the great towers and cues and buildings rising from the water, and all built of masonry. And some of our soldiers even asked whether the things that we saw were not a dream. It is not to be wondered at that I here write it down in this manner, for there is so much to think over that I do not know how to describe it, seeing things as we did that had never been heard of or seen before, not even dreamed about.  


---

In Bernal Díaz’s description of the “discovery” of the capital city of the indigenous civilization and empire that dominated central Mexico we catch a glimpse of a distinct moment in the encounter between Europeans and indigenous peoples in America, one in which the Old World assumption of superiority was not yet the dominant belief even among the traveled and seasoned of the men among Hernán Cortés’s expedition. In the centuries that have elapsed between the “discovery” of Mexico and the present day, the dream-like wonders of the city that Cortés’s men first saw have been replaced by such other wonders as skyscrapers, automobiles, and the dispersion of an enormous population across the entire Valley. Due to the European conquest and modernization, four of the five lakes that were a part of the ecology of the Valley of Mexico at the time of Cortés’s encounter have vanished (See Figures 1.1 and 1.6). Also gone is the human ecology of pre-conquest societies. From 1528, when Charles V created the Audiencia (Royal High Court) in the city, until 1821, it served as the seat of the authority of the Viceroyalty of New Spain, during which time it grew in numbers and wealth until, towards the end of Spanish rule, it was the second largest city in the Empire, in importance only, after Madrid. At Mexican Independence from Spain in 1821, this space would be converted into the capital city of the new Mexican republic (only to undergo another series of administrative and cultural changes as a result of revolution begun in 1910).

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2 It is estimated that Madrid’s population numbered at approximately 150,000 while that of Mexico City was perhaps larger. But, as the political capital of early-modern Spain, Madrid was of greater importance to the Spain. Seville, as the gateway city to the New World, is also estimated to have had a population of 150,000 in the same period but was not an administrative capital city. For Mexico City demographics see Sherburne F. Cook and Woodrow Borah, The Indian Population of Central Mexico, 1531-1610, Ibero-Americana, 44 (Berkeley and Los Angeles: University of California Press, 1960). For Madrid and Spain see James Casey, Early Modern Spain: A Social History (London: Routledge, 1999).
The question that has long tantalized historians, observing the process of transition from indigenous center to Spanish capital, was what became of the vast indigenous populations organized into “cities and villages…and towns” that so amazed Bernal Diaz and others. This dissertation aims precisely to answer that question, especially for the late colonial period when it would seem that multiple generations of the indigenous and non-indigenous would have so intermingled in the city as to be the dominant portion of the population. In addition to this demographic hybridization, there is the cultural question: After nearly 300 hundred years of Spanish presence and domination in New Spain, is it possible to speak of distinctly indigenous cultural customs in Mexico City? To answer these questions, this dissertation focuses on examining the cultural patterns of eighteenth-century Mexico City residents, concentrating especially on the “Indians,” a designation which must be made by the historian after careful analysis, but which was made by the people at the time as well, using their own criteria to distinguish the indigenous from the mainstream cultural context of the Spanish city. As an administrative center, Mexico City’s governing institutions were constantly registering and trying to control the prevalent gendered and cultural customs among its residents, which provides many rich sources of archival information. As the largest city in Spanish America, Mexico City reveals the multiple levels of living at the center of a vibrant political, ecclesiastic, social, legal, and economic network connected to even the most remote areas of present-day North and Central America. This dissertation thus examines a variety of late colonial

---

3 On the use of the term “Indian” by scholars of the indigenous populations of early Latin America, see for example James Lockhart, *The Nahuas After the Conquest* (Stanford: Stanford University Press, 1992). For the term’s use in scholarship on the parishioners of one of the parishes of eighteenth-century Mexico City, see Juan Javier Pescador, *De bautizados a fieles difuntos: Familia y mentalidades en*
archival records and argues that such sources serve as a window into cultural and legal practices that distinguish the indigenous from the non-indigenous residents of eighteenth century Mexico City.

This dissertation has a late colonial focus, specifically on the eighteenth century. This temporal range, discussed fully in chapter two, places the present study well within the Latin American historiography on the natives of colonial Mexico. Yet, this temporal range also places this work in conversation with historical narratives on Bourbon Mexico City, a society and culture of fixed, universal laws, distinct from the barrio-level realities, as argued in this work, of the indio from the same era. After approximately 300 years of a dynamic co-existence with non-indigenous peoples in the administrative capital of New Spain, the Indian vecino (resident) is readily accessible when engaged in private as well as public affairs with other vecinos. He/She is almost culturally indistinguishable from the non-indigenous population, as argued in chapter three, when it comes to marital matters. But when moving beyond the most accessible details of daily life in the city to follow those which qualify a population as performing a set of customary practices, as highlighted in chapters four and five, that distinguish that group from its mainstream context, the barrio Indian is found. He/She is a minority in comparison to the vast casta (person(s) of mixed ethnic descent) population of the city, but a no less important cultural presence.⁴

FIGURE 1.1: Causeways of Tenochtitlan-Tlatelolco.  
Note: Map of Tenochtitlan-Tlatelolco showing the four causeways that connected it to the mainland as well as the four Great Quarters of Tenochtitlan: Aztacualco, Cupepan, Moyotlan, and Zoquiapan (Teopan).

5 Although the native imperial center described by Díaz was an island site in Lake Texcoco separating it naturally from the mainland, the native center was nevertheless connected via sophisticated causeways (See Figure 1.1). These constructed roads maintained an inflow as well as outflow of persons, trade goods, tribute, and cultural customs. Today, what was in the sixteenth century an island comprised of two native altepetl, those of Tenochtitlan (to the south) and Tlatelolco (to the north) (See Figure 1.2), continues to be a dynamic administrative space of great inflows and outflows, yet still characterized arguably by vibrant indigenous roots.
Most Powerful Lord, in order to give an account to Your Royal Excellency of the
magnificence, the strange and marvelous things of this great city of Temixtitan and of the
dominion and wealth of this Mutezuma, its ruler, and of the rites and customs of the
people, and of the order there is in the government of the capital as well as in the other
cities of Mutezuma’s dominions, I would need much time and many expert narrators. I
cannot describe one hundredth part of all the things which could be mentioned, but, as
best I can, I will describe some of those I have seen which, although badly described, will,
I well know, be so remarkable as not to be believed, for we who saw them with our own
eyes could not grasp them with our understanding….

Hernando Cortés, Second Letter to King Charles V, 1520.

The phrases in this letter are curiously similar to the phrases in Bernal Diaz’s
account of the conquest—both the would-be conqueror of Mexico, Hernando Cortés and
the latter chronicler emphasize the difficulty of believing what they are seeing. What were
they seeing? The altepetl (ethnic state) of Mexico Tenochtitlan was a magnificent site
from which emanated a vast and potent imperial authority in Mesoamerica. As the heart
of Mexica (the indigenous people of that polity) rule in the valley of Mexico, Tenochtitlan
stood out as the leading member of the ruling alliance (the Triple Alliance) with Tetzcoco
and Tlacopan (See Figure 1.2). The dominant altepetl encompassed the largest urban
space in the Western Hemisphere prior to the arrival of Europeans. With an estimated
population of over a quarter-million at the beginning of the sixteenth century, Tenochtitlan

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6 Hernán Cortés, *Letters from Mexico*, translated and edited by Anthony Pagden (New Haven and

7 The original island region that was to become Mexico City was at the time of conquest
comprised of two altepetl, Mexico Tenochtitlan (in the south) and Mexico Tlatelolco (to the north). The
main focus of this research is on eighteenth century Mexico City, an administrative district and capital of
the viceroyalty of New Spain that was comprised of both former altepetl. As such, I use specific place
names in referring to each altepetl when describing the conquest and early colonial period. The term
“Mesoamerica” refers to an important geographical and cultural zone, from the pre-Columbian period
through the viceregal era that extended from central Mexico through Central America. See Ida Altman,
Sarah Cline, and Juan Javier Pescador, eds., *The Early History of Greater Mexico* (New Jersey: Pearson
Education, 2003), 6, 10.
was larger even than many of its European counterparts, including Milan, Venice, and Seville. Not only did the Mexica have strength in sheer population numbers, but they were also the military might of the Triple Alliance. Thus the Spanish defeat of Tenochtitlan in 1521 marked the end of the Triple Alliance’s legitimacy as the imperial authority of Mesoamerica. But, although Tenochtitlan was defeated, many customary and cultural practices of the preconquest period continued well into the second century of the colonial era.

Shortly after the defeat of Tenochtitlan in 1521, Hernando Cortés chose to establish a new city amidst the ruins of the former imperial center (See Figure 1.3). By 1538, under the auspices of Antonio de Mendoza, the first viceroy to New Spain, Tenochtitlan truly began undergoing a dramatic transformation from indigenous altepetl to Spanish city. By all accounts, any remaining Mexica buildings, including the Templo Mayor (great pyramid-temple), were razed to make way, as described by David A. Brading, for “a great central square from which there radiated in chequer-board design the colonial city” (See Figures 1.4 and 1.5). Yet, the reorganization of Tenochtitlan into a Spanish city did not and, for all practical purposes, could not remove the indigenous presence or influence from the city. Instead, the decision to found Mexico City on the site

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9 In his communication to the Castilian monarch, Cortés relates his decision to found Mexico City atop the ruins of Tenochtitlan. See Figure 1.3 and Hernán Cortés, third letter to King Charles V, 1522, in Letters from Mexico, translated and edited by Anthony Pagden (New Haven and London: Yale University Press, 1986), 160-281.
of the ruined Mexica capital meant, as Charles Gibson described, that “relations with Indians … would be of exceptional intimacy.”¹¹ The soon-to-be viceregal capital of New Spain became a cultural nexus where different peoples and their distinct and dynamic cultures, politics, economics, and religions met and intermingled for generations.

¹⁰ David A. Brading, “The Colonial City: Imperial Mexico: The Viceregal Capital,” in Mexico City through History and Culture, Linda A. Newson and John P. King, eds. (London: Oxford University Press, 2009), 39-40. See also Figures 1.3. Also, see Figures 1.3 – 1.6.
FIGURE 1.2: From Codex Osuna, 1565.
Source: Codex Osuna.
Note: Pictorial symbols depicting the altepetl that comprised the Triple Alliance: Tetzcoco (Texcoco), Tenochtitlan (Mexico), and Tlacopan (Tacuba).

Figure 1.3: Cortés Map of Mexico Tenochtitlan and the Gulf Coast 1524. *Source:* Rare Books Division, the New York Public Library, Astor, Lenox, and Tilden Foundations.
Figure 1.4: Plan of the Great Precinct of Tenochtitlan.
Source: Bernardino de Sahagún’s Primeros Memoriales, the first installment of his General History of the Things of New Spain (also known as the Florentine Codex). Folio 39r.
Note: The Templo Mayor, with shrines to Huitzilopochtli and Tlaloc, is at top, center. A skull rack is depicted in the center. The ball court, common in pre-conquest indigenous cities, is located at the bottom, center. A stone for gladiatorial sacrifice is just right of the skull rack. The priests’s quarters are located to the left of the skull rack.
Figure 1.5: Traza of Mexico City.
Source: José R. Benítez, Alonso García Bravo, planeador de la ciudad de México y su primer director de obras públicas (México: Compañía de Fomento y Urbanización, 1933), 17.
Note: “Traza de la ciudad de México hecha por Alonso García Bravo, 1521-1522.”
Figure 1.6: The Zócalo, Main Central Square of Mexico City.
Note: The zócalo was built during the colonial period atop the ruins of the Mexica capital at Tenochtitlan.
Figure 1.7: The City and its Parts.


*Note:* This is a map of the layout of Mexico City, as it stood in the early nineteenth century. It’s re-oriented, with the northern end of the city at the top.
As a space of cultural exchange and influence, Mexico City thus continued to be a place of tremendous diversity. The city was composed of both Spanish and indigenous sectors, for it encompassed two large native *parcialidades* (subdivisions or municipalities) as well as a *traza*, the city center and seat of colonial royal government (See Figure 1.7). Despite Spanish laws aiming to maintain the parcialidades as distinctly Indian zones and the traza a purely Spanish or non-indigenous zone, all three sectors of the city maintained a vast indigenous presence during the entire colonial era, which was articulated in daily life and even in language: Nahuatl, for example, continued to be widely spoken throughout central Mexico well into the late colonial period, functioning alongside Spanish as a lingua franca, presenting the latter with a powerful rival within urban indigenous culture.

Colonial Mexico City thus possesses unique characteristics that have long attracted the attention of scholars seeking to study the development of indigenous culture within both the Spanish imperium and Spanish colonial urban culture. And, the study of eighteenth-century Mexico City possesses a unique challenge when aiming to uncover cultural practices uniquely indigenous among a non-indigenous population sea.

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12 The districts of the parcialidades were based on the preconquest altepetl of Mexico Tenochtitlan and Mexico Tlaltelolco. See “Plano de Mexico-Tenochtitlan, año de 1519, por Leopoldo Batres, 1892,” in Mapoteca de Orozco y Berra, varilla 2, no. 871. This map is a great visual representation of the connections between the former indigenous altepetl and the newly established parcialidades and barrios of Mexico City. See also Figure 1.7.

13 See, of course, the works of Gibson, *The Aztecs Under Spanish Rule*, and Lockhart, *The Nahuas After the Conquest*. On the common use of Nahuatl by indigenous populations of Mexico City, see
Historiographical Overview

This chapter is an overview of the methodological approaches and the vast and still growing corpus of scholarly literature on the natives of colonial Latin America pertinent to this study. This discussion highlights the larger trends in the historiography on Spanish-Indian relations, from histories of the individuals involved in conquest, to the Christianization of the natives, to more nuanced and detailed studies of indigenous peoples, their ethnic communities, and their urban connections. Specifically reviewed is the small but slowly growing historiography of the urban indigenous populations of colonial Mexico and the even smaller historiography of the indigenous that lived in administrative centers. Thus, the review ends with a summary of the general state of affairs in regard to the urban indigenous populations of Spanish America, particularly for Mexico.¹⁴

Also surveyed in this overview of the ethnohistory historiography within which this study lies are the predominant perspectives and literature on gender and the family. The purpose of such a review is to present the larger argumentative trends regarding gendered social relations for Spanish America. Such a summary aims to provide an image of a historiography that has yet to fully and specifically address the late colonial urban


indigenous peoples and their specific forms of gendered social relations. Of particular focus in reviewing family literature is marriage. The legal and social parameters of this institution, even in the late colonial era and in the midst of sweeping bureaucratic changes, reveal distinct differences between prescribed and practical roles and responsibilities associated with marital life, including the economic maintenance of households, property ownership, and inheritance patterns.

Lastly, this opening chapter ends with a general outline of chapters and sources. Generally discussed are the historical archival methodology and the rich variety of Spanish and Nahuatl sources consulted for this study. A presentation of the organization of the chapters of this work and their descriptions marks the end of this opening section. In all, this introductory chapter serves to overview the research approaches involved in the production of this study while contextualizing the dissertation within a larger historical trajectory as well as within its specific analytical, geographical, and temporal concerns: eighteenth-century Mexico City.

**Relevant Literature: Family, Marriage, Gender, and Ethnohistories**

The scholarly literature on the Indians of Mesoamerica is rich and varied with works in many related fields of study. Within this wide-ranging and sometimes colliding scholarship, few studies concern themselves as much with natives in urban spaces as with Spaniards in similar settings, focusing instead on the ethnohistorical experiences of indigenous groups within their own communities. As a result, despite the significant presence of indigenous groups in colonial cities, little is known about their complex

Lynn Lowry, *Forging an Indian Nation: Urban Indians under Spanish Colonial Control*, Lima, Peru,
cultural interaction within these spaces and the implications of this interaction for the creation and establishment of an urban colonial society. Our view of colonial Spanish-native relations needs to be expanded beyond the geographical limits of their ethnic states and small towns. Recent work has begun to explore the gendered experiences of urban indigenous; nevertheless, the bulk of work done on gender and the family for urban centers in colonial Mexico is focused on Spanish and casta women’s experiences, especially those in marriage, households, and convents. This section introduces some of the relevant interdisciplinary writings on the Nahuatl-speaking indigenous of Mexico as well as on gender and family in colonial Spanish America.

***

The earliest works to examine the interaction between Spaniards and Nahuas were those which made use of only the most conspicuous sources generated by Spaniards.

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Through analysis of secular and ecclesiastical chronicles, historians first produced narrative histories of the Spanish conquest of Mexico that highlighted the actions, decisions, and successes of Spanish conquerors as well as their initial descriptions of native populations. William Prescott, whose work is a leading example of this type of epic history, relied on Spanish chronicles for his narrative history of the conquest of Mexico.\textsuperscript{16} Although a significant contribution to the historiography, Prescott’s work glorified Spanish conquerors, Hernando Cortés in particular, as spiritual saviors and civilizing agents of the indigenous peoples.

Epic histories, like that of Prescott, were succeeded by works that focused on the internal records of colonial Spanish institutions; such sources include royal and ecclesiastical laws, decrees, confessional records, sermons, reports, and formal correspondence between officials. The resulting histories interpreted colonial relations between the indigenous and non-indigenous populations through the lens of Spanish institutions. In his study of the Christianization of natives in Mexico, Robert Ricard overstated, as subsequent histories proved,\textsuperscript{17} the success of religious orders in their campaigns of


conversion. Ricard’s uncritical reliance on correspondence between regular clergy produced an institutional history that credited the Mendicants with creating a “process of substitution” for establishing parishes in Mexico and rapidly and successfully converting the natives. What this substitution process was actually referring to was not an innovation by Mendicants, rather it was a practice that emulated the establishment of encomienda (a Spanish grant of labor); the encomienda, in turn, was established in Spanish America on the basis of pre-existing, pre-conquest native altepetl. Thus, the extent of the success of Spanish friars in converting natives to Christianity depended not necessarily on the ingenuity of friars but on the acceptance and preservation of indigenous elements and practices.

Both epic and institutional histories have thus focused on the Spanish side of conquest and have largely accepted official interpretations produced by colonial institutions and conquerors, overlooking indigenous society. Such approaches to the history of colonial Latin America also disregarded those Spaniards who fell outside of their contemporary categories of historical subjects. Excluded from such epic and institutional histories were the workings of the Spanish colonial project beyond the most visible levels of religious, royal, and civil leadership. Not until researchers began widening


19 Robert Ricard, The Spiritual Conquest of Mexico, 162-64.

20 For in-depth analyses of the origins and uses (especially in dominating or conquering new regions with sedentary populations) of encomienda as well as the Church’s common practices and strategies in establishing parishes (also when dominating or aiding in the conquest and conversion of sedentary populations) see, for Mexico, Charles Gibson, The Aztecs Under Spanish Rule; Lesley Byrd Simpson, The Encomienda in New Spain: The Beginning of Spanish Mexico (Berkeley: University of California Press, 1982); Harold B. Johnson, ed., From Reconquest to Empire: The Iberian Background to
the scope of their source bases to incorporate locally-produced documentation did they generate studies that gave more weight to the indigenous side of the colonial process in America.

Charles Gibson was among the first historians to examine mundane, locally-produced documentation in Mexico. In his examination of the sixteenth-century Nahua community of Tlaxcala, Gibson described the structure and functions of that community’s Indian cabildo (Spanish-styled city council). His social history of Tlaxcala’s native government demonstrated that while its structure was Spanish, its function preserved a local preconquest hierarchy and system of authority.\(^{21}\) Gibson’s work was thus groundbreaking in clearly revealing that Spanish institutions were integrated into native society, but not necessarily as a result of Spanish innovation in America, rather because of two important factors: 1) Sedentary native populations of central Mexico were traditionally organized into provincial structures not unlike those of the Spanish (Spanish: city and kingdom; Nahua: tlaxilacalli/calpulli and altepetl). As a result, Spanish institutions, the encomienda and parish, took their size, shape, and structure from preconquest institutional units. 2) The decentralized organization of colonial Spanish government could integrate local ruling systems.\(^ {22}\) As such, colonial institutions could function in varied and complex ways while preserving the Spanish framework. In a

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subsequent and broader study of Spanish-Nahua relations in the valley of Mexico, Gibson further demonstrated that indigenous states survived long into the postconquest period and continued to function as the basis for Spanish institutions, even, he speculated, in Spanish cities.\(^{23}\)

Successive scholars of colonial Mexico have continued in the tradition of Gibson, producing ethnohistories and anthropological works concerned with individual and group behavior among the natives of colonial Latin America. These social studies continue to concern themselves with the analysis of locally produced sources, including notarial documents, censuses, last wills and testaments, tribute accounts, town and city ordinances, and parish records (e.g. baptisms, marriages, deaths) to examine cultural relations between indigenous and non-indigenous populations. Woodrow Borah, Sherburne Cook, and Lesley Byrd Simpson, for example, analyzed tribute surveys and censuses to produce a series of demographic studies for central Mexico that clearly connected European disease and regional economic factors with fluctuations in indigenous populations.\(^{24}\) Through examination of documentation generated by natives in Oaxaca, William B. Taylor produced an agrarian study of indigenous land holding patterns. His work revealed that rural indigenous polities retained ownership and authority over their communal lands throughout most of the colonial period. Taylor’s study also demonstrated, for Oaxaca, that the Spanish *hacienda* (estate) was not the massive estate described by seventeenth and eighteenth century’s travelers; rather haciendas were significantly smaller, scattered,

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\(^{23}\) Charles Gibson, *The Aztecs Under Spanish Rule*.

\(^{24}\) Sherburne F. Cook and Woodrow Borah, *The Indian Population of Central Mexico, 1531-1610*. 22
and not as economically stable, changing owners frequently. Locally produced documentation thus provides a less opaque window into colonial society; however, the study of the history of indigenous peoples has, since the 1970s, been augmented by the adoption of an interdisciplinary school of thought and study known as the New Philology.

Most closely associated with James Lockhart, the emphasis of the new philological method to approach more closely the history of colonial indigenous cultures is the study and translation of native language documents. The new philology’s promotion of work with native language sources has vastly expanded our knowledge and understanding of indigenous culture but has also revealed that there is yet much work to be done. The historiography is steadily growing with studies that analyze native language sources. The difficulty of learning one or more colonial dialects of a contemporary indigenous language is great. Not only are there linguistic hurdles to overcome, but one must also invest a significant amount of time in transcribing and translating newfound native sources. Yet the growing body of works that employ native language sources in their analysis of colonial society are a welcome and much needed contribution to the historiography. James Lockhart’s rigorous study of the Nahuas of central Mexico is a prime example of the new philological approach to the ethnohistory of Mexico. Lockhart produced a revisionist history of Nahua society and culture via focused research and work with the bulk of the extant and available Nahuatl records for the valley of Mexico, from the 1540s through the

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27 James Lockhart, *The Nahuas After the Conquest*.
eighteenth century. His concerted analysis of Nahua society and language revealed also a three-stage process for tracking cultural change by tracing linguistic evolution, from conquest at the beginning of the sixteenth century to the mid-seventeenth century to the present day.28

Beside the work by Lockhart, there are additional important studies that exemplify the use of sources written in Nahuatl.29 Linguistic centered analyses by Jane Hill and Kenneth Hill demonstrated that the process of linguistic convergence between Spanish and Nahuatl, from postconquest to the present, can be directly linked to the formation of ethnic identity.30 Language oriented studies can thus also address the process of cultural change as reflected in changes in the use of language. Recent linguistic-anthropological work by Jonathan Amith on Nahuatl speaking natives of colonial and contemporary Guerrero, Mexico, demonstrates the significance and impact of geographical space not only on the history, political economy, and culture of individuals and communities but also on their language.31 Within the field of history, Susan L. Cline and Caterina Pizzigoni translated and examined Nahuatl testaments from Culhuacan and Toluca, respectively,

documenting the ordinary lives, the adoption and manipulation of the Spanish written testament, and inheritance practices among Nahuas.  

Further exemplifying the historical and analytical value of consulting native language sources, researchers have consulted sources written in different indigenous languages to continue to add complexity to our general understanding of past civilizations. Lisa Sousa examined Nahuatl and Mixtec (indigenous language of natives in Oaxaca) litigation to explore indigenous gender relations in colonial Oaxaca.  

Sousa found that male-dominated gender relations among the natives of colonial Oaxaca were organized around a system of complementarity, not patriarchy. That is, contributions from both males and females were important and necessary for the survival of the whole, be it household or community. Kevin Terraciano produced a pioneering study on the Ñudzahui (Mixtecs) of colonial Oaxaca. Terraciano analyzed a large corpus of newly discovered Mixtec writings and was able to assess changes and continuities in Mixtec community organization, social stratification, land tenure, religion, and ethnic identities. For the Yucatan Maya, Nancy Farris’s work with Maya language documents and calendars revealed that pre-Columbian Mayan society was familiar with the mechanisms of conquest employed by the Spanish in that they were similar to those of the Mexica. As a result, the Maya readily integrated with Spanish conquerors and their socio-political institutions. Moreover, the integrative experience of the Maya permitted Mayan practices and

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interpretations of social and cosmic order to remain dominant customs in the Yucatan throughout the colonial period.

In all, the new philological approach, inspired by the work of Gibson and spearheaded by that of Lockhart, led to the production of a significant number of ethnohistories that give valuable and detailed accounts of the complex lives, cultural structures and practices, and linguistic changes of colonial indigenous populations. But, the focused approach of this research on work with native language documents has, arguably, left outside of the historiography those indigenous communities that did not produce written documents in a native language. How can we acknowledge *indianness* (for lack of a more appropriate term) and its attendant social characteristics among Indian individuals and communities who did not deploy an indigenous language on the written record? Can we speak to distinct indigenous culture and community even when their voices are in Spanish? Answering this last question is of particular concern for this study, an examination of a late colonial population who was clearly urban but whose multilingualism has hidden their Indian designation in earlier studies.

