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Agency, Protection, and Punishment: Separating Women's Experiences of Deposit in Early to Mid-Colonial New Spain, 1530–1680

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Abstract: In the diverse multiethnic setting of colonial New Spain, women faced challenges in separating themselves from marriages they considered unendurable. The Catholic Church, which exercised hegemony over definitions of marriage in the colony, controlled access to permanent, formal separation or “ecclesiastical divorce”, while secular courts offered shorter-term separations generally aimed at reunifying couples. Outside of these options, flight, concealment, and bigamy, or “self-divorce,” offered the only recourse for women seeking to leave an untenable relationship. While it is well known that few women sought (and even fewer were granted) ecclesiastical divorce, it is clear that many women sought separation through formal and informal means. Using ecclesiastical petitions for divorce, this paper investigates the experience of deposit (*depósito*) for New Spain's separated women. Deposit was likely a primary goal of women's divorce petitions. Moreover, the hegemony of marriage was less complete in reality than in ideology; the number of single women in the colony is now known to be vast, and their networks substantial. Building on Bird's and Megged's insights on separation and singleness, this paper argues that studying deposit reveals a custom that offered women of all classes a substantial degree of respite and agency in separation, particularly in the early colony, when institutional options were less formalized. Sometimes, *depósito* permitted lengthy separations that blurred into permanency, while at other times it served as a crucial safety valve. Nonetheless, the practice was a contested terrain on which husbands also sought to exercise power and control. Deposit, therefore, was a highly ambivalent form of “separation” in Latin America. This was undoubtedly true both in the early-colonial period and thereafter, but as colonial society matured and institutional deposit became more possible and common, men's power was enhanced. Studying the practice before the late seventeenth century therefore reveals some of the ways that early colonial societal flux authorized female agency.

Keywords: New Spain; *depósito*; divorce; women



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1. The Spanish–American Marriage Regime

The marriage regime that obtained in colonial New Spain was very similar in form to that of the Spanish metropolis, guided by the marriage contract as detailed in the thirteenth-century *Siete Partidas*; by the uneasily coexistent principles of consent, love, and honour; and by the ethos of male dominance, which cut across classes (Seed 1988; Boyer 1995, p. 163). These principles framed an ideological construction of marriage as foundational to good order and virtuous living. The transplanted Spanish marriage model was nonetheless altered by colonial realities such as the desire to impose monogamous Christian marriage upon Indigenous people whose own customs were very different and included polygamy; anti-corruption and centralist requirements such as the one forbidding Spanish officials to intermarry with local women in the areas of their jurisdiction; and the overall lax sexual regime that accompanied conquest and colonization, manifesting itself in an even greater prevalence of concubinage and illegitimacy than was usual in Spain (Arzate Becerril 2005, pp. 82–84; Cope 1994, p. 68).

As a result, on one hand, colonial practice departed sharply from the Spanish colonial ideal; on the other hand, the centrality of Christian marriage was if anything exaggerated by the colonial effort to impose Christian social norms. Thus, a sixteenth-century description of an Indigenous parish enumerated its 3773 inhabitants as “1264 married people, 106 widowers, 407 widows. . . 373 boys and 339 marriageable girls” (AGI 1570), as if no one, particularly no female, could exist who was not in some way encompassed or defined by a relationship to marriage: current, past, or future.

