



Project
MUSE[®]
Scholarly journals online

Conjugal Violence, Sex, Sin, and Murder in the Mission Communities of Alta California

BRIAN T. MCCORMACK

Independent Scholar

ON THE EVENING OF 16 NOVEMBER 1811 Fray José Pedro Panto (1778–1812) retired for the evening to enjoy his evening meal at Mission San Diego. After consuming a small portion of his dinner, he noticed that his soup tasted unusually spicy and bitter. He also noticed that it contained a white, cloudy powder. The concerned friar drank a glass of tepid water and proceeded to vomit for a “very long half hour.” Afterward, Fray Panto asked Corporal Antonio Guillén and Sergeant Mariano Mercado to examine the soup. They also noted the soup’s bitter and peculiar taste.¹

Civil proceedings conducted by Spanish authorities in the weeks following brought many of the circumstances related to this event to light. The authorities identified Nazario, Fray Panto’s servant, as the primary suspect. During the proceedings Fray Panto testified that he was not aware of what had provoked his servant’s actions. Nazario was not a mission neophyte who possessed a “bad heart,” he stated. On the contrary, he considered Nazario to be a passive and peaceful Indian. Sergeant Mariano Mercado gave additional testimony that confirmed Panto’s favorable impressions of Nazario, adding that Nazario had never injured any of his previous masters. But he did reveal that Fray Panto had given his servant twenty-five “lashes” (*azotes*) days earlier. He did not believe such a “light” punishment would have caused any resentment toward the friar, Sergeant Mercado added.²

I am grateful to the California Historical Society for a Haynes Research Grant that allowed me to complete research upon which portions of this essay are based. I also extend special thanks to Ramón Gutiérrez, Matt Kuefler, Paul Hart, Rodolfo Rocha, and several anonymous readers for their perceptive commentaries on previous drafts of this article.

¹“Acusado de haber yerba al R. P. Fray Pedro Panto,” 18 December 1811, San Diego, Archives of California (hereafter cited as AC), 17:191–96, Bancroft Library, University of California, Berkeley. Translations of this and other court cases are my own.

²Ibid., 17:191.

Journal of the History of Sexuality, Vol. 16, No. 3, September 2007
© 2007 by the University of Texas Press, P.O. Box 7819, Austin, TX 78713-7819

When presented with an opportunity to speak, Nazario gave a much different account of his experience of servitude under the friar at Mission San Diego. He acknowledged he had in fact poisoned his “master.” He defended his actions on the basis that he was the victim of Fray Panto’s frequent and severe floggings. In response, Nazario recounted, he poured a small amount of “herb powder” (*yerba*) gathered the previous day into Panto’s soup “for the purpose of seeing that, if by poisoning the friar, he would stop punishing [me] so severely.”³

This essay analyzes a cross-section of ethnographic data relating to Native abuse, conjugal and sexual violence, and homicide located within the civil and ecclesiastical records of colonial California. Provoked by the everyday intimacies and constraints of colonial rule and the gender strategies of rule and embodiment imposed by the Franciscan mission regime, California’s Native inhabitants committed a myriad of forms and acts of political and sexual violence. Such records inform our understanding of indigenous life, incorporation, and the gendered experiences of Native subordination and denigration under Spanish rule within this remote region of Mexico’s far northwestern frontier. These events and the records they produced also further our insight into the ambivalent reception offered by the region’s inhabitants to Spanish settlement and the efforts of Franciscan missionaries to convert them to Christianity. Finally, the Native testimony located within these cases suggests how Spanish colonial rule and Franciscan evangelization transformed Native thought, identity, and behavior relating to sexuality and marriage in colonial California and the extent to which Native inhabitants of the region internalized or resisted such religious and cultural impositions.

SEX AND CONQUEST IN ALTA CALIFORNIA

The principal historical theme for nearly all the indigenous peoples of coastal Alta California following the onset of Spanish colonization was their gradual displacement from a mosaic of culturally and linguistically diverse Native villages, or *rancherías*, and their eventual incorporation into the emerging colonial order. Between 1769 and 1823 the Spanish Crown established a chain of twenty-one Franciscan missions and four *presidios* (frontier military forts) across a stretch of coastal and nearby inland territory of California, extending from San Diego to San Francisco, inhabited by about sixty thousand Native inhabitants. In the ensuing years, Native villagers suffered a devastating demographic collapse resulting from the spread of European diseases, land displacement, environmental degradation, and congregation into new mission communities. By the end of Spanish rule in 1821 the region’s Native population had been reduced to about

³Ibid., 17:193.

twenty-one thousand persons, and all had been incorporated into the new order as an impoverished, abject class of Indians subordinate to the designs of the Spanish state and the colonial residents who settled there.⁴

Indians who entered the Franciscan mission communities of Alta California confronted a religious and sexual discipline that clashed sharply with traditional Native forms of sexuality, intimacy, and biological and social reproduction. Native forms of marriage and sexuality varied across pre-conquest California. Yet marriage and sexual exchange in most areas served as the predominant vehicles through which Native individuals, households, and villages were drawn into a wider web of social relations. Through marriage, new households were created and ties of cooperation and dependency were cemented; Native men and women, and the communities of which they were a part, fashioned new familial and affinal ties and networks and cooperative bonds. As such, marriage positioned individuals and groups within larger structures of domination, subordination, and cooperation and served as a fundamental element of the procreative, social, and symbolic construction and reconstruction of Native worlds.

Despite the central importance of marriage, many Native Californians did not conceive of marriage as a monogamous, life-long tie. Missionaries depicted Native Californians' marital arrangements and sexual practices as debased and

⁴John Francis Bannon, *The Spanish Borderlands Frontier, 1513–1821* (Albuquerque: University of New Mexico Press, 1974), 143–66; David Weber, *The Spanish Frontier in North America* (New Haven, Conn.: Yale University Press, 1992), 204–42; Hubert Howe Bancroft, *History of California*, 7 vols. (San Francisco: History Company, 1884–89), 1:115–31. For discussions on Native life in pre-conquest California and the impact of disease on the region's Native inhabitants see A. L. Kroeber, *Handbook of the Indians of California* (1925; New York: Dover Publications, 1976); Joseph G. Jorgensen, *Western Indians: Comparative Environments, Languages, and Cultures of 172 Western American Tribes* (San Francisco: W. H. Freeman and Company, 1980); Julia G. Costello and David Hornbeck, "Alta California: An Overview," in *Columbian Consequences*, vol. 1, *Archaeological and Historical Perspectives on the Spanish Borderlands West*, ed. David Hurst Thomas (Washington, D.C.: Smithsonian Institution Press, 1989), 303–31; and John Richard Johnson, "The Chumash and the Missions," in Thomas, *Archaeological and Historical Perspectives*, 365–75. The historical literature examining Spanish conquest and colonization in Alta California has become abundant over the last several years and includes Robert H. Jackson and Edward Castillo, *Indians, Franciscans, and Spanish Colonization: The Impact of the Mission System on California Indians* (Albuquerque: University of New Mexico Press, 1995); Albert I. Hurtado, *Intimate Frontiers: Sex, Gender, and Culture in Old California* (Albuquerque: University of New Mexico Press, 1993); Antonia I. Castaneda, "Engendering the History of Alta California, 1769–1848," in *Contested Eden: California before the Gold Rush*, ed. Ramón Gutiérrez and Richard J. Orsi (Berkeley: University of California Press, 1998), 230–59; Miroslava Chávez-García, *Negotiating Conquest: Gender and Power in California, 1770s to 1880s* (Tucson: University of Arizona Press, 2004); Lisbeth Haas, *Conquests and Historical Identities of California, 1769–1936* (Berkeley: University of California Press, 1995); James A. Sandos, *Converting California: Indians and Franciscans in the Missions* (New Haven, Conn.: Yale University Press, 2004); and Steven Hackel, *Children of Coyote, Missionaries of Saint Francis: Indian-Spanish Relations in Colonial California, 1769–1850* (Chapel Hill: University of North Carolina Press, 2005).

