

BODIES OF EVIDENCE: *Honor, Prueba Plena, and Emerging Medical Discourses in Northern Mexico's Infanticide Trials in the Late Nineteenth and Early Twentieth Centuries*

In the early morning of February 15, 1898, a farmer named Zacarias Navarro found the remains of a newborn infant in a shallow well on the outskirts of Alamos, Sonora, in northwestern Mexico. As caretaker of the well, it was predictable that Navarro would be the first resident to make the grisly discovery. He immediately informed the chief of police, Manuel Vargas, who sent officers to retrieve the infant's body.

Justice José María Moreno appointed two doctors, Manuel Topeto and Benjamin Castillo, to examine the body. They found that the male child was born full-term and was of normal weight. There was no evidence of beating or strangulation. Convinced the infant had died by drowning, police tracked the crime to a 23-year-old servant named Margarita Díaz, a woman who worked in the house of a prominent local mine owner, don Ignacio Almada. Suspicion surrounded Margarita because she had stopped working for don Ignacio and his wife, doña Trinidad, and “retired” to her home with her mother; no one had seen her in public for several days.

Around the same time as Navarro's discovery, Margarita returned to work, thin and looking pale. Over the course of the investigation, witnesses, including neighbors and doña Trinidad, disclosed intimate details of Díaz's personal history. They had watched her “suspicious behavior,” and they knew about her prior sexual conduct, going back several years. They shared the fact that Margarita Díaz had already delivered at least two other infants. With the assistance of her mother, she had given these infants to local families, who raised them as their own.¹ Witnesses commented on the importance Margarita and her mother Eduarda placed on an appearance of “good conduct” in “giving

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1. Contra Margarita y Eduarda Díaz por infanticidio, 1898, Archivo General del Poder Judicial del Estado de Sonora, Fondo Juzgado Penal [hereafter cited as AGPJ/FJP], Hermosillo/Alamos, Tomo 982.

away two other infants under the vain pretention of passing herself off as a virgin.”²

Margarita Díaz’s experience illustrates the ways infanticide trials provided a space for localized disputes over claims to honor, publicly exposing women who could not maintain appearances of sexual purity. For her part, Díaz never admitted to delivering the baby found in the well, but neighbors were careful to recount in their testimony that Díaz had attempted to cover her body and stay hidden away in her bed when neighbors and family came to visit. Based on this suspicious behavior, the judge of the first instance, José María Moreno, sentenced Margarita Díaz to five years in prison for infanticide and charged her mother as an accomplice for disposing of the infant in the nearby well.³

Díaz’s case illustrates another important thread of Hispanic jurisprudence: physical bodies as evidence and conclusive proof (*prueba plena*) ultimately carried more weight than claims to honor as the courts determined the fates of women accused of infanticide and infant abandonment. In this case, the Sonora Supreme Court reversed the lower court’s decision to punish Díaz because the local judge had ignored the testimony of Manuel Topeto and Benjamin Castillo, the medical examiners, who testified that they could not prove beyond a reasonable doubt that Díaz had recently given birth. Supreme Court judge Ignacio Buelna pointed out that when doctors examined Díaz’s breasts, they found no evidence of milk or colostrum, and that Díaz had demonstrated no hesitation in undergoing a gynecological exam, suggesting confidence in her own innocence.⁴ Justice Buelna’s emphasis on *prueba plena* ultimately won Díaz an acquittal on appeal.

Sonoran infanticide trials demonstrate that courtrooms were not only institutions of discipline but also spaces of discursive creation and experimentation. Both accused and accusers told tales—in this case, birthing tales—that would come to play a significant part in creating, remaking, and discarding ways of conceptualizing honor, pregnancy, and puerperal illness.⁵ The emphasis on empiricism in cases like Margarita Díaz’s provided a space for new ways of talking about pregnancy and secret births, one that emphasized physical maladies and engaged emerging medical discourses about pregnancy and

2. *Ibid.*, fol. 25.

3. *Ibid.*, fols. 47–49; 94.

4. *Ibid.*, 96–107.

5. Infanticide and abandonment trials provided occasions for disciplining women, both for sexual promiscuity and for committing murder, and Michel Foucault’s thinking about medical and judicial institutions as tools of discipline has understandably become a compelling framework for studying infanticide trials. See Foucault, *Discipline and Punish*, 2nd ed. (New York: Vintage Books, 1995), 14–18; Kristin Ruggiero, “Honor, Maternity, and the Disciplining of Women,” *Hispanic American Historical Review* 72:3 (1992): 371.

childbirth. Most defendants in Sonora's infanticide cases were similar to Díaz, young and single, between the ages of 16 and 24, and many were of lower social status, working as domestic servants, or were "*hijas de familia*" (young, Hispanicized women who daughters in families that usually had established links to a community, whether through land ownership or employment). Like Díaz, other women encountered resistance from their communities and punishment in the courts when they used discourses of honor and shame.

These trials reveal that women accused of infanticide gradually adopted and participated in legitimizing new understandings of the relationship between childbirth, illness, and infant death. Through their testimony, they played a role in reframing legal and medical understandings of infanticide and infant abandonment. The growing appearance of medical discourses in infanticide trials emerged from collaborative, albeit unequal, relationships between defendants, doctors, midwives, and lawyers. The broader national context of medicalization of pregnancy and childbirth during the late nineteenth century certainly influenced what defendants, doctors, and lawyer said in the courtroom, as well as what local and state judges believed. New concerns about psychosis, malnutrition, and overwork during pregnancy opened up novel possibilities for defendants to explain the death of an infant, and court records illustrate that women were more than passive recipients of these medical discourses. As defendants adopted medical explanations in their testimony, even if only for immediate strategic purposes, they played a constitutive role in legitimating the broader medicalization of pregnancy and childbirth in elite and popular imaginations.⁶

Much of the historical scholarship on infanticide in Latin America and in other parts of the world has identified honor and shame as a central theme of infanticide trials—in places as diverse as Argentina, England, Puerto Rico, Corsica, and Germany. In France, Italy, and Victorian England, scholars found that journalists and judges demonstrated sympathy for women who committed infanticide or infant abandonment to protect their honor and reputation of sexual purity.⁷ In her study of colonial Mexico, Nora Jaffary found a pattern of leniency in Mexico's colonial courts, even though Spanish

6. Among the 63 infanticide and clandestine burial cases found in the Sonoran criminal archives between 1855 and 1929, most occurred during the Porfiriato (1876–1910). Thirteen trials took place after 1910 and nine trials happened before 1876. Overall, the cases tend to be spread out evenly over the longer period of the study, with two to three trials per year. The largest concentration of trials to occur in any given year was four in 1898 and five in 1900. Taken together, the cases suggest a growing acceptance of conclusive evidence and medical explanations of infant deaths beginning in the late 1880s.

