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## "If they remained as mere words": Trent, Marriage, and Freedom in the Viceroyalty of Peru, Sixteenth to Eighteenth Centuries

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## “IF THEY REMAINED AS MERE WORDS”: *Trent, Marriage, and Freedom in the Viceroyalty of Peru, Sixteenth to Eighteenth Centuries*

*“Only God’s will [...] disposed to bind this true and sweet bond under which I live so happy and free.”*

Diego Dávalos<sup>1</sup>

The right of persons to marry without coercion and live their marriage freely was one of the foremost and frequently mentioned topics among synod and council fathers, moralists, and canon lawyers in colonial Spanish America. Within the territory of the viceroyalty of Peru, the recommendations of the Council of Trent in this regard took the form of a new set of ecclesiastical regulations, derived from synods and councils that occurred from the sixteenth through the eighteenth century.

Marriage freedom, much discussed at Trent, was finally defined in the *Tametsi* decree, which reinforced the doctrine that marriage required both parties’ free consent.<sup>2</sup> The ninth chapter of the *Decreto de reforma* (Reform Decree of November 1563) reminded temporal lords that they lacked the authority to “tyrannize marriage freedom,” thereby strengthening this principle. Nevertheless, and even after long debate, it was still found necessary to establish a punishment of moral weight for those who did not accept that freedom: those who deemed null marriages celebrated without parental

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1. This sixteenth-century Peruvian poet, influenced by Erasmus, advocated thus for the freedom of the marriage bond: “*La sola voluntad del cielo [...] se dignó a eslabonar este verdadero y dulce vínculo; en cuya sujeción tan alegre y libre vivo.*”

2. Jean Gaudemet, *El matrimonio en Occidente* (Madrid: Taurus, 1993), pp. 322–328; Isabel Morant Deusa and Mónica Bolufer Peruga, *Amor, matrimonio y familia: la construcción histórica de la familia moderna* (Madrid: Síntesis, 1998), pp. 40–41.

consent. In this, the freedom principle was upheld, regardless of the fact that the Church did not approve of such unions.<sup>3</sup> However, the *Catechismus Romanus* (1566) included a contrary statement: spouses were to avoid marrying against their parents' will and without notifying them, pursuant to the principle of parental authority. This shift opened the way for parents, relatives, and lords to try to impose their will.<sup>4</sup>

A significant amount of historiographical work on marriage in the Spanish and Spanish American world has focused precisely on this difficult balance between freedom and the withholding of consent. Jesús M. Usunáriz, examining marriage lawsuits involving broken promise in modern Spain, has shown how the legal process was used by those who wanted to marry to resist paternal authority: the spouses knew that in these cases the Church would choose to protect freedom, overriding parents' dissent.<sup>5</sup> Examining parental authority in marriage choices in Mexico's archdiocese in the sixteenth and seventeenth centuries, Patricia Seed concurs in depicting the Church as the guarantor of free choice over parental and other family interests.<sup>6</sup> More recently, Mónica Ghirardi has pointed out a remarkable increase in the number of processes involving broken promise in the second half of the eighteenth century, following on the strengthening of parental power that resulted from the *Pragmática sobre el matrimonio de los hijos de familia*.<sup>7</sup> Concerning Lima's archdiocese, many sources confirm that future spouses often sought exemption from banns from the ecclesiastical court, so as to evade family objections.<sup>8</sup> In the absence of the banns, families who objected to the wedding would not have a chance to make their objection public.

More than 20 years ago, in a pioneering work, Aznar Gil showed the role of canon law in guaranteeing marriage freedom among Indians in the Spanish

3. *Concilio de Trento (1563)*, session [hereafter ses.] 24, *Decree on Marriage Reform*, chapt. 9; Jean Gaudemet, *El matrimonio en Occidente*, pp. 328–329, 342.

4. *Catecismo Romano* [Catechismus Romanus], 1566, part 2, chapt. 8, n. 32. Gaudemet, in *El matrimonio en Occidente*, pp. 328–333, explains how this was a compromise solution: on one hand, the Church disapproved of marriages lacking parental consent, but on the other hand it recognized they were not null.

5. Jesús M. Usunáriz, "El matrimonio como ejercicio de libertad en la España del siglo de oro," *El matrimonio en Europa y el mundo hispánico: siglos XVI y XVII*, Ignacio Arellano and J. M. Usunáriz, eds. (Madrid: Visor, 2005), pp. 167–186; Francisco Chacón Jiménez and Josefina Méndez Vázquez, "Miradas sobre el matrimonio en la España del último tercio del siglo XVIII," *Cuadernos de Historia Moderna* 32 (2007) p. 64.

6. Patricia Seed, "The Church and the Patriarchal Family: Marriage Conflicts in Sixteenth- and Seventeenth-Century New Spain," *Journal of Family History* 10:3 (1985), pp. 284–293, and "Marriage Promises and the Value of a Woman's Testimony in Colonial Mexico," *Journal of Women in Culture and Society* 13:2 (1988), pp. 253–276.

7. There was an increase even though the "*pleitos de disenso*," a civil equivalent to this ecclesiastical resource, came into play at these moments. M. Mónica Ghirardi and Antonio Irigoyen López, "El matrimonio, el Concilio de Trento e Hispanoamérica," *Revista de Indias* 69:246 (2009), pp. 243–247.

8. See Pilar Latasa, "Publicidad y libertad en el matrimonio: autoridad paterna y dispensa de amonestaciones en Lima, 1600–1650," in *Padres e hijos en España y el mundo hispánico: siglos XVI y XVIII*, Jesús M. Usunáriz and Rocío García Bourrellier, coords. (Madrid: Visor, 2008), pp. 52–68.

American territories, mainly through the actions of councils and synods. His study also included some references to slaves of African origin. According to Aznar Gil, the defense of marital freedom as seen by the councils and synods comprehended securing free consent to marriage, free choice of marital status (either by censuring an impediment to an Indian marriage, or by banning an imposed marriage), and freedom within an already celebrated marriage. Nonetheless, these principles were threatened, by Indians themselves (parents, lords, and *caciques*), by Spaniards (*encomenderos*, *hacenderos*), and by *doctrineros* (Indian parish priests).<sup>9</sup>

Two decades later, it seems relevant to revisit this topic, expanding from Aznar Gil's perspective and drawing on additional sources. In the present work, the approach is wider, considering all of the social groups appearing in the documents, not only Indians. In addition, although I have limited the councils and synods studied to the viceroyalty of Peru, I have considered a greater number here than that used by Aznar Gil. For the elaboration of the present paper, I analyzed, directly or indirectly, the constitutions of five councils and 38 synods, out of the approximately 60 councils and synods celebrated within the viceroyalty of Peru before the establishment of Regalism.<sup>10</sup> This approach allows an overview of the dispositions adopted by these assemblies concerning marriage freedom, and it is complemented by study of the pastoral tools mentioned above and by the use of archival sources that refer to the practice of justice in Lima's ecclesiastical court. Thus, this approach allows us to compare the practical validity of those principles.<sup>11</sup>

## “FOR IT WOULD BE SOMETHING FRIVOLOUS AND HOLLOW...”

9. Federico R. Aznar Gil, “La libertad de los indígenas para contraer matrimonio en las Indias (siglos XVI–XVII),” *Ius Canonicum* 32:64 (1992), pp. 439–462. Recently, various studies concerned with ecclesiastical justice in dealing with indigenous populations were published in Ana de Zaballa, ed., *Los indios, el derecho canónico y la justicia eclesiástica en la América virreinal* (Madrid, Frankfurt: Iberoamericana/Vervuert, 2011).

10. This study does not include the three Regalist councils that took place in South America: Lima (1772), Charcas (1774–1778), and Santa Fe de Bogotá (1774). The decision to exclude them is related to the fact that they are contemporary to the 1776 *Pragmática sobre el matrimonio de los hijos de familia*, a Regalist law to reinforce paternal authority on marriage.

11. No direct correspondence is possible. In some cases there is evidence only of the call to celebrate a synod, so perhaps the synods did not really gather. The provisional inventory of synods published first by Dussel and more recently by Dellaferrera and Martini provides useful information about these records: Enrique Dussel, *El episcopado hispanoamericano: institución misionera en defensa del indio, 1504–1620* (Cuernavaca: Centro Intercultural de Documentación, 1969), pp. 279–280; Nelson C. Dellaferrera and Mónica P. Martini, *Temática de las constituciones sinodales indígenas (s. XVI–XVIII). Arquidiócesis de La Plata* (Buenos Aires: Instituto de Investigaciones de Historia del Derecho, 2002) pp. 11–30. The reception of Trent in Andean councils and synods has also been studied by Juan Villegas, *Aplicación del Concilio de Trento en Hispanoamérica, 1564–1600: Provincia Eclesiástica del Perú* (Montevideo: Instituto Teológico del Uruguay, 1975) pp. 187–227.

To begin the investigation of marriage freedom in the viceroyalty, we will question the validity of the sources we have thus far identified. Is it possible to probe the extent of spouses' actual practice of freedom based on them? Are not decrees or recommendations of synods and councils and of the different pastoral tools solely theoretical dispositions, unrelated to what really happened in the colonial society? It is true that relying on these sources may be somewhat speculative, but there are good reasons to assess them for the value they do provide. First, it should be noted that council and synod constitutions adapted Trent to the Andean peculiarities. The Second and Third Councils of Lima (1567–1568 and 1582–1583) and the numerous diocesan synods within the viceroyalty of Peru played an essential role in this adjustment.<sup>12</sup> South American bishops were aware of the effectiveness of these synods for the implementation of Catholic reform at a local level.<sup>13</sup>

For comparison, something similar took place in Italy. Daniela Lombardi has stressed the importance of the Italian synods celebrated in the sixteenth and seventeenth centuries in the local application of the dispositions about marriage from the Council of Trent.<sup>14</sup> Thomas Duve has recently remarked, in reference to the publication of catechisms after the Third Council of Lima, which adapted the *Cathecismus Romanus* to the Peruvian context, that Trent did not have the centralizing role assigned by some historiography. In fact, the council's attempts to promulgate new regulations took place in an environment of increasing pluralization.<sup>15</sup> All of this supports the affirmation that the dispositions of the councils and synods were developed on the basis of pastoral practice and were not, therefore, totally theoretical.