2. Marital Dissolution

Marriage was indissoluble in colonial Spanish America. There were only two exceptions to this rule: annulment, or *divortium quo ad vinculum*, and “ecclesiastical divorce”, or *divortium quo ad mensam et thorum*, generally referred to as “separation of board and bed” (Bird 2013). Only the first of these, annulment, completely dissolved a marriage so that an individual could remarry. Annulment was essentially a statement that a marriage had never existed because of some defect. Lack of free consent, impotence, a previous marriage by one partner (bigamy), heresy of one partner, or consanguinity were the only reasons for annulment to occur, and such impediments were investigated thoroughly. Annulment was therefore rare. Ecclesiastical divorce was only slightly more common, however. Bird (2013) studied 110 sixteenth- and seventeenth-century divorce cases in the Mexican National Archive, determining that 83 divorce petitions were unresolved, 15 were granted, and 12 were denied (Bird 2013, p. 132). In some of the many unresolved cases, it can be assumed that the couple reunited. However, Bird argues that many unresolved petitions reflect the actual intention of the (largely) female petitioners, who were more interested in achieving *depósito* (and an order for payment of sustenance) than a definitive legal separation (Bird 2013, p. 133). While Bird offers an encyclopaedic, nuanced, and thorough overview of divorce and argues for women’s canny use of legal instruments, he does not explore distinctions between the early to mid-colonial period and later norms. Amos Megged also comments on deposit in his excellent chapter on marital dissolution, but the focus of his monograph is primarily on plebeian single women and the networks they forged. This article adds to the insights of these and other scholars through the exploration of additional cases relating to deposit, a sole focus on deposit, and emphasis on the early colony. *Depósito* may have been less a temporary byproduct of the divorce process and more its actual goal, particularly before institutional options multiplied and became increasingly carceral in the late seventeenth century. Understanding the variability of deposit adds to our understanding of how gender norms and women’s experiences varied across the colonial period. However, as detailed below, deposit was always far from a permanent or reliable reality.

3. From Formal to Informal: The Continuum of Separation

There were various forms of informal separation available to women, all of them illicit to some degree. The most common was fleeing to the home of a close relative, usually a mother, and refusing to leave. Plebeian women might “run away” for a period of time, sometimes repeatedly, taking a break from intolerable or abusive husbands (and mothers-in-law) (Boyer 1995, p. 131). Such separations might operate as a safety valve but might also blur into a longer-term strategy of de facto “self-divorce”, in which a woman remained separated and even sometimes contracted a new consensual relationship or marriage (Boyer 1995, pp. 138–40). The latter was, however, a rare strategy, since it constituted grounds for justifiable homicide on the part of the aggrieved husband, and in the case of remarriage, for prosecution by the Inquisition. Women had arguably less access to this form of informal separation because of their lesser spatial mobility; men, particularly mobile workers such as muleteers and miners, were more likely to self-divorce (Boyer 1995). In addition, women were more affected than men by the dangers of lethal spousal violence that accompanied any attempt at flight. Overall, then, plebeian women were more constrained than their men with regard to informal options; yet they were arguably better positioned to separate

informally than elite women. Megged (2019, p. 44) notes that living apart without the benefit of divorce was reasonably common for “people of [humble] social standing and racial affiliation”.

Other options for deposit opened up to women higher up the social ladder. Elite women in particular might have sought refuge in a convent without waiting for a formal order (Bird 2013, p. 285). This was the strategy pursued by twenty-seven-year-old Doña Lorenza de Esquivel, an elite Spanish woman who successfully divorced her husband in 1649 (AGN 1649). Her voluntary reclusion did give Esquivel’s husband an opportunity to claim that her family was interfering; as a result, an interview was conducted at the convent of San Gerónimo to ascertain Esquivel’s true wishes. She unequivocally stated that she was in the convent of her own free will, and that she desired a divorce “with all her heart” (AGN 1649, f. 24). Esquivel’s advocate even contested the notion that she needed a divorce in order to enter the convent, noting that “law permits that an innocent spouse may enter into religion if he or she wishes, and thus [a spouse’s] denial is superfluous” (AGN 1649, f. 28). Recourse to religion, then, offered (at least to elite women) another option for informal separation. While women of more modest status were unlikely to be able to profess as nuns (lacking requisite dowries), they did consign themselves to religious lives in *casas de recogimiento*, a practice that husbands characterized as desertion (Megged 2019, p. 59).

Formalizing separation required a successful petition for ecclesiastical divorce or annulment. Only in such circumstances would a woman be legally entitled to live indefinitely apart from her husband and to demand the return of her dowry and any other assets. The implications of such a “divorce” were summarized in typical terms by the advocate for Catalina Sánchez, who sought separation from her verbally and physically abusive husband in the early seventeenth century: “I ask and supplicate that, declaring the said causes sufficient, you order divorce and separation between the two, *quo ad torum et mutuum cohabitatione*, and the return of the dowry that he received” (AGN 1617, n.p.).

