

Project Overview

This is a history of ideas. But it is an unusual history of ideas because it shows that ordinary, sometimes illiterate colonial Spanish Americans brought to life a movement that has long been considered the exclusive property of educated Europeans: the Enlightenment. And it is an unusual history of ideas because it begins with numbers.

The quantity of civil cases on record in royal courts in the Spanish American colonies soars for the end of the 1700s. In a mid-level jurisdiction encompassing colonial Mexico City and its surrounding valley, suits increased ten-fold from 1710s to the 1790s. In Lima, Peru the national archive contains almost twice as many civil suits for the 1780s alone than for the first 50 years of the century combined. Yet, strikingly, while civil litigation increased in Spain's American colonies, I have found that civil suits in Spain declined throughout the 1700s.

A 12-month NEH Fellowship will fund the completion of research and the writing of *Taking Tyrants to Court*, a book that compares civil lawsuits in eighteenth-century Spain, Peru and Mexico. In tracing the growth of litigation among ordinary colonial subjects during the eighteenth century, this book contributes to the legal, social, gender and political history of the Spanish empire. But it also makes a theoretical intervention beyond these fields. It invites us to examine the relationship between colonialism and the Enlightenment and, ultimately, to reconsider the geography of modernity.

The arguments in this book turn on both quantitative and qualitative analyses of civil suits brought before first-instance and appeals courts in diverse regions of the Spanish empire during the 1700s. The book provides the first broad-based statistical analysis of litigation *anywhere* in the colonies (Pérez-Perdomo, 7). Yet it does even more by focusing on five case studies on both sides of the Atlantic, including Castile, Spain; Mexico City and Oaxaca, Mexico; and Lima and Trujillo, Peru. Taking a more qualitative turn, I then go on to examine in-depth several types of civil suits that increased in the colonies at a rate even greater than the general increase in litigation: suits that slaves, Indian peasants and commoner women initiated against masters, native leaders and husbands. A close textual analysis of the arguments in these cases demonstrates that, in suing local "tyrants," litigants enacted new political concepts of equality, local sovereignty, and natural rights. In short, these ordinary people produced a colonial Enlightenment.

Contributions

This project makes three overlapping historiographical and theoretical contributions. First, *Taking Tyrants to Court* proposes a reassessment of the "Enlightenment" as both a historical phenomenon and as the progenitor of Western "modernity." Second, in offering the first historical analysis of patterns in litigation in the Spanish empire, it pushes imperial Spain—long considered the periphery of Europe-- to the center of the broader story of radical eighteenth-century political change. Finally, it contributes to the history of colonial Spanish America by demonstrating the critical connections between the political actions groups of people who are usually studied in isolation, namely women, Indians and slaves of African descent.

Since Kant first responded to a query posed in a Berlin paper over 200 years ago, the question "What is Enlightenment?" has generated heated debate. Today, postcolonial and feminist critics of Western thought emphasize how the movement permitted European male *philosophes* to elevate themselves to the epicenter of history and justify modern forms of political exclusion (see, for example, Mehta; Pateman). But the diverse political and cultural movement we have come to call "the Enlightenment" was far more multifaceted than many modern critics allow. More than the rarefied musings of male intellectuals, more than a flowering of claims to European centrality in world history, the Enlightenment was an everyday *practice* with roots entangled in colonial regions.

Taking Tyrants to Court joins recent historical studies of the eighteenth century, particularly of France, in focusing on what K.M. Baker (1990) called "a new political culture." This scholarship

has shown that radical changes in print culture, bureaucratic writing, and political imagination in the eighteenth century were generated not only in palaces and parliaments but also in an emerging public sphere (Maza; Goodman; Hunt; Mutha; Gordon; Bell; McNeely). Yet this European literature pays surprisingly little attention to the world of politics beyond the literate world of salons, cafés and newspapers.

Taking Tyrants to Court argues that the century witnessed a fundamental reshaping of politics in the legal system— an arena accessible to the poor, the unlettered and the conquered, as well as the well read and well heeled. There are, to be sure, legal and social historians who examine broad changes in litigation in the century, most concerned with how revolutions against the Old Regime affect the practice of law and legal thought (Crubaugh; Root; Dubois; Brewer; Desan; Miller and Brown). Yet even where there was no revolution against monarchy, colonial subjects were deeply engaged in the creation of such modern concepts as “universal law,” “natural rights,” and national belonging (Benton; Dubois; Cañizares).

The Spanish empire, known for a deeply legalistic culture, is an ideal venue for such an inquiry. It is difficult to overstate the contribution that this project makes to social and cultural history in Spain and Spanish America. Lawsuits the most widely used source for understanding the intimate lives of the inhabitants of empire —far surpassing anything such as diaries or letters. In this respect, the book naturally enters into dialogue with the historiographies on Spanish American women, slaves and Indians, which are too vast to list here. But in short, many historians in these fields note on the growth of litigation among their subjects during the late colonial period, but none has attempted to place such legal activity in a wider context through comparative study of civil suits (e.g. Taylor; Stern; Aguirre; see Pérez Perdomo).

