

Rechtsgeschichte Legal History

www.rg.mpg.de

<http://www.rg-rechtsgeschichte.de/rg26>
Zitiervorschlag: Rechtsgeschichte – Legal History Rg 26 (2018)
<http://dx.doi.org/10.12946/rg26/162-199>

Rg **26** 2018 162–199

Max Deardorff*

Republics, their Customs, and the Law of the King: *Convivencia* and Self-Determination in the Crown of Castile and its American Territories, 1400–1700

* Department of History, University of Florida, deardorff.max@ufl.edu

Abstract

This article examines a conflict over indigenous inheritance law in one small corner of the 16th-century Spanish Empire – the northern Andes – in order to open a window onto legal traditions in the wider Hispanic world. A specific emphasis is devoted to the mechanisms that placed custom (unwritten norms) at the center of early modern Spanish legal theory, making the Spanish monarchy one especially adapted to incorporating diverse social elements. By focusing on the late-medieval/early modern conception of »republics« – cultural communities oriented toward cohesive action preserving their common good – as the basic unit of study, and on custom as the basic guarantor of their continuing self-determination, I suggest ways to think about the legacy of Iberian *convivencia* both within and outside of its traditional medieval frame.

Keywords: convivencia, hidden jurisdictions, interlegality, Spain, Latin America



Max Deardorff

Republics, their Customs, and the Law of the King: *Convivencia* and Self-Determination in the Crown of Castile and its American Territories, 1400–1700*

Introduction

Don Francisco Ubaque's Spanish associates marveled at his appearance. In testimony collected for an *información de oficio*, the cream of Spanish colonial society (*encomenderos*, scribes, administrators, and high-ranking clerics from the cathedral) attested that don Francisco Ubaque »even though an Indian, is a well-refined man whose behavior is that of a Christian and a Spaniard, with great *policía*,« which they compared to that of a Spanish *caballero*, since he dressed in Spanish attire, carried a Spanish sword, and also rode a horse. They lauded his orthodox Catholicism, his hatred of idolatry, and the fact that he willingly carried a torch in the Corpus Christi procession. They especially celebrated the fact that he emulated the »good customs of Spaniards« in his public behaviors and personal interactions.¹ On the surface, these remarks tell the story of the mimesis of the colonial encounter.² But underneath the veneer of flattery and mirror-gazing, these comments would act to introduce a contentious legal issue that penetrated to the heart of the colonial legal order.

The above-cited testimony formed part of an information-gathering process that had started in 1578, aimed at changing inheritance law for the inhabitants of indigenous settlements of the northern Andes, in a region of the Spanish Empire known as the New Kingdom of Granada (roughly coterminous with modern Colombia). The instigator of the process was the attorney Juan de Aldaz, representative of don Francisco, the *cacique* of the sizeable and politically-important settlement of

Ubaque. Aldaz's specific request included alterations to indigenous inheritance law that would allow the *cacique*'s son to inherit leadership responsibility for Ubaque (rather than a nephew or, in the absence thereof, a successor chosen by village notables). As such, the request threatened to overturn a longstanding custom in the native community that pre-dated Spanish conquest. Rather than effecting change within his community with the blessing of its members, don Francisco had chosen to appeal to the Crown's administrators to force the change. But as he did, he ran into obstacles. And, as it turned out, he was not the only indigenous leader making such a proposal at this time. More on that in a moment.

In the coming pages, I look to conflict over indigenous inheritance law in one small corner of the 16th-century empire to open a window onto Spanish justice more generally. After briefly considering the local ramifications of this dispute, I turn to the wider Hispanic world in surrounding centuries to understand how these events in the colonies reflect long-term legal traditions. I am specifically interested in the mechanisms that placed custom – unwritten norms – at the center of early modern Spanish legal theory, and made the Spanish monarchy one especially adapted to incorporating diverse social elements. By focusing on custom and its relationship to the maintenance of diversity over such a long period, I am consciously thinking about the legacy of Iberian *convivencia* both within and outside of its traditional medieval frame. The 16th century in the Spanish Empire is typically seen as a period of rupture, during which

* My sincere thanks go to fellow members of the *Convivencia* working group at the MPIER: Raja Sakrani, Thomas Duve, Christoph Meyer, and Alfons Aragonese, as well as Mònica Colominas Aparicio. Portions of this text were presented in front of the *Congreso del Instituto Internacional de Historia del Derecho Indiano* (2016) and the *Research Seminar on Early*

Modern History at the Ludwig-Maximilians Universität, Munich (2017). I also owe a deep debt of gratitude to Karen Graubart, with whom I have discussed many of these topics over the years. She has been an unwavering mentor and friend. That said, all errors are my own.

1 The information related to this case can be found in Archivo General de

Indias (AGI), Santa Fe, 125, ff. 1r–13v. Don Francisco Ubaque also figures heavily in the analysis of Muñoz ARBELÁEZ (2015).

2 COMAROFF (1996).

the formerly tolerant land of three religions³ transformed under the punishing watch of the Inquisition, as Judaism and Islam disappeared from the Iberian map for a period of centuries. It is uncommon, for instance, to include post-conquest society in the Americas – characterized in the historiography as a product of Christian zealotry – within the framework of *convivencia*. Yet on both sides of the Atlantic, amidst all the narratives about the extinguishment of alterity, the persecution (and even expulsion) of Jews, Muslims, and Moriscos – there still existed visible spaces of autonomy in the very structure of the Spanish monarchy that attested to a value on lived diversity, however paradoxical such a claim might sound.

The term *convivencia*, first employed in the historiography as a surreptitious way to critique the unwavering cultural essentialism of the Franco dictatorship in Spain, is now widely employed in the political arena (especially in the Spanish-speaking world) to communicate the social ideal of tolerant coexistence.⁴ As an example, in its *Nuevo código nacional de policía y convivencia* (2016), the Republic of Colombia announced that »*convivencia* is understood as the peaceful, respectful, and harmonious interaction between persons, in reference to belongings and the environment, within the frame of the rule of law.« In the six articles of Title 1, Chapter 2, the code links the achievement of *convivencia* to the exercise of rights and liberties, the respect and acceptance of differences, the peaceful resolution of public disputes, and the general support for values that in the French *Declaration of the Rights of Man* might have been framed as *liberté* and *fraternité*.⁵ Taking this concept – essentially a modern value whose current interpretation is largely the result of social changes from the second half of the 20th century onward – as a framework for analyzing the past is fraught with pitfalls. I must make clear from the outset that

this article does not intend to unearth the roots of modern toleration in the late medieval/early modern Iberian World. Instead, through its review of the historiography, it seeks to understand the aims and the limits of a Castilian legal system, which in its own way also sought to secure the »harmonious interaction between persons ... within the frame of the rule of law.«

Though for many decades Spain was vaunted as a special historical arena in which legal and cultural pluralism thrived,⁶ legal historical studies have indicated similar complexity that was common across Europe.⁷ Nevertheless, Jewish communities were perhaps more widely dispersed throughout Spain than they were elsewhere in Europe and Islamic communities lived in a close proximity to Christians that was unthinkable in the rest of the continent. This proximity led to the consolidation of norms and social practices meant to facilitate some modicum of intergroup tolerance. Scholars of colonial Latin America have long looked to this medieval background for interpretative clues to use for understanding the construction of the New World legal order, in which a colorful and diverse mosaic of peoples were incorporated into the Christian, Spanish legal system.⁸ It is my hope that by identifying the methodologies and topics of study in historiographies that often remain separate (late medieval/early modern Spain, on one hand, and colonial Latin America, on the other), I will be able to contribute to the cross-fertilization of ideas and be able to signal some promising avenues for integrated or comparative study.⁹ In doing so, I am following the lead of other scholars who have proposed and conducted trans-Atlantic comparative study on related legal historical themes.¹⁰

At its root, this essay attempts to see society in the monarchy of Castile (and its ever-growing territories) through the lens of jurisdiction. Late-

3 In employing this phrase, I am aware of the historiography that began with Américo Castro, weathered significant critique, especially from NIRENBERG (1999) and continues in some shape or form to the modern day. For a relatively recent critical re-evaluation, see SOIFER (2009).

4 CAMPBELL (2016); SAKRANI (2016); ARAGONESES (2016).

5 *Nuevo código nacional de policía y convivencia* (Ley 1801 de 2016 – Julio 29).

6 For an example of a work celebrating Spanish exceptionalism, see MENOCA (2002).

7 GROSSI (1996).

8 It would be possible to give many examples here. To illustrate I will simply indicate MCALISTER (1984), which is divided into one section devoted to »Old World Antecedents« and two to colonial American society.

9 Here I have in mind the typologies of integrated study suggested by

ARMITAGE (2002) – Circum-Atlantic, Trans-Atlantic, and Cis-Atlantic history – and further elaborated on by GAMES (2006), as well as the model of *Histoire croisée* of WERNER / ZIMMERMAN (2006).

10 GARRIDO ARANDA (1987); BENTON (2001); HERZOG (2003); GRAUBART (2015); KIMMEL (2015).

medieval Castile, a kingdom that stretched from the Mediterranean to the Bay of Biscay, geographically and demographically dominated the Iberian Peninsula. Nevertheless, Castile maintained a different legal system than did the peninsula's other kingdoms, Aragón and Portugal, even following the union of Aragón and Castile under Isabel and Ferdinand and despite the addition of Portugal between 1580 and 1640. For the sake of simplicity, this article focuses on Castile to the exclusion of the other two kingdoms. The territories of the Indies, since they were incorporated into the monarchy via conquest, remained subordinate components of the kingdom of Castile, even though there were repeated attempts to remodel them as kingdoms of their own, on par with the monarchy's European constituent parts, throughout the 16th and 17th centuries.¹¹

Jurisdiction, as I will examine more at length later in the essay, refers to the ability to administer the law (literally in Latin to »say the law« – *ius dicere*).¹² Though we think of such legal power as residing with the monarch and his or her ministers, it was also inherent to numerous other bodies throughout the kingdom: the Church, municipalities, corporations such as guilds or confraternities, and, for limited times and with certain stipulations, religious minorities. Lauren Benton has accordingly defined it as »the exercise by sometimes vaguely defined legal authorities of the power to regulate and administer sanctions over particular actions or people, including groups defined by personal status, territorial boundaries, and corporate membership.«¹³ Both canon law and royal law theoretically stretched across the spaces of empire. At a local level, municipal ordinances complemented those norms. But what is sometimes lost from view is the immense determinative capacity of custom in the Castilian legal matrix. Custom represented more than a nebulous no-man's land of legal action; in what would become the Spanish Empire, it was an esteemed and protected sphere of normativity. The centrality of custom in judicial decision-making virtually assured the protection of significant auto-determination at the local level. Thus, as I focus on new-

comers and Others¹⁴ in the Castilian legal system, I reflect on the ways that the system provided for their self-governance according to patterns independent of and pre-existing their integration into the monarchy. This reflection on *convivencia* focuses on the late-medieval/early modern conception of »republics« – cultural communities oriented toward cohesive action preserving their common good – as the basic unit of study, and on custom (unwritten law) as the basic guarantor of their continuing self-determination.

Contesting Inheritance in the New Kingdom of Granada (ca. 1570–1590)

In the latter half of the 16th century, roughly ten thousand Spaniards and a few thousand Africans lived in concentrated settlements throughout the New Kingdom of Granada, surrounded by somewhere between 200,000 and 500,000 indigenous inhabitants.¹⁵ While European settlers largely congregated in a few Spanish cities and towns (Santafé, Tunja, Vélez, Ibagué ...), it was an overwhelmingly indigenous space. And despite the fact that governance at the level of the pueblo had begun to take on some Spanish characteristics by the last quarter of the 16th century, the actual framework of the imposed Spanish legal system was rather flimsy. The Spanish presence in indigenous pueblos was limited to a priest, who may or may not have resided there year-round, and a modest amount of non-indigenous through-traffic that increased only gradually with the establishment of Spanish farms (*estancias*) on their outskirts.

Within those highland Muisca towns of the New Kingdom in which don Francisco Ubaque moved, the pre-Hispanic exercise of authority appeared to have been relatively consistent from settlement to settlement. The highest level of authority had belonged to the *usaque* (*cacique mayor*), who governed an array of subordinates across multiple settlements. Local authority over any one particular community was exercised by the *sihipkua* (Castilianized as *zipa*, and translated into the nomenclature of Spanish law as *cacique*). Under

11 CARDIM (2016).

12 COSTA (1969); VALLEJO (1992).

13 BENTON/ROSS (2013).

14 I am employing here the terminology of TODOROV (1999) as a shorthand.

15 There is a long-standing argument about the region's demography, deftly analyzed by FRANCIS (1998) 97–171.

the *sibipkua*, a series of *tybas* (captains in Spanish parlance) were responsible for the management of a handful of matrilineal family units (*gue*). Despite the relatively structured appearance of these relationships, *tybas* were not entirely subordinate to the *sibipkua* above them, enjoying as they did the ability to uproot their own subjects and re-pledge them to another *sibipkua*.¹⁶

Political authority was generally inherited in this society, though Spanish administrators quickly discovered that indigenous forms of inheritance (as well as residence patterns) were different than their own. Lines of inheritance – most visibly of public authority – passed down through the maternal line, from uncle to nephew. In general, individuals were understood to belong to the political unit of their mother. Offspring would reside in the settlement of their fathers until their parents died, at which point they were expected to emigrate to live alongside their maternal uncles. Reflecting these dynamics, names of Muisca women contained two parts: one denoting the place of her birth, and the other a particle extracted from the name of her mother. This way, in the words of Santiago Muñoz, »the names of the mother condensed the social and political placement of the children, which did not necessarily coincide with their place of residence, and contained sufficient information to order society and to have a map of its political affiliations.«¹⁷

The Muisca expectation that the progeny would eventually make their way back to the settlement of their maternal uncles created problems in the eyes of 16th-century Spanish colonists and administrators. The most famous cases involve two *mestizo* sons of Spaniards, don Alonso de Silva and don Diego de Torres. The two men had been raised in Spanish urban environments, in the company of their fathers. Torres had received an education from Dominicans in Tunja and Silva worked as the assistant to a royal scribe in Santafé (Bogotá). In fact, Silva aspired to become a scribe himself after obtaining royal dispensation for his illegitimate

birth.¹⁸ At the same time, both men were also sons of indigenous noblewomen, the sisters of caciques, and, according to indigenous succession patterns, they were the clear inheritors of the mantle of authority. Theirs was a polygamous society, and noble bloodlines were traced along the female line. Indigenous leadership passed from the *cacique* / *sibipkua* to the eldest son of his eldest sister. In 1571, both don Alonso and don Diego were approached by principals from their mothers' native communities, who affirmed that the two men were eligible according to these norms, and asked (independently one from the other) that each of the respective men be recognized as their *cacique*.¹⁹ Though their request existed in a gray area in Castilian law, Spanish authorities assented, and the men accepted their roles. When they almost immediately undertook an activist defense of native interests, however, legal challenges began to come at them from left and right.²⁰ Both Spanish landed interests and indigenous opponents tried to undermine the legal basis for their leadership. By 1574, that effort had successfully convinced the regional court (*Real Audiencia*) in Santafé, which then deprived don Alonso and don Diego of their positions of native authority until the Royal Council in Madrid had time to decide the case on appeal.²¹

Rather than focus on the variety of arguments that went into the case heard by the regional court, which are numerous and complex, I want to focus on just one – the issue of inheritance and succession. Spanish legal doctrine held that local use and custom should be respected, unless it clearly violated Christian principles or fell in direct contradiction to an express royal imperative. During the course of the litigation, don Alonso de Silva reminded the court of this principle.²² The opposing legal representative conceded the issue, and instead set out to throw into question whether don Alonso was actually the legitimate successor according to native custom, proposing alternative genealogies

16 GAMBOA MENDOZA (2010): 65–67. These divisions largely endured into the 17th century, although the Spanish partition of large polities governed by *usques* into smaller *repartimientos* overseen by different *encomenderos* functionally did away with the highest level of the hierarchy.

17 MUÑOZ ARBELÁEZ (2015) 83–84. Translation mine.

18 These cases have been discussed in ROJAS (1965); GAMBOA MENDOZA (2010) 585–600; RAPPAPORT (2014) 149–169.

19 Archivo General de la Nación – Colombia (AGNC), *Caciques e indios* 61, 174v–176v.

20 One indication can be found in a 1572 royal *cédula* offering Silva protection from spurious lawsuits in-

tended to harass and intimidate him: AGI, SF 534, 400r–v.

21 AGNC, *Caciques e indios* 61, 365r–391r; AGI, Santafé 16, 6v.

22 AGNC, *Caciques e indios* 61, 253r–v. The question of custom surrounding succession is treated in DÍAZ REMENTERÍA (1977) 111–124.

that identified as rightful cacique his close relative don Martin or don Laureano, an obscure candidate from an obscure *cacical* line.²³ The outcome of don Diego's defense turned on a similar issue. But as the members of the prosecution built their argument, bodies of law mingled. Unable to construct an airtight case (though they did create some doubt) that an alternate claimant to don Alonso's *cacicazgo* was its rightful heir, they tried out a second argument. They claimed that because don Alonso was illegitimate in the Spanish world (true, though afterward legitimated)²⁴ and a bastard (possible, via circumstantial evidence) that he could not be considered a legitimate claimant to the indigenous office. Don Alonso countered that indigenous custom recognized nothing similar to Castilian legitimacy; caciques had multiple wives, and the bloodline, rather than a ceremony, legitimated an heir.²⁵

In the end, though the regional court decided there was sufficient evidence to disqualify both men from their offices – a burgeoning historiography has recognized it as a heavily politicized decision²⁶ – it recognized and upheld local custom's value as law. Early modern Castilian legal decisions are notoriously sparse on rationale, preferring merely to affirm that justice has been provided without providing elaborate disquisitions explaining why and how.²⁷ In don Alonso's lawsuit, we do not know which of the arguments swayed their opinion, but we do know that his kin Don Martin was eventually awarded the office of cacique.²⁸ When Don Diego de Torres, likewise, was deprived of his *cacicazgo*, it was placed in the custodianship of don Francisco, a first cousin who had an alternate legitimate claim according to indigenous succession.²⁹

When, beginning in 1578, don Francisco Ubaque lobbied the Crown to overturn indigenous norms on succession, he did so against this historical backdrop. While they were responsible for securing the recognition of royal judges of the validity of this element of customary law, the cases of don Alonso de Silva and don Diego de Torres also had been central elements in a period of

intense political instability that ultimately led to a complete replacement of the five-member *Audiencia* court. It is not an exaggeration to say that the colony stood on the precipice of rebellion for the better part of a decade.³⁰ It was also a time of rapid cultural change, in which the process of indigenous Christianization finally started in earnest. Don Francisco's entreaty should thus be seen as an opportunistic attempt to use the prejudices of the Spanish judiciary to effect a self-serving – because he had a son but no legitimate nephew – outcome. A handful of other *caciques* (interestingly including don Alonso de Silva) also made the same effort, all alleging that they did so because of their interest in further Christianizing the native community. They tended to argue that native communities would profit from Castilian (or in their words, ›Christian‹) succession, because it would assure that once leadership was Christianized, successive generations of leaders would also be Christian. This, of course, depended on an understanding in *ius commune* that progeny of Christians were, by definition, Christians.³¹ To continue with indigenous succession patterns was to leave open the door for unbaptized *caciques* to follow Christian ones. The monarchy showed some interest, but ultimately adhered to a long policy of respecting the validity of customary law for its subjects' local self-governance.