4. The Nature and Experience of Deposit

Deposit, or *depósito*, was a practice with deep roots in the gendered Spanish concept of enclosure or *recogimiento* and was found both in Iberia and its colonies (Van Deusen 2001, pp. 81–100; Bird 2013, pp. 174–75). Kristin Ruggiero has called it a “system of control of women that can be traced back at least to the sixteenth century in Latin America and Europe” (Ruggiero 1992, p. 254); notably, Ruggiero’s focus is on the nineteenth century, by which time the institution of deposit had a markedly institutional and carceral character. Nonetheless, in both metropolitan and colonial contexts, enclosure, especially though not exclusively the enclosure of women, functioned as a model of order and a proxy for Spanishness (Graham 2019, pp. 2–3; Van Deusen 1997, 2001). As the proverb had it, a woman needed either a “husband or a wall”. Thus, while it is well known that colonial society deviated strongly from this (masculinist) ideal, authorities dealing with marital separation accepted the widespread notion that enclosure of women, especially those seeking to escape their husbands’ oversight, was a social good, protective, and productive of order. Essentially, the system placed women into some form of protective enclosure during a period of marital breakdown or attempted marital dissolution. However, *depósito* was not confined to cases where marital dissolution was sought. In the late colonial period, it was utilized to remand women while disputes over parental consent to their marriages were heard—or, indeed, to intimidate them into recanting their marriage promises (Seed 1988, p. 179). While most formalized in cities, deposit was also used in rural settings, including Indigenous villages, to protect women who were being beaten or to sequester women accused of wrongdoing, though very seldom in cases of divorce (Kanter 2008, pp. 82, 86).

However, the feminized concept of deposit could also apply to male subordinates; for example, a slave who complained of mistreatment might also be remanded to an honorable house where he would be held in deposit. As Steve Stern notes, “females and possessed

persons . . . required not only protection from abusive masters but ongoing supervision that sharply restricted their freedom of physical movement” (Stern 1995, p. 163). Silvia Arrom also emphasizes the carceral nature of deposit as a remedy for the “diabolical deceit” of women who launched divorce actions to escape supervision and pursue “vice”, in words utilized at the Third Mexican Provincial Council in 1585 (Arrom 1985, p. 212). As this implies, enclosure was “an individual, lived experience” (Graham 2019, p. iii) of paternalism and an amalgam of protection and control.

In keeping with the nature of Spanish society, *depósito* was highly formalized. Figure 1 demonstrates, deposit required a notarial order and documentation of every step in the spatial transfer of the remanded person (Bird 2013, p. 176). In addition, the image demonstrates the multiple uses of *depósito* beyond marital dissolution. In this case, a regional Inquisition official (*comisario*) ordered the removal of a mixed-race Indigenous–Spanish (*mestiza*) servant girl from her master’s home and her formal deposit or remanding “because it is useful for the purpose of God”—likely for reasons of sexual impropriety in the home, though other causes are possible. *Depósito*, then, was not merely an instrument in divorce cases, but a paternalistic strategy for the protection and control of many categories of “legal minors”.