7. See María del Carmen Baerga-Santini, "History and the Contours of Meaning," *Hispanic American Historical Review* 89:4 (2009): 647–648; Rachel G Fuchs, *Abandoned Children* (New York: State University of New York Press, 1984), 103–104; Ann R. Higginbotham, "Sin of the Age," *Victorian Studies* 32:3 (1989): 321–322; David I. Kertzer, *Sacrificed for Honor* (Boston: Beacon Press, 1993), 32–35; Christine L. Krueger, "Literary Defenses

colonial law recognized infanticide as a capital offense.⁸ Mexico's first body of national laws, the 1871 Penal Code, relaxed the punishment of infanticide from a capital offense to four to eight years imprisonment, depending on the circumstances of the crime, and specifically allowed judges to show leniency to women who committed infanticide or abandonment to protect their honor.⁹ In practice, judges were notably cautious in determining the guilt of women accused of infanticide and lenient in their final sentencing. As in the Sonoran trials, they often based their final decisions on the existence of verifiable evidence.¹⁰

What sets Sonora's cases apart was the ambivalence that community members and judicial officials exhibited in their testimony and final rulings regarding women of lower status who claimed to have committed infanticide or abandonment to protect their honor. When neighbors went before the courts to accuse a woman of committing infanticide, they reaffirmed and rearticulated a gendered social order that linked public shaming with illicit female sexual conduct, especially when the woman was of lower social status. During this period of rapid change and mobility in Mexico's northern borderlands, an infanticide trial undermined a woman's claim to sexual honor.¹¹

Yet, Sonora's infanticide trials entailed more than disciplining low-status women who attempted to stake a claim to honor. These cases also suggest that the accused women and their legal councils appealed to a growing body of medical knowledge as they crafted their testimony. In doing so, the defendants demonstrated a clear understanding of the law, and a willingness to participate

and Medical Prosecutions," *Victorian Studies* 40:2 (1997): 272; Kristin Ruggiero, "Honor, Maternity, and the Disciplining of Women," *Hispanic American Historical Review* 72:3 (1992): 371; Regina Schulte, *The Village in Court* (Cambridge: University of Cambridge Press, 1989), 108; Martin J. Wiener, "Convicted Murderess and the Victorian Press," *Crimes and Misdemeanours: Deviance and the Law in Historical Perspective* 1:2 (2007): 110; and Stephen Wilson, "Infanticide, Child Abandonment, and Female Honour in Nineteenth-Century Corsica," *Comparative Studies in Society and History* 30:4 (1988): 763.

8. Nora E. Jaffary, "Reconceiving Motherhood," *Journal of Family History* 37:3 (2012): 5.

9. Article 581 of the 1871 Penal Code defined infanticide as intentionally causing the death of an infant within 72 hours of its birth. Clandestine burial resulted in a lesser punishment of three to five months of imprisonment. See Aarón Hernández López, *Código Penal de 1871* (Mexico City: Editorial Porrúa, 2000), 171.

10. Nora Jaffary offers an insightful discussion of the 1871 Penal Code as it relates to infanticide. Drawing on Linda Arnold's depiction of nineteenth-century courts as careful and conservative in their handling of evidence, Jaffary also observes that court officials were reluctant to find women accused of infanticide guilty without sufficient evidence. See Linda Arnold, "When Not Even Safe in Her Own Home," *Ars Iuris* 28:2 (2002): 71; Nora E. Jaffary, "Prosecuting Motherhood," presentation at the 2012 annual meeting of the Latin American Studies Association, San Francisco, California (May 23-26), 22-30.

11. There is a rich literature on the changing significance of honor within Latin American gender systems, specifically as it relates to race, caste, and class. See Sueann Caulfield, Sarah C. Chambers, and Laura Putnam, *Honor, Status, and Law in Modern Latin America* (Durham: Duke University Press, 2005); Sonya Lipsett-Rivera and Lyman L. Johnson, *The Faces of Honor* (Albuquerque: University of New Mexico Press, 1998); Steve J. Stern, *The Secret History of Gender* (Chapel Hill: University of North Carolina Press, 1997); and Ann Twinam, *Public Lives, Private Secrets* (Stanford: Stanford University Press, 1999).

in fashioning new ways of talking about medical disorders to which court authorities were more sympathetic. Women such as Dolores Molina, Gabriela Islas, Rosa Paredes, Antonia Parra, Balvanera Santeliza de Torres, and doña María de Sanchez, discussed below, all emphasized medical maladies as the root cause of infant death, often confirming the testimony of their midwives, doctors, and lawyers. Their own testimonies illustrate that the women accused of infanticide were more than passive recipients of new medical discourses; rather, they collaborated with local medical experts and lawyers to strengthen their own defense.

Women who claimed illness as the cause of infant death were more likely to receive a sympathetic hearing in the courts, provided they had evidence to corroborate their story, or at the very least, could demonstrate that the courts lacked conclusive proof to contradict their stories of illness. In this respect, the defendants tapped into another significant vein of Hispanic jurisprudence that emphasized empiricism and due process. Sonoran courts had long accepted standards of *prueba plena*, so privileging physical evidence over claims to honor was more than a simple outgrowth of modernization. Nevertheless, the emphasis on *prueba plena* opened up the courts to new kinds of positivist medical knowledge about pregnancy and childbirth, and revealed that both medical experts and the accused women were active participants in creating and adopting it.¹²

READING SONORAN CRIMINAL TRIALS

During the late nineteenth century, northwestern Mexico experienced dramatic economic and cultural change. Historian Miguel Tinker Salas has characterized these years as a pivotal time in Sonora's history, when it went from "a neglected *provincia interna*, an internal frontier, to a bustling and influential border state."¹³ New mining towns boomed, especially the copper and gold centers in the northern half of the state. In 1895, statistician Alfonso Luis Velasco described the district of Altar, for example, as one of the nation's richest

12. Scholars such as Natalie Zemon Davis and Cynthia Herrup have emphasized the structural constraints of legal documents, demonstrating that the law, court procedures, and judicial officials' lines of questioning placed limits on who spoke and what they could say in the courts. Their observations apply to Sonora's infanticide trials. Yet trial testimonies also reveal how defendants and other witnesses engaged new medical knowledge and participated in forging novel understandings of childbirth and infanticide. See Natalie Zemon Davis, *Fiction in the Archives* (Stanford: Stanford University Press, 1987), 4; and Cynthia B. Herrup, *A House in Gross Disorder* (Oxford: Oxford University Press, 1999), 8.

13. Miguel Tinker Salas, *In the Shadow of the Eagles* (Berkeley: University of California Press, 1997).

in gold, silver, lead, and copper.¹⁴ The growing populations in the mining centers drove demand for basic foodstuffs, and the numbers of haciendas and ranchos in districts such as Moctezuma, Altar, Hermosillo, and Magdalena grew accordingly.¹⁵ The state's population more than doubled between 1878 and 1910, from 110,837 to 265,383. The region's urban centers and mining communities experienced internal migration and a rapid influx of newcomers from other parts of Mexico, smaller villages within Sonora, and Europe and Asia.¹⁶ It was in these northern areas of the state that several infanticide cases took place

Historians know little about the effects the economic and cultural changes had living and working conditions for women and children. Women seldom appeared in official demographic data, and when they did, they often occupied low-status jobs such as domestic servant, petty merchant, family laborer, or prostitute, especially in the state's burgeoning mining centers. Children were largely invisible except through birth and death records, which suggests that mortality rates among infants and young children remained staggeringly high, as they had been during the colonial and early republican periods.¹⁷ Yellow fever, tuberculosis, dysentery, diarrhea, and pleurisy hastened the deaths of many. In 1895, Sonora reported 1,717 births and 1,247 deaths among legitimate children between birth and age five. In 1905, among 4,756 legitimate births, there were 2,543 deaths among infants under one year old. Children of legitimate birth stood less than a fifty-percent chance of surviving to the age of one at the beginning of the twentieth century.¹⁸ It is likely that among these overwhelming mortality rates there hid cases of infanticide, abandonment, and abortion that never came to the attention of court officials.

Sonora's nineteenth-century statistical records did not include illegitimate births, but it is reasonable to assume that mortality rates among children of illegitimate birth were similar, if not higher. In Margarita Díaz's case, for

14. Juan Manuel Romero Gil, *La minería en el noroeste de México* (Hermosillo: Universidad de Sonora, 2001); Alfonso Luis Velasco, *Geografía y estadística del estado de Sonora* (Mexico City: Tip. T. González Sucesores, 1890), 95.

15. According to Tinker Salas, census surveys from this period likely underestimated the numbers of people who owned property because landowners of all sizes hoped to avoid responsibility for higher property tax assessments. See Miguel Tinker Salas, *In the Shadow of the Eagles*, 52.