Second, it is worth remembering that the Andean synod phenomenon was unique, having no parallel elsewhere in New Spain. Following the practice introduced by Toribio de Mogrovejo, many of these assemblies were celebrated

12. On Tridentine marriage in the Second and Third Councils of Lima, see Primitivo Tineo, *Los concilios limenses en la evangelización latinoamericana* (Pamplona: Eunsa, 1990), pp. 196–201, 422–425. For the influence of Trent in Peruvian councils, see Severo Aparicio, *Influjo de Trento en los concilios limenses* (Madrid: Raycar, 1972).

13. Dellaferrera has already highlighted the ways in which canon law in Spanish America sought appropriate responses to the new realities. Nelson C. Dellaferrera, "Fuentes del derecho canónico indiano en los siglos XVI–XVII: los confesonarios," *Cuadernos de Historia* 14 (2004), pp. 49–66; Federico R. Aznar Gil, *La introducción del matrimonio cristiano en Indias: aportación canónica (s. XVI). Lección inaugural del curso académico, 1985–1986* (Salamanca: Universidad Pontificia de Salamanca, 1985), pp. 10–15. See also Juan Manuel Roca Suárez-Inclán, *Los sínodos de Quito en el siglo XVI: aspectos jurídico-pastorales* (Rome: Pontificium Athenaeum Sanctae Crucis, 1995), pp. 46, 60–62.

14. Daniela Lombardi, "Fidazamenti e matrimoni dal Concilio di Trento alle riforme settecentesche," in *Storia del matrimonio*, Michela De Giorgio and Christiane Klapisch-Zuber, coords. (Roma: Laterza, 1996), pp. 215–250.

15. Thomas Duve, "Catequesis y derecho canónico entre el Viejo y el Nuevo Mundo," in *Catequesis y derecho en la América colonial: fronteras borrosas*, Roland Schmidt-Riese and Lucía Rodríguez Gutiérrez, eds. (Madrid, Frankfurt: Iberoamericana/Vervuert, 2010), pp. 137–142.

in Spanish South America.<sup>16</sup> In addition to more than 60 synods convened from 1570 to 1763, there were the Third, Fourth, and Fifth Councils of Lima and the Council of La Plata, which took place in 1629.<sup>17</sup> These canonical sources constitute an extraordinary reference for historians devoted to the viceroyalty of Peru. Third, the councils and synods of New Spain promoted the spreading of their constitutions. In 1591, the Third Council of Lima obtained a *pase regio* (it was approved by the Spanish Council of Indies). In that same year, it was published in Madrid for the first time, opening the way to its implementation across the viceroyalty.<sup>18</sup> The synod held at Cuzco, also in 1591, illustrates this point. There, priests and judges from that bishopric were ordered, under penalty of major excommunication, to work with the summary of the Second Council of Lima and the constitutions of the Third Council, reviewing them every four months “so that they observe their dispositions in a better way and comply with the obligations of their offices.”<sup>19</sup> Similar orders resulted from the synods celebrated thenceforward in that viceroyalty.

Efforts were made to spread the synods’ dispositions to every diocese. For instance, at the 1628 Synod of La Plata, Archbishop Arias de Ugarte ordered the printing of constitutions in Lima and specified a six-month deadline for them to be delivered to every priest in the archdiocese.<sup>20</sup> The testimony of Antonio de León, the bishop of Arequipa, offers a rather eloquent perspective on the effectiveness of synod resolutions. After writing down the constitutions of the 1684 Synod, he explained to the assembly that he had tried to reduce their length as much as possible in order to facilitate compliance, “for it would be frivolous and hollow if they remained as mere words and works were not undertaken.”<sup>21</sup> To insure that this did not happen, it was mandated in many cases that synod dispositions be read publicly at churches during festivities, and that items referring to Indians be translated into their languages.<sup>22</sup> Finally, ecclesiastical visitations, considered by most of the viceroyalty’s councils and

16. Starting in 1582 Toribio de Mogrovejo called synods every year; five years later, the new calendar settled on by Gregory XIII for Spanish America was adopted and these assemblies became biennial. Toribio de Mogrovejo called a total of 13 synods in the dioceses of Lima. Arancibia and Dellaferrera, *Los sínodos del antiguo Tucumán*, p. 18.

17. Bartolomé Velasco, “El concilio provincial de Charcas de 1629,” *Misionalia Hispánica* 21:61 (1964) pp. 79–130. La Plata became an archdiocese in 1609.

18. Pedro M. Guibovich Pérez, “Los libros de los doctrineros en el virreinato del Perú, siglos XVI–XVII,” in *Esplendores y miserias de la evangelización de América. Antecedentes europeos y alteridad indígena*, Wolf Osterreicher and Roland Schmidt-Riese, coords. (Berlin, New York: De Gruyter, 2010), pp. 102–104.

19. Synod of Cuzco, 1591.

20. Synod of La Plata, 1628. Guibovich, in *Los libros de los doctrineros*, p. 99, has noted that constitutions from synods celebrated in the main dioceses were published frequently from the printing press came into use and were thus spread more easily. Those constitutions emanating from dioceses distant from the capital of the viceroyalty circulated more often in handwriting.

21. Synod of Arequipa, 1684. These constitutions were also printed.

22. It was ordered thus, for instance in the Synod of Cuzco, 1591, chapt. 46; the Synod of Lima, 1596, cons. 121; the Synod of Trujillo, 1624, act. 1, sec. 2; and the Synod of La Plata, 1628.

synods as effective means of diocesan control, should also be occasions to oversee compliance with these local regulations.<sup>23</sup>

The Peruvian councils and synods always recommended the use of pastoral tools, some of them derived directly from their own reunions, to insure clergymen's instruction and morality. In addition, the Third Council of Lima (1582–1583) determined that priests were required to have certain books: doctrinal instructions (catechisms and confessionaries), theological moral treatises, and texts related to pastoral service.<sup>24</sup> The 1684 Synod of Arequipa was quite specific in its recommendation, referring to “summaries of sacraments and moral cases, seeking always for the most practical and authoritative authors, especially those written for this kingdom, such as the schedule of parish priests for Indians by Bishop de la Peña Montenegro, Father Alloza, and some others.”<sup>25</sup> Further, texts related to pastoral activities and aimed at facilitating priests' offices, were also widely promoted. These were sacraments and manuals for conducting rituals.<sup>26</sup>

Given the continual effort to publish and disseminate the constitutions and documents, it seems indeed possible to carry out an assessment of the role played by the Church as tutor of marriage freedom in the viceroyalty of Peru. This is due to both the practical nature of these materials and the direct effort to promote their use.<sup>27</sup> Following the structure proposed by Aznar Gil, three aspects of marriage freedom were regularly dealt with in Peruvian councils,

23. Daisy Rípodas, *El matrimonio en Indias: realidad social y regulación jurídica* (Buenos Aires: Fundación para la Educación, la Ciencia y la Cultura, 1977), p. 241. She has discussed the importance of these visits for the study of marriage among Indians. Visitors' obligation to supervise compliance with council and synodal canons was clearly laid out at the Synod of Trujillo, 1624, art. 1, sec. 7. Ana de Zaballa's work, “Del Viejo al Nuevo Mundo: novedades jurisdiccionales en los tribunales eclesiásticos en Nueva España,” in *Los indios ante los foros de justicia religiosa en la Hispanoamérica virreinal*, Jorge Traslosheros and Ana de Zaballa, coords. (Mexico: UNAM, 2010), pp. 17–46, shows the important role the visitations played in the administration of justice in the New World.

24. Guibovich, *Los libros de los doctrineros*, pp. 104–107. In fact, it is widely known that three publications followed the Third Council of Lima, all of them written in three languages (Spanish, Quechua and Aymara): a catechism titled *Doctrina cristiana y catecismo para instrucción de los indios*; the *Confesionario para curas de indios*; and the *Tercero catecismo y exposición de la doctrina cristiana por sermones*. The last-named consisted of 31 sermons. See the classic work by Juan Guillermo Durán, *El catecismo del III Concilio Provincial de Lima y sus complementos pastorales (1584–1585)*, (Buenos Aires: El Derecho, 1982); and Raimundo Romero Ferrer, *Estudio teológico de los catecismos del III Concilio Limense (1584–1585)*, (Pamplona: Ediciones Universidad de Navarra, 1992). An analysis of how these three texts were received can be found in Juan Carlos Estenssoro Fuchs, *Del paganismo a la santidad. La incorporación de los indios del Perú al catolicismo, 1532–1750* (Lima: Instituto Riva-Agüero, Instituto Francés de Estudios Andinos, 2003), pp. 249–261.

25. De los libros que deben tener los curas para el cumplimiento de su oficio, Synod of Arequipa, 1684, book 2, title 1, chapt. 23, n. 198; Guibovich, *Los libros de los doctrineros*, pp. 104–107.

26. Guibovich, *Los libros de los doctrineros*, pp. 104–107.

27. An example of this validity is the interesting work by Otto Danwerth, “Perfiles de la muerte andina. Ritos funerarios indígenas en los concilios y sínodos del Perú colonial (1549–1684),” in Duve, *Catequesis y derecho en la América colonial*, pp. 41–71. See also my own work on Andean marriage ritual: Pilar Latasa, “La celebración del matrimonio en el virreinato peruano: disposiciones en las archidiócesis de Charcas y Lima (1570–1613),” in *El matrimonio en Europa y el mundo hispánico*, Arellano and Usunáriz, eds., pp. 237–256.

synods, and pastoral tools: free choice; coercion in forcing or preventing a wedding; and unity of the matrimonial domicile. As Jorge Traslosheros has pointed out in his extensive study, marriage freedom was one of the main concerns of the Ecclesiastical Court of Mexico. He supports this fact by citing various supporting cases.<sup>28</sup> Following Traslosheros direction, we will also use marriage lawsuits to provide evidence of the Church's concern with the three matters named by Gil and its practical application of the principles of marriage freedom.