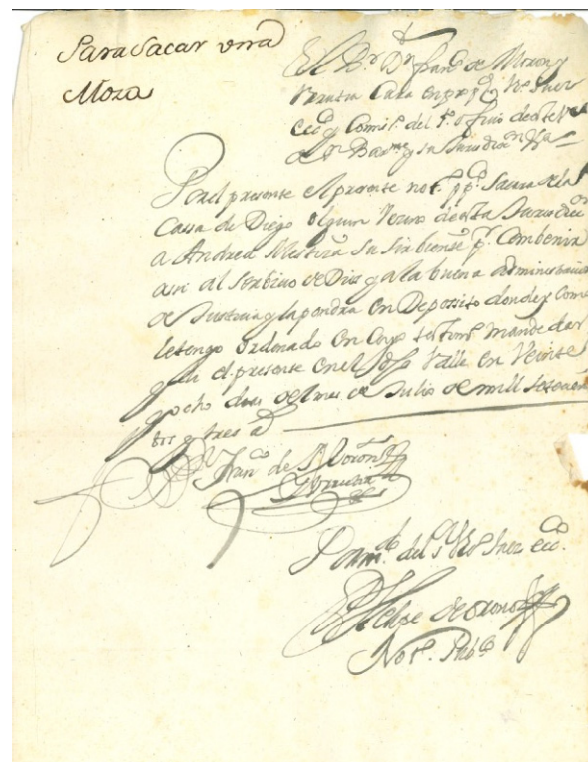


Figure 1. “Para sacar una moza”. Orden para sacar a Andrea, mestiza, de la casa de Diego Olguín y la deposita en otra parte [Order to remove Andrea, *mestiza*, from the house of Diego Olguín and deposit her elsewhere] (Mexico 1672, author’s collection, original).

Given the prevailing ideologies of marriage, deposit was *de rigueur* in cases where a woman sought to be legally separated from her husband (Arrom 1985; Bird 2013). Deposit of would-be divorcées accorded well with the ideology of gendered social order and reassured a woman’s husband by protecting her (and thus his) honour (Bird 2013). Enclosure also served to signal to women that petitioning for divorce was not an easy escape from surveillance, addressing social anxieties about women’s desire to escape male authority (Arrom 1985). Importantly, however, enclosure also protected a woman from her husband’s violence during the period of separation, known today as the period of highest risk for lethal spousal violence (Brownridge 2006). While it cannot be determined whether separated

women faced a similarly elevated risk in colonial New Spain, Arrom argues in her study of late-colonial Mexican divorce that the Hispanic custom of *depósito* served as a “blessing for some women” who would otherwise not have dared to file suit against their husbands (Arrom 1985, p. 212).

Evidence from the extant early colonial cases makes clear that the protective aspect of deposit was always a necessity. The lawyer for twenty-two-year-old Luisa de Vargas, petitioning for divorce in 1566 on the grounds of *sevicias* (extreme cruelty), stated her case plainly: “with [my husband] I do not have, nor can I have, a secure life, and it is a useful thing to order us to separate and divide so that I can be protected and secure so that he does not kill me. . . . Because I fear that knowing of this, my husband will kill me, I ask that you deposit my person in some place where I will be safe” (AGN 1566, f. 116r–v). A few days later, she was deposited in the home of Juan de Bilbao, a Mexico City merchant, and his wife, and Luisa’s husband was ordered not to enter the home or harass her in any way (AGN 1566, f. 120). Though Luisa would abandon her divorce suit at the urging of friars and later bigamously “self-divorce” with a new partner (AGN 1569, p. 117; Boyer 1995, p. 139), her deposit provided at least some respite from her husband’s violence.

Deposit could take several forms. As Luisa’s case demonstrates, a woman could be deposited in a respectable private home or “honourable house” (*casa de honra*) (Bird 2013, p. 174; Megged 2019, p. 9). Van Deusen found that two thirds of Lima (Peru) *divorciadas* petitioned for this option (Van Deusen 2001, p. 92). Alternatively, a petitioner might be remanded to a *casa de recogimiento*, or house of reclusion, often one designed to house penitent women. Houses of penitence (or “Magdalen houses”) were established all over Europe in the sixteenth century, primarily for women who were either currently engaged in prostitution or were perceived as being in danger of succumbing to it because of their youth and destitution (Viforcós Marinas 1993). In Mexico City, the convent of Jesús de la Penitencia was established in 1572 for the voluntary reclusion of former prostitutes; the *recogimiento* of Santa Mónica followed, in 1582, with a focus on the deposit of women “because of the absences of their husbands and fathers, . . . because of divorce and matrimonial suits, and others to be enclosed and honoured, and others to wait for their remedy” (Holler [2003] 2005, p. 135). As the colony matured, institutions that blurred the distinction between religious women and “recollected” women gave way to more carceral options. Mexico City’s Hospital de la Misericordia was established in the early seventeenth century to receive and “correct” street prostitutes. Throughout the seventeenth century, it was used for this purpose by the criminal courts, but it also served as a remand centre for women seeking divorce until all women were transferred from the hospital to the *recogimiento* of María Magdalena in 1692 (Megged 2019). Over time, then, and by the end of the seventeenth century, the system of *depósito* grew more formalized and more carceral. By the late colonial period, *recogimientos* were more frankly prison-like and also much more likely to house racialized (*casta*) and lower-class women (Gargiulo 2021). In early colonial Mexico City, however, there were numerous options for the deposit of women and arguably a less punitive and hierarchical system. Studies that emphasize the later colony and its more numerous cases may therefore overstate the coercive and carceral character of deposit.