16. According to the Secretaría de Fomento, Sonora's population was 110,837 in 1878; the general population census of 1910 reported 265,383. See Mario Cuevas Arámburu, "La población sonorensis y sus movimientos," *Sonora: textos de su historia* (Hermosillo: Gobierno del Estado de Sonora, Instituto de Investigaciones, 1989), 16.

17. Marcos Medina Bustos has carried out the most extensive research on infant mortality rates during the early nineteenth century in Sonora's main commercial center, Hermosillo. See Medina Bustos, *Vida y muerte en el antiguo Hermosillo (1773-1828)* (Hermosillo: Universidad de Sonora, 1994), 295. For close analysis of household composition and female-headed households in the Sonoran *serrano* communities, see Cynthia Radding, *Wandering Peoples* (Durham: Duke University Press, 1997), 103-141.

18. Secretaría de Economía, *Estadística social del Porfiriato, 1877-1910* (Mexico City: Talleres Graficos de la Nación, 1956), 25, 33.

example, her first two children, both illegitimate, died before the age of one.¹⁹ Moreover, these trials show that single women were more likely to commit infanticide. Illegitimacy's stigma likely contributed to infanticides and secret deliveries.

Nevertheless, scholars of the nineteenth century should be cautious about projecting attitudes about shame and illegitimacy onto previous periods, and should avoid assuming that honor systems in northwestern Mexico mirrored those of central or southern Mexico. During the colonial and early republican eras, Sonorans demonstrated a degree of tolerance for illegitimate births, under certain circumstances. Sonorans of the eighteenth and early nineteenth centuries had long conceptualized honor as associated more with conduct (*buena conducta*) than with lineage. The region never claimed a class of elites with ancient bloodlines, nor did it have a tradition of convents, orphanages, or foundling homes devoted to child welfare.²⁰ One reason judges did not find claims to honor and shame in infanticide cases compelling was that honor discourses never became central in the local courts. In the early republic, Sonorans talked less about honor and more about *buena conducta* in a wide range of court cases, from *estupro* to adultery.

Sonora was not necessarily unique in its emphasis on conduct over bloodline as a way to define honor among plebeians and peasants; scholars have found similar patterns across Mexico.²¹ Yet, as Stuart Voss has demonstrated, Sonora did not have an urban elite class that urged a definition of honor based on bloodlines. In contrast to the practices of urban centers such as Mexico City or Guadalajara, constructions of *buena conducta* became the widely accepted understanding of honor in rural peripheries such as Sonora, even among the notables.²² Women who could not care for a young baby or who wished to conceal an illegitimate birth turned to relatives, wealthier neighbors, or even acquaintances to "adopt" their children as household dependents. Whether they were called nieces, sons, servants, or grandchildren, they often contributed to the economic, social, and cultural reproduction of Sonora's mostly rural families. Cynthia Radding's analysis of censuses in communities such as Oposura, for example, suggests the presence of illegitimate children among large extended families

19. Contra Margarita y Eduard Díaz por infanticidio, 1898, AGPJ/FJP, Hermosillo/Alamos, Tomo 982, fol. 25.

20. For further information about these institutions in Mexico City during the nineteenth century, see Ann S. Blum, *Domestic Economies* (Lincoln: University of Nebraska Press, 2009), xv–xxxvii.

21. See Sonya Lipsett-Rivera, "A Slap in the Face of Honor," *The Faces of Honor* (Albuquerque: University of New Mexico Press, 1998), 179–180; and Kathryn A. Sloan, *Runaway Daughters* (Albuquerque: University of New Mexico Press, 2008), 174.

22. Stuart F. Voss, *On the Periphery of Nineteenth-Century Mexico* (Tucson: University of Arizona Press, 1982), 24–27.

during the colonial period.²³ Sonora's judicial records from the early republican era indicate a tolerance for illegitimacy, especially when unmarried partners exhibited outward behaviors expected of a married couple.²⁴ Based on evidence from Sonora's colonial and early republican past, it is safe to assume that illegitimacy had long been recognized among Sonoran families.

Less certainty exists about the frequency with which women committed infanticide in Sonora during the colonial and modern periods. Scholars such as Robert Jackson, Sherburne Cook, and Chantal Cramaussel have argued that indigenous women in northern New Spain practiced infanticide and abortion in missions in response to cultural and physical disorientation, malnutrition, and social repression. They found reports of missionaries who flogged women they suspected of infanticide. In other cases, missionaries forced women to stand in front of the mission church with infant dolls made of wood to shame those they suspected of having had miscarriages or abortions.²⁵

These punishments, meted out at the discretion of the missionaries, underscore the complete authority the priests exercised over the bodies of indigenous women. Scholars know far less about incidences of infanticide and infant abandonment in Sonora's mestizo communities; indeed, they have yet to locate any infanticide cases prior to 1855 in state judicial and ecclesiastical archives. The absence of these trials could have resulted from inadequate record keeping during the early republic; or conversely, the marked appearance of cases after the 1870s could reflect the judiciary's growing ability to investigate and prosecute a larger volume of wrongdoings and wider range of crimes. It is also possible that community members began reporting suspected infanticide or abandonment instead of looking the other way or handling these transgressions away from the gaze of state authorities. Additionally, there is the perennial issue of whether criminal trials disproportionately represent deviant behavior, and thus limit the insights these cases offer into the values, norms, and social practices of the wider community.²⁶

Such considerations may limit the power of an exclusively quantitative analysis of these trials, but scholars have certainly used similar sources to reveal

23. Oposura, later renamed Moctezuma, was the location of a number of infanticides during the Porfiriato. Cynthia Radding, *Landscapes of Power and Identity* (Durham: Duke University Press, 2005), 150–55, 262.

24. Laura Shelton, *For Tranquility and Order* (Tucson: University of Arizona Press, 2010), 45–48, 127–130.

25. Sherburne F. Cook, *The Conflict Between the California Indian and White Civilization* (Berkeley: University of California Press, 1976), 112; Chantal Cramaussel, *Primera página de Historia Colonial Chihuahuense* (Ciudad Juárez: Universidad Autónoma de Ciudad Juárez, 1990), 58; Robert H. Jackson, 1994. *Indian Population Decline* (Albuquerque: University of New Mexico Press, 1994), 202–203.

26. Meda Chesney-Lind, "Women and Crime," *Signs: Journal of Women in Culture and Society* 12:4 (1986): 78.

important fault lines within communities, as well as between popular classes, legal authorities, and a nascent medical profession.²⁷ So while it is difficult to draw definitive conclusions about the incidence of infanticide from the trials found in Sonora's state judicial archives, it is possible to discern patterns in how the women involved in these trials framed their understanding of their particular situations, and to analyze how community members and court officials responded to the stories defendants told in their testimonies.

Trial testimonies provide a unique and multilayered perspective on the complexities of local social dynamics.²⁸ The extensive testimony and final deliberations found in the records of infanticide and abandonment cases provide a fertile space for examining what residents of Sonora's villages and small cities thought about honor, childbirth, pregnancy, motherhood, and illness. They reveal the power of surveillance and gossip in the lives of young and mostly poor women at the end of the nineteenth century. As Steve Stern observed in his study of court testimony in late colonial criminal trials, "The gossipy, personal character of the initial testimony draws the researcher into the world of everyday behavior, expectations, and resentments among the poor and the colored, thereby exposing gender relations, tensions, and values difficult to discern in other historical records."²⁹ Stern's observations remain largely true for the testimony recorded in Sonora's criminal trials at the turn of the twentieth century. Witnesses commented on the love interests, rivalries, moral reputations, and suspicious behavior of their young neighbors and relatives, and their observations provide a window into localized disputes over who could stake a claim to honor and what kinds of clemency society might accord to women who committed crimes because they were trying to protect their honor.

