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Marriage and Legitimacy in Mexican Culture:
Mexico and California†

Woodrow Borah* and Sherburne F. Cook**

The question of cultural transfer arises automatically when one deals with the social behavior of immigrants and their descendants to the first or second generation. It becomes unavoidable when one deals with an ethnic group refreshed by continuing immigration and living near enough to the country of origin to have continuing contact with it. Hence, inquiry into patterns of family union among Mexican-Americans in California requires lengthy study of such patterns among Mexicans in their own country. California, like the other southwestern states, has a relatively large minority of Mexican birth and descent. That minority (we shall call its members Mexican-Americans) tends to live at the lower end of the economic scale with most or all of the usual characteristics of poverty.† Its members therefore tend to need public assistance in larger proportion than other racial and ethnic groups except Negroes. Accordingly, their habits of family union and procreation become especially subject to inspection by members of the community who quickly discover a

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† The census of 1960 found 15.7 millions to be the total population of California, among whom there were 1.4 million people with Spanish surnames. Not all people with Spanish surnames are of Mexican origin or descent; on the other hand, many of the children of inter-marriage with other groups would not have Spanish surnames. A reasonable estimate would be that people of Mexican birth and descent in California numbered over a million in 1960, or from seven to eight per cent of the total population. 1 U.S. BUREAU OF THE CENSUS, DEPT OF COMMERCE, CENSUS OF POPULATION: 1960, pt. 6, at xiii, ix (1963). For information on the economic status of Mexican-Americans in the southwestern states, see Fogel, Education and Income of Mexican-Americans in the Southwest (University of California, Los Angeles Graduate School of Business Administration. Division of Research, Mexican-American Study Project, Advance Report 1. November, 1965).
relatively high percentage of common law or informal family unions and a consequent higher percentage of illegitimate children. At this point there arises a series of questions of public policy that are often settled by default rather than by careful consideration by appropriate instrumentalities. Such questions in the end will have to be considered somewhere. However, we shall not do so here. Our question is another: Is the higher percentage of informal family unions among Mexican-Americans a characteristic of poverty, shared with other poor groups? Or is it a carryover of patterns in Mexican culture? If the latter is true, the fact that certain other groups show similar behavior means only convergent behavior arising from different causes; that is, not all patients with fever have typhus.

"Marriage" we define as the association of a man and woman in a household for purposes of sexual intercourse, procreation, and such other cooperation as they may choose to give each other. Without a defining adjective, the term means legal marriage, one entered into by formal ceremonies and duly registered as required by law. The children of such unions are legitimate, that is, known as to both parents, entitled to support during minority from both and, if there is property, to a share in the inheritance. To change these relations requires express written instrument or court action. "Marriage" with such defining adjectives as "common law" or "informal" indicates that the family union has been entered into without all required formalities. The definition here is complicated because in Mexico such a union may have been blessed by the church but does not meet the statutory requirement of a civil ceremony. Children born to couples in informal union, however stable and long-term, are illegitimate, bastards in stark English. In most of our states and in most countries of the world, they are far less likely to be entitled to support from both parents during minority or to a share in property, especially that left by the father. Although during recent decades there have been changes in many jurisdictions in the rigorous medieval definitions, generally these definitions still hold true. They are especially true for people receiving public assistance (although inheritance is less likely to concern them) since the status of being a common law wife or illegitimate child may well affect the quality and extent of aid.

The study that we propose is neither easy nor simple. It requires examination both of Mexican law and custom, on the one hand, and of experience in California, on the other. For both territorial units, the topics

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2 They are: (1) Is it proper for welfare agencies to impose upon their clients a morality beyond that required by law of other sectors of the population? (2) To what extent should it be public policy that all groups within society must conform to a uniform pattern of morality, namely, what is often called middle-class morality? (3) Are the agencies administering public assistance the proper bodies for making and imposing such a decision?
to be covered are surprisingly little explored. For Mexico, national statistics can be used since we are interested in the entire country, but to go behind the statistics or to look into formation of present patterns means a lengthy historical inquiry for which we must hunt for data. As for California, where we deal with a part of the population, the ordinary statistics do not contain the information desired. The man who would study the marital habits of Mexican-Americans must do his own digging. As a result, data for this study are far sparser than desirable. Another consequence is that the two parts of the study, both necessary if one is to look into possible cultural transfer, are based on different kinds of data and forced to follow the data into different though connected explorations. Part I of the study is a long historical examination of the formation of patterns of marriage and legitimacy in Mexico. It addresses itself to origins, earlier forms, and present-day characteristics. Part II is a study of characteristics found among Mexican-Americans in one part of California, namely Santa Clara County. It examines a small body of relatively current data. In structure and approach, it will be found different from most of Part I, but the two parts are linked and necessary. Each in turn, of course, has independent value.

I

MARRIAGE AND LEGITIMACY IN MEXICO

A. Spanish and Indian Antecedents

Mexico is a national state in territory conquered by the Spaniards from Indian tribes, many of which were of highly developed culture and political organization. Unlike the United States, the present-day Mexican population is descended in large proportion from the aboriginal inhabitants and in much smaller proportion from Spanish and European ancestors (with some Negro admixture). But Mexico is Spanish-speaking and in its cultural heritage has been far more completely Europeanized than genetic proportions would indicate. Accordingly, we must look to both a Spanish and an Indian heritage.

Mexico's Spanish heritage contained widely differing, indeed virtually irreconcilable, components of law and custom. Spanish law on marriage and legitimacy as it came to Mexico was essentially late Roman law. The law was restated by the church, which made two major changes. One

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3 See, for example, how sparse is the bibliography for Mexico from the brief discussion in Iturriaga, La Estructura Social y Cultural de México 12-23 (1951).

4 Beltrán, La Población Negra de México passim (1946); Borah, Race and Class in Mexico, 23 Pacific Historical Rev. 337-39 (1954).

5 Cline, The United States and Mexico 24-87 (1953); Borah, supra note 4 at 337-39.

6 See Gaynor, Concubinage, 4 Catholic Encyclopedia 207; articles on various aspects of marriage, 9 id. at 691-715; Jombart, Concubinage, 3 Dictionnaire de Droit Canonique
eliminated the Roman rule of easy divorce and remarriage, replacing it
with a theological and philosophical interpretation which allowed annul-
ment or separation but not divorce. The other discarded the harsh Roman
rule refusing recognition to marriages between slaves or a slave and a free
person, the church declaring both classes of unions, if permanent and
subject to no other impediment, to be true Christian marriages. In Chris-
tianized form, the late Roman law was incorporated into the Siete Partidas
of Alfonso X, the Learned, in the second half of the thirteenth century,
restated in the Nueva Recopilación de Castilla of Philip II in 1567,7 and
remains the basis of Spanish marriage law today.8 Legal marriage was
monogamous, a formal union of man and woman of proper age and status.
Aside from rank, freedom to enter into marriage meant that the parties
were not bound by a previous and undissolved marriage, were not within
forbidden degrees of consanguinity and spiritual relationship, and had
not taken vows or holy orders. For twentieth-century people, the most
unusual of these restrictions are probably those on spiritual relationship
which applied the rules on incest to godparents and godchildren.9 The
ceremony of marriage was a religious sacrament, to be carried out by the
church, although consummation was a private and essential act. Children
born to a couple so united were automatically legitimate from birth. Potentially legitimate children were those born to a couple living together
unmarried but who could be married if they wished. Such children auto-
matically became legitimate if their parents married.10 The rewards of
marriage were high, for only legitimate children could inherit the sur-
names, titles, and property of their fathers. They alone were eligible for
holy orders and higher posts in the church as well as for many posts of
profit and preferment in civil life.11 In keeping with the sacramental
character of marriage, legitimacy and succession lay with church rather
than civil courts.12

Along with this rigid legal category, there existed in folk custom in
Spain a far freer practice that had its origin in prehistoric European
custom13 and was recognized in late Roman law. In the Roman Empire, a

7 The marginal annotations of Gregorio López to Las Siete Partidas del Sabio Rey Don
Alfonso el X show the incorporation of the provisions on marriage, concubinage, and legiti-
macy in the Recopilación de Castilla. LAS Siete Partidas del Sabio Rey Don Alfonso el X
passim (1829-1831) [hereinafter cited as LAS Siete Partidas].
8 On the current law of Spain, see Matrimonio, supra note 6, at 1098-1108.
9 LAS Siete Partidas, Partida IV, Títulos II, VI-XIII.
10 LAS Siete Partidas, Partida IV, Título XIII, Ley I.
11 LAS Siete Partidas, Partida IV, Título XIII, Ley II, & Título XV, Ley IX.
13 Barragania, supra note 6, at 895.
single man and woman not prohibited by vows, marriage, holy orders, or relationship within a prohibited degree might join together without formality for a temporary or permanent union.\textsuperscript{14} Frequently the woman was of lower social status than the man.\textsuperscript{15} She was considered a quasi-wife with certain rights so long as the man did not marry another woman; the children, although not considered legitimate, were termed \textit{naturales} to distinguish them from children begotten in more dubious relationships (\textit{spurii}).\textsuperscript{16} Although the early church frowned upon all temporary unions as an immoral pandering to the flesh; it recognized permanent unions as a true form of marriage even though the partners had not complied with ordinary legal forms and were not recognized as fully married by the civil law.\textsuperscript{17} The efforts of the church were directed toward preventing priests and married men from taking partners or concubines and toward urging that partners in informal unions remain together for life. In medieval Spain, where the custom not only persisted but became widespread, it was called \textit{barragania}, and the woman a \textit{barragana}.\textsuperscript{18} So long as the partners were single and under no impediment that would have prevented marriage, they might live together at will, separate at will, or stay together for life. Their children were not legitimate but \textit{hijos naturales}, bastards with the least stigma attached to the term. Local law and custom in many cities allowed limited rights of inheritance if the father had no legitimate children and had acquired no legal wife.\textsuperscript{19} The status of \textit{barraganas} is carefully regulated in the \textit{Siete Partidas} with the wry comment that "Holy Church forbids that any Christian man have \textit{barraganas}, for to live with them is mortal sin. But the wise men of old who made the laws permitted that some men might have them without civil penalty, for they held that it was a lesser evil to live with one woman than many, and that the paternity of the children would be more certain."\textsuperscript{20} Any man not estopped by holy orders or state of marriage "may have a \textit{barragana} without fear of civil penalty," runs the text, "provided that he take not a virgin nor a girl under twelve years nor a widow of honest life, and that all be done with good witness. And if a man wishes to take as \textit{barragana} a widow or any other woman free from birth who is no longer virgin, at the time he does so, he should make public statement to that effect before respectable men. Should he receive her in other wise, there would be just doubt that she was his legal wife rather than his \textit{barragana} . . . ."\textsuperscript{21}

\textsuperscript{14} Gaynor, \textit{supra} note 6, at 207.
\textsuperscript{15} Ibid.
\textsuperscript{16} Ibid.
\textsuperscript{17} Ibid.
\textsuperscript{18} \textit{Barragania}, \textit{supra} note 6, at 894-96.
\textsuperscript{19} Id. at 895-96.
\textsuperscript{20} \textit{Las Siete Partidas}, Partida IV, Titulo XIV, opening statement (transl. by authors).
\textsuperscript{21} \textit{Las Siete Partidas}, Partida IV, Titulo XIV, Ley II (transl. by authors).
Much more objectionable to church and Spanish rulers was an extension of custom, also under the term *barragania*, that permitted similar arrangements by priests and by married men. The practice became common with the breakdown of central power in the earlier Middle Ages and with the concomitant decline in centralized control of the western church and in church discipline. In the later Middle Ages the revitalized papacy and monarchs forbade such arrangements in persistent battle against customs which tolerated violation of celibacy by many of the clergy and *de facto* polygyny among many of the wealthy.  

The struggle of church and state against folk custom found expression in the remarkable categories of illegitimate children set forth in the *Siete Partidas*:  

*Naturales*—born to *barraganas*;  
*Fornezinos*—born in adultery, from relations with a relative within the forbidden degrees, or to a nun;  
*Manzeres*—born to prostitutes so that paternity is uncertain;  
*Spurii*—born to *barraganas* living outside the man’s house, that is, mistresses or women who may have relations with more than one man so that paternity is not certain;  
*Notos*—born in wedlock but not the children of the husband.

The *hijos naturales* might be legitimated by grace of the civil rule, by testament confirmed by the ruler, by entering the illegitimate son in the service of a royal or noble court or a town in a public ceremony that meant a formal public declaration of paternity, or, in the absence of legitimate sons, by public instrument. Only the Pope might grant legiti-
macy for the purposes of holy orders.\(^{28}\) One further channel of grace for illegitimate children of all kinds lay in a general dispensation that permitted them to enter monastic orders.\(^{29}\) As far as royal enactment then, illegitimate children of all kinds, and particularly those of lesser category than *hijos naturales*, suffered heavy disabilities. Folk practice and the negotiations of noble families obviously mitigated much of the effects of law in particular cases. The bastard of Charles V, Don Juan de Austria, for example, could command the Christian fleets at the Battle of Lepanto.\(^{30}\)

Spanish law and custom thus contained widely differing views on marriage. It was a complex and contradictory heritage that the Spanish brought to the New World.

The heritage of Mexico in Indian rules of marriage and succession is more difficult to describe, even if we confine our discussion to the central part of the country, simply because there were many groups of varying practice which were in the process of being unified into one state. In this unification the Spanish merely carried on the work of the Aztecs and their predecessors in empire. Furthermore, although the pictographic system of writing in use at the time of the Spanish Conquest would have permitted the reduction of custom and precept to a code, there is no evidence to suggest that this was done. Our information is on custom and precept as it was reported by early Christian missionaries who questioned native informants.\(^{31}\) Most of their reporting concerns the Nahuatl-speaking peoples centered around the Valley of Mexico, of whom the Aztecs are the best known, and reflects the interest of the missionaries. For example, we have a careful description of the formal preliminaries and ceremonies of marriage in an idealized description that probably deals with nobles and tells us little or nothing about unions of commoners and serfs.\(^{32}\)

In general, there was formal marriage and determination of legitimacy for purposes of succession to office; title, or property, whether the people involved were royalty, nobles, or commoners.\(^{33}\) Rules differed,

\(^{28}\) *Las Siete Partidas*, Partida IV, Título XV, Ley IV.


\(^{31}\) See, e.g., Sahagún, *Historia General de las Cosas de Nueva España* (1945 ed.).

\(^{32}\) Id. at 562-69.

\(^{33}\) The description that follows is based on the following sources: von Reitzenstein, *Liebe und Ehe in Ostasien und bei den Kulturvölkern Altamerikas* 67-82, 101-04 (1910) (excellent summary of the older literature and chronicles); Spores, Cultural Continuity and Native Rule in the Mixteca Alta 1500-1600, March 1964 (unpublished thesis in Harvard General Library); Alfonso Caso, *La tenencia de la tierra entre los antiguos mexicanos*, Memoria de El Colegio Nacional México, No. 2, 1959, pp. 29-54; Carrasco, *El barrio y la regulación del matrimonio en un pueblo del Valle de México en el siglo XVI*, 17 Revista Mexicana de Estudios Antropológicos 7-26 (1961); Ricard, La "Conquête
however, for the various social strata and from region to region. Hereditary office, for example, might go to brothers rather than sons. In general, polygyny was common among nobles and rulers. It may well have been permitted to commoners, but we have no information on this point. Among the Mixtecos, living to the south of the NahuaL area, the ruler of each of the city states and kingdoms had a principal wife, who had to be of royal descent through all traceable ancestors. Only children of the principal wife could inherit the realm. The other wives, although legitimate, were of inferior status, and their children became mere nobles. Other Indian groups were less rigid in their rules, but even among the NahuaL-speaking groups of the Valley of Mexico it was common to invest a new dynasty with a claim to divine descent by having the new ruler beget his heir on a wife descended from the ancient Toltec rulers. The nobility, in general, chose their partners with some freedom and married in formal ceremonies. The marriage tie was protected by the death penalty for adultery. For commoners, marriage was far less elaborate in ceremony, with far less freedom of choice. The young men of the clan were paired off with young women, whom they might have chosen, but only with the consent or even at the command of the local rulers; the couples were then united in relatively simple ceremonies. Marriage was both endogamous and exogamous in relation to the calpulli, the local unit holding land in common and united by theoretical or actual descent from a common ancestor. How marriages could be dissolved we do not know, although the frequent shifts from one wife to another in the first generation of Christianity suggest that there was an easy way. Similarly, notwithstanding reports by Christian missionaries on the rigidity of punishment for adultery,\textsuperscript{34} later practice in the first generation of Christian converts suggests that among commoners punishment was not invariable. For purposes of inheritance, birth in a union recognized by the community and further ratified by the registration of the offspring in the register of the calpulli was important for free commoners, for such registration carried with it the right to a share in communal land. For the rulers and nobility, formal marriage and recognition of proper descent of children were indispensable to ensure orderly inheritance. For serfs and slaves, about whom we know very little, some form of recognized succession by children must have been necessary to ensure the continued supply of labor and other services for the masters.

The absence of detailed evidence makes any conclusion tentative, but

\textsuperscript{34}E.g., Motolinía, Memoriales 251-52 (1903 ed.).
such evidence as we have indicates that most of the Indian groups of central Mexico had customs of formal unions, whether temporary or permanent, and of formal registry of birth. As among all sedentary peoples, there was need to ensure orderly succession and to determine just who was entitled to what share. The Mexican Indians were thus better able than, say, nomads to receive an even more complicated system.