While native language based histories have contributed and continue to contribute to our understanding of native culture under Spanish colonial rule in America, such studies cannot always speak directly to the historical experiences of the bilingual and multilingual natives who did not deploy an indigenous language on the record. Of crucial importance to a continued understanding of Spanish domination and indigenous presence in colonial Mexico is to acknowledge that the practical use of Spanish on the record by natives should not always be understood as a sign of Hispanization. Speaking more than one

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language, this study contends, is part and parcel of living more than one culture or identity. The urban Indians of late colonial Mexico City were simultaneously natives of their barrios and mainstream residents of the city, and not necessarily a mixture of the two.

In the vein of social inquiry into urban Indian populations, researchers also have been investigating a variety of other social constructs, including family, gender, and women. Their investigations examined locally produced documentation in Spanish and, when available, in native languages. The study of the colonial family has thus undergone a dynamic trajectory parallel to that of the study of Spanish-native relations. Initially, scholars uncritically accepted prescriptive literature, produced primarily by religious personnel, or the superficial impressions of foreign travelers as accurate descriptions of colonial familial relations. As a result, initial writings on the family described its organization and relations as static and rigidly hierarchical. Women and young men were depicted as subordinate to adult male authority, with no individual legal or economic statuses, and as deriving their identities from a patriarch, either father or husband. A more recent generation of gender social histories has diversified not only their source bases but also their analytical frameworks for understanding colonial gender norms and relations. The development of works on gender, family, and women demonstrates that gender theory is at times at odds with the social conceptions of gendered social relations that were negotiated daily in the mundane activities of everyday life in Spanish America.


A primary and related theme that emerges from the exploration of family and gender relations in colonial Latin America is the position and role of women over the course of conquest and coloniz... through statistical and scrupulous analysis of dowries and wills, Asunción Lavrin, Muriel Nazzari, and Edith Couturier revealed that colonial women actively and strategically inherited and bequeathed properties. Subsequent work by Couturier on elite families further demonstrated that colonial women functioned as heads of households, ran family businesses, entered into their own business ventures, and managed their personal estates. In an exhaustive study of ecclesiastical and civil court records on marriage, Patricia Seed debunked long held notions about marriages arranged by fathers as a norm in Spanish America. Rather, young Spanish men and women actively engaged in contracting marriages or disputing nuptial agreements, with strong support from institutions such as the church and their communities. Significantly, Seed’s work also challenged presumptions over the inherent stability of gender roles in colonial Mexico by documenting a late colonial increase in the authority of husbands and fathers over their wives and children and in arranging marriages. From analyses of Inquisition records pertaining to witchcraft, Ruth Behar and Martha Few demonstrate that Spanish households were interethnic domains where Spanish men and women not only relied on the domestic labor of indigenous, black, and racially mixed

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39 Seed, Patricia. *To Love, Honor, and Obey in Colonial Mexico.*
women, but also sought remedies to sexual, familial, and community conflicts through the sorcery of these women.\textsuperscript{40} Research by Kathryn Burns, Luis Martín, and Susan Soeiro on women in convents has illustrated the independent and active roles of religious women within their local economies.\textsuperscript{41} Read side-by-side with the histories of non-cloistered women, the actions of nuns do not seem extraordinary but rather typical of that of colonial Spanish women. Work by Ann Twinam on honor and illegitimacy has reconstructed colonial systems of public and private social statuses and demonstrated that both men and women actively participated in defending their own honor as well as that of their family and peers.\textsuperscript{42}

Recently, work by Kimberly Gauderman and Chad Black on Spanish, indigenous, and mixed-race women of Quito, Ecuador has systematically challenged the patriarchal paradigm and replaced it with decentralization, the characterization of colonial Spanish culture as consistently working to undermine attempts at the consolidation of centralized positions of power.\textsuperscript{43} This decentralization, Gauderman and Black contend, marked relations between men and women at all levels of society, while ensuring flexible authority and social stability.


In all, the lengthy and diverse historiography of gender, women, family, and marriage for colonial Latin America reveals the complexity of gender relations and their relationship to structures of governance. As a whole, the details of colonial life that these studies reveal challenge the usefulness and universality of metahistorical models, in the study of gender, inheritance, family, and community relations in Spanish America. Yet, both newer and older works on gendered social relations for colonial Latin America continue to rely upon such paradigms.\textsuperscript{44} There are, of course, exceptions to this larger historical trajectory, exceptions which have influenced the methodological approach of this study.

Pilar Gonzalbo Aizpuru, whose work on the colonial Mexican family guided preliminary research for this study, has extensively researched colonial Mexican notarial records to substantiate the idea that family constructions and cultural practices are products of the unique cultural attributes of a given society.\textsuperscript{45} Thus, the diverse Mexican families of the colonial era deserve treatment within their own social environment. For this study, the urban context of Mexico City’s indigenous population is understood to be one characterized by a decentralized system of bureaucratic and legal authority. The literature on early-modern Spain and colonial Latin America corroborates the extent to which, at least during the Habsburg period, the prevailing system of rule was hierarchical in theory and as prescribed by law but operated in a decentralized manner through a

\textsuperscript{44} For example see, Bianca Premo, \textit{Children of the Father King: Youth, Authority, and Legal Minority in Colonial Lima} (Chapel Hill: University of North Carolina Press, 2005), which holds that patriarchy provided the organizing principle and legal framework for the whole gamut of social relations mirrored on the legitimate position of the “Father King.”

\textsuperscript{45} Pilar Gonzalbo Aizpuru, \textit{Familia y orden colonial.}
system of competing jurisdictions, contradictory laws, and special privileges. It is this bureaucratic landscape that served as the context within which colonial social relations were performed. However, by the late colonial period, the norms that defined gendered social authority for colonial Mexico had changed, or so contends the current historiography on colonial Mexico. This study demonstrates that while gender norms and relations may have been changing in the late colonial period, they were doing so in structures and practices that differed between the indigenous and non-indigenous populations of late colonial Mexico City.

In sum, the tremendous work on colonial relations between indigenous and non-indigenous populations is well complemented by an analysis of indigenous systems and practices of gender, law, and authority in an urban center. It is the historiographical aim of this study to enhance the general understanding of how the complex legal, authoritative, and gendered experiences of the indigenous who cohabitated a city with Spaniards, in more ways than just neighborly, helped shape the history of Latin American culture and society. It is also the historiographical aim of this study to contribute to the growing number of studies on the urban indigenous of colonial Mexico and to the yet smaller number of studies on the indigenous communities of capital cities in Spanish America.

Moreover, most studies of urban relations focus on indigenous communities in the early colonial period and overlook the indigenous populations of the late colonial period in favor of a focus on the mestizo (person of mixed Spanish and indigenous descent).

Although the body of work on the urban Indian highlights the significance of his presence in urban settings, this corpus tends to focus on the disappearance or continuity of pre-Columbian and early colonial native practices rather than their maturity. This study, in contrast, explores late colonial cultural and customary practices of those indigenous who lived, bequeathed, carried out illicit affairs, litigated, and wielded authority at the heart of Spanish rule. This work is one contribution to moving the general discussion on indigenous populations from a focus on Spanish acculturation toward acknowledging the impact of indigenous groups on the development of local authority, law, and gender relations in an urban setting.

**Urban Indian Scholarship**

A very general prejudice exists …that an exceeding small number of the copper-coloured race, or descendants of the ancient Mexicans, remain at this day. The cruelty of the Europeans has entirely extirpated the old inhabitants of the West Indies. The continent of America, however, has witnessed no such horrible result. The number of Indians in New Spain exceeds two millions and a half, including only those who have no mixture of European or African blood. What is still more consolatory, and we repeat it, is, that the indigenous population, far from declining, has been considerably on the increase for the last fifty years, as is proved by the registers of capitation or tribute.47

Alexander von Humboldt, about New Spain and its cities, c. 1803

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México colonial, siglos xviii y xix,” in Felipe Castro Gutierrez, ed. Los indios y las ciudades de Nueva España (Mexico City: Instituto de Investigaciones Historicas, UNAM, 2010).
Historians have traditionally paid scant attention to the indigenous peoples who resided in cities of Spanish America and the impact and influence of these populations on colonial rule. John Chance once argued that the lack of concerted historical studies on the urban indigenous of Spanish America has made this group “the least understood and most neglected” in colonial society.\textsuperscript{48} The vast majority of the literature on colonial Mexico addresses the impact of colonial rule on indigenous populations in peripheral zones. Recent scholarship has made significant progress in speaking to the history of urban native groups during the colonial period. These works have used Spanish language sources and native language sources, when available, to highlight customs and practices unique to indigenous peoples residing in urban spaces. Such studies have also noted the ability of natives to adapt to changes introduced by Spaniards in land tenure, law and legal practices, language, and labor, religious, and political systems to conclude that after two centuries of adaptation, urban natives had become well acculturated, if not almost completely assimilated, to the Spanish cultural mainstream. A concern for finding signs or markers for the persistence of pre-Columbian or early colonial indigenous practices has omitted, however, a more nuanced understanding of the changes in the colonial development of indigenous culture. While recent studies have begun to address Chance’s call for an increased focus on the city Indian, fewer works direct their research inquiries


\textsuperscript{48} John K. Chance, “The Urban Indian in Colonial Oaxaca,” 604.
toward the urban natives of the late colonial period.\textsuperscript{49} In spite of the high concentration of indigenous persons who permanently and seasonally resided in late colonial urban centers, this omission is best attributed to methodological constraints.

Primary among a short but significant list of constraints is the near disappearance of native language sources for the urban Indian of late colonial Mexico City. By 1700, as Susan Kellogg aptly traces in her work on the natives of Mexico City, Nahuatl had significantly fallen out of use. Employing litigation over land, Kellogg clearly demonstrates that the use of written Nahuatl in legal disputes had become a textual source or signal of indigenous identity in the city.\textsuperscript{50} By the end of the seventeenth century, however, the use of Nahuatl in litigation significantly diminished, denoting the cultural “transformation” of Mexico City’s indigenous population, and thus also denoting the success of the Spanish cultural hegemonic project.

Such conclusions have also been the result of other methodological constraints, such as the tendency to focus on the social integration of indigenous into the malleable and fluid social structures of the Spanish. While such approaches have shed light on the agency of indigenous, African, and Asian populations in integrating into and influencing the structures of Spanish culture and ruling systems, these approaches have ignored the possibility of such groups to live both an integrated identity as well as an African identity or Asian identity or, in the case of this study, an indigenous identity. Recent works, such as that of Marisol de la Cadena for Peru, demonstrate the changing meanings of race, as articulated within localized social factors (such as class, gender, and ethnicity), for the

\textsuperscript{49} See for an example of a recent, exhaustive study of an urban indigenous population of colonial Mexico Dana Velasco Murillo, “Urban Indians in a Silver City, Zacatecas, Mexico, 1546-1806,” Ph.D. Diss., Department of History, University of California, Los Angeles, 2009.
eighteenth, nineteenth, and twentieth centuries. Her analysis of the terms mestizo and *mestizaje*, referring to the process of the biological and cultural mixing of persons of European and indigenous descent, lend voice to the ability of groups and individuals, especially indigenous, to identify and be identified in one category or another depending on local contexts.\(^{51}\) In the case of late colonial Mexico City, where the non-elite populations are usually treated as a conglomerate of lower or plebian classes, there is evidence that they too lived multiple identities.\(^{52}\) If language is a marker of identity, then as James Lockhart has argued, there is yet much work to be done on the “silent hero” of Spanish America, the bilingual Indian.

The elusive nature of indigenous people in the available historical sources and the assumptions that natives rapidly integrated with non-indigenous populations provide some explanation for the lack of interest in Mexico City’s late colonial and early national urban Indians. In addition, the indigenous communities of Mexico City in particular did not resemble those of its preconquest or early colonial past nor did they resemble their contemporary but rural ethnically homogenous communities. This is perhaps the most prominent reason why this study one of only a very few its kind to be focused specifically on the late colonial indigenous peoples of Mexico City.\(^{53}\) Another study, by Luis

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50 Susan Kellogg, *Law and the Transformation of Aztec Culture*, 42.
53 Two recent studies on the indigenous populations of Mexico City focused their temporal inquiry to the sixteenth and seventeenth centuries, but noted that the lack of documentation available for
Fernando Granados, is also a recent examination corroborating one of the general findings of this work: The indigenous residents of late colonial Mexico City were a vibrant and viable sector of the city’s population. Ultimately, by charting the development of urban indigenous authority, legal practices, and gender relations for the late colonial and early independence era, this study aims to contribute to the growing field of urban indigenous studies while furthering a more nuanced understanding of the dynamics of cultural change.

Sources and Methodologies

Scholarship on the city has focused primarily on the activities of Spaniards and early colonial (1521-1700) native communities, ignoring the city’s indigenous populations in the later colonial period (1700-1810), or briefly discussing their presence as a class of “plebeians,” rather than examining the survival of distinctly indigenous populations alongside other ethnic groups. This study addresses this omission by utilizing a variety of sources from local and national archives in Mexico, Spain, and England to analyze how urbanization at the center of Spanish imperial rule impacted local systems of authority and the gendered cultural traditions of Mexico City’s indigenous communities. This study addresses the significance of an indigenous presence in an urban setting to mainstream urban society and to the dynamic processes of cultural change in late colonial


and early national Mexico City. To do so, this dissertation engages the historical consensus on the disappearance of the indio in Mexico City, in favor of the mestizo, by the end of the colonial period. Through analysis of the variety of sources available in which indigenous persons are involved, this study analyzes the nature and continuation of native systems of authority, from the Bourbon period through the first decades of the national era, in Mexico’s most important administrative center.

The research for this study was focused on the relationship between local systems of authority, law, and gender relations among the indigenous populations of the late colonial and early national periods of Mexico City. Utilizing sources in Spanish and Nahuatl, the central Mexican indigenous language, this study contends that through the end of colonial rule, indigenous legal and social practices resisted full consolidation by Spanish authority. Indigenous men and women of all social ranks effectively used both Indian and Spanish legal systems as well as their own property rights to mitigate domination by an increasingly aggressive and invasive state. The activities of natives are thus analyzed in the context of shifting ideologies of governing authority and through criminal and civil proceedings, notarial records, parish registries, censuses, and legal and ecclesiastical commentaries intended to guide judicial practice in the eighteenth centuries. Work with this combination of sources reveals that the natives of Mexico City inherited, bequeathed, loaned, and otherwise controlled property, carried out daily market activities, engaged in sexual relationships, and used native judicial systems of authority to pursue or defend their interests against each other and against the non-indigenous persons in their lives.
Excepting this introductory section, each chapter of this dissertation is based on a specific type of source. Chapter three is focused on an examination of litigation files over adultery; chapter four examines litigation, notarized records, and petitions for lands; and chapter five examines criminal records involving local indigenous leaders. Turning specifically to the methodology of this study, it will only be noted that litigation files were read in conjunction with Spanish laws and legal commentaries, that property disputes were analyzed and compared with Spanish law and preconquest indigenous practices, litigation from 1810 through 1829 was re-read keeping in mind Mexico’s independence struggles (which is only on rare occasion referenced, and only in passing on those instances), and lastly the roles and functions of native leaders was examined in conjunction with all of the above and as legitimate authority figures within the complex network of local and competing systems of authority with the modern city of Mexico of the eighteenth century. This study can thus be justly described as historical archival with a specific focus on locally produced documentation in Spanish and Nahuatl. Through detailed reading of the language in these varied, locally produced Spanish and Nahuatl language sources, indigenous and Spanish attitudes and practices pertaining to legal customs, local authority, and gender relations are examined.

The majority of documentation consulted for this study is housed in Mexico’s Archivo General de la Nación (AGN, National Archive). Additional materials were consulted at the following archives in México, as noted throughout this study: Archivo Histórico del Arzobispado de México (Archive of the Archbishopric of Mexico), Archivo Histórico del Cabildo Eclesiástico de la Catedral Metropolitana (Historical Archive of the Ecclesiastical Council), Archivo Histórico del Distrito Federal (Historical Archive of
the Federal District of Mexico), *Biblioteca Nacional de México* (National Library of Mexico), and *Biblioteca Nacional de Antropología e Historia* (National Anthropology and History Library). In Spain and England, colonial Mexican documentation was consulted at the *Archivo General de Indias* (General Archive of the Indies) and the British Library, respectively.

The AGN provided the majority and the richest documentation examined for this study. The colonial litigation analyzed for this project is archived within the AGN’s collections of *Civil, Criminal, Indios, Ordenanzas, Bienes Nacionales*, and *Tierras*. Civil and *Criminal* collections hold proceedings pertaining to penal matters and civil disputes heard by the Royal High Court (*Audiencia*) in Mexico City. The section *Indios*, among its many collections, contained records of legal proceedings brought before the viceroy by indigenous persons. Documents from *Ordenanzas* helped contextualize litigation case details, for they were the orders and dictates of the Spanish monarch and viceroy for a variety of local legal affairs. For this study, such dictates were often more useful in confronting the disparities between legal prescriptions and the legal practices evidenced in the rhetoric within litigation files. The section *Bienes Nacionales* held only a small number of criminal proceedings that directly involved natives as primary litigants. Though natives do appear prominently as seekers of licenses to wed, such entries contain names and ethnicities but are inconsistent with designations of places of origin or residence. As such, it was unclear of where the majority of those persons designated “indio” were residents. This section, however also contains denunciation and litigation files of cases heard before the ecclesiastical tribunal, to which natives were subject. The *Tierras* records collection held exceptionally useful documentation; it is comprised of colonial and contemporary
records of land ownership and disputes over properties. This section of sources is one of the largest available for the study of the natives of colonial Mexico and includes thousands of files, of which only seventy-eight proved to be relevant to this late colonial study.

In the process of the creation of the vast documentation now held within the aforementioned sections of the AGN, notaries and legal clerks recorded names, ethnicity, gender, place of residence, origin, marital status, family lineage, and occupation for almost all persons who came before any one of the multiple legal institutions present in colonial Mexico City (as witnesses, defendants, or plaintiffs). By the eighteenth century, and definitely after independence, such information and classification of individuals on the public record diminished significantly. As a result, it was only after careful, detailed, and especially multiple readings of archival materials for this study that the city’s indigenous population finally appeared. Like searching for a needle in a haystack, finding a reference to a litigant’s lack of fluency in Spanish or, even more disguised, a slight margin note declaring that the person before the notary did not need an interpreter, finding the natives of late colonial Mexico City proved a difficult challenge, though not an impossible one.

Overview of Chapters

In addition to this introductory section, this study is comprised of a chapter on the methodological approaches, both gendered and legal, of this work as well as three chapters that analyze the quotidian affairs among the natives of Mexico City. Chapter two outlines the structures of governance in Tenochtitlan, Viceregal Mexico City (from Hapsburg to Bourbon), and Mexico City, the capital of the newly independent nation of
Mexico. This chapter traces the historical relationship between laws (or structures of governance), and legal culture (or competing systems of local authority) in Mexico City while also analyzing the connections between that relationship and gender norms. Thus, gender, law, and authority form the pillars of analysis for this study of indigenous culture in order to contextualize the development of social relations among the urban indigenous of eighteenth-century Mexico. The second aim of chapter two is to separate the analysis of gender, law, and authority from deterministic and essentialist paradigms such as patriarchy. This chapter does not argue that the realms, or spheres, of domination implied by the patriarchal model did not exist in colonial Mexico. Rather, distinguishing this study’s analysis from that of such a paradigm serves the purpose of proposing that the theorization of similarly charged concepts (e.g. colonialism and absolutism) be driven by historical realities, instead of permitting such theories to drive the analysis. The third, and ultimate, aim of chapter two is also to explain the approach and contribution of this dissertation to an understanding of the urban and multilingual Indian of late colonial Mexico City.

Chapter three begins to address the historical realities of the indigenous of the city through examination of all extant and available documentation pertaining to marriage. This chapter focuses its analysis of law and gender on litigation over adultery and domestic violence that involved natives of Mexico City as the primary litigants, either plaintiffs or defendants. The examination of urban native marital relations reveals a prosecutable definition for adultery different in practice from that prescribed by secular and ecclesiastical laws; one that is reflective of the practical and gendered legal strategies
employed by natives in seeking adjudication and monetary compensation for the moral and economical breaches of marital vows by their adulterous spouses.

Chapter four is an analysis of the seventy eight extant legal disputes over land involving natives. Though only a very few cases in comparison to the hundreds of legal files available for the non-indigenous population of Mexico City, the documents are rich with details over practices for proving land and property ownership that differed from the Spanish legal standard for the late colonial era. Several of the files also include Nahuatl-language last wills and testaments, evidence submitted by litigants to prove or dispute ownership of properties. While the majority of supporting Nahuatl documentation referenced or included in legal files was produced in previous centuries, sixty two testaments were commissioned by indigenous residents of eighteenth century Mexico City. Altogether, litigation over property is telling of the legal culture among the late colonial urban natives of Mexico while it also establishes a useful marker for signaling a practice unique to this population of the city.

This is a new corpus of sixty-two Nahuatl last wills and testaments, written from 1692-1806, that I have found and collected over the last few years in the Archivo General de la Nación (National Archive) in Mexico City. The native language testament represented a continuation of an indigenous oral tradition while fulfilling both religious and secular requirements of the Church and native communities. Although native testaments resembled Spanish testaments in their formula and format, indigenous notaries varied the format according to local traditions and practices. Significantly, the testament also gave communities a written, legal record of property distribution and genealogical relationships. Thus, the value of the indigenous testament for examining native practices via the transmission of properties is great. The corpus as a whole is part of a separate philological project on the natives of Mexico City. The collection is comprised of twenty-three testaments by women and thirty-nine by men while seventeen were commissioned by members of the local indigenous nobility. Indigenous women ordered the production of a significant number of these testaments, which suggests the importance of women to legal, familial, and customary practices connected to bequeathing and inheriting properties. The presence of male and female native nobles in the testaments also underscores the ethnic and gender parameters of native rule among the indigenous populations of the city. Important works on native language testaments include, Caterina Pizzigoni, Testaments of Toluca (Stanford: Stanford University Press, 2007); Mathew Restall, Lisa Sousa, and Kevin Terraciano, Mesoamerican Voices: Native Language Writings from Colonial Mexico, Yucatan, and Guatemala (Cambridge: Cambridge University Press, 2005); and Susan Kellogg and
Up to this point, then, chapters two through four speak to daily marital, economic, and social affairs reflective of a system of gender relations and a legal culture unique to the indigenous population of eighteenth-century Mexico City. It is in chapter five that the preceding chapters and their arguments are brought together as the study turns to the analysis of twenty-eight legal cases (over a wide variety of crimes, including adultery, divorce, domestic violence, vagrancy, insubordination, and homicide) that specifically involve local indigenous leaders, caciques and cacicas. The chapter focuses on a detailed analysis of two cases whose particulars are telling of the continued presence of native leadership well into the end of the colonial period. These two cases are exemplary of the authority wielded by native leaders in the remaining corpus and specifically in adjudication of a variety of crimes committed within their jurisdictions. The legitimacy of the authority of such leaders, an authority that under late-colonial royal governance should no longer exist, was acknowledged by both natives and non-natives in the process of seeking assistance from and abiding by the decisions of caciques and cacicas.

As the final installment of this study, chapter five also functions to close the circle of analysis that began with the very general and straightforward question: Is it possible to speak of a distinct Indian population and its distinguishing cultural customs in eighteenth-century Mexico City? While the extant documentation evidences in its most discernable form the decline of an indigenous empire and civilization at the center of Spanish imperial rule in Mexico, it is in the small details that the available Spanish record likewise demonstrates the survival of local, less readily apparent, native cultural and legal structures and relations. The significant decrease in the overt identification of city natives

Matthew Restall, *Dead Giveaways: Indigenous Testaments of Colonial Mesoamerica and the Andes* (Salt
in the eighteenth century thus seemingly denotes the ultimate success of Spain’s cultural domination: the Hispanization of the Indian after only two hundred years of contact and colonization in the modern administrative capital. This study as a whole then answers that guiding question via a re-evaluation of the assumptions over indigenous cultural decline in the city as a natural consequence of urbanization. The impact of over two hundred years of urban life on indigenous populations, this study demonstrates, was not the collapse of native culture and systems of authority into Spanish dominion. Rather, as the ‘Enlightened’ political environment around them was changing, native systems of authority remained autonomous even in the heart of Spanish administrative rule in Mexico. As such, indigenous understandings and practices of gender, law, and authority were not completely wiped-out but merely evolved over the centuries and by the eighteenth century were almost completely hidden within the ever-changing social and administrative landscapes of this magnificent city.

Lake City: University of Utah Press, 1998). See also chapter four in this dissertation.
CHAPTER 2

THE INDIGENOUS CITY

For three hundred years, Mexico City was the capital of the viceroyalty of New Spain, an expanse of territory that stretched from Central America through the present-day U.S. Southwest. After the perilous but short-lasting military siege of Tenochtitlan, the former Mexica (Aztec) capital city was designated by Hernando Cortés as the site for a Spanish-styled city in this newly conquered terrain of the New World. Within a generation, Mexico-Tenochtitlan would be transformed from the center of Nahua government, religion, and commerce to the most important center of administrative rule in Spain’s American kingdoms. Initially a city of two indigenous parcialidades and one Spanish traza, by the eighteenth century, Mexico City retained only by prescription the original subdivisions as the city had undergone a dynamic process of growth and change. That process, however, was marked by the combination of a growing population and the reformative efforts of the new Bourbon monarchs that created tensions among non-indigenous institutions—allowing native systems of authority to continue to function at community levels, but now virtually omitted from the records produced by the late colonial reformed, but tension-filled, set of Spanish institutions.
Approaching the Indigenous City

Attempting to figure out how that natural and dynamic process of cultural change had affected the lives of natives who resided in the city was initially the driving force behind the product that is this dissertation. In particular, the initial concern of this study was to contribute to the extant historiography on the natives of Spanish America a deeper understanding of the family. The hope was to be able to take a closer look at native family structures and relations in order to, ultimately, also contribute to the historiography on the Mexican family, adding another level of complexity to it. This basic prospectus for a dissertation study made the examination of a variety of locally produced archival sources a requirement. Specifically outlined as crucial to consult were notarial records (testaments, property inventories, business contracts) and litigation files over crimes pertaining to the family (e.g. adultery, domestic violence, divorce, child support, and inheritance disputes). While this initial project was inspired during preliminary research trips to Mexico City, early work could not have foretold the series of constraints that were to plague this project following one seemingly minor temporal change, from seventeenth- to eighteenth-century Mexico City.