Moreover, when considering the final deliberations of lawyers and judges, along with the initial testimonies that were central to Stern's work, we glimpse an exchange, albeit an unequal one, between court officials and those under their authority about the contested and changing meanings of honor and puerperal illness at a critical juncture in the history of law and medicine in Mexico. Discourses about honor, illness, and madness were not simply delivered in

27. See Margaret L. Arnot, "Gender in Focus," (PhD diss., University of Essex, 1994), 3–22; Mark Jackson, *Infanticide* (Burlington, VT: Ashgate, 2002), 4–35; G. S. Rowe, "Infanticide, Its Judicial Resolution, and Criminal Code Revision in Early Pennsylvania," *Proceedings of the American Philosophical Society* 135:2 (1991): 201–203; Kristin Ruggiero, "Passion, Perversity, and the Pace of Justice in Argentina," in *Crime and Punishment in Latin America*, Ricardo D. Salvatore, Carlos Aguirre, and Gilbert Joseph, eds. (Durham: Duke University Press, 2001), 212; and Richard Trexler, *The Children of Renaissance Florence* (Binghamton, NY: Medieval and Renaissance Texts & Studies, 1993), 35–53.

28. Regina Schulte, for example, conceptualizes local and state courts as spaces where the lives and worldviews of peasants, bourgeois judges, and increasingly, psychiatrists intersect. Regina Schulte, *The Village in Court* (Cambridge: University of Cambridge Press, 1989), 13.

29. Steve J. Stern, *The Secret History of Gender*, Chapel Hill: University of North Carolina Press, 1997), 39.

a linear way from state supreme courts to the humblest rungs of society; rather, they were created, challenged, and remade through the conflicts and collaborations between and among these disparate groups.

HONOR ON TRIAL

When a woman talked about honor and shame as a motive for hiding a pregnancy or abandoning an infant, her status as a servant, an Indian, a single *hija de familia*, or a widow influenced how neighbors and authorities responded to her story. Women hid pregnancy and delivery under the watchful gaze of employers (*amos*), parents, fellow servants, spouses, siblings, cousins, and neighbors. Nonetheless, surveillance was critical to the initial identification of infanticide suspects. During the trials, witness testimony often revolved around perceptions of the accused woman's sexual conduct and public reputation.

To be clear, no woman involved in these trials admitted to intentionally killing her infant. Typically, a defendant claimed that her infant was stillborn, deformed, or ill. While some women hid their pregnancy and delivered in secret to protect their honor, many more claimed that they had not known they were pregnant at all.³⁰ Their testimonies revolved around a few key explanations, the most common being a medical condition, followed by dishonor, shame, or fear of punishment, and uncertainty about whether the infant was viable at birth. Between 1890 and 1900, growing numbers of women framed the deaths of their infants as a result of a medical disorder or stillbirth. Even as the overall appearance of infanticide and abandonment trials began to decline between 1915 and 1930, medical explanations remained more frequent than all the other explanations combined.

What sets Sonora apart from other parts of Mexico and other parts of the world is the relative scarcity of cases found there that make an appeal to honor. In most places, honor was a major theme in nineteenth-century infanticide trials.³¹ Mexican lawmakers codified honor and shame into the national penal code of 1871 as central considerations. Judges could sentence women to up to eight years for intentionally killing an infant within 72 hours of its birth, but Article

30. Schulte found similar patterns in nineteenth-century Bavaria, and argues that in these cases, the mothers, "denied the children any social existence from the outset." See Regina Schulte, *The Village in Court* (Cambridge: University of Cambridge Press, 1989), 104.

31. For example, see Patrizia Guarnieri, "Men Committing Female Crime," *Histoire & Sociétés/History & Societies* 13:2 (2009): 46; Judith Knelman, *Twisting in the Wind* (Toronto: University of Toronto Press, 1998), 145–180; Kristin Ruggiero, "Not Guilty," in *Reconstructing Criminality in Latin America*, Carlos A. Aguirre and Robert Buffington, eds. (Wilmington, DE: Scholarly Resources, Inc., 2000); and Elisa Speckman Guerra, "Las flores del mal," *Historia Mexicana* 47:1 (July–September 1997): 191.

584 of the code potentially reduced the sentence to four years of imprisonment. A convicted woman could expect the lesser sentence for a number of reasons: she did not have a bad reputation, she had tried to hide her pregnancy, she had hidden her infant's birth and did not register the birth with civil authorities, and the infant was not of legitimate birth.³² It is important to understand responses to these national laws as they were received in a provincial setting.

In cases in which defenses based on honor and shame emerged, judges generally followed the guidelines laid out in the 1871 Penal Code. They almost always prosecuted to the fullest extent of the law or sometimes even beyond the prescribed rules. As a result, women who claimed honor in their defense found themselves spending far more time serving prison sentences than those who blamed an infant's death on a medical malady. Twenty-one-year-old Salome de Farazón, for example, faced the stiffest punishment recorded in the extant records found for infanticide trials. Claiming that she left her live newborn in an abandoned oven (*chimenea*) of a hut (*choza*) on a neighbor's property to hide her *deshonra*, Farazon was sentenced to prison for 15 years—seven years over the maximum sentence under the 1871 Penal Code. It is unclear if she was actually made to serve the full sentence, but the judge in this case was particularly concerned about her intent to kill an infant in order to protect her honor.³³ Twenty-two-year-old cook Ramona Pompa, from Altar, was one of the few women who had her sentence decreased on appeal when she claimed that she had hidden her pregnancy and delivered her infant in a latrine to hide her *deshonra*. Local courts sentenced her to five years in prison, but Supreme Court justice Ignacio Bustillo decreased it to four years.³⁴

In contrast, 24-year-old Carmen García, a cook and washerwoman from the village of El Plomo, saw her sentence grow from one year and four months to four years on appeal to the state supreme court in 1920. The judges found overwhelming evidence that García's infant was born alive, and not stillborn, as García had maintained.³⁵ There was a clear tendency among judges to punish women who claimed honor as a motive, and as in cases like that of Carmen García, they might even increase their sentences to the fullest extent of the law on appeal. Among 11 accused women who discussed honor as a motive for hiding their pregnancies, seven were convicted of infanticide, two won

32. Hernández López, *Código Penal de 1871*, 171.

33. *Contra Salomé Farazon por abandonar su hijo*, 1890, AGPJ/FJP, Hermosillo, Tomo 880.

34. *Contra Ramona Pompa por infanticidio*, February 7, 1908, AGPJ/FJP, Caborca, Tomo 2453, fol. 47.

35. *Infanticidio é inhumación clandestine contra Mariana Burruel de García y Carmen García*, January 12, 1920, AGPJ/FJP, Caborca, Tomo 2466.

acquittals, one underwent a trial that ended in no verdict, and one never went to trial. In contrast, among the 24 women who identified medical reasons for their infants' deaths, 16 received acquittals and eight were convicted.

Equally important, testimony and official deliberations demonstrate that witnesses and court officials understood the trials as a space for public commentary on the moral and sexual conduct of the young women in their communities. Judges were interested in collecting information about public knowledge of affairs and reputations of *buena conducta* in the course of their investigations. It was a process that gave even the lowliest witnesses an opportunity to participate in a system of social control and public shaming. Trial testimony exposed the accused woman's sexuality and romantic liaisons and ruined her reputation of *buena conducta*, even when she was innocent of committing a crime. Courtrooms were spaces where residents aired unpleasant village sexual politics, settled scores, and destroyed the sexual reputations of young neighbors and ex-lovers. When residents discovered a fetus that was about six months into development in a pigpen near Hermosillo in August of 1896, they assumed that someone had performed an abortion. The courts identified Francisca Ramírez as a suspect after several neighbors testified that they believed she had been hiding an unwanted pregnancy. They also knew that she had ended an unhappy courtship with another neighbor, Ángel Cruz.