Outside of Mexico City, other institutions might be used to confine women. In Puebla in 1695, Thomasa Gerónima de Olea, a mixed-race African–Spanish (*mulata*) woman, was charged with and convicted of bigamy, normally a very serious religious crime. Her sentence was nonetheless commuted, and she was sentenced to five years’ enclosure in the Sanctuary of Our Lady of the Remedies (*Sanctuario de los Remedios*) in Cholula (AGN 1695). This institutional fluidity was replicated throughout the Spanish Empire. In the Philippines, Manila’s Colegio de Santa Potenciana was established in the late sixteenth century, initially as a home for orphaned maidens of Spanish or mixed (*mestiza*) descent. By the seventeenth century, it housed not only young girls but also women requiring “reform” and women who were remanded pending divorce decisions. Not until the eighteenth century would Casa de Recogidas, a true *recogimiento*, separate the two groups (Graham 2019, p. 16). Thus,

the more fluid character of early colonial deposit likely persisted for longer outside of Mexico City and Lima.

In a late colonial *casa de recogimiento*, “dozens of women” might be deposited at once, often along with their children and servants (Bird 2013, p. 175). Not surprisingly, such confinement could mean poor conditions and inadequate food (Megged 2019, p. 52). Husbands were legally bound to pay their wives’ deposit costs and could be excommunicated or shamed if they defaulted (Van Deusen 2001, p. 97). That said, many did not pay. Sometimes, husbands pleaded poverty (probably with some justification in many cases). In other cases, they simply ignored the orders. Whatever the case, women could end up indebted to *recogimientos* for unpaid board, a situation that dogged Doña María de Villar in the 1660s, when she engaged in a nine-year battle (ultimately successful) for separation from her plebeian husband. While he continued to shirk his duty to pay, her debts mounted, demonstrating judges’ limited ability to compel men to support their wives (Bird 2013, p. 179).

In addition, particularly in later colonial New Spain, quasi-institutionalized *casas de depósito* or private shelters might also receive women (Megged 2019, p. 57). Finally, formal deposit in a women’s convent was a relatively rare form, shown to be experienced by about 5 percent of women in Bird’s (2013) study and even fewer in Lima according to Van Deusen (2001).

Deposit in a private home was likely the most common scenario in early to mid-colonial New Spain because of the paucity of institutional options in most areas. Despite being private, deposit was highly legalized, generally including a contract that stipulated expected provisions and expectations. Private deposit offered separating women some choice of location. For example, in 1678, Isabel de Guzmán was deposited “in the house of her choice”, and the most common arrangement in the extant cases is some form of residence with relatives (Bird 2013, pp. 128, 275). Deposit in private homes, especially those of non-relatives, implied a financial burden for hosts; where a woman’s husband was unable or unwilling to pay, the burden fell on the hosts or *depositarios* (Arrom 1985). It is therefore striking that not only family members but unrelated middle-class and elite householders proved generally willing to shelter *depositadas*. Of course, an indigent woman might be expected to provide domestic service in lieu of money (Stern 1995, p. 163). Gabriel Haslip-Viera has therefore suggested that in practice, the deposit of poor women, whether divorce seekers or “wayward” women, allowed middle-class families to access “a steady supply of inexpensive or gratuitous domestic servants” (Haslip-Viera 1999, p. 126). Still, widespread participation in the sheltering of women suggests social concern, protective paternalism, and the Christian obligation of charity, whether toward divorce-seeking women or the much larger group of deposited women accused of minor offences, overwhelmingly sexual offences such as fornication, concubinage, and adultery (Haslip-Viera 1999, p. 126).