Intrigued by questions left unanswered within the scholarship on the colonial Mexican family, research for this dissertation was thus initially focused on consulting those sources which contained the details for constructing a social history on the sixteenth-century Mexican family. As the century immediately following contact with the New World, the sixteenth century was an influential period for the social, political, and economic constructs of the colonial and modern Mexican family. However, a study of the
family of Mexico City that gave equal consideration to indigenous and Hispanic cultural processes had yet, in my opinion, to be undertaken. Of specific interest was the extent to which the Mexican family reflected the mixture of Indian and Spanish cultures. Thus, the guiding research question was not an inquiry into the agency of natives in adapting and manipulating Spanish familial forms and relations to fit their needs. Rather, the research question was much more simple and direct: How “indian” was the sixteenth century Mexican family?

When it comes to the history of the Spanish American family, scholarship has consistently employed European family models to analyze the colonial Mexican family. As outlined in the Introduction to this dissertation, studies have included analyses of records pertaining to marriage, sexuality, bigamy, witchcraft, and domestic violence. Such documents can provide insights into the political, economic, and social organization of Spanish-American and urban indigenous family structures, but the use of European models of the patriarchal family, in which gender is the primary determinant of social status, has dulled such insights. As a result, analysis of the colonial Spanish American family has tended to be overshadowed by other-European forms and relations of the familial structures. Likewise, analysis of the complex household and family structures and relations of the central Mexican indigenous populations who resided in cities has also been overshadowed by European family models but also as a result of a preference for analyzing the European-like transformations of native families.

My initial study therefore sought to open up the definition of the colonial Mexican family by including analyses of indigenous and early-modern Iberian family structures and by not depending on the oft-employed patriarchal model in the examination. A primary
goal was to understand the organization of power and authority within the Indian-Mexican family of colonial Mexico City. Another goal was to be able to speak to the Indian-Mexican family’s connections to the local economy, political systems, and social networks. The third goal was to earmark any signs of the persistence of pre-Columbian indigenous cultural practices in the sixteenth century Mexico City family in order to collect a series of cultural and occupational family practices that distinguished the family of colonial Mexico City from its non-urban and European counterparts.

After months of preparing a research prospectus on the early colonial Indian-Mexican family, I was eager to begin full-fledged research for a project that was surely to be a contribution to the field. I began exploring sixteenth century criminal records, intending to use crime as a window into marital as well as social and gender relations. But because my goal was also to open up the definition of the colonial family, I also began exploring criminal records produced by royal and Indian authorities of Mexico City, focused specifically on documentation written in Nahuatl. The documentation was extensive and richly-detailed, but I could not help to wonder how late colonial changes in the jurisdictional, ecclesiastical, and physical landscape of the city affected the Indian-Mexican family.

Had eighteenth century Bourbon administrative changes affected family structures and relations in the city? The vast literature on Bourbon Mexico and Mexico City speak to parish and civil district reorganizations, an increase of secular clergy and an overall decrease in the power of the Church to enforce its norms, the development of additional levels of authority with powers of adjudication, and, generally, a tendency of centralizing authority in peninsular crown representatives. The dense list of Bourbon reforms had both
political and economic effects, but so too did they affect social practices. This overall
dynamic landscape is what made the eighteenth century a much more attractive period
within which to examine the relationship between institutional structures and social
structures and relations. Thus, only very little encouragement was needed for the decision
to switch temporal focuses to be made. So, as of January 2007, I was finally working full
time at the Archivo General de la Nación (AGN) in Mexico City, on a late colonial
project. I was to spend approximately ten months working with the collections of records
from the viceroyalty era of Mexico housed in the AGN’s Gallery 4. The only scheduled
breaks in research at the national archive and other archives in the city took place in the
summer months of 2007 and 2008. Those summers were spent in Zacatecas, Zacatecas
studying Nahuatl with John Sullivan at the Macehualli Institute of Lanugage, a language
research institute of the Universidad Autónoma de Zacatecas (UAZ).

Day in and day out, I would make the trek from the San Lazaro subway station to
the AGN, walking alongside the ever noisy and busy Eduardo Molina Boulevard. That
trek would take me past the park that many younger and older Mexicans called home,
across the bridge under which flowed the “black waters” (sewage) of the city, to the
tamaleros (kind, older gentlemen who sold tamales) on the corner of Edo Molina and San
Juan Tomatlan, arriving at the “palace” that houses the national archive just one block
later. The Palacio de Lecumberri, Mexico’s federal penitentiary inaugurated under
President Porfirio Díaz and holding convicts until 1976, became home to the national
archive in 1980. Known as the “black palace” for a variety of unsavory reasons, it is at this
locale that I held myself captive from 9am to 4:45pm, Monday through Friday.
For most of January 2007, while at “work,” I sat at one of the massive, wooden tables of that fourth and extremely cold gallery—the temperature in that galleries of the AGN do not change much from season to season. Having reviewed available databases, the work for that month was to consist of reading and taking notes (and perhaps requesting photocopies—a lengthy and bureaucratic process, which recently has been reformed, only matched by the snail’s brevity of the Hapsburgian bureaucracy of this same city but a few centuries earlier) on a sampling of the extensive and varied list of sources I had compiled on crimes, ordinances, and ecclesiastical and legal commentaries pertaining to the family. I read, noted, submitted photocopy requests, re-organized notes, and continued to add to the ever growing list of sources to consult. Then, from one moment to the next, that work momentum came to a halt. Like all other days that month, I was sitting and working—with facemask firmly in place, latex gloves on my hands, registration badge around my neck, laptop plugged in, funding in the bank, and the desire to read archaic documents for hours—reading through a volume of eighteenth century papers. I was captivated by the adultery case I was reading, specifically by the variety of ethnicities referenced in the case (mestizo, mulatta, español, etc.), but not a single, clear reference to an “indio” or “india” in sight!

Demographic Evidence of an Indigenous City

In preparing for research at the AGN, searching through the archive’s grand database of sources, Argena, was the first step. The database is quite exhaustive and is periodically updated with newly catalogued collections. Yet, it is rumored that the national archive has hundreds of thousands of folios still unsorted and un-catalogued in its vast
basement vaults—per conversations with archivists and other archive staff. What that documentation will tell about society in the viceroyalty may be the task of future generations of scholars. Still, the available and catalogued documentation in the national archive is searchable, allowing researchers to readily compile extensive lists of sources to consult.

In this manner, litigation, notarial, and parish sources were organized into a grand list for the purposes of approaching an understanding of indigenous life in the late colonial viceregal capital. Given the general consensus in the historiography on the ethnic composition of the populations of Mexico City, the Argena searches for this study were initially hunts for eighteenth century sources on crimes pertaining to the family. If the native population was more or less indistinguishable from its plebian, non-indigenous, and Spanish city neighbors, then perhaps, as it was theorized for this study, the lack of search results with the keyword “indios” made complete historical sense. Since the dissertation project was no longer a sixteenth century study, but rather a late colonial investigation, then exploring the lower classes of eighteenth century Mexico City ought to be the required task. In this manner, my reading of the sources and the resulting trends regarding gender relations and legal practice would speak to both indigenous and non-indigenous customs. That is, if natives were so much a part of the late colonial mainstream (i.e. ethnically indistinguishable from their modern context), then there was no need to separate files by race—I could ultimately speak for the popular or plebeian classes of the city, to which the natives belonged anyway.

While the above logic sufficed for about one month’s worth of research, it became problematic when a variety of ethnic labels continued to appear in the files. It appeared
that if this dissertation was going to be a study on the city Indians of the late colonial era, there had to be at least some direct reference to this population. Yet, keyword searches using ethnic labels, such as “indio,” “india,” “natural,” “ladino,” or related terms, such as “barrio,” “nahuatl” (or “mexicano” as the language is often referred to), “cacique,” “cacica,” “topile,” etc., resulted in very, very few hits for the eighteenth century. Those few results would ultimately lead to a much heftier corpus of documentation that clearly designated Indians as primary participants in their creation, most of which have been analyzed for this dissertation.

But before drawing any conclusions about the native population through analysis of a significantly small corpus of documents – in comparison to the thousands available for the non-indigenous population of the city – their physical presence in the city first had to be assessed. A source on the Nahuas of central Mexico is, of course, the great work by Charles Gibson, *The Aztecs Under Spanish Rule*. His examination of tributary records for both of Mexico City’s indigenous *parcialidades* rendered an intriguing analysis of native presence in the city.\(^56\) Figure 2.1 is a reproduction of Gibson’s table in which it is clear that the indigenous population of the city underwent the same demographic trends established by the work Sherburne Cook and Woodrow Borah: the indigenous populations suffered demographic collapse soon after conquest and by the end of the colonial period were experiencing a significant demographic growth.\(^57\) In fact, recent

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work by Luis Fernando Granados on Mexico City’s matrícula of 1800 (census of tribute paying individuals) demonstrates that the native population of the parcialidad of San Juan Tenochtitlan in the early nineteenth century was almost back up to the demographic levels of the early sixteenth century (See Figures 2.2 and 2.3).  His work, like that of Gibson, Cook, and Borah also demonstrated that initial shock to the native population, yet that numeric drop does not appear, in Granados’s work, to have been as dramatic (as depicted in Gibson’s graph, see Figure 2.1).  So, given the large and growing population of natives in the late colonial city, why then is their demographic presence in the city not proportionately represented in the extant collections of Mexico City’s archives?


Figure 2.1: Tributary Population of Mexico City, 1520-1810.
Source: Charles Gibson, The Aztecs, Figure 17, 379.
Note: The figure includes tribute-paying Indians for both parcialidades of the city: San Juan Tenochtitlan and Santiago Tlaltelolco.
Figure 2.2: Graph of the Tributary Population of San Juan Tenochtitlan. *Source:* Luis Fernando Granado, “Cosmopolitan Indians,” 176 (Graph 3.1).

*Note:* Like the graph by Charles Gibson, this graph shows the late colonial increase in the tributary population of Mexico City. Taken from Luis Fernando Granados, 176, Graph 3.1.
Figure 2.3: Growth of Tributary Population in San Juan Tenochtitlan, 1800-1810.

Source: Luis Fernando Granados, “Cosmopolitan Indians,” 179 (Table 3.2).

Note: This figure indicates the growth trend and population totals among tributaries, and perhaps also among the general native population of the parcialidad.
Reorganization of the City

The eighteenth century was a period of substantial reorganization of the administrative capital. While the aim of the new Bourbon monarchs in Spain was to centralize and make more efficient their authority throughout the empire, the result was an increase in tensions between new institutions and older institutions in Mexico City. Such tensions between ecclesiastical, civil, and royal institutions kept Spanish authorities engaged in jurisdictional disputes. The population of the city, both indigenous and non-indigenous, was growing, as discussed above, adding another level of pressure to Spanish institutions overwhelmed with growing case loads. Then, in response to the question of the disproportionate underrepresentation of the natives in the formal Spanish record, it is proposed that the combination of increasing amounts of work, a multiplication of institutions with overlapping jurisdictions, and mounting power-related tensions between new and old Spanish ruling bodies allowed for the continued function of local native systems of authority. Such native ruling entities adjudicated at the local level, not always recording their transactions, to the benefit of an increasingly overburdened Spanish system in the late colonial viceregal capital.

One of the most significant reorganizations in the late colonial city was the establishment of new parishes and cuarteles (city wards). The creation of new parishes was not only to mark a departure from Hapsburg times but to make efficient the spiritual organization of Mexico City residents. A system of thirteen city parishes was established
in 1772.  

This redesign of the city’s spiritual life was to be geographically based (See Figure 2.4). The early colonial and Hapsburgian model of having two sets of parishes, one set of *doctrinas* (religious schools) for the “Indians” of the city’s parcialidades and another set of *parroquias* (parishes) for the non-indigenous population was thus replaced by a system that was not ethnically informed. While this modern organization of religious life in the city did not take ethnicity into account, it did not remove the over 200 year-long process of former Indian parishes attending to the indigenous populations within their districts. An ethnic designation was not going to confine an individual to a distinct parish, but neither were any of the new parishes going to be, at least in theory, too concerned with identifying “Indian,” or Spanish, mestizos, mulattos, etc., as parishioners.

Following the reorganization of spiritual life was the restructuring of mainstream civil life in the city. In the early 1780s, a new system of *cuarteles* (policing wards) was established. Like the new geographically-oriented parish system, the policing wards were also organized into two sets of jurisdictions: Eight large districts (*cuarteles mayores*) and thirty-two small districts (*cuarteles menores*). In connection with the creation of the new wards was the creation of new positions of leadership: *Alcaldes mayores* and *Alcaldes menores*. The new constables had power to arrest suspects and bring them before any of

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60 The “Indian” parishes were: San Joseph de los Naturales, Santa María la Redonda, Santiago (later Santa Ana) Tlatelolco, San Sebastián, Santa Cruz Contzinco (or Santa Cruz y Soledad), and San Pablo. The “Spanish” parishes, who hosted the non-indigenous population, were: San Miguel, Santa Veracruz, Santa Catarina and the cathedral’s parish. See Marcela Dávalos, “Los planos de Alzate y el uso del espacio en la ciudad de México (siglo xviii),” *Scripta Nova* 54 (2006), available at http://www.ub.es/geocrit/sn/sn-218-54.htm.

61 Eduardo Báez Macías, “Ordenanzas para el establecimiento de alcaldes de barrio en la Nueva España: Ciudades de México y de San Luis Potosí,” *Boletín del Archivo General de la...*
the variety of available Spanish judges. The alcaldes also held in practice the ability to verbally adjudicate in disputes within their jurisdictions. Moreover, the districts of the new wards encompassed all parts of the city, indigenous parcialidades and Spanish center. In this manner, the surveillance of the city would be streamlined, as the entire city would be overseen by one Spanish institution – at least this was the aim – and authority would be centralized in the city center.


Figure 2.4: Map of México City parishes after 1772.

Source: O’Hara, “Flock Divided,” 156.

Figure 2.5: Map of Mexico City’s Cuarteles.
For all the modernizing and centralizing tendencies of the Bourbon Reforms of the late colonial era, it is not surprising that the most direct target of the Bourbon project was the cabildo (ayuntamiento or city council). With the redesign of the ecclesiastical parishes and the creation of cuarteles, it would appear that the Spanish city council would have benefitted with an extension of its jurisdiction and authority. In actuality, however, the ayuntamiento was losing power over the city since it was the viceroy who now held ultimate jurisdiction over the new wards; and, the viceroy’s authority was direct and not via the ayuntamiento.\(^6^3\) The civil tribunal of the cabildo became less and less involved in adjudication matters by the end of the colonial period, evidenced clearly in the viceroy’s creation of an all new tribunal.

Another jurisdictional level established in the eighteenth century was that of the tribunal of the Acordada. Established in 1701 under Viceroy Francisco Fernandez de la Cueva (Duke of Alburquerque) but made effective in 1719 under Viceroy Fernando de Alencastre (Duke of Linares) Alburquerque, the Acordada held a vast and growing jurisdiction over a variety of crimes.\(^6^4\) Its establishment was for the purpose of alleviating the case load of Audiencia’s (Royal High Court) criminal court. The complex reorganization of the city into cuarteles over which royal authority was to govern and adjudicate via its tribunals meant that not only was the local Spanish city council going to be ever stripped of its local ruling abilities, but the criminal court was overloaded. An agreement, hence the name of the court, between the monarch and viceroy permitting the

\(^6^3\) Esteban Sánchez de Tagle, *Los dueños de la calle: Una historia de la vía pública en la época colonial* (Mexico City: Instituto Nacional de Antropología e Historia, 1997), 64-78.

\(^6^4\) Archivo General de Indias (AGI), México, 1667, Real Tribunal de la Acordada, Expedientes, y, México, 1668 y 1669: Expedientes tocantes al nombramiento de Juez de la Acordada, Bebidas Prohibidas y Asuntos de este Juzgado, Año de 1779.
latter to establish a set of patrolling officers with authority to adjudicate was to address the added pressures on the criminal court. For the entire late colonial era, the Acordada held judicial authority over gaming and drinking related crimes by royal decree, but in practice it adjudicated over the same wide variety of crimes heard before the criminal court.

Jurisdictionally, late colonial Mexico City experienced a legal and geographical restructuring that dramatically affected the structure and function of authority in all areas outside of the Indian parcialidades of the city. As the authority of the *ayuntamiento* was ever challenged by the centralizing tendencies of the new Bourbon rulers there arose tensions between this old institution and the new. The Acordada, established via agreement between the viceroy and the monarch in order to address the growing population and crime rates in the city, led to tensions between it and the judges of the criminal court. Both tribunals, that of the Acordada and the criminal court, held in practice jurisdiction over the same crimes. And, while all Spanish institutions became increasingly embroiled in jurisdictional disputes, the formal legal matters of the parcialidades were not directly challenged. Rather, a result of new Spanish institutions and tensions was that local native systems of authority were, for the most part, left alone to address their localized community affairs.

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CHAPTER 3

Economic Affairs: Marriage, Adultery, and Gender among City Natives

“When we united our intentions, that one and I, I believed, without a doubt, that I was going to be sheltered by a tender lover and honest husband; but my eyes were soon opened to his bad and very criminal behaviors. I realized that not only did I not subject myself to a rational and prudent man, but to a tyrant, who under the guise of Husband is nothing more than a bloody destroyer of my life.”

Maxima Guadalupe Rojas, mestiza vecina of Mexico City before barrio Alcalde

For the Indians of Mexico City, the eighteenth century marked over two centuries of adaptation, negotiation, and manipulation of Spanish social, political, and legal institutions. In this era, urban Indian men and women indicated clearly Spanish influences in their daily behavior, making the details of their activities almost indistinguishable from those of their non-indigenous neighbors. Their trial testimonies, which are the focus of this chapter, place them alongside non-indigenous persons and reveal that marital and

66 This passage reads in Spanish: “Quando unimos nuestras voluntades aquel, y Yo crei sin duda alguna me iva a avrigar de un tierno amante, y honrado Marido; mas desengañada en el pronto de sus malas, criminosismas operaciones, conosco, que no solo no me sugete a un hombre racional, y prudente, sino á un tirano, que bajo el nombre de Marido, no es otra cosa que un sangriento destructor de mi vida.” Maxima Guadalupe Rojas contra su marido, Felipe Carranza, y María Bentura Fuljan por incontinencia
gendered customs in the eighteenth century, and well into the first decades of the
nineteenth century, reflect an institutionally and socially decentralized society
characteristic of the earlier colonial era. This chapter specifically examines the presence
and participation of indigenous men and women in adultery litigation, which usually also
included denunciations over domestic violence. A collection of 306 legal proceedings over
adultery and domestic violence was compiled over a period of one year and includes all of
the available and extant legal cases on these crimes involving natives. The files hail from
a variety of the legal jurisdictions of late-colonial Mexico City (royal, civil, and
ecclesiastical) and range from 1690s through 1829. Of the total case load, seventy eight
involve only indigenous litigants (defendants and plaintiffs). These cases in which Indians
appear as plaintiffs or defendants are marked in red in Table 3.1. The remainder of the
files, 228, involves both indigenous and non-indigenous persons as the primary litigants.

As a window onto marital obligations and expectations, adultery and domestic
violence cases contribute valuable details for assessing structures through which everyday

 adulterina, Mexico City, 1804, Archivo General de la Nación (hereinafter AGN), Tribunal Superior de

67 When it comes to the elite Spanish society of Mexico City, gender norms and relations, studies
have argued, changed drastically by the eighteenth century, most likely as a result of institutional and
associated social reorganizations inspired by the French Enlightenment intellectual movement and the
politically centralizing reforms of the House of Bourbon. For examples of studies that note these changes
in gender norms and relations among the Spanish of late colonial Mexico see especially the great work of
Patricia Seed, To Love, Honor, and Obey in Colonial Mexico: Conflicts over Marriage Choice, 1574-
1821 (Stanford: Stanford Univ. Press, 1988). See also Silvia Marian Arrom, The Women of Mexico City,
1790-1857 (Stanford: Stanford Univ. Press, 1985) and Steve J. Stern, The Secret History of Gender:
Women, Men, and Power in Late Colonial Mexico (Chapel Hill: University of North Carolina Press,
1995). For examples for the Andean region see Sarah Chambers, Honor, Gender, and Politics in
Arequipa, Peru, 1780-1854 (University Park, PA: The Pennsylvania State University, 1999) and Chad
Black, Limits of Gender Domination: Women, the Law, and Political Crisis in Quito, 1765-1830
(Albuquerque: University of New Mexico Press, 2011). The latter works by Chambers and Black find
that gender relations among the non-elite were not as rigidly patriarchal, even in the late colonial and
early national eras of Latin America, as they became for the Spanish elite. The public abilities of women,
moreover, were more directly limited by liberal reforms of the new republican Latin American states.
lives were organized, especially gender relations, roles, and responsibilities. Analyzing a corpus of 306 legal proceedings, this chapter illustrates the common legal practices pertaining to marital issues among the urban population of late colonial Mexico City. It is important to note that while this chapter does not show a separate or distinct set of legal and gendered practices that distinguish the Indians of the city from the non-indigenous population, it does highlight the abilities of indigenous men and women to bring legal proceedings before Spanish institutions. Also illustrated in this chapter is the importance of economic support to the legal strategy deployed by plaintiffs in their cases against an adulterer as well as to the overall health of a marriage. Ultimately, this chapter also argues for a more complex understanding than that provided by Christian doctrine of what legally and socially constituted adultery. In doing so, this examination demonstrates that gender relations among the indigenous and the non-indigenous persons in their lives did not mirror the centralizing tendencies of the eighteenth-century Bourbon Reforms. Instead, the evidence reveals that gender relations among the non-Spanish elite were decentralized even well into the independence era.

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68 That is, all of the available and accessible case files on adultery involving Indians as plaintiffs or defendants and described as residents (vecinos) of Mexico City. A total of 306 files were accessed during the research period for this study, 2007-09.

69 The litigation records over domestic violence and those for adultery (also termed within proceedings as “illicit friendship” (amistad ilícita), “adulterous incontinence” (incontinencia adulterina) or “illicit commerce” (comercio ilícito)) consulted for this chapter come from the following series of documentation: Tribunal Superior de Justicia del Distrito Federal, Matrimonios, Civil, Criminal, Judicial, and Bienes Nacionales, housed in the Archivo General de la Nación (AGN) in Mexico City, and Justicia, Justicia y Juzgados, Juzgados Verbales, and Oficios, from the Archivo Histórico del Distrito Federal (AHDF, formerly known as the Archivo Histórico del Antiguo Ayuntamiento de la Ciudad de México) in Mexico City.
TABLE 3.1: Adultery Cases for Mexico City, 1692-1829. This table includes all examined litigation files over adultery. Many were also legal processes in which attendant family and marriage issues (e.g. economic sustenance of household, child support, and domestic violence) were considered. The files are organized by year and tribunal. The highlighted files are those which involved Indian litigants as both plaintiffs and defendants.

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<tr>
<th>Legal Complaint</th>
<th>Year</th>
<th>Tribunal (Legal Jurisdiction)</th>
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<tbody>
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<td>Alcalde – Ordinario</td>
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<tr>
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<td>1696</td>
<td>Alcalde – Ordinario</td>
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<td>Ecclesiastical</td>
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<td>1702</td>
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<tr>
<td>Divorcio por adulterio</td>
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As Patricia Seed contended in her study of disputes over marriage choice, work with colonial litigation can serve to provide information not only about institutions but also about the attitudes and values of a society.\(^7^0\) In this vein, the files upon which this chapter is based—detailed descriptions of adultery disputes recorded by notaries for the various royal, civil, and religious administrators with judicial authority in Mexico City—describe the conduct and reflect the fundamental attitudes of indigenous as well as non-indigenous persons of Mexico City. Although the language of the legal files is filtered through the requirements of the presiding legal institution, the sources are approached with the understanding that each litigant used the most appropriate, or dominant, legal argumentations available to their knowledge to achieve desired ends: be they, reunion with a spouse, curbing domestic violence, economic provisions, or freedom from jail, military service, and confinement (*depósito*).\(^7^1\) Work with adultery litigation accordingly permits the establishment of the dominant interpretations and range of conflicting interpretations of the roles of husbands and wives in marriage and men and women in adulterous relationships. In deciding on and forming their declarations, criminals, witnesses, and plaintiffs revealed the legal norms at issue as well as the social norms associated with that legal issue; in this case, the gendered social norms pertaining to marriage and adultery for colonial urban society.\(^7^2\) Litigation over infidelity, moreover, is

\(^7^0\) Patricia Seed, *To Love, Honor, and Obey*, 10-11.

\(^7^1\) To be placed in a *depósito*, literally “deposited,” was to be forcibly placed in the home and trust of a respected member of the community, usually for the duration of a trial. See Silvia Marian Arrom, *The Women of Mexico City*, 212-14.

\(^7^2\) See Joan Scott, “Gender: A Useful Category of Historical Analysis,” in *Gender and the Politics of History* (New York: Columbia Univ. Press, 1988): 28-50. Scott also supports this view that a society’s political and social order reflects and informs informs on a society’s gender relations.
used in this chapter to contextualize the resident *indio* of eighteenth-century and early nineteenth-century Mexico City.