Among the witnesses in Ramírez's case was Señora Durán, Ángel Cruz's mother. In testimony she openly doubted the sexual honor of the defendant, stating that she believed Ramírez had become pregnant by her son. She also told the judge that Ángel had offered to marry Francisca, but that she had rejected his offer, a slight that had likely embarrassed Cruz's entire family.³⁶ It is reasonable to imagine that Durán used her testimony to shame Ramírez and to seek revenge for her son's public rejection. Ramírez's trial also reveals the sexual double standard at work in infanticide cases: Durán risked nothing by revealing the sexual conduct of her son. In fact, in most cases available to us, witnesses and judges were thoroughly disinterested and silent regarding the identity and conduct of the fathers.

Community members played a central role as informants, and usually initiated these cases by reporting the suspected crime in the first place. Their willingness to report finding abandoned infant bodies to authorities, to name potential suspects, and to discuss intimate details of their lives underscores the importance of gossip and surveillance in these trials. Gossip could strengthen

36. Causa criminal instruida de oficio contra Ignacio Ramirez, Gregorio Urquijo y Francisca Ramirez por presuntos responsables del delito de infanticidio, August 29, 1896 [1897], AGPJ/FJP, Hermosillo, Tomo 962.

social bonds and alert community members to provide aid to those in need, but Sonora's infanticide trials mostly support the argument of historian Melanie Tebbutt that gossip was a mechanism for marking outsiders and undermining lower-status women who attempted to stake a claim to honor.³⁷

Surveillance among neighbors, family members, and employers was often key to identifying a suspect of infanticide. The opening investigations of these trials make it clear that hiding a pregnancy was difficult, but finding privacy for secret delivery and burial was close to impossible. Very few women, whether domestic servants or daughters, had their own bedrooms. Whether in a village or a town, homes were often built close together. Families usually shared multiple walls with neighbors. The spaces between indoors and outdoors were fluid, and patios were often common spaces for gardening, cooking, and raising chickens. Other livestock and work animals stayed nearby, including cattle, horses, mule, pigs, and dogs. A few spaces appear repeatedly in the court transcripts: latrines, fields, orchards, mesquite forests, patios, and perhaps most common, pigpens.

Close quarters and watchful neighbors meant that most women were discovered during or shortly after delivery in or near their homes. In the village of Santo Tomás in 1900, a mother heard her daughter, Carlota Chacón, delivering an infant girl at 4:00 AM and called a midwife to assist in the delivery. Another midwife who lived nearby also heard Carlota laboring and came to assist, along with a male neighbor. Before the midwives and other neighbors arrived, Chacón had delivered and attempted to hide the baby outside. When the midwives and neighbors arrived and asked her frantically about the location of her newborn, she at first claimed that she had not been pregnant.³⁸ Similarly, on a hacienda outside Etchojoa, the mother of 18-year-old Pelagia Alvarez learned from a neighbor that her daughter had left their house in secret, late at night, with a bundle in her arms. Particularly damning to Pelagia's testimony, these same neighbors had heard an infant's cries when she passed near their house, even though she claimed to have delivered the infant later in the *monte* and that the infant had died shortly after its birth.³⁹ Given the lack of private spaces, several women resorted to latrines, both to deliver in secret and to hide their infants. A young servant, Severa López, delivered her baby in a latrine that was reserved specifically for servants, noting in her testimony that she had been

37. The role of gossip in shaping morals and regulating conduct through mutual surveillance is well established in the historical literature, in Latin America and elsewhere. See Gina Hames, "Maize-Beer, Gossip, and Slander," *Journal of Social History* 37:2 (2003): 351–364; Kathryn A. Sloan, *Runaway Daughters*, 112–117; and Melanie Tebbutt, *Women's Talk?* (Brookfield, VT: Scholar Press, 1995), 4.

38. Criminal contra Carlota Chacón por infanticidio, June 26, 1900, AGPJ/FJP, Hermosillo/Distrito Sahuaripa, Tomo 1014.

39. Criminal contra Pelagia Alvarez por infanticidio, December 4, 1913, AGPJ/FJP, Alamos/ Etchojoa, Tomo 2180.

careful not to tell anyone about her pregnancy, and that she had tried to bury and hide her baby in the refuse of the toilet out of shame.⁴⁰

Hearsay was a powerful instrument for shaping the narrative about the accused woman's conduct and character, even several months after a suspected delivery. In 1894, 18-year-old Micaela Andrade admitted to some of her friends that she and her mother, doña Salome Paredes, had asphyxiated an infant a year prior and buried the baby in the patio to "hide her dishonor from the eyes of the family."⁴¹ The news of Micaela's admission eventually found its way to the mother of one of Micaela's friends, who reported the infanticide to authorities. Her actions beg the question: Why did the mother of a close friend of the accused share such a story with the courts? Perhaps fear of keeping a secret from authorities played a role, but witnesses in this case also made references to the accused family's false pretense of maintaining a status of "good conduct." The testimonies that Andrade's friends and neighbors provided were devastating to her reputation of sexual purity, in spite of the fact that Paredes and Andrade were ultimately found innocent of infanticide due to lack of evidence. Paredes insisted that the infant was stillborn, but the court still punished both mother and daughter for carrying out a clandestine burial.⁴² Regardless of the outcome of the trial, the act of serving as a witness empowered Andrade's neighbors, as court notaries transformed "gossip" and hearsay into official public testimony.⁴³

In an 1867 case involving Andrea Luna, an indigenous servant the notary identified as a Yaqui *criada*, court officials were particularly overt in connecting ethnic status with ignorance and criminality. The notary provided a detailed description of Luna's physical appearance upon first meeting her, even though such depictions were not a routine part of court procedure.⁴⁴ The notary's description references both her skin color and her belongings to mark her as indigenous. The notary wrote that he found Luna resting on a straw mat

40. "Sin los aviso a ninguna personal de la casa arrojó sobre la criatura y dentro del excusado donde estaba algunos trapos y basura con el fin de ocultarla, pues le daba vergüenza lo que le había pasado." Criminal contra Severa López por el delito de infanticidio, July 24, 1902, AGPJ/FJP, Hermosillo, Tomo 1035, f. 6.

41. "para ocultar la deshonra de su hija." Contra Doña Salome Paredes y Micaela Andrade por infanticidio y inhumación clandestino, 1894, AGPJ/FJP, Ures, Tomo 2579, fol. 1.

42. *Ibid.*, fols. 32–33.

43. Although not a central focus of this article, local citizens approached the state courts instead of ecclesiastical courts by the end of the nineteenth century, reflecting several decades of growing influence on the part of the secular courts in a wide range of moral crimes, a trend evident across the region. See for example Sueann Caulfield, *In Defense of Honor* (Durham: Duke University Press Books, 2000), 5–8; and Christine Hunefeldt, *Liberalism in the Bedroom* (State College, PA: Penn State University Press, 2000), 79–108.

44. In this respect, Luna's treatment aligns with Robert Buffington's and Pablo Piccato's observations that criminologists linked indigenous status with criminality. See Robert M. Buffington, *Criminal and Citizen in Modern Mexico* (Lincoln: Lincoln University, 2000), 162; and Pablo Piccato, *City of Suspects* (Durham: Duke University Press, 2001), 71.

covered in a colorful *serape*, and that her skin was *trigueño*, a dark copper.⁴⁵ Throughout the trial, the judge pursued a severe line of questioning and frequently referred to Luna's indigenous status.

In this case, references to ethnicity in infanticide testimony also influenced the way witnesses and the court officials talked about the honor and shame of the accused woman. Luna's attempt to abandon her newborn infant in a pile of waste outside her *ama's* house, the judge concluded, was in part a result of shame, but also demonstrated her ignorance owing to her ethnic status as a member of the "Yaqui tribe."⁴⁶ The judge's use of the term "tribe" in this context certainly linked Luna's criminal behavior to the larger ethnic group to which she belonged and raises questions about whether indigenous citizens could expect a fair trial. Predictably, some indigenous women, such as 16-year-old Trinidad Valencia from a rancho near the village of Pitiquito, escaped before the end of her trial.⁴⁷ The possibility of Valencia winning a sympathetic hearing from judges based on claims to honor would have been slim.