## FREEDOM TO CHOOSE

Studies have shown that the Church defended the freedom of future spouses to decide when to marry. Thus, it was acknowledged that mutual consent—the expression of the free choice by both bride and groom—was an essential requirement for the validity of the bond. For instance, the 1614 *Ritual romano* established that priests could not publish banns if they had not previously questioned future spouses so as to confirm free consent.<sup>29</sup> The treatise on marriage written by Alonso de la Veracruz, the *Speculum coniugiorum*, first published in 1556, had already set forth these recommendations for serving Indians.<sup>30</sup> The need to verify free choice in a marriage prior to the wedding was established at the Second Council of Lima (1567–1568), which commanded priests to refrain from conducting banns if they had not previously investigated whether both parties consented freely. When one party was absent, his or her consent had to be registered before a notary and two witnesses as a safeguard. These dispositions were reinforced at the Third Council of Lima in 1582–1583, and from then on they were incorporated into the councils, synods, and pastoral tools in the viceroyalty territory.<sup>31</sup>

The 1613 synod at Lima, called by Archbishop Bartolomé Lobo Guerrero, became a referent for subsequent Andean assemblies. The synod reiterated the need to get prior consent for Spanish, Indian, and black marriages—indeed,

28. Jorge E. Traslosheros, *Iglesia, justicia y sociedad en la Nueva España: la Audiencia del Arzobispado de México, 1528–1668* (Mexico: Porrúa, Universidad Iberoamericana, 2004), chapt. 7, esp. pp. 133–140; Traslosheros, *Historia judicial eclesiástica de la Nueva España. Materia, método y razones* (Mexico: Porrúa, UNAM-Instituto de Investigaciones Históricas, 2014), esp. chapt. 2. The important role of lawyers in dealing with litigation in this tribunal and others is addressed by Renzo Honores, “Litigación en la Audiencia Arzobispal de Lima: abogados y procuradores de causas en la litigación canónica, 1600–1650,” to be published in the series *Global Perspectives on Legal History* (Max Planck Institute for European Legal History).

29. Aznar Gil, “La libertad de los indígenas,” p. 440; Rípodas, *El matrimonio en Indias*, p. 223.

30. Alonso de la Veracruz, *Speculum coniugiorum: espejo de matrimonios. Matrimonio y familia*, Luciano Barp Fontana, ed. (Mexico: Universidad La Salle, 2009).

31. Second Council of Lima, 1567–1568, cons. 18, 63, 64, 65; Rípodas, *El matrimonio en Indias*, pp. 223–224; Aznar Gil, “La libertad de los indígenas,” p. 456; Tinceo, *Los concilios limenses*, pp. 200–201.



for all marriages—so as to prevent a man from promoting the issuing of banns without the woman’s consent. When men did this, it was mandatory for women to marry, so as to avoid being slandered. To avoid such situations, this synod prohibited conducting banns requested by only one member of a couple; the same measure was affirmed later by the 1624 Synod at Trujillo.<sup>32</sup> Over time, the synods established more specific ways to ascertain the will of the parties to a potential marriage. This was particularly relevant in Peru, “because of the need in this kingdom, as in any place where men from so many different lands and nations gather.”<sup>33</sup>

Some years later, the 1684 synod at Arequipa ordered, with even greater precision, that the woman’s consent was to be taken before a notary “at a safe place where she can be free.” The priest was to tell her that the wedding would not take place against her “free and spontaneous will,” since no one could force her to marry. Furthermore, she was to be reminded that the Church possessed means to “free her from any kind of oppression.” In addition, constitutions indicated that if the priest perceived “aversion to marriage” in a woman, he was to notify the bishop and cancel the issuance of banns.<sup>34</sup>

Canons from eighteenth-century Andean synods also show quite clearly that in terms of free consent it was women who stood to lose. The 1738 Synod of La Paz established that a 100-peso fine was to be paid by any priest registering a verbal consent from the bride at the church gate right before the wedding—that is, at the last minute. So as to prevent such abuse, the synod established that before banns could be held, the will of both future spouses was to be received privately, in writing, and from the woman first. As to circumstances, there had to be assurance for the woman that she was “somewhere she can be completely free,” and she had to be informed that she would be defended against any kind of coercion. When the male also assented, the priest was to document in writing both parties’ free choice.<sup>35</sup> Later, the 1763 Synod of Santiago de Chile reiterated the usefulness of having the future spouses’ consent; conducting banns without it led to numerous inconveniences, “because when the marriage is published thus, and one of the parties has not actually assented, several damages might arise.”<sup>36</sup>

32. “Ningún cura hará amonestaciones sin que le conste por licencia nuestra o de nuestro provisor y vicarios o por certificación de notario que la mujer ha dado su consentimiento.” Synod of Trujillo, 1624, act. 4, chapt. 2.

33. Synod of Lima, 1613, book 4, title 1, chapt. 2.

34. Synod of Arequipa, 1684, title 9, chapt. 4.

35. Synod of La Paz, 1738, chapt. 3, ses. 7, cons. 20.

36. Santiago de Chile, 1763, title 8, cons. 3. The Synod of La Paz set similar dispositions: 1738, chapt. 3, ses. 7, cons. 20. See Dellaferrera and Martini, *Temática de las constituciones sinodales*, p. 127.

Similar dispositions are included in seventeenth-century Andean pastoral tools. The *Rituale seu Manuale Peruanorum*, an interesting ritual first published in 1607, established that before a marriage priests had to address the future spouses' willingness and coercion-free participation.<sup>37</sup> In the *Ritual formulario*, published in Lima in 1631, Juan Pérez Bocanegra also mentioned the principles of freedom in marriage advocated by the Council of Trent, and established the rule that no banns should begin without prior verification of the parties' free consent and choice.<sup>38</sup> Juan Machado de Chaves, a *criollo* priest born in Quito, defended these ideas as well in his *Perfecto confesor*, first published in 1641.<sup>39</sup> This work reminded readers that the first condition for celebrating a marriage was the future spouses' consent. The second condition was to make sure that this consent was freely given.<sup>40</sup> Although the Council of Trent had guaranteed this freedom by requiring the public celebration of a marriage before the priest and the attending witnesses, this author felt that it was still "extremely necessary" to confirm the choice was free before the ceremony, since fear could prevent the parties from canceling the marriage at the moment of the wedding. When it could be proved that consent had been given on account of "reverential fear," as from children's fear of parents, or from a person subordinated to his or her superior, Machado de Chaves considered that the marriage could be declared null.<sup>41</sup>

This topic was also carefully developed by Alonso de la Peña Montenegro, bishop of Quito, in his famous text *Itinerario para párrocos de indios*, published in 1668 and one of the works most consulted by Indian parish priests in Spanish

37. *Rituale seu Manuale Peruanorum et forma brevis administrando apud indios sacrosancta baptismi, paenitentiae . . . Et quae indigent versione, vulgaris idiomatibus Indicis, secundum diversos situs omnium provinciarum novi orbis Peru* (Naples, apud Io. Jacobum, Carlinum et Costantinum Vitales, 1607), p. 208.

38. The author was a secular priest who had devoted himself to the evangelization of Indians at the Cuzco bishopric for 40 years and was fluent in the Quechua and Aymara languages. Juan Pérez Bocanegra, *Ritual formulario e instrucción de curas para administrar a los naturales de este reino los sanctos sacramentos del bautismo, confirmación, eucaristía y viático, penitencia, extremaunción y matrimonio: con advertencias muy necesarias* (Lima: Jerónimo de Contreras, 1631), p. 586. See also Josep-Ignasi Saranyana, Carmen J. Alejos, et al., *Historia de la teología latinoamericana, Vol. 1: Siglos XVI y XVII* (Pamplona: Eunote, 1996), pp. 167–174.

39. Son of the *oidor* Fernando Machado, Juan Machado de Chaves studied law and canon law at the Universidad de San Marcos and graduated from the Universidad de Quito. He was later an attorney at the audiencia of Nueva Granada and even held a professorship at the Universidad de Salamanca. When he was ordained priest, he went back to America, where he served as archdeacon of Trujillo. During that period he published this work. In 1651, he was appointed bishop of Popayán but he died two years later without having been consecrated. Saranyana, *Historia de la teología*, pp. 175–178.

40. Alonso de Molina's confessionary had already clearly established this principle by urging priests to ask future spouses "si de su voluntad y no forçados se quieren casar y si de su propio motivo o por ventura compelidos e importunados de otros (porque el matrimonio instituido por nuestro señor quiere que sea voluntario y no forçado ni hecho contra voluntad de los que se casan ni tampoco que se haga por temor." Alonso de Molina, *Confesionario mayor en la lengua mexicana y castellana* (1569), Roberto Moreno, ed. (Mexico: UNAM, 1984), emphasis mine.

41. Juan Machado de Chaves, *Perfecto confesor y cura de almas, asunto singular en el cual con suma claridad, breve y científico modo, se reducen a principios universales y reglas generales de ambos derechos, civil y canónico, todas las materias pertenecientes al teólogo moral . . .*, Vol. 1 (Madrid: Viuda de Francisco Martínez, 1646), pp. 596–597, 622–623.

America. This work described many of the problems that missionaries of this diocese faced, but did not clearly support the potential spouses' freedom.<sup>42</sup> As Daisy Rípodas has stated, De la Peña Montenegro admitted the validity of a marriage even when the parties had remained silent when asked about their consent and it had been their parents who answered—a common behavior among Indian families.<sup>43</sup> Nonetheless, even Bishop de la Peña clarified, albeit cautiously, that such marriages could be declared null if the presence of “reverential fear” was proved.<sup>44</sup> Thus, the approach of De la Peña Montenegro was actually avant-garde, since in those times parents' authority was still the main obstacle to marriage freedom. Moreover, the bishop of Quito's position was not substantially opposed to what the Andean synods, councils, and treatises recommended. For instance, he was openly against a consent given by local authorities in lieu of the consent of the future spouses themselves, even though such a practice could still be found in certain places of New Spain. He concluded by reminding priests to obtain the consent of both bride and groom before the wedding ceremony, so as to prevent any type of coercion:<sup>45</sup>

So as to clarify all possible doubts: when Indians want to get married, the priest is to call the future spouses and, securing their freedom, [in a place] far away from their parents, ask them what is their will, [and] ask them to speak their wish clearly, without being forced or acting to please someone else, since these acts prevent a great number of difficulties for this sacrament, *which demands extreme freedom*.<sup>46</sup>

The 1632 dispute before the archbishopric court of Lima, between Antonio de Loza and Isabel de Bustamante, both residents of Los Reyes, illustrates the importance of the free-choice testimony. Loza sued Bustamante, demanding that she comply with the betrothal document signed January 20 of that year before the notary Juan de Zamudio. In the document the couple had ratified

42. The popularity of this work in Spanish American libraries of the eighteenth century is confirmed by Francisco de Solano, “Lengua y cristianización indígena en la obra de Alonso de la Peña Montenegro,” *Les Langues Neo-Latines* 261 (1987), pp. 49–66. For the life and works of Alonso de la Peña, see the preliminary study in *Itinerario para párrocos de indios*. Alonso de la Peña Montenegro, Carlos Baciero, Manuel Corrales Pascual, and Jesús García Añoveros, eds. (Madrid: CSIC, 1995–1996). See also Saranyana, *Historia de la teología*, pp. 178–184. The marriage in this text has been studied by Francesc M. Rimbau Muñoz, *El matrimonio en el “Itinerario para párrocos de Indios” de Alonso de la Peña Montenegro: aportación jurídico-pastoral a la introducción del matrimonio cristiano en las Indias durante los siglos XVI–XVII* (Rome, Pontificium Athenaeum Sanctae Crucis, 1998).