Customs

Where did custom fit in the constellation of colonial law, and did its placement represent a transformation of medieval Iberian precedent, or a continuation? First off, only with the publication of the *Recopilación de las leyes de Indias* in 1680 did a unified body of law meant for application across the colonies appear. That text reserved a special place for indigenous custom:

»We order and command that the laws and good customs that the Indians formerly kept for their government and public order, and

23 AGNC, *Caciques e indios* 61, 369v.

24 Legitimation in AGI, Santafé, 534, 289v.

25 AGNC, *Caciques e indios* 61, 280v–281r. Analyzed in RAPPAPORT (2014) 151–152.

26 GAMBOA MENDOZA (2010); RAPPAPORT (2014).

27 CUTTER (1995) 36.

28 AGNC, *Caciques e indios* 61, 365r.

29 GAMBOA MENDOZA (2010) 600.

30 ROJAS (1965); GÁLVEZ PIÑAL (1974).

31 STOW (2012).

their *usos* and *costumbres* observed and maintained ever since they have been Christians, and which do not contradict our sacred religion, nor the laws of this book, as well as those that they have newly made and formulated, be preserved and applied; and since it is necessary, through this mandate we approve and confirm that We may add whatever serves our interest, and that which acts in the service of the interests Our Lord God or our own, and the conservation and Christian *policía* of the natives of those provinces, without harming their achievements nor their good and just customs and statutes.³²

This adaptation of a 1555 *cédula* sent by Charles V and its incorporation into the *Recopilación*, with the consequent generalization across the Indies, provided native norms with an additional level of legitimacy. But what kind of protections had indigenous custom enjoyed before 1680? Customary law – sometimes referred to in medieval and early modern sources as *moral* law (a term whose etymology traces back to use by Isidore of Seville in the 7th century) – describes norms elaborated on the basis of customs, habits, and practices.³³ For all the pretensions of royal law, local custom was one of the most important sources that Spanish magistrates drew upon as they made decisions and was a tremendously important source of law in Spain's colonies. For determinations in court, there were two types of custom that magistrates took into account. The first emerged from Spanish *criollo* contexts and included the corpus of established practices that New World authorities had adapted for emergency circumstances and which had proven durable over a period of years, and had continued in colonial use without explicit contradic-

tion by the monarch.³⁴ This evolution of practice into law constituted what some might label as »the workings of silent democracy across time.«³⁵

As kingdoms integrated into the territories of the Castilian Crown, the Indies were subject to Castilian law.³⁶ In practice, this meant that their existence was regulated by the foundational texts of royal law, which dated in some cases back to the 13th century.³⁷ In 1567, the monarchy published the *Recopilación de las leyes de estos reynos*. Though the Crown had intended to simplify and concentrate preceding Castilian law with its publication, it effectively became one more set of norms upon which a jurist could draw.³⁸ The *Recopilación de Castilla* identified current and future royal *ordenamientos* and *pragmáticas* as sources of law of first order. It also authorized as supplementary law the *Fuero Real* (1255) and other municipal *fueros* to which the Crown had acceded in prior centuries, as long as they were not contradicted by the text of the *Recopilación* or canon law. In disputes that could not be settled through those channels, the *Recopilación* recognized the *Siete Partidas* (1265, of which Gregorio López published a definitive copy, with a gloss, in 1555).³⁹ In the end, the *Siete Partidas* proved to be a favored source for New World jurists.⁴⁰

And what was the *Partidas*' stance on custom? The *Partidas* clearly defined custom as unwritten law, in use for extended periods of time (I. 2. 4). There were guidelines for how custom could be introduced (I. 2. 3/5): 1) it should be the will of the people; 2) it should be confirmed by adjudication (backed up by at least two rulings); 3) it should be reasonable and should not contravene Natural Law or the law of the land; 4) it should exist with the consent of the lord; 5) it should have endured for a

32 ley IV, tít. I, lib. 2 *Recopilación de leyes de Indias*. Translation mine: »Ordenamos y mandamos, que las leyes y buenas costumbres que antiguamente tenían los indios para su gobierno y policía, y sus usos y costumbres observadas y guardadas después que son cristianos, y que no se encuentran con nuestra sagrada religión, ni con las leyes de este libro, y las que han hecho y ordenado de nuevo, se guarden y ejecuten; y siendo necesario, por la presente las aprobamos y confirmamos, con tanto que Nos podamos

añadir lo que fuéremos servido, y nos pareciere que conviene al servicio de Dios Nuestro Señor y al nuestro, y a la conservación y policía cristiana de los naturales de aquellas provincias, no perjudicando a lo que tienen hecho ni a las buenas y justas costumbres y estatutos suyos.«

33 PRODI (2016) 105.

34 TAU ANZOÁTEGUI (2001).

35 HESPANHA (2004) 43. To be clear, though Hespanha recognizes this historiographical tendency, he is himself critical of using the modern

understanding of »democracy« to describe the past.

36 The Indies were integrated into the monarchy as legal »accessories« of Castile, effectively subject to the same bodies of royal law: GARCÍA PÉREZ (2015) 29–73, esp. 46–49.

37 GARRIGA (2006) 317–326.

38 GARRIGA (2006) 339–342.

39 Ley III, tít. I, lib. 2, *Recopilación de las leyes de estos reynos* ... (1569) 45v–46v.

40 TAU ANZOÁTEGUI (2016) 6. TAU ANZOÁTEGUI (2001) 31.

period of 10–20 years. The *Partidas* furthermore established that customs of the people even had the power to override written laws, whenever that contradiction was met with tacit or explicit approval of the King (I. 2. 6.). Relevant to the 13th-century political environment in Spain, the *Partidas* recognized that once custom lived long enough to be passed down between generations, and was codified, it became *fuero* (I. 2. 7.). On a theoretical level, therefore, custom need not be calcified and tethered to a timeless past in order to be valid.⁴¹ Instead, it was understood to change over time. Some temporal durability was required – at least ten years for issues of secular jurisdiction and forty for those of ecclesiastical jurisdiction.⁴² But jurists expected that human communities and their customs would adapt according to the times.

Francisco Cuena Boy's examination of jurisprudence (*doctrina*) on the question of custom in the New World revealed that there was no major New World innovation in custom's role within the frame of legal determination from the viewpoint of Roman Law. When tribunals sought to determine the validity of a custom, Cuena Boy suggests prior judicial determinations were important in establishing repeated use, as was the survey or inquiry method, whereby elders and authorities within the native community were interrogated about such norms. Witness testimony could be used to establish through extrajudicial acts a certain custom's continuing validity. The one issue that remained somewhat contentious was how many judicial decisions reflecting *use* would be sufficient to establish *custom*. Gregorio López, in his famed *Gloss* of the *Partidas* (1555), sought to rationalize the fact that the text of the *Partidas* only required two findings, when the majority of doctrinal texts he reviewed insisted on 30 or more. López reconciled the contradiction by asserting that two decisions was sufficient precedent *if* accompanied by two other requisites, namely the

passage of ten years, and the general knowledge and acceptance of the populace.⁴³

Under the schema provided by the *Partidas* (and after a period of equivocation), the Crown recognized the framework by which norms stemming from indigenous self-rule would be recognized when they ended up in Castilian courts. That was the gist of a royal *cédula* issued in 1530 for New Spain.⁴⁴ This *cédula* in turn led to the publication of a set of *capítulos de corregidores* (ordinances for chief civil magistrates) that ordered that »good uses and customs« of the Indians be respected as long as they were not contrary to the Christian religion. Subsequently, the 1542 *New Laws* instructed its New World *Audiencias* to handle all legal issues involving Indians summarily, and to issue decisions based on indigenous uses and customs (chapter 20).⁴⁵ In 1552, Bartolomé de Las Casas in the face of a mounting counterargument reiterated the contention, stressing that the Crown was obligated by divine law to recognize the normative value of native customs.⁴⁶ The famous *cédula* that a century later was integrated into the *Recopilación* (2.1.4) soon followed, on 6 August 1555. In case there was any doubt, the Crown repeated its stance in another royal *cédula* dated 23 September 1580.⁴⁷ Caroline Cunill has recently confirmed that following the 1573 publication of the »Ordinances for the Formation of the Description of the Indies« royal administrators had been admonished consistently to be aware of the »customs and traditions in terms of justice that the Indians had prior to the Spanish conquest ...« because the Crown intended that they »continue to be governed thereby.«⁴⁸

This approach allowed Indies government to function without the need to legislate on a multitude of quotidian issues, big and small, for which local societies had already developed solutions.⁴⁹ A number of scholars have foregrounded the interaction between indigenous custom and the Spanish legal system, both for the period immediately

41 TAU ANZOÁTEGUI (2001) 63; MICELI (2012) 129, 152.

42 HEVIA BOLAÑOS (1783) I.8.18.

43 CUENA BOY (2016) 200–209.

44 The 1530 *cédula* is collected in Vasco de Puga, 54 f., cited in BORAH (1983) 30.

45 CUENA BOY (2016) 203. Cuena Boy notes that the chapter from the *New Laws* was the basis for ley 83, tít. 15,

lib. 2 of *Recopilación de leyes de los Reynos de las Indias*.

46 LAS CASAS (1552) proposición XXVII: »... Los Reyes de Castilla son obligados de derecho divino a poner tal gobernación y regimiento en aquellas gentes naturales de las Indias, conservadas sus justas leyes y buenas costumbres, que tenían algunas, y quitadas las malas, que no eran muchas, y

suplidos los defectos que tuvieren en su policía ...«.

47 AGI, Indiferente, 427, 323r–324r.

48 CUNILL 4 (2015) esp. 510–511. CUENA BOY (2016) 210–212, includes an excerpt from one inquiry on customary law from the Andes (1580).

49 TAU ANZOÁTEGUI (2001).

after the conquest,⁵⁰ and for a later period as the distinct systems became more closely enmeshed.⁵¹ Meanwhile, in the face of a seemingly endless stream of counterarguments stemming from local issues, doctrinal sources continued to reaffirm the value of respecting indigenous customs. New World Jurists such as Polo Ondegardo,⁵² Juan de Matienzo,⁵³ and Alonso de Zorita⁵⁴ very actively advocated the explicit adoption of indigenous legal categories within the Spanish legal order. Meanwhile, critical doctrinal sources, such as Juan Solórzano y Pereira's *Política Indiana* (1648)⁵⁵ and Gaspar de Villaroel's *Gobierno eclesiástico-pacífico y unión de los dos cuchillos Pontificio, y regio* (1656–1657) emphasized the magistrate's duty to take indigenous custom into account when making decisions.⁵⁶ The above-mentioned authors comprise a portion of a whole body of New World jurisprudence, explored by Victor Tau Anzoátegui, that established the general validity of custom in the Indies – not just indigenous *consuetudo*, but also *criollo* norms.⁵⁷

Though it is tempting to consider the colonial question in a vacuum, custom remained a central component of the legal system in Iberia, too.⁵⁸ Throughout the empire, law during this period remained overwhelmingly local.⁵⁹ Paola Miceli has demonstrated how the conception of custom as a distinct but parallel source of Law entered into Castilian royal legislation during the medieval period from the *corpus iuris civilis* through the influence of the *ius commune*.⁶⁰ Through much of the medieval period, custom was the heart and soul of Castilian law. Some of it got immortalized in *fueros* when the Crown acknowledged the val-

idity of local custom, converting it into legislation in the process. Even as royal law became dominant in 16th-century Spain, custom remained a crucial tool at the disposal of magistrates as they interpreted jurisprudence to apply to the lawsuits that passed through their *salas*.⁶¹ The noted jurist and *corregidor* of Soria and Guadalajara, Jerónimo Castillo de Bobadilla, in his widely-read and cited *Política para corregidores y señores de vasallos* (1597) proclaimed »And just as judges are obligated to know the laws, and to rule according to them, they are also obligated to know the notorious and public customs of the city and province that they govern, and judge by them [as well].«⁶² Accordingly, the Jesuit Francisco Suárez's influential treatment of the subject (book VII) within his ten-part study of law, originally published in 1612, reached a wide audience and remained among the most important early modern jurisprudence.⁶³ When thinking about custom, these authors focused not necessarily religious or ethnic minority communities, but local particularism more generally. All of this together assured that custom, even in disputes among Iberian Christians, would play a central role in dispute resolution.⁶⁴

Christian rulers' evaluation of the validity of the customs of the kingdoms' Jewish and Islamic subjects, and their convert descendants, has its own nuanced chronology. For several centuries, though a Christian monarch ruled over Castile, semi-autonomous Islamic communities continued to live alongside the greater Christian community. These Hispanic Muslims adhered to the Maliki School of Islamic Law.⁶⁵ At the local level *alfaques* served as the *ulema* (religious authorities),⁶⁶ who

50 DÍAZ REMENTERÍA (1977); BORAH (1983); KELLOGG (1995); GAMBOA MENDOZA (2004) 113–145; RAMÍREZ (2005); HONORES (2007); HERZOG (2013) 303–321; GRAUBART (2015); GRAUBART (2016); PUENTE LUNA/HONORES (2016).

51 YANNAKAKIS (2008); PREMO (2014); YANNAKAKIS/SCHRADER-KNIFFKI (2016); PREMO (2017).

52 POLO DE ONDEGARDO (1571). GARCÍA MIRANDA (2015); DÍAZ REMENTERÍA (1976).

53 MATIENZO/LOHMANN VILLENA (1967 [1567]).

54 Egío (2016) 122–153.

55 This Spanish-language effort was a re-working of his *De indiarum iure*,

completed in two parts (1629/1639). Recent critical scholarship has identified clear differences between the two works. Vid. BALLONE (2017).

56 SOLORZANO PEREIRA (1648); VILLAROE (1738).

57 TAU ANZOÁTEGUI (2001). In a similar vein, see RAMOS NÚÑEZ (1999).

58 GARRIGA (2006) 361–367; PRODI (2000) 104–105.

59 TAU ANZOÁTEGUI (2016); CLAVERO (2012) 698–699; GARRIGA (2006) 303; HESPANHA (1994) 9–10.

60 MICELI (2012).

61 GARRIGA (2006) 365–366.

62 CASTILLO DE BOBADILLA (1775

[1597]) lib. 2, cap. 10, 34–58 »De la fuerza de la costumbre«: »Y así como

los Jueces están obligados á saber las leyes, y juzgar según ellas lo están también á saber las costumbres públicas, y notorias de la Ciudad, y Provincia, que gobiernan, y juzgar por ellas.«

63 SUÁREZ (1968 [1612]); CASTRO PRIETO (1949); LARRAINZAR (1982).

64 HERZOG (2015) esp. 142–144, 207, 237.

65 MARTOS QUESADA (2008); AGUILERA PLEGUEZUELO (2000); AGUILERA PLEGUEZUELO (1995); MARTÍNEZ DHIER (2007); MARTÍNEZ ALMIRA (2002); MARTÍNEZ ALMIRA (2006); PELÁEZ PORTALES (1999).

66 On the legitimation of *ulemas*, see PELÁEZ ROVIRA (2009) 69–71.

oversaw the Islamic legal tradition as part of a greater *umma* that stretched across the Islamic world.⁶⁷ Following the 1085 fall of Toledo to Christian conquerors, members of these Muslim communities had had to make the hard decision whether to stay and become subjects of a Christian ruler or to emigrate.⁶⁸ Those who decided to stay became *Mudéjars*, a minority whose rights to adjudicate disputes fully between members of its own community was upheld for centuries.⁶⁹ Iberian Christian monarchs offered them communal and judicial autonomy as part of a *quid pro quo* predicated on the *Mudéjars'* oaths of loyalty.⁷⁰

In 1412, however, King Juan II's regent announced that Muslim and Jewish *aljamas* would be formally deprived of their ability to serve as proprietary courts of first instance. Instead, all suits would thereafter be judged in Christian courts by Christian judges. The new Royal Law did, nevertheless, establish the validity of Islamic and Jewish law as »customs and ordinances« for the adjudication of civil suits within Christian courts of Castile.⁷¹ Romance language translations and compilations of the basic precepts of Islamic law – the *Llibre de la çuna e xara* and the *Breviario Sunni* – were created in the 14th and 15th centuries as tools for Christian magistrates tasked with deciding disputes between Muslims.⁷²

Some limited independent Islamic and Jewish jurisdiction seems to have survived during this period, despite royal pretensions. In practice, the legal reform depriving Islamic and Jewish courts of authority seems to have been unequally applied.⁷³ The prohibition was thus repeated again in Diaz de Montalvo's 1484 *Recopilación*⁷⁴ and with the im-

pulse of the 1492 expulsion of the Jews would have taken on definitive form, had the monarchy not extended to its new subjects in Granada the right to adjudicate their own cases within the Muslim community according to the »xara e sunna.«⁷⁵ Of course, when the monarchy completed the suppression of the first rebellion of the Alpujarras (1499–1500) by forcing the conversion first of all of Granada's Muslims,⁷⁶ and then of all Muslims in Castile, the point remained moot. By 1502, Islamic law had ceased to be a valid source of normativity in Castilian courts (though it remained valid in the Kingdom of Aragón until 1526).⁷⁷ The 1412 division of Jewish and Islamic norms into »customs«, on one hand, and »ordinances«, on the other, seemed to suggest that Christian authorities recognized the determinative capacity of both, separately. The issue of the continuing normative validity of »customs« would become an explosive issue in the 1560s.⁷⁸

Even though the monarchy successfully replaced Jewish and Islamic autonomous jurisdiction with its own, it still had another competitor – seigniorial jurisdiction. Carlos Garriga has traced how the hierarchy between tribunals developed in the late medieval period. Effectively, the *Ordenamiento de Alcalá* (1348) had identified the monarch as the *mayoría de justicia* – that is to say, the supreme jurisdiction and final instance of appeal. The concept of a hierarchy of appeals had been imported into secular justice from ecclesiastical circles, where it had first appeared. Garriga argues that the emergence of an appeals process by the end of the 13th century was an important device for integrating plural political spaces under the power

67 SAFRAN (2013); ZOMEÑO (2000); SHATZMILLER (2007); SERRANO RUANO (1998); MÜLLER (1999); SECO DE LUCENA PAREDES (1959); LÓPEZ ORTIZ (1941); CAHEN (1967); FIERRO (2005); ZORGATI (2012); FADEL (1997).

68 FIERRO (1991).

69 FERNÁNDEZ Y GONZÁLEZ (1866); MILLER (2008); EL FADL (1994).

70 MEYERSON (1995) 145–147.

71 FERNÁNDEZ Y GONZÁLEZ (1866) 401, ley 7. »... mando que sean librados de aqui adelante los tales pleitos, asi criminales como civiles de entre los dhos Judios é Judías, é Moros é Moras, por los Alcaldes de las ciudades, villas é Logares donde moraren. Pero es mi merced que los tales Alcaldes guarden

en el libramiento de los pleitos civiles las costumbres ó ordenanzas, que fasta agora guardaron entre los tales Judios ó Moros, tanto, que parezcan auténticas é aprovadas por ellos de luengo tiempo acá.«

72 The two texts are included in GEBIR et al. (1853). For a comparative reflection on the purposes and value of the two texts, see ECHEVARRÍA ARSUAGA (2016).

73 GARRIGA (2006) 313–314.

74 DÍAZ DE MONTALVO (1484) VIII.3.16.

75 The capitulations are transcribed in GARCÍA-ARENAL (1996) 19–28.

76 On this process, see LADERO QUESADA (1992); GALÁN SÁNCHEZ (1984); CARRASCO GARCÍA (2007).

77 A recent study, outside the geographical boundaries of this review but thematically relevant, has examined the continuing application of Islamic law in Morisco communities in Aragón: RUIZ BEJARANO (2015).

