

Reviews

J. Lat. Amer. Stud. 34 (2002). DOI: 10.1017/S0022216X02216715

Ricardo D. Salvatore, Carlos Aguirre, and Gilbert M. Joseph (eds.), *Crime and Punishment in Latin America: Law and Society since Late Colonial Times* (Durham, NC, and London: Duke University Press, 2001), pp. xxiv + 448, £49.95, £16.95 pb.

In recent years the legal histories of Latin America have simultaneously undergone a deep revival and revision. Institutional histories of legal institutions were once a mainstay in Latin American historiography, but lapsed in the 1960s in the wake of economic, social and cultural historical trends. That tradition too, as Salvatore and Aguirre point out in their very useful introduction, was wedded to some formalistic styles which soured as historians tried to recover the lives of social actors and paid less attention to the designs and intentions of institutions and their (often lionised) architects.

This volume brings together a selection of what might be called the ‘new legal history’ which returns to the legal institutions with the social actors in mind. No longer do the designs of institutions and their supposed effect exhaust the many stories here. Indeed, what is clear from the contributions as a whole is that the designs were never as uniform and consensual (at least among elites) as was once thought. Nor did the institutions work in quite the way that architects envisaged. Indeed, as the chapters by Walker, Díaz, Palacio and González show, there was much give and take – often downright confusion – when it came to enforcing a legal order from the top down. Whether it is a matter of upholding the power of colonial *corregidores* (Walker), codifying proper gender relations (Díaz), empowering justices of the peace to lay down rural laws (Palacio) or creating courts to solidify labour relations in sugar belts in Brazil (González), the state institutions were never as stable, nor as effectively functional to their orderly purposes. Legal officers often wound up taking on the causes of those they were supposed to rein in, acting more as mediators than enforcers. Importantly, the ‘state’, even as it begins to consolidate in Latin America after the turbulent post-Independence struggles, never became the monolith it was once depicted as.

Part of the reason for state legal structures being so internally fraught with conflict was because the very cultural norms that they were expected to project onto a social order were themselves highly contested. A series of essays by Rivera-Garza, Borges, Ruggiero and Piccato all illustrate how even in the highest moment of positivist criminology, sociologists and jurists of crime and misdemeanours quarrelled over how to gauge and study lawlessness itself. To make matters worse for the criminologists, the subaltern folks they were supposed to control – from prostitutes (Rivera-Garza), *curanderas* (Borges), criminals of passion (Ruggiero) and vigilantes (Piccato) – proved artful not just at avoiding law enforcers, but twisting the law in their favour precisely because laws were so often ambiguous. All told, we start to see how dis-functional laws were at a time when they were expected to be the arms of order and progress.

There were, of course, limits to all the limitations in state formation. As the chapters by Paton, Salvatore, Aguirre, Guy and Caimari show, laws and law enforcers did impose punishments on the infractors, often brutally, as in the case of wayward ex-slaves (Paton), or former supporters of caudillos (Salvatore). But still, the subjects of the law found ways of resisting and tempering their sentences, as the other essays show.

As the final chapter by Douglas Hay, a Canadian legal historian, illustrates, this volume offers many insights into comparative histories with other formative legal orders. There appears to be a much broader Atlantic issue here, when popular and 'state' legal cultures meet – giving way to unstable compromises and often unfinished conflicts. Latin America, in this regard, stops looking like such an exception to modernity's happy unfolding. If this volume, as with many edited books, lacks some cohesion (it does not really cover the temporal span in the title, and never tries to explore the larger dynamic shifts in legal ideology, culture or capacities), it is nonetheless a real milestone for historians wanting to take legal institutions seriously without portraying them in some of the rigid ways they once were.

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J. Lat. Amer. Stud. 34 (2002). DOI: 10.1017/S0022216X02226711

Eric Van Young, *The Other Rebellion: Popular Violence, Ideology, and the Mexican Struggle for Independence, 1810–1821* (Stanford, CA: Stanford University Press, 2001), pp. xvii + 702, £55.00; \$75.00, hb.

Eric Van Young has produced a major work, which should rank alongside James Lockhart, *The Nahuas After the Conquest: A Social and Cultural History of the Indians of Central Mexico. Sixteenth Through Eighteenth Centuries* (Stanford, 1992) and William B. Taylor, *Magistrates of the Sacred: Priests and Parishioners in Eighteenth Century Mexico* (Stanford, 1996) in the leadership of US scholarship on Latin America. Significantly, all three works deal with aspects of the Spanish Colonial era. In fact, a strong case could be made for reading the three in succession, although the length and depth of each would require considerable dedication. Van Young's innovation is to have identified 'ethnocultural' factors as the prime motivation for rural political action during the Mexican insurgency of the 1810s. He argues this persuasively through many case studies in the course of his analysis. At the same time, he is at pains not to deny the importance of social and economic factors in contributing to the sources of popular unrest. He discriminates between the pre-insurgency conflicts, motivated especially by these latter, and the more intensified defence of community and identity during the 1810s. The focus on the ethnocultural dimension responds in part to current attention both in political life and historical writing to the issue of indigenous corporate identity, and in part to a reading of the primary sources. Since the book is not dealing with either formal ideologies or elite perceptions, Van Young's use of the term 'ideology' in the subtitle presumably refers to this defence of community and identity. To my mind, the phrase, 'The Other Rebellion', in the title deflects the impact of the book. I assume the phrase derives from post-modernist employment of the term, 'the other', to denote the obverse to the accepted, the sanctioned, the dominant. His use of the term, 'subaltern' in various places in the book lends credence to this assumption.

There are several incongruities. At the beginning, the author tells us that 'the 1810–21 insurgency was arguably the first great war of national liberation of the post-Columbian age in which ethnic difference between colonisers and colonised