as a major impediment to their spiritual salvation. Fray Luis Gil y Taboada and Fray José María de Zalvidea of Mission San Gabriel recounted in 1814, for example: "In their pagan state the Indians entered into no contracts regarding marriage. They mated after the fashion of animals." "They do not recognize the permanence or the *individua vitae consuetudo* [the common conjugal life] that matrimony demands," they added. Another observer from Mission San Buenaventura stated in 1815: "It is almost incredible with what facility they take and divorce their wives. . . . Women likewise not unseldom divorce their husbands. Neither party cares for nor understands the indissoluble bond. Such is their dullness and ignorance in this particular." For the Franciscans, these less rigid marital arrangements and less constraining forms of sexuality were evidence that California's *gente sin razón* ("people without reason," a term used by Spanish soldiers and settlers in reference to California's Native inhabitants) would remain fastened to their primitive state until such practices could be extirpated.⁵

Spanish explorers and missionaries to Alta California also documented that the pursuit of intimacy and sexual pleasure within several Native societies of the region were not confined to the rigid heterosexual, procreative marriage form sanctioned by Roman Catholicism. The Native sexual universe and the gender and sexual forms contained within it provided additional evidence of Native savagery and debasement and the need for spiritual conquest and salvation. Several Spanish sources note the existence of *joyas* (more generally referred to as *berdache* in the scholarly literature, a man who adopts the social and sexual role of a woman) within various Native communities of the region. In one instance, Franciscan missionary Fray Francisco Palou briefly recounted how friars at Mission San Antonio caught two male Gentiles, "one dressed as a women and referring to himself as a *joya*," committing a "vile sin." He added that it was common to find two or three *joyas* in the villages of the Santa Barbara Channel Island region. Their behavior was an abominable vice he hoped the missionaries would uproot with the establishment of missions across this territory.⁶

⁵Fray Gil y Taboada and Fray José María de Zalvidea, Mission San Gabriel, 28 June 1814, in *As the Padres Saw Them: California Indian Life and Customs as Reported by the Franciscan Missionaries 1813–1815*, ed. and trans. Maynard Geiger and Clement Meighan (Santa Barbara, Calif.: Santa Barbara Mission Archive Library, 1976), 65–66. For previous historical discussions of Native sexual and marriage practices and Franciscan views of them see Hurtado, *Intimate Frontiers*, 1–21; Hackel, *Children of Coyote*, 182–89; Lowell John Bean, "Social Organization in Native California," in *California*, ed. R. F. Heizer, vol. 8 of *Handbook of North American Indians* (Washington, D.C.: Smithsonian Institution Press, 1978), 248–88; John Richard Johnson, "Chumash Social Organization: An Ethnohistoric Perspective," Ph.D. diss., University of California, Santa Barbara, 1988, 248–88; Jorgensen, *Western Indians*, 169, 183–85; and Brian T. McCormack, "Marriage, Ethnic Identity, and the Politics of Conversion in Alta California, 1769–1834," Ph.D. diss., University of California, San Diego, 2000, 148–53, 287–305.

⁶Fray Francisco Palou, *Relación histórica de la vida y apostólicas tareas del verable padre Fray Junípero Serra y de las misiones que fundó en la California Septentrional, y nuevos establecimientos de Monterey* (Mexico City: Editorial Porrúa, S.A., 1990), 152. Pedro Fages

CONFESSION, SIN, AND CONVERSION

The mission communities established across Alta California operated in innumerable ways as spaces where the most intensive lived experiences of colonial rule occurred. Mission communities were, by design, subject to the paternalist control and close supervision of colonial officials, settlers, and missionaries. Within the missions, California's Native inhabitants came into direct, intensive, and, at times, intimate contact with the Spanish. As institutions of cultural and social control, the missions also served as instruments intended to secure Native adherence to the racial and gender constructions that sustained Spain's imperial order. Christian conversion, consequently, represented a single aspect of a more encompassing project: transforming this distant frontier territory and the scattered Native communities located within it into a well-ordered, productive, and self-sufficient polity that would consist of newly created, sedentary settlements inhabited by a subordinate class of Christianized and Hispanicized subjects in service to the Crown.⁷

The gender strategies of rule and Native embodiment within the missions of Alta California can be glimpsed through the specific tools the Franciscan missionaries devised or brought with them to convert the region's Native inhabitants to Christianity. These included *doctrinas* (religious manuals containing the Christian prayers, lessons, and hymns of daily religious instruction), *confesionarios* (confessional guides), religious treatises, sermons, and even *autos* (edicts reflecting policies regarding the Natives). Christian conversion operated on several levels, as these forms of religious discourse indicate, and engaged Native subjects in intimate forms of discursive exchange designed to radically recast indigenous thought, religious practice, and cultural identity into forms consistent with the Natives' new status as colonized, Christian subjects. First, these instruments functioned as means by which indigenous behavior and thought could be evaluated and ordered. More importantly, church officials sought through religious instruction and in particular through the sacrament of penance and the ritual of individual confession to impose upon the converts alien categories and interpretive structures through which they were expected to reconceptualize their behavior and thought. These rhetorical exchanges moved converts to evaluate their own behavior against

provided similar descriptions of such individuals whom he encountered in the Santa Barbara region of California in 1775. See Pedro Fages, *A Historical, Political, and Natural Description of California*, ed. and trans. Herbert Ingram Priestley (Berkeley: University of California Press, 1937), 33, 48. For descriptions of similar practices in California and other areas of northern Mexico see Richard C. Trexler, *Sex and Conquest: Gendered Violence, Political Order, and the European Conquest of the Americas* (Ithaca, N.Y.: Cornell University Press, 1995), 122–27; and Ramón A. Gutiérrez, *When Jesus Came, the Corn Mothers Went Away: Marriage, Sexuality, and Power in New Mexico, 1500–1846* (Stanford, Calif.: Stanford University Press, 1991), 33–35.

⁷Robert 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. Lesley Bryd Simpson (Berkeley: University of California Press, 1966).

these interpretive structures by promoting self-reflection that focused on the individual subject and sin. By doing so, they induced within the Christian penitent feelings of guilt and isolation that were expected to be remedied through penance, absolution, and self-discipline. In this manner, they operated as individualizing mechanisms, eroding traditional ties of solidarity existing within Native society by promoting within indigenous subjects a heightened sense of the self capable of recognizing particular thoughts, acts, and behaviors as sins. In sum, such exercises sought to transform Native consciousness and subjectivity.⁸

Within the mission communities, friars immersed neophytes in a range of activities designed to disconnect them from their “pagan” past. Mission Indians participated in a series of spiritual exercises, including the memorization and recital of prayers, the singing of religious hymns, and the study of the *Doctrina*. The *Doctrina* written at Mission Santa Barbara by Fray Juan Cortés in December 1798 was one of the first Franciscan rhetorical devices developed for the conversion of Alta California’s Native inhabitants. First, converts were instructed in the Christian categories by which they were to recontextualize their own behavior within Catholic interpretive structures. The *Doctrina* instructed, first: “There is only one true God, the creator of all the things that we see and of all those we do not see.” It continued, moving from God to the self: “Think about God always . . . and say it thus: My God, you made me man; you suffered and died for me nailed to the Cross. You are also very good and most merciful to all people.” Next, it informed the mission neophytes about the sexual implications of these fundamental precepts. It counseled: “You must marry as Christians . . . and not like the Gentiles; the husband must always love his wife and she her husband; . . . you must go now and receive the Holy Sacrament that is called matrimony.”⁹