78 BARLETTA (2007); CONSTABLE (2018).

of a supreme instance. Between 1348 and 1371, the political logic of the kingdom underwent a transition, transforming from feudal vassalage to the incorporation of natural subjects in a corporate political space defined by the head and body analogy, with the King as head and supreme. Until 1371, justice had been dispensed by the monarch in royal hearings (»*audiencias públicas del rey*«). In that year, the monarchy created an *Audiencia* court to be staffed by 7–8 judges (*oidores*), who in legal matters served as functional alter egos of the monarch. Nevertheless, due to significant push-back from the nobility – reluctant to cede appellate power to the King, in diminishment of their own – the *Audiencias* would not be fully functional until the advent of the Catholic monarchs, Isabel and Ferdinand, a century later. The 1390 Law of Guadalajara was crucial in extracting the minimum compromise in order to ensure that the hierarchy continued to be observed, at the very least in practice. In that law, the monarchy acknowledged the right (*ius cognoscendi de causis appellationum*) of magistrates of territorial lords to serve as the first court of appeals for litigation that had been opened on their lands.⁷⁹ The Guadalajara legislation formalized the hierarchy between local magistrates (*alcaldes ordinarios*), superior magistrates (*alcaldes mayores* and/or *corregidores*), territorial nobility (*señores*), and the tribunals of the monarch. In the 16th century, seigneurial tribunals' role as courts of second instance – coupled with lords' creative maneuvers to protect their autonomy within their territorial borders⁸⁰ – created opportunities for noble jurisdictions to serve as safe-havens for persecuted minorities.⁸¹

The Crown's desire to create a hierarchically-integrated set of jurisdictions in the Americas, with its own magistrates as ultimate arbiters, provided the motivation for the many of the conflicts that

characterized the 16th century. Prime among these was the refusal to grant temporal jurisdiction (*señorío*) to *encomenderos*, granting them only the right to collect tribute in return for their obligations to defend the land and offer Christian *doctrina*.⁸² There, as in Spain, the worry circulated that *encomenderos* were attempting to arrogate jurisdiction for themselves. Magistrates of the king's *Audiencias* complained about *encomenderos* who tolerated behavior that royal law forbade.⁸³ The anxiety about the Crown's potential loss of effective jurisdiction is what ultimately torpedoed the *encomenderos*' appeal for perpetual *encomienda* grants in Peru.⁸⁴

Justice and Jurisdiction

The concept of *Iurisdictio* both designated and defined the role of public power in late medieval and early modern society. *Iurisdictio* expressed the authority and the obligation both to articulate Law (*ius*) and to ensure Justice (*aequitas*).⁸⁵ In this late medieval/early modern world, it was understood that monarchs did something akin to channeling the law, rather than creating it; *iurisdictio* – literally »saying the law« – was *declarative*, not *constitutive*. The *iurisdictio* that rulers exercised did not so much create a legal order, as declare recognition of an already existing order that they promised to protect. Their job was to be respectful readers of nature, interpreting its intention for the harmonious custodianship of society as a whole.⁸⁶ Historians have given a name – *cultura jurisdiccional* (»jurisdictional culture«) – to the legal order that was widely dominant between the late medieval period and the end of the 18th century. Its undergirding concepts were different enough from our own that they created distinct understandings

79 Helpful visual in NADER (1990) 145. Concerning the administration of justice by lords in their territories, see PORRAS ARBOLEDAS (1997) 173–176; HAMANN (2011).

80 GARRIGA (2011) 134–143, 167–169.

81 MARTÍNEZ ALMIRA (2012) esp. 134–140; BENÍTEZ SÁNCHEZ-BLANCO (2001) 253; HAMANN (2011); NADER (1990).

82 MUMFORD (2012) 53–71.

83 MUÑOZ ARBELÁEZ (2015); HAMANN (2011).

84 ZAVALA (1973); MUMFORD (2012) 53–71. For a comparative look at the administration and provision of justice in Castilian encomiendas, see PORRAS ARBOLEDAS (1997). The documental appendix is especially instructive about the relationship between subjects and *encomenderos*.

85 According to an early modern legal textbook, »*Iudex* se dize el juez, porque *Ius dicit*, dando a cada parte lo que es suyo ... el officio destes juezes dize

Justiniano es determinar los pleitos por las leyes, y pragmáticas de los Príncipes, y costumbres de los lugares, según lo actuado, y probado, sin aceptación de las personas ...« BERMÚDEZ DE PEDRAZA (1612) lib. 4, tit. 27.

86 GROSSI (1996) 108; GARRIGA (2006) 309; VALLEJO (1992); COSTA (1969).

about the obligations of magistrates. First of all, the understanding that social order was part of the texture of the universe tended to mute the sense of an individual's voluntariness or will. Second, a ›corporate‹ model of society valued the community over the individual. Drawing on medieval analogies, the Christian community was considered the ›*corpus mysticum ecclesiae*‹ (mystical body of the Church) or ›*corpus reipublicae mysticum*‹ (the body of the mystical republic).⁸⁷ The body analogy allowed theorists to simultaneously talk about society as a unified whole while also explaining away differences between unequal parts. This model of coexisting parts could equally be used to explain unity, integration, and hierarchy between families, cities, and kingdoms. They united all of the elements into a harmonious whole governed by an *ordo universalis*. This society was built on a religious foundation that worked both as social discipline and discourse. Its concomitant impact on the legal system led to intense casuistry⁸⁸ that emphasized reasoning against contradiction and according to tradition. In this society, power did not create or constitute, but rather conserved and guaranteed social equilibrium, delivering to each ›what he deserved.‹ This philosophy, inspired by an incorporation of Aristotelian thought into Christian theology, re-conceived Christian society as a unitary body, governed by one universal law. The core values of the *cultura jurisdiccional* thus simultaneously recognized diversity and inequality, all while assuming that they were part of an inherent order of things and that it was the monarch's job to safeguard that order. The imagery provided by the body analogy served to demonstrate the dominant schema of unity, integration, and hierarchy that sustained jurisdictional culture – a schema that would be reflected throughout society in families, cities, kingdoms, and (later) the empire itself.⁸⁹ Francisco de Vitoria articulated such a connection in his *relección* of *De potestate civile*:

»Just as the human body cannot be preserved as a whole if there is no rationalizing force organizing the articulation of its members, each assisting the other and, above all, assisting the entire human organism, so too would result in the city if each merely tended to his own concerns and everyone ignored the common good.«⁹⁰

Republics & Customary Law

The conception of a legal system constructed on the metaphor of the body made room for differentiated constituent parts. This metaphor also facilitated the incorporation into the legal system of subject communities that were at once distinguishable in character and integrated into the whole. How exactly justice worked in those communities continues to be a matter of ongoing and fruitful debate. One of the questions that arises across historiographies (medieval, early modern, and colonial) is exactly what kinds of norms dominated at a local level. Did those communities labeled as *infidels* (Muslims, Jews, and unbaptized Indians) live in legally pure spaces, where religious or customary law dominated? Did the groups that the Catholic Church occasionally accused of being heretics (*conversos*, *moriscos*) live in communities fully penetrated by Castilian *ius commune*? Or did other sources of normativity compete with royal and ecclesiastical law to shape the juridical landscape of the different corners of empire?

Philosophy of Republics

The Spanish conception of a hierarchical system of justice, all of which terminated in the king as final instance, created a political system that was not ›centralized‹ as much as it was, in the words of Alejandro Agüero, a ›*república de repúblicas*«. ⁹¹ Hispanic jurists had begun in the late medieval

87 KANTOROWICZ (2016).

88 TAU ANZOÁTEGUI (1992).

89 AGÜERO (2006) 24–30.

90 VITORIA (1960) 157. Translation mine.

91 AGÜERO (2006) 38. For a further discussion of the early modern Spanish monarchy as a republic of republics, see HERRERO SÁNCHEZ (2017); GIL PUJOL (2005). Herrero, following ar-

guments made earlier by Aurelio Espinosa and Jack Owens, argues that justice became the fundamental element of cohesion that tied together relatively autonomous *repúblicas* (cities and towns) of the Spanish world (284–285).

period to re-adopt the Classical term »republic« (from Latin *res publica*) to describe sovereign polities organized under one common authority.⁹² Kingdoms were examples *par excellence* of such republics. Legal theory, elaborated over decades, ascribed to Iberian kings (*princeps* in the Latin formulation) the right to make laws and provide justice within the republics they governed through the rationale of *traslato imperii* – a concept that described the process by which a sovereign people transferred their decision-making power.⁹³

But kingdoms were by no means the only entities circumscribed within the concept of the republic. By the 16th century, the term *república* was most often employed to identify cities.⁹⁴ Most towns in early modern Castile (including its empire) were self-governing.⁹⁵ Their limited autonomy was an outgrowth of the medieval *fuero* tradition, in which the monarch guaranteed towns under his rule a set of rights and privileges (in the form of ordinances).⁹⁶ Historiography in Spain has dedicated a fair amount of effort to understanding the composition and functioning of municipal government in the period that spans the transition from late medieval to early modern.⁹⁷

But the concept could also be used broadly to encompass all voluntary human communities. In the medieval and early modern periods it could equally be used to describe formations of *pueblos*, *universidades* (roughly »corporative bodies«, including but not restricted to universities), *gremios* (unions), and the like.⁹⁸ Late medieval theory had divided these *corpora* into two rough types, the »personal« or »voluntary«, on one hand, and the »real«, »natural« or »necessary«, on the other. While the latter group consists primarily of towns and cities, in the prior group were included groups born of the initiative of founding members, such

as confraternities, charitable foundations, and guilds.⁹⁹ Legal theory terms such groups *functional associations* – professional associations or affinity groups that possess a normative dimension¹⁰⁰ – and they formed a fundamental part of the multi-normative matrix of the Hispanic world.

Of course, the concept of *republic* was so general and expansive that it was used to describe any voluntary human community with a normative capacity, including religious ones. In his 1575 publication *Repúblicas del mundo*, Jerónimo Román used the term to identify religio-political communities.¹⁰¹ Given this non-exclusive conception of what constituted a republic, an individual could conceivably belong to more than one. All Christians belonged to a Christian republic, and the equivalent could be said of Jews, Muslims, and peoples of empire coming from a discernible religious tradition. The rationale of the *Reconquista* (1085–1492), which identified the peninsula as a Christian space to be recovered, employed Roman geographical categories to imagine *Hispania* as a unified space, representing a people whose common good (*res publica*) was to be protected. This conflation of geographical space with cultural space led early modern (Christian) Spaniards to imagine themselves as members of a common republic, and an especially-well governed one, at that. According to the Castilian translation by patriot Francisco Tamara of Johannes Boemus's *El libro de las costumbres de todas las gentes del mundo y de las Indias*, »For the administration and government of the republic ... all the good customs spread throughout the world, and all the good administration and order (*policía*), are found together, in their finest form, in our Spain.«¹⁰² Yet another Iberian thinker, Pedro de Valencia, responded to popular animosity toward the Moriscos

92 For an analysis of that Classical conception in Cicero, see ANDRÉS SANTOS (2013).

93 GARRIGA (2012).

94 COVARRUBIAS OROZCO (1611) 122, *Tesoro de la lengua castellana o española* (1611) identifies »república« as »libera civitas status liberae civitatis«.

95 NADER (1990); AGÜERO (2016) 106–112.

96 GARRIGA (2006). In ALVARADO PLANAS (1995) see especially contributions from José Ángel García de Cortázar, José Manuel Pérez-Prendes Muñoz-

Arraco, and Ana Maria Barrero García.

97 For a recent exhaustive evaluation, see AGÜERO (2013).

98 On the Spanish interpretation of *republica*, see KAGAN (2000); LEMPÉRIÈRE (2004); GIL (2002); QUIJANO VELASCO (2017). In medieval jurisprudence, every *corpus*, *universitas*, and *civitas* was understood to possess its own jurisdiction VALLEJO (1992) 58–62. For insight into how early modern political theory used these categories in arguments about

sovereignty, see BRAUN (2007) esp. 69–73.

99 LEMPÉRIÈRE (2004) 25.

100 HOEKEMA (2014) 64.

101 ROMAN (1575).

102 BOEMUS (1556) 19. »Para administración y gobernación de la República ... que todas quantas buenas costumbres ay repartidas por el mundo, y toda qualquiera buena administración y policía que en diversas partes del mundo se dixere aver, en nuestra España se hallará toda junta, recogida y abreviada.«

in 17th-century Spain by remarking that Old and New Christians were all »citizens of a single republic, brothers of one blood and lineage, and native to that same land.«¹⁰³ The growing perception of a geographical space (Castile) as a political unity transformed formerly-tolerated alien corporate groups – now converted into *nuevos convertidos de judíos* and *nuevos convertidos de moros* – into constituent members of the republic, albeit uncertain ones. As just one example of this tension, consider this quote from a letter to the royal court sent by two brothers, descended from Muslims and accused of being Moriscos, in the wake of the destructive crypto-Islamic uprising known as the Rebellion of the Alpujarras (1568–1570):

»Diego López and Felipe Rodríguez ... resident citizens in the city of Granada, prisoners in the royal jail of the city, say that ... their parents and grandparents converted to our Holy Catholic faith under capitulation and decree, which guaranteed them all favors, rights, and immunities which all Old Christians in this kingdom enjoy ... This privilege was and remains in such force that not only did it obligate the aforementioned Catholic Kings who granted it, but all their successors in the kingdom ... may our lord God and Your Majesty be served, and may *this Republic of Spain* [italics mine] grow and flourish ...«¹⁰⁴

This *relación* evidences the tension between a conception of republics based on geography, where all inhabitants of Spain were united as one, and republics based on ethnicity, in which descendants of Muslims might be considered a body apart.

This identification of a Spanish republic – drawing upon a common geographical heritage with shared historical experience – only amplified when some of its members braved the sea to establish new settlements in the Americas. Early administrators in charge of the Americas, such as Juan de Ovando, conceived of this spatial-ethnic republic in the Americas as a binary, with the Spanish Re-

public existing as the converse to a much more extensive Republic of the Indians.¹⁰⁵ For simplicity's sake, these early administrators and jurists referred to the Republic of the Indians in the singular. But what they saw were a multitude of republics, different ethnic peoples, geographically bounded, sharing language, religion, and customs.

Agüero suggests that we understand the Spanish monarchy as a »*república de repúblicas*,« home to legion corporate groups, that rather than being governed by one unitary law, was governed by mechanics of conflict resolution that took into account the customs, privileges, concessions, and tolerance accorded to each category of persons.¹⁰⁶ Beside cities, various other groups formed part of this constellation of human republics. The most visible in the Hispanic world were the ethnic and religious minorities who, at some point gained some degree of judicial autonomy. Until as late as 1502 in Castile (1526 in Aragón), religious minorities in Spain had the right to self-govern as republics. Between the end of the 15th century and the third decade of the 16th century, they were formally liquidated, integrated into the Christian republic, and saw their religious character outlawed. Nevertheless, Morisco *aljamas* continued to exist in Aragón as (theoretically) Christian entities endowed with certain corporate autonomy into the 17th century. In the Americas, *indios* were bestowed with the same category of self-sufficiency. Later, a certain small number of black republics, *palenques* populated largely by *cimarrones*, received similar recognition.¹⁰⁷

This plurality of overlapping republics – religious, geographical, municipal, functional – was both the strength and the weakness of the Spanish imperial model. The weakness resulted from the monarchy's auto-definition of Crown territories as uniquely Christian space after 1502. As a result, the hundreds of thousands of non-Christians (Jews and Muslims) in Spain over the course of a very few years saw their customs and mores transformed from acceptable to seditious acts undermining the common good. When the Crown moved to

103 Valencia 2005 ([1610]) 126 as cited in KIMMEL (2016) 154.

104 Archivo General de Simancas (AGS) CCA, leg. 2180, n. 94, 1r–2r.

105 MARTÍN GONZÁLEZ (1978).

106 AGÜERO (2006) 41.

107 LANDERS (2006); PROCTOR (2009).

incorporate the Americas¹⁰⁸ as a constituent of the monarchy, special juridical devices were designed to shield the Indians (designation as *miserabiles personas*, immunity from Inquisition prosecution, etc.) new to the faith from the brunt of this underlying contradiction.¹⁰⁹ As for the strength, it emerged from the multiple articulations linking members of the monarchy in a human web, from functional associations at the level of the neighborhood, to the town or city, and finally to the community of the monarchy at large united under the *buen gobierno* of the king.¹¹⁰ The legal system's express understanding that justice was the ultimate goal, and not rigid legality, as well as the value placed upon custom as the interpreter of law, provided the flexibility for each of these communities to self-govern according to the sense provided by local context.

In the following pages, I will briefly examine the concepts and the terms fundamental to understanding the basic structures of jurisdiction and officialdom in the republics organized under the authority of the Castilian king, between 1400 and 1700.¹¹¹ Having already introduced the nominally normative structures in »Old Christian« society, here I will focus on republican jurisdiction as it manifested itself among the »Others« of the Castilian monarchy – Jews, Muslims, and New Christians of various ethnic stripes. My review of the historiography here is intended to be indicative; given the enormity of the endeavor, providing an exhaustive list is beyond the boundaries of my abilities. It is also restricted to literature with a strong legal-historical focus, eschewing relevant contextual historiography whose treatment of jurisdictional structures is only incidental. The following examination begins with the medieval period and runs into the early modern period, with an eye to capturing transformations in the relationship between republican government and the monarchy over time.

Muslim Republics in Mudéjar Castile

The most drastic transformation in the medieval Iberian landscape was the peninsula's slow transformation from an Islamic to a Christian space. Many Muslims nevertheless chose to continue living in Iberia after their territories were conquered by Christian kings, despite the fact that the propriety of such a decision was called into question by co-religionists living elsewhere.¹¹² Still part of the worldwide community of Muslims (the *umma*), these Iberian Mudéjars subscribed to the Maliki School of Islamic jurisprudence widely disseminated in the Western Mediterranean. For the determination of legal matters, Mudéjar communities depended on *alfaques* (from Arabic *al-faqih*, derived from *fiqh* – »jurisprudence«),¹¹³ who came from a deep legal tradition that was heavily doctrinal and normative, focusing on theology, morals, and rites.¹¹⁴ Prior to the 15th century, Iberian Muslims largely depended on an imported legal tradition in Arabic, with limited regional innovation primarily linked to the issuance of *fatwas*. Though Arabic had long enjoyed a place as the unique language of religious authority in Islam, in the 15th-century works of *fiqh* began to appear in Spain in *aljamiado* (Spanish language written in Arabic script). Though declining literacy in Arabic is the most commonly-cited reason, one well-known scholar has argued that the success of the Ottoman Empire – culminating with its conquest of the capital of the Eastern Roman Empire (Constantinople) in 1453 – did much to validate the use of Islamic texts written in non-Arabic languages.¹¹⁵ Perhaps the most famous of such texts is the *Memorial y sumario de los principales mandamientos y devedamientos de nuestra santa Ley y Çunna* (1462), authored by the *mufti* of Segovia and *alfaqui mayor* of the Muslims of Castile, Içe de Gebir. This book (along with the *aljamiado* version of Tulaytuli's 10th-century *Muhtasar*) was one of the

108 CARDIM (2016).

109 For recent research on this topic, see DUVE (2008a); DUVE (2008b); ANDRÉS SANTOS/AMEZUA AMEZUA (2013); CUNILL (2011); SEMPAT ASSADOURIAN (1990).