43. Rípodas, *El matrimonio en Indias*, p. 244.

44. See Nelson C. Dellaferrera, “La violencia y el miedo como causa de nulidad matrimonial en la Audiencia Episcopal del antiguo Tucumán (1697–1804),” *Cuadernos de Historia* 10 (2000), pp. 71–96.

45. Rimbau, *El matrimonio en el “Itinerario,”* pp. 207–211.

46. Peña Montenegro, *Itinerario para párrocos de indios*, book 3, trat. 9, n. 3 and 4, ff. 364–365, emphasis mine. Similar demands aimed at protecting future spouses' freedom are included in the manual written by the New Spain Jesuit Miguel Venegas, published 60 years later: *Manual de párrocos, para administrar los santos sacramentos y ejercer otras funciones eclesiásticas conforme al Ritual Romano. Escrito por el padre . . . de la sagrada Compañía de Jesús, quien lo dedica a los pp. misioneros de la misma Compañía de Jesús de esta Provincia de Nueva España* (Mexico: Joseph Bernardo de Hogal, [official printer of the Real y Apostólico Tribunal de la Santa Cruzada], 1731).

their will to marry “with no intervention but our freedom.” However, the document established that there was a fourth degree of consanguinity between them, and thus Antonio de Loza was bound to bring a papal dispensation within two years. The papal document arrived a few days after the deadline, but meanwhile Bustamante had decided she no longer wanted to marry Loza. The groom appeared before the episcopal court to obtain compliance to the promise he had been made, arguing that the bride-to-be had come under family pressure, because of the “force and violence exerted by her brothers,” and asked the court to secure her freedom so that she could declare freely. Antonio de Loza presented two witnesses who confirmed the alleged family pressure exerted over the young lady, but when the *chanter* (member of the cathedral chapter) Fernando de Guzmán, on behalf of Archbishop Fernando Arias de Ugarte, interrogated her—after removing her from the family household and its watchful eyes—she stated that since the deadline had already passed she was free from the engagement and no longer wanted the marriage. “She said that she was not forced by her brothers or any other person to that effect, that she is free to do whatever she wants, and that what she wants is not to get married to the named man, and that is what she declares.”<sup>47</sup>

This case shows the importance of female free choice: Isabel could cancel even a marriage that had been granted a papal dispensation. Similar significance can also be seen in the case presented by Francisca Rodríguez Pilco before the ecclesiastical court of Lima to stop the proceedings for her wedding to Juan de Espinosa. She had changed her mind: “I ask and beg of you to stop the banns... for now I do not want to marry the foresaid Juan de Espinosa.”<sup>48</sup> However, another case, heard some 40 years later, had a very different outcome. The Indian Francisca Angelina, born in the town of Santiago de Arahua (in the present-day Canta section of Lima), also changed her mind.<sup>49</sup> In 1672, she appeared before the ecclesiastical court in Lima to declare that, despite the fact that two years earlier she had expressed her wish to marry Pablo de Miranda, she now wanted to marry another man. In this case, however, the woman’s

47. Antonio de Loza e Isabel de Bustamante sobre cumplimiento de la escritura de esponsales, 1633–1634, Archivo Arzobispal de Lima (hereafter AAL), Esponsales, leg. 2, exp. 4. The Esponsales section of this archive has been catalogued since I first used these records. I thank Laura Gutiérrez Arbulú for updating the references.

48. Francisca Rodríguez Pilco and Juan de Espinosa, 1662, AAL, Esponsales, leg. 4, exp. 10.

49. In this and the next case [brought by the father of Juana de la Rosa against Pedro de Carvajal], we can see Indians acting in the Ecclesiastical Court of Lima. Over time, various authors have discussed the roles in which they appeared in ecclesiastical courts. See Thomas Duve, “La jurisdicción eclesiástica sobre los indígenas y el trasfondo del derecho canónico universal”; Ana de Zaballa, “Reflexiones en torno a la recepción del derecho eclesiástico por los indígenas de la Nueva España”; and John Charles, “Felipe Guaman Poma en los foros de la justicia eclesiástica,” all in *Los indios, el derecho canónico y la justicia eclesiástica*, Ana de Zaballa, ed., pp. 29–44, 45–68, 203–222. See also Chapter 6, “La protección de la persona. El caso de los indios,” in Jorge E. Traslosheros, *Historia judicial eclesiástica de la Nueva España*.

testimony could not beat the evidence of the betrothal presented by Pablo de Miranda.<sup>50</sup>

Future spouses' free choice also played a major role in the case presented by Juan García, *curaca* (local chief) of Huacho. On January 4, 1688, he claimed before the episcopal court in Lima that Pedro de Carvajal, aged 19, had taken away his daughter, Juana de la Rosa, aged 14. Carvajal had promised to marry her, but after three weeks of cohabitation, it seemed he was now refusing to get married. Since this was an Indian case, Pedro de Figueroa Dávila, general protector of Indians, intervened. He confirmed that Juana had been "stolen," but stated that it had happened without "violence or pressure," since she had agreed.<sup>51</sup> The protector then interrogated Pedro de Carvajal, who now stated he was willing to comply with his promise. Protector Figueroa then asked the episcopal court for a monition dispensation, "because of the risks entailed in the delay." On January 5, Juana de la Rosa, now guarded at a private household, was again asked to state her wish: she declared it was her free choice to marry Pedro de Carvajal. Setting to rest the anxiety of her father, the diocesan judge on that very day authorized any priest from the cathedral to celebrate their wedding, no banns required.

The significance of the free-choice testimony is especially clear in the purported dispute between Juana Tejada and Gregorio de Ayala. The disagreement was actually promoted by her father, Juan González de Moya. Proceedings started with statements by Juana de Tejada, aged 14, dated April 20 and 27, 1622. She claimed she wanted to become a Clarissan nun and stated that she was not to blame for a secret marriage to Gregorio de Ayala, to which she had been conducted by treachery. From that date forward, the young man repeatedly requested the ecclesiastical court of Lima to again interrogate Juana de Tejada, who he considered his legitimate wife, in a place where she could be free of her parents' influence. Countering Ayala, Juana's father on May 7 stated before a notary that the "girl" had not been forced to enter Saint Claire's convent, but was there because she wanted to be a nun. From then on, Gregorio de Ayala's requests became firmer. He even claimed that "his wife," Juana de Tejada, had entered the convent against her will, forced by her parents, and had sent him notice so that he could free her. All testimonies presented were against Gregorio de Ayala, but the provisor Juan de la Cabrera visited the convent in July 1622 to interrogate Juana de Tejada. Once in the privacy of the convent lobby, the young lady confessed for the first time that she was there because of the pressure

50. Solicitud de Francisca Angelina para casarse, 1672, AAL, Esponsales, leg. 5, exp. 9.

51. The *protectores generales de indios* were to serve in Indian cases as attorneys of the sued party. Carmen Ruigómez Gómez, *Una política indigenista de los Habsburgo: el Protector de Indios en el Perú* (Madrid: Ediciones de Cultura Hispánica, 1988), pp. 122–127, 224.

her parents exerted over her, and that she had planned the secret marriage with Gregorio de Ayala. When asked about her previous statements, she admitted that she had not told the truth because she feared her father's anger. This last case shows how women's testimonies changed according to circumstance, as council and synod canons had anticipated.<sup>52</sup>

## COERCION TO FORCE OR TO PREVENT

In addition to its concern with the free choice of future spouses, the Church in Spanish America also sought to punish persons forcing or preventing a wedding. Obviously, it was Indians and black slaves who faced more difficulties in the practice of this freedom.<sup>53</sup> The principle of free choice was already established: canons from the Second Council of Lima had prohibited, with the major excommunication penalty established at the Council of Trent, all forms of external coercion, whether exerted by Indian chiefs or slave owners.<sup>54</sup> In the confessionary ordered by the Third Council of Lima, one question addressed to caciques and *curacas* was intended to find out whether they had "forced" Indians under their authority to marry, or prevented marriages from taking place.<sup>55</sup> According to José M. Arancibia, Father Acosta had earlier noted that this behavior was frequent in pre-Colombian times.<sup>56</sup> The recurrent discussions of the principles and practice of marriage freedom in later synod constitutions confirms an ongoing lack of compliance. The 1570 Synod of Quito reiterated that no one had the authority to restrict marriages, which were to be celebrated "with absolute freedom," nor to force someone to marry against his or her will.<sup>57</sup> The 1596 Synod of Lima also stressed the importance of this rule.<sup>58</sup> The 1597 Tucumán constitutions condemned the "great boldness" of lords who "every day" forced or prevented marriages.<sup>59</sup> Meanwhile, fathers assembled in

52. Autos seguidos por Juana de Tejada sobre su oposición a contraer matrimonio con Gregorio de Ayala, 1622, AAL, Litigios Matrimoniales, leg. 1, exp. 16.

53. The Second and Third Councils of Lima demanded the accusation of all masters impeding the marriage of *negros* and *mulatos* in their service.

54. Second Council of Lima, 1567–1568, part 2, chaps. 62, 63. Aznar Gil has dealt with this topic in *La introducción del matrimonio cristiano*, pp. 30–39, and "La libertad de los indígenas." The Third Council of Lima reiterated this principle for the case of black slaves: Third Council of Lima, 1582, act. 2, chapt. 36. See also Nelson C. Dellaferrera, "El matrimonio en las sinodales del obispo Trejo," *Anuario Argentino de Derecho Canónico* 6 (1999), pp. 46–47.

