

Review

Author(s): Matthias Röhrig Assunção

Review by: Matthias Röhrig Assunção

Source: *Journal of Latin American Studies*, Vol. 40, No. 1 (Feb., 2008), pp. 139-141

Published by: [Cambridge University Press](#)

Stable URL: <http://www.jstor.org/stable/40056631>

Accessed: 01-11-2015 21:24 UTC

Your use of the JSTOR archive indicates your acceptance of the Terms & Conditions of Use, available at <http://www.jstor.org/page/info/about/policies/terms.jsp>

JSTOR is a not-for-profit service that helps scholars, researchers, and students discover, use, and build upon a wide range of content in a trusted digital archive. We use information technology and tools to increase productivity and facilitate new forms of scholarship. For more information about JSTOR, please contact support@jstor.org.



Cambridge University Press is collaborating with JSTOR to digitize, preserve and extend access to *Journal of Latin American Studies*.

<http://www.jstor.org>

passion' (p. 63); the sentence could have been translated more gracefully as 'by day and by night, they would keep His Majesty company ...'. Some instances are simply inaccurate, as when 'Divine Office' (the liturgy) is given as 'Holy Office' (the Inquisition) (p. 33), two very different but present realities in Francisca's life.

Gunnarsdóttir's epilogue comments insightfully on the divergent posthumous treatments of Francisca's life story (written but then lost) and that of her most famous mentor, Antonio de Margil (published in many editions). Within the transforming context of the eighteenth century Baroque spiritual graces came to be seen as irrational excess; writings by celebrated holy women were banned; miraculous gifts and mystical prowess were looked at askance or forgotten. This book brings to light the 'sociability, complexity, and stubborn determination' of one woman, no less remarkable for being representative of what is, by our cultural criteria, an astonishing period.

University of Oregon

AMANDA POWELL

J. Lat. Amer. Stud. 40 (2008). doi:10.1017/S0022216X07003689

Silvia Hunold Lara and Joseli Maria Nunes Mendonça (eds.), *Direitos e justiças no Brasil: Ensaios de história social* (Campinas, SP, Brazil: Editora Unicamp, 2006), pp. 543, pb.

A popular explanation for many of Brazil's current problems is the failure of the judicial system to ensure that criminals get behind bars and that poor people get fair trials. How law is implemented, rather than the traditional study of formal legislation, is also at the core of this collection of articles, most of which summarise more substantial research by the authors. The authors in this important contribution to the social history of Brazil no longer see legislation as only imposed by elites on passive masses, but rather as a framework providing social actors with tools that help them claim what they consider to be their rights.

Patricia Melo Sampaio undertakes a fresh look at the complex relationship between Indian chiefs and the colonial administration. The 1798 law abolished the previous framework ('Directório'), leaving less room for indigenous people to be recognised as separate communities. It also resulted in a realignment of the role of native chiefs. No longer formally in charge of their villages, which adopted the formal structure of a Portuguese town with an elected council, most of them were nevertheless appointed officers of the new militia regiments.

Silvia Lara examines multi-layered intra-elite conflict in Campos dos Goitacazes in the captaincy of Rio de Janeiro. When the *ouvidor*, the highest magistrate of the district, complains to the crown that a rich landowner and his sons had failed to comply with the law and got away with it, it looks like a zealous administrator trying to impose the rule of law. Yet the local strongman also manages to make his voice heard, showing that the hierarchical relationship between colony and metropolis worked through various channels. In his version the *ouvidor* appears to be part of a gang of three monopolists who control local sugar and slave prices, and who abuses his power to bend the law in his favour.

During the nineteenth century the Brazilian parliament passed a number of significant new laws regarding slavery: the first, never implemented, was the abolition of the transatlantic slave trade in 1831 (the origin of the famous expression 'a law for the English to see'), the second the effective abolition of the trade in 1850, and the

third the 'free-womb' law of 1871. Three articles scrutinise the effects of this reform legislation on court decisions regarding freedom and slavery. Keila Grinberg examines the cases of masters trying to re-enslave their former slaves on the grounds of 'ingratitude', as stipulated by a 1682 law. After 1860 jurisprudence definitively turned against this practice, because obtaining freedom increasingly meant obtaining rights of citizenship that could no longer be taken away. The 1831 law declared free all Africans who were illegally introduced into the country, thus opening a window of opportunity for the 760,000 slaves who were imported after that date. Abolitionist lawyers made extensive use of it to claim freedom for slaves. Yet at the same time, as Beatriz Mamigonian demonstrates, legislators and politicians undermined the potentially dangerous effects of this law by defending an alternative interpretation. According to them, planters who had bought slaves 'in good faith' could not be held responsible. Furthermore, they argued, the 1871 law legalised the enslavement of Africans imported after 1831, and so did a decision by the Council of State in 1874. Hence they tried to restrict the meaning of 'free Africans' to slaves captured on board slave ships. Eduardo Spiller Pena pores over a controversy that highlights the elaborate strategies of slave traffickers. In order to avoid paying heavy duties levied on the internal trade, which brought thousands of slaves from other provinces to the booming coffee plantations in the Southeast, they leased a whole plantation in Paraná, with its 240 slaves, for twenty years from Carmelite monks, and then 'hired' the slaves to plantations in São Paulo. This trick ensured them a huge profit, and despite investigations they managed to avoid prosecution.