⁸On the sacrament of penance in colonial Mexico see Serge Gruzinski, “Individualization and Acculturation: Confession among the Nahuas of Mexico from the Sixteenth to the Eighteenth Century,” in *Sexuality and Marriage in Colonial Latin America*, ed. Asunción Lavrin (Lincoln: University of Nebraska Press, 1989), 96–113; J. Jorge Klor de Alva, “Sin and Confession among the Colonial Nahuas: The Confessional as a Tool for Domination,” in *Ciudad y campo en la historia de México*, ed. Richard Sánchez, Eric Van Young, and Gisela von Wobeser (Mexico City: Instituto de Investigaciones Históricas, 1990), 1:91–101; and “Colonizing Souls: The Failure of the Indian Inquisition and the Rise of Penitential Discipline,” in *Cultural Encounters: The Impact of the Inquisition in Spain and the New World*, ed. Mary Elizabeth Perry and Anne J. Cruz (Berkeley: University of California Press, 1991), 3–22. For a more intensive discussion of religious rituals in Alta California see Hackel, *Children of Coyote*, 199–202; James A. Sandos, “Levantamiento! The 1824 Chumash Uprising Reconsidered,” *Southern Historical Quarterly* 67, no. 2 (1985): 109–33; Sandos, *Converting California*, 96–98; and McCormack, “Marriage, Ethnic Identity, and the Politics of Conversion,” 264–87.

⁹Fray Juan Lope Cortés arrived in California in 1796 and served at Mission San Gabriel and San Fernando. In 1798 he was assigned to Mission Santa Barbara, where he served until 1805. The *Doctrina* and *Confesionario* he wrote at Mission Santa Barbara have been published as *The Doctrina and Confesionario of Juan Cortés*, ed. and trans. Harry Kelsey (Altadena, Calif.: Howling Coyote Press, 1979), 4, 6.

The prayers contained in the *Doctrina* included the Act of Contrition, the Lord's Prayer, and the Creed. Through the recital of these prayers and the series of questions and responses that followed the *Doctrina* worked, in theory, to instill within Christian neophytes the central concepts of the Christian faith regarding the nature of sin and its relation to the eternal life of the soul. "When a man dies," it queried, "does the soul die also?" Answer: "The soul never dies, and only the body dies." Question: "Where do the souls of good Christians go when their bodies die?" Answer: "They will go to heaven to be with God living happily with him forever, because they kept the Commandments of God." To the predictable ensuing question, converts responded: "They will go to hell to suffer forever, because they did not keep the Commandments of God and the precepts of the Holy Church."¹⁰

The Catholic penitential rituals in which converts participated were an especially important element of the Christian evangelical assault on California's Native converts. The Catholic sacrament of penance, as practiced within the mission communities, worked to internalize the central concepts and values of the Christian faith and sin. Confessional aids written by missionaries serving in Alta California were particularly well suited for such purposes. Following European and, later, Mexican precedent, the Ten Commandments served as the organizing structure behind these manuals, providing the basis upon which licit behaviors and thoughts were classified. California's Franciscan missionaries, however, also carefully adapted their guides to discern more carefully the persistence of Native religious and sexual practices across the region. An early *Confesionario* written by Fray Cortés and attached to his *Doctrina* queried penitents on a range of matters pertaining to religious and sexual practice and Christian faith. A subsequent confessional aid, composed by Fray José Seán of Mission San Buenaventura sometime between 1819 and 1823, reveals a more sophisticated and inclusive penitential discourse addressing nearly all aspects of Chumash culture possessed by the inhabitants of this area.

Most intriguing about these spiritual exercises is the manner by which they implore the penitent toward self-examination and remorse. Fray Cortés's *Doctrina* emphasized the importance of the sacrament of penance and exhorted neophytes to make a "perfect" confession: "Think about all your sins, then tell all the mortal sins without holding any back because of shame, sorrowfully repent them, and resolve to reform." Seán's *Confesionario* is even more compelling in this regard. "Look here," he exclaimed, "if you want God to forgive your sins, [you ought to] confess with great repentance in your heart, because you have offended God the Father, [who is] most gracious." Next, he drew the attention of the mission converts to the dire consequences of their sins and the urgency of their immediate repentance and absolution. You must confess, he explained, "for you have offended God the Father, who will cast you out into hell to suffer

¹⁰Ibid., 26–28.

everlastingly; . . . you must wish to die rather than to do anything evil.” Among the list of exhortations Señán included to provoke the penitent, he advised:

Do not talk. Just listen and nothing else. If you had died with your sins, your soul would be in hell now. If you were in hell, always in darkness, with great cold, always very hungry, always thirsty, you would suffer all the diseases and . . . pain continually in that great fire. Tell me: could you stand even one day inside the . . . furnace [when] it is full of fire that is greater than any other and is forever? Now die first rather than do evil.

Señán’s *Confesionario* facilitated and reinforced the penitent’s introspection by insisting that he or she quantify the times a sin was committed. “Have you ever become drunk on *pespihuat* (tobacco)? How many times did you become drunk?” Other times, the confessor queried the penitent in an order of increasing severity: “Have you ever desired women? How many women have you desired? How many married women?”¹¹

Through the ritual of confession, then, confessors engaged penitents in a process by which they became active participants in their own transformation. The questioning implored penitents toward a shift in subjectivity through introspection, self-examination, guilt, and sorrow for sin. In so doing, it worked to individualize the penitent, severing Native behavior and thought from its broader social and cultural context.

Last, such discursive exchanges imbued more and more of what Native converts regarded as familiar with alien, Christian meanings and values. For example, we can briefly consider how religious conversion challenged Native notions regarding the religious and the sacred. Because Christian conceptions so obviously clashed with indigenous beliefs and practices, questions of this sort asked in confession were likely to have further sharpened the penitent’s sense of guilt. Señán’s *Confesionario* challenged many aspects of Native religious and sexual practices and sought to reconstruct the convert’s sense of the sacred. Confessors instructed penitents on the permissible forms of sacred experience by asking: “Have you attended Holy Mass every Sunday? . . . How many times have you played during Holy Mass, or talked, or slept, or made signs to a woman? . . . Have you eaten meat during Lent, Fridays, and vigils? . . . Have you fasted when the Holy Church prescribes it?” At another point he instructed the penitent: “Try to learn how to say prayers . . . for every Christian must know whatever is required to get to heaven.”¹²

At the same time, Señán interrogated the penitent on a range of Native, in this instance, Chumash, religious activities. He asked: “Have you ever

¹¹José Señán, *The Ventureño Confesionario of José Señán, O.F.M.*, ed. and trans. Madison S. Beeler (Berkeley: University of California Press, 1967), 15–16, 37, 39–41, 61, 70–73.