B. The Transfer of Spanish Law and Custom to Mexico

The Spanish conquest of Mexico in the early sixteenth century and consequent rapid Christianization of the Indians meant the imposition of Spanish law and custom on marriage and legitimacy.36 But, just as the conquest set in motion far more than mere subjugation of the Indians, so the process of implantation was much more than mere overlay upon Indian customs or elimination of them and substitution of Spanish concepts. The Spanish migrated in numbers to the newly acquired realm of the Crown of Castile as, to a lesser extent, did other Europeans. The Europeans brought substantial numbers of Negro slaves, who were settled in the new European cities, on the coasts, and in the sugar regions on the temperate slopes of the central plateau. The immigration of Europeans and Negroes in itself meant a rapidly increasing non-Indian population, but the new groups also interbred with each other and with the Indians to produce an even more rapidly increasing population of mixed bloods. (Those of white and Indian mixture were called mestizos and those with any substantial trace of Negro genetic stock, pardos.) As a result, besides the substantial aboriginal population there formed another and rapidly increasing one of European law and behavior in the larger towns, the ports, mining camps, and on commercial farms, ranches, and plantations. Europeans, Negroes, and mixed bloods (unless they merged with the Indians, as did a few) belonged to European culture and were held responsible for the full observance of Spanish law. In the broadest use of the term, such people were gente de razón, people of reason or responsible people, as against the Indians, who were held to be in need of special guidance and protection. Thus Mexico during the colonial period consisted of two communities, one under special controls being brought to Spanish law and such of Spanish custom as church and state held proper, the other bringing with it and living automatically in the discordant mixture of law and folk practice that prevailed in Spain. The mixture may have become even more discordant through admixture of West African custom brought by slaves.

In dealing with the Indians, the Spanish had both to group them in a

36 The following general discussion is based on SIMPSON, MANY MEXICOS 65-172 (3d ed. 1952).
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polity acceptable to European concepts that would further the extraction of goods and services from them and to replace their heathen cults with Christianity. Christian marriage was an important part of the implantation of Christianity since acceptance of the Christian conceptions of family and legitimacy meant also acceptance of many of the complicated Christian ideas of morality. The missionary program for marriage was summarized by one of the royal secretaries in the first years of Spanish dominion:

[The Indians] must be persuaded that men who marry may have only one wife, they being brought to understand that marriage is only with one woman while that woman lives and that the sons who are born to her are legitimate, that such sons and no others inherit their father's property. They are also to be informed of the meaning of spiritual relationships. They are not to have sexual intercourse with mothers, daughters, sisters, cousins, nor other relatives, for by doing so Christians incur penalty of death.

The implementation of the program may be traced in the general course of conversion and in a series of special royal and church enactments which indicate the steady pressure and growing control of missionaries and civil administrators. In 1530, for example, the wife of Charles V, governing as Empress Regent, decreed that any Christian Indian, male or female, who married for a second time while the first spouse was alive, should be punished. The terms of the decree left the unconverted free to continue their heathen ways. By 1551 the royal government could decree that no Indian, whether noble or commoner, should be permitted more than one wife even if he remained heathen.

The regulations for enforced assimilation of the Indians into Christian polity in terms of marriage and legitimacy may be summarized briefly. As the royal instructions quoted above indicate, conversion automatically brought into force the rules of canon and civil law on monogamy, of prohibited degrees of blood and religious relationship, of requirements of age and freedom from vows, and of legitimacy and inheritance. In 1539 the full requirements of warnings, banns, and public proclamation, set forth in canon law and the rules of the Archbishopric of Seville, were ordered enforced in marriages of Indians. Disputes over marriage and dissolution of union among Indians were to be handled by the church authorities,

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38 Encinas, Cédulario Indiano 269-70 (1945) (transl. by authors) [hereinafter cited as Encinas].
37 Recopilación de leyes de los reynos de las Indias, libro VI, título I, Ley IV (1841) [hereinafter cited as Recopilación].
38 Recopilación, libro VI, título I, Ley V.
30 Decisions of Church Conference of 1539, Mexico City, April 27, 1539, clauses 15-17, in García Icazbalceta, Don fray Juan de Zumárraga 165-71 (1947).
but thereafter the parties might seek further hearing in any appropriate tribunal. In other words, jurisdiction over Indians in such matters was vested in the ordinary ecclesiastical and civil courts. In 1555 the First Mexican Provincial Church Council ordered that Indians, like Spaniards, do penance before the ceremony of marriage. During the sixteenth century a standard system of parish registers was instituted for Indians and Spaniards alike. The First Mexican Provincial Church Council directed that baptism and marriages of Indians be recorded so that there might be a written record in case of doubt or dispute. In 1585 the Third Mexican Provincial Church Council directed that parish registers of births, confirmations, marriages, and burials be kept for Indians as well as for Spaniards as required by the Council of Trent. In general, practice in Mexico during the colonial period down to the 1830's was to keep separate registers for Indians and for non-Indians. Such registers and the priest's affidavits were the legally requisite evidence of legal marriage and legitimate descent. The parish records also acquired fiscal importance since they were used to verify counts of people in the towns liable to tribute and constituted an important means of preventing evasion.

Freedom of choice in marriage was guaranteed by a series of regulations, the first of which was issued in the West Indies before the conquest of Mexico but automatically carried to the mainland. Further regula-

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40 Ibid.
41 Ibid.
42 Decrees of the First Mexican Provincial Church Council, 1555, clause 7, in Llaguno, op. cit. supra note 33, at 120.
44 Concilium Mexicanum Provinciale III, Liber III, Titulum II, § II (1770).
45 Report of the Archbishop of Mexico to the King, Mexico City, October 24, 1815, in Konetzke, Documentos para la historia y crítica de los registros parroquiales, 7 Revista de Indias 581, 585 (1946).
46 We found this in our inspection of parish records in the Mixteca Alta.
47 Recopilación, Libro I, Titulo XIII, Ley XXV (issued March 27, 1606). Our examination of parish registers showed clear evidence that in the tribute counts the registers were examined and each baptismal entry had to be accounted for by the presence of a new tributary at the appropriate age or by death or departure. Similarly the entries for deaths were used to verify deletions from the rolls of tributaries at the time of the counts.
48 In 1514 the royal government ordered that Indians might marry freely with each other or with Spaniards without legal impediment. Orders of Oct. 19, 1514, Valbuena, and Feb. 5, 1515, Valladolid, to Diego Colon, in 4 Encinas at 271. The order entered the Recopilación as a general provision. Recopilación, Libro VI, Titulo I, Ley II. The instruction was silent on impediment arising from difference in social degree, which, as in Spain, presumably continued to bar marriage between partners of too great disparity in rank. See the royal order issued at San Lorenzo, Oct. 24, 1775, and the pragmatic issued at El Prado, March 23, 1776, reprinted in 3 Konetzke, Colección de Documentos para La Historia de La Formación Social de
tions issued in Mexico by the church were aimed at breaking control of the Indian nobility over the marriages of commoners. Indians of proper ages and degrees of relationship for marriage were guaranteed freedom of choice and expressly protected from requiring permission of their caciques or from having partners chosen for them and forced upon them. The First Mexican Provincial Church Council ordered imprisonment for thirty days and such other penalties as the judge might assess for violation of its regulation. The Third Church Council raised the penalty to automatic excommunication for anyone interfering with the free choice of partners to marriage.

Spanish ideas were further implemented by new regulations forbidding sexual intercourse by partners within the prohibited degrees of relationship and by ordering punishment of informal unions in which one of the partners was already married or otherwise barred from legitimating the union by going through a church ceremony. Presumably the reluctant tolerance accorded informal unions by partners who could have legitimated their union extended to mating among the Indians, but, as we shall see, church and lay authorities in Mexico were better able to enforce their will on the Indians and had excellent reasons for encouraging the celebration of full legal marriages. The penalties for violations of Spanish concepts of morality were the same for Indians as for Spaniards with the one major difference that fines and other monetary penalties could not be assessed against Indian offenders.

In the course of the sixteenth century the Spanish concepts of legitimacy and inheritance through sons and daughters born in marriage were also imposed upon the Indians despite express injunctions that Indian custom be honored except where it was repugnant to natural law and Christian morality. Inheritance by brothers rather than children and

HISPANOAMERICA 1493-1810, at 401-05, 406-13 (1962). As the text of the royal orders makes clear, they were merely a restatement of a principle that was supposed to have been enforced from time immemorial.

40 Decrees of First Mexican Provincial Church Council, 1555, clause 8, in Llagueño, op. cit. supra note 33, at 170.

41 Conciliórum Mexicanorum Provinciale III, Liber IV, Titulum I, § VIII (1770). The principle passed into civil law in the Ordinances of Philip III, Madrid, October 10, 1618, in Recopilación, Libro VI, Titulo IX, Ley XXI.


43 In accordance with this policy, the Spanish crown ordered as early as 1536 that the marco del amancebado should not be levied against Indians. Order of the Empress Regent for Charles V, Madrid, June 26, 1536, in 4 ENCINAS at 337, and in Recopilación, Libro VII, Titulo VIII, Ley VI. See also the acceptance of this principle by the Mexican church in Conciliórum Mexicanorum Provinciale III, Liber V, Titulum IX, § 1 (1770).

44 Recopilación, Libro II, Titulo I, Ley IV; id., Libro II, Titulo XV, Ley LXXXIII; id., Libro V, Titulo II, Ley XXII; Ballesteros, Los indios y sus litigios, según la Recopilación de 1680, 4 REVISTA DE INDIAS 618-21 (1945).
election of a successor within a single house of common male descent were hardly repugnant to either but disappeared in the course of the century as Spanish courts in Mexico repeatedly decided inheritance cases by reference to Spanish law and custom. Substitution of Spanish law in this area of decision was virtually complete by 1580, that is, within a half century of the establishment of a formal high court in Mexico. As part of the same sets of decisions, Spanish concepts of illegitimacy and the incapacity to inherit of children born outside of a registered church marriage were imposed by Spanish courts whenever matters of inheritance came under judicial inspection.

The imposition of Spanish concepts upon the Indians went farther even than the acceptance of such ideas among the Spaniards themselves. The Indians as a subject race were much more within the power of Christian missionaries and lay authorities. The missionaries, in fact, dreamed of an organization of Indian life in which a docile people would be kept within Christian norms under their guidance with a minimum of interference by civil authorities or by Spaniards and other non-Indians. In sympathy with some of these views, the Spanish crown assisted in trying to keep undesirable non-Indians, and indeed virtually all non-Indians, out of Indian communities. Unmarried Spaniards, mixed-bloods, and vagabonds were forbidden to tarry in Indian towns, and even Spaniards on proper errands, such as travellers and merchants, were restricted to a stay of from two to three days unless they were assigned to the town for civil or religious duty. The concern of the royal government for the Indians, we

64 See authorities cited note 53 supra.
65 Ibid.
66 This paragraph is based upon our examination of suits over lands and inheritance of the titles and estates of Indian chiefs (caciques) in records within the Mexican national archives (Archivo General de la Nación), especially the ramos of Tierras, Vínculos, Indios, Mercedes, and General de Parte. In a suit in 1566-69 over the succession as cacique in Teposcolula, where the chief died without lineal heirs, the Spanish courts rejected the Mexican custom of choosing a new cacique from the ancestral line in Tilantongo and awarded succession, in accordance with Spanish ideas, to a collateral relative claiming through female relationship. The papers of the case are in 24 ARCHIVO GENERAL DE LA NACIÓN, TIERRAS, expediente 6. For a similar refusal to recognize native custom in 1562 for the area of Tlaxcala, see Gibson, Tlaxcala in the Sixteenth Century 74 (1952).
68 Recopilación, Libro VI, Título III, Leyes XXI-XXIII (the dates of the orders ranging from 1536 to 1564, the most important ones from 1536 to 1581). See also the Instruction of May 2, 1563, Valladolid, to Luis de Velasco (the new viceroy appointed to succeed Antonio de Mendoza) reprinted in 4 ENCINAS at 340-41. But see the Order of the King to the Viceroy of New Spain, Tomar, May 8, 1581, ibid. (providing that no Spaniard was to live among Indians unless of good life and behavior—a distinctly different idea).
69 Travelers were restricted to the day they arrived, a day of rest, and departure on the third day. Royal Order of November 20, 1536, Valladolid, in Recopilación, Libro VI,
need hardly add, far outran its ability to enforce such regulations. Far more effective than Spanish law in promoting Christian marriage and morality was a happy alliance between the desire of the missionaries to root out informal unions in all forms and the fiscal interests of the crown and Spaniards receiving support from tributes. For purposes of tribute levy upon the Indians, the fiscal unit was the married couple, who were held to pay a sum that by the early seventeenth century was fixed at slightly over two silver pesos (two dollars) a year. For a day laborer, the tax meant the wages of eight to twelve days a year. Unmarried women supported by their parents were exempt in most parts of Mexico. Unmarried men either paid half rate or, if they held no land, were exempt. There was an obvious advantage to the fisc, and to Spaniards to whom it ceded its rights to tributes, in pairing off the Indians in formally married couples. As we shall see, pressure by priests and civil officials almost eliminated informal unions among the Indians and led to early marriages. They were helped by native custom since the Indians were already used to being paired off by their chiefs. There was a very real concern for Christian morality, as well as fiscal advantage, in the pressure for formal marriage, as may be seen in the regulations that required Indian merchants not to remain away from their wives too long and required Indians working in distant mines and textile establishments to see their wives often enough not to be led into relations with other women.

Thus far we have dealt with the transfer of Spanish patterns to the Indians in Mexico. For the so-called gente de razón the transfer was automatic since they not only brought with them Spanish law in all its rigor, but also Spanish custom. The attempts of church and state to enforce

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Titulo III, Ley XXIII. Merchants were allowed three days. Royal Order of November 21, 1600, El Pardo, in Recopilación, Libro VI, Título III, Ley XXIV.

60 Miranda, El Tributo Indígena en la Nueva España Durante el Siglo XVI 139-43, 492 (1952). The usual tribute for a married pair was one silver peso and four and a half reales of ordinary tribute, the four and a half reales representing commutation to coin of the value of half a bushel of maize. In addition, in 1591-93 a special surtax of half a peso was added, called servicio real. That brought total tribute to two silver pesos and half a real. A small annual payment was made to the Indian community, ranging from one and a half to two reales. The silver peso was one ounce of silver, in effect our traditional dollar, and this was divided into eight reales, our "bits" in colloquial usage. Ibid.

61 See, e.g., Letter of the King to the Viceroy of New Spain, July 5, 1578, in 4 Encomiendas 322 (loss in tribute because of the failure of Indians to marry); Order of the King to the President and Audiencia of Guatemala, Tomar, April 17, 1581, in 4 Encomiendas 350 (ordering an end to forced marriages of women under canonical age for marriage). See also text preceding note 82 infra. The order to the authorities in Guatemala became general for Spanish America. See Recopilación, Libro VI, Título I, Ley III.


63 Ordinances for Workshops (Obreros), Mexico City, October 13, 1595, clause 24, in 1 Belén, Recopilación Sumaria de Todos los Autos Acordados, pt. II, at 86 (1787).
Spanish and church law are evident in a long series of enactments. The Mexican provincial church councils reenacted a series of directives for enforcing official marital standards of morality. The royal orders required enforcement of Spanish regulations against violations of public morality and ordered exaction of the marco del amancebado as in Spain, but in doubled amount to adjust for higher incomes and price levels in America. A special series of problems which arose as migrating Spaniards declared themselves married and either changed spouses or merely shed them by migration brought forth repeated orders for the inspection of marriage credentials of Spanish couples migrating overseas and rules that married men coming to any Spanish possession in the New World must either take their wives with them or have their wives' permission and post bond that they would return to Spain after a limited stay. The need for repeating instructions and the terms of renewal of orders suggest that enforcement was not rigorous. Mexico was a long remove in space and time from Spain, and the royal government in the colony was a relatively small number of officials who were dependent for compensation and enrichment upon fees and other direct, personal payments by the people they governed.

Spanish folk practice, of course, embodied a very different morality. Its acceptance of informal unions of single people without impediment to marriage could be and was tolerated by state and church although a zealous administrator or priest might take action against the partners for living in pecado público. But, whatever the official views, there also existed among the population of Spanish culture informal unions without regard to impediments, informal separations, and the acceptance of a double standard. As in much of Europe at the same time, the standard of conduct in the upper and middle classes enjoined chastity and legal marriage upon properly behaved women but valued sexual prowess and the keeping of mistresses by the men. Among the lower classes the double standard

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65 *Recopilación*, Libro VII, Título VIII, Leyes IV, V.

66 See *Decrees of Third Mexican Provincial Church Council, 1585*, clause 39, in *Concilium Mexicanum Provinciale III*, Liber IV, Titulum I, § XII (1770).