Through its examination of the language of litigation, *Taking Tyrants to Court* reveals that Enlightenment prompted ordinary people to rethink not only their relationships with kings but also with the emperors of the everyday: husbands, masters, community leaders. In fact, it had a particularly corrosive effect on colonial power arrangements. Traditionally, colonial rule in the Americas used paternal images of the king to mask the reliance on “proximate” authority figures such as slave owners, Indian leaders and male heads of household for political stability. In the late 1700s, absolutist efforts to rationalize legal practice and to systematize the exercise of customary authority and rights introduced space for new, enlightened concepts in imperial courts. Indians, slaves and women in Mexico and Peru exploited this transition in the empire’s legal regime by subsuming emergent concepts such as natural rights or sovereignty into local custom and appealing to an increasingly powerful royal state to challenge the traditional paternal authority of the men and masters who controlled them.

Project Design & Methods

To demonstrate the existence of an Enlightenment that not only touched the ordinary subjects of the Spanish colonies but was also created by them in the court system, I have embarked on two-pronged research strategy. The first aspect requires a comparative empirical research design for tracing patterns in litigation rates in the 1700s. The second involves a close textual analysis of the suits themselves, attentive to the way that abstract concepts such as “rights” or “sovereignty” might be expressed in local vernaculars.

My first order of research has been to document the vertiginous rise in the amount of civil litigation aired in royal courts in Peru and Mexico during the late 1700s and to compare these patterns with Spain. Population growth, economic decline, shifts in jurisdiction, and more systematized official record keeping all could impact the amount of litigation found today in the archives. Therefore I have controlled for these factors through sound comparative selections of both the regions and the types of litigation to be studied. I have chosen two urban and two rural regions in Peru and Mexico respectively, and a larger region encompassing both urban and rural Spain. In each of these regions, I am able to compare civil to ecclesiastical litigation to ensure

that increases in royal suits do not merely reflect a change of jurisdiction but rather are new kinds of cases.

Three of the four types of lawsuits I analyze are suits against what I have termed “proximate authority figures:” women suing men for financial support; Indian communities objecting to claims on native leadership; and slaves’ civil suits against masters over abuse and the right to self-purchase. For Spain, I use peasant actions against landlords and disputes over seigniorial jurisdiction as analogs to slave and Indian suits. A fourth type of case—landlords suing to evict tenants—serves as a control, and shows that the cases superiors brought against subordinates proliferated more slowly than suits in which the social standing of litigants was reversed.

The second research strategy I employ is a close reading of the suits. I approach legal documents not as transparent historical sources but as texts that are uniquely instructive for larger methodological questions of truth and power in history. My methods derive from critical legal studies, legal history, and cultural history, and involve attending to (in ascending order of importance): forum, outcome and language (Davis; Starr and Collier; Lazarus-Black; Coss). I first pay careful attention to the expectations litigants have of judges and whether they seek justice in other venues. Next, verdicts provide a measure of the effectiveness of new discursive legal strategies and to what extent litigants curtailed the traditional power of men, masters and native leaders by bringing them to court. Finally, and most critically, I place textual authority at the center of my reading of the content of suits. My goal is to familiarize myself enough with the standard narrative formula of cases to begin to untangle lawyers’ erudite disquisitions from litigants’ own invocations of concepts associated with the Enlightenment, including, but not limited to, “citizenship,” “natural rights,” and “equality.”

My reading of civil lawsuits so far—which I have presented in the form of several conference papers—reveals that ordinary people’s litigation bore the same marks of absolutist pressure, new challenges to received authority, and emergent political concepts of rights that inspired dramatic transformations elsewhere in the Atlantic World. For example, women, slaves and Indians increasingly accused superiors of “tyrannical” behavior and significantly stepped up the rate of suits over abuse of authority (*sevicia* or *abusos y excesos*), frequently by appealing to natural rights (*derechos naturales*).

Proposed Plan of Work

I have completed archival research on two out of four of my colonial case studies, working in Lima and Mexico City from 2005-6. This research revealed the startling increase in first-instance civil suits and appeals beginning around 1760. I have also completed investigations in the archives of Castile, particularly the region of Montes de Toledo, closely following Richard Kagan’s 1981 work on civil litigation. My research there shows that there was no great increase in civil litigation during the eighteenth century.

I seek NEH funding in 2008-9 to complete archival investigations on my final two colonial case studies and to make substantial progress on writing the book. These case studies, Oaxaca, Mexico and Trujillo, Peru, are rural areas somewhat removed from the capital cities, where I have identified full runs of civil cases (*causas ordinarias*) for the period in district archives. I plan to complete this research during the summer and fall months of 2008, then to turn to writing the remaining four chapters of the book, each corresponding to one type of suit that I have explored. (The first chapter, which presents a portrait of litigation patterns in all the regions, is written and will be revised include to my rural case studies.) While it is clear from my research on capital cities in Spanish America that ordinary litigants were practitioners of a colonial Enlightenment, it is critical that I compare their legal actions with those litigants whose access to ideas and trends in Europe was more removed. The result, in end, will be to recast the Enlightenment not as a phenomenon emanating from Paris in weakening concentric circles but as a global movement in which new notions about justice and authority were simultaneously embraced, but differently enacted, in a diverse trans-Atlantic world.

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