¹²*Ibid.*, 29–33, 15.

believed in dances, and do you scatter seeds and beads?” He continued: “Tell (me): did you believe that by scattering seeds . . . you would kill fish? That there would be plenty of seeds, and deer, and rabbits?” He proceeded to implicate Chumash healers and other religious figures; he questioned their belief in dreams and healing and their use of *pespihuat*.¹³

Confessional manuals also clarified and instructed mission neophytes on what Franciscans regarded as the legitimate forms of sexuality, bounded and constrained by the sacrament of Christian marriage. In fact, these aids focused particular attention on transgressions of the sixth and ninth commandments (sins of impurity, including adultery, fornication, homosexuality, masturbation, and lust). Cortés’s confessional aid probed penitents on matters pertaining to a range of sexual transgressions in increasing degrees of severity: “Have you sometimes thought about doing bad things for pleasure with a woman, with women, with a man, with men? Did you want to do what you were thinking about? With how many women have you sinned, with how many men? Have you procured women so that others might sin? Have you sinned with some animal, with another man, with other men, with another woman, with other women?”¹⁴

Señán’s manual queried penitents on an even greater range of procreative and sexual activities. These included sins of thought or intent as well as material acts. Some were directed toward male penitents: “Have you ever dreamed evil things about women? Did your thoughts check with your dreams after waking up? Have you thought about or desired women when you spilled the seed from your body?” “Have you had intercourse with your wife anytime she wanted to and you were not ill?” “Have you had intercourse improperly with your wife, so she would not bear a child?” “Have you watched with pleasure persons or animals sinning?” “Have you desired to do the same?” “Have you sinned with an animal, in the same (way) as with a woman?” “Have you ever sinned (had intercourse) with a *joya*?” “Have you ever sinned (had intercourse) with a man?” Other questions were posed to female penitents, including “Have you had intercourse with your husband any time he so desired and you weren’t ill?” “Have you sinned with a (little) animal?” “Have you ever sinned with a woman?” Ultimately, such instruments served as useful tools for assisting Franciscans in their efforts to reorganize Native sexual behavior and thought relating to carnal desire into forms consistent with Christian precepts.¹⁵

Thus, here we see how the confessional aids functioned as instruments for profaning Native religious and sexual practices by associating such behaviors with Christian notions of sin and guilt. The manuals, as applied, worked to redefine and narrow the meaning of religious experience and sexual practice by valuing certain forms of religious performance and sexual

¹³Ibid., 25, 27.

¹⁴Cortés, *The Doctrina and Confesionario*, 6, 115–17.

¹⁵Señán, *The Ventureño Confesionario*, 39–65.

experience and defining other acts as a transgression of divine law. Finally, by subverting the nature of sacred experience and by narrowing the acceptable forms of sexual expression within Native societies, they sought to fracture the solidarity and unity such activities sustained within indigenous communities of the region.

While missionaries intentionally devised evangelical and rhetorical tools designed to extirpate Native religious and sexual practices and internalize Christian categories of sin, the mission system imparted other forms of gender and racial embodiment on Native subjects within the mission communities. Missionization imposed a “civilized” dress code on Native bodies consisting of forms of attire that denoted their status not simply as mission converts but also as lower-class Indians within California’s colonial society. Such demeaning forms of gender and racial embodiment were reinforced by the forms of servitude specific to Spanish rule in California. Mission neophytes assumed a status and role within the mission order as subjects of and servants for the Spanish elite. The abusive conditions such relations fostered underscored their particular place within the colonial order.¹⁶

The bodies of mission converts also suffered other indignities. Epidemics and infectious disease spread violently throughout California’s mission communities. Dysentery, influenza, measles, tuberculosis, gonorrhea, and syphilis all contributed to the cataclysmic death rates that afflicted Native inhabitants of California. Contemporary accounts provide detailed descriptions of the physical afflictions such diseases left on many of their victims, including chronic coughing and vomiting of blood, open lesions, spots on the skin, cicatrices, and other forms of disfigurement. Such illnesses, coupled with the floggings, punishments, and evangelical techniques comprising the broader Franciscan religious program of conversion, represented in many ways an intensive assault on all aspects of the Native conceptional world: sex and the body, illness and healing, religion and the sacred.¹⁷

As the pressures of Spanish colonization and conversion mounted over the late eighteenth and early nineteenth centuries, Native inhabitants and communities of the region faced an extremely difficult set of challenges and limited choices. Most sought to adapt and accommodate themselves to the deteriorating circumstances and events transforming their lives and communities. At times, however, Native inhabitants resorted to individual and collective forms of violence to redress the most egregious elements of colonial life. I now turn to an examination of such events and to what the underlying patterns of violence suggest regarding how Spanish conquest and Franciscan efforts to convert them to Christianity affected Native inhabitants of the region. In response to the Spanish efforts to congregate

¹⁶Geiger and Meighan, *As the Padres Saw Them*, 129–32, 147–53.

¹⁷Sherburne F. Cook, *The Conflict between the California Indian and White Civilization* (Berkeley: University of California Press, 1976), 13–55; Hackel, *Children of Coyote*, 113–18; and Sandos, *Converting California*, 111–27.

them into missions, extirpate their religious traditions, and circumscribe their conceptions of marriage, sexuality, and intimacy, Native inhabitants of the region learned to manipulate Spanish behavioral, religious, and legal codes in defense of their illicit behavior.

HOMICIDE AND VIOLENCE IN EARLY CALIFORNIA, 1769–1795

From the onset of Spanish conquest, Spanish colonial agents sought to minimize Native violence and resistance to Spanish colonialism through a calculated strategy of friendship, intimidation, and force. Spanish explorers and missionaries initially offered gifts, food, and pledges of protection to win the allegiance of the indigenous inhabitants with whom they came into contact. Despite such efforts, Native violence and resistance marred Spanish exploration and settlement from its inception and remained persistent features of California's cultural and social landscape. Forms of violence committed by Native inhabitants and communities included a wide spectrum of actions, ranging from individual homicides to more direct forms of collective violence targeting the colonial order.¹⁸

An examination of the patterns of violence underlying cases of homicide in Spanish and early Mexican California suggests colonial changes consistent with broader structural transformations occurring in colonial California. Homicides and other acts of criminal violence committed by Native inhabitants in California were rarely arbitrary or unpremeditated events. During the early phase of Spanish colonization (from 1769 to 1795), as mission communities became established, incidents of homicide indicate the myriad ways Native inhabitants and communities reacted to the risks and opportunities presented by the Spanish arrival. Native violence during this early period reveals two dominant patterns and underscores the deeper ambiguity and ambivalence that underlay Spanish-Indian relations and life at this time. First, most were closely connected to the defense of the Native *ranchería* and surrounding area against village outsiders or other transgressors. Second, most incidents were premeditated and may well have resulted from the breach of social rules unrecognized by the Spanish who preserved the record of them.¹⁹

¹⁸Stephen Greenblatt, *Marvelous Possessions: The Wonder of the New World* (Chicago: University of Chicago Press, 1991), 66.