55. Durán, *El catecismo del III Concilio Provincial*, p. 332; Aznar Gil, "La libertad de los indígenas," pp. 458–459. Concerning the confessionary from the Third Council of Lima as an evangelization tool intended to verify the assimilation of the doctrine, see Estenssoro Fuchs, *Del paganismo a la santidad*, pp. 249–250.

56. José M. Arancibia, "El matrimonio en los sínodos del obispo Trejo," *Teología: Revista de la Facultad de Teología de la Pontificia Universidad Católica Argentina* 21 (1972), pp. 98–99.

57. Synod of Quito, 1570, part 3, cons. 31.

58. Synod of Lima, 1596, chapt. 76.

59. Synod of Tucumán, 1597, part 2, cons. 12. As Dellaferrera has underscored, Trejo toughened the punishment by including this abuse in the list of sins reserved to be absolved by the bishop. In addition, he succeeded

the 1601 Synod of Cuzco deemed it necessary to revisit this norm, as it had not been considered “as accurately as needed.”<sup>60</sup> Similar dispositions were included in the constitutions of the 1603 Synod of Asunción and the 1606 Synod of Tucumán.<sup>61</sup>

Early in the seventeenth century, the Lima synod of 1613 established that those who hindered marriages among their slaves or servants, or punished them for making a free choice, were to receive major excommunication.<sup>62</sup> The 1619 Synod of La Plata broadened the targets of this penalty to include anyone obstructing marriages among slaves, servants, and Indian sharecroppers.<sup>63</sup> In the same vein, the 1624 Synod of Trujillo ordered proceeding “with severity” against those forbidding marriages among their slaves and servants.<sup>64</sup> The synod of 1626 in Santiago de Chile reiterated the disposition concerning freedom of marriage, for both Indians and blacks.<sup>65</sup> Soon thereafter, the 1628 Council of La Plata elaborated another law on servants’ marriage, this time stating specifically that the freedom of black slaves could not be violated.<sup>66</sup> Similar prohibitions came from the 1629 Synod of Huamanga, the 1638 Synod of Arequipa, and the 1672 and 1684 Synods of Huamanga and Arequipa.<sup>67</sup> The 1688 Synod of Santiago de Chile condemned the abuses of some residents of the area who, in order to keep female Indians working for them, hampered their marriages.<sup>68</sup>

In a similar way, the 1744 Synod of La Concepción condemned the “greatest perversion” of the many masters and lords who restricted their slaves or Indians’ marriages—“because they found more useful services from celibates”—or forced on slaves or Indians marriages beneficial to themselves. To fight this abuse, the ecclesiastical assembly emphasized that marriages were to be celebrated in complete freedom, without pressure from masters or superiors.<sup>69</sup> This synod also devoted a constitution to rejecting a practice that had become general in the so-called “campaign parishes” among “plebeians”: stealing a

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in making the Tucumán governor pass an ordinance on the subject. Dellaferrera, “El matrimonio en las sinodales del obispo Trejo,” pp. 47–48. Trejo’s actions have also been studied by Arancibia in “El matrimonio en los sínodos del obispo Trejo,” pp. 104–105.

60. Synod of Cuzco, 1601, chapt. 38.

61. “Cada día los hacen violentamente y los impiden”: Synod of Paraguay, 1603, part 2, cons. 11; Synod of Tucumán, 1606, chapt. 18, quoted by Dellaferrera and Martini, *Temática de las constituciones sinodales*, p. 208.

62. Synod of Lima, 1613, book 4, title 1, chapt. 5; Rípodas, *El matrimonio en Indias*, pp. 240–241.

63. Synod of La Plata, 1619, title 17, chapt. 2.

64. Synod of Trujillo, 1624, act. 4, chapt. 2.

65. Synod of Santiago, 1626, chapt. 6, p. 22.

66. Council of La Plata, 1629, quoted by Velasco, “El concilio provincial de Charcas,” p. 103.

67. Synod of Huamanga, 1629, title 3, cons. 3; Synod of Arequipa, 1638, book 2, title 8, chapt. 1; Synod of Huamanga, 1672, chapt. 17; Synod of Arequipa, 1684, title 10.

68. Synod of Santiago, 1688, chapt. 9, cons. 6.

69. Synod of La Concepción, 1744, chapt. 14, cons. 8.



woman, with her assent, so as to elude parental authority.<sup>70</sup> In fact, such a theft usually resulted in marriage. This practice, used successfully in Spain, was passed along to Spanish America, where it seems to have been used mostly in rural and other outlying areas.<sup>71</sup>

It is clear from the insistence on marriage freedom found in Andean synod constitutions that external coercion continued over time. When Alonso de la Peña Montenegro referred to this topic in his *Itinerario para párrocos de indios* (1668), he pointed out that encomenderos, accustomed to being served by Indians both in the household and in the fields, “as if they were their slaves,” would often try to arrange a marriage within the *encomienda* to avoid losing Indians or their children. Slave owners tried the same thing, for the same reason, and out of fear of mistreatment, Indians obeyed this restriction.<sup>72</sup> De la Peña argued that all rational beings had to be the owners of their will and were free to practice it concerning marriage—a spontaneous act requiring “achieved liberty” to choose “according to one’s like, the person one wants the most.”<sup>73</sup> Although the Jesuit Juan de Alloza included the doctrine from the Council of Trent recommending paternal authorization for marriage in his *Flores summarum seu alphabetum morale* (1665), he also clarified that neither parents nor authorities were capable of stopping or forcing a wedding.<sup>74</sup>

The concern of ecclesiastical law with preventing any form of external coercion in marriage can also be traced in several disputes that came before the episcopal court of Lima. As mentioned above, it was mainly Indians and black slaves who suffered from pressures regarding marriage. Spaniards, in contrast, had additional resources to handle such disputes, according to the documents consulted by the author. Among the different strategies employed to avoid parental (usually) pressure, secret marriage played a major role. Those who agreed to a secret bond knew it would work: if they could claim themselves as husband and wife before a priest and some witnesses, the Church would have no option but to recognize their marriage.

70. Synod of La Concepción, 1744, chapt. 5, cons. 24.

71. Recorded thus by, for instance, Pérez Bocanegra, *Ritual formulario*, f. 584.

72. The isolation of *encomiendas* has been widely remarked. Especially in small ones, the *encomendero* was directly in charge of many aspects of the Indians’ lives. Estenssoro Fuchs, *Paganismo a santidad*, p. 39. For the violence exerted by encomenderos in Indian marriages, see also Arancibia, “El matrimonio en los sínodos del obispo Trejo,” p. 99.

73. *Encomenderos* could persuade Indians by offering incentives to stay, but they could not force them to do so. Peña Montenegro, *Itinerario para párrocos de indios*, book 3, trat. 9, n. 4 y 6, pp. 365, 374–375; Aznar Gil, “La libertad de los indígenas,” p. 460; Rípodas, *El matrimonio en Indias*, p. 243; Rimbau, *El matrimonio en el “Itinerario,”* pp. 211–213.

74. “They should take into account their parents’ advice concerning this matter, but they could choose to follow it or not.” Juan de Alloza, *Flores summarum, seu alphabetum morale: omnium fere casuum qui confessoribus contingere possunt, ex selectioribus doctoribus præcipue Societatis Iesu, ex utroque iure, ac manuscriptis peruanis . . .* (Liège: Imprensis Ioannis de A Costa Bibliopolæ Vlyssiponensis, 1665), pp. 501–504.



An interesting case took place at Ica, a village in southern Peru, on November 16, 1638. At five o'clock in the afternoon, Diego López de Haro, a town resident, presented a request before Luis Arriaga de la Roca, vicar and ecclesiastic judge. López claimed that María Lucero and he had exchanged marriage promises before some witnesses and requested that she now be taken from the house of her parents, who had tried to prevent their marriage. Taking immediate action, the priest ordered that María Lucero should be moved to another private house and kept safe there. Later that day, at eight o'clock in the evening, the priest, accompanied by the bachelor Juan de Miranda and Juan de Ocaña, another town resident, along with Diego López de Haro and María Lucero, abruptly entered the house. They brought witnesses, Juan Gómez and Francisco Gómez, the bride's brother and uncle, and celebrated a clandestine marriage. It is clear that the parties to this secret marriage were in a hurry, for the vicar had already moved to protect the young lady's freedom by taking her out of her parents' house. According to their lawyer, the reasons for such hurry were love, ignorance, and youth.<sup>75</sup> The vicar referred this case to Lima, where Juan de Cabrera Benavides, provisor and vicar of the archbishopric-in-vacant see, ruled in favor of the spouses and their witnesses on January 31, 1639.<sup>76</sup>

Another case in which the Church chose to defend the bride against parental coercion was presented at the Lima tribunal by Alonso Bravo de Sotomayor against his niece, Jerónima Bravo de Sotomayor. She wanted to marry Martín Gómez de la Justicia although, according to her uncle's claim, she was a nun "subject to religion, chastity, poverty, and solemn vows."<sup>77</sup> The provisor ordered the parties to testify. They both appeared before the ecclesiastical judge on March 30, 1608, and manifested their will to marry. A particularly interesting testimony was the one given by Jerónima, who acknowledged that she had been a professed nun at the Santa Clara monastery in the city of Huamanga but that she had entered the monastery against her will, forced by her father. However, she had been declared free from her vows and could now marry.<sup>78</sup>

75. M. Luisa Candau Chacón, "El matrimonio clandestino en el siglo XVII: entre el amor, las conveniencias y el discurso tridentino," *Estudios de Historia de España* 8 (2006), pp. 175–202, stressed how this practice prevailed in seventeenth-century Spain, where the upper and middle classes used it to get married without parental consent. Nonetheless, in spite of Tridentine recommendations, there were instances in which the issue of parental consent could not so readily be set aside.

76. Neither bride and groom nor those helping them were excommunicated, which was the common punishment for secret marriages. They received only a minor financial penalty. Diego López de Haro y María Lucero sobre su matrimonio clandestino, 1638, AAL, Esponsales, leg. 3, exp. 10. For these punishments, see Federico R. Aznar Gil, "Penas y sanciones contra los matrimonios clandestinos en la Península Ibérica," *Anales de la Facultad de Teología* 57:1 (2006) pp. 343–369.

77. The common doctrine was that a solemn vow could turn a marriage null if there was no dispensation. Machado de Chaves, for instance, recorded it so in *Perfecto confesor*, Vol. 2, pp. 610–612.