68 See, e.g., the dates of repetition for *Recopilación*, Libro VII, Título III, Ley I.

tended to become a single one through acceptance of the same easy morality for women.\textsuperscript{70} Racial mixing usually involved informal union rather than marriage.\textsuperscript{71} Since marriage between an Indian woman and a Spaniard was generally regarded as a step down in the social scale for the Spaniard, much racial mixing came about through informal unions and casual pleasures.\textsuperscript{72} Unions among Negroes and \textit{pardos} (colored, in our usage) with other racial groups tended to be informal and casual for a number of reasons—a residue of West African customs of matrilineal reckoning of descent and the better political and economic position of women there, \textsuperscript{73} the premium upon looser ties of union and mating inherent in the slave owners’ desires for larger stock, the limitations in choice of partner inherent in slave status, and the premium existing in folk esteem on colored women as mistresses. Even by European terms of the time, Mexican society was considered morally lax.\textsuperscript{74}

Although the gap between official morality and folk practice was wide, it was not completely unbridgeable. Legitimation was a prerogative reserved to the King acting through his Council of the Indies, \textsuperscript{75} but that only meant that the cost of securing grace rose accordingly. It became a privilege of the wealthy handled according to schedule. One of the last schedules, issued in 1804, set a range according to the sin of the parents from $687\frac{1}{2}$ to 4,125 silver pesos. These were the payments to the royal treasury and did not include the costs of petitioning at long remove and through a complex bureaucracy, a matter of thousands of pesos more.\textsuperscript{76}

\section*{C. Colonial Patterns, 1600-1850}

By the end of the sixteenth century, Spanish law and custom on marriage and legitimacy had been brought to Mexico with enough success

\textsuperscript{70} See authorities cited note 69 \textit{supra}.
\textsuperscript{71} \textit{Ibid}.
\textsuperscript{72} \textit{Ibid}.
\textsuperscript{74} See \textit{Gage, op. cit. supra} note 69, at 68, on the favoring of women of color as mistresses. On laxness of morals, one may form some judgment from the fact that two of the most frequent bases for prosecutions by the Mexican Inquisition were solicitation in the confessional by clergy and holding the view that simple fornication (i.e., without contravening degrees of relationship and other prohibitions) is not a serious sin. See the summaries of cases in \textit{Toribio Medina, Historia del Tribunal del Santo Oficio de la Inquisición en México passim} (1905).
\textsuperscript{75} \textit{Recopilación,} Libro II, Título XV, Ley CXX, incorporating a decree of Philip IV, Madrid, March 28, 1625.
\textsuperscript{76} \textit{Konetzke, op. cit. supra} note 48, at 781. The fees were: for a son or daughter to inherit, if both parents were single, $687\frac{1}{2}$ pesos; for extraordinary legitimation in order to inherit the noble status of parents, the fathers being members of military orders and married, or clergy, 4,125 pesos; for other legitimations of the same class but the fathers being merely married men and the mothers single, 3,225 pesos.
that one may speak of colonial patterns, that is, Spanish ones with adaptations to Mexican conditions. These patterns lasted with relatively little further change through the rest of the colonial period and until the middle of the nineteenth century. During these two and a half centuries, the Spanish extended the effective zone of Spanish culture far to the north of their original conquests in central Mexico. The patterns formed in central Mexico in the sixteenth century moved northward with the settlers and missionaries. Within the entire zone of Spanish culture the Hispanized community tended to grow rapidly whereas the Indian segments, although increasing in absolute numbers, tended to become a smaller part of the total population.

We have already described the general nature of the patterns of formal and informal union that obtained among the various racial groups. We now restate our description in terms of urban and rural and of subdivisions within those categories. Urban, for our purposes, meant Mexico City and the other Spanish settlements. The whites and mestizos of the Hispanized population were concentrated in them. Simultaneously they lived under the rule of Spanish law, church and civil, and adhered to Spanish folk practice. A double standard for men and women characterized the upper and middle classes. There was a relatively high percentage of concubinage or the keeping of mistresses and of free union. Colored women were especially prized as mistresses. Among the lower classes informal or free union was common and tended to be prominent in racial mixing. As the Indians of the suburbs, especially those around Mexico City, became used to Spanish dress and practice they also tended to take on Spanish practices in family union. For one suburb of Mexico City, that of Guadalupe, we have a striking comment from the Dominican Thomas Gage, who visited it in 1625. He thought the population to be about two thousand Indians and a thousand mestizos. "These are of a mixed nature of Spaniards and Indians, for many poor Spaniards marry with Indian women, and others that marry them not but hate their husbands, find many tricks to convey away an innocent Uriah to enjoy his Bathsheba." Nevertheless, although informal and irregular union was a prominent feature of custom in the Spanish cities, it should not be forgotten that most of the people did marry in accordance with church requirements and that Spanish law obtained in all the rigor of its requirements of formal marriage and legitimate birth for inheritance, the taking

77 Sauer, The Personality of Mexico, 31 Geographical Rev. 353 (1941).
78 Ibid.
79 Borah, New Spain's Century of Depression 5-18 (1951).
80 Borah, Race and Class in Mexico, 23 Pacific Historical Rev. 331, 340 (1954); Gage, op. cit. supra note 69, at 68-74.
81 Gage, op. cit. supra note 69, at 67.
of holy orders, and the holding of office. The stigma of illegitimacy might mean little among the lowest social groups, but among the middle and upper classes it had force.

Rural, for our purposes, must be divided into Indian and non-Indian. The Indian rural included large towns, which yet depended in great measure upon the cultivation of the surrounding fields for support. In general, Indian patterns of marriage were imposed through close control by the church, especially the parish priests, who tended to be the most important authority in the villages and towns, and by the fiscal pressure of royal administrators anxious to swell the tributes. Almost all Indians married early and in formal church ceremonies so that they furnished the maximum number of full tributary units. As a further result there were few or no illegitimate children although native pre-Conquest custom may have had an influence on this. We have examined the parish registers for perhaps half the parishes in the Mixteca Alta, a region of old Indian culture south of Mexico City in the State of Oaxaca. The extant registers usually begin some time during the seventeenth century and run to the present. We found that the Indians married early, that virtually all of them married, and that the baptismal registers show almost no illegitimate children. In the late eighteenth and early nineteenth centuries there was a very small number of illegitimate births, insignificant in terms of percentage, which were recorded mostly as ninos expósitos, foundlings left on the doorstep of the parish priest for him to baptize and provide for.\footnote{The parish priest's share in tithes, first fruits, and so forth was theoretically a trust to provide for the poor as well as for his own needs. TIERNEY, MEDIEVAL POOR LAW: A SKETCH OF CANONICAL THEORY AND ITS APPLICATION IN ENGLAND 37-45 (1959).}

Local counts of population taken during those same years show also a few children living with unmarried women (solteras) and designated as younger siblings. The ages, in most instances, corroborated the designation rather than indicating an illegitimate child born to the soltera. As far as our evidence from the Mixteca (and other evidence from the census of 1777 discussed below) extends, church and state succeeded in imposing official morality upon the Indian population in an especially rigorous form. The more important agent was the church.

The non-Indian rural population came into being during the centuries after the conquest as the Spanish established ranches and farms in vacant country and near the Spanish cities. The virtual disappearance of the Indian population in the coastal zones led to replacement there by a new population of Spanish, mixed bloods, and Negroes, with the Negro mixtures a very important component. In all these rural areas the practice of the Hispanized community prevailed, and church and state were far less able to impose official morality. The colored population was con-
sidered to be characterized by an especially high percentage of informal union, informal separation, and disregard for official morality.83

A quantitative test of the Mexican patterns of marriage and legitimacy during the colonial period is possible through analysis of the fragments that remain to us of the 1777 census for the Bishopric of Oaxaca84 and also for a good deal of southern Veracruz and a small part of Tabasco.85 It thus included a large Indian area of various tribal cultures; a good deal of non-Indian rural area on the Pacific and Caribbean coasts, with a relatively high proportion of colored population; and the City of Antequera (today Oaxaca), a Hispánized urban center. Reports survive for over a third of the parishes with reasonable representation for the various Indian groups, both Pacific and Caribbean non-Indian coasts, and the complete return for the City of Antequera. As a sample for our purposes, the surviving returns are good.

Table 1 of the Appendix summarizes the material in the returns of 1777 for the Bishopric of Oaxaca relevant to test the statement of patterns that we have made. Table 1A gives the percentages by race of married men and unmarried men and women of eighteen years and over for all of the bishopric except the City of Antequera, which is treated separately since the inhabitants, though all Hispánized, were a jumble of races and racial mixtures. The census data clearly support the thesis that the Indians married early and in far greater proportion than did the other groups in the population. The colored population married at somewhat later ages and in lesser proportion. Gente de razón, here whites and mestizos, married at a later average age and to a somewhat lesser extent. The City of Antequera showed the same proportion of marriage as the gente de razón but a somewhat higher proportion of unmarried men and women. That percentage probably reflects immigration from rural areas.

Table 1B gives the average number of unmarried women (solteras) with children per thousand inhabitants in terms of the same division by race for the rural inhabitants and a single grouping for the City of Antequera. For the area outside of Antequera, the children were uniformly

83 Gage, op. cit. supra note 69, at 68-70.

84 Three colonial censuses were taken, in 1742-48, 1777, and 1793. Almost all of the 1742-48 census has been lost except for summaries, which do not give adequate information on the categories of interest to us. E.g., Villaseñor y Sánchez, Teatro Americano (1746-48) (totals for towns in terms of total numbers of family). Relatively large parts of the censuses of 1777 and 1793 have survived and are now being analyzed. The only part of them that has been reworked adequately from the original reports so that it gives information on such matters as marriage and informal union is the section of the census of 1777 for the Bishopric of Oaxaca. The census of 1777 was organized by bishoprics; the reporting agents were the parish priests.

85 Borah, The Collection of Tithes in the Bishopric of Oaxaca During the Sixteenth Century, 21 Hispanic American Historical Rev. 386, 387 (1941).
reported as having been born to (hijo de) the unmarried women. For Antequera, reporting took two forms. One is the same as for the regions outside of Antequera; the other type shows a child of very young years listed as an orphan (huérano) immediately following the name of an unmarried woman. In most instances the ages show a very young child and a women between the ages of eighteen and thirty. The former type of reporting is characteristic of the first part of the census for the city whereas the second is characteristic of the last part, with a middle part in which there is a transition from one to the other method. Clearly we are dealing here with a shift in the method of reporting. Although we have no concrete evidence, it is highly probable that the children designated as orphans were actually born to the women with whom they were listed. These data for Antequera are summarized in Table 1C. With respect to the areas of Antequera, the difference between Indians and rural non-Indians is striking in that the proportion of illegitimate Indian children is far less than that for either of the other two groups. With regard to the City of Antequera, if our interpretation of the recording is correct, there was a marked difference between rural non-Indians and the city.

Although the data for the Bishopric of Oaxaca alone cannot be deemed conclusive on this point, they indicate that there existed substantial differences between rural and urban Hispanic populations in customs of marriage and that the Hispanic rural population lay midway in its behavior between the Indians and the urban Hispanic. The data of Table 1 also indicate that the majority in all ethnic groups in the bishopric did get married by formal church ceremony.

The extent to which the data for the Bishopric of Oaxaca are representative of the rest of Mexico cannot be settled until the other remnants of the censuses of 1777 and 1793 are analyzed in the same way. Until then, about all that can be said is that nonquantitative material for the country as a whole suggests that, whatever the regional variation, the pattern was national.

D. The Move toward New Patterns: Legislation and Implementation Since 1855

The colonial patterns of marriage and legitimacy lasted with little modification until the middle of the nineteenth century. Independence from Spain, successfully declared in 1821, had slight effect at first since church and state continued to cooperate, and the colonial law was not changed. Whatever the disputes between liberals and conservatives or between pro and anti-clerical factions in the national and state capitals, the parish priests remained the recording officers for the only registers of births, marriages, and deaths—the parish books; a church ceremony
remained the only legally recognized marriage giving rise to legitimate children; and cooperation of priests and local administrative officers maintained pressure upon the peasant population for observance of official and religious standards of morality. The urban population, especially the poorer segments, continued to show substantial deviation from official morality and substantial observance of custom. The coming of independence, nevertheless, opened the country to the entrance of new ideas which by the middle of the nineteenth century led to new legislation and to institutional changes. Between 1853 and 1867, in the long series of Wars of the Reform, the cooperation of church and state came to an end, to be succeeded by periods of substantial hostility. The struggle which still continues, although in uneasy truce at the moment, has deeply affected patterns of marriage, informal union, and legitimacy in Mexico and for decades has seriously hampered efforts by the civil government to establish an accurate registry of vital statistics. If anything, the gap between statute and custom is wider today than in colonial times.

The pertinent changes and legislation may be summarized briefly by topic:

1. Abolition of the Jurisdiction of Ecclesiastical Tribunals in Civil Matters and Over Lay Persons

The reform government which came into office in Mexico after the famous Revolution of Ayutla on November 23, 1855, made the first move in the "Law of Administration of Justice and Organic Law for Courts of the Federation," known usually as the Ley Juárez after the then Minister of Justice. The new Federal Constitution of 1857 accepted the principle in article 13: "In the Mexican Republic no person may be judged under private laws nor by special tribunals." The Mexican state thus asserted exclusive jurisdiction over the population except for private jurisdiction of church tribunals over clergy.

86 Wilson, MEXICO: ITS PEASANTS AND ITS PRIESTS 281-90 (1856); Gilmore, The Condition of the Poor in Mexico, 1834, 37 Hispanic American Historical Rev. 213 (1957) (publishing a report by the British legation in Mexico City to the Foreign Office in answer to a circular inquiry).

87 The pertinent sentences read "ecclesiastical tribunals shall cease to have competence in civil matters and shall continue to have jurisdiction over common crimes of the persons entitled to privilege of clergy until a law is enacted to regulate this point. . . . The provisions of this article are general for the entire Republic and the States cannot change or modify them." Law of Administration of Justice and Organic Law for Courts of the Federation, art. 42, in 7 DUBLÁN & LOZANO, LEGISLACIÓN MEXICANA 603 (1867-1913) (transl. by authors) [hereinafter cited as DUBLÁN & LOZANO].

88 MEXICO CONST. ÜT. I, § I, art. 13 (1857) in 8 DUBLÁN & LOZANO 385-87 (transl. by authors). Military courts continue to have special jurisdiction over soldiers in actual service.
2. Separation of Church and State

The Constitution of 1857 at first did not provide unequivocally for separation of church and state. It merely omitted all reference to union of church and state and obliquely provided for freedom of religious belief. During the long civil war, the reform government of Benito Juárez issued a series of decrees confiscating church property, denying civil recognition of church vows, removing cemeteries from church jurisdiction, and so on. The changes were made part of the Constitution of 1857 through a series of amendments adopted on September 25, 1873, and put into effect through an implementing act of Congress on December 14, 1874. Inter alia, the amendments and act expressly provided for separation of church and state.

3. Civil Registry

The civil registry is far more important in Mexico than in the United States because many of the statutory provisions on marriage and legitimacy are part of the statutes governing it. The reformers of the 1850's planned to institute a more efficient system of recording vital statistics. The European experience had already demonstrated that reliance upon parish registers did not furnish comprehensive or reliable coverage. The first "Organic Law of Civil Registry" of January 27, 1857, proposed a system that still envisaged the cooperation of church and state. Although the law is notable only as a first effort since it was in effect for just a few months, certain provisions give interesting insights into the ideas of the time. Parents, godparents, or guardians abandoning children

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89 In Article 123: “The federal branches of government have exclusive jurisdiction for carrying out the measures provided by law in matters of religious cult and public [acts of religious] discipline.” MEXICO CONST. tit. VI, art. 123, in 8 DUBLÁN & LOZANO 397 (transl. by authors).
90 See 8 DUBLÁN & LOZANO 680-705.
91 See 12 id. at 502-03.
92 Id. at 683-88.
93 Id. at 683 (art. 1).
94 CÓDIGO CIVIL PARA EL DISTRITO Y TERRITORIOS FEDERALES, Título Cuarto (1965) [hereinafter cited as MEXICAN FEDERAL CIVIL CODE].
95 The first plans for registry of vital statistics in the United Kingdom in the early nineteenth century tried to make the church registers the basis for registration. By the 1830's the attempt was given up as unworkable, and civil registration began in England in 1837. Birth, Death, and Marriage Registration Act, 1836, 6 & 7 Will. 4, c. 86; Krause, The Changing Adequacy of English Registration, 1690-1837, in POPULATION IN HISTORY 379 (Glass & Eversley eds. 1965). Even in Mexico the British legation did not consider that parish registers were a reliable system for obtaining vital statistics. See Gilmore, supra note 86. The British opinion was probably founded upon the registers in Mexico City. Those in the Mixteca Alta were kept with much greater care.
96 See 8 DUBLÁN & LOZANO 364-65.
under seven years of age were to be punished according to the provisions of law then current; those abandoning children from seven to ten years old were to be subject to a fine of from ten to three hundred pesos (at that time equivalent to our dollars) or by imprisonment of from one month to one year. There was no mention of abandonment of children over ten.