¹⁹These cases include a double murder by a mission neophyte at Mission San Luis Obispo (November 1782), "Diligencias Criminales del Yndio Thoribio Heredia Natural de la Mission de S[a]n Luis . . . 1782," Archivo General de la Nación, ramo de Californias (hereafter AGN, CA), Mexico City, tomo 75, expediente (hereafter exp.) 42, fols. 2–10 (microfilm, Bancroft Library); the murder of a convert from Mission San Diego by "indios serranos" (August 1783), Zuniga to Fages, 21 August 1783, San Diego, AC, 2:411; an attempted homicide at Mission San Buenaventura (September 1788), Goycochea to Fages, 16 September 1788, Santa Barbara, AC, 4:295, 301; the murder of an Indian by a mission neophyte at Mission Santa Barbara (August 1791), Goycochea to Romeu, "Aviso de encarcelamiento," 13 August 1791, Santa Barbara, AC, 6:10; the murder of a Christian neophyte at Mission San Gabriel committed by Gentiles from the "sierra" (August 1791), Diego Gonzalez to Romeu, 18

Still, incidents of Native homicide and violence in Alta California during the early years of Spanish colonization, as reflected in the historical record, are rare. Prior to 1795, I have located only eight documented incidents of homicide or attempted homicide in the region extending from San Diego to San Francisco. The earliest homicide case I have located within civil records of the period occurred at Mission San Luis Obispo in 1782. This case provides a quick illustration of the nature of such crimes committed during this initial period of Spanish colonization. It involved the murder of two individuals belonging to two separate *rancherías*: Salquaya and Quelelteche. Two individuals, Thoribio Heredia, a native of a *ranchería* named Choquino, and a mission neophyte of Mission San Luis Obispo, were charged with the crime. The murder itself and the specific factors motivating it remained closely associated with Native traditions. The apparent motive for the crime, the official investigation concluded, was fear and revenge, stemming from the fact that the *rancherías* had been longtime enemies. The case reflects that, despite the incorporation of Native inhabitants into larger mission communities occurring during this period, indigenous inhabitants retained ethnic and village allegiances rooted in the precolonial past.²⁰

CONJUGAL VIOLENCE AND HOMICIDE, 1795–1824

Homicides and other acts of violence during the late colonial and early Mexican periods, that is, between 1795 and 1824, contrast at times dramatically with those committed during the first phase of Spanish colonization. Mission life brought Native villagers from multiple *rancherías* together into a larger, less familiar community of workers, worshipers, missionaries, soldiers, and colonial officials. As such, missionization frequently engendered new forms of social conflict and pressure as the norms, values, rules, and expectations of the Spanish mission system clashed with more traditional Native beliefs and attitudes. During this second period, homicide cases and the circumstances surrounding them began to reflect these more institutionalized mission settings and the conjugal pressures, constraints, and entanglements such relationships fostered. Increasingly, homicides and other acts of violence attributed to indigenous inhabitants took place on or near mission compounds. Not uncommonly, accusations of adultery and conjugal conflict and abuse were at the root of these violent incidents and provide evidence for illicit sexual relationships within the mission communities.

August 1791, San Vicente, AC, 6:172; the murder of a mission neophyte by her husband at Mission San Carlos (September 1792), AC, 6:172, and Bancroft, *History of California*, 1:687–88; and the murder of a Christian Indian at Mission San Miguel by Gentiles (1795), “Informe de Diego de Borica . . . sobre el asesinato de una indígena cristiana en la misión de San Miguel . . . 1795,” Archivo General de la Nación, Provincias Internas (hereafter cited as AGN, PI), Mexico City, tomo 1, exp. 3, fols. 39–44 (microfilm, Bancroft Library).

²⁰“Diligencias Criminales del Yndio Thoribio,” AGN, CA, tomo 75, exp. 42, fols. 2–10; Hackel, *Children of Coyote*, 352, 358–59.

One of the first homicide cases consistent with this later type occurred between late October and early November 1795, when the body of a man named Marcos, a mission neophyte and gardener from Mission San Buenaventura, was discovered lying faceup in a stream near a *ranchería* next to the mission later identified as Sisolop. Felipe de Goycochea, lieutenant commander of the Presidio of Santa Barbara, conducted a detailed investigation into the

for Marcos's murder were part of the mission community. Each of the offenders had maintained a close connection to the victim and the victim's wife based on their occupations as fellow mission gardeners. The motivation for the murder stemmed from conflict emerging from their relationship with one another in their capacity as mission neophytes and workers. The murder was carried out close to mission grounds in the mission garden and with mission tools and implements (a spaded knife, a blanket, and a wire net). The crime was committed in the late evening, at approximately eight o'clock, "the hour that the children [*muchachos*] pray," as María Bernardo testified, to ensure that no individuals would witness the crime.

This murder reflects many of the underlying patterns of other mission homicide cases from this period. All signs and much of the testimony indicate that it was a carefully planned and premeditated murder. It involved individuals connected by both traditional and newly formed relationships. These individuals were bound by older familial, conjugal, and communal ties but also participated in new and often "illicit" relationships formed within the mission compounds and more clearly associated with their status as converts. Quite often, as in the case above, a close or conjugal relationship existed between the victim(s) and the offender(s). Not infrequently, the victim of an assault or homicide was the sexual partner or sexual rival of the offender. Increasingly, Native life within the missions during the late colonial and early Mexican periods consisted of an intricate quilt of relationships that fused precolonial life with the rapidly changing social and cultural order.²³

NATIVE TESTIMONY AND CONVERSION

Several of the criminal cases from this later period also show evidence of a heightened sense and understanding of Christian sexual precepts, regulations, and values among the Native inhabitants of the communities of California. The documentary record of these cases reveals that Native informants often participated in official investigations throughout the region, providing important direct evidence on a range of criminal and sexual offenses. In some of the most interesting of these cases, Native informants even brought violations of Spanish law and Catholic behavioral codes committed by Spanish residents of the region to the attention of colonial authorities.²⁴

One example of such testimony occurred in 1801, when an eighteen-year-old soldier from the Pueblo of Los Angeles was charged by Spanish authorities with an "abominable crime with a beast," in this case, with a mule. In the ensuing criminal case, two Native women belonging to the

²³I have examined over fifty criminal and murder cases committed by Native inhabitants in California between 1795 and the early 1830s. A listing of these cases (along with their citations) is located in the appendix of McCormack, "Marriage, Ethnic Identity, and the Politics of Conversion," 430–35.

²⁴The role of Indians in providing testimony in trials of Indians and Spaniards in Alta California and throughout Mexico is discussed in Hackel, *Children of Coyote*, 346.

Mission of San Buenaventura provided direct testimony that demonstrated that the soldier's actions were exposed as a direct result of actions taken by them. The first witness, a mission neophyte named María Ambrosia, testified that she initially recognized the soldier, José Antonio Rosas, at the time she witnessed the crime but did not know his name. She eventually learned his name from a young boy who asked the soldier for it, specifically so that she could "accuse him to the Padre Minister of the mission Fray Vicente de Santa María." Her testimony went on to reveal the specific criminal activity she had witnessed. The soldier, she graphically pointed out,

had his horse and the mule's head side by side, and the mule had its forelegs below the hump of a ditch and the hind legs on top; and the said soldier had his underwear down to his knees and was attached to the mule's rump, and with one hand he held its tail to one side while moving his waist in a sexual manner, and this lasted for a while until he turned his face and saw me and my companion, then he let the mule go down the ditch and he picked up his underwear and without attacking us mounted his horse.

The second Native witness, María Tomasa, corroborated this initial account, graphically describing how she "even saw his member and the natural movements of the act." After the soldier rode off, the two women waited to see if he might return. When he did not, they decided to approach the area where the mule was and, seeing that the mule was tied up, they untied the mule, took it to Fray Vicente de Santa María, and reported all they had seen to him.²⁵

The testimony provided by the two Native women in this case suggests that they understood and had also internalized Spanish norms relating to sexual behavior, deviance, and sin. In fact, while the testimony provides little insight into what other motivations the women might have had in reporting the incident to the mission priest, they well understood that the soldier's act conflicted with the permissible forms of behavior prescribed by the moral precepts of the mission. Rather than leaving what they had witnessed unreported, they pursued the matter with the mission authorities and the Spanish legal system, to the detriment of the Spanish soldier. They knew the proper and logical individual to whom such moral and religious infractions should be reported. They learned the offender's name so that he could be properly accused. If the success of these neophytes' conversion can be measured by their ability to perceive such an act as a sin and in their willingness to report such moral infractions to authorities, the missionaries had done their work well.