110 OWENBY (2008); BABER (2005).

111 Nearly two decades ago, Lauren Benton shone a light on the fault lines of the late medieval and early modern Iberian Atlantic, emphasizing the

fundamental role that jurisdictional thinking played in the pre-modern world: BENTON (2001). The following pages are a complement to that section of that work, especially taking into account work published in the subsequent interval.

112 MILLER (2000).

113 FIERRO (2011).

114 CARMONA GONZÁLEZ (1992) 13–14.

115 EPALZA (1984).

native sources of jurisprudence most utilized among Hispanic Muslims during this period. Given that it reveals only marginal adaptation to the constraints of living under a Christian sovereign, instead reflecting norms to be expected in Islamic lands, debate continues about its purpose.¹¹⁶

These *aljamiado* tracts were joined by others penned in Romance languages. One such text is a manual that the scholar Pascual de Gayangos (following Manuel Abella) labeled *Leyes de Moros*, which was seemingly prepared for use by judges and jurists dealing with civil legislation. Initially scholars theorized that it may have been prepared south of the Mediterranean, and only later translated to Castilian for use by Christian jurists to resolve disputes between their Muslim subjects, or that it was a »civil code« redacted for approval by a Christian ruler.¹¹⁷ More recently it has been demonstrated that it was a Castilian translation of a large part of the *Kitab al-Tafri*, a manuscript originally authored by the Iraqi Abu I-Qasim Ubaydallah Ibn al-Gallab al-Basri (d. 378/988).¹¹⁸ Those who drafted the *Llibre de la Çuna e Xara* (1408) used Arabic-language sources to concoct this reference manual in Catalan, likely also envisioned as a tool to be used by Christian jurists for resolving disputes between Muslims in Christian Spain.¹¹⁹ Regnhild Zorgati, Alfonso Carmona González, and others have expressed interest that while the 15th-century text *Leyes de Moros* calls upon justices to enforce Islamic law seemingly oblivious to the conditions imposed by Christian rule, the *Llibre* takes context into account. For example the *Llibre* provides guidance for how to deal with the case of a Muslim who has converted to Christianity, unlike the *Leyes de Moros*, which simply mandates that individual's execution. The

only novel production of the so-called Morisco period was a short book, containing moral advice according to Maliki norms, which appeared in the Alpujarras in the middle of the 16th century.¹²⁰ Raja Sakrani has recently set out some new pathways for further integrating the texts mentioned in this paragraph into legal historical study.¹²¹

Numerous studies have sought, with lesser and greater success, to reconstruct the functioning of justice in late medieval Castilian Mudéjar communities.¹²² The records of the Military Orders (Santiago, Calatrava, Alcántara, Montesa) can prove instructive. In the famed village of Ricote (Murcia), sources indicate that a group of »viejos« oversaw the administration of the Mudéjar community and its relationship to the *comendador* of the Military Order (in this case, Ricote was under the jurisdiction of the Order of Santiago). Jurisdictional power at the local level was organized by one *alcalde* located in Ricote and with authority over Mudéjares living in the surrounding valley.¹²³ This *alcalde* was elected annually by the members of all the *aljamas* in the territories of the Order of Santiago. However, the ability of an elected *alcalde* to hold office was completely dependent on approval of the *comendador*, a contrast with Christian city councils also managed by the Order of Santiago. Two *alguaciles* were the executors of justice, and they were chosen directly by the *comendador*, as was the *almotacén* (public inspector of weights and measures) – who the *comendador* selected from among three »hombres buenos« presented to him by the *aljamas*. In the case of Murcia, the *aljama* of Ricote exercised outsized power vis-à-vis its fellow Mudéjars. The six other *aljamas* were represented by only one *regidor*. As Miguel Rodríguez Llopis has demonstrated, many New Converts saw the

116 CARMONA GONZÁLEZ (1992) 23–25. On the *Mubtasar*, see CERVERA FRAS (1987). Other examples of Arabic-language juridical texts translated into *aljamiado* are the *Tanbih al-gafilin wa-aydah sabil al-muridin* (1601), the *Katab al-Tafri*, the *Traatdo y delcaración y guía para seguir y mantener el addin del alislam* (XVI c.), and *El Breve Compendio de nuestra santa Ley y Sunna* (1535).

117 CARMONA GONZÁLEZ (1992) 20; HARVEY (1990) 74–78.

118 ABBOUD HAGGAR (1997).

119 CARMONA GONZÁLEZ (1992) 20; BARCELÓ (1989).

120 CARMONA GONZÁLEZ (1992) 21.

121 SAKRANI (2014).

122 ABBOUD HAGGAR (1999); AGUILERA PLEGUEZUELO (1995); DEL MAR GÓMEZ RENAU (2004); ECHEVARRÍA ARSUAGA (1999); ECHEVARRÍA ARSUAGA (2000); ECHEVARRÍA ARSUAGA (2001); ECHEVARRÍA ARSUAGA (2001–2002); ECHEVARRÍA ARSUAGA (2004); ECHEVARRÍA ARSUAGA (2006); ECHEVARRÍA ARSUAGA (2009); ECHEVARRÍA ARSUAGA (2010); ESPINAR MORENO (1995); FERNÁNDEZ Y GONZÁLEZ (1866); GARCÍA-ARENAL (2010); GARRIDO GARCIA (1999); GÓMEZ

VOZMEDIANO (2000); GONZÁLEZ JIMÉNEZ (2000); MOLÉNAT (1998); MOLÉNAT (1999); MOLÉNAT (2000); MOLÉNAT (2003); MOLÉNAT (2006); SÁEZ SÁNCHEZ (1943); TAPIA SÁNCHEZ (1989); TORRES FONTES (1962). Additional bibliography cited in COLOMINAS APARICIO / WIEGERS (2016).

123 On the general functioning of municipal government under the Order of Santiago, see PORRAS ARBOLEDAS (1997) 118–130.

mass conversions of 1500 and 1501 as an excuse to escape from the overbearing oversight of the *comendador*. Beginning in 1502, and utilizing their identity as Christian (rather than Mudéjar) city councils, the former *aljamas* of the Order in Murcia elected two *alcaldes* and two *alguaciles* each, multiplying the number of locally elected officials. The Order of Santiago, however, through legal appeal eventually succeeded in quashing this democratic impulse. By 1511, the situation had returned to the *status quo ante*, much to the chagrin of the New Convert community. In terms of the staffing of churches, the former *aljama* villages suffered an additional injury. Unlike Old Christian town councils, they were not able to choose their own priests. Even though their taxes paid for the upkeep of the village church, the *comendador* chose the priest and submitted him for approval to the bishop, without the town council ever once intervening.¹²⁴

The *alcalde* (Arabic *qadi*, a post usually filled by an individual previously qualified as an *alfaqui*¹²⁵) in Ricote, as elsewhere, handled disputes in the first instance, and *alguaciles* assisted in the execution of justice. Appeals would go to the *alcalde mayor de las aljamas de Castilla*.¹²⁶ Subsequent appeal was only possible in front of the king or his council.¹²⁷ Discoveries in Murcia related to a mid-16th-century dispute between municipalities over their respective jurisdictions has revealed an intriguing suggestion that *qadis* in borderland (Castilian) Murcia in the 15th century may have been named directly by the Nasrid sultan of Granada.¹²⁸ Our view of the internal provision of justice in Nasrid Granada in the 15th century, prior to conquest, is currently undergoing revision. The latest research asserts that rather than a monarchy, the Nasrid state was ruled as a *poliarchy*, with multiple administrative centers.¹²⁹

Jewish Republics in Medieval Castile

The most drastic and heartbreaking episodes of late medieval Iberia revolve around the experiences of its Jewish communities. A series of pogroms in

1391, executed by Christians and propelled by eschatological expectations¹³⁰ and the depredations of the plague, drove thousands of Jews to convert, thereby abandoning the protections of Jewish jurisdiction. Notwithstanding this moment of rupture, jurisdictional Judaism did survive into the 15th century.

Urban Jewish communities of Iberia organized in *aljamas*, like their Islamic neighbors, enjoyed the right to administer justice with limited autonomy. The local Jewish courts (*beit din*) existed as a recourse for any case in which all litigants were Jewish. Those courts drew from a law based on the Torah (the first five books of the Old Testament), as well as a strong doctrinal tradition (often transmitted orally) of so-called »rabbinic law«. Important Jewish communities in Castile were to be found in Burgos, Cuenca, Segovia, Ávila, Zamora, Murcia, Seville, and above all, Toledo. There is some disagreement in the historiography whether members of the general public (*qahal*) elected their *aljama* authorities, or whether the decision was made by a council of notables (*adelantados/muqqademim/berourim*). A 1264 *responsum* from the great rabbinical authority, Solomon ibn Adret, to the Jewish community of Saragossa practically confirms that practices of decision-making and representation varied by locality:

»There are places in which all their matters are conducted by elders and their advisors, and there are places in which even the majority does not have the power to do anything without consulting the entire community, and obtaining their consent. And there are places in which they appoint over themselves men for a certain amount of time who act on their behalf in all communal matters, and they are agents over them. I see that you act in this last manner, since you elect officials to represent you known as mukademim.«¹³¹

The *aljamas* were responsible for designating a rabbi (though royal approval was sometimes re-

124 RODRÍGUEZ LLOPIS (1986).

125 ECHEVARRÍA ARSUAGA (2003b). A *qadi* should first qualify as an *alfaqui*, independent of whether he exercised that position or not.

126 Alfonso X identified this post as *viejo mayor* in the *Siete Partidas* p. 3, tit. 20,

1. 8. PORRAS ARBOLEDAS (1997) 127–128; TORRES FONTES (1962); MOLÉNAT (2003); ECHEVARRÍA ARSUAGA (2003a); ECHEVARRÍA ARSUAGA (2003b).

127 PORRAS ARBOLEDAS (1997) 128.

128 ARCAS CAMPOY (2015).

129 PELÁEZ ROVIRA (2009).

130 NIRENBERG (2004) 145–146.

131 Cited in RAY (2006) 107–108.

quired), a judge/legal administrator (*dayan*), and other officials, such as tax collectors. These authorities would be responsible for the issuance of ordinances (*taqqanot*).

A typical tribunal within the *aljamas* would be formed by three judges by necessity familiar with Jewish law, although formal studies in the field were generally not required. But not all communities had tribunals. Both the knowledgeability of the authorities and the existence of a formal tribunal (or not) affected how operative written law from the Torah was in those spaces. In fact, Jonathan Ray has argued that officials in Jewish communities on the medieval frontier often only had a rudimentary understanding of *halakha*. Consequently, rabbinic authorities recognized local customs (*minbag*) as the equal of *halakha* with the potential to supersede it. 13th-century legal *responsa* suggest that in spaces without formally organized Jewish tribunals (*beit din*), community authorities as such (*qahal*) had more leeway to rule according to custom than did others.¹³² Though officially separate from one another, the Jewish *aljamas* of Castile seem to have begun to cooperate and coordinate amongst themselves, at least since the 14th century. When the community of Valladolid issued an important set of *taqqanot* in 1432, a hierarchical process of appeals was for the first time constituted in writing. The figures of the »court rabbis,« members of the local elite nominated (and empowered) by the Crown to serve as *ad hoc* appeals judges, evolved during the 13th and 14th centuries. Only in the 1432 *taqqanot* was one such »court rabbi« constituted as representative of all Castilian *aljamas* and nominal head of their jurisdiction.¹³³

The inviolability of this Jewish jurisdiction depended on the sanction of Christian authorities. A 13th-century *fuero* from Salamanca reflects the legal space accorded to the Jewish community, as

do statutes from other bodies of royal law, including the *Siete Partidas* and, most notably, the *Leyes de Estilo*. Jewish tribunals enjoyed jurisdiction over both civil and criminal issues. Nevertheless, the Crown reserved its right to hear appeals on any dispute unsatisfactorily resolved in *halakha* courts. At the same time, the Castilian Crown also offered Jewish litigants the opportunity to bring their disputes directly into royal courts. In all cases, it was agreed that Christian judges determining disputes between Jewish parties would decide the case according to Jewish law.¹³⁴

Doctrinal prohibitions (taken from *responsa*) strongly discouraging Jews from taking their disputes to secular courts, led generations of researchers to assume that few Jews opted for using Christian courts, and that those who did were pariahs. Nevertheless, recent research scrutinizing the parties in late medieval disputes in secular courts has indicated that many Jews across the Mediterranean chose to »venue shop,« sometimes preferring secular courts over Jewish ones. One recent monograph has gone so far as to conclude that their motivation stemmed from the fact that they deemed secular courts »more neutral, consistent, and powerful than the *beit din*.«¹³⁵

New Converts (conversos and moriscos) and their Communities in Early Modern Castile

Though Jewish and Islamic jurisdictions were extinguished formally in 1492 and 1502, respectively, normative structures continued to exist beyond the reach of the law. The Inquisition, originally chartered in Spain to defend the doctrinal barrier between *conversos* and Jews, continued its destruction even after the 1492 expulsion of the Jews, harassing and executing *conversos* in large numbers through the 1520s.¹³⁶ Evidence seems to suggest that by that point the remainders of

132 RAY (2006) 107–110.

133 RAY (2006) 115–130; RUIZ GÓMEZ (2005).

134 For Castile, the clearest and most concise introductions are HERZOG (1995) and RUIZ GÓMEZ (2005). Additional consideration of legal-historical themes can be found in: LADERO QUESADA (2004); CASTAÑO (2011); LADERO QUESADA (2011); CASTAÑO (2007); LADERO QUESADA (2007); LEÓN TELLO (1989); PORRAS

ARBOLEDAS (1997) 71–72, 127–128,

203–206; DIAGO HERNANDO (1993);

FUENCISLA GARCÍA CASAR (1995).

Thanks to a much deeper source base, the literature on Jewish *aljamas* (which I do not list here) is better developed for the kingdom of Aragón.

135 LAUER (2016).

136 Two important syntheses are: KAMEN (2014); AMELANG (2013).

institutional Judaism were sufficiently dispersed that few Jewish communities existed as such, even underground. Instead there were scattered families who attempted to preserve their tie to Jewish law through observance.¹³⁷

These small communities were no doubt encouraged by surviving communities of crypto-Jews in Portugal, and openly practicing communities of Sephardic Jews in the Low Countries. There were even (at least) three jurisdictions of the Hispanic monarchy that tolerated Jewish communities well past the 1492 expulsion date: Naples, Milan, and Oran. The Jewish community of Naples disappeared first, weathering deteriorating conditions until its ultimate expulsion in the 1540s. As concerns Milan, Charles V took control of the city in 1535 as a result of his continental wars. When Philip II assumed the throne in 1556, the city was integrated into the Spanish Empire. Powerful interests within the city protected the Jews until they were ultimately expelled in 1597.¹³⁸ In Oran, a relatively stable Jewish community of roughly 500 persons remained until 1669.¹³⁹ To my knowledge, no legal historical study of these communities has been conducted to date. Closer insight into their organization and functioning would clearly contribute to a better understanding of the complexity of the Spanish Empire during the period in question.¹⁴⁰

The so-called »Morisco« communities of Spain are intriguing for other reasons. While a very large proportion of the historiography has been dedicated to social and cultural questions related to the

marginalization and persecution of these communities, there are indications that structures of authority in villages primarily inhabited by Moriscos remained relatively continuous before and after the forced conversions of the early 16th century.

An important literature has dedicated itself to charting changes between the period of Mudéjar subjecthood and conversion to Christianity.¹⁴¹ In Granada, the terms of the 1491 capitulation treaty assured that native Granadinos would continue to be judged by authorities in their own communities by their own laws.¹⁴² First instance legal matters had been handled by a figure labeled as an *alguacil* in Castilian. Whenever those issues rose on appeal, they would be decided by *qadis* according to laws and traditions of the Koran.¹⁴³ However, *qadis* only exercised jurisdiction over civil matters.¹⁴⁴ Prior to the Christian conquest, village administration had been handled by the »buenos e viejos onbres« of the *aljamas*. Generally speaking, the *aljama* was a unit of organization associated with the existence of a mosque (with Friday service administered by an *alfaqui*), a representative organization (»buenos e viejos onbres« in this case), and external recognition as a juridical and administrative entity.¹⁴⁵ With the transition to Christian rule, those »buenos e viejos onbres« had been converted into *regidores* and *alcaldes*. Enrique Pérez Boyero, following the lead of Ángel Galán Sánchez, has shown that government by »buenos e viejos onbres« persisted well into the 16th century. Many official documents from rural towns primar-

137 Famous cases are referenced in COSTIGAN (2010); SILVERBLATT (2004); CONTRERAS (1992).

138 CASSEN (2014).

139 ALONSO ACERO (2000); SÁNCHEZ BELÉN (1993); SCHAUB (1999); PULIDO SERRANO (2003); ISRAEL (1994).

140 Jonathan Ray's treatment of differences between popular and Rabbinic Judaism in the diaspora, with hints about the community in Oran, offers potential leads for the interested researcher: RAY (2013) 116–117.

141 GALÁN SÁNCHEZ y PEINADO SANTAELLA (2006).

142 GARCÍA-ARENAL (1996) 19–28.

143 PÉREZ BOYERO (1997) 457–470. The capacity of the *alfaqui*, an individual responsible for interpreting the legal prescriptions of Islam, underwent

significant transformation between the late medieval and early modern period: ECHEVARRÍA ARSUAGA (2001–2002) 42–43. For insight into the *qadi*'s functions in Islamic Granada, see CALERO SECALL (2000).

144 ARCAS CAMPOY (2015) 209–210. »El cadí juzgaba en última instancia, en materia civil, los litigios por testamentos, divorcios, bienes de manos muertas, declaración de incapacidad, administración de bienes de ausentes, huérfanos e incapacitados, etc. En los delitos (ḡināyāt) castigados con penas taxativas (ḡudūd) sólo podía aplicar el correspondiente correctivo si era leve. En los delitos graves, la autoridad central se encargaba de la ejecución de la sentencia del cadí.« For an earlier period, see MÜLLER (2000).

145 PÉREZ BOYERO (1997); ALMAGRO (2016). After conducting a fine semantic analysis of communications between the Muslim communities in Campo de Calatrava and the Crown, Almagro has forwarded the hypothesis that the *aljamas* – as a body representing the Muslim community internally and externally – may only have come into existence in 1463, and that even so, for a number of communities that she studied, no independent *aljama* seems to have existed. Instead, members of these *morerías* may have interacted with authorities as individual *moros*, or fallen under the representation of *aljamas* in other towns.

ily inhabited by Moriscos show »buenos e viejos onbres« signing official documents alongside Morisco *regidores* and *alcaldes* in the Christian-style town council (*concejo*). The council meetings often continued to be held in the same place that the *aljamas* had formerly met, in the old mosque – now converted into a church. The continued active contribution of »buenos e viejos onbres« was an important indicator of continued self-determination, because Moriscos living in seigneurial towns (as opposed to royal towns) only had limited control, if any, over the officials on their *concejos*. Pérez Boyero indicates that town councils were constituted after 1502 either by direct nomination by the *señor*, or were selected by the lord among a limited list supplied by the outgoing officials.