The chapter begins with an overview of adultery followed by an analysis of marriage as developed from my reading of adultery files. The chapter proposes a general understanding of what legally and socially constituted marriage and the roles of husbands and wives among the natives of Mexico City. It then argues that the only prosecutable cases over adultery, no matter the time-span of separation between the spouses or the degree of violence under which extramarital affairs occurred, were those which entailed a significant diversion of funds away from the marital household. The approach of this chapter is also to move away from viewing urban indigenous men and women primarily as marginalized victims of Spanish colonialism, especially by the late colonial era. The historiography already recognizes the success of rural natives and their communities in making use of the Spanish legal system to defend individual and communal resources.  

This chapter presents a new level of understanding of how individuals used legal means to defend marriage. As a simultaneously private and public arrangement, examining this Spanish institution exposes understandings, adaptations, and manipulations of the legal and practical roles and expectations of husbands and wives.

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### Adultery

The Catholic Church viewed marriage as a duty for the sound and remedy for the sick. The duty of marriage stemmed from God’s command that man and woman come together, support each other, procreate, and raise their children as God’s servants. The remedy of marriage was a gift that God provided to relieve the sexual lust and incontinence born of the fall into sin. Through marriage, individuals theoretically avoided breaking the sixth and ninth commandments of the Church: Thou shall not commit adultery and Thou shall not covet thy neighbor’s wife, respectively. Yet, sex within marriage was not free of restrictions. “Whosoever marries only to satisfy his/her [sexual] appetite and not to serve God will not receive His grace,” was a common admonition in seventeenth century confessionalists. In general, individuals had to avoid “disorder,” or lust, in their lawful relations and avoid unlawful relations altogether. Prohibited sexual relations included sex only for pleasure, adultery, incest, rape, seduction, and sexual acts considered unnatural (e.g. bestiality and sexual relations between men). The Church thus characterized adultery and lust, which it supposed a characteristic of adulterous relationships, as social and spiritual disorder, since these types of transgressions were

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sinful. Persons who engaged in illicit extramarital affairs broke the sacrament of marriage for failing to comply with the Church’s sexual norms and breaking the marital vow of fidelity. Such breaches, moreover, tended to lead to violent acts between spouses as well as between married individuals and their lovers, because of the disorderly nature of sinful activity. The pervasiveness of these ideas, of the links between adultery, lust, and violence, is evident even in sermons used by friars in their own spiritual preparation as well as in proselytizing to parishioners. Examples of representative affirmations of these attitudes are the following:

“...what is a delight in the flesh is a wound in the soul; and, what appears to be delectable love is in reality the gnawing worm of the inferno that with similar love makes a thousand wounds....”

“Is not the home of an adulterous husband an inferno? How ashamed to see his wife and how annoyed to be unable to enjoy the friend?”

Some eighteenth century religious sermons admonished specifically the natives of central Mexico not to partake in the sinful activities of the lustful man or the lustful woman or risk losing one’s soul, reaping hellish outcomes. To better relay his admonitions to his indigenous parishioners, the Jesuit Fr. José Ximénez de Jesús preached from the pulpit the example of the lascivious Brazilian man who, while engaged in adulterous acts, received a clear message about God’s disappointment.

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79 “Sermón decimoctavo: Primero de lujuria”, México, siglo XVIII, Archivo Histórico Provincial de los Franciscanos de Michoacán, Fondo del Colegio de la Santa Cruz de Querétaro, Libro de pláticas, sermones y ejemplos del P. Fr. José Ximénez de Jesús, Let. H, leg. 7, no. 13, f. 310. David Rex Galindo generously permitted me to consult these sermons, which form part of the collection of primary sources analyzed for his dissertation, “Training Franciscan Missionaries in New Spain: Diversity Amidst Community” (Ph.D. diss., Dept. of History, Southern Methodist Univ., Dallas, 2010). The Spanish reads: “...lo que en la carne es deleite, es en el alma una herida; y lo que en lo aparente tiene nombre de amor deleitable es en la realidad un gusano roedor de los infiernos que con el mismo amor da mil heridas....”; “Vamos a la experienzia, y vereis esta verdad: ¿qué es la casa donde el marido anda amanzebado sino un
“A man had a holy crucifix hanging from his neck by a very strong silk cord. Having committed his sinful blunder, the man reached for his neck in search of his prized possession but did not find it, though the cord, which was still hanging from his neck, was intact. The man was stunned. He began to search the room, but his efforts were fruitless. Looking again he saw his Divinely Crucified Christ lying in a corner among refuse. Oh, stench of this clumsy vice! The man realized God’s message: I prefer to be lying in a corner and in trash than on your lascivious and dishonest chest. Does it stun you to hear of such an odd thing? The King of the Seraphim, Lord of the Angels, and Creator of the Universe prefers to be among excrement and filth …than on the chest of a dishonest man? Oh, evil vice!80

Adulterous disorderly acts thus placed emotional, spiritual, and moral strains on marriages, both native and non-native. Yet, for the late-colonial and early national era of Mexico, the urban native is not as prominent in adultery litigation as his non-indigenous counterpart. A general search through the colonial records available in the National Archive of Mexico yields over 1700 litigation files on adultery, from 1692 through 1829, and over 400 litigation files on adultery and domestic violence for the same time period. Of a total of over 2000 litigation cases over adultery, 306 files involve Mexico City natives as the primary litigants (as plaintiffs or defendants). As is evident, the overwhelming majority of case files involve non-indigenous persons as the primary litigants. As residents...
of Mexico City, indigenous persons do readily appear as witnesses across all sets of adultery case files. María Cresencia Roxas is one of many late-colonial Mexico City residents who sought out justice from local authorities over the failure of spouses to fulfill marital obligations. This file aids in revealing the socially prescribed roles and responsibilities of husbands and wives while illustrating the late colonial legal parameters of adultery.

On the evening of September 13, 1804, María Cresencia Roxas, a Spanish resident of Mexico City, denounced her husband, Feliciano Basurto, an indio, for ill treatment and adultery. Roxas complained of “suffering throughout the eight prolonged years of marriage with Basurto as a result of his failure to fulfill his marital obligations.” Referring to her husband as “pervasive,” Roxas explained that Basurto completely abandoned his obligations to “assist her with anything for her sustenance” because for the past few years much of his monies had been occupied in supporting a married woman with whom he had maintained an “illicit friendship.” Moreover, Roxas added, not only had she suffered such ill treatment (malos tratamientos) by way of her husband’s actions, but he had also maintained an on-and-off again “illicit friendship” with her own mother. His behavior

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81 María Crecencia Roxas contra su marido, Feliciano Basurto, y su madre por adulterio y malos tratos, Mexico City, 1804, AGN, TSJDF, Vol. 35, Exp. 83, Ff. 1-10v.
82 María Crecencia Roxas contra su marido, Mexico City, 1804, AGN, TSJDF, Vol. 35, Exp. 83, Ff. 1-4r. The Spanish reads, respectively: “…el dilatado tiempo de mas de ocho años que llebo de casada…”; “perversa”; “…asistirme con cosa alguna para mi sustenenci.”; and “sostener.”
83 María Crecencia Roxas contra su marido, Mexico City, 1804, AGN, TSJDF, Vol. 35, Exp. 83, f. 6-6v. Roxas mother, María Gertrudis Castañeda, was a morisca. Regarding the definition of morisco/a in the Americas, it varies by region, usually associated with African descent and generally defined as a person of mulatto and Spanish parents. See R. Douglas Cope, The Limits of Racial Domination, 24.
was “incorrigible,” continued Roxas, and added that only confinement in jail would suffice to put an end to her husband’s violence and continued adulterous relationships.  

In his defense, Feliciano Basurto declared that the charges of violence towards his wife and drunkenness were untrue. Basurto qualified that he drank on rare occasion and only once slapped his wife after a verbal altercation. Regarding the accusations of adultery, Basurto admitted to having attempted an adulterous affair with a married woman, but the relationship did not last long because he could not “economically support that woman.” As for his mother-in-law, the two-year affair with her, he considered, had not been “anything compromising since he only had sex with her whenever possible, not on a daily basis.”

After all sides presented their confessions and witnesses to authorities, María Cresencia Roxas presented herself at court and requested the charges against her husband be dropped. Basurto and his mother-in-law were each released to a fiador (someone

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84 María Crecencia Roxas contra su marido, Mexico City, 1804, AGN, TSJDF, Vol. 35, Exp. 83, f. 4r, 6-6v. The Spanish reads, respectively: “...se sirva [la corte] recibirme Justificacion sobre los referidos particulares...”; “incorregible.”
85 Declaración del reo, Mexico City, 1804, AGN, TSJDF, Vol. 35, Exp. 83, f. 7-7v.
86 Declaración del reo, Mexico City, 1804, AGN, TSJDF, Vol. 35, Exp. 83, f. 7-7v. The Spanish reads: “p’ no poderla sobstener.”
87 Declaración del reo, Mexico City, 1804, AGN, TSJDF, Vol. 35, Exp. 83, f. 7v. The Spanish reads: “no era cosa comprometedora ya que sólo se mexclava carnalmente con ella las ocasiones que se presentavan y no diariam”. Two days later, in her own defense, María Gertrudis Castañeda corroborated Basurto’s story by declaring she had maintained “illicit commerce” with her son-in-law. However, she noted, it was only out of her “weakness as a widow” that she succumbed to a relationship with Basurto; yet their sexual encounters were infrequent for her son-in-law did not visit her home very often. From, Declaración de la reo, Mexico City, 1804, AGN, TSJDF, Vol. 35, Exp. 83, f. 8-8v. The use of the term “comercio ilícito” was synonymous with that of “amistad ilícita” within litigation cases over adultery. See again Lozano Armendares, No codiciarás la mujer ajena, Chapter “El modelo social: Una buena esposa, un buen marido.”
88 María Cresencia Roxas contra su marido, Mexico City, 1804, AGN, TSJDF, Vol. 35, Exp. 83, f. 9-9v. Of the 306 litigation case files over domestic violence and adultery read for this chapter, 78 were cases between indigenous. In over ¾ of the cases, the charges were dropped at least once by the plaintiffs.
who could legally vouch for their good behavior), with Basurto receiving additional
instructions to resume marital life with his wife. The case ends here.

What can legal disputes such as that of Roxas tell us about marriage among the
urban native population of late-colonial and early national Mexico City? This case is one
example of a legal dispute over adultery in which the roles and responsibilities of husbands
and wives are revealed. A very basic reading of this case would suggest that husbands
were exclusively responsible for the economic sustenance of a household, legitimate or
not, while wives were therefore completely dependent on their spouses for economic
support. While this case alone can not reveal the extent of wives’ economic dependence
on husbands, what it does demonstrate is the use of an economics based argument, an
argument deployed by a wife in order to demonstrate the dire economic situation brought
upon her household as a result of her husband’s adulterous actions. Such an argument,
while entertained in court as evidence against a husband, could also be turned on it head
and deployed by husbands in their own defense. Basurto, for example, denied charges
against him of a prolonged extramarital affair with a married woman. He protested the
accusations, confessing to his sexual encounters with the married woman but also to his
having lacked the economic means by which to support said mistress. As a result, that
budding relationship could not mature into a true adulterous affair. Accordingly, Basurto
demonstrates, if wives could substantiate a legal charge of adultery against husbands based
on accusations of the diversion of funds from the legitimate households, then husbands too

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89 Some important works on the household for colonial Mexico City include: Teresa Lozano
Armendáres, No codiciarás la mujer ajena; Gonzalo Aizpuru, Familia y orden colonial y “Familias y
viviendas en la capital del virreinato,” en Rosalva Loreto López, ed., Casas, viviendas y hogares en la
historia de México. México, Centro de Estudios Históricos, El Colegio de México, 2001; Silvia M. Arrom,
The Women of Mexico City.
could challenge that accusation via the same economic logic. In this manner, accused male adulterers willing to embark on adulterous affairs, risking legal retribution by their wives, had also to have the economic means by which to do so. Without such resources, incontinent husbands claimed, they could not have committed adultery for they had not supported another household.

In the viceregal capital only very little could be kept a secret. As discussed in chapter two, the modern concept of privacy was practically nonexistent in the eighteenth and nineteenth centuries. The majority of the population of the city lived in very close quarters, making quotidian experiences of all individuals available to the knowledge, inquiry, and intervention of neighbors. Nothing escaped their purview; apartment doors were always open, and the interior and exterior of dwellings was minimally differentiated. Thus, it did not require much effort from neighbors to become aware of conjugal discussions, clandestine affairs, and scandals. For this reason, neighbors were readily available and easily able to serve as witnesses in legal disputes involving neighborhood residents.

As members of society and knowledgeable witnesses, neighbors could speak to expectations that husbands economically sustain the marital unit and household. In the case above, Roxas (the wife), staked her legal dispute over adultery on Basurto’s past failures to satisfy his economic responsibilities to his marital household. This argument was the basis on which Roxas ultimately rested her definition of Basurto as a failed husband, a married man who does not or cannot meet marital obligations. Roxas’ witnesses, comprised of her neighbors, corroborated her argument, noting that Basurto did not economically sustain his family. That community members willingly testified in
adultery litigation to speak of a husband’s failure to provide for his family as a basis for sustaining an argument of failing to satisfy marital obligations illustrates the general expectations within local society with regard to a husband’s economic responsibilities to the household. In a marriage or even in an illicit but committed affair, the community expected the “husband” was always expected to be the economic backbone of the relationship.

That neighbors and quarreling spouses readily employed legal rhetoric over economic support of the family makes evident some of the social expectations of married men but also reveals that such expectations could be judiciously and successfully argued in court. Also revealed is that such economically-based argumentation had more to do with legal strategy than practical gendered expectations of husbands and wives. While economic provisions appear in litigation records to have been a responsibility primarily of husbands, this particular responsibility fell also upon wives. As a growing historiography on indigenous women demonstrates, not only were the economic activities of women, like those of men, central to the colonial economy, but also to that of the colonial family.⁹⁰

Among native populations of Spanish America, it was not only common but quite practical

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for both husbands and wives to make economic contributions to the household, especially in marriages that included tribute-paying natives; wives were expected to work in order to help their spouses fulfill tribute payments. In fact, in Mexico City by the second half of the sixteenth century, tribute obligations (primarily in the form of money) had been extended to its indigenous residents. In 1758, Spanish law formally exempted a portion of the indigenous female population, that is single and widowed women, but not until the nineteenth century did all women become exempt from tribute obligations.91 Moreover, in her analysis of the Mexico City censuses from 1753 and 1811, Silvia Arrom demonstrates that Indian women of the city comprised a high percentage of the labor force. Tables 3.2 and 3.3 depict the high percentage of the employed population that women represented and the significant percentage of Indian women, almost half of their population, that were employed. It is clear that it was legally acceptable and socially common for both husbands and wives to work to provide for the marital household. When it came to litigation over issues pertaining to marriage, however, it was legal strategy to place the entire family’s economic responsibility on the husband.

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TABLE 3.2: Employed Population of Mexico City, 1753, 1811, and 1848.
Source: Silvia Arrom, *The Women of Mexico City*, 158.
Note: This table includes a sampling, as compiled by Silvia Arrom from the statistical research database of the Seminario de Historia Urbana of the Departamento de Investigaciones Históricas (Instituto Nacional de Antropología e Historia), of the census information for the stipulated years regarding the Mexico City female laboring force. The sampling includes statistical information for residents of the center area (*traza*) and peripheral areas of the city.

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<td>11,432</td>
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<td>758</td>
<td>177</td>
<td>23.4</td>
<td>31.9</td>
</tr>
<tr>
<td>1848</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total sample</td>
<td>876</td>
<td></td>
<td>321</td>
<td></td>
<td>36.6</td>
</tr>
<tr>
<td>Central area only</td>
<td>513</td>
<td>538</td>
<td>214</td>
<td></td>
<td>41.7</td>
</tr>
</tbody>
</table>

TABLE 3.3: Employed Population of Mexico City, by Race and Marital Status, 1811.
Source: Silvia Arrom, *The Women of Mexico City*, 159.
Roxas, our story’s protagonist, worked as did the majority of the urban Indian women who appear in the 306 litigation cases analyzed for this chapter. They found themselves obligated to provide for their households and children since the economic contributions of husbands were few and far between in cases of marriages and other unions afflicted by violence and adulterous relationships. Nevertheless, any additional help from a spouse must have been quite welcome; a working husband, even part of the time, would have been more beneficial to the family economy than a husband in jail. So it follows that Roxas, like a majority of wives in the litigation corpus, dropped the legal claims against her husband and requested his release from jail so “he may work and contribute to the household economy.” But, wives were not the only ones who employed a legal-economic argument, so too did suspected male adulterers.

Men brought before Spanish authorities and charged with engaging in adulterous affairs with married women tended to defend their statuses through explicit comparisons between their economic contributions to illicit relationships and the expected economic contributions of husbands to marriages. Male lovers, in their defenses, thus portrayed themselves as ideal husbands, spouses who faithfully fulfilled economic obligations. Francisco Leonel, for example, a tribute-paying Indian, argued in his defense that he had been “a good husband, providing [his lover] with a daily basket of food, one or two reales daily, and his monthly salary.” Male lovers caught in relationships or cohabitating with married women frequently also argued that they had been duped, in a sense, by their married lovers. Francisco Leonel, our same tribute-paying Indian, maintained that, for the most part, he had been unaware that his partner was married until she confessed her
marriage to him. At that point, Francisco claimed, he continued in the adulterous relationship “for love of the child she was carrying.”

About twenty years prior to the case of Roxas, on the night of March 28, 1785, another indigenous resident of Mexico City brought the adulterous affair of his wife and her lover to the attention of local authorities. José Antonio Guerrero, a tribute-paying indio from the barrio of San Sebastián, denounced his wife, María Josefa Balencia, and her associate, José Gregorio Dominguez, a mestizo, for adultery. In his own defense, Dominguez positioned himself in the role of “husband,” using an economic argument. He argued that as a bizcochero (bread baker), he was capable of fulfilling husbandly obligations towards Balencia. Moreover, added the accused adulterer, Balencia’s husband could not adequately provide for her and had even pawned her clothes. That is, on the day Balencia left her husband to take residence with Dominguez, Guerrero provided her with only five reales of the fourteen he had in his possession. He did so, argued Dominguez, in the knowledge that the total cost to remove her clothing from the pawn shop would be five reales, all the money he had given his wife. This story was not corroborated by Balencia’s declaration, yet Dominguez was promptly released from jail when Guerrero dropped all charges. He was released to a fiador, under the condition that he would not have any future communication, direct or indirect, with Balencia or be cast away into

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92 De oficio de la Real Justicia contra Jose Leonel, y cierta muger casada, y José Rafael Pliego y María Gertrudis Díaz por adulterio, Mexico City, 1785, AGN, TSJDF, Vol. 35, Exp. 8, f. 1-10v. The Spanish reads: “aproximadamente dos rr diarios, y semanariamente lo q le sobraba de su trabajo”; “canasto de comida y uno, ó dos reales, y tambien con su salario mensual”; “por amor dela criatura que en ella tiene.”

93 José Antonio Guerrero contra su esposa, María Josefa Balencia, y José Gregorio Dominguez por adulterio, Mexico City, 1785, AGN, TSJDF, Vol. 35, Exp. 7, Ff. 1-5v.

94 Testimonio del reo, Mexico City, 1785, AGN, TSJDF, Vol. 35, Exp. 7, f. 3.
military service for a total of six years. Like Basurto, Roxas’s adulterous husband, Balencia too was released from jail with the condition to resume marital life with her husband or face up to six years in prison.

In the cases of wives accused of engaging in adulterous affairs, both indigenous and non-indigenous women tended to readily admit to their “adulterous incontinence.” But their confessions too were structured in such a way that their lovers were portrayed as ideal “husbands.” Maria Gertrudis Díaz, for example, identified herself as Spanish and argued in her own defense that “...in the one year of adulterous incontinence with [my lover, who is a cook] …he has provided me daily meals in addition to four or five reales weekly.” Such descriptions of lovers were juxtaposed with depictions of husbands as violent, unfaithful, and economically irresponsible.

The framing of arguments around the legal and social notion of failure to comply with marital obligations speaks to expectations more complex than those of economic provisions and fidelity. The cases of adultery are telling of when a spouse was willing to defend his or her expectations of marriage, with the responsibility to uphold the marital unit falling on both husbands and wives. To clarify, of the 306 litigation files, 93 cases were initiated by husbands, 159 by wives, and 54 by local civil authorities. So, though there were actually more cases for adultery carried out against husbands than against wives in late-colonial Mexico City, what is clear is that both men and women readily

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95 José Antonio Guerrero contra su esposa, Mexico City, 1785, AGN, TSJDF, Vol. 35, Exp. 7, f 5.
96 José Antonio Guerrero contra su esposa, Mexico City, 1785, AGN, TSJDF, Vol. 35, Exp. 7, f 5.
97 Declaración de María Gertrudis Díaz, Mexico City, 1785, AGN, TSJDF, Vol. 35, Exp. 8, f. 5.
accessed the judicial system, with the support of community members, in seeking redress to an unfulfilling marital situation.\textsuperscript{98}

If a marriage was not measuring up to dominant social standards, then a spouse could readily seek legal redress and count on the support of local community members. As discussed above, it could be successfully argued that supporting the household was the sole responsibility of husbands. If sufficient economic support was not provided by husbands, wives were completely within their authority to seek legal action against their unfulfilling husbands. Although Diaz, the wife in the above case, was a Spaniard, a woman’s category of identity was not a factor in her ability to seek legal redress. For example, Maxima Guadalupe Rojas, alternately identified as “Indian” and \textit{mestiza} in her case file, was successful in her legal suit against her husband, Felipe Carranza, a Spaniard, and his lover, also an indigenous woman.\textsuperscript{99} Her authority to do so was never questioned by any of the three witnesses who corroborated her husband’s failure to fulfill his marital obligations, the authorities, or her husband. Unlike the above cases of Roxas and Guerrero, the case of Rojas versus Carranza has no final judgment. As such, it is not possible to tell whether or not this couple reconciled, and if so under what circumstances (i.e. charges dropped by wife or husband sentenced to term in jail and reconciliation with wife).

But, in any case, the arrest and confinement in jail of a husband might be a double-edged sword for the wife, which might explain why there was insufficient motivation from

\textsuperscript{98} Of the 306 litigation cases examined for this chapter, 93 cases were initiated by husbands, 159 by wives, and 54 by Royal Justice (\textit{Real Justicia}) or other local authority.

\textsuperscript{99} Maxima Guadalupe Rojas contra su marido, Felipe Carranza, y María Bentura Fuljan por incontinencia adulterina, Mexico City, 1804, AGN, TSIDF, Vol. 35, Exp. 85, Ff. 1-12. In this case, Rojas
wives to continue litigating. In the case of Roxas, though she was successful in her legal suit against her spouse, only two months later, she found herself again in front of a judge, this time asking for her husband’s release from the local jail. Without the additional income from her husband, Roxas could not sustain herself and her children. In an attempt to keep her marriage and household intact, she successfully pressed for her husband’s release from jail to resume marital life with him. In the case of Guerrero against his wife, the husband, too, dropped all criminal charges and requested the release of his wife. Though Guerrero did not use an economic argument, he perhaps felt socially obligated to seek the defense of his marriage (though difficult to tell from litigation over adultery). Guerrero did make reference to the public’s knowledge of where his wife was to be found and with whom she was living during the two occasions in which she left their home.100

Thus, it was completely within the authority of husbands and wives to seek legal action against unfulfilling spouses, but the arrest and confinement in jail of husbands might have been too big an economic risk, explaining the decrease in wives’ motivations to continue litigating. Women were often successful in their legal suits against their spouses, but commonly a short time later (a couple of days or even a couple of months), wives were again in front of a judge, this time asking for their husband’s release from jail. Without the additional income from husbands, urban Indian wives and non-indigenous women of their same class, were economically strained in sustaining the household. To keep their households from falling apart, or so argued many wives, women thus pressed successfully for the release of their husbands from jail.

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is labeled mestiza and also referred to as indigenous. The term mestizo/a refers to persons of Spanish-Indian descent. See R. Douglas Cope, *The Limits of Racial Domination*, 14-15.
Of the 306 cases analyzed for this chapter, the charges against an adulterous spouse were dropped in approximately 74% (or 227) of the cases. It appears that the combination of a husband suspected of not complying (with his economic obligations to a marriage) with legal and marital motivations for keeping the marital unit intact, moved courts to frequently overlook transgressions on fidelity when the affected spouse was also willing to forgive the offense, remove the legal charges, and reinitiate marital life with his/her adulterous spouse.

Husbands were released from jail, having first appointed a fiador (someone who could vouch for their good behavior) and with instructions to resume marital life with their wives, “as required by law and God.” Defendants were also threatened with longer jail terms and military service, if the conditions for release were broken. Basurto, our accused adulterer, was warned to avoid direct and indirect communication with his mother-in-law or face obligatory enlistment into military service. Basurto’s mother-in-law, and confirmed lover, who also was jailed during the investigation of the case, was similarly released to a fiador with a warning not to communicate with her son-in-law or face two to four years of imprisonment.

The cases of Roxas and Guerrero versus their spouses are exemplary cases of when spouses were willing to defend their marriages by turning to the judicial system to enforce fulfillment of marital obligations. These same legal disputes also hint at the reasons for and situations in which men and women were willing to abandon marriage. In the case

100 José Antonio Guerrero contra su esposa, Mexico City, 1785, AGN, TSJDF, Vol. 35, Exp. 7, f. 1-1v.
101 María Cresencia Roxas contra su marido, Mexico City, 1804, AGN, TSJDF, Vol. 35, Exp. 83, f. 10.
of Roxas, it appears that the wife might have been willing to live free of her husband and his ill treatment of her for the rest of her life if she were economically able to subsist on her own. As for the case of Guerrero, his wife was more than willing to walk away from their marriage every time her husband failed to adequately provide for her. In the case of the local authorities versus two couples accused of adultery, it becomes much more evident that husbands and wives in late-colonial Mexico City were willing to and did walk away from marriage when their expectations were not being met.