78. Alonso Bravo de Sotomayor contra el matrimonio contraído por su sobrina con el capitán Martín Gómez de la Justicia, 1608, AAL, Esponsales, leg. 1, exp. 5.

Sometimes it was the husband-to-be who was coerced. That is what Josefa Ruiz de Valderrama y Guzmán claimed on November 28, 1681, when she appeared before the bishop of Cuzco. She requested the liberty of José del Castillo, whom she was to marry soon. In fact, two out of three banns had already been published. Captain Felipe del Castillo, his father, opposed. Therefore, he had taken his son out of the city, “exerting pressure and using punishment, handcuffs, and shackles.” The wife-to-be resorted to ecclesiastical justice so that her beloved could marry freely. Like the priest in Ica, the prelate Manual de Mollinedo y Angulo took immediate action. The following day he ordered Del Castillo to allow his son to testify before the ecclesiastical tribunal, and a few days later it was proved that the captain had forced his son to travel to Arequipa to become a priest. The bishop excommunicated the captain. Finally, Mollinedo allowed José del Castillo to testify freely. Even though the man refused at the end to keep his promise to Josefa, the case shows the Church’s capability to fight parental violence.<sup>79</sup>

A last example of the impact of ecclesiastical justice in a coerced wedding is the dispute presented by Inés Benítez de Castilla, who appeared before the tribunal in September 1601 to request the nullification of her marriage. She claimed she had been deceived by her mother, and that “reverential fear” had made her marry the Genoese Juan Bautista Barrasa. The parties presented their claims and witnesses before Miguel de Salinas, provisor and general vicar of the archbishopric. Although the groom’s witnesses testified that Inés Benítez had looked pleased both during the wedding and at the subsequent party, after extended proceedings the marriage was declared null.<sup>80</sup>

### “A LIFE-LONG INSEPARABLE COMPANY”

The third area in which marriage freedom might be threatened in the Spanish Americas was the unity and integrity of the matrimonial domicile. In the 1566 text of the *Catechismus Romanus*, the Church had reminded readers that marriage was “a marital union between man and woman among legitimate persons, preserving a life-long inseparable company.”<sup>81</sup> In the Andean world, Peña Montenegro underlined that the very nature of marriage bound spouses to live together.<sup>82</sup> Coerced alienation of spouses was particularly to be fought in the Spanish Americas, since lords, masters, and encomenderos often forced their

79. Doña Josefa Ruiz de Valderrama y Camacho contra Joseph del Castillo sobre cumplimiento de la palabra de casamiento, 1683, AAL, Esponsales, leg. 6, exp. 3; Machado de Chaves, *Perfecto confesor*, Vol. 2, pp. 610–612.

80. Inés Benítez de Castilla contra Juan Bautista Barrasa, 1601–1603, AAL, Esponsales, leg. 1, exp. 1.

81. *Catechismus Romanus*, 1566, part 2, chapt. 8, n. 3.

82. Peña Montenegro, *Itinerario para párrocos de indios*, book 3, trat. 9, n. 11, p. 373.

married slaves, servants, and *encomendados* to live apart from their spouses.<sup>83</sup> The Third Council of Lima had already established that masters should not sell married black slaves if it meant that a couple would be separated by long distances for a long time.<sup>84</sup>

Nonetheless, in general, it was not until the seventeenth century that Andean councils and synods dealt again with the enslaved population. Sixteenth-century synods had addressed exclusively the alienation of Indian married couples. The first dispositions on this matter derived from the 1585 Synod of Lima: they condemned the practice of taking married female Indians out of the *ayllu* (Andean community) where they lived post-marriage on the grounds that they had been born in another one.<sup>85</sup> The synod celebrated at Cuzco in 1591 ordered that Indians who left their own towns to work in mines and other distant places should take their spouses with them, after previously documenting their marriage.<sup>86</sup> Acting in light of this order, the 1596 Synod of Lima called for an investigation aimed at finding out whether there were married Indians absent from their parishes whose wives had remained.<sup>87</sup> The 1594 Synod of Quito had already established the excommunication punishment for encomenderos and Spaniards in the Andes highlands who refused to give away married female Indians serving them. As they had been separated from their husbands, the synod congregants stated, “they all live freely because husbands are not with their wives and wives are not with their husbands, which results in great faults against Our Lord.”<sup>88</sup>

This separation of Indian married couples under external pressure was a common practice in border areas, such as Tucumán. Synods called in the late sixteenth and early seventeenth centuries in this diocese made great efforts to fight this custom. Thus, the 1597 synod there included a constitution entitled “Married male Indians shall sleep with their wives,” urging male and female encomenderos to avoid interrupting the marital life of Indians by promoting situations that allowed them to be promiscuous and forget the love felt for their spouses. It specifically forbade hindering wives from returning to their homes at night. More frequently, males were taken away to perform work that distanced them from their homes for long periods and thus prevented them from cohabiting with their wives. To combat this abuse, the same synod ordered that periods of forced labor or work at faraway fields or mines be shortened. It

83. Aznar Gil, “La libertad de los indígenas,” p. 454.

84. Third Council of Lima, 1582–1583, act. 2, chapt. 36. See also Tineo, *Los concilios limenses*, p. 424.

85. Synod of Lima-Yungay, 1585; Ripodas, *El matrimonio en Indias*, p. 371.

86. Synod of Cuzco, 1591, chapt. 19.

87. Synod of Lima 1596, p. 181.

88. Synod of Quito, 1594, chapt. 45.

also mandated limiting the hiring of Indians for transportation and carriage by traders driving animals and carrying merchandise to Chile and Charcas. Fathers gathered at the synod accused the men's new lords of offering Indian females for marriage or cohabitation at the remote work locations, thus hindering the men from returning to their homes.

Something similar happened to the wives of absent Indians. As they needed a man to support them, they cohabited with males who were not their husbands.<sup>89</sup> The 1607 synod commanded Spaniards who took male or female Indians away from their homes to bring them home within three months, or face major excommunication. Dellaferrera points out that such dispositions, adopted by Bishop Trejo, showed an evangelizers' accurate knowledge of the reality prevailing in their dioceses. This situation became so serious at one point that there were approximately 6,000 Indians away from their homes. The governor intervened, but he could not solve the problem. In fact, in the late seventeenth and early eighteenth centuries, the practice was still being addressed.<sup>90</sup>

Similar but less frequent dispositions were established by the 1603 Synod of Asunción. These were targeted at the border region of Paraguay; to this location also encomenderos often sent off male spouses, but kept their wives at the household to continue to serve them.<sup>91</sup> Decrees issued for the Huarpe Indians of Cuyo, included in the 1626 Synod of Santiago, show a close similarity with the situation at Tucumán. It seems that the practice of taking Indians out of this territory so as to lead them to forced labor at Santiago de Chile and nearby areas had grown, even though the 1609 *real cédula* had significantly limited these actions.<sup>92</sup> Bishop González de Salcedo pointed out then that these illicit deportations had caused long separations—sometimes for several years—of Indian married couples. The synod issued an ordinance that allowed parish priests and visitors to forbid *corregidores* to take Indians away for forced labor. The Council of the Indies did not approve of this constraint, however, so it undercut these constitutions' demands. In the end, the demand was not even published.<sup>93</sup>

89. Synod of Tucumán, 1597, part 3, chapt. 9; Synod of Tucumán, 1607, chaps. 6 and 9; Arancibia and Dellaferrera, *Los sínodos del antiguo Tucumán*, pp. 204–205.

90. Synod of Tucumán, 1607, cons. 9; Rípodas, *El matrimonio en Indias*, pp. 374–376; Dellaferrera, “El matrimonio en las sinodales del obispo Trejo,” pp. 52–55. See also Arancibia, “El matrimonio en los sínodos del obispo Trejo,” pp. 100–101.

91. Synod of Paraguay, 1603, part 2, cons. 12; Rípodas, *El matrimonio en Indias*, pp. 376–377.

92. As for the implementation of this real cédula in Peru, see my work, *Administración virreinal en el Perú, Gobierno del Marqués de Montesclaros (1607–1615)*, (Madrid: Centro de Estudios Ramón Areces, 1997), pp. 280–294.

93. Recorded thus by the next bishop, Gaspar de Villarreal, Synod of Santiago, 1626.

A vivid instance of how marital life was endangered was the practice of shearing married female Indians, addressed by the 1597 Synod of Tucumán. Shearing was a punishment Spanish women inflicted on female Indians serving them. In condemning it, the synod pointed out that it was especially harmful in that “it threatens marriage, since sometimes it makes husbands forget the love they felt for their wives.” The decree established that Spanish women could be deprived of their Indian servants for a six-month period if they did such a thing. The governor supported this measure, which seems to have been an efficient one: references to such a practice are not found in subsequent synods of that diocese.<sup>94</sup>

Andean synodal recommendations concerning unity during marital life extended to all realms of the viceroyalty and usually included black slaves. Jean-Pierre Tardieu has studied how masters obstructed the development of their slaves’ marital lives.<sup>95</sup> The very important 1613 Synod of Lima ordered the excommunication of lords who separated their married slaves by selling one of them, or for any other reason.<sup>96</sup> The same dispositions were established by the 1624 Synod of Trujillo, the first provincial council of Charcas in 1629, the synods of Huamanga and Arequipa in 1629 and 1638, and the 1672 Synod of Huamanga.<sup>97</sup>

In the eighteenth century, synodal decisions continued to support marriage freedom. The 1738 Synod of La Paz emphasized that in all cases priests must encourage cohabitation of married couples.<sup>98</sup> The 1744 Synod of La Concepción, in a more specific way, accused some owners of disregarding their black slaves’ “marital relationship” by transporting them from one place to another. Synod fathers established that when the owner of a married slave moved with that slave to a different city, he was to move the spouse as well, so that the couple was not apart: “for the slave’s natural freedom and law must not be abrogated because of the human law of servitude.”<sup>99</sup> Meanwhile, the 1763 Synod of Santiago de Chile renewed and reinforced the prohibition against separating married slaves. Nevertheless, synod fathers considered that if there was a reason for doing the sale in a remote place, the owner should

94. Synod of Tucumán, 1597, part 2, cons. 13; Arancibia and Dellaferrera, *Los sínodos del antiguo Tucumán*, pp. 153–154.

