



Access provided by University of Oregon

Crime and Punishment in Latin America: Law and Society since Late Colonial Times.

Edited by Ricardo D. Salvatore, Carlos Aguirre, and Gilbert M. Joseph (Durham: Duke University Press, 2001. xxiv plus 448 pp. \$64.95/cloth \$21.95/paper).

This strong collection of essays by Latin American and North American scholars, which grew out of a 1997 conference at Yale, treats the law as a lens through which to look at social and cultural issues. The contributors examine the interaction between individuals and legal institutions, the construction of criminality and punishment, and the relationship of these processes to state formation from the late eighteenth century through the mid twentieth century. The legal system is seen as a site of mediation and conflict among groups with different understandings of the law and society. Although elite visions of social hierarchy dominated state policy, this volume shows that such domination was based on constant negotiation.

Joseph's preface and Aguirre and Salvatore's introduction frame the issues, the latter by tracing the development of legal history in Latin America. The essays in Part I describe the use of courts to address individual and local concerns. Charles F. Walker discusses late colonial cases in which indigenous Andeans brought criminal charges of exploitation and mistreatment against local officials and in the process challenged imperial reforms designed to regulate them more closely. Arlene J. Díaz describes the late nineteenth-century Venezuelan state's discursive exaltation of women's domestic roles, its restrictions on women's activities, and the effects on women defending their rights in court cases involving breach of marital promise, divorce, and rape. Women who did not fit feminine ideals did not win court approval. In Juan Manuel R. Palacio's essay, twentieth-century Argentine tenant farmers went to court to enforce contracts with landowners, and in Luis A. González's piece Brazilian sugar cane workers and growers used courts established by Vargas to mediate conflicts with mill owners and landlords. These essays address the relationship between litigation and other forms of protest. For example, Walker claims that the use of the legal system did not preclude rebellion in the Andes, while González claims that reliance on courts bound the sugar workers' interests to those of the state, discouraging violent uprisings. This section shows courts communicating and enforcing state-defined standards of behavior while giving individuals a place to express their own ideas about the law and their rights.

The next sections discuss the use of medical ideas to construct categories of criminality (Part II) and punishment (Part III). Policies regulating individuals' bodies were linked to policies regulating the body of the nation, as discussed in Cristina Rivera-Garza's essay on efforts to regulate prostitution and control syphilis in nineteenth- and twentieth-century Mexico. Prostitutes' bodies became the focus of struggles between officials trying to enforce feminine ideals and create social order and women who resisted state control. Dain Borges examines the criminalization of witchcraft in late nineteenth-century Brazil. Witchcraft, including Afro-Brazilian practices and Kardecist spiritism, threatened the claims of physicians and the state to authority over Brazilians' bodies and actions. Borges's analysis of legal and literary texts uncovers competing ideas [End Page 1115] on the part of intellectuals, medical researchers, and the state about the value of these practices for Brazilian society. Kristin Ruggiero explores how passion, considered a medical condition in nineteenth and twentieth-century Argentina, was used as a defense for criminal acts, but when balanced by rationality was also deemed essential to Argentine national identity. Pablo Piccato shows how late nineteenth- and twentieth-century Mexican policy-makers developed the idea of *rateros*, urban thieves, as a social category, different from the rest of the population and easily profiled. The discursive characterization of thieves as an organized group gradually became true, as alleged criminals shared information and learned to navigate the justice system while serving time. These authors provide examples of the ways that state-builders, often influenced by the Italian criminologist Cesare Lombroso's theories about biological

propensities toward crime, defined groups as potentially dangerous, and they describe alternate definitions developed by other members of society as well.

Part III shows how forms of punishment were produced from desires to educate the public about categories of criminality, and from fears that criminality would spread if not tightly contained. Diana Paton discusses the roles of race and gender in the development of the penal system in post-emancipation Jamaica. Government officials claimed that members of the black population, especially men, were naturally brutal and had to be controlled. After a brief period of penal reform, privatized labor and flogging were reinstated to punish men accused of crimes. Salvatore claims that the nineteenth-century Argentine liberals who followed caudillo rule continued the death penalty to educate people about legal behavior and create social order. Donna J. Guy shows that the public presence of homeless females in late nineteenth and twentieth-century Buenos Aires created fears of social disorder. Officials incarcerated homeless girls in a correctional facility in the hopes of rehabilitating them for domestic work. Aguirre and Lila M. Caimari demonstrate that prisoners understood the social, cultural, and political underpinnings of punishment to some degree. Aguirre analyzes late nineteenth and early twentieth-century letters in which Peruvian prisoners outlined their ideas about prison reform to public officials. Caimari uses data from mid twentieth-century Argentine criminological studies in which prisoners tried to describe their pre-imprisonment lives in such a way as to appear suitable for rehabilitation. The essays in this section question the relationship between criminal and punishment and show that punishment can only be understood within a broad social context.

This fascinating volume will benefit a range of readers. It has a comparative agenda, as illustrated by the inclusion of Paton's article on Jamaica and Douglas Hay's afterword, which compares the insights gleaned from the Latin American examples to the British case. Latin Americanists will appreciate the effort to transcend traditional narratives. Instead of trying to identify "liberal" and "conservative" trends, the contributors show state-builders using theories drawn from various sources, in eclectic ways, to try to regulate diverse societies. They challenge the idea that the end of colonial rule brought radical change, showing that state-builders' concerns arose from the colonial (and pre-emancipation) past, and that colonial laws were used well into the nineteenth century. Although only Walker focuses on the colonial system, most authors make these connections clear. There is a body of scholarship on the colonial period involving [End Page 1116] social and cultural approaches to the law, and dialogue with more scholars looking at the earlier period might have complicated the colonial/national distinction further.¹ Yet this book is valuable for Latin Americanists precisely because the editors and authors succeed in making connections across time and space, and it is an important resource for nonspecialists looking for comparative examples and new perspectives to bring to their studies.

Joan Bristol
George Mason University

Endnotes

1. For recent examples see Steve J. Stern, *The Secret History of Gender: Men, Women and Power in Late Colonial Mexico* (Chapel Hill, 1995); and Ann Twinam, *Public Lives, Private Secrets: Gender, Honor, Sexuality, and Illegitimacy in Colonial Spanish America* (Stanford, 1999).