In a very careful analysis of notarial documents in Guadix, Carlos Javier Garrido García has argued that even though the juridical structure of the *aljamas* disappeared, the social structure endured. Case studies show that the important Mudéjar office of *alguacil* within the *aljama* was sometimes replaced by a hired *procurador general* who would lobby and handle legal matters on behalf of the community.¹⁴⁶ Other researchers have identified strong continuities between memberships of late-Mudéjar period *aljamas* and post-1502 municipal councils. For instance, Isabelle Poutrin argues that *aljamas* in the rural areas of the Granada region under Crown authority survived as municipal councils, and scholars who study seigneurial jurisdictions in Granada and Murcia have noted similar findings for town councils there.¹⁴⁷ By way of comparison, for the Kingdom of Aragón, through legal trials, surviving Arabic language documents, and other means, scholars have been able to demonstrate the permanence of structures of Islamic authority up to the date of expulsion in the 17th century.¹⁴⁸ Their work confirms the claims of the Granadino Jesuit Ignacio de las Casas, himself a descendant of Muslims. In a 1606 letter to the Pope, Las Casas decried the fact that numerous *alfaques*, young and old, still administered a vi-

brant Islamic community in Valencia.¹⁴⁹ What studies from the kingdom of Castile have hinted at, and the ones from Aragón have indicated more broadly, is that Old Christian paranoia about the persistent normative force of Islam had significant basis in fact, at least in certain locales. In largely homogenous Morisco communities, in Castile located especially in the hinterlands of the Kingdom of Granada (as well as parts of Murcia and the city of Hornachos in Extremadura), municipal authorities handled large parts of governance according to »custom«. Mid-16th-century prosecutions based on sartorial choices, eating habits, and personal hygiene – all part of the daily *habitus* targeted by zealous Christian authorities – linked back to real concerns about effective jurisdiction, and fear that local practices, inspired by a foreign legal system, were crowding out Castilian law.

Royal paranoia about the convergence between the two kinds of custom (*costumbre*) – cultural preferences in fashion, diet, and ceremony, on one hand, and repeated use creating customary law, on the other – reached its height in the mid-1560s, leading to the publication of a *Pragmática* (1567) that introduced a sweeping set of royal prohibitions targeting behaviors the Crown linked to Islamic »customs«, »superstitions«, »ceremonies«, and »rites«. In response, Granada's native Morisco population commissioned the *granadino* Francisco Nuñez Muley to pen a response on its behalf. The resulting memorandum, presented to the president of the Granada Chancery (*chancillería*), made the case that speaking Arabic, wearing the *almalafa* (fully-body linen shawl for women), or bathing in the *hammām* were expressions of local culture, and that similar elements were acceptable among Maltese Christians. Yet the Crown and significant numbers of ecclesiastical and secular officials insisted that they were markers of jurisdictional affiliation.¹⁵⁰ Remie Constable pointed out that in the medieval period sumptuary laws requiring differentiated dress typically had been issued in order to encourage segregation. 16th-cen-

146 GARRIDO GARCÍA (2004).

147 POUTRIN (2012) 174; PÉREZ BOYERO (1997) 458–463; MOLÉNAT (2008); GALÁN SÁNCHEZ (2010); PORRAS ARBOLEDAS (1997) 75–77, 127–128; BARRIOS AGUILERA/ANDÚJAR CASTILLO (1996); TAPIA SÁNCHEZ (1989); CRESPO MUÑOZ, ALMAGRO

VIDAL et al. (2012); MOLÉNAT (2011–2013); RODRÍGUEZ LLOPIS (1986) 296–300, 321–322. 148 SÁNCHEZ BLANCO (1992); BARCELÓ/LABARTA (2009) 16–19; BERNABÉ PONS (2012) 124–125. By far the best studies of these communities through a legal historical lens are: MARTINEZ

ALMIRA (2008); MARTÍNEZ ALMIRA (2012).

149 EL ALAOUI (2006) 434–435.

150 KIMMEL (2015) 36–39; BARLETTA (2007).

ture-legislation was merely the »mirror image«, prohibiting difference in order to encourage integration (and notionally to advance the consolidation of royal/Christian jurisdiction).¹⁵¹ The resulting confrontation over the prohibition of New Christian »customs« of the so-called Moriscos led to the destructive War of the Alpujarras (1568–1570).

Of course, the concern of royal administrators and local agents about the effective reach of Castilian jurisdiction was a common concern in both southern Iberian and American contexts in the 16th century. While local conditions – both cultural and political – were wildly different, a few ambitious scholars have sought grounds to conduct comparison.¹⁵² The following pages will reflect on recent publications in Latin America on the exercise of local jurisdiction.

Indigenous Republics in the Americas

Latin American colonial historiography is moving away from an earlier emphasis on the »Two Republic« model, and increasingly acknowledging that each incorporated township constituted its own republic.¹⁵³ Zooming into local issues has also helped to reveal the mechanics of indigenous jurisdiction, in ways that were obscured by the earlier meta-scale. The first effort to rationalize native authorities within the Spanish system involved a process of translation. In generalizing terms, these *pueblos* could be governed either by a *cacique* (a Taíno expression that Spaniards adopted and employed widely across the Americas to signify a chieftain of a small political community) or by a commission of notables. The position of *cacique*, which did not exist in Castile, was incorporated into Castilian law for the Indies in the

decades following Columbus's first voyage to the Caribbean. Soon, analog indigenous authorities – such as the office of *kuraka* in Perú, *tlatoani* in central Mexico, *sibipkua/usaque* in the northern Andes, and *batab* in the Yucatán – were grafted almost one-to-one onto the new concept.¹⁵⁴ Over the middle decades of the 16th century, Spanish administrators did their best to relegate *caciques* to responsibilities of collecting tribute and marshaling labor forces, encouraging municipal officers, on the Spanish model, to replace their political authority.¹⁵⁵ Charles Gibson's work on Mesoamerica was the first to demonstrate that natives remapped pre-Hispanic positions of authority (beyond that of *cacique*) and structures of governance onto the titles provided by the Spanish *cabildo* (city council).¹⁵⁶ Often, native officials continued to fulfill administrative obligations that pre-dated Spanish conquest, even as their responsibilities were translated into the Spanish offices of *gobernador*, *escribano*, and even *pregonero*¹⁵⁷ in the Spanish *cabildo*.

Over recent decades, the growing focus on the local administration of justice has revealed how active native *cabildo* (city council) functionaries (*alcaldes*, *regidores*, *alguaciles*, and *fiscales*) were in regulating land use, resolving disputes, and enforcing (Spanish) ordinances. The offices filled by these new subjects of empire had their origin in a period of Castilian expansion. For instance, an organized system of designating *alcaldes* had originated in Castile in the 13th century, and had further been modified under the Catholic Monarchs, Isabel and Ferdinand. Meanwhile, the offices of *regidor* and *alguacil* had become common in the 14th century. The system underwent important changes in the 16th century, as Felipe II made *regidurías* perpetual across the empire.¹⁵⁸ In many places, a process of

151 CONSTABLE (2018) esp. 1–62.

152 GARRIDO ARANDA (1987); BENTON (2001); HERZOG (2003); GRAUBART (2015); KIMMEL (2015); HERZOG (2015).

153 GRAUBART (2015); YANNAKAKIS (2016); PENRY (2017). MUMFORD (2012) 48, 152, proposes that while »república« in New Spain was typically understood to refer to a municipality, in Perú it referred to indigenous society in general. My research in the New Kingdom of Granada has revealed both usages, though the

general use of »republic of the Indians« served more as a synonym for the pursuance of their »common good« than a reference to common judicial structures across native communities.

154 GIBSON (1964); STERN (1982); SPALDING (1984); FARRISS (1984); RESTALL (1999); LOCKHART (1992); TERRACIANO (2004).

155 STERN (1982); MUÑOZ ARBELÁEZ (2015).

156 GIBSON (1964).

157 This post took on more importance in Andean contexts than it had in its

Castilian conception. In parts of Perú, the *pregonero* seems to have been involved in the enforcement of justice; see MUMFORD (2012) 146–158. For the New Kingdom of Granada, GAMBOA MENDOZA (2010) suggests that *pregoneros* had important political functions.

158 PORRAS ARBOLEDAS (1997) 124–130. See DÍAZ DE MONTALVO (1484) lib. VII, tít. I–II on *alcaldes*.

*reducción*¹⁵⁹ – forced congregation in European-style urban settlements organized around a central plaza – created spaces where natives occupied offices of authority in the Spanish mold. This indigenous *cabildo* in each town effectively served as the court of first instance across the Americas.¹⁶⁰ The functioning of the colonial *cabildo* was dynamic. Though a foreign Castilian structure, the Crown expected it to preserve many functions of local justice. Elections were held annually, though eligibility to vote varied from *república* to *república*.¹⁶¹ All the while, parallel indigenous systems of authority often continued to exist on the margins, questioning the validity of colonial compromise. As scholars have pointed out, Francisco de Toledo's ordinances in Peru made clear that the goal of the *cabildo* was to dilute the power of *caciques* within indigenous *pueblos*.¹⁶²

New Spain

Far and away the most developed insight we have into the workings of early modern indigenous jurisdiction in the Americas comes from Mesoamerica. This is largely the result of a methodology called New Philology, championed in the United States by James Lockhart. The practitioners of the historical philological school have employed native language proficiency to mine mundane documents, such as notarial records and *cabildo* minutes, for clues about the culture and structure of indigenous communities that might have escaped the Spanish view.¹⁶³ This methodology has been much more successful in New Spain than elsewhere, because native language sources exist there in numbers unequaled in any other district of the Americas. This is perhaps due to the fact that native pictorial literacy there predated Spanish conquest, and numerous communities quickly picked up writing in Roman script. Because of the record-keeping of native officials in Nahua, Zapotec, Mix-

tec, Otomí, and a variety of other languages, scholars of Mesoamerica have access to a wealth of sources created from an indigenous point of view that simply do not exist elsewhere in the Americas, or do in very limited numbers.

In an early contribution to this historiography, Sarah Cline studied the town of Culhuacan through its Nahuatl-language wills and testaments.¹⁶⁴ According to her analysis in these records, by the 1580s the structures of civil rule had changed to accommodate Spanish hierarchies and administrative relationships, though the basic functions of *altepetl* (city-state) justice remained intact. Culhuacan remained divided into residential wards (*tlaxilacalli* or *calpulli*). The imposition of Spanish rule entailed the reshaping of native institutions to accommodate the format of the Spanish *concejo* or *cabildo*. Through her work with testaments, Cline showed that lower levels of administration from the pre-conquest period, such as tax collection and land surveying (*tequiticatepixqui* and *cobuatequitopile*), persisted with Nahuatl titles, while superior levels of administration took on Spanish ones. Usually the product of the transition was the creation of hybrid offices, continuous in many ways with the indigenous past, but with significant changes. In the pre-Hispanic period, the Aztecs had a system of justice with a clear hierarchy and formal practices.¹⁶⁵ In the colonial period, the *juez-gobernador* exercised much the same function as the *tlatoani* (dynastic ruler of a city state), though his post was elected instead of hereditary. The *cabildo* had two *alcaldes*, who exercised local jurisdiction, and four *regidores*, in charge of local administration. *Alcaldes* heard disputes and arbitrated, likely following the provision of justice in pre-Hispanic times very closely. But Indians also had access to Spanish courts. Moving the case to Spanish courts likely meant changing the framing of the dispute in order to litigate according to Spanish legal principles.¹⁶⁶ In Cline's analysis,

159 Numerous scholars have contributed to this discussion. For basic normative framework, see DOUGNAC RODRÍGUEZ (1998) 326–332. For a holistic view of this process, see MUMFORD (2012); HANKS (2010); PENRY (2017); also GRAUBART (2016).

160 GRAUBART (2015); YANNAKAKIS (2016); PENRY (2016) 451–452; MUMFORD (2012).

161 OWENSBY (2008) 211–249.

162 MUMFORD (2012); GRAUBART (2016).

163 RESTALL (2003).

164 CLINE (1986). Testaments collected in CLINE / LEÓN-PORTILLA (1984).

165 CLINE (1986) 43, 196 citing OFFNER (1983).

166 On indigenous use of courts in New Spain, see BORAH (1983); OWENSBY (2008). Yanna Yannakakis emphasizes that indigenous litigants were aware that different tribunals were likely to

interpret the character and validity of custom differently and steered their litigation accordingly. YANNAKAKIS (2010).

the *alcaldes* merely served as agents of the *juez-gobernador's* authority, rather than operating independently. The creation of a post of *alguacil*, or constable, to maintain order was a novelty of the Hispanic period. The town had its own jail (*teipil-poyan*) run by an indigenous *alcaide*. Adjudication of first instance in matters concerning residence, land transactions, and minor financial matters was actually handled by ward officials (*calpulleque* or *tlaxilacalleque*). The reach of this jurisdiction was reflected by natives' tendency to list their residence by ward in their testaments. Evidence of how 16th-century Spanish jurists became familiar with pre-Hispanic structures can be seen in the works of the former *oidor* (high court judge) of the *Audiencia* of Mexico, Alonso de Zorita.¹⁶⁷ An indigenous view of these structures is evident in the work of the Nahuatl historian Chimalpahin.¹⁶⁸

The office of *gobernador* had been introduced in 1565 by the Viceroy Mendoza, who thought he was translating an indigenous office (*tlatoani*) into a Spanish nomenclature. But in fact, scholars agree that in the minds of the Nahuatl, he was creating something new.¹⁶⁹ William McConnell's study of Mexico City/Tenochtitlan revealed the process by which *cabildo* members were elected. Indigenous *principales* (*pipiltin*, hereditary nobles) elected governors and the *cabildos* who served under them. In the period immediately post-conquest, governors served for life and *alcaldes* and *regidores* rotated positions to avoid being unseated by regulations that prohibited reelection. But by the final decades of the 16th century, mixed pressure from Spaniards and indigenous subjects coalesced in a durable system of annual elections, influenced by precedents in pre-contact Mexico.¹⁷⁰

Robert Haskett's study of Cuernavaca revealed a *cabildo* that over the course of the 16th century transitioned away from a Hispanic system of a governor (*tlatoani*), four *regidores*, and two *alcaldes* to one that more accurately reflected structures of authority that had survived the transfer of power. In addition to the *gobernador*, *alcaldes*, and *regidores*,

it also boasted a *fiscal* (an assistant to the priest) as well as a number of lesser officers sporting a mixture of Spanish and Nahuatl titles: *mayordomo*, *tequilato*, *calpule*, *topile* (*alguacil*) and *jurado de tianquez* (market official), and well as numerous *huebuetque* (elders) or *principales*. By the 17th century, Cuernavaca had integrated two more *alcaldes* as well as four *mayordomos*. The *mayordomos* were ward supervisors who had been integrated into *cabildo* government.¹⁷¹ Haskett repeats Cline's findings, namely that indigenous *alcaldes* had responsibilities that differed from their Iberian counterparts of the same name. They did likely adjudicate small local disputes, but they largely functioned as an extension of the *gobernador's* authority. Haskett notes that *alcaldes* often functioned as lieutenant governors, handling administrative matters and representing the municipality in exterior matters. Nevertheless, their adjudicative function was not completely lost. This is confirmed by such documents as the »Ordenanzas de Cuauhtinchán«¹⁷² which spelled out a list of judicial responsibilities incumbent upon them.

Hildeberto Martínez's work on the city of Tepeaca and its surrounding towns from the pre-Hispanic period through the 1st century post-conquest revealed that before 1520, three or four *tlatoani* had shared governance over the connected towns, with premier authority designated on a rotating basis. Two decades later, when the Spanish *cabildo* was introduced, the larger city (Tepeaca) took on a full range of *cabildo* members, while surrounding settlements made do with a more limited cast. After the 1550s, the *gobernador*, *regidores*, and *alcaldes* were elected regularly (every year or two), and were allotted according to a rotation between the *cabecera* (head-settlement) and the subject towns. Martínez remarks that this division of authority and representation thus continued to heavily resemble pre-Hispanic models, albeit under the guise of Spanish structures.¹⁷³

Caterina Pizzigoni's work on wills in Toluca in the 17th and 18th centuries give some sense of

167 ZORITA (1963). Analyzed in EGÍO (2016); VIGIL (1987) 178–179.

168 ANDERSON/SCHROEDER (1997).

169 CONNELL (2011); LOCKHART (1992) 30–31, 132–138; HASKETT (1991) 100–101.

170 CONNELL (2011).

171 HASKETT (1991) 22–23, 95–123.

172 REYES GARCÍA (1972) 259–263.

173 MARTÍNEZ (1984) esp. 127–132. Margarita Menegus Bornemann's study of Toluca consciously uses that of Martínez as a point of comparison. She argues that the displacement of Mexica conquest in Toluca (prior to the appearance of the Spaniards) sig-

nificantly destabilized lordship in such a way that facilitated the imposition of the Spanish *cabildo*. She proposes that ethnically-divided spaces, generally, adapted to *cabildo* government more quickly: MENEGUS BORNEMANN (1994).

change underway in central Mexico during the transition from Hapsburg to Bourbon monarchy. She echoes Martínez's findings, suggesting that while larger towns with a full-scale *altpetl* might have a full set of Spanish offices from the 16th century onward, smaller towns did not. On the figure of the *juez-gobernador*, Pizzigoni remarks that by the 17th century the *juez-gobernador* had lost the broad mandate exercised by the pre-Hispanic *tlatoani*, but still served as an important representative of the community and resolved of disputes. She notes a tendency for the number of *alcaldes* serving on a town council to balloon from the typical number of two, to include wardens of the *tlaxicalli* that in a previous period had occupied an inferior rung on the scale of justice. Meanwhile, Pizzigoni notes that while the position of *regidor* was prestigious in Spanish context, on Mesoamerican municipal councils they were less important than *alcaldes* and, indeed, eventually disappeared from the list of municipal offices.¹⁷⁴

Finally, Tlaxcala has occupied a special place in the historiography. Representing among the earliest and most faithful allies of Spanish conquistadors, the city's leadership in the mid-16th century negotiated recognition as a «noble and loyal city» of the Crown, whose inhabitants would be immune from taxation commonly imposed on subjugated communities.¹⁷⁵ The city-republic is an especially useful example for historians because the *Actas* of its *cabildo* have been preserved and transcribed.¹⁷⁶ Access to this special resource has made it a privileged space for studying indigenous jurisdiction.¹⁷⁷ Jovita Baber has argued that the activity of the indigenous representative leadership of Tlaxcala both within the structure of a Spanish-style *cabildo* system and as emissaries in front of the royal court reflects a hybridization between native cultural and political forms and those imposed by the Spanish. From this example, Baber proposes Tlaxcala as an especially well-documented example whose insights can be generalized across the Indies.¹⁷⁸ And precisely because of its valuable records of the minutiae of daily governance, the

Tlaxcala example has indeed been used analogically to fill in documentary *lacunae* elsewhere.

Peru

Beginning in the late 1970s, Andean ethnohistory began to dedicate more energy to the question of legal transformations during the colonial period. Seminal publications attentive to transformations in ethnic authority in Peru noted the «Castilianization» of *cacical* authority and the increasing marginalization of *caciques* between the 16th and 17th centuries.¹⁷⁹ Pre-Hispanic political culture had been defined by nested Inca organizational system coordinated around the *ayllu*, the basic unit of population and production united around shared kinship. *Ayllus* in turn formed part of *waranqas*, a Quechua term that translated as the number one thousand. Postconquest records suggest that *waranqas* were landholding units, and only reflected the populations of indigenous communities in a very approximate manner. Karen Spalding detailed how *waranqas*, most probably representing exceptionally large *ayllus*, would be transformed into the constituent units of a Spanish-era *repartimiento* (a population unit she refers to as a tribe). In both pre-Hispanic and post-conquest times, local justice within the *repartimiento* was administered by *kurakas* (a rough equivalent to the Spanish *cacique*) and their subordinate *principales*. These *repartimientos*, in turn, formed part of provinces, which were divided into *anansaya* and *urinsaya*, upper and lower level moieties. Typically, the *kuraka* representing the constituent groups of the upper (*anansaya*) moiety ruled over the rest.