BODIES AS EVIDENCE

Hearsay and surveillance within communities were critical to the initial identification of women suspected of committing infanticide or abandonment, but court officials ultimately came to exhibit far more confidence in physical marks evident on the bodies of mothers and infants to identify possible suspects and to determine guilt or innocence. They looked to legal scholars such as Spanish criminologist Joaquín Francisco Pacheco and Mexican jurist Rafael Roa Bárcenas, whose advocacy of formalized methods of investigation in cases of suspected infanticide emphasized physical evidence. These empirically based methods included looking for indications that the infant had drawn breath, and that the mother showed signs of giving birth recently. Medical examiners were careful to determine that the age of the infant matched the timing of the delivery; they also looked for signs of deformity or violence.⁴⁸

45. "una muger acostada sobre un petate y cubierta con un zarape colorado, cuya muger es trigueña de color y al paracer tendra veite años, y segun se deja ver está enferma." Infanticidio contra Andrea Luna, 1869, AGPJ/FJP, Hermosillo, Tomo 715, fol. 4.

46. "tomandose en consideración el temor y la vergüenza que naturalmente debia de tener, así como su ignorancia por pertenecer a la Tribu Yaqui." *Ibid.*, fols. 28–30.

47. Infanticidio, Presunte Responsable, Trinidad Valencia, June 14, 1918, AGPJ/FJP, Pitiquito, Tomo 2462.

48. Joaquín Francisco Pacheco, *Apéndice a los comentarios del Código Penal de don Joaquín Francisco Pacheco* (Madrid: Imp. de M. Tello, 1870), 281–282; Rafael Roa Bárcenas, *Manual razonado de práctica civil forense* (Mexico City: J. M. Aguilar y Cía., 1859), 587–593.

This emphasis on evidence was not strictly a result of embracing empiricism and modern science. Rather, as Linda Arnold has argued, Hispanic jurisprudence had long emphasized the need for *prueba plena* in order to convict to the fullest extent of the law, the idea being that, “the purpose of the law . . . was justice for victims, not vengeance.”⁴⁹ In Sonora, gossip and concerns with honor certainly played out in witness testimony, in community social dynamics, and in local courts, but on the whole, they did not take precedence over evidence and due process. Sonora’s infanticide cases illustrate that Hispanic legal tradition provided multiple avenues for nineteenth-century courts to define modernity, and also that the paths that judges and prosecutors followed depended a great deal on local culture. In the case of Sonora, a place that had a “weaker” tradition of honor, local judges embraced a juridical tradition that privileged empirical methods and evidence over pleas for mercy based on honor.

Medical explanations of infant and fetal deaths included epileptic seizures, temporary insanity, infant illness, or disabilities that led to death, miscarriages, and stillbirths. These cases included women such as Antonia Parra, a young widow whose doctor claimed that epileptic seizures had caused her to fall, hit herself, and miscarry.⁵⁰ Balvanera Santeliza de Torres, a mother with six-month-old twins, drowned her infants in a river and then tried to drown herself. Her husband claimed that she lost her mind after days of sleep deprivation while caring for the twins and a young toddler. Technically, the courts did not categorize Santeliza’s case as an infanticide, because her twins were already six months old at the time of their deaths. Nonetheless, the judge did sometimes use the term during her trial. And even though there was no dispute that she was the perpetrator of the crime, the judge released her to the care of her husband on the grounds that she was innocent due to insanity.⁵¹

Some women complained that unusual cravings or bad medicines caused them to miscarry or experience a stillbirth. In 1899, Dolores Molina, a 24-year-old single woman from the port city of Guaymas, claimed that an uncontrollable craving for bananas resulted in a miscarriage.⁵² While it is highly unlikely that a banana craving alone would cause a miscarriage, Molina’s testimony reflects how illness became an increasingly common way to explain the loss of a pregnancy or an infant’s death among the mothers themselves and among their legal defense. Illness certainly placed the terminated pregnancy

49. Linda Arnold, “When Not Even Safe in Her Own Home,” 95.

50. *Contra Antonia Parra por infanticidio*, March 13, 1897, AGPJ/FJP, Magdalena, Tomo 2974.

51. *Averiguación sobre la muerte de los niños Ramón y Antonia Torres por sumerción en la agua*, January 31, 1921, AGPJ/FJP, Alamos, Tomo 2189.

52. *Averiguación sobre el hallazgo de un feto en Punta de Lastre*, January 24, 1899, AGPJ/FJP, Guaymas, Tomo 1877.

or premature birth outside the control of the mother; such explanations also reflected a growing awareness of the relationship between nutrition, illness, and pregnancy. Other women claimed to have ingested plants or teas that caused unintended miscarriages or stillbirths. Gabriela Islas from a rancho near Altar told judges that she had consumed a floral plant, *duraznillo blanco*, during her pregnancy, and that it induced her delivery several weeks early.⁵³ Of course, these cases raise questions about whether some women were using abortifacients on purpose.⁵⁴ Regardless, women such as Islas explained their actions to the courts as accidental.

Among the mothers who suffered miscarriages and stillbirths, several identified falls, accidents, overwork, and poor nutrition as the cause of illness. A 1909 case involving 20-year-old Inéz Escalante, a poor, single *hija de familia* from the village of Sonoita, demonstrates that medical explanations for infant death were more likely to get a sympathetic hearing with sufficient physical evidence and corroboration from a medical authority. In early April, a male neighbor, Santiago Ríos, reported to the local judge that Escalante's younger sister had called on his wife, Eduviges de Ríos, to come and care for Inéz, who had suddenly fallen ill. De Ríos went to check on the young woman at her home, where she learned that she had just given birth to twins. Escalante told de Ríos that she had delivered the twins in a nearby cornfield (*milpa*), so de Ríos left quickly to find the infants. Both babies had suffered injuries to the head, although one infant did live for a short time. The following day, the courts charged Inéz Escalante with infanticide.⁵⁵

According to Escalante, she had not known she was pregnant when she began to experience severe stomach pains and left the house for a nearby field earlier in the day. She told the judge that she was surprised when she delivered two infants, who struck the ground between her feet in the cornfield. She described being startled and afraid as she ran back to her home to ask her younger sister to get help. In her testimony she also recounted a conversation she had with Eduviges de Ríos, who appears to have served as a lay midwife in the community. De Ríos believed that the infants were born prematurely, and would not have been large enough to survive. A court-appointed medical examiner confirmed that the infants were only 7 to 9 inches in length. The doctor also believed that Escalante had miscarried because it was Holy Week

53. Contra Refugio y Gabriela Islas por delito de infanticidio, 1900, AGPJ/FJP, Hermosillo/Altar, Tomo 1014.

54. *Duraznillo blanco* is a floral plant now known to be an abortifacient, but it is unclear if Islas would have been aware of its effects at the time. This plant is a mycotoxin more often associated with arid regions of Argentina, Paraguay, and Brazil, but a similar variety of mycotoxin may have existed in the Sonoran desert. See Franklin Riet-Correa, *Poisoning by Plants: Mycotoxins and Related Toxins* (Cambridge: CABI, 2011), 40.

55. Contra Ines Escalante por infanticidio, April 10, 1909, AGPJ/FJP, Alamos, Tomo 2454.

and the young woman had been fasting. Escalante never mentioned shame or dishonor in her testimony. Nor did she try to hide her delivery from De Ríos, even telling her where to locate the infants in the cornfield. Escalante instead repeated to court authorities the observations that De Ríos and the medical examiner made in their testimony.