This first law of civil registry was abrogated on March 30, 1858, by a conservative government which forced the reform government out of Mexico City. From its refuge in Veracruz, the Juárez government issued a new “Organic Law of Civil Registry” on July 28, 1859. The new law no longer envisaged cooperation with the church. Justices of the civil register in civil districts were to keep the registers. Only certified copies of the data in the civil registers were to be acceptable vital data for all legal purposes. For all births the father was to make the declaration, or, if he did not, the doctor or midwife. If the father did not choose to be registered, the mother alone was to be recorded. If both mother and father refused to be registered, the child was to be entered as born to unknown parents. The rather bizarre provisions on foundlings of the law of January 27, 1857, were replaced by a simple injunction to bring them to the civil authorities for registry of birth and suitable provision for rearing. The constitutional amendments of September 25, 1873, and the implementing act of Congress of December 14, 1874, also completed the establishment of the civil registry in Mexico. The states were declared the proper entities to regulate the civil status of persons and to provide for the manner of performing and recording marriages and recording other vital statistics, subject to the proviso that the records of the civil register should be the only proof of civil status. With some modifications the federal government incorporated the provisions of the Law of July 28, 1859, into the Civil Code of 1884 for federal matters and for the federal district and territories. The states also enacted appropriate legislation

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97 Id. at 370 (art. 58).
98 Id. at 370 (art. 59).
100 8 Dublán & Lozano 696.
101 Id. at 696-97 (arts. 1-4).
102 Id. at 697 (art. 4).
103 12 id. at 696 (art. 16).
104 8 id. at 699 (art. 19).
105 Id. at 699 (art. 20).
106 Id. at 699 (art. 21).
107 See notes 91, 92 supra.
108 12 Dublán & Lozano 686-87 (arts. 23, 24).
109 Código Civil del Distrito Federal y Territorio de la Baja California arts. 43-154 (1884).
for the civil registry, in most instances copying the federal legislation.\footnote{\textit{Civil Code for the Federal District and Territories of Mexico} vi (Schoenrich transl. 1950) [hereinafter cited as \textit{Schoenrich}].} Since 1867 when the Juárez government returned in triumph to Mexico City, there has been a functioning civil register in all parts of Mexico, and, except in areas where riot and revolution have destroyed the records, there are continuous series.\footnote{Such is our conclusion after an examination of perhaps a third of the state archives. Since the records are kept in duplicate, it is usually possible to locate a surviving set in the local office of civil registry if the one in the state archive has vanished, and vice versa.}

4. Civil Marriage

As part of the reform program, the government of Benito Juárez also issued the Law of July 23, 1859, on civil marriage.\footnote{8 \textit{Dúblan} & \textit{Lozano} 691.} Marriage was thenceforth declared to be a civil contract,\footnote{\textit{Id.} at 691 (arts. 1, 2).} valid only if made and registered before the appropriate civil authorities\footnote{\textit{Id.} at 695 (art. 30).} and subject solely to decisions of civil courts.\footnote{12 \textit{Id.} at 686-87 (art. 25).} For unions after the date of the law, only the husband and wife of a civil ceremony had claim upon each other and only children born to such a marriage were legitimate in the eyes of civil law. The constitutional amendments of September 25, 1873, and implementing act of December 14, 1874, incorporated civil marriage into the constitution but provided that the states might regulate the manner of performing and recording marriages subject to the provisos that union entered into by free declaration of the parties should be the basis of civil marriage, that the union be monogamous, and that existing prohibitions on degrees of relationship not be changed.\footnote{\textit{Id.} at 686-87 (arts. 22-24).} The Federal Civil Code of 1884 made appropriate legislation for the federal district and territories and the states proceeded to enact their own laws, again usually copying the federal enactments.\footnote{Código Civil del Distrito Federal y Territorio de la Baja California arts. 109-30, 155-289 (1884).} A religious ceremony of marriage thus has no legal standing in Mexico, although once the civil ceremony has been performed, the couple are free to repeat their vows in any religious ceremony that they wish.\footnote{Article 30 of the Law of July 23, 1859, expressly conceded this right. 8 \textit{Dúblan} & \textit{Lozano} 691, 695.} The nineteenth-century reform program, it should also be noted, provided for legal separation and annulment but not for divorce.\footnote{Law of July 23, 1859, arts. 4, 8, in 8 \textit{Dúblan} & \textit{Lozano} 691-92. In matters of divorce the major innovations were introduced in the Domestic Relations Law of 1917 and subsequently incorporated in the Federal Civil Code in 1928. \textit{Schoenrich} vi.
The Mexican Revolution of 1910-17 and legislation since then have continued the changes instituted during the Wars of the Reform. The reform provisions have all been continued in the new Federal Constitution of 1917 and in subsequent legislation based on it. In turn, the Civil Code of 1928 has been the model for most of the new state civil codes. Such further changes as have been enacted provide for divorce, authorize more liberal methods for legitimation of offspring, and concede a limited and partial right of inheritance to the woman of an informal union if the couple have lived in monogamous relations for five years preceding the death of the man and if they have children by each other. Prevailing federal civil law still continues a series of provisions that in some regards continue Spanish medieval legislation or accept French ideas. Only children born to parents married by civil ceremony recorded in the civil register are legitimate, but children born to unwed parents become legitimate on the marriage of the parents if they expressly state that such is their intention or have already registered parenthood. The officials of the civil register are forbidden to inquire into the paternity of the child registered as illegitimate, and, in general, investigation to determine paternity is rigidly limited. The father of an illegitimate child need

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120 Mexico Const., tit. VII, art. 130 (1917), in Leyes Fundamentales de México 1808-1964, at 875-77 (Tena Ramírez ed. 1964). The effect of the constitutional clause has been to restrain movements within some of the states to redefine matrimony more flexibly. The post-Revolutionary civil code of Tamaulipas, for instance, defined civil marriage for legal purposes as "the union, cohabitation, and continued sexual relation of a single man with a single woman." This definition was declared contrary to the federal constitution in a case before the Federal Supreme Court begun in 1947 and decided in 1954. The Supreme Court pointed out that the text of the Constitution of 1917 on civil marriage repeated that of the amendment of 1873 to the Constitution of 1857, and held that the change in definition of marriage therefore was limited to the intent of the Laws of the Reform, namely to remove marriage from the control of the church, but not otherwise to change the definition of the relationship. Virginia Reyes viuda de Hinojosa v. Tribunal Superior de Justicia del Estado de Tamaulipas, Sala Auxiliar de la Suprema Corte, July 10, 1954, No. D.876/951/2a, reprinted in 2 Rojina Villalobos, Derecho Civil Mexicano pt. 1, at 459-65 (1959). The new civil code of Tamaulipas returns to the conventional definition. Código Civil para el E. L. y S. de Tamaulipas arts. 90-110 (1961).

121 Schoenrich 11-61. The Schoenrich edition clearly indicates new articles and those in the Civil Code of 1884.

122 Id. at vii.
123 Id. at 55-69 (arts. 235-91).
124 Id. at 82-88 (arts. 354-89).
125 Id. at 327-28 (art. 1635).
126 Id. at 79-80 (arts. 340-41).
127 Id. at 82, 83 (arts. 354, 357).
128 Id. at 82 (art. 355).
129 Id. at 82-83 (art. 356).
130 "The official of the civil registry and the witnesses who, according to article 58, are to be present at the act, are absolutely prohibited from making investigations as to paternity.
not recognize his child, but may do so. The mother, on the other hand, has no right to abandon the child; if she is not present at the registry and remains unknown, the child must be entered as the son of an unknown mother but a judicial investigation may be made into the identity of the mother. An illegitimate child may inquire into the identity of his mother, and, in certain instances, into the identity of his father, but only during the life of that parent. In recording the birth of a child born of adulterous relations, the father, whether married or not, may recognize the child, but the mother, if married and living with her husband, may not do so unless her husband disowns the child and has judicial recognition of his repudiation. A child born of incestuous relations may be recognized by both parents, and their names, but not the fact of incest, may be recorded.

Mexican law today has within it possibilities for altering the normal rules of guardianship at registration which quickly become apparent when one finds a child registered as to the father but with mother unknown, or with both parents unknown but a grandparent or another adult presenting the child for registration and becoming guardian. The effect of the first kind of registration is to exclude the mother from any legal right to the child unless she is prepared to take the case to court; the effect of the second kind of registration is to relieve both parents of their legal obligation, but to provide for the child.

Thus far we have described legislation. Compliance with the new legislation and implementation of the new system turned out to be a very different matter. The reformers of the mid-nineteenth century and subsequent legislators aimed at replacement of the old religious morality by an essentially similar civil morality and at the establishment of a sophisticated system of registry. Their program had to be implemented by educating and so acquiring the cooperation of a population that in the nineteenth century was largely dispersed in small, rural settlements over

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131 Id. at 17 (art. 60).
132 Id. at 87-88 (arts. 385-86).
133 Id. at 88 (art. 388).
134 Id. at 18 (arts. 62-63).
135 Id. at 18 (art. 64).
136 Id. at 18 (art. 63).
137 Id. at 18 (art. 64).
138 It was the finding of birth certificates with such notations in the state archive of Oaxaca that led us to further inquiries into Mexican law and custom.
139 This point is clearly evident in the provisions of the Law of July 23, 1859, on civil marriage, which merely transferred the regulations of canon law to civil law. Divorce continued to be forbidden and annulment and separation permitted in the terms of canon and Spanish law. See note 119 supra.
the countryside. The population, moreover, was overwhelmingly illiterate. A substantial segment of the people did not even speak Spanish.\footnote{\textit{138} Dirección General de Estadística, Secretaría de Economía, Estadísticas Sociales del Porfiriato: 1877-1910, at 119-21 (1956).} Even today the Mexican population is to a great extent rural, and illiteracy is high in the countryside. Implementation of the program was further hampered by its anticlerical and liberal origin, for the victory of the Juárez government in 1867 did not secure the friendship and cooperation of church and conservatives. Although there have since been periods of truce, there have also been long periods of embittered relations and a fairly steady hostility to the assertion of civil jurisdiction. The church has not used its influence to support state regulations as it once did. The civil government, on the other hand, has attacked church influence and destroyed the power of the church to enforce its own morality but has not been able to obtain full acceptance of the substitutions it has enacted. Even as necessary an institution as the civil register was so tinged with liberalism and anticlericalism that Mexico in the years after 1867 had two rival systems of registration of vital statistics, the old church books, with religious but no civil value, and the official civil register. There was no legal bar to additional registry in the church book, provided the required entries were made in the civil ones, but substantial numbers of people used only the church books.\footnote{\textit{139} Such was our conclusion upon examining both parish registers and civil registers in parts of Oaxaca for the period since 1870.} From the 1880's to 1910, during a period of truce in church-state relations, the new federal statistical services, under an unusually able director, Antonio Peñafiles, were able to bring about increasingly extensive recording of births, deaths, and marriages.\footnote{\textit{140} The incompleteness of early registrations and the gradual improvement can be seen in the data on births, deaths, and marriages for the period 1877-1910. Dirección General de Estadística, \textit{op. cit. supra} note 138, at 19-32.} But it has taken much education and pressure to achieve substantial compliance with legal requirements for registry of vital statistics. Even today births are registered with surprising disregard for statutory deadlines.\footnote{\textit{141} Benítez Zenteno, \textit{Análisis Demográfico de México} 26-28 (1961); Collver, \textit{Birth Rates in Latin America} 25-31, 138-42 (1965).}

E. The Move toward New Patterns: Statistical Evidence

We try now to assess through examination of statistical evidence the impact of the great upheavals of 1853-67 and 1910-17 upon patterns of marriage and legitimacy in Mexico.

1. Proportions of Legitimate and Illegitimate Births in Two Mexican Regions for Various Years since 1870

Our first set of data give the percentages of illegitimate births to total
births recorded in two regions for selected years from 1870 to 1955.\textsuperscript{142} The declarations of legitimacy or illegitimacy of the infants are those of the adults reporting the birth, usually one or both parents. Legally only an infant born to parents married in a civil ceremony recorded in the civil register is legitimate, although the officials of the civil register must accept without challenge the registrants' declaration.\textsuperscript{143} The data for the two regions are summarized in Tables 2A and 2B. The first region (Table 2A) is the Mixteca Alta, an Indian peasant area in the State of Oaxaca. Church registers which we examined in approximately half the parishes for the seventeenth and eighteenth centuries and the nineteenth century down to 1855 or 1860 showed almost no illegitimate births, as measured by the lack of a formal church ceremony for the parents. The percentages in Table 2A show a sharp, steady rise in the proportion of illegitimate births as the generations married before 1867 ceased to bear children and new generations, which had to marry by civil ceremony to have legitimate offspring, became the procreators. Our samples show a peak in the years 1920-25, just after the Mexican Revolution, with illegitimate children forming 81.8 per cent of all registered births. For the District of Putla, the proportion of illegitimate to total births for those years was ninety-five per cent. The samples of data for later years show a drop in the proportion of illegitimate births, but as late as 1950-54 they constituted more than half of all births recorded and were running at a level approximately that of the years 1905-10. We cannot be sure when the peak in illegitimate births was reached, but it may have been at any time between 1915 and the early 1930's. The data for the Mixteca Alta indicate that the civil government has been unable to replace church marriage by civil marriage or to implant the new civil morality in the Mixteca. A large part, indeed a majority, of the adult population either continues to get married by church ceremony only or lives in informal union.\textsuperscript{144} Caught between church and state, many Indians remained loyal to the church; others have turned to the old urban and Spanish folk practice, which has few legal formalities and runs up no legal or clerical fees.

Data for our second region are summarized in Table 2B. These are selections for a number of zones in the State of Jalisco to represent the distinctive climatic zones of the coast, the intermediate slopes rising to the plateau, the plateau itself, and the great urban aggregate of Guadalajara.

\textsuperscript{142} In all instances, records for whole years were used and, if the archive had them, records for four consecutive years for each group. If such selection was not possible, records of whole years were found within the groups of years shown.

\textsuperscript{143} See note 130 \textit{supra}.

\textsuperscript{144} See Table 3, \textit{infra}, where the comparative data for the State of Oaxaca in 1960 are given.
Jalisco is a _mestizo_ area of Hispanic settlement dating back to the middle of the sixteenth century. Except for the cities, notably Guadalajara, the state is of relatively uniform Hispanic peasant culture. Politically the state has been a stronghold of liberalism at times, but in the 1920's was also one of the centers of the Catholic Cristero movement of opposition to federal anticlerical measures. The data in this table show a very different pattern from the samples for the Mixteca Alta. We do not know what the percentage of illegitimate births was in the years immediately before 1870, but we may guess that Jalisco conformed to the pattern found in the Bishopric of Oaxaca in 1777 for rural _gente de razón_, that is, a somewhat higher percentage of informal union and illegitimacy than among the rural Indians but still a fairly low one compared to the percentages in Table 2A. Probably the percentages were not much different from the ones for 1880-84 in Table 2B. The data in Table 2B show little perceptible increase in the proportion of illegitimate births from 1880 to 1955. There are increases in the towns of the coast and in Guadalajara in the samples for 1921-25 and 1931-35, but samples for later years for the same towns show a drop to a relatively low level. We conclude that in Jalisco the population, urban and rural, accepted the changes in law and registry brought by the Wars of the Reform and has complied with the new provisions relatively well. Since its population is Hispanized _mestizo_ or Hispanic, it has a distinctly higher level of literacy and economic well-being both in the countryside and in the towns than the Indian Mixteca Alta.

If Table 2B does not show significant change from the mid-nineteenth century to the present in proportions of illegitimate births, it does show enduring and significant zonal differences within the State of Jalisco. The towns of the coast consistently show the largest proportion of illegitimate births, followed in descending order by Guadalajara, the towns of the intermediate zone, and the plateau. For the towns of the district of Los Altos the values are even lower: Colotlán, 3.6 per cent; Arandas, 3.4 per cent; and Tepatitlán, 6.1 per cent. Los Altos was a Cristero stronghold in the 1920's. These differences are probably longer term and less related to political change than to patterns of settlement. The coastal zone of Jalisco shows resemblance to the pattern for _pardos_ in the data of 1777 for the Bishopric of Oaxaca, and the patterns may reflect Negro settlement since in general coastal regions tend to have old Negro genetic stock that is now well absorbed. Similarly, the data for Guadalajara recall the 1777 results for the City of Antequera. As in the data from that census, however, the overwhelming proportion of the adults in all zones of Jalisco marry by legal ceremony and have legitimate offspring duly registered as such.
POVERTY AND CULTURAL PATTERNS

2. Present-Day Patterns of Marriage, Informal Union, Legitimacy, and Their Relation to Indian Sub-Cultures and Indices of Poverty

The national censuses of Mexico taken since the Revolution of 1910-17 have added a number of categories to their questionnaires and returns, which greatly assist our inquiry. In addition to questions on marriage by civil ceremony, church ceremony, or both, the census takers now ask whether adults live in informal union, called free union (unión libre) in the census, and ask further a series of questions on characteristics of poverty and well-being, for example, whether the families speak Spanish, eat wheat bread, sleep in beds rather than on mats, wear shoes, and are literate. In general, those of lower income tend to give negative answers. The questions on language and literacy were asked for censuses before the Revolution of 1910, whereas the other questions have been added since. One question—whether adults had dissolved a family union by informal decision—would have been most useful for our inquiry, but was asked only for the census of 1921.

For determining present-day patterns, we use data for the year 1960. We use only two indices of poverty in our analysis since speaking an Indian language and wearing sandals or going barefoot rather than wearing shoes give adequate evidence of the proportion and location of the population living in poverty. These data are presented in Table 3, arranged by existing states of the Mexican Union. All values are given in percentages rather than absolute numbers since we are interested only in comparisons. All the correlations made are between parameters in values given for each state, the federal district, and the two federal territories, that is, thirty-two cases in all for each correlation.

With respect to types of marital union, we have tabulated for each state the per cent of the following single and combined categories: (1) adults making no declaration of any kind (no indicado); (2) people...
living in informal union (unión libre); (3) people married by civil ceremony only; (4) people married by religious ceremony only; (5) people married both by civil and religious ceremony; (6) people living in informal union plus no indicado; (7) people living in informal union plus those married by religious ceremony only plus no indicado; and (8) people married by civil ceremony plus those married both by civil and religious ceremony. The data for these categories refer only to males sixteen years of age or older and females fourteen years of age or older, in other words, people who have reached the minimum legal age for marriage according to the Federal Civil Code1 and almost all state civil codes. We have omitted data on unmarried adults, widows and widowers, and the divorced since those categories are irrelevant for our inquiry.