Another criminal case involving a Spaniard occurred in Santa Barbara in 1806. In this investigation, Fernando Gota, the sergeant of the guard

²⁵"Causa criminal contra el soldado José Anto[nio] Rosas . . . de los Angeles por el crimen nefando con una bestia," 11 February 1801, Santa Barbara, AC, 16:164-78.

at Mission San Fernando, was ordered to investigate troubling accusations against Vicente Quijada, a Spanish resident of the region. During the initial stages of the investigation, testimony given by an Indian named Francisco provided important evidence that Vicente Quijada had committed a serious sex offense involving his daughter. At the inquest, Cota asked Francisco “if [he] knew the daughter of the said Quijada who had recently given birth at the ranch?” Francisco informed Cota that while he had not seen any such incident, “everybody on the ranch was saying that the boy Quijada’s wife claimed as her son was actually the son of Quijada’s daughter, Bibiana.” He and others living on the ranch had noticed the daughter’s pregnancy. He continued: “She was always inside her home and when she came out she wore a shawl and always said she was sick; when it was nearing time to give birth, she did not permit the housekeepers nor any other Indian to enter her house.” Finally, he pointed out that he never saw the baby given milk from the supposed mother. Rather, he maintained, “she fed the infant with a little bag of *atoli* [a drink made from cornmeal].” Again, Native testimony rendered important, firsthand evidence regarding the illicit sexual activities of a *gente de razón* (“people of reason,” a term used by California’s soldiers and settlers to refer to themselves).²⁶

Homicide patterns of the late colonial and early Mexican period are indicative of the changing forms of social and cultural interaction occurring within the mission compounds during this period. Indeed, these cases provide additional insight into how some mission Indians had begun to grasp and, to some extent, internalize cultural meanings, values, and behavioral norms relating to marriage, family, and sexuality sustained by their colonizers. The appropriation of such norms and values, I maintain, gradually influenced how indigenous inhabitants of the region understood themselves as individuals in relation to the community as well as what constituted appropriate and inappropriate forms of behavior.

“BLINDED BY LOVE”

Sexual crimes in particular from this period suggest a growing recognition and knowledge of a wide range of Spanish-imposed cultural values, legal principles, and religious and behavioral codes. Throughout colonial New Spain, including Alta California, premeditated crimes and crimes that threatened the public order were punished most severely. Accordingly, crimes and other breaches of Spanish law were customarily portrayed by criminal offenders and their defenders as unintentional and unplanned. Frequently, individuals attributed their unlawful acts to powerful outside forces beyond their control, sometimes metaphysical (the machinations of

²⁶Ten[ien]te José Raymundo Carrillo, Comand[ant]e, “Causa de incesto . . . diligencias practicadas contra Vicente Quijada, acusado de torpe amistad con una huja suya llamada Bibiana,” 28 November 1806, Santa Barbara, AC 16:342–56.

Satan), sometimes substantive (the influence of alcohol), and sometimes emotional (the blindness of love, the fury of rage, and so on). Allegations of adultery, spousal abuse, and domestic cruelty also served as a useful defense or justification for illicit or criminal behavior. In the criminal case involving the soldier José Antonio Rosas related above, for instance, the Spanish defendant insisted that the underlying motive for his actions was demonic: “And there I found the mule and in that lonely place a demon came over me to commit this mortal sin believing that nobody was watching.”²⁷

Mission Indians also resorted to Spanish categories of explanation in defense of wrongful acts. Not infrequently, those who committed criminal or immoral acts pointed to mitigating circumstances in justifying transgressions of Spanish law or Christian moral codes. A tragic homicide that occurred in June 1796 provides an interesting and early example of how mission Indians used Spanish categories of motivation for their own defense. This case involved a mission Indian named Silberio, a thirty-year-old neophyte from Mission San Luis Obispo who was charged with the murder of his wife, Rebeca. Her body had been found approximately one league from the mission, and the injuries to her back, neck, and one of her legs indicated that she had suffered a violent death. Her husband initially attributed her death to a bear attack suffered while the two of them were gathering seeds on a nearby mission ranch. However, evidence and Native testimony revealed otherwise.²⁸

Here, Native testimony was skillfully exploited by the lead investigator, Felipe de Goycochea, who implicated Silberio in his wife’s murder after carefully reconstructing the particular events and details as a homicide. Petra, the first key witness, described to Goycochea that she had observed the injuries Rebeca had sustained up close and had concluded that Silberio’s story could not be true. Other Native witnesses provided evidence that indicated a premeditated crime. The weight of such evidence compelled Silberio to confess to the murder, confessing initially that he murdered his wife out of jealousy and anger. In a subsequent interrogation, however, he changed the details of his original statement, explaining that he had killed

²⁷“Causa criminal contra el soldado,” AC, 16:169.

²⁸“Causa Criminal Contra el Yndio Silberio de la Mision de San Luis . . . 1796,” Real Presidio de Monterey, AGN, CA, tomo 65, exp. 6, fols. 241v–378r. For additional discussions of this event see Hackel, *Children of Coyote*, 210–12, 357, 361; and McCormack, “Marriage, Ethnic Identity, and the Politics of Conversion,” 345–52. My analysis of homicide trials in Mexico draws from William B. Taylor, *Drinking, Homicide, and Rebellion in Colonial Mexican Villages* (Stanford, Calif.: Stanford University Press, 1979), 90–92; Colin M. MacLachlan, *Criminal Justice in Eighteenth Century Mexico: A Study of the Tribunal of the Acordada* (Berkeley: University of California Press, 1974); Woodrow Borah, *Justice by Insurance: The General Indian Court of Colonial Mexico and the Legal Aides of the Half-Real* (Berkeley: University of California Press, 1983); Charles R. Cutter, *The Legal Culture of Northern New Spain, 1700–1810* (Albuquerque: University of New Mexico Press, 1995); and Hackel, *Children of Coyote*, 351–59.

his wife at the instigation of another woman, Rosa, a widow with whom he had been carrying on an adulterous affair for some time.²⁹

Rosa made a formal confession to the crime on 11 October 1796. Rosa stated her age, birthplace, and religion: she was forty years of age, born at the *Ranchería del Morro* (a Christian village approximately five leagues from the mission), and Christian. Goycoechea proceeded to interrogate her. He asked: "Do you know why you are imprisoned?" and "Why had Silberio killed his wife?" In response, Rosa provided the central motives to Rebeca's murder: Silberio's fears and jealousy. Silberio had informed her earlier, she explained, that if the mission padre asked her to marry somebody, she must say she does not want to do it. Silberio had also told her that he was going to kill his wife because "he had a bad feeling in his heart" about her, since he had heard from somebody else that his wife was having an affair with another man. Silberio was driven by motives much deeper than he had originally let on. "The Father cannot say anything to me," she claimed to have told Silberio. "I am old and they only designate a husband for the younger women." Yet Silberio had apparently responded: "They have told me that the Father wants to give a husband even to the older women." For this reason, Silberio was said to have continued, "I have so much grief from this that I cannot sleep at night." According to Rosa, he had then added: "If the Father gives you a husband, I am not going to see you again, nor am I going to be able to go to your house."³⁰

Silberio made his official confession on 12 October 1796. He provided few details concerning the murder. He identified himself as thirty years of age, a Christian from Mission San Luis Obispo, and originally of the *Ranchería de Laguna Larga*. He then admitted that he murdered his wife, on a Friday, about midday. The weapon he had used was a knife. Following the crime, he approached the mission with "the intent to enter." At that point, his conscience apparently caught up with him. As he entered, he noticed the church, where he "heard a voice as if someone nearby was talking and that said to him 'go into the church.'" Noticing that the church was open, he took refuge inside.³¹

By the final phase of the criminal trial, both defendants had provided a range of motives regarding what had triggered their violent actions. Despite some inconsistencies and the fact that the two defendants frequently changed or added to their original statements, each of the defendants employed categories of motivation that underscored the extenuating and mitigating nature of their crime. Both defendants attributed their actions to powerful forces and emotions, placing the course of their actions beyond their control. Silberio portrayed himself as a victim of his wife's adultery,

²⁹"Causa Criminal Contra el Yndio Silberio," AGN, CA, tomo 65, exp. 6, fols. 259–360. Spanish authorities relied on the testimony of several Native witnesses from Mission San Luis Obispo.