In yet another case, while on their rounds, in the morning hours of May 15, 1785, royal officials were met by a frantic older woman who asked that they follow to her house, where two women were quarreling. Upon arrival at a house in the barrio of Santísima Trinidad and further investigation, the officials found that the two women lived in said house with men who were not their husbands: José Rafael Pliego, a Spaniard married to Josefa Paulina Rumaior and living “as if married” with María Gertrudis Díaz, a single Spanish woman; and Francisco Leonel, a tribute paying indio, who was single and living “as if married” with a “married woman.” All four were formally charged with the crime of adultery.

Though the case at no point includes any specific details about the married woman, her declarations reveal why she chose not to defend her marriage and instead walk away from it. In her defense, she admitted to having been engaged in “adulterous incontinence”

102 María Cresencia Roxas contra su marido, Mexico City, 1804, AGN, TSJDF, Vol. 35, Exp. 83, f. 10.
103 De oficio de la Real Justicia contra Jose Leonel, y cierta muger casada, y José Rafael Pliego y María Gertrudis Díaz por adulterio, Mexico City, 1785, AGN, TSJDF, Vol. 35, Exp. 8, f. 1-10v.
104 De oficio de la Real Justicia, Mexico City, 1785, AGN, TSJDF, Vol. 35, Exp. 8, f. 5-7.
with Leonel for approximately one year.\(^\text{105}\) Furthermore, she declared, Leonel was a cook and as such was able to provide her with daily meals in addition to four or five \textit{reales} weekly, unlike her husband. At the time of her trial, it had been five years since she last saw him. Moreover, during marital life, she lived a “very bad life” at the side of her husband, who on multiple occasions also told her to leave their home. On top of all this, her husband did not fulfill his economic obligations towards her.\(^\text{106}\)

In defense of her illicit relationship, Díaz contended that she at first did not know that Pliego was married.\(^\text{107}\) When she found out, she was already living with him and, besides, he was good to her and provided her two \textit{reales} daily or two \textit{pesos} weekly.

Corroborating part of her story, Pliego admitted to living for about two months with Díaz and declared that he provided “adequately” for her, “about two \textit{reales} daily and gave her weekly what was left over from his work as \textit{texedor} (weaver).”\(^\text{108}\) Moreover, Díaz knew he was married, though he had been separated from his wife for ten or eleven years.

According to Pliego, his wife had “fled” from her marital obligations, leaving him alone.

As for Leonel, he declared that he did not have knowledge of the marital status of his “\textit{muger casada}” before moving in with her.\(^\text{109}\) When he found out, Leonel declared, he decided to continue in his “illicit friendship” with her “for love of the child she was carrying.” He added that he had been a good husband, providing her with a “daily basket

\(^{105}\) Declaración de la muger casada, Mexico City, 1785, AGN, TSJDF, Vol. 35, Exp. 8, f. 6.
\(^{106}\) Declaración de la muger casada, Mexico City, 1785, AGN, TSJDF, Vol. 35, Exp. 8, f. 6-6v. The Spanish reads: “mui mala vida.”
\(^{107}\) Declaración de María Gertrudis Díaz, Mexico City, 1785, AGN, TSJDF, Vol. 35, Exp. 8, f. 5.
\(^{108}\) Declaración de José Rafael Pliego, Mexico City, 1785, AGN, TSJDF, Vol. 35, Exp. 8, f. 5. The Spanish reads: “aproximadamente dos rr\textsuperscript{d} diarios, y semanariamente lo q’ le sobraba de su trabajo.”
\(^{109}\) Declaración de Francisco Leonel, Mexico City, 1785, AGN, TSJDF, Vol. 35, Exp. 8, f. 6v.
of food, one or two reales daily, and his monthly salary."

Thus, Leonel, like Pliego, deployed an economics based argument in his defense. Both he and Pliego confessed their adulterous affairs, but successfully defended themselves by maintaining that although involved in adultery, they behaved as husbands, as litigation-defined ideal husbands.

Up to this point, this chapter has provided an overview of common themes associated with marriages that involved indigenous alongside non-indigenous individuals in late colonial and early national Mexico City. Such cases speak volumes about the structures of authority in marriage, while also reflecting the types of marriages and notions regarding adultery common among urban natives. Late colonial marriage, as per litigation over adultery and domestic violence, was still an alliance for life in which women and men could improve their economic statuses, usually through a combination of economic contributions from both husbands and wives. These legal proceedings involving urban indigenous of Mexico City contribute to the above definition of marriage general themes associated with legal, social, and economic conventions pertaining to conceptions of marital obligations among non-elite Indians as well as to who defended marriage and the reasons for and situations in which indigenous men and women were willing to abandon marriage.

Analysis of such cases suggests also that marriages were understood to be socially binding contracts in which husbands and wives had not only economic responsibilities toward the household but were obliged to be faithful to each other ----faithful to the extent of not establishing an adulterous relationship that mimicked a marriage and

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110 Declaración de Francisco Leonel, Mexico City, 1785, AGN, TSJDF, Vol. 35, Exp. 8, f. 6v. The Spanish reads, respectively: “por amor dela criatura que en ella tiene”; “canasto de comida y uno, ó dos reales, y tambien con su salario mensual.”
infringed on its social norms and economic expectations. Moreover, both wives and husbands had the ability (i.e. social and legal recourse) to defend their perceptions of marriage. When it was nearly impossible to legally coerce a spouse to fulfill his/her obligations, then abandoning the marriage altogether was a socially viable, though unlawful, option, especially when lovers and mistresses could fulfill the duties and responsibilities expected of spouses. But, a husband willing to risk legal retribution and embark on an adulterous affair had also to have the economic means by which to do so.111 Like marriage, adultery was also identified by economics. Thus, even in an illegitimate relationship resembling a marriage, the “husband” was always expected to contribute the basic economic provisions with which the “wife” was to manage the household. And, it was primarily in cases where adulterous affairs mimicked marriage that couples were tried and punished.112 But, what can these varieties of cases for adultery also expose about gender roles and relations among the indigenous population, and perhaps also the non-indigenous population of late-colonial Mexico City?

Scholars have pointed to the predominance of the nuclear family within native communities, rural or urban, as proof of the success of the gender norms associated with the Spanish cultural hegemonic project. That is, that by the 18th century, colonial Spanish society had become rigidly hierarchical with power centralized in male authority figures who functioned in both the public and private spheres of society while women were

111 It was primarily in cases where adulterous affairs mimicked marriages that couples were always tried and punished. For example see, Denuncia de María Francisca Berdiguel sobre el adulterio cometido por su esposo el señor José Antonio Borges, además de golpes que este le propinó, 1811, AHDF, Justicia y Juzgados, caja 1, exp. 14, f. s/n; Ignacio Romero y Francisca Bruna, por incontinencia adulterina, 1796, AHDF, Justicia, caja 144, exp. 2, f. s/n; El señor Cayetano S. pide al alcalde que castigue a Vicente Ortiz y a Ciriaca Mota por incontinencia adulterina, 1829, AHDF, Oficios, caja 11, exp. 143, f. s/n.
relegated to the private sphere; as authority was concentrated in men in the public sphere, so too was it centralized in the father figure of the late-colonial family.\(^{113}\) As such, both native and non-native women consistently lost agency throughout the colonial era, so much so, that by the eighteenth century, and definitely by the time of Mexican and South American Independence from Spain (in the 1820s), women in Spanish America were increasingly treated as legal minors. Often cited, especially for Mexico City, is a trend by which the identity of women, particularly that of indigenous women, was increasingly intertwined with that of their husbands, evidenced in that native husbands, by the seventeenth century, were generally “the driving force behind lawsuits undertaken by their wives.”\(^{114}\) It was indigenous husbands who by the late colonial era increasingly served as intermediaries between the women in their lives and the political, economic, and social

\(^{112}\) For example, Don Antonio García y doña Mónica García, contra Antonio Adrián y Salas, 1785, AGN, TSJDF, vol. 35, exp. 16, f. 1-8v.

\(^{113}\) For Mexican non-native society, see for example: Patricia Seed, To Love, Honor, and Obey in Colonial Mexico. Seed was among the first to question absolutist models of gender relations for the early colonial period. Through an examination of marriage choice, she came to conclude that the penetration of capitalist markets, in combination with the secularization of authority over marriage, undermined the ability of the Church to prevent patriarchal authority over marriage choice. Seed thus dates the emergence of patriarchy in colonial Mexico to the eighteenth century. Like Seed, other authors recognize that the status of women changed in the late colonial period as male authority increased. See Deborah E. Kanter, Hijos del Pueblo: Gender, Family, and Community in Rural Mexico, 1730-1850 (Austin: Univ. of Texas Press, 2008); Asunción Lavrin, ed., Sexuality & Marriage in Colonial Latin America; Edith Couturier, “Women and the Family in Eighteenth-Century Mexico: Law and Practice,” Journal of Family History (Fall 1985): 294-304; Asunción Lavrin and Edith Couturier, “Dowries and Wills: A View of Women’s Socioeconomic Role in Colonial Guadalajara and Puebla, 1640-1857,” Hispanic American Historical Review 50:2 (1979): 280-304. For Mexican urban native society, see the pioneering work of Susan Kellogg, Law and the Transformation of Aztec Culture. For a comparison with Brazil, see Muriel Nazzari, Disappearance of the Dowry: Women, Families, and Social Change in São Paulo, Brazil, 1600-1900 (Stanford: Stanford Univ. Press, 1991), 140-42. In her research of Brazilian inventories, Nazzari found a correlation between a rise in the use of the surnames of fathers and husbands and in increase in male authority. See also, Linda Lewin, “Natural and Spurious Children in Brazilian Inheritance Law from Colony to Empire: A Methodological Essay,” Americas (January 1992): 351-396.

\(^{114}\) Beside the important work by Patricia Seed over marriage choice in colonial Mexico, which tracked changes in colonial gender relations, work by Susan Kellogg on Tenochca women in sixteenth and seventeenth centuries Mexico City also describes a late-colonial change in gender relations. See Susan Kellogg, “From Parallelism and Equivalent to Separate but Unequal: Tenochca Mexica Women, 1500-1700” in Susan Schroeder, Stephanie Wood, and Robert Haskett, eds., Indian Women of Early Mexico, 139-40.
realms of Spanish America. But, if this trend was truly representative of indigenous women’s participation in legal disputes by the late colonial period, why was María Cresencia Roxas able to directly and successfully sue her husband in 1804? As a married woman of the late colonial period, it is presumed she was under the authority of her husband and, as such, should have first obtained his permission to leave home and perhaps then sought the support of a male family member to represent her in court. Yet, it was she who directly, and not via a male intermediary, denounced her husband’s illicit affair and pursued the case. Moreover, not a single person involved in the litigation case against her husband, be they witnesses, judge, or defendants, once questioned her actions and presence in court or her agency in pursuing a legal action. In fact, in the 306 cases of adultery read for this chapter, not once was the legal agency of an indigenous woman, single or married, ever challenged by courts, witnesses, or defendants.¹¹⁵ Thus, this chapter ultimately contends that a gendered reading of the actions of wives, husbands, and community members in cases for adultery undermines an interpretation of a generally common gender ideology of patriarchy for late colonial and even early nineteenth century Mexican society.

**Not Quite a Patriarchy**

The intention in questioning the assumed patriarchal organization of gender relations for the late-colonial urban native society of Mexico City is not to posit an

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¹¹⁵ For a comparable argument on late colonial legal abilities of women see Chad Thomas Black, “Between Prescription and Practice: Governance, Legal Culture, and Gender in Quito, 1765-1830,” Ph.D. Diss., Department of History, University of New Mexico, 2006.
argument of gender equality for this period, but rather to move closer to understanding specifically how gender domination operated in early Latin American society, at least within the judicial system and marriage. Essentially, this chapter additionally argues that the perceptions of gender relations established in litigation over adultery reflect a decentralized organization of social relations usually associated with the earlier colonial period. While it was also the intent of this dissertation study uncover any changes in the late-colonial organization and function of gender relations, the documentation on adultery did not provide the details by which to substantiate an argument for centralizing tendencies in gender relations. Instead, even as the documentation continued to move well into the independence era, the investigation into adultery files was stopped at 1829 when it became evident that Independence warring and the birth of a new Mexican republic had yet to drastically affect gender relations among the non-elite population of the Mexico City—hardly referenced by litigants in the files consulted for this study. Further research into documentation pertaining to the family and daily affairs of Mexico City’s nineteenth century residents might reveal a clear break from the trends outlined in this chapter. As of the eighteenth century through 1829, gender relations among the urban indigenous and their husbands, wives, lovers, and neighbors in the city were generally decentralized, with both men and women actively pursuing legal cases and strategies within the city’s various institutions.

116 As discussed in Chapter II, the concept of gender decentralization recognizes the contribution of both males and females and their relative independence from each other in the maintenance of social order. Kimberly Gauderman, in her study of women’s lives in colonial Quito, Ecuador, has proposed this concept of decentralization as the more relevant analytical framework for the study of colonial social relations. See Kimberly Gauderman, *Women’s Lives in Colonial Quito*. See also Chad Black, “Between Prescription and Practice.”
For the purposes of this chapter, the patriarchal system is generally defined as one in which (1) authority is invested in the eldest male; (2) a woman has no individual legal status and, therefore, cannot order testaments, witness legal documents, or legally represent herself in court; (3) a woman has no individual economic status and, therefore, cannot own property or carry out economic transactions without the approval of her legal guardian (usually, either her father or her husband); and (4) a woman’s identity is derived from her association with the family patriarch (either her husband or her father).\(^{117}\) Turning once again to the case of Roxas versus her husband and mother, what can one gather about gender, marriage, and authority for the late colonial period? Though it is beyond the scope of this chapter to test the applicability of any patriarchal paradigm, a review of cases for adultery from the late-colonial period suggests that at the very least the above referenced definition of patriarchy is not reflective of marriage norms and legal practices among the late colonial indigenous of Mexico City.

The Catholic Church provided norms and frameworks for marriage, embodied in cannon law, that were more egalitarian than a patriarchal paradigm without origins in early-modern Iberia or Mexico. While the Church was exclusionary of women (notably from the priesthood and by recognizing husbands as the heads of households), it granted wives a significant amount of rights and demanded a greater subordination of the freedom of husbands than secular authorities.\(^{118}\) Defining marriage as a sacrament, cannon law granted husbands and wives equal legal abilities and responsibilities toward procreation,


\(^{118}\) Spanish civil and ecclesiastical law as it pertained to women is discussed in great detail in Silvia Marina Arrom, *The Women of Mexico City*, chapter 2.
educating children, and providing companionship (as a remedy for concupiscence). The married couple was supposed to aid each other and share the responsibility for their children; reciprocal consent was necessary to “make use of their bodies so as to propagate the species” and both were required to be faithful. Either spouse’s failure to comply with these norms provided grounds for separation. The Church thus did not condone a normative double standard of sexual behavior, making adultery by either spouse also cause for separation. Marriage among native populations of eighteenth- and early nineteenth-century Mexico City, per cases of adultery, was still an alliance for life in which women and men could improve upon their individual economic statuses, usually through combination of economic contributions from both husbands and wives, and together maintain a household.

The adulterous actions and the violations of economic obligations involving natives of Mexico City provide an abundance of details for analyzing marital practices as well as other social relations. The over three hundred legal files on adultery (and economic claims and domestic violence) examined in this chapter reveal patterns for marking identity that

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119 Silvia Marina Arrom, *The Women of México City*, 66; For cannon law see the updated and revised version of Anastasio de la Pascua, *Febrero mejicano, o sea la librería de jueces, abogados y escribanos...nuevamente adicionado...* 9 vols. (México City, 1834-35): *Nuevo Febrero mexicano: obra completa de jurisprudencia teórico-práctica* vol. 1 (México City, 1850-52), 63-64. See also *Código de derecho canónico*, 7th edition (Madrid, 1962), canon 1013, 1110-13 and *Sala mexicano, o sea: la ilustración al derecho real de España...y las leyes y principios que actualmente rigen en la república Mexicana*, vol. 3 (México City, 1845-49), 428. *Sala mexicano* is an expanded version of the Mexican *Ilustración del derecho real de España...reformada y añadida con varias doctrinas y disposiciones del derecho novísimo y del patrio*, 5 vols. (México City, 1831-33).

120 Silvia Marina Arrom, *The Women of México City*, 66 and *Nuevo Febrero mexicano*, vol. 1 (México City, 1850-52), 63-64. See also *Código de derecho canónico*, 7th edition (Madrid, 1962), canon 1013.

121 A note on marital bonds: Although the marital unit could be dissolved only by death or annulment, the Church could authorize an ecclesiastical divorce. An ecclesiastical divorce was not dissolution of the marriage, thus both spouses could not re-marry or behave as if single. The divorce was a separation of bed and board. See Silvia Marina Arrom, *The Women of Mexico City*, 66 and *Nuevo Febrero mexicano*, vol. 1 (México City, 1850-52), 63-64.
the historiography on gender relations for the late colonial era interprets as a vanishing system (See chapter two). It was common practice among the indigenous of eighteenth century Mexico City to maintain his or her own surname, making the patriarchal standard of coverture irrelevant or inappropriate for the legal and cultural landscape of late colonial Mexico. Through a system and practice of coverture, in the English tradition, a woman took the name of her husband, symbolizing her civil death. As evidenced in the case of Roxas versus her husband, the surnames of the couple in question were Roxas and Basurto; the married couple who testified in favor of Roxas was named Torrez and Estaño; even Roxas and her mother did not share the same name. When it came to marriage in late colonial Mexico, women were not yet covered by the identity of a husband or father. Such naming patterns thus inform upon the individual identities, especially legal identities, which allowed both men and women to pursue legal claims on an individual basis. Moreover, the identity of children was not yet reorganized into a patriarchal standard whereby a child’s identity was automatically defined by that of his father. While litigation over adultery does not provide enough and consistent detail about the children upon which many economically-based denunciations were made, parents and in-laws of the litigants readily appear in the case files. Their participation, as witnesses or, at times, as litigants for having caused friction in marriages, do allow for something to be said about naming patterns with regard to children. The variety of names and the lack of

one identity for any one family, as evident in the names of spouses, children, and other
community members who appear in the cases for adultery, present further challenges to an
understanding of late colonial society as rigidly patriarchal. The Iberian and early colonial
practice of giving children the surname of members of an extended family remains a much
more relevant and appropriate framework by which to approach the name-related
identities of the late colonial indigenous protagonists of this study.123

As for the economy of urban marriages involving natives, analysis of cases over
adultery suggests a contradiction to the idea that indigenous women, like their non-
indigenous counterparts, could no longer have individual economic status. In their
denunciations, wives made evident their expectation to regularly receive money, beyond
sustenance (i.e. meals), more than likely to manage the household and its attendant
expenses. Husbands in such cases also spoke to their obligations for providing such
monies to their wives or the lovers with whom they had established committed
relationships. A wife’s access to and use of the legal system to demand and receive money
from her husband was not questioned by authorities, neighbors, lovers or husbands in any
of the cases over adultery involving indigenous from late-colonial Mexico City.

Participation by indigenous men and women in court cases further denotes their
legal and social agency far into the colonial period. As shown in the discussion of litigation
over adultery, women readily accessed the legal system to demand resolution to a situation
they deemed unjust. A judge or local official did not ever stop to ask the wife if she had
permission to be in public let alone in court commissioning the work of legal scribes and

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123 See Kimberly Gauderman, “Father Fiction”; Ruth Behar and David Frye, “Property, Progeny,
organizing legal strategy. Nor was the legal agency of wives also questioned by her community cohorts. Cases over adultery thus reveal that late-colonial native women still had individual legal standing and were well aware of the dominant legal arguments that would get them what they wanted, be that the arrest of a misbehaving husband or even his subsequent release from jail.

**Concluding Remarks**

This chapter analyzed cases over adultery involving indigenous residents of Mexico City, from 1692 through 1829, and proposed a redefinition of adultery, as a practice punishable by law when it was legally proven that a second household was being economically maintained—to the detriment of the marital household. In examining the arguments deployed by litigants in claims over illicit affairs, an economically-based argumentation to prove adultery was legally defensible whereas simply proving sexual infidelity, even when via confession by the accused, did not suffice to punish an adulterer. The legal practices recorded in litigation files denote a socially as well as legally sustained interpretation of adultery and marital obligations, an interpretation which differed from civil and ecclesiastical norms. An economically underlined, and not a strictly normative, stance for adultery was litigated by indigenous peoples and the persons in their lives. This practice, in turn, was validated by the decisions of the variety of legal tribunals before which denunciations over adultery were tried. In addition, this popularly deployed and juridically supported meaning of adultery evidences an organization and practice of

gendered behavior that cannot be approached completely through a paradigm of patriarchy. The experiences of both native men and women in litigation do not reflect an organization of society defined by the parameters of the patriarchal model, even in the late colonial era of Mexico. Instead, gendered social authority appears to have been quite decentralized, with a variety of Spanish legal institutions sharing jurisdiction over adultery and the diverse populations of the late colonial city. If society was becoming ever more male dominated with women daily losing agency, then this aspect of society had yet to fully manifest itself among the mainstream, non-elite populations of late-colonial and early-Independence era Mexico City.

CHAPTER 4

NATIVE POSSESSIONS AND LOCAL PRACTICES

How do over three hundred case files on litigation over adultery involving both natives and non-indigenous individuals speak to the distinctiveness of urban Indian legal practices, gender, and authority? The legal and cultural details examined in the sources explored in chapter three provide abundant details about day to day life in late colonial Mexico City. The legal rhetoric employed by natives and their spouses, lovers, and neighbors also provides ample evidence of a practical understanding of adultery. This understanding was one which was upheld by community practices as well as by the various Spanish judicial institutions that entertained denunciations over illicit affairs. Moreover, in examining adultery records, legal commentaries, and ecclesiastical sermons, it became ever more evident that an economically-based argument to prove adultery was, in practice, the only legally defensible and prosecutable angle by which a wife or a husband could legally proceed. It was also through a social analysis of this practical interpretation of adultery that late colonial gendered relations were demonstrated to have been quite distinct from the prescriptions described in cannon law and religious sermons. While chapter three thus demonstrated that our understanding of adultery and gender relations among non-elite
Mexico City residents must be re-conceptualized, the question of how such practices and new understandings for marital relations reveal cultural practices unique to the native population is yet unanswered. This fourth chapter analyzes land disputes and, to a lesser extent, last wills and testaments to address directly the unique cultural elements that distinguish that mainstream Indian of chapter three from the remainder of the population of late colonial Mexico City.

* * *

As described in chapters one and two of this study, Mexico City was a nexus of cultural exchange and influence and, therefore, also a space of tremendous diversity. From its very beginning, the city was to be comprised of significant indigenous populations as its location was established over a pre-existing, pre-Columbian native state. Although the Spanish configuration of the city specifically excluded natives from the city center, the Spanish *traza*, daily contact nevertheless commonly occurred in streets, at markets and shops, and in tribunals. Chapter three of this dissertation describes specifically one aspect of the evolution of this contact between indigenous and non-indigenous populations in the city. When it comes to marital relations and disputes, tribunal records demonstrate the levels of cultural intermingling among natives and *castas*. So evident is the intermixing of their cultures that exploring only litigation over marital relations produces an account of late colonial society that cannot distinguish the Indians from the rest of the population. Within this study, however, that chapter serves to present the Indian of Mexico City who was a resident member of that late colonial modern setting. The present chapter, on the other hand, begins to distinguish the native population from its
mainstream cultural milieu and analyzes legal and cultural practices at the barrio levels of the city.

What is interesting to note, however, is that although chapter three of this study cannot single out the Indian from his contemporaries, therefore adhering to the traditional historiography on the urban natives of colonial Mexico, it does nevertheless beg the question: Why are late colonial urban natives identifying as “Indian”? As a fiscal category, even into the very late colonial era, identifying as *indio* denoted ones responsibility to pay tribute. Clearly demonstrated in a recent examination by Luis Fernando Granados of a tribute census for the parcialidad of San Juan Tenochtitlan, for the year 1800, tribute payments by Mexico City natives were not only required but well managed and recorded.124 Given the social and economic advantages of racially distinguishing oneself as anything but Indian, it is thus puzzling to find late colonial city residents identifying as *indios*. What might this practice of identifying as Indians, manifested so clearly in marital dispute records, hint about native culture in the late colonial center? Moreover, what did it mean to be Indian in the late colonial urban setting? If the questions above can be answered by identifying a set of practices that distinguish the *indio* from his/her larger, mainstream setting, then the natives of late colonial Mexico City were a distinguishable group with cultural and legal practices that differed from the mainstream, Hispanic norm.

Legal files concerning property transactions in late colonial Mexico City provide a window into the cultural practices of the urban indigenous population. As other scholars

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have shown, the seemingly formulaic evidence of titles can reveal extensive cultural patterns and practices. Before proceeding, however, it is important to clarify a few important caveats. This chapter does not mount an argument for a sustained or persistent pre-Columbian culture, or ignore the mutations and evolution of early colonial indigenous culture in the broader colonial society of the Enlightenment period. Nor does it identify a set of essential, persisting or unchanging cultural characteristics of an urban native population. Rather, the focus of this work is on the details of a set of practices performed by a cultural group, which distinguish that group for its larger context, and whose practices work in tandem with those of the dominant group in as much as the latter is concerned to distinguish indigenous as a tributary group. Although any similarities between late colonial and sixteenth century cultural practices among the natives of Mexico City can be taken into account, this chapter adds another level of analysis to the dominant understanding of the city’s late colonial population.