The correlations of the various categories are summarized in Table 4. If we examine them, certain points emerge. The most important of these is the extremely high positive correlation between the percentage of people in a state living in unión libre or married by church ceremony only and the percentage of illegitimacy. Since both these modes of union produce offspring who are legally illegitimate, the correspondence is not surprising. However, the extent of agreement between the two sets of data is greater than perhaps might be anticipated. Indeed, if we divide all the adults known to be, or probably, living in cohabitation into two groups, one, those married legally (that is, married by civil ceremony only plus those married both by civil and church ceremony), the other, those living together in legally irregular or informal union (that is, those in unión libre and those married by church ceremony only plus no indicado), we find that each group has a correlation coefficient of 0.967 with the percentage of illegitimacy, the positive or negative sign of the coefficient depending, of course, upon which component is being considered. The validity of the Mexican marital data in the census returns is thereby firmly established since such a high coefficient amounts to near certainty. The correlation coefficient means further, of course, that each type of union (no indicado excepted) produces a proportion of total births approximately equivalent to that type of union's proportion of the total adults in all forms of family union. The children of casual coupling are probably a small factor. These indications agree with an inference gleaned

is continuous, such that the category no indicado refers to all types of adults, widows and widowers, unmarried, and divorced, as well as to people living together in marriage and informal union, and undoubtedly includes individuals of all these categories. Hence it cannot be equated with unión libre as such.

In spite of these objections, however, the group designated no indicado has been retained in the total and in the calculation of correlations.

148 MEXICAN FEDERAL CIVIL CODE art. 148. Municipal presidents (mayors) may grant a dispensation as to age in serious and justified cases. Ibid.
from discussions with anthropologists that informal unions in Mexico tend to be stable.

In view of the extremely close similarity between each state's figures for matrimonial status and for legitimacy or illegitimacy of birth, it is unnecessary in making further tests to use both these factors. Since legitimacy or illegitimacy is a single parameter, uncomplicated by subordinate categories, it is preferable to use it alone in dealing with other variables.

Let us turn now to the geographical distribution of both legitimacy and type of marriage or union. The regional coincidence of the two characteristics is striking. The trend is readily apparent if we arrange the states according to (1) per cent of unión libre plus people married by religious ceremony only, and (2) per cent of illegitimacy. In both lists we have taken the percentages in decreasing order of magnitude and segregated three subgroups within each group: high, intermediate, and low. The results are given in Table 5.

In spite of small internal variations, the two lists are remarkably concordant, particularly at the extremes. There are indicated southern and northern foci of high percentages of unión libre and illegitimacy. The intermediate region is, of course, somewhat diffuse. It should be emphasized that we are probably dealing here with the results of numerous factors and an attempt at over-detailed analysis of the available data is likely to lead nowhere.

Nevertheless, the data do permit identification of some of the factors operating. To the extent possible, we have made the identification through the correlations in Table 4. With respect to urban-rural differences, states having a high proportion of rural population tend to have a high proportion of illegitimacy. A more detailed and exact analysis on the basis of segregation of state data into urban and rural could be made, but for our purposes the correlation based on state totals is indicative, and there is no reason to suppose that more detailed analysis would lead to a very different result.

With respect to other indications of poverty, the correlations in Table 4 show that the proportion of illegitimacy has a significant positive relation with proportion of illiteracy and proportion of people who continue to speak or who know an Indian tongue. Similarly there is a strong negative correlation between proportion of illegitimacy and proportion of people who wear shoes. These correspondences combine to indicate the prevalence of unión libre and illegitimacy among the poorer, the rural, and the Indian segments of the Mexican population. Persons with all of

146 With or without the great urban concentration of Mexico City, the value of \( r \) is close to +0.47. This is somewhat beyond the one per cent level of probability and can be accepted as quite significant.
these characteristics are concentrated in the south of the country and along the West Coast. It is almost impossible to separate the Indian from the rural poor since in general Indians tend (in terms of adoption of new ways of European industrial and urbanized civilization) to be the more backward, as well as the more poverty-stricken, of the rural population.

3. Conditions Just Prior to The Revolution of 1910

For comparison of present patterns of marriage and legitimacy with those of the years immediately preceding the great upheaval of 1910-17, we have available data conveniently summarized in Estadísticas Sociales del Porfiriato 1877-1910. For the Díaz period (1877-1910), there are no figures on unión libre since that category was recognized only after the Revolution of 1910, and then only for purposes of the national census. We can, however, compute the proportions of legitimate and illegitimate births. The values for the earlier half of the Díaz period are obviously too low and reflect difficulties in persuading the Mexican population to enter births in the civil register. For the last years of the Díaz period, the values are far higher and undoubtedly indicate greatly improved registration. We use the values for 1900 and 1905 as most reliable. The percentages for 1900 and 1905 for each state are averaged and placed in Table 6.

The proportion of illegitimate births to total births for Mexico as a whole was 42.23 per cent in 1900-05 and 25.04 per cent in 1959-61. Expressed as the mean of the state values, the proportion of illegitimate to total births fell from 39.25 per cent to 25.85 per cent. The value of $t$ for the differences between the means is 2.815, which is just beyond the one per cent level of probability that is, the chance that the differences are due merely to random variation may be set at roughly one in a hundred. One may conclude, however, that this indication of considerable improvement in a period of sixty years is not so great a change after all. Two

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150 See Table 3 infra. We owe the compilation to the research staff built up at the Colegio de México for writing the history of Mexico since 1867 and to Moisés González Navarro, who supervised the selection and preparation of the volume. The data in which we are interested were taken from the Anuarios Estadísticos and the Boletín Demográfico, published by the Mexican federal statistical services for the last years of the Díaz regime.  
151 Table 15 in the Estadísticas Sociales del Porfiriato gives the totals by states of births registered for selected years from 1885 to 1910; table 16 gives the total of legitimate births registered for selected years from 1877 to 1905.  
152 A few adjustments were made to permit direct comparison with values for 1959-61; they are made necessary because of territorial changes since 1900. For example, the two values for Baja California had to be consolidated since the peninsula was a single federal territory before the Mexican Revolution. Quintana Roo, now a federal territory, was a part of the State of Yucatán until 1902. We have adjusted the entries so that the two sets of data are directly comparable.
entities, the federal district and the State of Michoacán, together account for much of the reduction in the proportion of illegitimate births. On the other hand, in Oaxaca and Veracruz high percentages of illegitimacy in 1900-05 showed little change by 1959-61.

With regard to the degree of change in the different states, it is possible to perform a fairly rapid test. Number the states from 1 to 30 in 1900-05, using the first place as the lowest in percentage of illegitimate births and the last place as the highest. Do the same for 1959-61. Then correlate according to relative position on the two scales. The coefficient of correlation, $r = +0.718$, an extremely significant value. Deletion of the federal district and Michoacán would raise this value considerably. It is clear, therefore, that with the two exceptions noted, the various states have maintained their relative standing very consistently. It is equally clear that except for these two states, the reduction in proportion of illegitimate births to the total has been only moderate, although a trend is evident.

Let us now consider one thing more. The data in Table 6, supplemented by reference to Table 5, enable us to test the validity of the results obtained in our examination of proportions of illegitimate births for selected years since 1870 for the Mixteca Alta and Jalisco. That examination disclosed that Indian areas had a consistently greater proportion of illegitimacy than Hispanized areas. If we examine the data in Table 6 in order to see how states with high proportions of Indian population conform to the pattern of the Mixteca Alta, we find that in general such states do show high proportions of illegitimate births both for the Díaz period and for recent years.163

163 The one such state which has reduced its proportion of illegitimate births very substantially is Michoacán—a tribute perhaps to the reforming zeal of its great cacique, Lázaro Cárdenas. It is also clear that there are two other major exceptions to the pattern of the Mixteca Alta. One is the State of Tlaxcala, which lies within the Nahuatl zone of central Mexico but shows consistently low percentages of illegitimate births and of union libre plus marriage by church ceremony only. On the other hand, it shows a far higher percentage of illiteracy, in accordance with its character as an essentially rural and Indian state (although a Spanish-speaking one). It is also small and densely populated. We have no explanation and can only point out that Tlaxcala is aberrant.

The other exception is the lowland Maya region embraced in the two states of Yucatán and Campeche. Although they have relatively high percentages of illiteracy, both show consistently low proportions of the types of union which would produce illegitimate children and of such illegitimate birth. The two states have had a history that is considerably different from that of the rest of Mexico. They are lowland Maya—the highland Maya as in Chiapas show a different pattern more like that of the rest of Mexico—and in the nineteenth century were a scene of the devastating War of the Castes, an Indian revolt that nearly ended Mexican control of the peninsula. The two states for a century have had a highly commercialized agriculture producing sisal fiber for the world market, with consequent formation of large estates in the Díaz period and the creation of a substantial rural proletariat. See REED, THE CASTE WAR OF YUCATÁN (1964) (excellent and highly readable). See also the excellent study of the development of a rural proletariat held in debt serfage on the peninsula by
F. Conclusion to Part I

Let us now summarize and comment briefly upon this long historical and statistical inquiry. During the colonial period Mexico had, with some variation, the two basic patterns of family union that characterized Spain and indeed Europe: (1) an official system of morality, increasingly embodied in statute, that demanded formal marriages; (2) a folk pattern of custom that accepted informal and even temporary union. Church and royal pressure successfully imposed official morality upon the Indians; the Hispanized population, including Negroes and pardos, adhered to both patterns. The legal disabilities attaching to illegitimacy encouraged formal marriage among those groups with property or access to office; conversely, the folk pattern was more apt to prevail among the lowest social strata, who, having neither property nor hope of office, could view the stigma of illegitimacy with indifference. Such evidence as we have on proportions of formal marriages and illegitimate children in the population indicates that even among the Hispanized population the great majority of unions were by formal marriage.

Since 1855 the great reform movements that have convulsed Mexico have brought considerable change. In most of the Indian areas destruction of church influence led to substantially greater resort to the folk pattern of the Hispanized population. As the generations of Indians legally married by church ceremony ceased childbearing, the proportion of illegitimate to total births rose steadily. The Revolution of 1910 gave further impetus to this trend. In all probability, the high point of illegitimate births among the Indians was reached in the 1920's or early 1930's. Since then there has been a decrease. Our data on Jalisco indicate that after the reforms of the mid-nineteenth century the Hispanized population, which had a higher proportion of illegitimate births initially, showed far less rise or none. On the other hand, the Hispanized population participates in the decrease of recent years, which is country-wide.

The meaning of the changes since the 1850's becomes clearer if we remember that the requirement of civil marriage created a large new source of illegitimacy and that the conflict between church and state has encouraged reversion to informal union. Furthermore, despite two great movements of reform in slightly over a century, the Mexican codes have

Friedrich Katz, Plantagewirtschaft und Sklaverei: Der Sisalbau auf der Halbinsel Yucatán bis 1910, 7 ZEITSCHRIFT FÜR GESCHICHTESWISSENSCHAFT 1002-27 (1959). Interestingly, the part of the peninsula which did not undergo this process, the area of rebel Indian retreat centered in what is now the Territory of Quintana Roo, shows a higher percentage than the two states of informal and merely church union with a resulting higher proportion of illegitimate births. All three jurisdictions show a rise since the Díaz period in the proportion of illegitimate births—contrary to the trend in the rest of the country. With the exceptions noted, the pattern of the Mixteca Alta is typical of the Indian areas of Mexico.
clung with but slight modification to the austere provisions of Spanish law denying to the children of informal unions rights to support and inheritance. Accordingly, the gap between statute and custom in family union and inheritance grew wider after 1855. Although we can cite only our own field research in Oaxaca and elsewhere as evidence for the statement, the gap leads often to direct defiance of statute. Obviously the woman and children of an informal union do not meekly surrender any property left upon death of the man even if by statute it should pass to other heirs or escheat to the state. They try to keep it and may count upon sympathy and cooperation from most of their neighbors. Only in 1928 did the Federal Civil Code adopt the article it now has giving a grudging and partial recognition of rights accruing to the woman and children of informal union. The states have lagged behind.

Today irregular and informal union and consequent procreation of illegitimate children tend to be characteristic of the rural and the poor, both rural and urban, in Mexico. However, the relation is more complex than a direct cause and effect. The rural and the poor tend to be the last to receive new knowledge and new ways; they tend to cling to older practice after it has been abandoned by the upper and middle strata of the population. Our historical review suggests that such, rather than a vice attaching to poverty, is more probably the explanation in Mexico.

The slow decrease in the proportion of illegitimate births in recent decades does indicate widening acceptance of official morality. The causes are easily to be found in a series of economic and social factors: the spread of elementary schools since 1921 with consequent reduction in illiteracy, a slow but nonetheless real improvement in levels of popular consumption and well-being, and the movement of people to urban centers. The new urban and industrial culture which is spreading from Europe and the United States brings with it adherence to middle and upper-class standards of behavior that are much closer to official morality. One may speculate further that an ironic but effective force for imposing official morality is the need to prove existence of a stable family unit in order to qualify for low-cost public housing and the installment credit that brings such ardently desired goods as refrigerators and television sets.

164 Mexican Federal Civil Code art. 1635. Schoenrich indicates that the article was adopted in the new code of 1928, which went into effect in 1932, Schoenrich vi-vii. Adoption by the states probably occurred upon adoption of relatively uniform codes based upon the federal one in the late 1950's. The States of Mexico and Tamaulipas, for example, copy the federal article. Código Civil para el E. L. y S. de Tamaulipas art. 1528 (1961); Código Civil para el E. L. y S. de México art. 1464 (1961). However, the State of Oaxaca, which has a high rate of informal union and marriage by church only, with a consequent high rate of illegitimate births, has refused to adopt even the concession of the Federal Code. The concubina and her children have no rights of succession in default of a written instrument. Código Civil para el E. L. y S. de Oaxaca arts. 1469-1504 (1961).
But this trend belongs to the immediate present and the future. The
Mexicans now in California and those whose earlier immigration gave
rise to Californians of Mexican descent were reared in the patterns of
family union of some years or decades back. Our evidence has shown that
they were reared in one or both of two patterns and that the north of
Mexico, from which most of the immigrants have come, contains states of
fairly high as well as states of low adherence to customary union and
procreation of illegitimate children.

II
MARRIAGE AND LEGITIMACY AMONG MEXICANS IN CALIFORNIA:
THE RECORDS OF SANTA CLARA COUNTY

We turn now to an examination of patterns of family union among
Mexican-Americans in California. Until 1846 California was part of
Mexico and conformed to Mexican patterns. After 1846 the small Mex-
ican population was rapidly absorbed in a flood of migration from the east
which made Anglo-American culture dominant in the state. Migration
from Mexico into California continued, however, and in this century has
brought large numbers. Except for political refugees, who are a small
group numerically, the migrants are of lower class status. As we shall see,
much of the migration into California of Mexicans and people of Mexican
descent comes indirectly. Many first migrate to other states of our South-
west and from them to California. The children born in the Southwest to
parents of Mexican birth obviously come to California with a background
that is somewhat different from that of people coming directly from
Mexico which, because of the concentration of Spanish-speaking popu-
lation in the Southwest, is more likely to retain the conceptions of the
older Mexican groups.

For this part of our study, we have had to depend upon data from one
area, Santa Clara County, which has a relatively high proportion of
Mexican-Americans and a low proportion of Negroes. Whether or not
data from Santa Clara County are typical of the entire state is an impor-
tant question that we cannot answer with certainty and one which the
reader must bear in mind. At this point, all we can say is that our results
are such that we judge them likely to be typical of the entire state.

Our data are drawn from two sources: (1) closed case histories of the
County Welfare Department (consulted under necessary safeguards);
and (2) the files of birth and marriage certificates kept at the County
Records Office. From the Welfare Department, we have taken data both
on Mexican-Americans (people of Mexican birth or descent) and, for
purposes of comparison, on Anglo-Americans (white Americans, as far
as possible of American parents). The tables give the number of people
for each characteristic discussed. Inasmuch as all people in the welfare records are of an economically depressed group, the samples are subject to bias. The file of births is drawn necessarily from the entire population. That of marriages is selective since it includes only those couples who actually completed the marriage ceremony. It ignores extra-legal, common law, or casual unions. Thus, to a certain extent, it counterbalances the bias of the welfare records and provides information on that portion of the public in more favorable economic circumstances. Our sample on Mexican-Americans contains data on 840 marriages—substantially all those for persons with Spanish surnames registered between January 1, 1959, and August 1, 1960. A sample of an equal number of Anglo-American marriages was taken from the books for 1959 and 1960 as a series of consecutive groups of twenty-eight marriages each, spaced at regular intervals through nearly 2,000 pages.

A. Regional Origin

The Mexican-American population is ultimately derived from Mexico, but the actual immigration of persons may have been accomplished by more than one pathway. The origin of the existing population is referable to three places of birth: (1) California; (2) other states, particularly Texas, New Mexico, and Arizona; (3) Mexico. It is relevant to our study to consider whether the Mexican-Americans recorded by the Welfare Department, on the one hand, and by the County Records Office, on the other, are drawn from similar sources.

From the Welfare Department files, we took data on those persons whose place of birth is stated, omitting minor children (most of whom were born in California) but including adult relatives of those persons actually seeking welfare assistance. It was also necessary to delete persons born before 1915 (almost all of whom were born in Mexico), in order to get a sample which would be comparable in age with the groups shown in the county records. These restrictions reduced to 347 the total number of Mexican-American welfare recipients studied.

Information from the County Records Office comes from the files on births and marriages. The birth certificates indicate the birthplace of the parents. Of the latter, there are 1,719 who have Spanish surnames. The marriage certificates give the age of the bride and groom as well as their birthplace. After removing those over forty-five years of age (that is, born before 1915) and those of full non-Mexican parentage, there are left 1,378 men and women.

Table 7 summarizes the data in terms of both absolute numbers and percentages for each source of information and for birth in each primary region. Inspection of the table leads to certain immediate conclusions.
First, the percentage of persons born in Mexico is relatively equal in the three samples, and therefore, people born in Mexico do not contribute disproportionately to the groups derived from the three sources of data. Second, there is a difference in proportionate contribution between Mexican-Americans born in California and those born in the Southwest. It appears, on inspection, that the birth and marriage records are sampling essentially the same population with respect to geographical origin, but that the persons studied from the welfare files have somewhat different geographical origins than subjects from the other two groups. The Mexican-Americans in the welfare records tend on the whole to be migrants from other states, whereas those who appear in the marriage file have a higher proportion of native Californians. The parents of newly born children (the subjects taken from birth certificates) are intermediate between the two other groups, as one would expect, for one group consists of those who are being legally married whereas the other group—the welfare aggregate—is both economically disadvantaged and contains many individuals in common law union.