The remainder of the trial paid less attention to examining the bodies of the infants and than to analyzing why Escalante's body would have been unable to carry the twins to term. A group of state-appointed doctors carried out an examination, concluding that she had suffered from a fever after giving birth and concurring with the midwife that fasting played a role in the premature delivery. But they went even further in contextualizing Escalante's miscarriage, citing the hard labor she endured as an older sister in charge of caring for several younger siblings in her home, where she cooked and did all the laundry. In addition to noting her exhaustion from overwork, they observed that Escalante's eyes and gums revealed severe and chronic malnutrition. They concluded that Escalante had experienced a miscarriage, and the courts issued an acquittal.

Escalante, a poor *hija de familia* who worked long hours caring for her younger siblings and doing chores on her family's rancho, demonstrated a clear understanding of the power of the medical examiner's narrative about her physical condition in her testimony, one to which the local courts were sympathetic in their final ruling. Her case illustrates the growing influence of testimony from medical experts who could corroborate a story like hers with physical evidence. Local court officials ultimately found the expert opinions of medical authorities more compelling than claims to honor and sexual purity.

The court's emphasis on evidence from medical exams and autopsies might have resulted in Escalante's freedom, but it also assured the punishment of women whose stories contradicted the physical evidence found on the bodies of infants. In the case described above involving Carmen García, for example, the supreme court judges charged her with committing infanticide rather than clandestine burial because the medical examiner found evidence of air in the infant's lungs during a submersion test.⁵⁶ Judges privileged the works of nineteenth-century juridical experts such as Rafael Roa Bárcenas, who plotted the empirical methods for carrying out an investigation of suspected infanticide. Roa Bárcenas placed a piece of the infant's lung in a container of clean water to look for evidence of oxygen to determine if the infant had drawn

56. Infanticidio é inhumación clandestina contra Mariana Burruel de García y Carmen García, January 12, 1920, AGPJ/FJP, Caborca, Tomo 2466.

breath, and identified this step as critical in differentiating a live birth from a stillbirth.

According to Bárcenas, this submersion test had been in use in infanticide trials in parts of Europe since the seventeenth century, and it seems to have come into greater use in Sonora during the 1890s.⁵⁷ Final rulings hinged upon results from lung submersion tests, as well as evidence of beatings or strangulation. Judges in the town of Etchojoa, for example, found 18-year-old Pelagia Alvarez, mentioned earlier, guilty of infanticide in spite of the fact that the medical examiner had failed to do the submersion test, because her newborn infant's head showed signs of blunt trauma. Moreover, the prosecution in this case used Alvarez's claim that she felt shame and feared exposing herself and her father to dishonor as further evidence of a motive to commit infanticide.⁵⁸ Instead of protecting Alvarez from conviction, her claim to honor assured her punishment.

Court officials' strong reliance on physical evidence found on the bodies of the infants raises a difficult question about the many cases in which investigations were stymied due to destroyed evidence. Women often disposed of infant bodies in pigpens, where animals were more likely to destroy incriminating proof of infanticide. Given that infanticide trials turned on physical evidence found on the bodies of newborns, one cannot rule out the strategic nature of these burials. Cornfields, orchards, riverbanks, pastures, and other outdoor spaces were also common locations of clandestine burials discussed in the court transcripts, but most frequent was the pigpen. In these cases, neighbors and authorities often found the disfigured remains of infants and fetuses unearthed by pigs, and occasionally, by stray dogs. Guadalupe Trujillo in Sahuaripa found parts of an infant's body in a trash pile (*trochil*) while butchering pigs in 1863. The infant's body was in such bad condition that it was difficult to evaluate if the baby had been born alive, if it had been subject to violence, or if it was stillborn.⁵⁹ In 1891 near Hermosillo, a servant, Magdalena Rivas, buried her infant in a pigpen, claiming he was stillborn even though some of her fellow servants claimed to have heard the cries of a newborn in the night. The judge in her case concluded, however, that because pigs had disfigured the infant's remains, he could not corroborate the suggestion in witnesses' testimony that Rivas had had a live birth. Thus, he charged Rivas with clandestine burial

57. Rafael Roa Bárcenas, *Manual razonado*, 589–591.

58. Criminal contra Pelagia Alvarez. Infanticidio, December 4, 1913, AGPJ/FJP, Alamos (Hacienda "Busconcove," jurisdiction of Etchojoa), Tomo 2180.

59. Causa seguida por delito de infanticidio en contra de María Savas López, May 5, 1863, AGPJ/FJP, Hermosillo/Villa de Sahuaripa, Tomo 701.

instead of infanticide.⁶⁰ In other cases, authorities found infants' cadavers so disfigured that they dropped the cases, especially when there were no reports from neighbors to help them find a suspect.⁶¹

Pigpens appear to have become more common burial sites by the 1890s and 1910s. In a 1901 case against Ana Salcido from Hermosillo, the courts initiated an investigation before they found a body based on hearsay that Salcido had delivered and disposed of an infant. One of the first places the police searched for the body was the pigpen nearest to Salcido's home.⁶² The authorities' decision to start in the pigpen suggests that it had become a predictable location for clandestine burials.

As local judges came to favor physical evidence to determine the outcomes of their cases, they looked increasingly to the emerging field of obstetrics to aid in their investigations and deliberations. The timing was fortuitous, because Mexico's medical schools and medical journals saw an increase in publications about obstetrics and prenatal care during this period, and medical examiners put the new knowledge to use in the courtroom as they considered the possible role of miscarriages, puerperal fevers, insanity, hemorrhaging, and premature deliveries in cases of infanticide.⁶³ Students of medicine, including José Gómez at the Universidad Nacional Autónoma de México examined the conditions that put women were at greater risk for miscarriages. Doctors, such as Francisco Rodiles, sought to understand connections between hysteria and complications during childbirth. References to hysteria and other kinds of insanity (*locura*) found their way into growing numbers of medical depositions during infanticide trials.⁶⁴ The professionalization of knowledge in obstetrics and gynecology, then, overlapped with the increasing role of medical examiners in the courts in cases of infanticide as well as in *rapto* (kidnapping with intent to have sex and perhaps pressure parents with

60. Inhumación clandestina, Magdalena Rivas, April 8, 1891, AGPJ/FJP, Hermosillo, Tomo 886.

61. See for example AGPJ, FJP, Guaymas, Tomo 1840, "Averiguación [de la] cadaver [de una] criatura," 1861; and AGPJ, FJP, Hermosillo, Tomo 734, "Averguación sobre un delito de infanticidio," 1869.

62. Criminal contra Ana Salcido por inhumación clandestina, June 17, 1901, AGPJ/FJP, Hermosillo, Tomo 1032.

63. See Francisco Canales, "Hemorragias postpartum," (Medical thesis: UNAM, 1897), 7–32; David Cruz, "Indicaciones formales para provocar aborto," (Medical thesis, UNAM, 1897), 9–21; Fernando Gómez Suárez, "Fiebre puerperal," (Medical thesis, UNAM, 1891), 5–41; Joaquín Ibañez, "Someras reflexiones sobre el aborto obstetrical," (Medical thesis, UNAM, 1882), 7–43; Eduardo Navarro y Carona, "Del parto prematuro," (Medical thesis, UNAM, 1873), 6–81; Francisco Menocal, "Estudio sobre el aborto en México," (Medical thesis, UNAM, 1869), 1–43; and Rómulo Rendón, "Influencia del embarazo en las enfermedades del corazón," (Medical thesis, UNAM, 1891), 6–69.