While the legal practices employed by natives mirrored in many respects the legal customs of the non-indigenous populations, in others they diverged. Instead of treating the homogeneities inherent in the implementation of the law as a marker for the acculturation, and therefore erasure or transformation of indigenous culture, this study notes them as they are enveloped within everyday life in an administrative capital. In other words, to borrow Granados’s expression, one must know the system in order to use it. Yet, the cultural practices denoted by legal customs among the natives of late colonial Mexico City in regard to possessing and re-appropriating property varied in interesting manners. The variations from the dominant Hispanic norm, this chapter argues, are evidence of a viable set of practices that allows an understanding of cities within cities—the indigenous city
within the Spanish, *mestizo* (person(s) of mixed European and indigenous descent) or *casta* (person(s) of mixed ethnic descent) Mexico City.\textsuperscript{125} Thus, when it comes to the indigenous of the late colonial city, this chapter does not subscribe to a historiographical consensus on mestizaje as the essential feature of urban life among the non-Spanish parts of the population,\textsuperscript{126} for conformity to institutionally determined practices is only one factor in understanding late colonial practices associated with land tenure and transmission among urban Indians. This study is based on a reading of a corpus of documents on which this chapter is based, consisting of twenty-three legal disputes over *tierras* (lands) that directly involve indigenous residents of eighteenth-century Mexico City. Thus, the primary focus of this chapter is the details of written files regarding properties that highlight the vibrant dynamics of distinctly indigenous practices at the barrio level. The following dispute over a piece of land in the barrio of San Francisco Tepito is exemplary of the legal cases and their details that distinguish the late colonial native from his mainstream urban neighbors.

**Legal Disputes and the Court**

On 3 April 1725, don Joseph Francisco came before the governor of the parcialidad of Santiago Tlatelolco to denounce an Indian named Pedro de Guadalupe

\textsuperscript{125} In fact, when, in the sixties, a number of historians became interested in understanding the dynamism of indigenous cultural practices in the first two centuries of Spanish presence in America, including in colonial Mexico City, they took large-scale changes in such legal and economic practices as signs of the decline of a distinctly indigenous culture (and that culture’s population) in Mexico City. For examples see François Chevalier, *Land and Society in Colonial Mexico: The Great Hacienda*, translated by Alvin Eustis and edited by Lesley Byrd Simpson (Berkeley and Los Angeles: University of California Press, 1963; Gibson, *The Aztecs Under Spanish Rule*; Robert Ricard, *The Spiritual Conquest of Mexico: An Essay on the Apostolate and the Evangelizing Methods of the Mendicant Orders in New Spain, 1523-1572*, trans. by Lesley Byrd Simpson (Berkeley & Los Angeles, CA: University of California Press, 1966); and Kellogg, *Law and the Transformation of Aztec Culture*.  

\textsuperscript{126}
Ramos for bothering him and his family. Don Joseph, a cacique and resident of the barrio of San Francisco Tepito, complained that Ramos and his brothers had been disturbing the peace of his family for almost two years. The basis of that disturbance was a disagreement over possession of a piece of land. This disagreement initiated a long cause that was finally resolved by the General Indian Court after a series of legal procedures drawing on both Spanish and Nahua traditions for substantiating legal claims and establishing ownership over lands.\(^\text{127}\)

The General Indian Court was a local, royal tribunal in central Mexico. From 1592 through 1829, the Court, with the viceroy as its nominal head and run by a body of officials conversant in the law, functioned as an integral part of Spanish colonial rule. The Court’s jurisdictional focus was to handle first-instance suits of Indians with each other and of Spaniards against Indians.\(^\text{128}\) Although legally the Court could not hear cases of Indians against Spaniards nor carry out non-judicial functions, in practice it adjudicated in such cases and issued orders in administrative matters, ignoring royal mandates.\(^\text{129}\) In fact, as Woodrow Borah’s magisterial study on the Court shows, it is correct “to hold the entire unified viceregal jurisdiction in Indian matters as virtually synonymous with the sphere of the General Indian Court.”\(^\text{130}\) Within Mexico City, the Court was charged with judicial supervision of its two native parcialidades. Thus, all criminal cases involving natives of the city and especially those involving residents of the barrios of Santiago

\(^{126}\) For an example, see Cope, *The Limits of Racial Domination.*  
\(^{127}\) Don Joseph Francisco, cacique, contra Pedro Ramos, indio, por tierras, Mexico City, 1725, Archivo General de la Nación (hereinafter AGN), Tierras, Vol. 440, Exp. 6, Ff. 1-5v.  
\(^{129}\) Borah, *Justice by Insurance,* 121. See also, for example, Advertencia al asesor que no provea peticiones referentes al real gobierno, Puebla, 1622, AGN, Indios, Vol. 9, Exp. 379, F. 187.
Tlaltelolco or San Juan Tenochtitlan were to be heard and adjudicated over by the Court. Of course, the Court’s power was limited: its jurisdiction could be checked and qualified by the governor of each parcialidad or any of the multiple barrio-level indigenous leaders.

In the eighteenth century, an abundance of documentation mirrors the General Indian Court’s continued relevance, contrary to the decline thesis: here we find matters of jurisdiction that touch on nearly all legal questions pertaining to natives of the parcialidades. The legal disputes and complaints heard by the Court included grievances against local Spanish officials and priests, petitions for the sale, rental, or division of properties, conflicts over the elections of community officials and their various malversations whilst in office, and cases over land possession. In fact, of the substantial amounts of documentation produced by these court cases, legal disputes over land possession and transfers figure prominently. Yet, of this crucial set of sources, that clearly give evidence of the judicial functions of the Court over legal disputes among natives of Mexico City, only a fraction of the original corpus are still accessible.

The files that once comprised the judicial archives of the Court are records now scattered in collections throughout the National Archive of Mexico (Archivo General de la Nación, AGN). Only very little remains of that once massive collection of judicial records, whereas the files on administrative and viceregal decrees abound in the Court’s document collections in the National Archive. This study uncovered only a total of twenty-three files of judicial proceedings involving natives of late-colonial Mexico City. This small number of cases could be taken as a symptom of the decline of urban indigenous culture. But Table 4.1 illustrates the findings of Woodrow Borah and provides

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130 Borah, Justice by Insurance, 123.
statistical evidence of the continued vitality of the General Indian Court. Clearly indicated by the calculated proportions of case and file types, the majority of judicial issues heard by the court were legal disputes over properties, second to complaints against Spanish officials. Thus, the amount of legal cases over properties consulted for this present study represent only a fraction of the masses of files produced by royal administrative institutions (Audiencia and General Indian Court) in colonial Mexico City cover the judicial operations of the General Indian Court. We are left to infer its importance. Although there are few extant judicial records of the Court for the late colonial era, a significant amount of details remain about the cultural and legal practices that allow for clear distinctions to be made between indios and the non-indigenous population of the city.

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131 See also Borah’s summary of the cases handled by the Court in 1784, as organized in affidavits (declaraciones) produced by two solicitadores (Court agents versed in Castilian law and judicial procedure) and outlined in the appendix to his study, Borah, Justice by Insurance, 415-38. Table 4.1 is adapted from Borah, Justice by Insurance, 128; and Declaraciones de solicitadores del Juzgado, Archivo General de Indias (hereinafter AGI), Audiencia de México, 1784, Legajo (hereinafter Leg.) 1286.
<table>
<thead>
<tr>
<th>Types of Cases</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land</td>
<td>32%</td>
</tr>
<tr>
<td>Other Property</td>
<td>6%</td>
</tr>
<tr>
<td>Inheritance</td>
<td>3%</td>
</tr>
<tr>
<td>Land Licenses</td>
<td>2%</td>
</tr>
<tr>
<td>Complaints against Spanish officials</td>
<td>25%</td>
</tr>
<tr>
<td>Complaints against Priests</td>
<td>1%</td>
</tr>
<tr>
<td>Labor: Indians vs. Spaniards</td>
<td>12%</td>
</tr>
<tr>
<td>Complaints Regarding Local Government</td>
<td>5%</td>
</tr>
<tr>
<td>Private Indian Suits (not over land)</td>
<td>5%</td>
</tr>
<tr>
<td>Money and Debts</td>
<td>2%</td>
</tr>
<tr>
<td>Familial Disputes</td>
<td>1%</td>
</tr>
<tr>
<td>Miscellaneous</td>
<td>3%</td>
</tr>
<tr>
<td>Not Stated</td>
<td>2%</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>100%</strong></td>
</tr>
</tbody>
</table>

Table 4.1: Records from the General Indian Court: Audiencia de México, 1784.

*Source:* Data from Woodrow Borah, *Justice by Insurance* (1983), 128, 417-38; and Declaraciones de solicitadores del Juzgado, AGI, Audiencia de México, 1784, Leg. 1286.

*Note:* The table depicts the types of legal suits and complaints pursued before the General Indian Court by persons subject to the jurisdiction of the Audiencia de Mexico, and as outlined in the 1784 affidavits of two of the Court’s solicitadores. This table further demonstrates, as per Borah’s examination of the bulk of records produced by the General Indian Court, the availability of an abundance of administrative types of records versus a significantly smaller amount of extant litigation files. Although not represented among the currently available records, the Court did produce a significant amount of litigation files.133

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132 This category lists the percentages for the total number of each type of file, in regard to the total number of cases (approximately 283 files) listed by the solicitadores in 1784.

133 Borah attributes the small corpus of judicial proceedings from the General Indian Court available at the AGN to unfavorable archival conditions, theft, and sale of the documents. I agree with Borah and argue as well that another cause of the decrease of files produced by the Court involving natives of eighteenth-century Mexico City as the primary litigants is the Bourbon administrative restructuring of civil, royal, and ecclesiastical authority in the city—a restructuring that promoted an increase in the resolution of legal matters at the local level, by native authorities. See Borah, *Justice by Insurance*, 125.
Turning again to the land dispute between don Joseph Francisco and Pedro de Guadalupe, it is possible to distinguish between Hispanic norms and common but distinctly different indigenous practices associated with land transfer and possession in the late colonial city. Based on textual evidence, such practices, as will be discussed below, are understood here as generally common in that local native officials recognized and readily adhered to such practices and held their barrio community members to them as well. Indigenous practices culled from dispute files over properties further depict a general sense of native distinction from the city norm and mainstream context in that both Spanish and native officials did not question native legal and customary departures from the Spanish norm for establishing ownership of property. Notaries admitted the legal customs of barrio Indians as part of the evidence in substantiation of their formal judicial attempts to make their cases. As such, the characteristics depicted in legal disputes over land not only give evidence of a significant variation between native and late-colonial Hispanic mainstream practices, but also the coexistence of two distinct (one native and the other non-native) regimes for land possession and transfers.

The coexistence of native and non-indigenous legal and customary codes allows us to infer the simultaneous existence of two distinct cultural statuses in urban colonial Mexico. Customary legal practices of the native population of the city had force in relation to Spanish or non-indigenous claims. Thus, even as legal practices were undergoing transformation in the eighteenth century, Spanish institutions continued to preserve a respect for the fluid but still recognizable legal practices of the indigenous populations. In essence, if the city is defined as a legal entity, we can say that the Indian Court record reveals the simultaneous existence of an indigenous and non-indigenous city. The cities
overlapped in the common urban platform of everyday life, yet each population was
governed by distinct customs and each acted in response to distinct norms that obviously
shaped behaviors on the group level, that is, of families, enterprises, and communities.
These processes, which demarcated the cultural parameters of indigenous barrios and their
populations in the city, thrived, the evidence reveals, even at the heart of Spanish
administrative rule in New Spain.

The dominant interpretation of the late colonial era, therefore, is not the story of
the absorption of indigenous cultural way in the creolizing synthesis that results from
almost three hundred years of cultural interaction. From the distance of forty years, when
Charles Gibson and Robert Ricard were writing, it looks like colonialists applied the
acculturation followed by assimilation ideal to colonial history even as it was losing its grip
on mainstream American historiography and sociology. Intermingling among the
ethnically varied populations of the city had occurred—this is well documented—but this
is not equivalent to the vanishing of the Indian presence from the late colonial urban
landscape. He/She simply changed and matured, as is the process of culture and its
dynamic nature. As the extant evidence makes clear, the late colonial native of Mexico
City was culturally a barrio *indio* and, at the same time, a urban *vecino* (resident) of the
city.

**Culture in Claims**

Case files, such as that of Joseph Francisco and Pedro de Guadalupe, provide
evidence to support this alternative interpretation for Indian presence and culture in late
colonial Mexico City. In his defense, Pedro claimed to have legitimate ownership of the *chinampa* (a floating garden, but a distinctly Indian form of property) in dispute:

“My grandfather bequeathed the land to me, but my father has yet to register the land with the Royal Indian Court because my grandfather’s testament is lost. I do not have written evidence that the land in question is mine, but that Indian, Joseph Francisco, also has no written evidence. He does not even know the measurements of the land over which he is litigating. I have been here for a couple of years and Joseph is only now, oddly, challenging my possession; it is because my lands lay adjacent to those of his *consuegra* [the mother-in-law of one of Joseph’s children].”

In all, according to Pedro’s testimony, the suit by Joseph was simply another instance of intimidation in the long series of such acts deployed by Joseph with the aim of forcing Pedro to relinquish his territory.

The case mounted by don Joseph, on the other hand, was much more elaborate. He readily admitted that he did not have all of the testamentary and otherwise written evidence to support his claim to the disputed piece of land. He explained the reasons for this lack of paperwork and provided alternative evidence to make his case: “Firstly, that Indian, Pedro de Guadalupe, and his brothers have been harassing me and my family for almost two years. Ever since the death of doña Ignacia, my aunt, in 1723, Pedro and his brothers have illegally taken possession of the chinampa adjacent to my home, forcing me

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134 Declaración de Pedro de Guadalupe contra Joseph Francisco por tierras, Mexico City, 1725, AGN, Tierras, Vol. 440, Exp. 6, F. 4. Hereafter, declarations and witness testimonies are translations and paraphrases of the Spanish original.
off that territory.” Secondly, “Pedro claims to be the owner of the property but he doesn’t have a legitimate title. Pedro only has his father’s badly tattered and suspicious testament; it includes claims to the chinampa adjacent to my home as well as clauses regarding *camellones* [dividing strips of land, usually between chinampas] that don’t even exist—the only other nearby lands are a chinampa located in front of my home. But, now Pedro will no longer show that testament because he claims he submitted it to the General Indian Court in order to receive a copy and true title to my chinampa.”

Thirdly, don Joseph continued, “I too do not have a legitimate title for the disputed chinampa but the community well knows that the land belongs to me. In fact, in her testament, my aunt doña Ignacia, bequeathed legitimate ownership of the chinampa to me upon fulfilling her last will to have three sung masses commissioned on her behalf.” Lastly, don Joseph testified,

“I can submit my aunt’s testament as evidence but you will find that I cannot provide copies of her father’s testament or of her title to the disputed land. The reasons for this are clearly explained in my aunt’s testament: Years before her death, thieves broke into her home and stole the title, her father’s testament, and other important documentation. Should any of Pedro’s written evidence submitted to the Royal Indian Court make reference to my aunt or my ancestors, they should

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135 Don Joseph Francisco, cacique, contra Pedro Ramos, indio, por tierras, Mexico City, 1725, AGN, Tierras, Vol. 440, Exp. 6, F. 1v.
136 Don Joseph Francisco, cacique, contra Pedro Ramos, indio, por tierras, Mexico City, 1725, AGN, Tierras, Vol. 440, Exp. 6, F. 1v.
137 Don Joseph Francisco, cacique, contra Pedro Ramos, indio, por tierras, Mexico City, 1725, AGN, Tierras, Vol. 440, Exp. 6, F. 1v.
be prosecuted and the paperwork seized and immediately returned to my family.”

The narrative in this case demonstrates that a legal cause can spawn a thick description of indigenous urban culture, all of the participants in which assume the distinct legal practices of the indigenous populations of late colonial Mexico City. Litigation files over the transmission of properties among the natives exemplify local-level legal customs among the natives of the city as well as the leadership actions of male and female caciques (community or barrio-level indigenous leaders).

**Proving Ownership: Old Men and Local Customs**

In analyzing the disputes over properties for this chapter, such as that between don Joseph and Pedro de Guadalupe, each file was approached with the assumption that each party (plaintiffs, defendants, or witnesses) used the best legal and customary argumentations available to their knowledge and relevant to their locale. In the organization of the list of witnesses to a case as well as the kinds of declarations to be made, litigants and other community members make enough references to the legal and social norms customary to a community that we can reconstruct them. Likewise, denunciations, declarations, and witness testimony give us information from which we can infer the local standards in place from the protests against their transgression by litigants. In addition, like the adultery cases of chapter three, disputes over properties include

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138 Don Joseph Francisco, cacique, contra Pedro Ramos, indio, por tierras, Mexico City, 1725, AGN, Tierras, Vol. 440, Exp. 6, F. 1.
persons from different ethnic groups, giving us information on how indigenous community members are recognized. This makes disputes over properties that include both Spanish and native authority figures uniquely valuable. And, in support of the validity of distinct indigenous cultural and legal practices in Mexico City, noted in adjudication over land, no representatives of the systems of authority in the city question the right of local Indian variations to trump the Hispanic norm. So, what positive data can we derive from judicial processes regarding properties to illustrate distinct indigenous customs and culture as it subsisted within the urban cultural mainstream of late-colonial Mexico City? For an example of such suggestive matter, we turn once again to the dispute between don Joseph and Pedro de Guadalupe.

On 4 April 1725, don Gregorio de San Buenaventura, Judge and Governor in the barrio of San Francisco Tepito, was approached by officials and a bilingual notary from the General Indian Court. As the indigenous official with the highest level of authority in the parcialidad of Santiago Tlatelolco, don Gregorio was well versed in Spanish legal procedure and aware of the precedent of local customs. His immediate response to the summary of don Joseph’s complaint presented him by the notary was “to make notorious the petition” for more information regarding the dispute over land. The response to the Governor’s request for information was not the submission of a land title, bill of sale, or any other document evidencing legal ownership of the disputed property, as would be

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139 For elaboration on this methodology see Patricia Seed, To Love, Honor, and Obey in Colonial Mexico: Conflicts over Marriage Choice, 1574-1821 (Stanford: Stanford Univ. Press, 1988).

140 Don Joseph Francisco, cacique, contra Pedro Ramos, indio, por tierras, Mexico City, 1725, AGN, Tierras, Vol. 440, Exp. 6, F. 2.

141 Don Joseph Francisco, cacique, contra Pedro Ramos, indio, por tierras, Mexico City, 1725, AGN, Tierras, Vol. 440, Exp. 6, F. 2. To make a case “notorious” was to make a public demand for more information from barrio residents for more information pertaining to the legal issue. Don Gregorio, the
typical in a Spanish case. Instead, the Governor and the Indian Court notary took the
testimony of three old men from San Francisco Tepito.

In the dispute between don Joseph and Pedro de Guadalupe, the former’s
argument against the latter rested on the memory of some of the oldest members of the
barrio of San Francisco Tepito. Testimony by “the most old and ancient residents” of the
barrio corroborated don Joseph’s claim to the land. The men, one of ninety five years of
age another of seventy three years of age and a third of seventy six years of age (according
to their testimonies), recalled that while don Joseph’s aunt, doña Ignacia de Jesus, was
alive, no one had ever disturbed or challenged her ownership of the territory. In fact,
although doña Ignacia did not live in the barrio, don Felipe de Santiago, the ninety five
year old, declared, it was well know that the property belonged to her. She had
inherited the small chinampa from her parents, declared the three old men, and in those

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142 Such documents were minimally necessary to support a denunciation and subsequent
investigation of a dispute over properties involving Indian litigants. See for example, Rebecca Horn,
Postconquest Coyoacan: Nahua-Spanish Relations in Central Mexico, 1519-1650 (Sanford: Stanford
University Press, 1997), 146-48. See also Lockhart, The Nahuas After the Conquest, 141-202; Kellogg,
Law and the Transformation of Aztec Culture, 121-59; and Kevin Terraciano, The Mixtecs of Colonial
Oaxaca: Náahuatl History, Sixteenth through Eighteenth Centuries (Stanford: Stanford University Press,
2002), 198-251.

143 The reliance on the testimony of male elders from a community or barrio to help resolve a
dispute based on the memory of these men is typical of Indian mechanisms for dispute resolution. For an
example on these elders or huehuetque (in Nahuatl) see, Robert Haskett, Indigenous Rulers: An
Ethnohistory of Town Government in Colonial Cuernavaca (Albuquerque: University of New Mexico
Press, 1991); Susan Schroeder, “Introduction,” in Susan Schroeder, Stephanie Wood, and Robert Haskett,
ed., Indian Women of Early Mexico (Norman: Univ. of Oklahoma Press, 1997) and Robert Haskett,
Visions of Paradise: Primordial Titles and Mesoamerican History in Cuernavaca (Norman: University of

144 Don Joseph Francisco, cacique, contra Pedro Ramos, indio, por tierras, Mexico City, 1725,
AGN, Tierras, Vol. 440, Exp. 6, F. 2-3v. In Spanish, the men are repeatedly referred to as the “viejos mas
ansianos y besinos del barrio.”

145 Declaración de don Felipe de Santiago, Mexico City, 1725, AGN, Tierras, Vol. 440, Exp. 6,
F. 2.
times when she visited Tepito she managed and cared for the land “as if her own.”\textsuperscript{146} As for Pedro de Guadalupe’s claim, don Felipe de Santiago testified that he had no right to any territory in Tepito for he and his now deceased parents never lived in Tepito, they “belonged to the De Los Reyes barrio.”\textsuperscript{147}

Thus, don Felipe, Antonio Juan de Santiago, and don Salvador de Santiago y Juarez were key witnesses for don Joseph on the basis of their long-term residence in the barrio of Tepito. They clearly corroborated that don Joseph’s aunt, doña Ignacia, had been the true and locally recognized owner of the disputed chinampa. Antonio, present at the taking of doña Ignacia’s will, was an especially valuable witness. He confirmed don Joseph’s claims to the property by speaking specifically about doña Ignacia’s testament. At that time, doña Ignacia added several clauses to her will, one of which requested that her nephew, don Joseph, pay for five sung masses on her behalf.\textsuperscript{148} It appears that don Joseph had already been singled out as the person to inherit the chinampa but, in exchange, as the clause makes clear, he had to commission the masses before he could inherit. The three men corroborated that don Joseph performed this act, making him the rightful possessor of the land.\textsuperscript{149}

In this way, on oral testimony and without any written legal documents, don Joseph won his case against Pedro de Guadalupe. Pedro, too, lacked any written legal documents to substantiate his claims on the chinampa. He also testified that he had

\textsuperscript{146} Declaración de don Felipe de Santiago, Antonio Juan de Santiago, and don Salvador de Santiago y Juarez, Mexico City, 1725, AGN, Tierras, Vol. 440, Exp. 6, F. 2-3v.
\textsuperscript{147} Declaración de don Felipe de Santiago, Mexico City, 1725, AGN, Tierras, Vol. 440, Exp. 6, F. 2.
\textsuperscript{148} Declaración de Antonio Juan de Santiago, Mexico City, 1725, AGN, Tierras, Vol. 440, Exp. 6, F. 2v-3.
\textsuperscript{149} Declaración de don Felipe de Santiago, Antonio Juan de Santiago, and don Salvador de Santiago y Juarez, Mexico City, 1725, AGN, Tierras, Vol. 440, Exp. 6, F. 2-3v.
submitted his only written evidence, his father’s last will and testament, to the General Indian Court for review, as part of an application for a land title. Yet, these documents did not surface during the court proceedings nor were they referenced in the final judgment in favor of don Joseph. The Court’s final decision was a short note requesting that its judgment in favor of don Joseph be communicated immediately to the local governor and to don Joseph.

Don Joseph’s success, in microcosm, speaks to the importance of locally understood and legitimated cultural and legal practices. While barrio-level native authorities had been unable to remove Pedro de Guadalupe from the disputed property, a denunciation to the General Indian Court garnered the attention and action of native and Spanish authorities. They, in turn, followed the procedures of the Spanish system, sending administrative officials and a notary from the Court to the parcialidad of Santiago Tlatelolco. Working at the direction of the authority of the native governor, both Spanish officials and the indigenous governor sought out evidence to corroborate the claims made by the litigants. Instead of receiving written material, which neither side could provide, officials heard testimony from the oldest members of the barrio. In the process of recording such testimony and adjudicating on the basis of it, it becomes clear that Spanish colonial institutions relied on and hence indirectly legitimated locally practiced customs for proving ownership. In so doing, they explicitly distinguished the native population and their legal practices from the dominant Spanish norms.