B. Common Law Marriage (Informal Family Union)

Meaningful quantitative data concerning nonlegal forms of family union can be sought only from the files of the Welfare Department, where extensive information sheets and exhaustive case histories are preserved for each applicant. The files of marriage certificates at the County Records Office obviously tell nothing of extra-legal affairs. The birth records carefully and deliberately exclude any statement concerning parenthood or legitimacy. They do, however, indirectly provide a few items of useful information. We shall consider these before proceeding to the welfare data.

Although not required by law, the form of the certificate and common practice call for an “informant,” usually the mother, to sign the certificate of birth of the child. If the mother is unmarried, she frequently uses her maiden name, or that of her last husband if she is divorced. On

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155 These initial conclusions may be tested by calculating appropriate chi-squares. Thus if the numbers given in Table 7, part A, are treated as a $3 \times 3$ table with 9 cells the chi-square is 46.59, a value so great for 4 degrees of freedom as to dispel any doubt that the differences in place of origin as a whole are highly significant. If one starts with the figures obtained from birth certificates and compares them only with those from the marriage data in a $2 \times 3$ table, the chi-square is 4.62, a value at the 10 per cent level of probability, whereas a similar treatment of the figures from the birth certificates and the welfare data yields a chi-square of 32.42, or beyond the 1 per cent level of probability.

156 This situation may be shown by computing chi-square for the absolute numbers of persons in all three groups who were born in California and in the American Southwest, omitting the natives of Mexico. Here the chi-square is 46.04, again a high value.

157 See CAL. HEALTH & SAFETY CODE § 10125.
the other hand, if she has been cohabiting with a man, and the acquaint-
ance is more than casual, she may use his name and imply that she is
married. The mere appearance of the man’s name on the certificate (with
or without the title Mrs.) is therefore not certain evidence of a legal mar-
riage. It may be presumed, although there is no way of proving it, that
the children of many common law unions are thus endowed with pseudo-
legitimacy.

A further disturbing factor, for statistical purposes, is the practice of
sealing birth certificates. Frequently, for purposes of adoption or for other
reasons, the birth certificate in the public file at the County Records Office
is sealed off by a heavy sheet of paper. Roughly two per cent of the cer-
tificates are thus withdrawn from possible inclusion in the sample obtained
for this study. For purposes of determining parents’ age at the birth of
their child or their ethnic origin, this removal probably makes no
significant difference. For estimating the level of legitimacy, however, it
may make a great deal of difference.

For what it is worth, it may be reported that out of approximately
1,050 birth certificates examined from the Mexican-American population
and an equal number from the Anglo-American population, the former
showed 4.67 per cent of the women using their maiden names, and the
latter 0.95 per cent. This finding may or may not argue a greater tendency
toward extra-legal unions among the Mexican-American population at
large than among the Anglo-American.

Let us now consider the closed files of the Welfare Department. At
this point comment is required concerning the validity of the available
data. It has been argued with some justification that the file of a welfare
department is an unsatisfactory source for comprehensive quantitative
data pertaining to an intensive study of common law marriage \textit{per se} and
with reference to the circumstances attending the marriage as well as the
factors contributing to it. This objection is based on the highly subjective,
erratic, and sometimes very emotional aspects of a record taken by wel-
fare personnel from applicants or recipients who are frequently appre-
hensive and distrustful.

It has also been argued, but with much less justification, that the
simple enumeration of common law marriages is fatally unreliable. Admitted-
ly we are not dealing with a signed, notarized marriage certificate.
On the other hand we have at our disposal a massive body of verbal testi-
mony. Every applicant when he first encounters the welfare organization
must supply information in the way of personal and family history, which
is transferred to what is called a Face Sheet. Special emphasis is placed
upon the applicant’s marital status, and if there is evidence of nonlegal
cohabitation, the fact is so noted. Next follows the Social History, which
consists of a précis of personal interviews conducted by case workers. Every visit, every conversation is recorded, sometimes in extraordinary detail with honesty and fidelity to fact. Frequently these histories run over dozens of closely typed pages and cover periods of many years. Finally, in the case of elderly or incapacitated persons, statements are secured from responsible adult relatives with respect to their own ability or inability to support the applicant for welfare aid. It takes time and patience, but a careful, impartial perusal of all these documents makes possible a decision as to whether a given couple was, or had been, living in legal or extra-legal matrimony. This is particularly true for unions entered into in the United States or those that are relatively recent. The one kind of declaration which probably contains much more error is that on unions formed in Mexico four to seven decades ago, especially when the information is provided by the children.

There are certain ad hoc tests which may be applied. Thus illegitimacy resulting from a casual relation in a hotel room can easily be identified as such and rejected as not representing a bona fide common law marriage. Conversely, cohabitation over several years with the birth of successive children can be identified as a genuine marital relationship of some sort. Further, if Mrs. X avers that she was married to Mr. X on a certain date at a certain town, it is highly probable that there was a legal marriage. Divorce and separation are also helpful in determining the type of original union, since conjugal difficulty very often is present in welfare cases. If there is, or was, a divorce and papers are displayed or if a divorce petition has been filed in a local court, then there must have been a legal marriage. If there has been an informal separation and serious effort is exerted by the welfare agency to heal the wounds, the probability is high that the couple had been legally married. But if the erring spouse is allowed to depart in peace, with little attempt to bring him or her back, then we probably are dealing with a common law union.

Thus by one device or another the task of determining whether a family union is legal or extra-legal is rendered much less difficult than might appear at first sight. At the same time, it must be conceded that a great deal of the information rests upon personal judgment and as such is subject to human error. The crucial question is whether such error is of sufficient magnitude to invalidate the basic results. We believe it is not. In the first place, cases with incomplete or inadequate data have been discarded. In the second place, any tendency on the part of the applicant to lie is often balanced by the perspicacity of the social worker and his ability to secure corroborative evidence from other persons such as relatives or friends. In the third place, and this is of fundamental importance, any tendency to prevaricate will create a bias in the direction of under-
estimating the extent of common law marriage. Consequently our values for the latter, if in error at all, are probably too low.

Our material is best presented as a series of brief summarizing statements with corresponding numerical tables where necessary.

1. Regional Origin of Mexican-Americans with Respect to Form of Union and Separation

We have already found that the Mexican-Americans appearing in the welfare records as a whole showed a relatively heavy preponderance of persons migrating to California from Texas and other Southwestern states. A segregation by age (those born before as opposed to those born after 1910) demonstrates a significantly greater number of the older people to have been born in Mexico, while most of the younger people were born in the United States. This situation is to be anticipated in any immigrant group, but it is complicated by the fact that many of the individuals now seeking welfare aid passed through or were born in the American Southwest prior to moving to California. Since the region of origin might be an important determinant of the type of marriage and also of separation among the Mexican-Americans in the files of the Welfare Department, this possibility requires investigation.

Among the Mexican-American women shown in the welfare files who were born in the United States, 27.7 per cent of the marriages for which there is reasonably secure evidence were by common law rather than by legal ceremony. Among the women born in Mexico 15.1 per cent of the marriages were by common law. This difference is barely significant statistically since the sample is small (See Table 8). The difference would seem to militate against cultural carry-over, but probably means no more than the likelihood that many of the common law marriages among the older women, most of whom were born in Mexico, were reported as legal marriages to the social workers in Santa Clara County. Many of the declarations were made by adult children.

Table 9 shows that birthplace is not a factor in determining whether a woman receiving welfare aid is still living with her husband or has been separated by death, divorce, or any other cause. On further breakdown, it is found that the women born in the United States demonstrate a greater number of separations by divorce or desertion, rather than by death, than do the women born in Mexico (See Table 9, part B). This situation may be in part referable to the greater marital stability among the members of the older age group, the majority of whom are Mexican born.

If an examination is made of the method of disunion among those who separate while still alive, a slightly stronger tendency is found (See Table 9, part C) for women born in the United States to seek legal divorce rather
than tolerate informal separation or frank desertion. However, this differential is neither large enough nor based on an adequate sampling to be of much significance. Nevertheless, the possibility of an actual disparity is interesting, for it goes to the question of acculturation and might repay more extensive study with a larger sample. On the whole, place of birth does not appear to be a factor of much weight in determining the marital circumstances of Mexican-American women in the welfare files.

2. Comparisons between Anglo and Mexican-American Women with Respect to Kind of Union and Separation

(a) Type of Marriage.—With respect to selection of legal and common law union, there is a significant difference between the two ethnic groups (See Table 10). The Mexican-American welfare population shows 27.7 per cent common law marriages and 72.3 per cent legal, while the parallel figures for the Anglo-Americans are 6.2 and 93.8 per cent.168

The question may be asked whether internal differences exist among the Anglo-American population greater than those between that population as a whole and the Mexican-Americans. To answer this question, the Anglo-American welfare population sample was divided according to the states of origin of the women. The line ran roughly along the northern borders of Virginia, Tennessee, Missouri, Kansas, Colorado, and Arizona. Table 11 indicates a slight excess of common law marriages among those born in the South, but the difference is substantially nonsignificant. The Mexican-Americans from the welfare files therefore clearly show a greater tendency to common law union than do their Anglo-American counterparts.

(b) Date of Birth and Type of Marriage.—Although the Anglo and Mexican-Americans differ sharply in the relative proportion of common law to legal marriages, in both groups there is a much greater tendency for the younger women to resort to common law union (See Table 12). Indeed, a study of the first and second order interactions demonstrates that the two ethnic groups behave very similarly with respect to the effect of age on preference for common law rather than legal marriage.

(c) Method of Separation.—Of those who have been married, 59.7 per cent of the Anglo-American welfare applicants and 52.4 per cent of the Mexican-Americans have separated from their spouses due to all causes (See Table 13, part A). The difference is of little or no significance.

Among those women no longer living with their husbands 66.2 per cent

168 The chi-square value for this distribution of attributes is 49.65, such a large value as to put beyond question the reality of a distinct difference between the two populations, in spite of the relatively small number of cases, and in spite of the errors which may have been introduced by the subjective method of gathering the basic data.
of the Anglo-Americans and 70.4 per cent of the Mexican-Americans separated otherwise than by death. This difference also is without significance (See Table 13, part B).

If we disregard the legality of the original union of those separating otherwise than by death, we find that 67.5 per cent of Anglo-American women separate by divorce rather than by informal separation. On the other hand, only 21.4 per cent of the Mexican-American women separating obtain formal divorces (See Table 13, part C). This is a highly significant difference.

It is of course evident that those groups living in informal union can separate only by desertion and never by divorce. For those legally married, however, the percentage of divorces among Anglo-American women, 79.1 per cent, much exceeds that among Mexican-American women, 49.0 per cent (See Table 13, part D). As a check upon possible variation among Anglo-American women from different regions with respect to this characteristic, women born in the North were compared with those born in the South. Table 13, part E, shows a slight differential in favor of divorce as opposed to desertion among northern women, but this disparity has only marginal significance.

Another way of assessing the behavior of Anglo-American as contrasted with Mexican-American women is by comparing the number still living in matrimony or separated by death, as one category, with the number separated by either divorce or desertion, as another category. Both categories were examined with reference to whether the original union was by common law or legal ceremony. Table 14 correlates three sets of variables: ethnic origin, type of union, and type of separation.

In the Anglo-American group, 36.4 per cent of those legally married separated by divorce or desertion, and 79.2 per cent of those united only by common law so separated. In the Mexican-American group, 22.8 per cent of the legal marriages and 71.6 per cent of the common law unions ended in divorce or desertion. A simple statistical analysis is shown in Table 14. The second order interaction, which here is an indicator of difference between ethnic groups, has a chi-square value which denotes complete nonsignificance. Thus the two groups do not diverge materially from each other in the behavior of those legally married as contrasted with those informally united. The conclusion is therefore justified that insofar as those reached by the Welfare Department are concerned, the strong tendency to separate is a feature of common law marriage as such, and is not associated with one ethnic group.

(d) The Form of Marriage in the Population at Large.—The file of marriage certificates at the Santa Clara County Records Office also yields information on the form of the marriage ceremony. It will be remembered
that in Mexico, a couple may unite in formal marriage or by common law, called in Mexico *union libre*. Those who embark upon formal matrimony, in turn, may follow one of three possible procedures: civil marriage, religious marriage, or both civil and religious. In California a couple must first secure a marriage license.\(^{159}\) (Mexican law has an equivalent procedure.\(^{160}\)) Thereafter the actual ceremony which ratifies the intention may be conducted by a judge or magistrate in a civil ceremony or by a clergyman in a religious ceremony.\(^{161}\) The marriage certificate must show the signature and church affiliation of the officiating person.\(^{162}\) For the sample under consideration, therefore, we know how the 840 native born, non-Mexican-American couples were married, and we have the same information concerning 840 couples of full or partial Mexican extraction.

Before the data are presented, it is worthwhile to stress certain facts which are actually common knowledge. The native born American population in California, from which our sample is drawn, is in the majority Protestant, although by no means overwhelmingly so. The indigenous population in Mexico is almost exclusively Roman Catholic. Thus the Census of 1960 gives the percentage of Catholics as approximately 96.5, and that of the Protestants as 1.7.\(^{163}\)

Table 15 shows the distribution among the two ethnic groups of the three types of ceremony. The Anglo-American group follows the conventional pattern: roughly 70 per cent Protestant, 20 per cent Catholic, the remainder married by the judge. The Mexican-Americans are surprisingly different in two respects. First, one observes that nearly 15 per cent of the ceremonies, in the years 1959 and 1960, were performed by Protestant clergymen, as compared with 36 per cent by Catholic priests. Second, one notes that about one-half of the marriages were performed by the civil, not the church, authorities. Let it be stated again that these are the Mexican-Americans who are rejecting informal union in favor of legal matrimony.

What are the causes of this strong deviation from the religious traditions of their forefathers, but not yet full acceptance of conventional American behavior? One influence can be suggested. In Mexico, according to the 1960 census, a fifth of the population married by some kind of ceremony has been content with purely civil marriage; slightly more than two-thirds have been married both by civil and church rites.\(^{164}\) The knowledge of the civil ceremony is thus widespread in the population.

\(^{159}\) CAL. CIV. CODE § 69.
\(^{160}\) MEXICAN FEDERAL CIVIL CODE arts. 101-103.
\(^{161}\) CAL. CIV. CODE § 70.
\(^{162}\) CAL. CIV. CODE § 73.
\(^{163}\) 8 MÉXICO CENSO GENERAL DE Población: 1960, Resumen General, Table 18, at 282.
\(^{164}\) See Table 3 infra.
POVERTY AND CULTURAL PATTERNS

Hence the transition cannot have been difficult from this type of marriage in one country to the same thing in another, for the nearest approach in the United States to the Mexican civil ceremony is the rite performed by a judge. It is obvious, however, that cultural carry-over is only part of the explanation.

Apart from the effect of the tradition of civil marriage in Mexico, the examination of three other factors is permitted by the Santa Clara County data. These are: (1) divorce, (2) intermarriage, and (3) the age of the participants.

Remarriage of divorced persons is not usually permitted in the Roman Catholic church. Hence divorced Roman Catholics, if they desire to re-marry, must do so by civil ceremony or by a Protestant religious ceremony. For the Anglo-American population, a further complication is that more than half are already Protestants for whom remarriage is possible in their own church. Finally, it must be borne in mind that the relative number of divorced persons in the Mexican-American group is much smaller at the outset than among the Anglo-Americans.

In view of these complexities, for the purpose of studying the effect of divorce on the type of marriage ceremony, it will be best to ignore the Catholic component entirely and compare directly the data for marriages by civil authority on the one hand, and by the Protestant clergy on the other. The absolute numbers are given in Table 16. It appears that never-married persons predominate heavily in all categories except those Anglo-Americans who were married judicially. This finding is somewhat unexpected, since one might have predicted that divorced persons would have been relatively more numerous among the Mexican than among the Anglo-American fraction of the population. On the basis of the figures in Table 16 it can be seen that Mexican-American divorced persons do not seek remarriage by judicial ceremony in preference to other methods and consequently that divorce is not a factor in building up the high level of court marriages among the Mexican-American population.

The ethnic background and family history of a couple may readily determine whether the wedding ceremony takes place before a judge or, if in a church, which church. Hence it is desirable to test the type of

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105 The difference seen in Table 16 may be further tested by the chi-square method. For Anglo-Americans the differences shown yield a chi-square value of 19.98, indicating a high level of significance. For Mexican-Americans the chi-square is 0.20—there is no significance. Approaching the problem from another direction, we may compare the relative number of the two groups who resort to judicial marriage after previous divorce. Chi-square is 34.94. Among those married by the Protestant clergy there is no significant difference. These results confirm the fact that many more divorced Anglo-Americans, in proportion to the numbers involved, prefer judicial marriage to a ceremony conducted by a clergyman. With the Mexican-Americans there is no particular distinction.
marriage with respect to whether the couple is of pure Mexican descent or whether one or more parents are non-Mexican. The data are given in Table 17. From inspection of the table, it appears that, relatively speaking, the civil courts married about as many couples of non-Mexican or mixed ancestry, in comparison with pure Mexican stock, as did the Catholic clergy. On the other hand, of those couples married by the Protestant clergy, a significantly greater proportion were of mixed origin, indeed more than twice as many. The reasons appear to lie in the probability that many, if not most, of the non-Mexican parents of the bride or groom are Protestants and exert considerable influence on the method of getting married. On the other hand, for those who prefer a judicial ceremony the religious affiliation of the parents seems to be of little consequence.