Even though deposit may have been women’s aim in launching divorce cases in the first place, women seem to have viewed the *experience* of deposit with ambivalence. First, while deposit was protective, it carried carceral overtones. When Luisa de Vargas was deposited in the Bilbao home, she was formally admonished “not to be reckless and break [enclosure], nor leave the home in any manner without the express licence and order of the ecclesiastical judge under pain of excommunication” (AGN 1566, f. 120). Because of the multiple uses of deposit to curb female insubordination and immoral conduct (perceived or actual), *any* deposit could connote stigma. While the language of deposit generally conveyed protection rather than imprisonment, Deborah Kanter claims that women found deposit “odious” (Kanter 2008, p. 94). And the language could be much more frankly carceral in particular cases. When the bigamist Thomasa Gerónima de Olea, confined to a sanctuary for five years, fled and was recaptured, the local Inquisition commissary described her as “imprisoned in his house” rather than deposited (AGN 1695, f. 119). In addition, the material privations of deposit could make it intolerable.

Indeed, precarity and mobility marked many women’s experiences of deposit. This can be seen even in the most elite case studied here, that of Doña Ana de Prado, who

filed for ecclesiastical divorce in 1565. Doña Ana was an ethnic Spaniard and wife of Gonzalo Cano, *encomendero* (holder of Indigenous tribute) of Tacuba, a grandson of the Aztec emperor Moctezuma II, and member of an important transatlantic conqueror family. Married for twelve years at the time of her petition, Doña Ana related a lengthy list of her husband's abuses, confirmed by witnesses, and detailed his prolific adulteries. For his part, Cano was at the time imprisoned for debt, and this may have been therefore a good opportunity to flee the relationship.

On 19 October 1565, Doña Ana's advocate, Blas de Morales, requested deposit because of fears for her safety. She was deposited in the house of Antonio de Oliver and his wife the following day. In the meantime, her lawyer sought payment from Gonzalo Cano for Doña Ana's sustenance and legal fees and asked that Doña Ana be sent "a Black woman" to serve her. All requests were approved. Soon afterward, however, "being ill and having no one to serve her", Doña Ana requested a new deposit in the home of Diego de Grijalva, her sister's husband. This was duly approved on 7 November (AGN 1565, 220v). No money had yet been forthcoming, so on 16 November, the erring husband was again ordered to pay 100 pesos for Doña Ana's sustenance and lawyer's fees. While Gonzalo Cano continued to fight his obligations, Doña Ana's experience of *depósito* was one of the better ones. Her wishes were honoured; she managed to work her way back into a family home, and if her sister and brother-in-law were not immediately reimbursed for her sustenance, they at least had the means to care for her in the short term. The file ended in March 1566 with the case still pending, so at the very least Doña Ana was separated from her husband for five months. In this case, an elite woman was able to determine the location of her own deposit and land with her family, making her experience of separation less precarious than some.

While class likely affected women's chances of deposit in a private home, such deposit seems to have correlated with other indices of vulnerability, such as age. Megged (2019) mentions two teenagers who experienced deposit to private homes. The first, Catalina Martín, was fifteen and sought deposit in 1555 to escape her violent husband. Placed in the home of Dr. Pedro López, one of Mexico City's most eminent citizens and a keen philanthropist, she was still domiciled there four years later (Megged 2019, p. 46). The second, the mixed-race (*mulata*) Brigida de Arteaga, was only sixteen in 1666, when she was deposited in the home of a respectable lady pending the outcome of Arteaga's divorce case (Megged 2019, p. 44). Very young women with living family were probably most likely to be deposited with them. This was the case for Juana de los Reyes, who was twenty years old in 1623 when she sought divorce from her apparently abusive thirty-three-year-old husband, to whom she had already been married for seven years. Even more shockingly, Juana (at thirteen) was already a widow when the couple married. Even for New Spain, where marriage ages were lower than in the metropolis, Juana was a very young wife. In the event, she was ordered deposited in the Puebla home of her father, and her marriage was finally annulled two years later (AGN 1623).