150 Don Joseph Francisco, cacique, contra Pedro Ramos, indio, por tierras, Mexico City, 1725, AGN, Tierras, Vol. 440, Exp. 6, F. 5-5v.
151 Don Joseph Francisco, cacique, contra Pedro Ramos, indio, por tierras, Mexico City, 1725, AGN, Tierras, Vol. 440, Exp. 6, F. 5.
The details of witness testimony help to establish a cultural distinction between the indigenous and non-indigenous populations of the city. It was commonly recognized that the memory of the eldest of the community played an important social function, indicating that the indigenous community still placed a premium on the oral culture to adjudicate legal matters involving barrio residents. It was also common to deploy the testimony of the “most ancient” men of the barrio as legal strategy to support a claim on property. Of the twenty-two other disputes over territory analyzed for this study, twenty make use of “ancient men” to substantiate their legal claims. In their 1721 case against Michaela de los Angeles, for example, Phelipe de Santiago and Pasqual Antonio, both Indians and residents of the barrio of San Francisco Tepito, relied on the testimony of barrio elders to successfully challenge Michaela’s claim on their chinampa.\textsuperscript{152} In another example, in 1724, doña María de Villegas, a cacica and widow of Santiago Tlatelolco, also relied on elders as well as on individuals present as she verbally made claim to her properties while a notary redacted her testament.\textsuperscript{153} In yet one more example, doña Matiana de la Rosa, an Indian woman from the barrio of Xiquatotonco in the parcialidad of San Juan Tenochtitlan, also made successful use of the memory and testimony of older men. In asking for permission from the Indian Court to sell a piece of her land to an Indian from the same barrio, named Manuela Gonzales, doña Matiana required the use of the testimony of elders in order to substantiate her claims of ownership and, then, also to witness the sale of her

\textsuperscript{152} Phelipe Santiago y Pasqual Antonio, naturales de San Francisco Tepito en Santiago Tlatelolco, por un chinampon, Mexico City, 1721, AGN, Tierras, Vol. 391, Exp. 3, Ff. 1-10v.
\textsuperscript{153} Doña María de Villegas, cacica viuda de Santiago Tlatelolco, Mexico City, 1724, AGN, Tierras, Vol. 427, Exp. 3, Ff. 1-16v.
land to Manuela. In only two cases of the twenty three the claimants did not use the testimony of elders in their legal procedures. In those same two files, there is no written final account of who prevailed in their claim to indigenous lands. As a result, those cases are especially interesting as are also the eleven other files of claims on lands that do not include witness testimony from barrio elders; in sum, these thirteen files comprise 57 percent of the entire corpus. Thus, in nearly half of the extant cases over land disputes for which there are resolutions, the litigants favored by the testimony of elder barrio members prevailed in their legal transactions.

**Noting Last Wills and Testaments**

Thus far, this chapter has analyzed property disputes to demonstrate the presence of a set of legal and cultural practices that distinguish native populations of late colonial Mexico City as a distinct group from the cultural mainstream. Yet, when it comes to properties, disagreements over rightful ownership are not the only sources available for analyzing the cultural characteristics for possessing and re-possessing properties. Last wills and testaments are another great source by which to examine cultural practices that can distinguish indigenous populations. This section of chapter four is but an introductory note to a corpus of sixty-two Nahuatl last wills and testaments that I have found and collected over the last few years, primarily in the National Archive of Mexico – See Table 4.2 for a general listing of this body of documents and Figure 4.1 for an example. Their

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154 Doña Matiana de la Rosa pide licencia para vender, San Juan Tenochtitlan, Mexico City, 1773, AGN, Tierras, Vol. 2241, Exp. 10, Ff. 1-15v.
organization comes too late for the present study, but this annotation will serve to substantiate the larger argument of this work.

The native-language testament represented a continuation of an indigenous oral tradition, well maintained in resolving disputes over lands, while fulfilling both religious and secular requirements of the Church and native communities. Although native testaments resembled Spanish testaments in their formula and format, indigenous notaries varied the format according to local traditions and practices. Significantly, the testament also gave communities a written, legal record of property distribution, property ownership, and genealogical relationships between the lands of a community and its residents. Thus, the value of the indigenous testament for examining native practices via the transmission of properties is evident in its personal and familial details of the development of ethnic identity and, even, gender relations of a distinctly indigenous population. For late colonial Mexico City, the examination of this corpus can reveal ample details about its ephemeral indio.

Moreover, because the traditional historiography on the urban natives of Mexico City is focused on indigenous communities in the early colonial period, Nahuatl language last wills and testaments can engage that historiography beyond the scope of this dissertation. The favoring of a focus on the mestizo, to the omission of James Lockhart’s “invisible hero” of the city (the bilingual Indian), can also be further addressed via work

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155 For recent and classic studies on the values of last wills and testaments for the study of indigenous populations of colonial Mexico see, S.L. Cline and Miguel León Portilla, eds., The Testaments of Culhuacan (Los Angeles: UCLA Latin American Center Publications, 1984); James Lockhart, The Nahuas After the Conquest; Susan Kellogg, Law and the Transformation of Aztec Culture, 121-159; Susan Kellogg and Matthew Restall, eds., Dead Giveaways: Indigenous Testaments of Colonial Mesoamerica and the Andes (Salt Lake City: University of Utah Press, 1998; Matthew Restall, Lisa Sousa, and Kevin Terraciano, eds., Mesoamerican Voices: Native-Language Writings from Colonial
with native language sources for the late colonial era of the city. Native-language sources allow personal, familial glimpses into the lives of indigenous men and women. Although there is a growing body of work that highlights the significance of the native presence in urban settings, a concerted analysis of late colonial Nahuatl last wills and testaments will be an important step in moving the general discussion from a focus on Spanish acculturation toward the maturity of indigenous cultures.

**Concluding Remarks**

Documents regarding the possession and re-possession of properties reflect the vitality of indigenous cultural practices at the barrio level within the city as well as the importance of native officials and community elders in legal affairs involving Indians. Land-related Spanish and Nahuatl documents, including litigation over lands as well as last wills and testaments, from 1692-1806, almost always include statements from the ‘most ancient’ men of the community while also making general references to native family lineages and ancestors. In the 1762 legal dispute between don Joseph Francisco (a cacique from the barrio of San Francisco Tepito) and Pedro de Guadalupe (an Indian man from the same barrio), don Joseph had to rely on the memory of community members. To substantiate his claim over a piece of property he inherited from his aunt, doña Ignacia de Jesús, don Joseph provided the official representatives of the General Indian Court with the commonly understood as most appropriate evidence to support his claims: oral testimony that was not necessarily substantiated by any written legal document.
Accordingly, the Court’s Spanish-Nahuatl bilingual notary came to the barrio, noted that don Joseph’s witnesses, the “ancient men,” did not require a translator and made a record, like the twenty two others examined for this chapter, of the distinct and un-challenged cultural and legal practices performed by Indians of the city to prove ownership and to re-appropriate landed properties.

Providing appropriate and corroborating testimony in a manner distinctly indigenous was a successful cultural practice as well as a legal strategy deployed by natives involved in legal disputes before Spanish institutions. The combination of the type of oral, memory-based evidence provided by litigants, the references to ancestry within a particular barrio in connection to rightful possession of property, the prominent lack of written documents to corroborate legal claims, and the evidence of the continued use of Nahuatl in the production of testaments demonstrates the presence of a dynamic and viable native population in the viceregal capital. Likewise, such legal and customary procedures are also evidence of a set of indigenous customs that distinguish the practicing population from the urban non-indigenous mainstream of late-colonial Mexico City.

Again, the specifics of the case of don Joseph and his old men against Pedro de Guadalupe further illustrate the existence and practice of two distinct systems of authority, even at the heart of Spanish colonial rule in Mexico. Specifically, such cases illustrate how natives were able to take part in both Indian and Spanish systems of authority via customary practices that engaged both normative and local procedures for establishing possession. In the end, this case and the Nahuatl will of doña Petrona María are important examples of how we cannot discount the distinct presence and function of local native

practices, legitimized by indigenous and Spanish systems of authority, even after 300 years of intimate relations in the administrative center. These cultural and legal practices associated with possessing and making claims to lands distinguish the populations of the ‘indigenous city.’—The commonly held notions of marriage and legal strategies deployed by indigenous and their non-indigenous partners, as examined in chapter three on the other hand, serve to contextualize the quotidian life affairs beyond the barrio but well within the urban core of administrative, modern, mainstream living in eighteenth-century Mexico City.
<table>
<thead>
<tr>
<th>TESTATOR</th>
<th>Barrio</th>
<th>Date</th>
</tr>
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<tbody>
<tr>
<td>Francisco de San Pedro</td>
<td>México, D.F.</td>
<td>1692</td>
</tr>
<tr>
<td>Don Felipe de la Cruz</td>
<td>Santa Cruz Contzinco, México, D.F.</td>
<td>1692</td>
</tr>
<tr>
<td>Don Felipe de la Cruz</td>
<td>Santa Cruz Contzinco, México, D.F.</td>
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<td>Don Felipe de la Cruz</td>
<td>Santa Cruz Contzinco, México, D.F.</td>
<td>1692</td>
</tr>
<tr>
<td>Don Felipe de la Cruz</td>
<td>Santa Cruz Contzinco, México, D.F.</td>
<td>1692</td>
</tr>
<tr>
<td>Don Felipe de la Cruz</td>
<td>Santa Cruz Contzinco, México, D.F.</td>
<td>1692</td>
</tr>
<tr>
<td>Ana Maria</td>
<td>México, D.F.</td>
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</tr>
<tr>
<td>Agustin Hipolito</td>
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<td>1694</td>
</tr>
<tr>
<td>Juan Bautista</td>
<td>N/A</td>
<td>1694</td>
</tr>
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<td>Teresa de Jesus</td>
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<td>1695</td>
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<td>Don Diego de los Angeles</td>
<td>Santa Catharina, San Pedro Tlahuac, D.F.</td>
<td>1698</td>
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<td>Damiana Juana</td>
<td>Santisima Trinidad, San Agustin de las Cuevas, D.F.</td>
<td>1699</td>
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<td>Dona Juana de Mendoza Moctezuma</td>
<td>México, D.F.</td>
<td>1700</td>
</tr>
<tr>
<td>Dona Juana Bravo de Mendoza Moctezuma</td>
<td>México, D.F.</td>
<td>1700</td>
</tr>
<tr>
<td>Name</td>
<td>Location</td>
<td>Year</td>
</tr>
<tr>
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<td>--------------------------------------------------------------------------</td>
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<tr>
<td>Sebastiana Anna</td>
<td>Colostitlan de Crustitlan, Xicotitlan Tlacopan, D.F.</td>
<td>1701</td>
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<tr>
<td>Don Juan Matheo</td>
<td>San Miguel Chalma, Tacuba, D.F.</td>
<td>1701</td>
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<tr>
<td>Don Juan Matheo</td>
<td>San Miguel Chalma, Tacuba, D.F.</td>
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<td>Francisco Mexia Tepactzin</td>
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<td>Miguel Juan</td>
<td>Teocalco, Mexicaltingo, México, D.F.</td>
<td>1702</td>
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<td>Don Baltazar Gonzalez (and his wife)</td>
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<td>Nicolasa Maria</td>
<td>La Concepcion, Santiago Tlatelolco, D.F.</td>
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<tr>
<td>Don Antonio Ventura de Gante</td>
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<td>[Name unclear]</td>
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<td>Antonia de la Cruz</td>
<td>Tocaltitlan</td>
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<tr>
<td>Juan Domingo</td>
<td>San Pedro Apostol Tzoncuicuilco, San Agustin de las Cuevas, D.F.</td>
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<tr>
<td>Joseph Nicolas</td>
<td>San Miguel Atlampan, Santiago Tlatelolco, Puebla</td>
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<tr>
<td>Don Matias Francisco</td>
<td>Villa de Tacubaya, D.F.</td>
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<td>Juan Bartolome</td>
<td>Santa Ana Huitzilan, Santiago Tlatelolco, D.F.</td>
<td>1714</td>
</tr>
<tr>
<td>Name</td>
<td>Location</td>
<td>Year</td>
</tr>
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<td>-----------------------------------------------</td>
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</tr>
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<td>Don Pascual Francisco Melendes</td>
<td>San Martin Zacatelco, Santiago Tlatelolco, D.F.</td>
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<td>Gabriel Melchor</td>
<td>Nuestra Senora de la Asuncion Atenchicalcan, San Pedro Tlahuac, D.F.</td>
<td>1715</td>
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<tr>
<td>Pedro Antonio</td>
<td>Tlatelolco</td>
<td>1715-65</td>
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<td>Salvador Manuel</td>
<td>San Diego Santorum, Tacuba, D.F.</td>
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<td>Josefa Melchor</td>
<td>Nuestra Senora de los Angeles Nonoalco, Tacubaya, D.F.</td>
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<td>Jose Santiago</td>
<td>San Sebastian, México, D.F.</td>
<td>1719</td>
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<td>Mathias Francisco</td>
<td>Santisima Trinidad, Atlacuihuayan (Tacubaya), Coyoacan, D.F.</td>
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<td>Don Matias de la Cruz</td>
<td>Santa Catarina, San Felipe y Santiago Azcapotzalco, Tacuba, D.F.</td>
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<td>Don Antonio Sacarias, gobernador pasado</td>
<td>San Francisco Tizapan, Tacuba, D.F.</td>
<td>1727</td>
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<td>Juan Calixto de Luna and Juana Maria Calixto</td>
<td>Ixhuatepec (Tenochtitlán)</td>
<td>1727-34</td>
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<td>Magdalen Nicolasa</td>
<td>San Francisco Xolalpan, Tacuba, D.F.</td>
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<td>Maria de los Reyes</td>
<td>Tlatelolco</td>
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<td>Maria Teresa</td>
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<tr>
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<td>Year</td>
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<td>Don Joseph Esteban</td>
<td>Calyecac. San Esteban y San Lorenzo, México, D.F.</td>
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<td>Asencio Jacinto Bautista</td>
<td>Ixhuatepec (Tenochtitlán)</td>
<td>1734</td>
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<td>Dona Petrona Maria</td>
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<td>1734</td>
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<tr>
<td>Ursula Juana</td>
<td>San Francisco Toltenco, Tacuba, D.F.</td>
<td>1737</td>
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<td>Petrona de la Rosa</td>
<td>Espiritu Santo Analpa, Santa Maria la Redonda, México, D.F.</td>
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<td>Juan Diego</td>
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<td>Dona Ursula Juana</td>
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<td>Antonio Guillermo</td>
<td>Santo Domingo, Nuestra Senora de la Candelaria, Tacubaya, D.F.</td>
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<td>Baltazar de los Reyes</td>
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<td>Lorenzo Melchor</td>
<td>San Geronimo Tepetlacalco, Tacuba, D.F.</td>
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<tr>
<td>Jose Aparicio</td>
<td>Santa Maria Astahuacan, Mexicalcingo, Méx.</td>
<td>1744</td>
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</table>
Table 4.2: The Testaments of Mexico City, 1692-1806.

*Source:* AGN.

*Note:* This table is a general list of native language testaments available for late-colonial Mexico City. They were slowly compiled over a period of more than two years, and are an example of the sources available and yet unexamined in an analysis of distinct indigenous cultures, communities, and populations for the late colonial era of Mexico’s administrative center.
Last Will and Testament of doña Petrona María, Mexico City, 1734.

Fol. 2r (This is the first page of the testament):
Figure 4.1: Image of Nahuatl Testament, 1734.
Source: AGN, Tierras, Vol. 2496, Exp. 3.
Note: This testament of doña Petrona María is part of a corpus of sixty-two last wills and testaments written in Nahuatl, from eighteenth century Mexico City. Only a sampling of those wills were examined for this dissertation project. I am currently transcribing, translating, and analyzing the remainder of the corpus as part of a separate project.
CHAPTER 5

CONCLUSION: FINDING THE INDIAN VIA INDIGENOUS AUTHORITY

After eleven years of revolutionary struggle, independence from Spain came in 1821 for Mexico. By this time, the indigenous who resided in what was the former viceregal capital of New Spain, and the place that became the national capital of Mexico, had been subject to over 300 years of Spanish domination. This expanse of time did not transpire without having had an impact on native populations. By the late colonial era, the natives of Mexico City clearly reflected Spanish influences in their daily behavior (as demonstrated in chapter three). The urban indigenous population, a population which has eluded for some time the archival investigator focused on the late colonial era of the capital city of New Spain, spoke Nahuatl on the record significantly less often than in the previous two centuries, yet recently uncovered and collected documents demonstrate the continued use and reliance on indigenous languages at the barrio levels of the city (as highlighted in chapter four; See Figures 4.2 and 4.3). This same group of urban people was also less often identified as “Indian” in documentation produced by eighteenth-century Spanish institutions, especially after the reorganization of city parishes in the second half
of the eighteenth century. As the meticulous study by Juan Javier Pescador of the records of the Santa Catarina Virgen y Martir parish in Mexico City clearly demonstrated, the eighteenth century geographically-based (and not ethnicity-based) reorganization of the urban landscape had significant social, cultural, and economic effects on the city’s populations. Reorganized was, for example, the requirement on indigenous persons to receive the sacraments of baptism, confession, first-communion, marriage, and last rites in parishes specifically designated as “Indian” doctrinas. As of 1772, city natives, both naturales (native-born residents of the city) and immigrants, would now legally continue in what had become by the late seventeenth century a common practice of receiving Church sacraments at the church most geographically proximate their barrios.

Indigenous residents of Mexico City were also less often identified as “Indians” in civil and royal documentation. Many times, as the present chapter will demonstrate, only a very short note in a legal file might imply that the litigants before the notaries, the ever present scribe who produced the many written legal claims analyzed in this study, were ladinos, persons, Indians in particular, fluent in Castilian. In general, by the late colonial period, and especially soon after Mexican Independence, –a struggle that does not figure prominently in the documentation analyzed for this study –when previously required ethnic designations were banned by royal and, subsequently, national decrees, the urban natives became less overtly present in the paperwork produced daily by Spanish and Mexican institutions. The documentation recovered from Mexican and Spanish archives for the construction of this dissertation thus far and for this concluding chapter as well,

nevertheless, substantiates an argument for a large and culturally distinct and viable indigenous population in eighteenth-century through 1829 (as per the sources analyzed in chapter three) Mexico City.

This dissertation has presented analyses of the city’s demography and structural reorganization as well as examinations of much of the extant types of documentation that recorded indigenous presence and participation in the city (e.g. testaments and litigation over properties, adultery, and domestic violence). The aim has been to move away from viewing urban indigenous men and, especially, women primarily as marginalized victims of Spanish colonialism. This chapter synthesizes themes presented in the preceding chapters to conclude the examination into cultural practices that distinguish the Indian from his/her non-indigenous urban context. This chapter specifically argues that in addition to barrio level cultural and legal practices for possessing and re-appropriating property, the manners by which local indigenous authority figures adjudicated over crimes committed in the barrios of the parcialidades of San Juan Tenochtitlan and Santiago Tlatelolco also had cultural implications that denote the existence of separate system of authority distinct to the native populations of the city. This chapter thus reviews the larger trends evident in the legal and cultural practices of Indians in the late colonial city while also including analysis of an indigenous local authority that distinguishes the indigenous of the city from their urban mainstream counterparts.

157 See again Juan Javier Pescador, De bautizados a fieles difuntos.
Answering the Research Questions

While chapter one of this study presented the research questions guiding this dissertation, chapter two was the section in which an initially surprising, but quite relevant, subsequent question to that research was asked: What explains the sharp decline of Indian presence in the legal record of eighteenth century Mexico City? The traditional answer to that question of the disappearance of the indio has come via analysis and discussion of the complex processes of acculturation and assimilation experienced by many indigenous groups in colonial Mexico. This study, however, proposes another answer to that question: The significant decrease of natives from the record of the late colonial capital city had more to do with institutional reorganizations and less with cultural decline and mestizaje.

A primary factor lending strength to an analytical focus on the mestizo and not on the indio, is the conspicuous drop in the quantities of available documentation specifically involving persons who identified or were identified as Indians. What explains the late colonial absence of natives in the juridical source record? Had the indigenous of Mexico City become significantly less aware of legal avenues available to them by the late colonial era? By the eighteenth century, following devastating epidemics, a violent uprising in 1692, and continued cultural domination, was the extant urban native population of Mexico City less willing to bring their legal concerns before a Spanish tribunal? Or, as their minimal appearance in the official colonial record, in comparison to the non-indigenous population of Mexico City, might imply: Was the late-colonial city Indian a minority? (And, by extension, can he/she be considered an “underrepresented” group?) Certainly, the dominant culture of a metropolis, seat of colonial administration and, later,
national rule, moved many to aspire to move into different categories of social status. But, as this concluding chapter further demonstrates and synthesizes, the urban native of Mexico City, in the face of radical administrative changes that aimed specifically to undermine a common practice of recognizing ethnic difference and bestowing privileges upon such differences, did not disappear and become engulfed by a plebian class or mestizo race. Rather, like the radical changes that came with conquest, the late colonial urban native adapted Bourbon institutional and social changes to quotidian life affairs among their non-indigenous neighbors but simultaneously continued to perform customary practices which, in turn, distinguished them as Indian while bestowing legitimacy and functionality to distinct native customs and systems of authority at the barrio level.

As the conclusion to this study, this fifth chapter is focused on discussing the practices and parameters of authority exercised by barrio level indigenous leaders in late colonial and early national Mexico City. While the focus of chapter three was on the mainstream Indian whose actions denote his/her ‘acculturation,’ rather than distinction, in everyday life and activities alongside non-indigenous persons, chapter four began to distinguish natives from that mainstream. The specific focus of chapter four was the examination of indigenous processes for appropriating and re-appropriating lands in the city. The barrio-level practices performed in substantiating claims to lands revealed characteristics unique to the indigenous population of the city. The practice of Spanish authorities relying on the indigenous leadership of parcialidades, who in turn relied on localized practices, demonstrates the value ascribed to the memory and opinion of the eldest residents of a barrio. The common acceptance and reliance by natives on “the most old and ancient men” of a barrio to arbitrate in land disputes speaks also to the unique
qualities of a system of authority distinct from the Spanish mainstream. But, the extant
documentation available to examine distinct indigenous practices in the late colonial city is
significantly minimal in comparison to the documentation, as that consulted for chapter
three, available for the mainstream casta population with which the natives were inter-
mixed in the city. Yet, as this chapter further adds to the examination of indigenous
cultural practices, there is copious evidence of the considerable presence of natives and, by
analysis, their local systems of authority.

This conclusion thus overviews and elaborates upon a key reason for explaining
the small number of existing official records involving native litigants. Particularly
discussed in this section is the continued practice of Indian authority in resolving disputes
among natives in the viceregal and, subsequent, national capital. Conclusions about native
leadership in late colonial Mexico City will draw upon discussion of the roles of caciques
and cacicas in the barrios of city. Even after Bourbon administrative restructuring, the
organization and supervision of justice was still, as described by Charles Cutter, structured
and functioning as “a government of judges, where nearly every appointed official
exercised some sort of judicial authority,” argued Charles Cutter.158 Thus, the authority
to adjudicate was reproduced, especially in an administrative capital, over all
administrative entities, royal, ecclesiastic, civil, and of course Indian.159 This customary

159 John Leddy Phelan, “Authority and Flexibility in the Spanish Imperial Bureaucracy,” Administrative Science Quarterly 5 (1960): 55. As an example of duplication, an indigenous adulterer in Mexico City of the late 18th century could be investigated and prosecuted by any one of four authorities: an Alcalde of the Court of the Audiencia, an Alcalde Ordinario, a Provisor Ordinario of the Church, or a local native official. See also the following for descriptions of the decentralized structure of Spanish rule: Clarance H. Haring, The Spanish Empire in America (New York; Harcourt Brace, 1975 [1947]); John Leddy Phelan, The Kingdom of Quito in the Seventeenth Century: Bureaucratic Politics in the Spanish Empire (Madison: University of Wisconsin Press, 1967); Phelan, The People and the King: The
legal practice of shared jurisdictional authority over similar crimes, characteristic of the Habsburgian era of Spanish decentralized rule in the Americas, was the direct target of Bourbon political, social, and economic reorganization. Yet, the prevalence of a Habsburgian legal culture remained in the eighteenth century, as local customary systems of barrio level Indian authority continued to function in spite of new Bourbon legal structures. As a result, eighteenth century indigenous leaders held substantial authority to resolve criminal and mundane disputes at the barrio level without significant challenges by Bourbon authorities. Their ability to adjudicate outside of official Spanish mechanisms meant that the official Spanish record was not going to document mundane indigenous legal proceedings at the barrio level. Yet, in those few instances that this local level system of authority was documented by Spanish institutions, it is possible, this dissertation (and especially this chapter) illustrates, to decipher cultural and legal customs performed by indigenous leaders in adjudicating over crimes that further distinguish the natives of the

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Kagan’s argument that, “Castilian justice in the sixteenth and seventeenth centuries was a hodgepodge of confused laws and competing jurisdictions that crafty litigants exploited to their advantage,” cogently depicts Spanish America well into the eighteenth and nineteenth centuries as aptly demonstrated in a recent study by Chad Black, Limits of Gender Domination.

Even if judges desired to base their decisions on new Bourbon laws, customary practices trumped their adherence to these norms in that these new set of laws were ‘respected’ as were the multiple other legal codes to which lawyers, litigants, and judges had access and ability to deploy. Thus, in the eighteenth century, litigants, lawyers, and judges had at their ‘disposal’ legal codes that ranged temporally from the thirteenth through the eighteenth century: For examples, see the Siete Partidas (1251) of Alfonso X, Fuero Juzgo, Fuero Real, Ordenamiento Aclá (1348), Ordenanzas Reales de Castilla (1485), Pragmática Real, Los Capítulos de Corregidores y Jueces de Residencia (1500), and Leyes de Toro (1505), in addition to the Nueva Recopilación de Leyes de Castilla (1536), Recopilación de Indias (1681), and, of course, the Bourbon Reforms.
city as a cultural group distinct from the urban milieu of the eighteenth-century viceregal capital.

A Cacica for Mother-in-Law

In the early morning hours of March 22, 1785, in the barrio of Santa Ana in Mexico City, a distraught native woman pleaded before don José de Arias, a cacique and principal of the quarter of Santiago Tlaltelolco, for assistance in getting medical attention for doña Marcela Antonia de Reyna.\textsuperscript{161} The previous night, doña Marcela, also a cacica of Santiago Tlaltelolco, was settled in for the night when a native boy, who served in her daughter and son-in-law’s home, came to her seeking help. He desperately described to the cacica that his masters were fighting again: her son-in-law was beating her daughter and threatened to stab her to death with a belduque (large, pointed knife). Doña Marcela promptly gathered herself and headed to the home of the battling couple, Antonio Adrian y Salas and doña Monica Garcia. Upon her arrival, testified doña Marcela and other present witnesses, the abusive husband heeded the cacica’s “words of peace” and stopped hitting his wife. The cacica proceeded to reproach Antonio for using adultery as well as notions of honor as excuses for “beating his wife every time he felt the urge.” Growing increasingly angry, Antonio shoved and stabbed the cacica the quickly fled the scene of the crime with knife in hand. The violent dispute prompted a long trial that involved an intricate network of native officials, family, community members, and Spanish authorities.