If one checks the number of very young brides in the two ethnic groups with reference to marriage by judicial or clerical ceremony regardless of church, one sees that more of the Mexican-American component has utilized the former method than has the Anglo-American component. The figures are in Table 18, where the distinction is drawn between those under eighteen years of age and those eighteen or older. With the Anglo-Americans there is no difference referable to age. With the Mexican-Americans there is a significant difference. Relatively more of the judicial ceremonies are performed with very young individuals. The over-all greater youthfulness of the Mexican-American brides may be an influence here. Furthermore, when females under sixteen or males under eighteen apply for a marriage license, it is required that special court permission be secured in order to obtain one. When these licenses are granted, there may be some inclination on the part of the couple to be married in the same court that granted the license. On the whole, however, the numbers involved are not great and these factors cannot be of decisive influence in determining the form of the wedding ceremony.

After examination of those parameters which are subject to some degree of quantitative analysis, it is still necessary to explain the remarkable shift of that portion of the Mexican-American population which seeks legal marriage toward reliance upon civil rather than religious ceremony and upon Protestant in partial substitution for Catholic ceremony. Previous divorce or age of the participants will not significantly account for the phenomenon. Religious background of the parents comes closer to an explanation but is by no means a complete solution. Perhaps, basically, two factors must be reckoned with. One is the familiarity with civil marriage developed over decades in Mexico. The second is the influence of American Protestantism, which in turn manifests itself in two ways; the
relative ease of marriage of divorced persons and the religious convictions of the parents.

If the Mexican tradition of civil marriage and American Protestantism help to provide the pathways along which marriage custom is moving, something else must furnish the driving force. The opinion may be advanced that this motivation is derived from the contemporary American environment through welfare agencies, church activities, majority public opinion, and many other elements. Despite a somewhat higher level of procreative activity which pervades all classes of Mexican-American society, there can have been no fundamental biological change within this segment of the population. Hence there are left only social forces, which are environmental rather than genetic.

If these considerations are valid with respect to type of legal matrimony, then it follows that common law marriage must be subject to the same pressures and these pressures are in the direction of the full transition from any form of extra-legal union to complete acceptance of some type of conventional ceremony. The problem has not yet been studied from the historical or developmental point of view, but we may guess that such a study would bring to light a recognizable and perhaps strong trend away from common law to legal marriage. This would be accompanied by a channelling of the Mexican-American population into the economically most feasible and the socially most acceptable modes of legal matrimony.

SUMMARY AND CONCLUSIONS

1. A comparison of birth, marriage, and welfare data for Mexican-Americans indicates that birth in Mexico does not constitute a factor influencing presence or absence in the welfare category or in the category of participants in legal marriage. Nevertheless, persons born in the American Southwest are more heavily represented in the welfare group than in that group which is recorded on marriage certificates.

2. In regard to type of matrimony, a study of common law marriage among women whose cases are on file at the Welfare Department indicates certain specific findings, as follows:

a. A comparison with Anglo-American women shows that common law marriage is far more frequent among Mexican-American women.

b. In both ethnic groups the older women have fewer common law marriages recorded than the younger.

c. Examination of welfare data shows that the strong tendency to separate by method other than divorce is inherent in the situation created by the informal union and is not peculiar to either ethnic group.

3. The file of marriage certificates demonstrates that there is a strong
preference by Mexican-American couples to marry either in a judicial or Protestant ceremony rather than in the Catholic church. This departure from Mexican religious tradition is referable neither to previous divorce nor youthful age on the part of those directly concerned. To a significant degree it is influenced by the religious affiliation of the parents of the Anglo-Americans, who, in mixed marriages, are likely to be non-Catholic.

4. The emergence of a new pattern governing the type of legal marriage among the Mexican-Americans is probably conditioned by several factors, such as familiarity with civil marriage in Mexico, frequent encounter with the Protestant churches in the case of mixed marriages, and a complex of social pressures exerted through the California environment, rather than through any modification of an intrinsic or biological nature. These considerations apply to common law as well as to formal marriage and are probably operating actively to reduce or eliminate the former type of union.

5. The data on Mexican-Americans in Santa Clara County show two differences in comparison with Anglo-Americans that may be related to the patterns of Mexican family union found in Part I of this study: the relatively high rate of common law marriage among the women who reach the Welfare Department and the strong tendency in legal marriages to resort to judicial rather than church ceremony. Common law union, of course, gives rise to illegitimate offspring. Can the differences be ascribed directly to cultural carry-over from Mexico to California? The answer must be equivocal: It is possible. An unequivocal answer requires examination of data from more counties, a survey of common law union among Mexican-Americans that extends beyond the people on welfare, and comparative examination of another major group of the poor, the Negroes. That comparative examination would have to look beyond the extent of informal unions to duration of such unions and the nature of family structure, especially the roles of the man and the woman in the home. The material in this article does support the hypothesis that Mexican-American behavior in family union is conditioned by cultural carry-over.
APPENDIX

TABLE 1
Selected Summaries of 1777 Census Data, Bishopric of Oaxaca

1 A
Married and Unmarried Persons of the Population as a Per cent

<table>
<thead>
<tr>
<th>Race</th>
<th>Married Men</th>
<th>Unmarried Men and Women</th>
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</thead>
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<td>16.5</td>
</tr>
<tr>
<td>Pardos</td>
<td>17.2</td>
<td>9.0</td>
</tr>
<tr>
<td>Indians</td>
<td>21.1</td>
<td>3.8</td>
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<tr>
<td>Antequera (Mixed)</td>
<td>16.1</td>
<td>19.4</td>
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1 B
Unmarried Women with Children per 1,000 Inhabitants

<table>
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<tr>
<th>Race</th>
<th>Total Population in Returns (to nearest thousand)</th>
<th>Proportion</th>
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<tr>
<td>Gente de Razón</td>
<td>6,000</td>
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<tr>
<td>Pardos</td>
<td>13,000</td>
<td>5.6</td>
</tr>
<tr>
<td>Indians</td>
<td>188,000</td>
<td>0.95</td>
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<tr>
<td>Antequera (Mixed)</td>
<td>19,000</td>
<td>14.2</td>
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1 C
Probable Illegitimate Children in Antequera Census of 1777

<table>
<thead>
<tr>
<th>Part of City</th>
<th>Children Designated as Huérfanos</th>
<th>Children Designated as Hijos</th>
<th>Children Designated as Huérfanos</th>
<th>Children Designated as Hijos</th>
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<tbody>
<tr>
<td>Rumbo de Arriba</td>
<td>141</td>
<td>2</td>
<td>21</td>
<td>1</td>
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<td>Rumbo de Abajo</td>
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<td>4</td>
<td>30</td>
<td>65</td>
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</table>

Total = 264
Population = 18,558
Cases per 1,000 Persons = 14.23
(Rumbo Arriba alone: 15.93
Rumbo Abajo alone: 12.54

Note: Clergy and people in institutions are excluded from all sections of the Table.
Source: Archivo General de Indias, Seville, Sección de Audiencia de México, Legajos 2589-91.

Notes to Table 1 C:
1. Observe the difference in designation of the females between the two rumbos.
2. In Rumbo de Abajo, Tandas 1-3 show for children 25 hijos, 30 huérfanos. Tandas 4-6 plus Consolación show 40 hijos, 0 huérfanos.
3. A great many, perhaps 100, equivocal cases are omitted. The figure 14.23, therefore, is conservative.
### TABLE 2

#### 2 A
Percentage of Registered Births Which Were Illegitimate
Mixteca Alta

<table>
<thead>
<tr>
<th>Years</th>
<th>Total Registered Births</th>
<th>Illegitimate Births (Per cent)</th>
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<tbody>
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<td>1870-1874</td>
<td>14,960</td>
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<td>1888-1892</td>
<td>30,365</td>
<td>30.2</td>
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<td>1905-1910</td>
<td>32,949</td>
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<tr>
<td>1920-1925</td>
<td>24,414</td>
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<tr>
<td>1937-1947</td>
<td>19,140</td>
<td>56.8</td>
</tr>
<tr>
<td>1950-1954</td>
<td>39,823</td>
<td>52.7</td>
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</tbody>
</table>

Source: Registers of births in Archivo General del Estado, Oaxaca.

Notes:

a. The five districts are Coixtlahuaca, Nochixtlan, Teposcolula, Tlaxiaco, and Putla. Although the districts no longer exist as administrative entities under the Constitution of 1917, they continue to be used as groupings of municipios for archival and postal purposes.

b. For the district of Putla, the proportion was 95%.

#### 2 B
Percentage of Registered Births Which Were Illegitimate
Jalisco

<table>
<thead>
<tr>
<th>Years</th>
<th>Coastal Zone</th>
<th>Intermedi-</th>
<th>Plateau Zone</th>
<th>Total Jalisco</th>
<th>Total Jalisco inc. Guadal.</th>
<th>City of Guadalajara</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(4 towns)</td>
<td>ate Zone</td>
<td>(8 towns)</td>
<td>exc. Guad.</td>
<td>inc. Guad.</td>
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<tr>
<td>1875</td>
<td>20.7</td>
<td>10.5</td>
<td>7.2</td>
<td>9.7</td>
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<td>13.4</td>
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<tr>
<td>1880-1884</td>
<td>17.2</td>
<td>11.9</td>
<td>5.1</td>
<td>9.2</td>
<td>9.6</td>
<td>18.2</td>
</tr>
<tr>
<td>1890-1894</td>
<td>17.4</td>
<td>11.5</td>
<td>4.7</td>
<td>8.9</td>
<td>—</td>
<td>—</td>
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<tr>
<td>1904-1908</td>
<td>17.4</td>
<td>11.5</td>
<td>4.7</td>
<td>8.9</td>
<td>—</td>
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<tr>
<td>1915</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1921-1925</td>
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<td>5.5</td>
<td>11.3</td>
<td>12.3</td>
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</tr>
<tr>
<td>1931-1935</td>
<td>26.8</td>
<td>14.4</td>
<td>5.3</td>
<td>11.4</td>
<td>13.9</td>
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<tr>
<td>1941-1945</td>
<td>19.3</td>
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<td>4.9</td>
<td>9.5</td>
<td>10.5</td>
<td>17.0</td>
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<tr>
<td>1951-1955</td>
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<td>10.3</td>
<td>5.8</td>
<td>9.1</td>
<td>10.1</td>
<td>15.6</td>
</tr>
</tbody>
</table>

Mean per cent 20.0 11.7 5.5 9.9 11.3 18.1

Per cent of Totals 20.1 11.8 5.5 10.8 17.7

Source: Registers of births in Archivo Municipal, Guadalajara and in the Archivo General del Estado, Guadalajara.
### TABLE 3

#### 3 A

Data on Forms of Marital Status, Illegitimacy, and Cultural Factors

Forms of Marriage

<table>
<thead>
<tr>
<th>Entity</th>
<th>Per cent of Total Adults Living in Unión Libre</th>
<th>Per cent of Total Adults in no Indicate</th>
<th>Per cent by Civil Only of Casados</th>
<th>Per cent by Church Only of Casados</th>
<th>Per cent of Casados by Civil &amp; Church</th>
<th>Per cent of Children Born Who Are Illegitimate 1959-1961</th>
<th>Per cent Illiterate</th>
<th>Per cent Rural to Total Population</th>
<th>Per cent Speaking an Indian Language</th>
<th>Per cent of Population Who Wear Shoes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Country</td>
<td>15.02</td>
<td>5.16</td>
<td>20.56</td>
<td>11.57</td>
<td>67.87</td>
<td>25.04</td>
<td>37.78</td>
<td>49.30</td>
<td>10.39</td>
<td>60.24</td>
</tr>
<tr>
<td>Aguascalientes</td>
<td>4.47</td>
<td>4.49</td>
<td>4.33</td>
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<td>93.55</td>
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<td>27.06</td>
<td>40.32</td>
<td>0.37</td>
<td>75.83</td>
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<td>33.70</td>
<td>4.65</td>
<td>61.65</td>
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<td>18.83</td>
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<td>63.41</td>
<td>0.45</td>
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<td>34.94</td>
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<td>36.90</td>
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<td>65.27</td>
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<td>30.16</td>
<td>3.01</td>
<td>66.84</td>
<td>8.80</td>
<td>19.60</td>
<td>33.25</td>
<td>0.41</td>
<td>86.65</td>
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<td>75.55</td>
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<td>73.10</td>
<td>14.17</td>
<td>25.08</td>
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<td>82.77</td>
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<td>24.83</td>
<td>64.52</td>
<td>0.91</td>
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<td>Per cent of Total Adults in no indicato</td>
<td>Per cent Civil Only of Casados</td>
<td>Per cent Church Only of Casados</td>
<td>Per cent of Casados by Civil &amp; Church</td>
<td>Per cent of Children Born Illegitimate 1959-1961</td>
<td>Per cent Illiteracy</td>
<td>Per cent of Rural to Total Population</td>
<td>Per cent Speaking an Indian Language</td>
<td>Per cent of Population Who Wear Shoes</td>
</tr>
<tr>
<td>----------------</td>
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</table>
TABLE 3 (Continued)

3 C
Data on Forms of Marital Status, Illegitimacy, and Cultural Factors
Forms of Marriage

<table>
<thead>
<tr>
<th>Entity</th>
<th>Per cent of Total Adults Living in Union Libre</th>
<th>Per cent of Total Adults in no indicate</th>
<th>Per cent Civil Only of Casados</th>
<th>Per cent Church Ceremony Only of Casados</th>
<th>Per cent of Casados by Civil &amp; Church</th>
<th>Per cent of Children Born Who Are Illegitimate 1959-1961</th>
<th>Per cent Illiteracy</th>
<th>Per cent of Rural to Total Population</th>
<th>Per cent Speaking an Indian Language</th>
<th>Per cent of Population Who Wear Shoes</th>
</tr>
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<td>54.07</td>
<td>11.64</td>
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<tr>
<td>Mean exc. D. F.</td>
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</table>

Sources: 8 México Censo General de Población: 1960, Resumen General, Tables 1, 17, 39; Anuario Estadístico de los Estados Unidos Mexicanos, Tables 2.15, 2.16, and 3.8 (1960-61).
### TABLE 4
Summary of Correlations Relating to Matrimony and Legitimacy

Correlations Against Percentage of Illegitimate Children Born 1959-61

<table>
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<th>A. Various Types of Union:</th>
<th>r =</th>
</tr>
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<td>1. <em>No Indicado</em></td>
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</tr>
<tr>
<td>2. <em>Unión Libre</em></td>
<td>+0.907</td>
</tr>
<tr>
<td>3. <em>Unión Libre</em> plus <em>No Indicato</em> (1 + 2)</td>
<td>+0.901</td>
</tr>
<tr>
<td>4. Married by Civil Ceremony Only</td>
<td>+0.376</td>
</tr>
<tr>
<td>5. Married by Religious Ceremony Only</td>
<td>+0.618</td>
</tr>
<tr>
<td>6. Married by Civil and Religious Ceremony</td>
<td>-0.899</td>
</tr>
<tr>
<td>7. <em>Unión Libre</em> Plus Married by Religious Ceremony Only</td>
<td>+0.966</td>
</tr>
<tr>
<td>8. <em>Unión Libre</em> plus Married by Religious Ceremony Only plus <em>No Indicato</em> (1 + 2 + 5)</td>
<td>+0.967</td>
</tr>
<tr>
<td>9. Married by Civil Ceremony Only Plus</td>
<td></td>
</tr>
<tr>
<td>Married by Civil and Religious Ceremonies (4 + 6)</td>
<td>-0.967</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B. Various Cultural Factors:</th>
<th>r =</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Per cent Illiteracy</td>
<td>+0.393</td>
</tr>
<tr>
<td>2. Per cent Rural</td>
<td></td>
</tr>
<tr>
<td>a. Omitting Federal District</td>
<td>+0.467</td>
</tr>
<tr>
<td>b. Including Federal District</td>
<td>+0.470</td>
</tr>
<tr>
<td>3. Per cent Speaking Indian Language</td>
<td>+0.359</td>
</tr>
<tr>
<td>4. Per cent Wearing Shoes</td>
<td>-0.505</td>
</tr>
</tbody>
</table>

Note: The correlations are based upon the values for 32 states. For this number a value for r of less than 0.349 is non-significant, of 0.349 to 0.449 is significant, and of greater than 0.449 is very significant.
TABLE 5
Comparison of People Living in Irregular and Informal Union and Proportion of Illegitimate Births
(Unión Libre plus Married by Religious Ceremony Only)