64. José Gómez, "Tratamiento de aborto," (Medical thesis, UNAM, 1895), 7–14; Francisco Rodiles, "Breves apuntes sobre la histeria" (Medical thesis, UNAM, 1885), 38–40.

permission to marry) and *estupro* (rape, usually of a minor in the case of Sonora) trials.⁶⁵

By the end of the nineteenth century, medical examiners claimed greater authority and knowledge in Sonora's courts, as they did in other parts of Mexico. Judges called on doctors to explain the plausible causes of miscarriages, to state whether suspected women showed evidence of giving birth, to look for evidence of a live birth, to determine insanity, to determine the possibility of seizures, and to look for evidence of deformities on newborn bodies. Doctors such as Manuel García and Julio Schlemmer came before the local courts to verify that 20-year-old Rosa Paredes from Sahuaripa had suffered from madness at the time she delivered her infant. They also suggested that Paredes suffered from a heart condition and epilepsy.⁶⁶ In earlier decades, when Sonora had fewer doctors, judges called on midwives to inspect cadavers, as happened in 1863 in the trial of María Sava López.⁶⁷ By the 1890s, however, courts in larger towns required registered doctors who also had more formalized training in the law and in prescribed investigative methods in infanticide trials.⁶⁸

A case involving a 27-year-old married woman, doña María de Sanchez, illustrates both the growing influence of doctors in framing how judges understood evidence, and the importance of having the resources to hire a lawyer who was knowledgeable about the latest medical findings related to puerperal illness. Unlike most women accused of infanticide, doña María de Sanchez could afford to bring in medical experts on her behalf during her trial. In 1895, in the port city of Guaymas, a young male servant discovered the remains of an infant in the latrines of the Hotel de Comercio. The infant's body had evidence of contusions and a fractured skull, so court officials, including a judge, the police sergeant, and a doctor, agreed that they were dealing with a case of infanticide. Their investigation led them to Sanchez when the hotel's laundry woman, María Jesús Alvarez, reported finding large bloodstains on the clothing and sheets coming from Sanchez's room. During her second interview with the judge, Sanchez confessed that she had given birth to the infant on the fourth day of her stay at the hotel. Sanchez, originally from the state capital of Hermosillo, claimed to have suffered from severe headaches

65. See Kathryn A. Sloan, *Runaway Daughters*, 169; and James Alex Garza, *The Imagined Underworld* (Lincoln: University of Nebraska Press, 2007), 140.

66. "Que padece locura intermitente." Criminal contra Rosa Paredes por infanticidio, September 1, 1900, AGPJ/FJP, Hermosillo, Tomo 1015, fol. 50.

67. Causa seguida por delito de infanticidio en contra de María Savas López, May 5, 1863, AGPJ/FJP, Hermosillo, Tomo 701.

68. See for example the case against Josefa García involving two appointed *médicos legistas*, Miguel Gutierrez and C. F. Zeller. Criminal contra Josefa García por el delito de infanticidio é inhumación clandestina, October 25, 1907, AGPJ/FJP, Alamos, Tomo 2162.

for several days before the delivery. She said she had been sitting in the latrine when the infant was born so quickly (“*lo expuso fuerte*”) that he dropped hard in the latrine and died instantly. Sanchez also presented a “*medicamento*” she had been taking, phosphoric acid, that she believed had provoked a premature delivery. In shock, she did not know what to do and tried to cover everything up. She was especially worried about how she would explain her situation to her husband in Hermosillo.⁶⁹

The court-appointed medical examiner, Isaac Rivera, found evidence on the infant’s body that contradicted some of Sanchez’s claims. His inspection of the infant’s lungs suggested that the baby was born alive and had drawn breath. He also concluded that the head fractures were too severe to have resulted from simply being dropped in a latrine. Moreover, someone had cut the umbilical cord, which would not have been possible if the infant had fallen by accident as Sanchez had indicated. Sanchez’s lawyer brought in the defendant’s own doctor to testify. The doctor argued that Sanchez’s severe headaches resulted from the fact that she had suffered from a psychotic incident (*trastorno cerebral*) while giving birth, and that while in the throes of her psychosis, she must have fractured the infant’s skull during or shortly after delivery.⁷⁰ In the end, the courts concluded that they could not prove definitively that Sanchez had intentionally harmed the infant, and they acquitted her of the crime.

Sanchez offered a medical explanation of her infant’s death, but one that changed to fit the explanations provided by medical experts, from severe headaches and side effects from her medication to full-blown psychotic episodes that could rationalize skull fractures and even the inconsistencies within her earlier testimony. Her doctor’s testimony was critical to instilling enough doubt for an acquittal. Unrelated but perhaps more important, her lawyer called into question the court’s handling of the infant’s body during the investigation, because court-appointed physicians had failed to check the infant’s lungs properly and had buried the body almost immediately after its discovery.

As a married woman who did not hide her pregnancy, discourses of shame and honor were completely out of the question for Sanchez. Her only defense was illness, and the shifting version of events that she and her lawyer put forward suggests a willingness to experiment with medical explanations that would make sense in light of the existing physical evidence. A dialogue emerged in the trial between Sanchez, the judge, the court-appointed medical examiner, and Sanchez’s doctor that included ingesting bad medication, possible seizures, psychosis, migraines, and premature delivery. Going beyond

69. Contra María E. de Sanchez por el delito de infanticidio, May 22, 1895, AGPJ/FJP, Guaymas, Tomo 1864.

70. Ibid., fols. 30–33.

Sanchez's testimony, judges, court-appointed physicians, Sanchez's doctor, and her lawyer disputed the significance of the physical evidence before them and the accepted role of puerperal illness in determining innocence.⁷¹

Sanchez's case was truly exceptional because of her ability to gain access to a lawyer who understood so well how to navigate an increasingly powerful medical discourse in infanticide trials. The court's preference for physical evidence and stories of illness from the defendants, however, was very much in line with the trajectory most infanticide trials took at the turn of the twentieth century.

CONCLUSION

Sonora's infanticide trials provided a means by which community members and judicial officials gave voice to a multitude of concerns about hidden pregnancies, secret romances, honor and its protection, puerperal illness, madness, motherhood, and the contested meanings of evidence. The trial allowed neighbors and coworkers to expose publicly young women who had lived under the pretense of good conduct. Witnesses used their testimony to exact community discipline, and their accounts reveal that women accused of infanticide often lived in close quarters and under intense scrutiny. The trials also lay bare the complications of talking about honor in a locale where such language did not have deep roots in the courts, especially if a defendant was indigenous, a servant, or an *hija de familia* of humble means. Mexican lawmakers made honor an integral consideration in national laws regulating punishment for infanticide, and they designed those codes to provide leniency to women who committed infanticide to protect their honor. In practice, Sonoran judges generally respected these national rules, but they did so in ways that assured women who used honor to defend their actions spent more time in jail than those who did not talk about honor at all.

Instead, it was another tradition in Hispanic jurisprudence that held sway in the arguments lawyers, doctors, and judges put forward in infanticide trials: the requirement of conclusive evidence to determine guilt. Sonoran judges drew on recognized methods of testing for live births: they generally verified whether the accused women had given birth, and they examined infant bodies for evidence of violence and illness. When local courts failed

71. Sanchez's husband never testified in the trial. No one mentioned him except the defendant herself, at the beginning of her testimony, when she worried about how she might explain their infant's death to him. It was unusual for fathers to receive attention in these trials.

to carry out these prescribed investigative methods, they risked having their sentences reversed on appeal. Such attention to empiricism and to physical evidence on the bodies of mothers and infants may appear decidedly “modern,” but in fact, the emphasis on prueba plena was part of a long legal tradition that Sonora’s local judges had embraced since the early republic. The courts had long placed a premium on conclusive proof and material evidence in deliberations, making the emergence of a positivist, professionalized medical discourse about puerperal illness attractive to judges and lawyers, who relied on clear manifestations of physical illness to make their arguments.

The new medical discourses in Sonora’s courts grew out of the stories and deeds of many kinds of actors, including the humblest defendants, legal-medical experts who wrote investigative protocols, lawyers, judges, and court-appointed physicians. Mothers were more than passive recipients of new ways of talking about their bodies and childbirth. Women such as Inéz Escalante and doña María de Sanchez were strategic participants in the creation of new ways of understanding pregnancy and the new intersections between obstetrics and criminal law.

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