\textsuperscript{161} Don Antonio García y doña Monica García, Indios caciques, contra Antonio Adrian y Salas, Mexico City, 1785, Archivo General de la Nación (hereinafter cited as AGN), Tribunal Superior de Justicia del Distrito Federal (hereinafter cited as TSJDF), vol. 35, exp. 16, fols. 1-8v.
Analysis of the criminal proceedings against Antonio indicates the extent of the roles played by family members in mitigating domestic problems. Doña Marcela’s actions make evident that parents of abused children readily appeared with them in court to bear witness to marital disputes and help punish abusive spouses. On the night of the events in question, the cacica promptly inserted herself in a domestic issue between her daughter and her daughter’s husband to mitigate the situation and reprimand the misbehavior of the abusive husband. In trial testimony, doña Marcela described that when she arrived Antonio had Monica pinned to the wall, punching her with one hand and threatening her with a knife in the other. Doña Marcela scolded Antonio for drunkenness and for falsely accusing his wife of an “illicit affair.” The charge, she explained, was unfounded as there were witnesses to vouch for the fidelity of doña Monica as well as her reputation. However, she continued, there were many more witnesses who could speak to her assertion that Antonio accused doña Monica of adultery ultimately to take attention away from his failure to provide economically for his household.

For examples see, María Crecencia Roxas contra su marido, Mexico City, 1804, AGN, TSJDF, vol. 35, exp. 83, fols. 1-10; María Rafaela Escobar, India principal, Mexico City, 1792, AGN, TSJDF, vol. 35, exp. 42, fols. 1-6r. The following studies were consulted in analyzing litigation over adultery and domestic violence as well as the case against Antonio, to compare responses to the crimes of domestic violence and adultery between rural and urban indigenous: Lisa Sousa, “Women in Native Societies and Cultures of Colonial Mexico” (Ph.D. diss., Dept. of History, Univ. of California, Los Angeles, 1997); Kevin Terraciano, “Crime and Culture in Colonial Mexico: The Case of the Mixtec Muder Note,” Ethnohistory 45:4 (Fall 1998): 709-45.

Testimonio de doña Marcela Antonia de Reyna, Mexico City, 1785, AGN, TSJDF, vol. 35, exp. 16, fol. 3v.

As part of their defenses against accusations of violence or adultery, indigenous men tended use drunkenness as a legal strategy to avoid conviction as well as accusing their wives of being engaged in an adulterous affair (“illicit friendship”). And, in late colonial Mexican marriages, a husband, Indian or otherwise, was always legally responsible for providing economically for the household. Some important works on the household for colonial Mexico City include: Teresa Lozano Armendares, No codiciarás la mujer ajena; Gonzalbo Aizpuru, Familia y orden colonial y “Familias y viviendas en la
During the night of the events, not only did no one challenge doña Marcela’s presence and involvement in the affairs of this marriage, but her presence was in fact expected. María de la O, a tribute-paying native who witnessed the events, testified to conspiring with the young Indian apprentice to send for the cacica. This suggests that as her parent, doña Marcela was commonly expected to intervene when and as necessary to resolve disputes among her family members. Moreover, the extent of the injuries doña Marcela was willing to assume in mitigating domestic altercations speaks perhaps to the gravity of such quarrels for destabilizing household, extended family, and community relations.

Furthermore, the cacique principal who denounced Antonio to Spanish authorities in the first place was also family. Doña Monica’s cousin, don José de Arias, was prompt to get involved. He recalled how on March 22, 1785, two days after the events in question, he was having breakfast at the home of his aunts. It was then that don José’s cousin, doña María Manuela Garcia, in the company of a friend, came to him distraught over the critical condition of doña Marcela and asked for help in obtaining additional, more specialized, medical care for the treatment of her wounds. He moved quickly to find a doctor to attend to doña Marcela’s wounds. But, don José declared, the doctor would not see doña Marcela until Spanish authorities were informed of the criminal act and a capital del virreinato,” en Rosalva Loreto López, ed., Casas, viviendas y hogares en la historia de México, México, Centro de Estudios Históricos, El Colegio de México, 2001; Silvia M. Arrom, The Women of Mexico City. See also Chapter II: Por faltar a sus obligaciones.

165 Testimonio de María de la O, India tributaria, Mexico City, 1785, AGN, TSJDF, vol. 35, exp. 16, fol. 6v.

166 For a comparative case see María Rafaela Escobar, India principal, contra Thomasa Mora su hija, Mexico City, 1792, AGN, TSJDF, vol. 35, exp. 52, fols. 1-6r.

167 Testimonio de don José de Arias, Indio cacique y principal, Mexico City, 1785, AGN, TSJDF, vol. 35, exp. 16, fols. 2r-3r.
judge had ordered her examination. Heeding the legal instructions, don José filed a formal denunciation for domestic violence and insubordination. As a result of his actions, a Spanish institution produced a written legal record of these violent occurrences: a legal proceeding in which the extent and frequency with which family members became involved in mitigating domestic disputes and aided in the punishment of abusers is quite evident.

The involvement of doña Monica’s family members in her domestic affairs underscores the integration of household and community among the urban native peoples of late colonial Mexico City. In the present case, doña Monica counted not just on family but also on other local community members. On the night of Palm Sunday, March 20, 1785, María de la O testified, she was visiting with doña Monica when shortly thereafter her husband arrived. Within the hour, an old castizo man, resident of the barrio, and passing by on the street stopped to ask for a light for his cavito (small, remaining piece of candle). The inebriated Antonio, continued María, approached the old man, accused him of having an illicit relationship with his wife, then turned to doña Monica and punched her. Before he could land a second punch on the cacica, María added, she physically intervened to prevent it. In the meantime, Pedro Leonardo, the dorador (gilder) apprentice to Antonio, escaped through a small window to go get help. Corroborating María’s version of events, Pedro added that when he realized that his master was not relenting in his

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168 See also Testimonio de don Antonio Farelas, cirujano, Mexico City, 1785, AGN, TSJDF, vol. 35, exp. 16, fols. 4r-4v.
169 Testimonio de María de la O, India tributaria, Mexico City, 1785, AGN, TSJDF, vol. 35, exp. 16, fols. 6r-6v.
attack, he left to fetch the cacica to come “put peace in the house.”

Upon their return, the cacica entered the house to address the quarreling couple while Pedro remained outside “fearing that his master would beat him for having reported him to the cacica,” the local authority. As such, these details relay that rather than count on the Catholic Church or a secular Spanish institution for assistance in addressing her domestic problems, doña Monica had a fairly extensive network of friends and family on which to rely for help, and whom were expected to intervene.

The details of the case against Antonio speak also to matters of identity, of natives seeking resolutions through indigenous avenues and leadership. Spanish authorities appear unwilling to formally recognize the structure and functions of native systems of authority but, as had been common practice in Iberia and in Spanish America prior to Bourbon reorganization, were more than willing to allow them to exist and perform as they had for generations. The involvement of doña Monica’s family members in mediating her domestic situation was intertwined with involvement from local indigenous leaders. Though doña Marcela was the mother of the abused wife she went to aid, her actions were nonetheless reflective of the authority and roles of local urban native leaders. Moreover, when Pedro, the apprentice, escaped the home of the quarreling couple to seek the help of the cacica, he did so in an apparently typical manner. That is, rather than seeking out the help of a local Spanish official, he directly sought an indigenous leader. In this case, the most appropriate was the cacica doña Marcela, who was also the mother of the abused

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170 Testimonio de Pedro Leonardo, Indio libre, Mexico City, 1785, AGN, TSJDF, vol. 35, exp. 16, fols. 6v-7r.
171 Testimonio de Pedro Leonardo, Indio libre, Mexico City, 1785, AGN, TSJDF, vol. 35, exp. 16, fol. 7r.
wife. Doña Marcela, as witnesses corroborated, arrived, as expected, invested in the authority to settle the situation.

In addition, witness testimony appears to further substantiate that natives preferred to have other natives address their issues. Though this case had to be taken before a Spanish judge, it was a local cacique, don José de Arias, who summoned all concerned parties to participate in the litigation. Moreover, it was two full days after the crime when Spanish authorities were finally approached. In the interim, family and community members sought the aid of local native officials: Pedro, the apprentice sought the aid of the cacica doña Marcela in settling the rage of an abusive husband; Doña María Manuela, cousin of doña Monica, sought the cacique don José for help in getting medical attention to doña Marcela; and local native community members sought resolutions from the cacique don Leonardo de San Pedro.

In his declaration, don Leonardo, also a cacique of Santiago Tlaltelolco and elder of the community of sixty years of age, substantiated doña Marcela’s assertions about her son-in-law. Don Leonardo declared to have known doña Monica, her husband, and her cacique parents and, moreover, to have known of the “mala vida” of doña Monica at the side of Antonio.\(^\text{173}\) The night that doña Marcela was critically wounded by Antonio, don Leonardo was notified by several community members, seeking his aid. He and his wife, the cacica doña Feliciana María, supported the case against Antonio due to their concern

\(^{172}\) For example see Don Joseph Francisco, cacique principal de San Juan, contra Pedro de Guadalupe, Indio, por tierras, Mexico City, 1725, AGN, Tierras, vol. 440, exp. 6, fols. 1-6v.

\(^{173}\) Testimonio de don Leonardo de San Pedro, Indio cacique, Mexico City, 1785, AGN, TSJDF, vol. 35, exp. 16, fols. 5v-6r.
for his “excesses” in drinking and beating his wife.\textsuperscript{174} Thus, based on witness testimonies, it appears that indigenous persons acted to resolve domestic issues, at the community level, through open involvement of native family members and officials. The actions of all parties involved further denote a sense of community and connection to unique indigenous processes.

**Concluding Remarks: Indian Local Authority**

Natives who resided in late colonial Mexico City routinely sought the aid, mediation, and adjudication of local indigenous authorities. When disputes, as in this case, happened to be taken before Spanish authorities, the limits or more likely the characteristics of a still functioning decentralized system of Spanish authority are quite evident. The larger issue here though is that urban Indians are still connecting with indigenous practices, specifically the continuation of indigenous authorities in adjudicating local, barrio level conflicts. What also appears to be evident in the twenty eight files involving indigenous nobles of Mexico City is a distinctive practice of having strong desires to prevent cases from going outside the barrio and into other jurisdictions. This practice seems key in explaining the statistical absence of legal disputes involving native vecinos of Mexico City in the late colonial and early national era. That a significant number of caciques and cacicas from various barrios of the parcialidad of Santiago Tlaltelolco became immediately aware of the domestic dispute between doña Monica and her husband and of the grave wounds suffered by doña Marcela as a result of her

\textsuperscript{174} Testimonio de don Leonardo de San Pedro, Indio cacique, Mexico City, 1785, AGN, TSJDF,
mediation, speaks to a well-established and maintained system of communication and dispute resolution among the indigenous leadership of Mexico City. This process of seeking resolutions from native officials and community members is further substantiated in that it was not until two days later that Spanish officials were finally approached with regard to the situation that led to doña Marcela’s critical state. Though it was common knowledge that doña Marcela had been seriously hurt and by whom she was hurt, it was only after legitimate indigenous avenues for recourse were exhausted that a denunciation was finally made before a Spanish official. As such, though it would appear that the few extant cases involving urban Indians in the late colonial era might be exceptional, the case of this abusive husband is telling otherwise: Cases over issues of domestic violence, adultery, and properties as examined in this dissertation that did not directly involve Spanish authorities also did not result in the production of a Spanish case file (for the present-day ethnohistorian to examine). Many domestic disputes were resolved at the local level, by local officials, proscribing the necessity to take up matters with Spanish officials and leaving very little written evidence of barrio level indigenous legal practices.

The details of the case against Antonio also suggest that late colonial urban Indians, and especially urban Indian women, relied first and more often on family, community, and local native officials to resolve domestic situations before turning to the aid of the Spanish judicial system. Female native rulers, though excluded from Spanish-styled systems of authority within native barrios, appear to have retained much local authority nonetheless; and, it was a direct and grave challenge to this authority which led to the creation of this case. Since doña Marcela was critically injured in her actions to help

vol. 35, exp. 16, fol. 5v.
stop the violence inflicted on her daughter, this case, in which several local native leaders prominently appear, was recorded in Spanish tribunal records. For Antonio, the unfounded physical abuse of his wife usually found him reprimanded by neighbors, family, and local native officials—Official reprimands by native leaders that speak to how natives were able to play both native and Spanish systems of authority in what was still a functioning decentralized structure of authority. Stabbing his cacica mother-in-law however was the excess that found him tortured and ultimately imprisoned by the indigenous lineage he threatened many times to end. In the end, the few available files on native leadership contain volumes of information about urban natives for these sources exemplify how we cannot discount the presence and function of a local system of indigenous authority for the late colonial and early national era of Mexico City.

To Re-Iterate Arguments and Conclude This Study:

As a space described by Charles Gibson of “exceptional intimacy” among its ethnically diverse residents and thus also a locale of cultural exchange and influence, Mexico City continued to be a place of tremendous diversity by the eighteenth century (and well into the nineteenth, as evidenced in the source base for chapter three). The city was composed of both Spanish and indigenous sectors, ethnically distinct spaces whose boundaries were meant to be enforced by Spanish laws, yet all sectors of the city, even those meant to be purely Spanish, maintained a vast indigenous presence during the entire
colonial era as this study has argued. That presence was articulated in marriage as well as extra-marital affairs, customary practices connected to possessing and re-appropriating property, barrio level systems of authority, and even in language: Nahuatl, for example, continued to be widely spoken throughout central Mexico—more analysis is necessary, especially with the corpus presented in chapter four, to further reveal the distinctive cultural presence of the urban Indian. Colonial Mexico City thus possesses, as argued in chapter one, unique characteristics that have long attracted the attention of scholars seeking to study the development of indigenous culture within both the Spanish imperium and Spanish colonial urban culture.

Indeed, as numerous studies have shown, the period between the conquest and Independence is one in which the dynamism of Mexica indigenous cultural practices survived the attempts to repress or undermine it in the first two centuries of the Spanish presence in America, even though such practices were often wrenched from their original signifying frameworks as the distinctly indigenous population and culture in Mexico City adapted to a succession of global changes in everything from the biota of the land (as the Spanish brought livestock into Mexico) to religion. As expected, these changes also

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175 The districts of the parcialidades were based on the preconquest altepetl of Mexico Tenochtitlan and Mexico Tlatelolco. See “Plano de Mexico-Tenochtitlan, año de 1519, por Leopoldo Batres, 1892,” in Mapoteca de Orozco y Berra, Var. 2, No. 871. This map is a visual representation of the connections between the former indigenous altepetl and the Spanish-established parcialidades and barrios of Mexico City.


177 The only other city that perhaps receives as much attention is Lima. See for some examples, Paul Charney, Indian Society in the Valley of Lima, Peru, 1532-1824 (Lanham, MD: University Press of America, 2001); Nancy van Deuseen, Between the Sacred and the Worldly: The Institutional and Cultural Practice of Recogimiento in Colonial Lima (Stanford: Stanford University Press, 2002); and Bianca
penetrated the relationships of production and exchange among indigenous people. The pioneering work of Susan Kellogg, for example, tracked cultural and linguistic changes in legal practices associated with land tenure and transmission. Kellogg cogently demonstrated a significant decrease in the use of Nahuatl in the colonial record of Mexico City by 1700 and interpreted this dramatic shift as one marker of the larger efforts of the Spanish cultural hegemonic project of conquest and domination over the natives. Yet, a noted linguistic change, in particular a marked decrease in the use of Nahuatl in the Spanish record, may not necessarily signal a decline in the resiliency of native culture. Influence could be two-way: the Spanish, as well, were adapting to different cultural practices. If Spanish was increasingly used by natives in the formal record as their primary language, this might well reflect the adaptation and reframing of Spanish concepts and legal practices as they were shaped by the understandings and terms of eighteenth century city natives. Against the hypothesis that the use of the Castilian language for official purposes was an index of a sort of vast forgetting of Nahuatl and mesoamerican folkways, we could construct another hypothesis in which the majority language simply becomes more convenient and easier to use in certain institutional settings, while the dominated tongue survived among indigenous residents of the viceregal capital for settings outside these institutional ones.


178 Kellogg, Law and the Transformation of Aztec Culture.

179 This would not be unusual: bi-lingual societies often display this division of cultural labor. In the Iberian Peninsula itself, the sixteenth and seventeenth century saw less text production in Catalan, even though we know that “the poor, the Catalan bourgeoisie, the bureaucracy and part of the nobility, particularly the rural part, continued to speak and write in Catalan.” See Miguel Angel Pradilla, “The Catalan-speaking Communities,” in Multilingualism in Spain: Sociolinguistic and Psycholinguistic Aspects of Linguistic Minority Groups, M. Teresa Turell, ed. (Clevedon, UK: Multilingual Matters, Cromwell Press, 2001), 61. See also for a similar argument connecting the practical use of the language of the
However, most histories of Mexico City subscribe to the view that over time, the Valley of Mexico saw a rise of mestizaje or miscegenation that came to dominate urban life during the colonial period. According to these narratives, the history of indigenous Mexico City should be understood as a 300-year long process by which the Indian past of the city dissolved, for the most part, into the mixed-race plebeian population of the modern metropolis.\footnote{For an example, see R. Douglas Cope, \textit{The Limits of Racial Domination: Plebeian Society in Colonial Mexico City, 1660-1720} (Madison: University of Wisconsin Press, 1994).} In addition to Douglas Cope’s careful study of eighteenth-century Mexico City, chapter three in this dissertation might subscribe to the aforementioned historiography. Having employed some of the most readily available documents pertaining to marriage as well as those documents in which natives were clearly labeled “Indian,” chapter three evokes a sense of indigenous cultural decline as their conceptions of marriage and legal strategies for substantiating accusations of adultery did not differ in significant ways from the conceptions and strategies revealed by non-indigenous persons. Thus, the Spanish imperial policy of segregating Indians and Spaniards or Indians and non-indigenous groups was an almost impossible task for the eighteenth-century New Spanish administrative center, and ultimately a failure. In turn, the majority of literature on New Spain, which addresses the impact of colonial rule on indigenous populations, spotlights rural zones and small towns to note the agency or ability of natives to adapt to changes introduced by Spaniards in land tenure, law and legal practices, language, and labor, religious, and political systems (See chapter one). The general conclusion is that in rural populations there was much less indigenous/non-indigenous mixing, while the urban dominating institutions, Spanish in the case of the natives of Mexico City, Luis Fernando Granados, “Cosmopolitan Indians and Mesoamerican Barrios in Bourbon Mexico City: Tribute, Community, Family, and Work in 1800” (PhD Diss., History Department, Georgetown University, 2008).}
population, after almost three hundred years of adaptation, had become acculturated, if not assimilated, to a Spanish cultural mainstream. This conclusion rests upon the propensity of historical studies to pay attention to early colonial markers (e.g. language, dress, religious rituals etc.) for distinguishing an Indian population from within the social mainstream of the late colonial city. In doing so, however, these works unconsciously repeat the Spanish mindset that sets one pure culture against another. This dissertation has addressed this omission by analyzing marriage, adultery, the possession and re-appropriation of property, and barrio level systems of native authority to assess if, indeed, a distinct indigenous presence and culture had been totally lost.

This study began by noting the obvious: although the consensus is that the urban Indian lost his or her clear indigenous character over time, this study demonstrates that even in the eighteenth century (and well beyond, into 1829), colonial Mexico City natives still identified with cultural practices connected to being “Indian” in the city. As a fiscal category, even into the very late colonial era, identifying as indio denoted one’s responsibility to pay tribute, surely a financial inducement to cast off an obsolete category. As recently demonstrated by Luis Fernando Granados in his examination of a tribute census for the parcialidad of San Juan Tenochtitlan for the year 1800, tribute payments by Mexico City natives were not only required but also well managed and recorded.\textsuperscript{181} Given the larger amounts of social and economic advantages to racially distinguishing oneself as anything but Indian, it can be puzzling to find late colonial city residents identifying as indios. Apparently, however, by either choice or the perception of the authorities, the Indian label and, more importantly, cultural and legal practices that distinguished the

\textsuperscript{181} See Luis Fernando Granados, “Cosmopolitan Indians and Mesoamerican Barrios,” 175-81.
native population, this dissertation has argued, still had a real social force. Besides its fiscal connotations, what concrete cultural meanings or practices were associated with being indigenous in the late colonial city? This dissertation argues that that being Indian in the city was attached to an identifying set of eighteenth-century cultural and legal practices, which distinguished the indio from the larger, mainstream setting through the entire colonial period in Mexico City.

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While this dissertation began as a study on the urban Indian family of Mexico City, it turned felicitously, although almost disastrously, into an investigation on the Indian of the late-colonial viceregal capital. The examination of this dynamic population highlights their important, viable, and distinctively Indian presence in the city despite the multiple layers of institutional reorganization occurring all around them. After three hundred years of Spanish domination, many native populations adapted to the Spanish cultural mainstream, becoming Hispanized. Many, too, as this study demonstrated in chapter three, performed practices that allowed them to navigate the Spanish world as both Indians and mainstream residents of urban centers.

The examination of urban natives who were both barrio dwellers and city residents of late colonial Mexico City establishes that their presence and cultural practices reflected in the extant record are evidence of their dual Indian-city resident statuses. The consideration of this ability of natives to belong simultaneously to more than one urban cultural status and to behave accordingly is a new understanding of indigenous culture. This dual cultural status is not evident as a result of having highlighted markers or
characteristics of a pre-Columbian past among the late colonial natives of the city. The natives of late colonial Mexico City were indios not because they dressed in traditional garb, readily spoke an indigenous language on the record, carried-out pre-Columbian ritualistic fights and ceremonies, continued to use Nahua naming patterns, or openly worshipped pre-Columbian gods. As chapter three in this study demonstrates, the indigenous of the city looked and behaved much like their casta and Spanish neighbors. But, as chapters four and five reveal, city Indians also supported a separate set of cultural and legal practices unique to them and their modern setting.

The late colonial indigenous populations of Mexico City have been largely unexamined in the traditional scholarship as their behaviors do not readily match pre-Columbian or early colonial cultural markers for denoting “Indian” status. They were urban Indians who were proficient in more than one language, who deployed the Castilian as practically necessary in legal affairs involving Spanish authorities. But, at the barrio levels, the urban Indians were the city’s population who carried out social and legal transactions in manners unique to their cultural group. In abiding by such transactions, the city natives marked themselves as distinct from the non-indigenous population of the city – despite not readily speaking an indigenous language on the record. Yet, the systems of authority maintained and practiced by indigenous residents of the viceregal capital did not function in opposition to Spanish institutions. These local systems of authority existed because there was a population to support them even in the midst of a Spanish reorganizational flux that intended, among its multiple aims, to dismantle Hapsburgian institutional forms and replace them with a new, more efficient system; one which would diminish authority at local levels in order to centralize authority in the city center. This
study is thus a contribution to a deeper understanding of cultural change within a cultural
group, the bilingual (or even multilingual) and urban population of Indians in late colonial
Mexico.

In sum, the tremendous work on colonial relations between indigenous and non-
indigenous populations is complemented well by an analysis of indigenous cultural
practices associated with gender, law, and authority in an urban center. It is the
historiographical aim of this dissertation to enhance the general understanding of how the
complex legal, authoritative, and gendered experiences of the indigenous who cohabitated
a city with Spaniards, in more ways than just neighborly, helped shape the complex history
of Latin American culture and society. It is also the historiographical aim of this study to
contribute to the small but growing number of studies on the urban indigenous of colonial
Mexico. Most studies of urban relations focus on indigenous communities in the early
colonial period and overlook the indigenous populations of the late colonial period in
favor of a focus on the *mestizo* – focusing on the disappearance of native practices rather
than on their maturity. This study, in contrast, examines both native and Spanish language
sources to view into indigenous late colonial cultural and customary practices. This work
is but a small contribution moving the general discussion on indigenous populations away
from a focus on Spanish acculturation toward acknowledging the impact of indigenous
groups on the separate and yet also related development of local authority, law, and
gender relations in an urban setting.
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  - Criminal
  - Judicial
  - Bienes Nacionales

Archivo General de Notarías (AGNo)

Archivo Histórico del Arzobispado de México (AHAM)

- Padrones – Santiago Tlatelolco

Archivo Histórico del Cabildo Eclesiástico de la Catedral Metropolitana (AHCECM)

- Padrones de Comulgantes
  - Cofradías

Archivo Histórico del Distrito Federal (AHDF)
  (Formerly known as the Archivo Histórico del Antiguo Ayuntamiento de la Ciudad de México)

- Justicia
  - Justicia y Juzgados
  - Juzgados Verbales
  - Oficios
Archivo Histórico del Estado de México, Toluca (AHEM)

Archivo Histórico Provincial de los Franciscanos de Michoacán,
  Fondo del Colegio de la Santa Cruz de Querétaro
  Libro de pláticas, sermones y ejemplos del P. Fr. José Ximénez de Jesús

- **Spain**

Archivo General de Indias, Seville (AGI)
  Real Tribunal de la Acordada
  Juez de la Acordada, Bebidas Prohibidas y Asuntos

**RESEARCH LIBRARIES**

- **Mexico**

Biblioteca Nacional Antropología e Historia (BNAH)

Biblioteca Nacional de México (BNM)

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Instituto de Investigaciones Dr. José María Luis Mora

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