Abolitionists are traditionally divided into moderates advocating the use of legal instruments only, and radicals for whom any means were justified. Elciene Azevedo demonstrates that this division does not allow us to appreciate fully the role of the ex-slave and lawyer, Luiz Gama. Taking great personal risk – he lost his job as a police scribe and had to respond in court for his actions – Gama kickstarted the practice by which abolitionists tried, often successfully, to obtain freedom for slaves in court. The 'Golden Law' that finally abolished slavery, in 1888, is no longer seen as the 'gift' of a philanthropic princess. Joseli Mendonça highlights the extent to which the lawyer and historian, Evaristo de Moraes, has contributed to our understanding of the process, by emphasising the action of the abolitionists in his 1924 book. Moraes already conceived adjustments to legislation as the result of societal change. He was also among the first to see continuities between slavery and the labour question after abolition, and the need for state regulation.

The intricacies of land conflict are exemplified by Márcia Mottas case study from Maricá. Because original land concessions by the crown (*sesmarias*) as well as properties legalised only after de-facto occupation (*posses*) had no clearly defined limits, struggles between neighbours were frequent. They often re-erupted among heirs, leading to successive, and often inconclusive, conflicts lasting for several generations, complicated further by tenant agreements. The growing conflict between property and customary land rights prior to 1964 is explored by Maria do Socorro Rangel. Based on both oral history and written sources, her contribution reconstructs the process of eviction of tenants and sharecroppers from *latifúndios* in Paraíba. Even if cases ended up in court, the outcome was often inconclusive. Peasant leagues encouraged adjournments in order to delay removals. Courts thus provided a complementary battlefield to what was happening on the ground, until conflicts became more violent and had to be dealt with by the criminal justice.

The change of punishments for undisciplined sailors in the Brazilian navy is analysed by Alvaro Nascimento. Whereas under the Empire offenders were most likely to be 'corrected' through an on-the-spot whipping, the Republic adopted new rules which relied more on confinement. Yet officers still relied on physical punishment, which was considered not only more suitable, but which also allowed offenders to remain in active service. Hence the gap between regulations and the reality on the ground widened. Many officers inflicted much harder punishments than were recorded in the books, which explain the famous 1910 revolt against the whip.

Most labour historians of Brazil have focussed on Rio and São Paulo. Alexandre Fortes shows not only that there was an important labour movement in Porto Alegre during the 'Old Republic', so far largely unacknowledged by historiography, but also that *gaúcho* leaders such as Getúlio Vargas and Osvaldo Aranha developed practices of state mediation in labour conflicts. These were reproduced after the 1930 Revolution at a national level. A persistent myth in Brazilian historiography is that before 1930, the 'social question' was essentially seen as a 'police issue' by the government, and that only the Revolution headed by Vargas initiated social legislation to protect workers' rights. John French tracks down the origins of this interpretation, and shows that it was quoted out of context and instrumentalised by Vargas's propaganda machine. There was, in fact, significant similarity in discourse between Vargas and previous presidents. The analysis of the state's policy is enhanced by a curious document, the telegraphic codes used by the police in São Paulo in 1939. They reveal that the labour movement, under Vargas, remained primarily a police issue, and highlight the flip side of the 'progressive' labour legislation. Another insight into the reality of Vargas's social policy is provided by Brodwyn Fischer. Based on petitions written by poor Brazilians to Vargas, she shows that the network of social security created by his government was restricted to those in regular employment, leaving out everyone else. Likewise the Family Code of 1941 only protected legitimate children, excluding once more a large part of the population. Hence most of the poor population who, according to propaganda claims, Vargas parented like a father, were in fact excluded from basic citizens' rights.

Finally, the intricacies of censorship under the military regime are examined by Beatriz Kushner. Her piece relies on some fascinating sources, such as the manuals for censors. Her analysis reveals that the regime depended on several pieces of legislation to justify censorship. The Conselho Superior de Censura, specially created for that aim, was in fact overridden by the Institutional Act No. 5 for eleven years. Throughout the dictatorship, though, even the mention of censorship was forbidden: the regime was always keen to maintain its democratic façade.

University of Essex

MATTHIAS RÖHRIG ASSUNÇÃO

J. Lat. Amer. Stud. 40 (2008). doi:10.1017/S0022216X07003690

Christopher Schmidt-Nowara, *The Conquest of History: Spanish Colonialism and National Histories in the Nineteenth Century* (Pittsburgh, PA: University of Pittsburgh Press, 2006), pp. xvi + 278, \$39.95, hb.

This is a commendable piece of scholarship which argues something genuinely new by mixing an impressively broad canvas and a fascinating wealth of detail. It focusses on the ways that the evolving historiographies of Spain, Cuba, Puerto Rico and the