Beginning in the late 1540s (and in an accelerated fashion under the viceroy Francisco de Toledo), the monarchy had pushed the plan of *reducción*, to concentrate indigenous settlements into Spanish ideal-type urban grids. A complementary part of that plan included introducing the Spanish city council (*cabildo*) and city council offices (*alcalde*, *regidor*, *alguacil mayor*, *mayordomo*, *pregonero*, *verdugo*, *andescibano*) to indigenous townships.

174 PIZZIGONI (2012) 197–202. HASKETT (1991) 106 makes similar claims.

175 BABER (2010); DÍAZ SERRANO (2012).

176 LOCKHART/BERDAN (1986); CELESTINO, VALENCIA et al. (1984). Another useful tool is: MEADE DE ANGULO (1984).

177 GIBSON (1991); MARTINEZ BARACS (2008).

178 BABER (2010). See also BABER (2005); BABER (2012).

179 DÍAZ REMENTERÍA (1977); STERN (1982); SPALDING (1984).

Despite the new introductions, the position of *kuraka* did not disappear, and in fact, *kurakas* remained a vital cog in colonial society for their work as middlemen, crucial in mobilizing labor drafts (*mita*). Karen Graubart has demonstrated how the *cacique*, and later the *cabildo*, retained jurisdiction over minor civil and criminal matters, and has argued that colonial administrators conceived indigenous jurisdiction through the lens of the autonomy once conceded to the former Jewish and Muslim *aljamas* in Iberia.¹⁸⁰

With the growth and expansion of the Spanish colony, the monarchy created the positions of *alcalde mayor de quipucamayoc y contador de los chasquis*, *capitán general de la mita*, and *alcalde mayor de la mita* (for Potosí), employing members of the hereditary native elite to manage large-scale endeavors that involved indigenous inhabitants from multiple provinces. Nevertheless, within decades the new Spanish-style officers essentially dominated urban governance.¹⁸¹ Nevertheless, much of the preexisting structure remained intact and Spanish jurists reiterated the importance of heeding the value of indigenous customary law. The second book of the *Tomo primero de las ordenanzas del Perú* (1685), compiled under the orders of the viceroy Melchor de Navarra y Rocafull, Duque de la Palata and titled «*Ordenanzas de los Indios*», remains a remarkably valuable source for evaluating the overlap between Spanish structure and indigenous custom.¹⁸²

Much of the revision of the last decade has focused on indigenous participation in literate culture.¹⁸³ But because Andean archives lack a large corpus of native language documents like the ones that exist in Mesoamerica, penetrating the *cabildo* has been comparatively difficult. Recent breakthroughs have involved using insights from Mesoamerican documents to fill in interpretative gaps and identifying evidence of the exercise of

local jurisdiction appended to casework in litigation that was elevated on appeal.¹⁸⁴ The limited documentation discovered so far by researchers suggests that Andean *cabildos* consisted of the same officials that occupied the model provided in early modern Spain and similar to the one in New Spain: two *alcaldes*, a number of *regidores* (likely to not exceed eight), an *alguacil mayor*, a scribe, and a handful of lesser officials.¹⁸⁵ Sparse as the evidence may be, the presence of community-elected *alcaldes*, who rendered summary judgment on civil issues involving sums of 50 *pesos* or fewer and criminal issues not involving homicide and who did so drawing upon a mixture of Castilian and customary law, points to a much deeper integration of native communities into Spanish frameworks of justice in the early decades than was commonly acknowledged even ten years ago.¹⁸⁶

Though many gaps remain to be filled in, the new monograph by José Carlos de la Puente Luna, *Andean Cosmopolitans*, offers important insight into the engagement of the inhabitants of the Jauja valley with the Spanish legal system, both as its subjects and as actors.¹⁸⁷ Scholars working on the 18th century have recently illustrated the efforts of indigenous legal actors who carved out space for indigenous legal representation at the highest levels.¹⁸⁸ But Puente's laborious study of letters of attorney, trial records, and vice-regal writings has not only pushed that chronology back – revealing active indigenous legal representation in both Lima and Castile as far back as the 16th century¹⁸⁹ – it has also revealed the role that native *procuradores* played in indigenous local government. In an effort aimed at «recentering the pueblo,» Puente has made a convincing argument that natives from Jauja (and by inference from the surrounding Andean areas) quickly incorporated Spanish-style litigation as *sap̄ci*, a Quechua term that denotes common assets belonging to a community, politi-

180 GRAUBART (2015).

181 SPALDING (1984) 43–59 and 216–238;

DUEÑAS (2015); PLATT, BOUYSSÉ-

CASSAGNE et al. (2011) 653–685.

182 BALLESTEROS (1752 [1685]).

183 BURNS (2014); CHARLES (2010);

DUEÑAS (2010); PREMO (2017);

RAMOS/YANNAKAKIS (2014).

184 GRAUBART (2016); PUENTE LUNA/

HONORES (2016); MUMFORD (2016).

185 MUMFORD (2012) 22; BURNS (2014)

250–251.

186 GRAUBART (2016); PUENTE LUNA/

HONORES (2016).

187 PUENTE LUNA (2018).

188 Recent insights are found in DUEÑAS

(2010), YANNAKAKIS (2008), PREMO

(2017).

189 A topic already the focus of scholars

of Tlaxcala: BABER (2010); DÍAZ

SERRANO (2012).

cally-controlled and intended to be used for the collective good. *Ayllus* came to see community litigation (*pleitos del común*) – seeking, for instance, community-wide exemption from the *mita* labor draft – as a collective good on par with public food stockpiles or common lands. Puente traces how individuals he calls »town attorneys« were elected annually along with the *cabildo* and came to be seen as emblems of corporate identity vis-à-vis other *pueblos* as well as the Spanish community. Interestingly, *caciques* sometimes took on these roles, muddling our understanding of the division between pre-Hispanic authorities and officers of the newly-introduced *cabildo*.¹⁹⁰

Finally, recent research has highlighted the exceptional character of the vice-regal capital of Lima, which because of its centrality seems to have developed a unique indigenous jurisdiction with its own special set of characteristics. Already by the 1550s, Spanish authorities had begun to appoint native officials to serve as magistrates handling minor indigenous disputes within the city. By the 1560s, indigenous *alcaldes* and *alguaciles* were formally constituted. In the subsequent decade, when the native district El Cercado was established as an appendix of the city, it began to accrue its own set of unique officials. The erection of a wall around this district of the town, Karen Graubart has asserted, made it a safe place for indigenous customary law to flourish. Indigenous *alcaldes* adjudicated disputes that arose within the walled neighborhood. As the population grew, a hierarchy of jurisdictions grew to include an *alcalde mayor de los naturales*, who served as an appeals judge on native-to-native issues within El Cercado, as well as an *alguacil mayor*, in charge of overseeing works concerning public order. But unlike their direct inferiors, who were elected by their communities, Puente Luna points out that these two prestigious posts were political appointees made with Spanish oversight.¹⁹¹

New Avenues for Study

As we dive deeper into the local in the Spanish Empire, what methodologies can we benefit from? One fruitful opportunity is offered by the concept of *interlegality*. André Hoekema, the most insistent proponent of *interlegality* as an analytical tool, defines it as »a process of adoption of elements of a dominant legal order ... and of the frameworks of meaning that constitute these orders, into the practices of a local legal order and /or vice versa.« He further acknowledges that the process also carries an implied result – the hybridization of coexisting »legal orders.«¹⁹²

In this article's opening vignette, I explored how Spanish judges determined that indigenous inheritance custom was valid and, in fact, trumped existing Castilian inheritance law, insofar as that law was to be applied to the native community. This was an example of a structural *interlegality* particular to the Castilian legal system. Often times, we see indigenous norms (that did not violate precepts of Christianity, always a requirement) explicitly re-appropriated within Spanish statutes. For instance, in the 1570s Viceroy Francisco de Toledo of Peru reinstated an Inca law that Andean highlanders could not be forced into *mita* rotations in the lowlands for more than 24 days, and encouraged another norm that mandated that *caciques* host public meals for the poor.¹⁹³

But indigenous systems might also take on features of the Castilian legal culture surrounding them. This was the case roughly forty years later, when in 1617 don Pedro, *cacique* of the pueblo of Cheva in the New Kingdom of Granada made a last will and testament with a Spanish notary. In that document, don Pedro identified his nephew don Juan, the four year-old son of his sister doña Juana, as his rightful heir. And don Pedro used the testament to assure that goods belonging to the *cacicazgo* (chieftainship) – a farm, livestock, or-

190 PUENTE LUNA (2018) 20–50. Also on *apoderados* for a later period in New Spain, see YANNAKAKIS (2008). In the interest of connecting historiographies, it should also be noted that the equivalent of such »town attorneys« represented heavily-Morisco populations, such as those in the Alpujarras, in front of the royal during roughly the same period (see footnotes 146–148).

191 GRAUBART (2018); GRAUBART (2016); PUENTE LUNA, *Andean Cosmopolitans*, 120–121.

192 HOEKEMA (2008) 3. Also see: SOUSA SANTOS (1987); SOUSA SANTOS (2002) 419–438; GUEVARA GIL / THOME (1999); HOEKEMA (2005); HOEKEMA (2014).

193 TOLEDO (1986–1989) *Ordenanzas* cited in MUMFORD (2012) 113.

chards, and blanket stockpiles (a common tributary item and basic unit of exchange) – stayed with the regents (doña Juana and an unnamed *gobernador*) until the nephew came of age and assumed the *cacicazgo*. Like him, the incoming *cacique* would be required to use these common goods to pay the tribute obligations of the poor and elderly in the pueblo.¹⁹⁴ Not only does this will illustrate the continuing validity and observation of indigenous custom in the inheritance of authority, it also highlights the flow of *interlegality* in the other direction. In this case, a foreign legal form (the will) could become a legitimate instrument facilitating smooth transitions within the pueblo according to customary law. The interpenetration of semi-autonomous bodies of norms proved crucial in the elaboration of local frameworks of meaning both flexible and simultaneously cohesive enough with central legal tenets to sustain a durable political system.

The best evidence of *interlegality* is likely to come from *cabildo* records, and specifically the decisions of judges of first instance, the *alcaldes ordinarios*. Unfortunately few indigenous *cabildo* records from the early colonial Andes – either from Perú or the New Kingdom of Granada, from which the above examples came – seem to have survived. However, a recent analysis of one of these scant records shows indigenous judges making rulings based on Castilian law but with distinct Andean features.¹⁹⁵ The work of Puente Luna and Honores highlights indigenous actors working within the structure of Spanish justice to provide decisions that sampled liberally from both Iberian and native traditions. In such interactions between two legal systems, Hoekema's framework for examining *interlegality* encourages attentiveness to the relationship between dominant and local legal order. This leads me to an observation. Concerning the setting of early 17th-century Andes, which – I ask – was the dominant legal order? Our modern familiarity with the written Castilian law might lead us to make rash assumptions. For if we look at demographics at the end of the 16th century in the territories the Habsburg Crown claimed in Peru, there were only tens of thousands of Europeans,

but millions of native Andeans. Spaniards claimed hegemony; but given the demographic disparity, how seriously should those claims be taken, especially in this early period?

To be sure, there was great diversity in the indigenous community, constituting a patchwork of normative communities. But sometimes, frankly, our reconstructions of the 16th century reminds me of the old historian's saw about the man who has lost his keys in the dark and goes out to look for them. When his friend, apprised of the situation, sees him very anxiously fumbling through the grass surrounding a lamppost, the friend inquires why he is so intent to search there, rather than looking through the surrounding field or the pathway that continues on into the distance. The anxious man responds, »Well, this is where the light is.«

This leads me to another avenue for future study, that of *hidden jurisdictions*. By this, I refer to normative spheres not recognized by the sovereign power but with capacity to direct the administration of justice on a local or regional level. To be relevant to this particular essay, they must reflect the norms of some *republic*, a community that imagines itself as a cohesive whole and whose members share common future objectives. In the early modern world of conquest, dislocation, and plural, contested space, the opportunities for such *hidden jurisdictions* are numerous. The case of Granada's Moriscos makes clear that the structures of Mudéjar justice outlasted nominal conversion to Christianity and wholesale insertion into the Castilian *ius commune*. The War of the Alpujarras (1568–1570) in the kingdom of Granada was essentially a civil war started over the native community's right to observe and to continue to apply a substrate of customary law. The same can be said of Spanish »extirpation of idolatry« campaigns in the Americas.¹⁹⁶ Almost every extirpation campaign revealed non-Christian beliefs, yes, but also parallel systems of authority and justice. The »customs and rites« that Spanish ecclesiastics endlessly harped on about were no less than the surface manifestations of competing legal systems. As just one example, Jorge Gamboa's analysis of a trial in the New Kingdom of Granada during the last

194 Archivo Regional Boyacense (ARB), N2, leg. 84, 23v–24v.

195 PUENTE LUNA/HONORES (2016).

196 CLENDINNEN (1987); MILLS (1997); TAVÁREZ (2013); PUENTE LUNA (2007).

quarter of the 16th century, in which one faction in an indigenous pueblo was accused of idolatry and other sins, revealed definitely non-Christian practices for the coronation of authority and wholly proprietary mechanisms for pursuing damages in the case of wrongful death.¹⁹⁷ I suggest that we continue tugging at all the available strands, following hints of normative modeling through as many documentary types as possible – legal trials, notarial records, pragmatic books, chronicles – in order to better recognize the shape, reach, and unequal authority of early modern and colonial jurisdictions. Digging through the evidence of idolatry campaigns and similar legal trials – to be complemented by clues in last wills and testaments – we can see the outline of systems of justice that worked from different precepts and envisioned the transfer of authority in different ways.

These *hidden jurisdictions* become most legible to us when they begin to overlap with structures of Castilian authority. The New Philology school of research, by drawing upon indigenous language records, has often been able get the closest to indigenous actors working within the Spanish system but according to native structures of thought. Recent advances in the study of judicial linguistic translation – conducted with the Zapotec-language records of Villa Alta (New Spain) – have revealed how the Spanish justice system could be tuned to play in a very locally-relevant key.¹⁹⁸ As Spanish and indigenous systems of justice gradually developed symbiotic relationships, even hybrid ones, *hidden jurisdictions* had the tendency to come out into the open.

So-called functional communities also offer a privileged viewpoint for examining the workings of customary law in the Spanish Empire. According to Brian Tamanaha, *functional normative systems* are those that take shape »in the pursuit of a particular function, purpose or activity that goes beyond purely commercial pursuits ... [which] possess some degree of autonomy and self-governance aimed at achieving the purpose for which they are constituted ... and ... interact with official

legal systems at various junctures ...«¹⁹⁹ Functional communities represent »republics« in the most fundamental sense of the word – communities of people constituted through common interest and devoted to a »common good« (*res publica*). Educational communities, religious communities, and guilds provide the most numerous examples of such functional groups. How might one examine these as legal-historical objects? One study of the famed University of Salamanca examined the jurisdiction exercised by the *maestrescuela* of that institution, scrutinizing the University's distinctive authority in relation to royal and papal jurisdiction. It focused on students and their nuclear family members, as well as their employees and servants, who enjoyed the university *fuero*, as did university officials, members of any affiliated *colegios*, convents, or monasteries, and all employees of the University's independent tribunal.²⁰⁰

Universities in general, and the University of Salamanca in particular, were elite institutions, but a great majority of the functional communities that coalesced and exercised their own (limited) jurisdiction were not. Confraternities did not enjoy a right to their own *fuero* in the way that universities did, but they did exert normative pressure and condition the behavior of their individual members. In theory, confraternities were pious and charitable institutions that organized public events to advertise their social functions. In practice, though, they often took on the character of extralegal normative bodies for minority communities within Christian society. Such a reality was not restricted to the Americas. Late medieval Toledo was home to some of the most important political confrontations between Old Christians and *conversos* throughout the 15th century. In 1481, the archbishop of Toledo devoted a synod statute to decrying the creation of ethnically-specific confraternities, recognizing by so doing that these brotherhoods were creating normative communities that competed with secular and ecclesiastical jurisdiction.²⁰¹ One intriguing example comes from an Islamic brotherhood in that city,

197 GAMBOA MENDOZA (2004).

198 YANNAKAKIS / SCHRADER-KNIFFKI (2016).

199 TAMANAHA (2008) 399.

200 ALONSO ROMERO (1997). Another recent study examined the University of Mexico: PAVÓN ROMERO (2010).

201 See synod of Alcalá 1481 in SÁNCHEZ HERRERO (1976) 72, 329–336.

from a document rescued from obscurity by Ana Echevarría. Taken from Toledo in the early 15th century, the eleven-folio document written in Arabic names members of a Mudéjar «congregation» in that city. Because of vagaries of translation, the community to which it refers could either be a confraternity or an *aljama*, but in either case Echevarría demonstrates that it is a normative document that details not only the financing, but also the regulation of a voluntary community of Mudéjars.²⁰²

Often an «ethnic refuge» in colonial Spanish America,²⁰³ confraternities provided structure for displaced communities by offering them formal organizations with statutes and regulations, through which they were able to reconstruct normative communities.²⁰⁴ In her survey of early colonial African confraternities in Lima, Karen Graubart has tentatively suggested that the leadership of black colonial confraternities mimicked the office of *alcalde de los negros* that had been created in 15th-century Seville to oversee that city's African community.²⁰⁵ Teresa Vergara has argued convincingly that in 17th-century Lima, the indigenous shoemakers of the city combatted their exclusion from the official shoemakers' union (*gremio*) by founding a confraternity that served as an unofficial guild for their own practice of the profession.²⁰⁶ Serge Gruzinski has suggested that in Oaxaca, certain confraternities eventually transformed into *pueblos de indios* with their own *alcaldes* and *regidores*.²⁰⁷ Nicole von Germeten has analyzed Black and Mulatto confraternity constitutions in Veracruz, demonstrating how their norms regulated both financial concerns and behavior of members.²⁰⁸ In her analysis of an alleged uprising in 1612 New Spain, María Elena Martínez suggested that Black confraternities in the city of Mexico had a political function and that their hierarchical structure was the intended basis for a new administration in the case of a successful rebellion.²⁰⁹ Though outside the temporal boundary of this study, Matt Childs's work on late-colonial Afro-Cuban *cabildos* is also worth noting. Building off of a burgeoning historiography, he has

shown that ethnically-specific *cabildos* (Kongo, Lucumi, Carabali, Mina, Mandinga, etc.) developed out of the Spanish institution of the confraternity, and they regularly took on the responsibility of conflict resolution among their members.²¹⁰ His findings from the 18th and 19th centuries encourage us to look inside the confraternity for evidence of jurisdiction. And indeed, in 16th-century Granada, territory of the last Islamic kingdom to surrender to the Crown, Amalia García Pedraza has shown how the confraternity of the Resurrection, organized around the city's hospital, exclusively served the town's native community (former subjects of the Nasrid dynasty) and may, potentially, have been involved in the planning of the Rebellion of the Alpujarras (1568–1570).²¹¹ These examples hint that minorities and marginal communities adopted confraternities, sanctioned by Christian authorities, as vehicles for self-governance with clear structures of authority and mechanisms for fundraising. Understanding how such *distinct communities* – formed by «ethno-cultural minorities, by indigenous peoples, by religious communities, by communes, by distinct smallholder groups and tribes, etc.» in the words of André Hoekema²¹² – functioned as normative bodies, and achieved some sort of official recognition (or conversely, did not), remains a particularly attractive research prospect.