³⁰Ibid., fols. 263–67.

³¹Ibid., fols. 266–67.

Indians physically attacked or, in other cases, lodged formal complaints against abusive soldiers, *mayordomos* (overseers), and Spanish settlers. Mission Indians also leveled complaints against their own alcaldes (mayors or chiefs). In rare instances, abusive alcaldes and *mayordomos* were murdered by disgruntled mission Indians.³³

As elsewhere in Spanish America, Native inhabitants and communities in colonial and Mexican California exploited the Spanish legal system to challenge the worst abuses they endured at the hands of cruel friars, abusive soldiers, and unjust colonial officials. Spanish legal traditions were likewise called upon to limit the degree of control and the severity of punishment that colonial officials used in their efforts to regulate Native life. These practices included at times a subtle, gradual appropriation of the inherent rights, privileges, and protections to which Native inhabitants were entitled under Spanish law. This adaptation by California Indians reveals a growing recognition among neophytes of how Native rights discourse could be used as part of a wider strategy to negotiate the dynamics of power and the terms of domination and subordination within the larger mission community.³⁴

The murder in September 1808 of Pedro Miguel Alvarez, a *mayordomo* at Mission San Diego, provides a useful example of this political and cultural dynamic, since a direct assault on Spanish authority triggered an extensive investigation by colonial officials. Three shepherds from Mission San Diego were charged with the *mayordomo*'s murder: Francisco de Asis, a twenty-five-year-old neophyte from the village of Soledad; Fernando, a thirty year old originally from the village of Pulugría; and Fermin, a Native of unknown age from a nearby village called Gutahay. The events uncovered

³³Assaults on mission authorities by mission neophytes include the infamous murder of Father Andrés Quintana in 1812 at Mission Santa Cruz. See Bancroft, *History of California*, 2:364, 388, 389; and Edward D. Castillo, ed. and trans., "The Assassination of Padre Andrés Quintana by the Indians of Mission Santa Cruz in 1812: The Narrative of Lorenzo Asisara," *California History* 68 (Fall 1989): 117–25. Additional accounts of Native assaults on mission friars include the apparent poisoning of Fray Francisco Pujol y Pujol in 1801 while serving at Mission San Antonio and San Miguel and of two other mission friars at Mission San Miguel at about the same time. A mission neophyte threw a stone at a mission padre in 1805 and was sentenced to twenty-five lashes for nine successive feast days and another thirty-five to forty lashes for nine successive Sundays (Bancroft, *History of California*, 2:146–47, 163–64). Indian petitions become more commonplace in the Mexican period. See the plea signed by Ciriaco and Basilio at Mission San Luis Obispo in the early 1830s in AC 73:35–42, *Documentos para la historia de California*, Bancroft Library; see also the plea by several Chumash neophytes of Mission San Buenaventura, 23 October 1826, San Buenaventura, AGN, CA, tomo 18, exp. 33, fol. 458r–58v, and the discussion of this plea in Hackel, *Children of Coyote*, 377–81. The murder of a *mayordomo* of Mission San Diego, accused of cruelty, will be addressed below, "Causa criminal contra tres yndios neófitos . . . Franj[cis]co Fermin y Fernando de la Misión de San Diego por la muerte que dieron a su mayordomo," 7 September 1808, AGN, CA, tomo 62, exp. 10, fols. 2–106. Mission authorities were also prosecuted for the abuse of mission neophytes on occasion. For example, see the murder case against the alcalde of Mission San Fernando Rey who killed a neophyte in 1813 in an effort to make him work faster, AC, 4:21.

³⁴Borah, *Justice by Insurance*, 6–119.

by the criminal investigation revealed a web of Native abuse—a complex interplay of Native subordination, gender violence, and sexual intimacy that operated below the idyllic facade of the mission order.³⁵

Francisco de Asis, who had taken sanctuary in the church at Mission San Diego in order to “save his life,” confessed that he was “one of those who had killed the *mayordomo* of the mission” on 19 September 1808. He provided authorities with the location of the murder (the nearby mission *rancho* of Borregas or Bayena), the names of those who had assisted him (his two coworkers at the mission ranch, Fermin and Francisco), and their motive for the attack (the severe punishments he had inflicted on them). He identified Fermin as the ringleader and pointed out that Fermin had begun encouraging the others to kill the *mayordomo* as many as twenty-one days prior to the incident. “Come on, I know it is wrong, and we are going to be condemned,” Fermin had told the other two, “but let’s kill him.” On the night of the murder, the three shepherds approached the victim as he slept. When the startled victim awoke, he asked the shepherds, “What are you doing?” The conspirators responded, “Love God, Sir, we are making the rounds, looking for coyotes.” They waited a short while. When the *mayordomo* fell back asleep, they surrounded him and shot numerous arrows into his body. Following his death, the three buried him under a pile of stones.³⁶

A number of Native witnesses corroborated the abuse that Francisco de Asis had given as the motive for the overseer’s murder. Several witnesses, however, also brought to light another set of mitigating factors behind this homicide. Not only was the *mayordomo* excessively abusive, but he had also had illicit affairs with several Native women of the mission, including the wife of one of the shepherds. María Josefa, Fernando’s wife, provided the initial description of the affair. She testified that Fermin’s wife, María Cecilia, had been involved in a sexual affair with the *mayordomo* for some time and that her husband, Fermin, had even shared in the gifts she had received from the *mayordomo* in return for her sexual favors. On the day of the murder, she added, the *mayordomo* had “made use of” Fermin’s wife just prior to the return of the shepherds. María, Francisco’s wife, confirmed that María Cecilia had carried on a sexual affair with the *mayordomo* ever since his arrival at the mission and that the *mayordomo* had rewarded María Cecilia with gifts of melon, meat, and *pinole* (ground cornmeal or flour). Fermin “concealed” his wife’s affair, she explained, because he shared the food and gifts his wife received “and knew as well where they had come from.”³⁷

³⁵“Causa criminal contra tres yndios neófitos,” AGN, CA, tomo 62, exp. 10, fols. 2–106.

³⁶Ibid., fols. 4–10. Francisco’s confession is interrupted by an investigation of the murder site. The second part of his confession takes place on 21 September 1808.

³⁷Ibid., fols. 14–22, 27–32.

Despite the scandalous actions and illicit relationships that the *mayordomo* maintained with María Cecilia and with other Native women at Mission San Diego, the shepherds maintained throughout the trial that their actions were more a result of the *mayordomo*'s frequent beatings than any jealousy or anger generated by the sexual affairs. Fermin testified, for instance, that the whippings he had received at the hands of the *mayordomo* "hurt his heart" more than the *mayordomo*'s sexual relationship with his wife. His own description of the overseer's murder reinforced his contention. The *mayordomo* had sought to stop his attackers, he pointed out, exclaiming: "Men! Don't kill me, let me confess [my sins first]!" His plea failed, however. In response, Fermin simply retorted: "I will confess you, son of a bitch, take it [the pain,] since you also punish us so much."³⁸

While the three defendants emphasized the excessive punishments of the *mayordomo* as justification for his murder throughout the original trial and were sentenced to ten years of imprisonment for it, seven years later the same defendants appealed their sentence to the Spanish Crown. The defendants asked the Crown to reconsider their past actions in light of extenuating circumstances. Their plea suggests that the shepherds had developed a more nuanced understanding of the Spanish legal system during their years of incarceration. The plea, signed by each of the three defendants, requested a less severe punishment. The document demonstrates that the three defendants had come to recognize that their indigenous past provided them certain protections against the more severe forms of punishment warranted under Spanish jurisprudence.