Like youth, egregious abuse may have produced a more protective institutional response in the form of private deposit. In 1678, the Indigenous woman Francisca Magdalena complained of extreme violence and desertion and was deposited in an elite private home (Megged 2019, p. 54). Another sufferer of brutal marital violence, also a plebeian, managed to shape the terms of her deposit to her liking. Gertrudis de Vargas was an ethnic Spanish woman married to Miguel Martín and living in Mexico City. She initially complained of his maltreatment to the civil high court (*audiencia*) in 1648, only two months after their wedding. Vargas was initially deposited in the house of Miguel Almonaci, secretary of the Inquisition, "until the truth be ascertained" (*hasta averiguar la verdad*). She was then returned to her husband with an admonition that he treat her well. Instead, Martín treated his wife even more badly and dissipated her belongings and dowry. In April 1649, she made another complaint before the high court, displaying the marks of her husband's violence. By October, when she petitioned for annulment or divorce, her husband had attempted to kill her by strangulation and had broken her finger. A deposit order was issued remanding Vargas to the *recogimiento* of María Magdalena. She resisted the order, noting that she was

very poor because her husband had dissipated her assets, and therefore had no money with which to support herself. She therefore asked that she be deposited in Miguel Almonaci's house or in that of Juan de Tapia, another resident of the city. Her request was upheld, and she was ordered re-housed with Almonaci and his wife (AGN 1649; Megged 2019, pp. 52–53). Though of considerably lower status, and with her meagre wealth dissipated, Vargas still managed successfully to petition the court and to avoid confinement in the *recogimiento*. Since she had no money, it may have been expected that she would contribute to domestic work in the Almonaci household, but she clearly preferred that option to the institutional one.

Similarly, in 1686 Margarita de Porras was deposited in the *recogimiento* of Santa María Magdalena after an initial private deposit in the home of a Mexico City surgeon. Soon she was complaining of inadequate food and clothing and was therefore transferred to another private home to recover for a month (Megged 2019, p. 54). Mexican women's preference for private deposit is clear and logical, given its relative intimacy, better conditions, and lesser punitive implication. For their part, male authorities seem to have responded to women's concerns and permitted some degree of choice and agency to enclosed divorce-seeking women.

Husbands, on the other hand, generally had quite a different view of *depósito*, particularly when they were paying its costs and a divorce suit dragged on, as was particularly likely in rural or remote settings. In an undated petition from Durango, a town in Northern Mexico founded in 1563, don Gerónimo de Pereira complained that his wife had remained deposited for four years. While this is one of the longer deposits in the cases studied here, protracted deposits were far from uncommon (Megged 2019). Moreover, Pereira claimed his wife enjoyed extreme liberty instead of decent enclosure:

Many times, and on various bases, I have said to this tribunal that my wife's house of deposit, is, has been, and will be highly suspicious to me; I came to the tribunal to present a letter from one of the seducers, protectors, and insinulators in the case of my wife. . . the circumstances of the letter are to state that the custodian of my wife herself, and at her suggestion, has introduced her lovers so they may sleep with her. (AGN n.d., f. 2)

Don Gerónimo went on to argue that under the circumstances, he should not be obliged to accept his wife back or to continue to support her while she lived in what he described as "prostitution". Because the case is fragmentary, it is impossible to tell whether the couple were eventually reconciled or whether the lengthy separation simply continued into the future. In the cases assembled here, this is one of the longer separations. It is impossible, of course, to determine the accuracy of Don Gerónimo's claims from a fragmentary record. Nonetheless, the case points to the persistence of the more fluid early colonial model of deposit in rural and remote regions of the colony. In addition, there is evidence of laxity in some cases of deposit. For example, Bird (2013) discusses the case of Doña María Ignacia Ceballos, who became pregnant while ostensibly enclosed in a *recogimiento* in the early seventeenth century. The case suggests that even more stringent institutional enclosure was not a failsafe guarantor of honour (Bird 2013).