<table>
<thead>
<tr>
<th>Per cent of Unión Libre and People Married by Religious Ceremony Only</th>
<th>Per cent of Illegitimate Births Average of 1959-1961</th>
</tr>
</thead>
<tbody>
<tr>
<td>50-30%</td>
<td>High</td>
</tr>
<tr>
<td>Chiapas</td>
<td>50.05</td>
</tr>
<tr>
<td>Veracruz</td>
<td>49.48</td>
</tr>
<tr>
<td>Oaxaca</td>
<td>46.40</td>
</tr>
<tr>
<td>Hidalgo</td>
<td>43.94</td>
</tr>
<tr>
<td>Tabasco</td>
<td>38.35</td>
</tr>
<tr>
<td>Sinaloa</td>
<td>37.02</td>
</tr>
<tr>
<td>Nayarit</td>
<td>36.47</td>
</tr>
<tr>
<td>Puebla</td>
<td>32.99</td>
</tr>
<tr>
<td>Morelos</td>
<td>32.74</td>
</tr>
<tr>
<td>Quintana Roo</td>
<td>30.71</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>30-15%</th>
<th>Intermediate</th>
<th>35-18%</th>
</tr>
</thead>
<tbody>
<tr>
<td>México</td>
<td>25.63</td>
<td>Baja Calif., Ter. Sur</td>
</tr>
<tr>
<td>Sonora</td>
<td>21.39</td>
<td>Colima</td>
</tr>
<tr>
<td>Guerrero</td>
<td>21.32</td>
<td>Quintana Roo</td>
</tr>
<tr>
<td>Tamaulipas</td>
<td>19.85</td>
<td>Sonora</td>
</tr>
<tr>
<td>Baja Calif., Ter. Sur</td>
<td>19.23</td>
<td>México</td>
</tr>
<tr>
<td>Durango</td>
<td>19.15</td>
<td>Tamaulipas</td>
</tr>
<tr>
<td>Colima</td>
<td>18.40</td>
<td>Yucatán</td>
</tr>
<tr>
<td>Baja California</td>
<td>17.96</td>
<td>Tlaxcala</td>
</tr>
<tr>
<td>San Luis Potosí</td>
<td>17.83</td>
<td>Campeche</td>
</tr>
<tr>
<td>Tlaxcala</td>
<td>17.37</td>
<td>Baja California</td>
</tr>
<tr>
<td>Distrito Federal</td>
<td>17.02</td>
<td>Durango</td>
</tr>
<tr>
<td>Yucatán</td>
<td>16.70</td>
<td>Guerrero</td>
</tr>
<tr>
<td>Campeche</td>
<td>16.31</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>15%-5%</th>
<th>Low</th>
<th>18-5%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chihuahua</td>
<td>14.69</td>
<td>Guanajuato</td>
</tr>
<tr>
<td>Michoacán</td>
<td>14.21</td>
<td>San Luis Potosí</td>
</tr>
<tr>
<td>Guanajuato</td>
<td>12.86</td>
<td>Distrito Federal</td>
</tr>
<tr>
<td>Coahuila</td>
<td>11.33</td>
<td>Chihuahua</td>
</tr>
<tr>
<td>Zacatecas</td>
<td>10.31</td>
<td>Michoacán</td>
</tr>
<tr>
<td>Jalisco</td>
<td>9.36</td>
<td>Querétaro</td>
</tr>
<tr>
<td>Querétaro</td>
<td>9.18</td>
<td>Jalisco</td>
</tr>
<tr>
<td>Nuevo León</td>
<td>8.25</td>
<td>Aguascalientes</td>
</tr>
<tr>
<td>Aguascalientes</td>
<td>6.46</td>
<td>Coahuila</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Zacatecas</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Nuevo León</td>
</tr>
</tbody>
</table>

Sources: Anuario Estadístico de los Estados Unidos Mexicanos 1960-1961, Tables 21.6 and 2.18.
### TABLE 6
Illegal Births as Per cent of Total Births—1900-05 and 1959-61

<table>
<thead>
<tr>
<th>State</th>
<th>1900-05 (Average of 2 years)</th>
<th>1959-61 (Average of 3 years)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aguascalientes</td>
<td>14.73</td>
<td>9.46</td>
</tr>
<tr>
<td>Baja California, North &amp; South</td>
<td>45.12</td>
<td>21.83</td>
</tr>
<tr>
<td>Campeche</td>
<td>15.97</td>
<td>21.54</td>
</tr>
<tr>
<td>Coahuila</td>
<td>10.42</td>
<td>8.80</td>
</tr>
<tr>
<td>Colima</td>
<td>47.62</td>
<td>28.24</td>
</tr>
<tr>
<td>Chiapas</td>
<td>73.15</td>
<td>51.75</td>
</tr>
<tr>
<td>Chihuahua</td>
<td>17.79</td>
<td>14.17</td>
</tr>
<tr>
<td>Distrito Federal</td>
<td>63.77</td>
<td>14.24</td>
</tr>
<tr>
<td>Durango</td>
<td>30.92</td>
<td>20.16</td>
</tr>
<tr>
<td>Guanajuato</td>
<td>47.50</td>
<td>16.30</td>
</tr>
<tr>
<td>Guerrero</td>
<td>29.72</td>
<td>19.29</td>
</tr>
<tr>
<td>Hidalgo</td>
<td>61.00</td>
<td>50.60</td>
</tr>
<tr>
<td>Jalisco</td>
<td>10.38</td>
<td>9.79</td>
</tr>
<tr>
<td>México</td>
<td>36.57</td>
<td>24.16</td>
</tr>
<tr>
<td>Michoacán</td>
<td>77.20</td>
<td>13.79</td>
</tr>
<tr>
<td>Morelos</td>
<td>53.80</td>
<td>36.82</td>
</tr>
<tr>
<td>Nayarit</td>
<td>53.10</td>
<td>45.00</td>
</tr>
<tr>
<td>Nuevo León</td>
<td>6.45</td>
<td>5.43</td>
</tr>
<tr>
<td>Oaxaca</td>
<td>66.65</td>
<td>51.75</td>
</tr>
<tr>
<td>Puebla</td>
<td>48.72</td>
<td>35.45</td>
</tr>
<tr>
<td>Querétaro</td>
<td>28.07</td>
<td>10.00</td>
</tr>
<tr>
<td>San Luis Potosí</td>
<td>24.37</td>
<td>15.67</td>
</tr>
<tr>
<td>Sinaloa</td>
<td>70.37</td>
<td>46.50</td>
</tr>
<tr>
<td>Sonora</td>
<td>46.72</td>
<td>25.76</td>
</tr>
<tr>
<td>Tabasco</td>
<td>46.20</td>
<td>43.90</td>
</tr>
<tr>
<td>Tamaulipas</td>
<td>31.20</td>
<td>24.04</td>
</tr>
<tr>
<td>Tlaxcala</td>
<td>23.62</td>
<td>22.12</td>
</tr>
<tr>
<td>Veracruz</td>
<td>62.55</td>
<td>55.75</td>
</tr>
<tr>
<td>Yucatán &amp; Quintana Roo</td>
<td>17.50</td>
<td>22.91</td>
</tr>
<tr>
<td>Zacatecas</td>
<td>16.24</td>
<td>8.12</td>
</tr>
<tr>
<td><strong>Total Country</strong></td>
<td><strong>42.23</strong></td>
<td><strong>25.04</strong></td>
</tr>
</tbody>
</table>

**Mean Percentage Values**

<table>
<thead>
<tr>
<th></th>
<th>1900-05</th>
<th>1959-61</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>39.25</td>
<td>25.78</td>
</tr>
</tbody>
</table>

Sources: Estadísticas Sociales del Porfiriato 1877-1910, Tables 15-16 of Section 1, at 19-21; Anuario Estadístico de los Estados Unidos Mexicanos 1960-1961, Table 3.8.
### TABLE 7
Birthplace of Persons of Mexican Derivation

<table>
<thead>
<tr>
<th>Source of Data</th>
<th>Born in California</th>
<th>Born in Southwestern States</th>
<th>Born in Mexico</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Welfare</td>
<td>106</td>
<td>193</td>
<td>48</td>
<td>347</td>
</tr>
<tr>
<td>Birth Records</td>
<td>806</td>
<td>707</td>
<td>206</td>
<td>1,719</td>
</tr>
<tr>
<td>Marriage Records</td>
<td>686</td>
<td>514</td>
<td>178</td>
<td>1,378</td>
</tr>
<tr>
<td>Total</td>
<td>1,598</td>
<td>1,414</td>
<td>432</td>
<td>3,444</td>
</tr>
</tbody>
</table>

#### A—Absolute numbers

<table>
<thead>
<tr>
<th>Source of Data</th>
<th>Welfare</th>
<th>Birth Records</th>
<th>Marriage Records</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>30.57</td>
<td>55.60</td>
<td>13.83</td>
<td>100.00</td>
</tr>
<tr>
<td></td>
<td>46.90</td>
<td>41.14</td>
<td>11.96</td>
<td>100.00</td>
</tr>
<tr>
<td></td>
<td>49.78</td>
<td>37.30</td>
<td>12.92</td>
<td>100.00</td>
</tr>
<tr>
<td>All Persons</td>
<td>46.38</td>
<td>41.08</td>
<td>12.54</td>
<td>100.00</td>
</tr>
</tbody>
</table>

Note: The three sources of data are the Welfare Department files and the birth and marriage records of the county.

### TABLE 8
Place of Birth and Type of Marriage Among Mexican-American Women

<table>
<thead>
<tr>
<th>Welfare Data</th>
<th>Legal</th>
<th>Common Law</th>
<th>Per cent</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Born in the United States</td>
<td>139</td>
<td>53</td>
<td>27.7</td>
</tr>
<tr>
<td>Born in Mexico</td>
<td>45</td>
<td>8</td>
<td>15.1</td>
</tr>
<tr>
<td>Per cent of total in Mexico</td>
<td>24.5</td>
<td>13.1</td>
<td></td>
</tr>
</tbody>
</table>
### TABLE 9
Place of Birth and Type of Marital Separation Among Mexican-American Women

**Welfare Data**

<table>
<thead>
<tr>
<th></th>
<th>Still living together</th>
<th>Not living together</th>
<th>Per cent not living together</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Born in the United States</strong></td>
<td>106</td>
<td>123</td>
<td>54.7</td>
</tr>
<tr>
<td><strong>Born in Mexico</strong></td>
<td>25</td>
<td>33</td>
<td>56.9</td>
</tr>
</tbody>
</table>

| Per cent born in Mexico | 49.1                  | 21.2                | \(\text{chi-square} = \text{less than } 1.0\) |

<table>
<thead>
<tr>
<th></th>
<th>Separated by all other causes</th>
<th>Per cent by other causes</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Born in the United States</strong></td>
<td>30</td>
<td>88</td>
</tr>
<tr>
<td><strong>Born in Mexico</strong></td>
<td>20</td>
<td>13</td>
</tr>
</tbody>
</table>

| Per cent born in Mexico | 40.0                  | 12.6                  | \(\text{chi-square} = 12.88\) |

<table>
<thead>
<tr>
<th></th>
<th>Separated by desertion</th>
<th>Per cent by desertion</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Born in the United States</strong></td>
<td>31</td>
<td>57</td>
</tr>
<tr>
<td><strong>Born in Mexico</strong></td>
<td>2</td>
<td>11</td>
</tr>
</tbody>
</table>

| Per cent born in Mexico | 6.1                  | 12.2                  | \(\text{chi-square} = 1.0\) |

### TABLE 10
Type of Marriage in the Anglo and the Mexican-American Population

**Welfare Data**

<table>
<thead>
<tr>
<th></th>
<th>Legal</th>
<th>Common Law</th>
<th>Per cent Legal</th>
<th>Per cent Common Law</th>
</tr>
</thead>
<tbody>
<tr>
<td>Anglo-American</td>
<td>302</td>
<td>20</td>
<td>5.2</td>
<td></td>
</tr>
<tr>
<td>Mexican-American</td>
<td>206</td>
<td>79</td>
<td>27.7</td>
<td></td>
</tr>
</tbody>
</table>

| Per cent Mexican-American | 40.6 | 78.8 | \(\text{chi-square} = 49.65\) |
TABLE 11
Differences Between Anglo-Americans Born in the South and Those Born in the North
Welfare Data

<table>
<thead>
<tr>
<th>Legal</th>
<th>North</th>
<th>South</th>
<th>Per cent in South</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>124</td>
<td>95</td>
<td>43.4</td>
</tr>
<tr>
<td>Common Law</td>
<td>7</td>
<td>13</td>
<td>65.0</td>
</tr>
</tbody>
</table>

Per cent common law: 5.3 in North, 12.0 in South, chi-square = 2.64

TABLE 12
Date of Birth and Type of Marriage among Anglo and Mexican-American Women

<table>
<thead>
<tr>
<th>A</th>
<th>B</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Anglo-American</td>
<td>Mexican-American</td>
</tr>
<tr>
<td>Born</td>
<td>Born</td>
</tr>
<tr>
<td>1870-</td>
<td>1910-</td>
</tr>
<tr>
<td>1909</td>
<td>1949</td>
</tr>
<tr>
<td>Legal</td>
<td>123</td>
</tr>
<tr>
<td>Common law</td>
<td>1</td>
</tr>
<tr>
<td>Per cent</td>
<td>0.8</td>
</tr>
</tbody>
</table>

chi-square = 8.63
First order interaction = 13.05
Second order interaction = 4.61
chi-square for second order interaction = 1.15 (non-significant)
### TABLE 13
Separation among Anglo and Mexican-American Women

<table>
<thead>
<tr>
<th></th>
<th>A</th>
<th>B</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Anglo-American</td>
<td>Mexican-American</td>
</tr>
<tr>
<td><strong>Still Married</strong></td>
<td>131</td>
<td>144</td>
</tr>
<tr>
<td><strong>No longer Married</strong></td>
<td>195</td>
<td>159</td>
</tr>
<tr>
<td><strong>Per cent</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>no longer</strong></td>
<td>59.7</td>
<td>52.4</td>
</tr>
<tr>
<td><strong>Married</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>chi-square</strong></td>
<td></td>
<td>2.68; P = 0.11</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>C</th>
<th>D</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Total Separations other than by Death</td>
<td>Separation of Legal Marriage by other than Death</td>
</tr>
<tr>
<td></td>
<td>Anglo-American</td>
<td>Mexican-American</td>
</tr>
<tr>
<td>Divorce</td>
<td>87</td>
<td>24</td>
</tr>
<tr>
<td>Desertion</td>
<td>42</td>
<td>88</td>
</tr>
<tr>
<td><strong>Per cent</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>divorced</strong></td>
<td>67.5</td>
<td>21.4</td>
</tr>
<tr>
<td><strong>chi-square</strong></td>
<td>51.5</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>E</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Anglo-American</td>
</tr>
<tr>
<td><strong>North</strong></td>
<td>South</td>
</tr>
<tr>
<td>Divorce</td>
<td>31</td>
</tr>
<tr>
<td>Desertion</td>
<td>12</td>
</tr>
<tr>
<td><strong>Per cent</strong></td>
<td></td>
</tr>
<tr>
<td><strong>divorced</strong></td>
<td>72.1</td>
</tr>
<tr>
<td><strong>chi-square</strong></td>
<td>2.57</td>
</tr>
</tbody>
</table>

*
TABLE 14
Tendency to Separate by Any Method from Legal or Common Law Marriages on the Part of Anglo-American and Mexican-American Groups, that is, Those Still Living in Matrimony or Separated by Death as Contrasted with Those Separated by Divorce or Desertion

<table>
<thead>
<tr>
<th></th>
<th>Anglo-American</th>
<th>Mexican-American</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Living together or separated by death</td>
<td>Divorced or deserted</td>
</tr>
<tr>
<td>Legal Law</td>
<td>192</td>
<td>110</td>
</tr>
<tr>
<td>Common Law</td>
<td>5</td>
<td>19</td>
</tr>
</tbody>
</table>

chi-square = 15.3
First order interaction = 6.63
Second order interaction = 1.29

chi-square for second order interaction = < 0.1, non-significant

TABLE 15
Division of Marriages for Anglo and Mexican-Americans According to Whether the Ceremony was Performed by a Judge, a Catholic, or a Protestant Clergyman
From County Marriage Certificates

<table>
<thead>
<tr>
<th></th>
<th>Anglo-American</th>
<th>Mexican-American</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Judicial</td>
<td>Catholic</td>
</tr>
<tr>
<td>Number</td>
<td>110</td>
<td>151</td>
</tr>
<tr>
<td>Per cent</td>
<td>13.1</td>
<td>18.0</td>
</tr>
</tbody>
</table>

TABLE 16
Remarriage of Divorced Persons by Courts and by Protestant Clergy

<table>
<thead>
<tr>
<th></th>
<th>Anglo-American</th>
<th>Mexican-American</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Divorced</td>
<td>Never Married</td>
</tr>
<tr>
<td>Judicial</td>
<td>51</td>
<td>59</td>
</tr>
<tr>
<td>Protestant</td>
<td>144</td>
<td>435</td>
</tr>
<tr>
<td>Total</td>
<td>195</td>
<td>494</td>
</tr>
</tbody>
</table>

chi-square = 19.98
chi-square = 0.20

Note: The term "divorced" means that one or both of the parties to a marriage had been previously divorced.
### TABLE 17
Marriages of Persons within the Mexican-American Group Who Were of Mixed Origin

<table>
<thead>
<tr>
<th></th>
<th>Mixed</th>
<th>Mexican</th>
</tr>
</thead>
<tbody>
<tr>
<td>Judicial</td>
<td>129</td>
<td>286</td>
</tr>
<tr>
<td>Catholic</td>
<td>106</td>
<td>196</td>
</tr>
<tr>
<td>Protestant</td>
<td>83</td>
<td>40</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>318</strong></td>
<td><strong>522</strong></td>
</tr>
</tbody>
</table>

- chi-square: Judicial and Catholic = 1.46
- chi-square: Catholic and Protestant = 35.10
- chi-square: Judicial and Protestant = 51.60

Note: The term "mixed" indicates that at least one of the four parents was of non-Mexican origin.

### TABLE 18
Relative Number of Very Young Brides Married Judicially, or in Some Church, among the Anglo and Mexican-American Populations

<table>
<thead>
<tr>
<th></th>
<th>Anglo-American</th>
<th>Mexican-American</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Married under 18 years</td>
<td>Married at 18 or over</td>
</tr>
<tr>
<td>Judicial</td>
<td>17</td>
<td>93</td>
</tr>
<tr>
<td>Church</td>
<td>89</td>
<td>641</td>
</tr>
</tbody>
</table>

- chi-square = 0.65
- chi-square = 19.88