Within the plea, the defendants sought to minimize their crime, contending that their Native past had kept them in a state of ignorance that prevented them from understanding the true severity of their offense and the punishment it warranted under Spanish law. "Can you believe that we were unaware that the horrible crime we committed deserved such a punishment?" they asked. Their plea continued: "We had very little catechism in reason, since we lacked that natural light, as descendants of men who never knew it, since all of our lives were spent in the hills and wild, raised as Gentiles without ever knowing another God than the idols." However, it wasn't simply their origins as *gente sin razón* that accounted for their murderous act. The three defendants more carefully and explicitly detailed the severity of the abuse they and their wives had suffered at the hands of the abusive *mayordomo*: "Pedro Alvarez was truly an instrument of that sad death because of the evils that he committed against us," they explained. "He whipped our bodies without compassion, overpowering us with his position to such an extreme that he used force against our wives." They added that the *mayordomo* had once hung Fermin in a tree by his feet and whipped both him and Fernando. The document states that Fermin

³⁸Ibid., fols. 22–32. Fernando also testified that they had committed the murder because of the harsh punishment the *mayordomo* had inflicted on them because of missing sheep.

exclaimed during the course of his punishment: “Sir, why are you with my wife?” The *mayordomo* later punished Francisco, too, and not only them but many others at the mission in this way. It was the “horrendous actions” of the *mayordomo*, they explained, that had prompted them to kill him.³⁹

The *mayordomo*'s murder and the broader patterns of corporal punishment that emerged from this and other cases of mission violence reveal how the dynamics of gender violence and racial oppression operated within California's colonial setting in ever more complex ways as the mission order became more entrenched. Spanish “conquest” and the forms of racial and sexual violence it provoked served as potent weapons of Native subjection well beyond the initial years of conquest. The mission system and the new communities that emerged within it perpetuated these early forms of sexual violence and Native subordination. Native subjectivity also became increasingly embedded within these deeper, more complex forms of gender and racial subordination. The sexual constraints that the mission order imposed and the colonial hierarchies it sustained necessitated the use of violence and the imposition of servitude. Ultimately, they fostered aberrant forms of exploitation and sexual intimacy. And even if these constraints met sometimes with Native accommodation, ultimately they also provided for the formation of an oppositional space and discourse that served as the basis for Native resistance within these colonial settings.

The attack on mission authority of November 1811 that began this essay, when Nazario poisoned Fray Panto at Mission San Diego, provides a final, compelling example of these new dynamics and the impact they had on Native life and cultural identity in colonial California. Nazario's court testimony is illuminating in many ways. First, it provides additional insight into how Spanish law and tradition provided Native converts with a means and method by which to challenge the severity of their punishment. His responses demonstrate an individualistic and premeditated crime. His own justifications for what he had done lend additional evidence for an evolving understanding of what constituted acceptable and unacceptable forms of Spanish-Indian interaction within the missions. In this case, Nazario rationalized the poisoning of Fray Panto on the basis that the padre had violated behavioral norms and moral precepts through his persistent, flagrant, and extreme abuse. According to Nazario's initial testimony, the padre's actions were excessively cruel and the punishments highly unusual. Thus, on his own, he carefully prepared a plan to teach the priest a lesson. He procured an herb that he called *cuchasquelaaí* and reduced it to powder on his own. He did so, he added, because he had become “very offended” for having received fifty lashes on the morning of the fifteenth, another twenty-four

³⁹Ibid., fols. 78[?]-80[?]. The plea is located with the larger criminal file and is dated 27 August 1815. The appeal is about two folios in length and was signed by each of the three defendants on 6 May 1815 at the Presidio of San Diego. The pagination is unclear at this point in the case.

lashes later in the evening, another twenty-five lashes on the morning of the sixteenth, and another twenty-five lashes that evening. "I saw myself so tormented by the multitude of the lashes that he had given me, not having any other way to avenge myself, and the many more he would have given me, I determined on the night of the sixteenth to put the said herb (*yerba*) into the Father's bowl of soup to see if by doing so I and the other Indians of the mission could get some rest," he confessed. He was an "intolerable priest," Nazario added.⁴⁰ The brutal floggings that Nazario suffered at the hands of Fray Panto resulted inevitably from his subordinate position as a personal servant to a Spanish official and his failure to meet the excessive demands that this exploitative relationship imposed on him. Nazario may have gotten his revenge: about seven months after the attempt to poison him, Fray Panto died, weakened perhaps by the cook's actions.⁴¹

CONCLUSION

These criminal cases and the events behind them reveal much about social life of the California Natives in the late eighteenth and early nineteenth centuries within the mission communities. It is clear that Native individuals within the mission system mediated the pressures and changes taking place around them in part by engaging in "illegal" actions rendered legitimate by extenuating circumstances. Natives often conceived of their illicit and violent actions as justifiable responses to persistent humiliations and extreme forms of discipline and degradation that they believed violated the mission's moral order. In defense of their conduct, they employed a discourse that appropriated Spanish legal traditions regarding the inherent rights, privileges, and protections Native inhabitants were entitled to under Spanish law, religious and cultural prejudices concerning their racial and cultural inferiority, and deeper Christian conceptions of morality and sin.

Their actions, as articulated in these judicial settings, reveal the elements of a nascent political discourse that encompassed an implicit defense of Native rights. Accordingly, the scattered evidence offered here suggests that by the early 1800s, despite the intensive efforts of mission friars and colonial officials to subordinate the region's indigenous inhabitants to the sexual and cultural constructions that sustained Spanish rule, the Natives of the mission communities of California had begun to forge a more encompassing, affirmative sense of themselves. These nascent forms of ethnic identity and

⁴⁰"Acusado de haber yerba al R. P. Fray Pedro Panto," AC, 17:194.

⁴¹Ibid. Fray Panto died on 30 June 1812. Maynard Geiger writes that he had been administered the last rites except without the viaticum because of his continuous vomiting. A notation on the death register states that Panto died from food poisoned by the cook, "according to the opinions." Maynard Geiger, *Franciscan Missionaries in Hispanic California 1769-1848: A Biographical Dictionary* (San Marino, Calif.: Huntington Library, 1969), 181-82.

cultural solidarity served as a constructive foundation for efforts by aggrieved individuals and groups to challenge the cultural impositions, the increasing labor demands, and the forms of exploitation sustained by colonial rule. In time, these ethnic and cultural forms would also serve as a constructive basis for more direct, overt, and collective challenges to colonization and missionization.

At the same time, it is also clear that by the early 1800s at least some of the Native inhabitants living within the Alta California mission communities had begun to internalize Spanish cultural and Christian moral codes about sexual behavior, sought honestly to live by them, or, at any rate, knew them well enough to manipulate them to their benefit. The historical record shows that they made much of Christian preoccupation with sexual sin, in particular, sometimes using or manipulating such concern to their advantage and at times falling victim to it. The very success of the California missions in inculcating these sexual values, it might be said, can be seen in these criminal cases that more often than not belie it.