Finally, I want to point to the potential for reconceptualization of the «republican» form of self-government. Recent work by the anthropologist Joanne Rappaport has pointed to the fact that self-identification is often situational, and that social forms of division and cohesion do not always match the lines that bureaucratic governments try to draw. Simply said, «groupness» does not necessarily obey the categories created by law.²¹³ She demonstrates how certain individuals in the colonial Americas could be simultaneously Spaniards and Indians, and even act as constituents in an emerging category with its own normative arrogations, such as *mestizo*, at the same time. Putting her insights together with those drawn from the recent literature on *multinormativity*,²¹⁴ a blurry picture of

202 ECHEVARRÍA ARSUAGA (2010).

203 CHARNEY (1998) 385. Studies of African communities in Brazil also seem to confirm this: SWEET (2003).

204 CHARNEY (1998) 381–383.

205 GRAUBART (2011) 6.

206 VERGARA ORMEÑO (2015).

207 GRUZINSKI (1990) 211.

208 GERMETEN (2009) 136–154.

209 MARTÍNEZ (2004) 479–520.

210 CHILDS (2012) esp. 246.

211 GARCÍA PEDRAZA (2002) 889–913.

212 HOEKEMA (2014) 63–64.

213 RAPPAPORT (2014)

214 HOEKEMA (2014); MICHAELS (2009); BENTON/ROSS (2013); TAMANAHA (2008) 397–399; DUVE (2017).

coexisting and overlapping normative spheres emerges. Rappaport's focus on »groupness« highlights the potential for an individual to be constituent in, and answerable to, multiple normative republics at the same time. This multiple association is unproblematic for our purposes, until the individual engages or is engaged by the Spanish legal system for the purposes of conflict resolution. Identifying and picking apart these liminal cases is promising not only for what it can tell us about the overlapping normative spheres to which an individual belongs, but also because close attention to how contemporary legal scholars undertook the process of deciding jurisdiction can highlight how the early modern understanding of jurisdictional divisions might have differed from our modern deductions.

Conclusion

We have arrived at a fruitful moment in legal historical studies of the Iberian World. Scholars long ago identified the basic structures of multi-confessional society in medieval Iberia. But only recently have advances been made in recognizing continuity in normative social structures after the period of forced conversions ending in 1502. Meanwhile, for the Americas, there has been a slow march, starting in earnest after the first publications of the school of New Philology in the early 1980s, to recognizing the structures of native authorities in the Americas and how they adapted to serve the needs of their communities under Spanish rule. Recent advances in the study of legal history have made significant strides in recognizing the role of custom in the administration of justice. The sum of these realizations and advances is transforming our understanding of the relationship between justice, law, and society in the early modern Spanish Empire. Much more than a system governed by grand concepts and administered by authoritarian ministers in Madrid, justice appears a much more local and contingent affair. New propositions from studies of legal pluralism, which identify a historical universe that generates normativity from a variety of sources, legal and non-legal, prompts a turn toward the

local, and begs us to re-focus our energies on paralegal bodies, such as the confraternity or the indigenous social event as spaces for the construction of hidden jurisdictions, not sanctioned by the Spanish legal system, but nevertheless effective in guiding human action.

How does a look at recent work in legal history affect our understanding of *convivencia* as a concept? Traditional writing on the topic circumscribed its focus to the period of Iberian history in which the three religions tolerated one another's beliefs and their right to decide internal disputes according to the legal structures underlying those beliefs. Two things are worth noting in that regard. First, there is some evidence that the medieval relationships behind such a *convivencia* did not completely disappear by 1502. Instead, anecdotal evidence from within Iberian seigneurial territories suggests local Islamic jurisdiction in some places may have survived relatively unmolested into the 1560s. Furthermore, if we were to measure only by the yardstick of non-intervention in the Other's religious cult, and the relinquishment of local jurisdiction over internal matters, during a number of decades Latin America (albeit unevenly) does not look terribly different than 15th-century Iberia. Though the Crown and its ministers celebrated their many conversions in the Americas, even at the end of the 16th century many natives had not yet been baptized and so occupied a complicated legal situation that left them free from some elements of Castilian jurisdiction.²¹⁵ Second, the immense power of custom in the Spanish legal system devolved norm-creation to the local level. On the one hand, this meant that across its many territories, the Castilian system was characterized by an intense and ever-present *interlegality*. In practice, this created significant space for accommodation that – while not a tolerance on par with medieval privileges accorded to Jews and Muslims – expanded the range of licit behaviors and devices for conflict resolution outside of the range explicitly prescribed by Castilian law. That begs the question, if a Castilian *convivencia* ever did exist in the first place, did it indeed disappear in 1502? Or did it merely transform?



215 AGI, Santa Fe, leg. 528, 104r–v.

Bibliography

- ABBOUD HAGGAR, SOHA (1997), Las Leyes de Moros son el libro de Al-Tafri, in: Cuadernos de Historia del Derecho 4, 163–201
- ABBOUD HAGGAR, SOHA (1999), Conflicto de jurisdicción en un pleito entre mudéjares. Agreda 1501, in: Cuadernos de Historia de Derecho 6, 415–432
- AGÜERO, ALEJANDRO (2006), Las categorías básicas de la cultura jurisdiccional, in: Cuadernos de Derecho Judicial 6, 19–58
- AGÜERO, ALEJANDRO (2013), Ciudad y poder político en el Antiguo Régimen, la tradición castellana, in: TAU ANZÓATEGUI, VÍCTOR, ALEJANDRO AGÜERO (eds.), El derecho local en la periferia de la monarquía hispana: Río de la Plata, Tucumán y Cuyo, siglos XVI–XVIII, Instituto de Investigaciones de Historia del Derecho, Buenos Aires, 121–184
- AGÜERO, ALEJANDRO (2016), Local Law and Localization of Law: Hispanic Legal Tradition and Colonial Culture (16th–18th Centuries), in: MECCARELLI, MASSIMO, MARÍA JULIA SOLLA SASTRE (eds.), Spatial and Temporal Dimensions for Legal History: Research Experiences and Itineraries, Max Planck Institute for European Legal History, Frankfurt, 101–129
- AGUILERA PLEGUEZUELO, JOSÉ (1995), El derecho islámico y derecho español: El derecho islámico en la marca central de Al-Andalus, in: ALVARADO PLANAS, JAVIER (ed.), Espacios y fueros en Castilla-La Mancha (siglos XI–XV): una perspectiva metodológica, Ediciones Polifemo, Madrid, 435–449
- AGUILERA PLEGUEZUELO, JOSÉ (2000), Estudios de las normas e instituciones del derecho islámico en Al-Andalus, Guadalquivir, Sevilla
- ALMAGRO, CLARA (2016), Revisando Cronologías: Nuevas Hipótesis sobre la formación de las aljamas en el Campo de Calatrava, in: ECHEVARRIA ARSUAGA, ANA, ADELA FÁBREGAS GARCÍA (eds.), De la alquería a la aljama, Universidad Nacional de Educación a Distancia, Madrid, 115–134
- ALONSO ACERO, BEATRIZ (2000), Orán-Mazalquivir, 1589–1639: Una sociedad española en la frontera de Berbería, CSIC, Madrid
- ALONSO ROMERO, MARIA PAZ (1997), Universidad y sociedad corporativa: Historia del privilegio jurisdiccional del estudio salmantino, Editorial Tecnos, Madrid
- ALVARADO PLANAS, JAVIER (ed.) (1995), Espacios y fueros en Castilla-La Mancha (Siglos XI–XV): Una perspectiva metodológica, Ediciones Polifemo, Madrid
- AMELANG, JAMES (2013), Parallel Histories: Muslims and Jews in Inquisitorial Spain, Louisiana State University, Baton Rouge
- ANDERSON, ARTHUR J. O., SUSAN SCHROEDER (eds.) (1997), Codex Chimalpahin: Society and Politics in Mexico Tenochtitlan, Tlateloco, Texcoco, Culhuacan, and Other Nahua Altepetl in Central Mexico: The Nahuatl and Spanish Annals and Accounts Collected and Recorded by don Domingo de San Antón Muñón Chimalpahin Quauhtlehuanitzin, 2 Vol., University of Oklahoma Press, Norman
- ANDRÉS SANTOS, FRANCISCO JAVIER (2013), Cicerón y la teoría de la «constitución mixta»: un enfoque crítico, in: Cuadernos electrónicos de filosofía del derecho 27, 1–29
- ANDRÉS SANTOS, FRANCISCO JAVIER, LUIS C. AMEZUA AMEZUA (enero–junio 2013), La moderación de la pena en el caso de las personae miserabiles en el pensamiento jurídico hispano-americano de los siglos XVI y XVII, in: Revista de historia del derecho 45, 245–264
- ARAGONESES, ALFONS (2016), Convivencia and Filosefardismo in Spanish Nation-building, in: Max Planck Institute for European Legal History Research Paper Series, No. 2016-05
- ARCAS CAMPOY, MARIA (1992), Noticias sobre el cadiazgo en los últimos años del reino nazarí: La frontera entre Murcia y Granada, in: Revista del Centro de Estudios Históricos de Granada y su Reino 6, 203–210
- ARCAS CAMPOY, MARIA (2015), Documentos legales y oficiales de la frontera del nordeste del reino de Granada (siglo XV), in: Anaquel de Estudios Árabes 26, 7–17
- ARMITAGE, DAVID (2002), Three Concepts of Atlantic History, in: ARMITAGE, DAVID, M. J. BRADDICK (eds.), The British Atlantic world, 1500–1800, Palgrave MacMillan, Houndmills, 11–27
- AYERBE IRÍBAR, MARIA ROSA (1995), La hermandad de los escribanos de Ciudad Real. Su constitución y normativa interna (1489), in: ALVARADO PLANAS, JAVIER (ed.), Espacios y fueros en Castilla-La Mancha (Siglos XI–XV): Una perspectiva metodológica, Ediciones Polifemo, Madrid, 351–366
- BABER, JOVITA (2005), The Construction of Empire: Politics, Law and Community in Tlaxcala, New Spain, 1521–1640, Unpublished Ph.D. dissertation, University of Chicago
- BABER, JOVITA (2010), Empire, Indians, and the Negotiation for the Status of City in Tlaxcala, 1521–1550, in: RUIZ MEDRANO, ETHELIA, SUSAN KELLOGG (eds.), Negotiation within Domination: New Spain's Indian Pueblos Confront the Spanish State, University of Colorado Press, Boulder, 19–45
- BALLESTEROS, THOMAS DE (1752 [1685]), Tomo primero de las ordenanzas del Perú, Lima
- BALLONE, ANGELA (June 2017), Contextualizando o trabalho do jurista espanhol Juan de Solárzano Pereira, in: Fronteiras & Debates 4,1, 29–53
- BARCELÓ, CARMEN (1989), Un tratado catalán medieval de derecho islámico: El Llibre de la Çuna e Xara dels moros, Área de Estudios Árabes e Islámicos, Córdoba
- BARCELÓ, CARMEN, ANA LABARTA (2009), Archivos moriscos: textos árabes de la minoría islámica valenciana, 1401–1608, Universitat de València, Valencia
- BARLETTA, VINCENT (ed.) (2007), A Memorandum for the President of the Royal Audiencia and Chancery Court of the City and Kingdom of Granada, University of Chicago Press, Chicago
- BARRIOS AGUILERA, MANUEL, FRANCISCO ANDÚJAR CASTILLO (1996), El arte de usurpar: Señores, moriscos y cristianos viejos en el Marquesado de los Vélez, 1567–1568, in: Sharq al-Andalus 13, 85–121
- BENÍTEZ SÁNCHEZ-BLANCO, RAFAEL (2001), Heróicas decisiones: la monarquía católica y los moriscos valencianos, Institució Alfons el Magnànim, Valencia

- BENTON, LAUREN (2001), *Law and Colonial Cultures: Legal Regimes in World History, 1400–1900*, Cambridge University Press, New York
- BENTON, LAUREN, RICHARD J. ROSS (2013), *Empires and Legal Pluralism: Jurisdiction, Sovereignty, and Political Imagination in the Early Modern World*, in: BENTON, LAUREN, RICHARD J. ROSS (eds.), *Legal pluralism and empires, 1500–1850*, New York University Press, New York, 1–17
- BERMÚDEZ DE PEDRAZA, FRANCISCO (1612), *Arte legal para estudiar la jurisprudencia*, Salamanca, En la imprenta de Antonia Ramírez
- BERNABÉ PONS, LUIS F. (2012), *On Morisco Networks and Collectives* in: INGRAM, KEVIN (ed.), *The Conversos and Moriscos in Late Medieval Spain and Beyond, Vol. Two: The Morisco Issue*, Brill, Leiden, 121–134
- BOEMUS, JOANNES (1556), *El libro de las costumbres de todas las gentes del mundo y de las Indias*, Martin Nucio, Antwerp
- BORAH, WOODROW (1983), *Justice by Insurance: The General Indian Court of Colonial Mexico and the Legal Aides of the Half-Real*, University of California Press, Berkeley
- BRAUN, HARALD E. (2007), *Juan de Mariana and Early Modern Spanish Political Thought*, Ashgate, Burlington
- BURNS, KATHRYN (2014), *Making Indigenous Archives. The Quilcaycamayoq in Colonial Cuzco*, in: RAMOS, GABRIELA, YANNA YANNAKAKIS (eds.), *Indigenous Intellectuals: Knowledge, power, and Colonial Culture in Mexico and the Andes*, Duke University Press, Durham, 237–259
- CAHEN, CLAUDE (1967), *Considerations sur l'utilisation des ouvrages de droit musulman par l'historien*, in: *Atti del III Congresso di Studi Arabi e Islamici: Ravello, 1–6 settembre 1966*, Istituto Universitario Orientale, Naples, 81–89
- CALERO SECALL, M. ISABEL (2000), *Rulers and Qadis: Their Relationship during the Nasrid Kingdom*, in: *Islamic Law and Society* 7,2, 235–255
- CAMPBELL, BRIAN (2016), *Of Chicks, Lice and Mackerel: Carnival and Transgression in a Cosmopolitan Spanish Enclave in Morocco*, in: *Ethnos: Journal of Anthropology* 81,3, 448–477
- CARDIM, PEDRO (2016), *Political Status and Identity: Debating the Status of American Territories across the Sixteenth and Seventeenth Century Iberian World*, in: *Rechtsgeschichte – Legal History* 24, 101–116, online: <http://dx.doi.org/10.12946/rg24/101-116>
- CARMONA GONZÁLEZ, ALFONSO (1992), *Textos jurídico-religiosos islámicos de las épocas mudéjar y morisca*, in: *Areas: Revista internacional de ciencias sociales* 14, 13–26, Ejemplar dedicado a: *Moros, mudéjares y moriscos*
- CARRASCO GARCÍA, GONZALO (2007), *Huellas de la sociedad musulmana granadina: la conversión del Albayzín (1499–1500)*, in: *En la España medieval* 30, 335–480
- CASSEN, FLORA (2014), *The Last Spanish Expulsion in Europe: Milan 1565–1597*, in: *AJS Review* 38, 59–88
- CASTAÑO, JAVIER (1997), *Social Networks in a Castilian Jewish Aljama and the Court Jews in the 15th century*, in: *En la España medieval* 20, 379–392
- CASTAÑO, JAVIER (2011), *»Flüchtige Schimären der Convivencia«: die Juden in Kastilien und ihre Eliten (1418–1454)*, in: HERBERS, KLAUS, NIKOLAS JASPERT (eds.), *Integration – Segregation – Vertreibung: Religiöse Minderheiten und Randgruppen auf der Iberischen Halbinsel (7. bis 17. Jahrhundert)*, Lit Verlag, Berlin, 179–212
- CASTILLO DE BOBADILLA, JERÓNIMO (1775), *Política para corregidores y señores de vasallos en tiempo de paz y de guerra y para preladados en lo espiritual*, La Imprenta de la Gazeta, Madrid
- CASTRO PRIETO, JESÚS (1949), *El Derecho consuetudinario en Suárez, su doctrina e influjo*, in: *Revista Española del Derecho Canónico* 4, 65–120
- CELESTINO, EUSTAQUIO, ARMANDO VALENCIA, CONSTANTINO MEDINA LIMA (eds.) (1984), *Actas de cabildo de Tlaxcala 1547–1567*, Centro de Investigaciones y Estudios Superiores en Antropología Social, México
- CERVERA FRAS, MARIA J. (1987), *La plegaria musulmana en el »Compendio de al-Ṭulayṭulī«: transcripción del manuscrito de Sabiñán (Zaragoza)*, Institución Fernando el Católico, Zaragoza
- CHARLES, JOHN (2010), *Allies at Odds. The Andean Church and Its Indigenous Agents, 1583–1671*, University of New Mexico Press, Albuquerque
- CHARNEY, PAUL (1998), *A Sense of Belonging: Colonial Indian Cofradías and Ethnicity in the Valley of Lima, Peru*, in: *The Americas* 54,3, 379–407
- CHILDS, MATT D. (2012), *Gendering the African Diaspora in the Iberian Atlantic: Religious Brotherhoods and the Cabildos de Nación*, in: OWENS, SARAH E., JANE E. MANGAN (eds.), *Women of the Iberian Atlantic*, Louisiana State University Press, Baton Rouge, 230–262
- CLAVERO, BARTOLOMÉ (2012), *Gracia y derecho entre localización, recepción y globalización (Lectura Coral de las vísperas constitucionales de Antonio Hespanha)*, in: *Quaderni Fiorentini* XLI, 675–763
- CLENDINNEN, INGA (1987), *Ambivalent Conquests: Maya and Spaniard in Yucatan, 1517–1570*, Cambridge University Press, Cambridge
- CLINE, SARAH L. (1986), *Colonial Culhuacan, 1580–1600: A Social History of an Aztec Town*, University of New Mexico Press, Albuquerque
- CLINE, SARAH L., MIGUEL LEÓN-PORTILLA (eds.) (1984), *The Testaments of Culhuacan*, UCLA Latin American Center, Los Angeles
- COLOMINAS APARICIO, MÓNICA, GERARD WIEGERS (2016), *The Religion of the Muslims of Medieval and Early Modern Castile: Interdisciplinary Research and Recent Studies on Mudéjar Islam (2000–2014)*, in: *Edad Media. Revista de Historia* 17, 97–108
- COMAROFF, JEAN (1996), *The Empire's Old Clothes: Fashioning the Colonial Subject*, in: HOWES, DAVID (ed.), *Cross-cultural Consumption: Global Markets, Local Realities*, Routledge, London, 19–38
- CONNELL, WILLIAM F. (2011), *After Moctezuma: Indigenous Politics and Self-Government in Mexico City, 1524–1730*, University of Oklahoma Press, Norman