95. Jean-Pierre Tardieu, “Relaciones interétnicas en América, siglos XVI–XIX,” in *Tres grandes cuestiones de la historia de Iberoamérica: ensayos y monografías. Derecho y justicia en la historia de Iberoamérica: afroamérica, la tercera raíz*, José Andrés Gallego, dir. (Madrid: Fundación Mapfre Tavera, 2005), pp. 194–196.

96. Synod of Lima, 1613, book 4, title 1, chapt. 5.

97. Synod of Trujillo, 1624, act. 4, chapt. 2; Velasco, “El concilio provincial de Charcas,” pp. 103–104; Synod of Huamanga, 1629, title 3, cons. 3; Synod of Arequipa, 1638, book 2, title 8, chaps. 1 and 9; Synod of Huamanga, 1672, chapt. 17, n13.

98. Synod of La Paz, 1738, chapt. 3, ses. 7, cons. 18.

99. Synod of La Concepción, 1744, chapt. 14, cons. 8.

ask for an ecclesiastical license (authorization) to do so; but if the owner had done the sale without it, he had to bring back the slave sold at his expense. When an owner sold a married slave in a remote place, the owner had to pay his transportation so that he could reunite with his wife.<sup>100</sup> It seems that in the eighteenth century the forced separation of married Indian couples was no longer a general problem, except in peripheral areas, due perhaps to the decline of the *encomienda* system and forced labor.

Canon lawyers and writers of the treatises expressed similar ideas. Aznar Gil mentions an *Instrucción para los confesores del obispado del Río de la Plata* stating that married Indians had to be allowed to return to their wives in their hometowns and forbidding the marriage of Indian sharecroppers against their will. In fact, this manual reminded readers that those individuals violating this freedom would be excommunicated.<sup>101</sup> Following a similar line, Juan Machado de Chaves in *Perfecto confesor* condemned the breakup of what was supposed to be “a life-long inseparable company.” He disapproved of masters selling their married slaves and allowing one of the parties to be taken away to remote lands.<sup>102</sup> Defending slave marriage was therefore an important way to limit masters’ authority by obstructing the forced separation of spouses.<sup>103</sup>

In contrast to Indians, black slaves still faced difficulties in staying together. On December 5, 1598, Jerónima, a woman from Biafra and slave to the fiscal Cristóbal Ferrer de Ayala, presented a request before the ecclesiastical provisor. She asked to forbid Hernando del Pozo, the man who had just bought her husband, the slave Diego de León, from taking him far from the city, thus hampering their marital life. However, the owner claimed he had to take his slave with him to Chile, as he had no other servant to travel with. The provisor

100. Synod of Santiago de Chile, 1763, title 8, cons. 14.

101. Aznar Gil, “La libertad de los indígenas,” p. 459.

102. Machado de Chaves, *Perfecto confesor*, Vol. 2, pp. 691–693; Rípodas, *El matrimonio en Indias*, p. 379.

103. The important role of slaves acting against their masters in the archbishopric court of Lima in the sixteenth and seventeenth centuries has been brought out recently in the works of McKinley and Wisnoski to reveal how this group resorted frequently to ecclesiastical justice when seeking to defend married couples’ right to cohabit. See Michelle A. McKinley: “Fractional Freedoms: Slavery, Legal Activism, and Ecclesiastical Courts in Colonial Lima, 1593–1689,” *Law and History Review* 28:3 (August 2010), pp. 749–790, and, by the same author, “‘Such Unsightly Unions Could Never Result in Holy Matrimony’: Mixed-Status Marriages in Seventeenth-Century Colonial Lima,” *Yale Journal of Law & the Humanities* 22:2 (2010), pp. 217–255. See also Alexander L. Wisnoski, “‘It is Unjust for the Law of Marriage to be Broken by the Law of Slavery’: Married Slaves and their Masters in Early Colonial Lima,” *Slavery & Abolition: Journal of Slave and Post-Slave Studies* 35:2 (2014), pp. 234–252. Moreover, litigation involving blacks in Lima, in both the ecclesiastical and secular courts, has been studied in relation to the Lettered City of José Ramón Jouve-Martin, *Esclavos de la ciudad letrada: esclavitud, escritura y colonialismo en Lima (1650–1700)*, (Lima: IEP, 2005), chapt. 4, esp. pp. 114–118. An overview of these trials shows that free and slave blacks successfully used both civil and ecclesiastical law in order to preserve marital cohabitation. For the late colonial period, black slaves’ claims in the secular court of Santiago de Chile concerning the right of spouses to live together are included in the work of Carolina González Undurraga, *Esclavos y esclavas demandando justicia: Chile, 1740–1823. Documentación judicial por carta de libertad y papel de venta* (Santiago de Chile: Editorial Universitaria de Chile, 2014).

authorized the journey but bound Hernando del Pozo to return to Lima with the slave within six months.<sup>104</sup>

A similar case was started in June 1691 by the criolla slave Ana María Fajardo. She accused Ventura de Alfaro, owner of her husband, Antonio Mina, of having him locked up at the port of El Callao. The owner wanted to sell him in Pisco, arguing he was a “fugitive and evil Negro.” Ana María Fajardo resorted to the ecclesiastical tribunal for help in avoiding a separation from her husband. The provisor issued an order prohibiting the owner from taking the man out of the city, but doña Ventura de Alfaro was reluctant to obey. She argued that he had run away and was now living as a free man. She also stated that every time she had tried to take him back, he had reacted violently. Despite her providing three witnesses who confirmed these facts, the provisor accepted the request from female slave Ana María Fajardo and ordered, under excommunication penalty, the disembarkation of the male slave so that he could stay in Lima.<sup>105</sup>

Some slave husbands also appeared before the ecclesiastical tribunal for similar reasons. For instance, in 1709 the criollo slave Julián Ignacio brought a dispute against María Rodríguez, the mistress of his wife, Petronila Rodríguez, a *zamba*. He wanted to be allowed to cohabit with his wife. The bishopric judge ruled that their marital life not be obstructed, but María Rodríguez refused to obey. She argued that Ignacio was ill, and that his ulcers could spread to his wife.<sup>106</sup> Since it was known that owners frequently used this kind of excuse, it is likely that María Rodríguez did not succeed and that the couple achieved their wish.

One more case, in 1755, was commenced by the *zambo* slave Andrés de Peralta, who had been married for two and a half years to the slave María Rosa Escobar. Peralta appeared before Hernando de Villavicencio, provisor at the bishopric, to accuse Silvestra Escobar, the *zamba* butcher who owned María Rosa, of “absolutely” hampering their marital life, violating thus the dispositions from synods and the Council of Trent. The ecclesiastical judge issued a notice, received two days later by the butcher, ordering her to allow the couple to live together.<sup>107</sup>

Finally, the fact that marriages between slaves and free individuals were increasing is illustrated by an interesting dispute that took place in 1646. One

104. Jerónima, negra esclava, con Hernando del Pozo, 1598, AAL, Causas de negros, leg. 1, exp. 3.

105. María Fajardo, negra esclava, contra Ventura de Alfaro, 1709, AAL, Matrimonios de Negros, leg. 5b, 11 and ff.

106. Julián Ignacio contra Petronila Rodríguez, 1709, Archivo General de la Nación (Lima), Serie Tribunal Eclesiástico, leg. 1.

107. Andrés de Peralta, zambo esclavo, contra Silvestra Escobar, 1755, AAL, Causas de Negros, leg. 29, exp. 55.

case presented a new and interesting variable: mixed marriages in which one of the parties was not a slave. The outcome confirms the application of norms defending the right to develop a marital life. The dispute started with two appearances of Melchor de Zúñiga before the ecclesiastical court of Lima as a “free *mulato*.” On November 23 and 26, he requested the dispensation of the third monition for his marriage to the criolla slave Juliana. Juliana’s master, the second lieutenant Juan Infante Trujillo, wanted to prevent the marriage by taking her to the haciendas he owned at Huara village. Although the dispensation is not part of the file, it must have been granted, since, two weeks later, on December 8, Melchor de Zúñiga appeared again before the ecclesiastical court, this time as Juliana’s husband.

In this and further appearances before the ecclesiastical tribunal, Zúñiga presented himself not as free but as an “enslaved *mulato*,” owned by María Fernández de Zúñiga. He repeatedly asked the court to forbid his wife’s owner to take her out of the city of Lima, claiming that it would hamper their cohabitation and thereby violate the marriage protection accorded to slaves. He alleged that he had previously claimed to be free out of fear that his own owner might prevent the marriage from taking place. Hearing this, Infante Trujillo announced to the court that Melchor de Zúñiga was indeed a free black and had claimed to be a slave so that he could seek marital protection. In fact, his status as free black would allow him to follow his wife wherever she went, and but that freedom would not be protected by the court. Despite Zúñiga’s efforts to appear as a slave—a claim supported by the silence of his alleged owner—the provisor sentenced in favor of Juan Infante Trujillo, authorizing him to take Juliana out of the city. In this case, it is clear that Melchor de Zúñiga tried to take advantage of the synod and council dispositions allowing slaves to live as married couples.

## CONCLUSIONS

The study of a significant body of synodal constitutions and pastoral tools from the viceroyalty of Peru shows the efforts made by the Church to guarantee the marriage freedoms established by the Council of Trent in terms of free choice, freedom from coercion that would force or hamper a marriage, and the unity and integrity of the matrimonial domicile. Although it is true that the very insistence on such regulations indicates a persistent lack of compliance, it can also be seen that these principles were consolidated regularly, over time, by means of synod constitutions and pastoral tools, into a legal doctrine guiding the decisions of episcopal judges. Hispanicized Indians and slaves, as well as the Spanish population, were aware of the legal mechanisms at their disposal to



defend these principles. It should be remembered too that all persons who had been christened were equal before ecclesiastical law. Synodal regulations were especially careful to protect women's choices by ensuring that their consent was free of external pressure. Therefore, it is no surprise that it was women, especially Spaniards, who most often undertook and acted in disputes in which consent was decisive.

External coercion to force or prevent a wedding was treated differently. In the viceroyalty of Peru, ecclesiastical laws did have an impact on the protection of Indians and black slaves under this kind of pressure, but in the archbishopric of Lima most of the disputes seeking to safeguard this right involved Spaniards. This may suggest that Indians, slaves, and *castas* lacked enough resources to exercise this freedom, even though it was acknowledged by ecclesiastical law.