That said, husbands apparently felt more positively inclined toward *recogimientos* for precisely the reasons that wives disliked them: stricter enclosure and a more punitive connotation. Van Deusen found that Liman husbands considered deposit in private homes too lax and overly conducive to female liberty and male dishonour. In Mexico City, the ideology of a "husband or a wall" was powerfully expressed in the rhetoric of Hector de Fonseca, who resisted his wife's divorce suit in 1570. He had been subjected to public penitence by the Inquisition, grounds for divorce, but he resisted strongly. In a practised hand, Fonseca warned of the societal risk if women were permitted to leave their husbands "through much neglect of children, who will be orphans, and through the liberty and looseness that these women will fall into without their husbands" (AGN 1570, f. 189).

Some men manipulated deposit to ensure their rights and, perhaps, to make it as unpleasant as possible for their wives. Costanza de Rodriguez, a plebeian Spanish woman

in her fifties, sought to divorce her thirty-five-year-old husband in 1619 on grounds that he had beaten her and dispersed her assets. Initially, she was deposited in the home of Juana de Magallanes—unusually, a household apparently without a male head, but perhaps an appropriate enough location for a mature woman and property owner in her own right. Rodríguez’s husband contested the deposit, however, asking that his wife be moved to the *recogimiento* of Santa Mónica. He claimed that in the current location, “enclosure is not kept as it should be” (AGN 1619, f. 255). Rodríguez contested this assertion, stating that she was very virtuous and enclosed (*recogida*) in the private home, and that no one had entered to visit her (AGN 1619, f. 282v). Nonetheless, when Rodríguez’s husband paid the *recogimiento*, she was moved there by official order. About a month later, she dropped her suit and asked to be released from the *recogimiento*—a victory for her husband, and proof that deposit, ostensibly a respite and a benefit to women, could become part of the marital battleground and an instrument of husbandly coercion. This case highlights how institutional options may have tipped the scales in favour of husbands. Given the growth of such options from the late seventeenth century on, it is not surprising that late-colonial and republican historians tend to regard deposit as more an instrument of patriarchal power than a respite for women.

Husbands were generally required to stay away from their deposited wives but did not always comply. Doña María de Toledo, who sought to divorce her abusive husband in 1667, was deposited in the home of a royal notary and his wife. The custodial couple were alarmed when Toledo’s husband showed up twice demanding to see her. “Fearing that he might commit some excess”, they urged action to prevent further incidents. The husband was firmly ordered to stay away from the house or face penalties, as well as to pay his wife’s expenses (AGN 1677, pp. 39, 45, 46). However, the ease with which husbands accessed their wives in private deposit may explain why, in Lima at least, many women who initially requested private deposit later repented to be transferred to institutions where they would be more protected from attack (Van Deusen 2001).

5. Conclusions: Agency and Constraint

In sum, then, deposit is worthy of study as a distinctive form and strategy of separation. It was, on one hand, the very expression of patriarchal values, ensuring that women who separated from their husbands were held in protective custody. On the other hand, *depósito* also limited *men’s* sphere of action, constraining their ability to coerce their wives either through violence or through denial of financial support. It therefore forms an interesting contrast to the options available to women outside Spanish lands. Women, particularly those in private deposit, also appear to have enjoyed some liberty, particularly over longer stays, though of course at the cost of greater vulnerability to husbands. Whatever the veracity of Don Gerónimo de Pereira’s claims of adultery and prostitution, the fact that his wife had continued to live in *depósito* for four years, apparently supported by her husband, suggests that even in the absence of divorce, deposit could be a relatively long-term and flexible arrangement. Notably, early to mid-colonial deposit seems to have functioned in a less regular, more fluid, and less carceral manner than its later forms. Studying deposit thus highlights the degree to which institutionalization may have bolstered masculine authority over the course of the colonial period. Deposit is therefore a particularly interesting example of the balance between agency and constraint and control and protection in the lives and strategies of early modern women under Hispanic paternalism.

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