

RICARDO D. SALVATORE, CARLOS AGUIRRE, and GILBERT M. JOSEPH (eds.): *Crime and Punishment in Latin America: Law and Society since Late Colonial Times*. Durham and London: Duke University Press, 2001.

Ricardo Salvatore, Carlos Aguirre, and Gilbert M. Joseph's edited collection, *Crime and Punishment in Latin America*, joins a growing body of scholarship -- including several volumes authored or edited by Salvatore and/or Aguirre-- under the broad rubric of "new legal history." As Salvatore and Aguirre explain in their introduction, this approach rejects seeing laws as either "a purely normative framework that guaranteed social equilibrium through the application of 'justice'" or "a set of state-produced norms that reflected and reproduced elite power" (1). Instead, within new legal history, "law produces and reformulates culture ... and it shapes and is shaped by larger processes of political, social, economic, and cultural change" (1-2). If this approach sounds a bit like "new social history" of the 1980s and '90s, it should. Indeed, Douglas Hay, who reexamined British social history using legal sources, offers a comparative afterword, including suggestions for further research.

This volume's primary contribution, then, is not a wholly new methodology --or even one unfamiliar to Latin Americanists-- but rather a broadly comparative perspective on the ascendance of "modernizing" liberal ideologies. Perhaps most importantly, these essays expose the disunity and incompleteness of Latin America's liberal project, as well as the marked divergence between the political liberalism of consolidating Latin America and the market liberalism of the United States and Britain. Distributed among three sections exploring the conditional nature of justice, crime, and punishment, the volume's essays dialogue well among each other, demonstrating ways that concepts (such as honor or citizenship) and methods (such as using literary and statistical sources) serve an array of questions. Most essays draw on research for larger monographs, and those interested in the specific cases will want to examine those, but the collection's explicit and detailed discussions of research methods would make it provocative reading in a graduate seminar and useful for anyone considering the possible applications of using, for example, prison reports and court records. As Gilbert Joseph explains in the preface,

new legal history promises to bridge the methodological divide between social-science positivists and post-structuralist cultural historians by inviting "the study of connections between broad, structural changes and alterations in the character of political, social, and cultural life" (xii).

The first section, on "legal mediations" and the contingency of notions of justice, explores the links between legal interpretation and practice and culturally specific ideas about race, gender, and citizenship and about land and labor rights. These four essays challenge prevailing assumptions that the universalizing liberal project consistently undermined ethnic identity, inscribed public/private divides, and alienated workers from property. Using late colonial Cuzco trial records, Charles Walker argues that, in the heat of the Tupac Amaru II rebellion, Indians pursued judicial means of redress because the legal system not only served their interests but also *strengthened* indigenous identity by providing focal points for community solidarity. Arlene Díaz's examination of Venezuela's "shotgun" weddings shows that elite conceptions of domesticated womanhood mitigated the liberal project of separating public and private. "Only familial peace would ultimately create order for the state," she explains, "Building a modern nation required women's submission to the home, which was the rightful responsibility of the law. Hence the state's duty was to intrude into private life" (69). And Luis González's study of claims filed with Brazil's Instituto do Açúcar e do Alcool contends that the 1941 reassertion of usufruct land rights empowered agricultural labors under the repressive Estado Novo. González argues that although this tactic legitimated the Vargas regime, it also demonstrates non-elite exploitation of bureaucratic structures.

The four essays in the second section show how the criminalization of certain behaviors defined the contours of societies. Cristina Rivera Garza investigates the criminalization of syphilis, examining both efforts to control Mexico City's prostitution and prostitutes' resistance to becoming "informers" for the modern medical profession. Considering the changes from before the Porfiriato to after the revolution, she traces how "disciplines, legislation, and institutions produced a sexual *subject*, which was also female

par excellence. Feared because it was active; dangerous because it could transmit disease; in need of control because, if unsupervised, it could cause the destruction of the family and the entire nation" (172). Pablo Piccato covers the same terrain and argues that, despite liberal rhetoric of individual rights, criminologists and policymakers sought to define *rateros* (urban petty thieves) as a distinctive collectivity rather than as individuals. Portraying this group as exceptionally threatening to national well-being, prosecutors punished the type of criminal rather than the crime. This shift left legacies of "taking the responsibility of crime prevention away from civil society, making it the exclusive realm of 'deviance specialists'" (234) and establishing "the official double standard toward suspects: excessive penalties against petty *rateros*, but corrupt collaboration with big thieves" (258).

The five essays in the volume's final section examine elite and popular perspectives on penal practices. The inclusion of Diana Paton's discussion of flogging in post-emancipation Jamaica allows for telling comparisons between Anglophone and Hispanic and between colonial and postcolonial societies. Paton focuses on elite views of flogging and the shift from the rehabilitative penal practices of 1830s, which "assumed that all people responded in the same way to the same environment" (276), to the 1850s, when arguments about the "permanent, unchangeable inferiority of black people" (285) meant that "deterrence, rather than reform, had become the goal of punishment" (288). Two of this section's essays provide guidance for understanding prisoners' often elusive perspectives. Aguirre uses letters from Lima's prisoners that advocated a prison reform program based on experts' "modern" and "scientific" ideas. The late nineteenth-century arrival of prison reformers, combined with the post-1923 influx of political prisoners, shaped inmates' ideas about their rights. Drawing on criminologists' reports from mid twentieth-century Buenos Aires prisons, Lila Caimari analyzes the space between criminologists' assessments and prisoners' own perceptions of what was expected of them. Including detailed descriptions of the reports' form and content, Caimari provides a worthwhile example of this collection's methodological value. For, as Hay explains in his afterword, the boundary between elite and popular legalities is "blurred by borrowings and invoked resonances" (416),

and the crucial contributions of "new legal history" examine
this interstitial space.

Jocelyn Olcott

University of Texas at Austin