Finally, in terms of the right to unity of marital life, there is also lack of balance. In this case, the most favored individuals were black slaves. Regulations clearly disapproved of abuses perpetrated by masters, encomenderos, and lords on Indians and slaves. Nevertheless, source documents show only black slaves themselves as promoters and main characters seeking to defend the right to marital life. As far as Indians in this regard, synodal dispositions refer mainly to border areas within the bishopric of Charcas, which is perhaps the reason that records of disputes undertaken by them have not been found. Nonetheless, the persistence of accusations by local synods seems to indicate that Indians in these areas were not actually granted this right.

## COUNCILS AND SYNODS CITED, ORDERED BY DATE

Second Council of Lima, 1567–1568<sup>108</sup>

Synod of Quito, 1570<sup>109</sup>

Third Council of Lima, 1582–1583<sup>110</sup>

Synod of Lima-Yungay, 1585<sup>111</sup>

Synod of Cuzco, 1591<sup>112</sup>

108. Rubén Vargas Ugarte, *Concilios limenses, 1551–1772*, 3 vols. (Lima: Tip. Peruana, 1951–1954).

109. Francisco Mateos, “Primer Concilio de Quito,” *Misionalia Hispanica* 25:75, (1968), pp. 319–368.

110. Vargas Ugarte, *Concilios limenses*.

111. *Sínodos diocesanos de Santo Toribio, 1582–1604* (Cuernavaca: CIDOC, 1970).

112. “Constituciones sinodales hechas por el ilustrísimo y reverendísimo señor don fray Jerónimo de Montalvo, por la divina misericordia obispo del Cuzco, del Consejo del rey nuestro señor, año de 1591,” in *Analectes o colección de varias piezas anécdotas pertenecientes a la Santa Iglesia del Cuzco. Lo da a luz el doctor don Carlos Gallegos, cura propio de la doctrina de San Felipe de Caracoto y su anejo de San Juan Bautista de Huaca en el departamento de Puno* (Cuzco: Colegio de Ciencias y Artes, 1831), consulted in Archivo Histórico Jesuita de la Escuela Superior Antonio Ruíz de Montoya de Lima, Colección Vargas Ugarte (Vol. 9). It was also published by Juan B. Lassège-Morèles, “Sinodos

Synod of Quito, 1594<sup>113</sup>  
 Synod of Lima, 1596<sup>114</sup>  
 Synod of Tucumán, 1597<sup>115</sup>  
 Synod of Tucumán, 1606<sup>116</sup>  
 Synod of Lima, 1600<sup>117</sup>  
 Synod of Cuzco, 1601<sup>118</sup>  
 Synod of Lima, 1602<sup>119</sup>  
 Synod of Paraguay, 1603<sup>120</sup>  
 Synod of Tucumán, 1607<sup>121</sup>  
 Synod of Lima, 1613<sup>122</sup>  
 Synod of La Plata, 1619<sup>123</sup>  
 Synod of Trujillo, 1624<sup>124</sup>  
 Synod of Santiago, 1626<sup>125</sup>

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diocesanos del Cusco 1591 y 1601,” *Cuadernos para la historia de la evangelización en América Latina*, Cuaderno 2 (1987) pp. 31–72.

113. *Sínodos de Quito 1594 y Loja 1596* (Madrid: Editorial Revista Agustiniana, 1996). También publicadas las *Constituciones sinodales fechas (sic) por . . . Luis López de Solís . . . obispo de Quito . . . en el año de 1594* (Cuernavaca: CIDOC, 1981).

114. “Compendio sumario de los sínodos de los años de ochenta y dos y cuatro y ochenta y cinco, ochenta y seis y ochenta y ocho, noventa y dos y noventa y cuatro, hecho en este sínodo y constituciones sinodales del Ilmo. Sr. D. Toribio Alfonso de Mogrovejo, arzobispo de Los Reyes, comenzadas el día de San Crisógono mártir, veinte y cuatro de noviembre del año de noventa y seis en la provincia de Guabos y acabadas y publicadas en ocho de enero de este presente año de mil quinientos y noventa y ocho años en el pueblo de Guaraz,” in *Concilio provincial del año de 1591 y el de 1601*. Consulted in the John Carter Brown Library.

115. Arancibia and Dellaferrera, *Los sínodos del antiguo Tucumán*. See also Arancibia, “El matrimonio en los sínodos del obispo Trejo,” pp. 93–110; and Dellaferrera, “El matrimonio en las sinodales del obispo Trejo,” pp. 35–56.

116. Consulted in Arancibia and Dellaferrera, *Los sínodos del antiguo Tucumán*.

117. “Compendio sumario de los sínodos . . .,” in *Concilio provincial del año de 1591 y el de 1601*.

118. Rubén Vargas Ugarte, *Historia de la Iglesia en el Perú* (Burgos: Aldecoa, 1959–1962), pp. 407–408, refers to this assembly as the III Synod of Cuzco and explains that its constitutions were an extension of those of Gregorio de Montalvo. The original title of these synodal constitutions is “Constituciones sinodales del obispado del Cuzco hechas por el ilustrísimo y reverendísimo señor don fray Antonio de la Raya. Año de 1601,” and they can be found in *Analectes o colección de varias piezas anécdotas pertenecientes a la Santa Iglesia del Cuzco . . .*

119. “Compendio sumario de los sínodos,” in *Concilio provincial del año de 1591 y el de 1601*.

120. Published in a complete edition by Francisco Mateos, “El primer concilio del Río de la Plata en Asunción (1603),” *Misionalia Hispanica* 78 (1969), pp. 257–359. For this synod, see Daisy Ripodas, “El Sínodo de Paraguay y Río de la Plata I. Su valoración a la luz del sínodo de Tucumán I,” in *III Congreso del Instituto Internacional de Historia del Derecho Indiano: Madrid 17–23 de enero de 1972. Actas y estudios* (Madrid: Instituto Nacional de Estudios Jurídicos, 1973), pp. 231–268.

121. Quoted by Arancibia and Dellaferrera, *Los sínodos del antiguo Tucumán*.

122. José M. Soto Rábanos, ed., *Sínodos de Lima de 1613 y 1636*. Bartolomé Lobo Guerrero, Fernando Arias de Ugarte (Madrid, Salamanca: CSIC, Instituto de Historia de la Teología, 1987).

123. Josep M. Barnadas, ed., *Constituciones del I Sínodo Platense (1619–1620)*. Jerónimo Méndez de Tiedra (Sucre, Bolivia: Archivo-Biblioteca Arquidiocesanos Mons. Taborga, 2002).

124. *Constituciones sinodales del obispado de Trujillo del Perú hechas y ordenadas por el Reverendísimo Sr. Don Carlos Marcelo Corne, obispo de la dicha ciudad de Trujillo, del Consejo de Su Majestad y publicadas en la sínodo diocesana que su señoría reverendísima celebró en la dicha ciudad el año del Señor de 1623*, manuscript in Archivo General de Indias, Lima 307.

125. Carlos Oviedo Cavada, ed., *Francisco González de Salcedo. Sínodo diocesano de Santiago de Chile, 1626* (Cuernavaca: CIDOC, 1971).

Synod of La Plata, 1628<sup>126</sup>  
 Synod of Huamanga, 1629<sup>127</sup>  
 Synod of First Council of La Plata, 1629<sup>128</sup>  
 Synod of Lima, 1636<sup>129</sup>  
 Synod of Arequipa, 1638<sup>130</sup>  
 Synod of La Paz, 1638<sup>131</sup>  
 Synod of Huamanga, 1672<sup>132</sup>  
 Synod of Arequipa, 1684<sup>133</sup>  
 Santiago, 1688<sup>134</sup>  
 Synod of La Paz, 1738<sup>135</sup>  
 Synod of La Concepción, 1744<sup>136</sup>  
 Synod of Santiago, 1763<sup>137</sup>

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126. *Constituciones sinodales del arzobispado de la ciudad de La Plata, provincia de Los Charcas, en el Perú. Hechas y ordenadas por el ilustrísimo y reverendísimo señor doctor don Fernando Arias de Ugarte, arzobispo de la dicha ciudad, del Consejo de Su Majestad, y publicadas en la sínodo diocesana que su señoría ilustrísima celebró en la dicha ciudad de La Plata en cuatro días del mes de mayo de 1628* (Lima: Jerónimo de Contreras, 1629).

127. *Constituciones sinodales del obispado de Huamanga (Perú), 1629, de Francisco Verdugo* (Cuernavaca: CIDOC, 1970).

128. Velasco, "El Concilio Provincial de Charcas de 1629," pp. 79–130.

129. Soto, *Sínodos de Lima de 1613 y 1636*.

130. *Constituciones sinodales del obispado de Arequipa en el sínodo que se celebró en dicha diócesis el año de 1638 hechas y ordenadas por don Pedro de Villagómez, obispo de Arequipa*, manuscript consulted in Biblioteca Nacional de España (Madrid). I am grateful to Otto Danwerth for sharing with me the location of these constitutions.

131. *Constituciones sinodales del Obispado de Nuestra Señora de La Paz del Perú, 1638* (Cuernavaca: CIDOC, 1970).

132. *Constituciones sinodales del obispado de la ciudad de Huamanga, celebradas en concilio diocesano por el ilustrísimo y reverendísimo señor doctor don Cristóbal de Castilla y Zamora en el mes de junio de 1672* (Lima: Jerónimo de Contreras, 1677).

133. *Constituciones sinodales del Obispado de Arequipa, 1684. Hechas y ordenadas por Antonio de León su obispo*, (Cuernavaca: CIDOC, 1971).

134. *Sínodos de Santiago de Chile de 1688 y 1763. Bernardo Carrasco Saavedra, Manuel de Alday y Aspee* (Madrid, Salamanca: CSIC, Instituto de Historia de la Teología, 1983).

135. This synod has been studied by Josep M. Barnadas, "El sínodo de La Paz de 1738," *Misionalia Hispánica* 24:70 (1967), pp. 117–124, published in *Constituciones sinodales del Obispado de La Paz (Bolivia) 1738, establecidas por Agustín Rodríguez Delgado, obispo de la ciudad de Nuestra Señora de La Paz* (Cuernavaca: CIDOC, 1970).

136. *Sínodo de Concepción, Chile, 1744. Pedro Felipe de Azúa e Iturgoyen* (Madrid, Salamanca: CSIC, Instituto de Historia de la Teología, 1984).

137. *Sínodos de Santiago de Chile de 1688 y 1763*, 1983.