- CONSTABLE, OLIVIA REMIE (2018), *To Live Like a Moor: Christian Perceptions of Muslim Identity in Medieval and Early Modern Spain*, University of Pennsylvania Press, Philadelphia
- CONTRERAS, JAIME (1992), *Sotos contra Riquelmes: Regidores, inquisidores y criptojudíos*, Anaya & Muchnik, Madrid
- COSTA, PIETRO (1969), *Iurisdiccio. Semantica del potere politico nella pubblicistica medievale (1100–1433)*, Giuffrè, Milan
- COSTIGAN, LUCIA HELENA (2010), *Through Cracks in the Wall, Modern Inquisitions and New Christian Letrados in the Iberian Atlantic World*, Brill, Leiden
- COVARRUBIAS OROZCO, SEBASTIAN DE (1611), *Tesoro de la lengua castellana o española*, L. Sánchez, Madrid
- CRESPO MUÑOZ, FRANCISCO JAVIER, CLARA ALMAGRO VIDAL, FRANCISCO TRISTÁN GARCÍA (2012), *Un significativo tesoro documental para la historia del Reino de Granada: la documentación en árabe del archivo municipal de Baza*, in: MARÍN LÓPEZ, RAFAEL (ed.), *Homenaje al Profesor Dr. D. José Ignacio Fernández de Viana y Vieites*, Editorial Universidad de Granada, Granada, 107–120
- CUENA BOY, FRANCISCO JOSÉ (2016), *Escritos romanísticos de tema indiano*, Andovira Editora, Coruña
- CUNILL, CAROLINE (2011), *El indio miserable: nacimiento de la teoría legal en la América colonial del siglo XVI*, in: *Cuadernos Intercambio* 8,9, 229–248
- CUNILL, CAROLINE (2015), *Philip II and Indigenous Access to Royal Justice: Considering the Process of Decision-Making in the Spanish Empire*, in: *Colonial Latin American Review* 24,4, 505–524
- CUTTER, CHARLES (1995), *The Legal Culture of Northern New Spain, 1700–1810*, University of New Mexico Press, Albuquerque
- DEL MAR GÓMEZ RENAÚ, MARÍA (2004), *La Aljama de Valladolid: nuevas aportaciones*, in: *Anaquel de Estudios Árabes* 15, 141–163
- DIAGO HERNANDO, MÁXIMO (1993), *Almazán en época de los Reyes Católicos: Estructura social de una pequeña capital de estado señorial*, in: *En la España medieval* 16, 239–264
- DÍAZ DE MONTALVO, ALFONSO (1484), *Ordenanzas de Castilla o Libro de las leyes*, Huete, Álvaro de Castro
- DÍAZ REMENTERÍA, CARLOS J. (1976), *La costumbre indígena en el Perú hispánico*, in: *Anuario de estudios americanos* 33, 189–215
- DÍAZ REMENTERÍA, CARLOS J. (1977), *El cacique en el virreinato del Perú, estudio histórico-crítico*, Universidad de Sevilla, Sevilla
- DÍAZ SERRANO, ANA (enero–marzo 2012), *La República de Tlaxcala ante el rey de España durante el siglo XVI*, in: *Historia Mexicana* LXI,3, 1049–1107
- DOUGNAC RODRÍGUEZ, ANTONIO (1998), *Manual de Historia de Derecho*, Universidad de México, México
- DUEÑAS, ALCIRA (2010), *Indians and Mestizos in the «Lettered City»: Reshaping Justice, Social Hierarchy, and Political Culture in Colonial Peru*, University Press of Colorado, Boulder
- DUEÑAS, ALCIRA (2015), *The Lima Indian Letrados: Remaking the República de Indios in the Bourbon Andes*, in: *The Americas* 72,1, 55–75
- DUVE, THOMAS (2008a), *Los privilegios de los indios: Derecho local?*, in: TORRES AGUILAR, MANUEL (ed.), *Actas del XV Congreso del Instituto Internacional de Historia del Derecho Indiano, Córdoba (España) – del 19 al 24 de septiembre de 2005*, Universidad de Córdoba, Córdoba, 111–130
- DUVE, THOMAS (2008b), *Sonderrecht in der Frühen Neuzeit: Studien zum »ius singulare« und den »privilegia miserabilium personarum«, »senum« und »indorum« in Alter und Neuer Welt*, Vittorio Klostermann, Frankfurt
- DUVE, THOMAS (2017), *Was ist »Multinormativität«? – Einführende Bemerkungen*, in: *Rechtsgeschichte – Legal History* 25, 88–101, online: <http://dx.doi.org/10.12946/rg25/088-101>
- ECHEVARRÍA ARSUAGA, ANA (1999), *Política y religión frente al Islam: la evolución de la legislación real castellana sobre musulmanes en el siglo XV*, in: *Qurtuba. Estudios andalusíes* 4, 45–72
- ECHEVARRÍA ARSUAGA, ANA (2000), *Implicaciones políticas y sociales de la conversión al cristianismo en tiempos de Fernando III y Alfonso X el Sabio*, in: GONZÁLEZ, MANUEL (ed.), *Sevilla 1248: congreso internacional conmemorativo del 750 aniversario de la Conquista de la Ciudad de Sevilla por Fernando III, Rey de Castilla y León*, Centro de Estudios Ramón Areces, Madrid, 873–880
- ECHEVARRÍA ARSUAGA, ANA (2001), *Las aljamas mudéjares castellanas en el siglo XV: redes de poder y conflictos internos*, in: *Espacio, tiempo y forma. Serie III. Historia Medieval* 14, 93–112
- ECHEVARRÍA ARSUAGA, ANA (2001–2002), *Los mudéjares de los reinos de Castilla y Portugal*, in: *Revista d'Història Medieval* 12, 31–46
- ECHEVARRÍA ARSUAGA, ANA (2003a), *De cadí a alcalde mayor. La élite judicial mudéjar en el siglo XV*, in: *Al-Qantara. Revista de Estudios Árabes* 14,1, 139–168
- ECHEVARRÍA ARSUAGA, ANA (2003b), *De cadí a alcalde mayor. La élite judicial mudéjar en el siglo XV*, in: *Al-Qantara. Revista de Estudios Árabes* 14,2, 273–290
- ECHEVARRÍA ARSUAGA, ANA (2004), *La minoría islámica de los reinos cristianos medievales. Moros, sarracenos, mudéjares*, Ediciones Sarriá, Málaga
- ECHEVARRÍA ARSUAGA, ANA (2006), *La »mayoría« mudéjar en León y Castilla: legislación real y distribución de la población (siglos XI–XIII)*, in: *En la España medieval* 29, 7–30
- ECHEVARRÍA ARSUAGA, ANA (2009), *Los marcos legales de la islamización: el procedimiento judicial entre cristianos arabizados y mozárabes*, in: *Studia historica. Historia medieval* 27, 37–52
- ECHEVARRÍA ARSUAGA, ANA (2010), *Las actas de reunión de una cofradía islámica de Toledo, una fuente para el estudio de los mudéjares toledanos. Años 1402 a 1414*, in: *Boletín de la Real Academia de la Historia* 207,2, 257–293
- ECHEVARRÍA, ANA (2016), *Cadíes, alfaquíes y la transmisión de la shari'a en época mudéjar*, in: ECHEVARRÍA, ANA, JUAN PEDRO MONFERRER-SALA et al. (eds.), *Law and Religious Minorities in Medieval Societies: Between Theory and Praxis*, Brepols, Turnhout, 47–72

- EGÍO, JOSÉ LUIS (2016), From Castilian to Nahuatl, or from Nahuatl to Castilian? Reflections and Doubts about Legal Translation in the Writings of Judge Alonso de Zorita (1512–1585?), in: *Rechtsgeschichte – Legal History* 24, 122–153, online: <http://dx.doi.org/10.12946/rg24/122-153>
- EL ALAOUTI, YOUSSEF (2006), *Jésuites, Morisques et Indiens: étude comparative des méthodes d'évangélisation de la Compagnie de Jésus d'après les traités de José de Acosta (1588) et d'Ignacio de las Casas (1605–1607)*, Champion, Paris
- EL FADL, ABOU (1994), Islamic Law and Muslim Minorities: The Juristic Discourse on Muslim Minorities from the Second/ Eighth to the Eleventh/ Seventeenth Centuries, in: *Islamic Law and Society* 1,2, 141–187
- EPALZA, MIKEL DE (1984), L'identité onomastique et linguistique des Morisques, in: *Religion, Identité et Sources documentaires sur les Morisques andalous*, Túnez, 269–279
- ESPINAR MORENO, MANUEL (1995), La voz de los mudéjares de la aljama de Guadix (1490–1500), in: *Sharq al-Andalus* 12, 85–128
- FADEL, MOHAMMAD (1997), Rules, Judicial Discretion, and the Rule of Law in Nasrid Granada, in: GLEAVE, R., E. KERMELI (eds.), *Islamic Law: Theory and Practice*, I. B. Tauris, London, 49–86
- FARRISS, NANCY (1984), *Maya Society under Colonial Rule: The Collective Enterprise of Survival*, Princeton University Press, Princeton
- FERNÁNDEZ Y GONZÁLEZ, FRANCISCO (1866), *Estado social y político de los mudéjares de Castilla*, Joaquín Muñoz, Madrid
- FIERRO, ISABEL (2005), Proto-Maliki, Maliki, and Reformed Maliki in Al-Andalus, in: BEARMAN, PERI, RUDOLPH PETERS et al. (eds.), *The Islamic School of Law: Evolution, Devolution, and Progress*, Harvard University Press, Cambridge, 57–76
- FIERRO, MARIBEL (1991), La emigración en el Islam: conceptos antiguos, nuevos problemas, in: *AWRAQ* XII, 11–41
- FIERRO, MARIBEL (2011), Ulemas en las ciudades andaluzas: Religión, política y prácticas sociales, in: MARTÍNEZ ENAMORADO, VIRGLIO (ed.), *Escenarios urbanos de al-Andalus y el Occidente musulmán*, Vélez-Málaga, 16–18 junio de 2010, Iniciativa Urbana »De Toda La Villa«, Málaga, 137–167
- FRANCIS, MICHAEL J. (1998), *The Muisca Indians under Spanish Rule, 1537–1636*, Unpublished Ph.D. Dissertation, Cambridge University
- FUENCISLA GARCÍA CASAR, MARÍA (1995), Las comunidades judías en la Corona de Castilla al tiempo de la expulsión: Densidad geográfica, población, in: ALCALÁ, ÁNGEL (ed.), *Judíos. Sefarditas. Conversos: La expulsión de 1492 y sus consecuencias*, Ámbito Ediciones, Valladolid, 21–31
- GALÁN SÁNCHEZ, ÁNGEL (1984), Notas para una periodización de la historia de los moriscos granadinos. De las capitulaciones de la conversión a las medidas de la Capilla Real, in: *Actas del III coloquio de historia medieval andaluza: La sociedad medieval andaluza: Grupos no privilegiados*, Diputado Provincial de Jaén, Jaén, 77–98
- GALÁN SÁNCHEZ, ÁNGEL (2010), Una sociedad en transición: Los granadinos de mudéjares a moriscos, Universidad de Granada, Granada
- GALÁN SÁNCHEZ, ÁNGEL, RAFAEL GERARDO PEINADO SANTAELLA (2006), De la madina musulmana al concejo mudéjar. Fiscalidad regia y fiscalidad concejil en la ciudad de Granada tras la conquista castellana, in: MENJOT, DENIS, MANUEL SÁNCHEZ MARTÍNEZ (eds.), *Fiscalidad de Estado y fiscalidad municipal en los reinos hispánicos medievales*, Casa de Velásquez, Madrid, 197–236
- GÁLVEZ PIÑAL, ESPERANZA (1974), La visita de Monzón y Prieto de Orellana al Nuevo Reino de Granada, Escuela de Estudios Hispano-Americanos, Sevilla
- GAMBOA MENDOZA, JORGE AUGUSTO (2004), Caciques, encomenderos y santuarios en el Nuevo Reino de Granada: reflexiones metodológicas sobre la ficción en los archivos: el proceso del cacique de Tota, 1574–1575, in: *Colonial Latin American Historical Review* 13,2, 113–145
- GAMBOA MENDOZA, JORGE AUGUSTO (2010), El cacicazgo Muisca en los años posteriores a la conquista: Del sihupkua al cacique colonial, Instituto Colombiano de Antropología e Historia, Bogotá
- GAMES, ALISON (2006), Atlantic History: Definitions, Challenges, and Opportunities, in: *The American Historical Review* 111,3, 741–757
- GARCÍA-ARENAL, MERCEDES (2010), Musulmanes arabófonos y musulmanes aljamiados, in: *Al-Qantara: Revista de Estudios Árabes* 31, 295–310
- GARCÍA-ARENAL, MERCEDES, MIGUEL ÁNGEL DE BUNES (1996), *Los moriscos*, Universidad de Granada, Granada
- GARCÍA MIRANDA, CARLOS (ene./dic. 2015), Los informes de Juan Polo de Ondegardo: producción y recepción crítica, in: *Letras* 86,123, 125–139
- GARCÍA PEDRAZA, AMALIA (2002), Actitudes ante la muerte en la Granada del siglo XVI: los moriscos que quisieron salvarse, 2 Vol., Univ. de Granada, Granada
- GARCÍA PÉREZ, RAFAEL D. (2015), Revisiting the Americas' Colonial Status under the Spanish Monarchy, in: DUVE, THOMAS, HEIKKI PIHLAJAMÄKI (eds.), *New Horizons in Spanish Colonial Law: Contributions to Transnational Early Modern Legal History*, Max Planck Institute for European Legal History, Frankfurt am Main, 29–73
- GARRIDO ARANDA, ANTONIO (1979), Organización de la Iglesia en el Reino de Granada y su proyección en Indias, siglo XVI, Escuela de Estudios Hispano-Americanos, Sevilla
- GARRIDO GARCÍA, CARLOS JAVIER (1999), Colaboracionismo mudéjar-morisco en el Reino de Granada. El caso de la Diócesis de Guadix: Los Abenaxara (1489–1580), in: *Miscelánea de estudios árabes y hebraicos. Sección Árabe-Islam* 48, 121–155
- GARRIDO GARCÍA, CARLOS JAVIER (2004), La organización de las comunidades moriscas urbanas en el reino de Granada: el caso de la ciudad de Guadix, in: *Miscelánea de estudios árabes y hebraicos. Sección Árabe-Islam* 53, 129–142
- GARRIGA, CARLOS (2006), La trama jurídica castellana a comienzos del siglo XVI (notas y materiales), in: GONZÁLEZ ALONSO, BENJAMÍN (ed.), *Las cortes y las leyes de Toro de 1505*, Salamanca
- GARRIGA, CARLOS (2011), La consolidación de la jurisdicción suprema en Castilla, in: CZEGUHN, IGNACIO, JOSÉ ANTONIO LÓPEZ NEVOT et al. (eds.), *Die Höchstgerichtsbarkeit im Zeitalter Karls V. Nomos, Baden-Baden*, 133–170

- GARRIGA, CARLOS (2012), El príncipe ante el derecho en la cultura del *ius commune*, in: LORENTE, MARTA, JESÚS VALLEJO (eds.), *Manual de Historia de Derecho*, Tirant Lo Blanch, Valencia, 141–178
- GEBIR, İÇE DE et al. (1853), *Tratados de legislación musulmana*, Vol. V, Imprenta de la Real Academia de la Historia, Madrid
- GERMETEN, NICOLE VON (2009), Colonial Middle Men? Mulatto Identity in new Spain's Confraternities, in: VINSON III, BEN, MATTHEW RESTALL (eds.), *Black Mexico: Race and Society from Colonial to Modern Times*, University of New Mexico Press, Albuquerque, 136–154
- GIBSON, CHARLES (1964), *The Aztecs under Spanish Rule: A History of the Indians of the Valley of Mexico, 1519–1810*, Stanford University Press, Stanford
- GIBSON, CHARLES (1991), *Tlaxcala en el siglo XVI*, Fondo de Cultura Económica, México
- GIL PUJOL, XAVIER (2005), One King, One Faith, Many Nations: Patria and Nation in Spain, 16th–17th Centuries, in: VON FRIEDEBURG, ROBERT (ed.), »Patria« und »Patrioten« vor dem Patriotismus: Pflichten, Rechte, Glauben und Rekonfigurierung europäischer Gemeinwesen im 17. Jahrhundert, Harrassowitz, Wiesbaden, 105–137
- GIL, XAVIER (2002), Republican Politics in Early Modern Spain: the Castilian and Catalano-Aragonese Traditions, in: SKINNER, QUENTIN, MARTIN VAN GELDEREN (eds.), *Republicanism and Constitutionalism in Early Modern Europe*, Cambridge University Press, Cambridge, 263–288
- GÓMEZ VOZMEDIANO, MIGUEL FERNANDO (2000), *Mudéjares y moriscos en el Campo de Calatrava. Reductos de convivencia, tiempos de intolerancia (Siglos XV–XVII)*, Biblioteca de Autores Manchegos, Diputación de Ciudad Real, Ciudad Real
- GONZÁLEZ JIMÉNEZ, MANUEL (2000), Los mudéjares andaluces: una minoría residual, in: *Revista de Occidente* 224, 67–78
- GRAUBART, KAREN (2012), »So color de una cofradía: Catholic Confraternities and the Development of Afro-Peruvian Ethnicities in Early Colonial Peru, in: *Slavery and Abolition* 33,1, 43–64
- GRAUBART, KAREN (2015), Learning From the Qadi: The Jurisdiction of Local Rule in the Early Colonial Andes, in: *Hispanic American Historical Review* 95,2, 195–228
- GRAUBART, KAREN (2016), Competing Spanish and Indigenous Jurisdictions in Early Colonial Lima, in: MILLS, KENNETH (ed.), *Oxford Research Encyclopedia in Latin American and Caribbean History*, Oxford University Press, New York
- GRAUBART, KAREN (2018), Containing Law within the Walls: The Protection of Customary Law in Santiago del Cercado, Peru, in: BENTON, LAUREN, ADAM CLULOW et al. (eds.), *Protection and Empire: A Global History*, Cambridge University Press, Cambridge, 29–46
- GROSSI, PAOLO (1996), *El orden jurídico medieval*, Marcial Pons, Madrid
- GRUZINSKI, SERGE (1990), Indian Confraternities, Brotherhoods, and Mayordomías in Central New Spain: A List of Questions for the Historian and the Anthropologist, in: OUWENEEL, ARIJ, SIMON MILLER (eds.), *The Indian Community of Colonial Mexico*, Centrum voor Studie en Documentatie van Latijns Amerika, Amsterdam, 205–223
- GUEVARA GIL, ARMANDO, JOSEPH THOME (1999), Apuntes sobre el pluralismo legal, in: *Ius et veritas* 19, 286–304
- HAMANN, BYRON (2011), *Inquisitions and Social Conflicts in Sixteenth-century Yanhuítlan and Valencia: Catholic Colonizations in the Early Modern Transatlantic World*, Unpublished Ph.D. Dissertation, University of Chicago
- HANKS, WILLIAM F. (2010), *Converting Words: Maya in the Age of the Cross*, University of California Press, Berkeley
- HARVEY, L. P. (1990), *Islamic Spain, 1250 to 1500*, University of Chicago Press, Chicago
- HASKETT, ROBERT (1991), *Indigenous Rulers: An Ethnohistory of Town Government in Colonial Cuernavaca*, University of New Mexico Press, Albuquerque
- HERRERO SÁNCHEZ, MANUEL (2017), La monarquía hispánica y las repúblicas europeas. El modelo republicano en una monarquía de ciudades, in: HERRERO SÁNCHEZ, MANUEL (ed.), *Repúblicas y republicanismo en la Europa moderna (siglos XVI–XVIII)*, Red Columnaria, Madrid, 273–326
- HERZOG, TAMAR (1995), Comunidad y jurisdicción: Las aljamas judeo-castellanas (siglos XIII–XV), in: ALVARADO PLANAS, JAVIER (ed.), *Espacios y fueros en Castilla-La Mancha (Siglos XI–XV): Una perspectiva metodológica*, Ediciones Polifemo, Madrid, 451–468
- HERZOG, TAMAR (2003), *Defining Nations: Immigrants and Citizens in Early Modern Spain and Spanish America*, Yale University Press, New Haven, CT
- HERZOG, TAMAR (2013), Colonial Law and »Native Customs«: Indigenous Land Rights in Colonial Spanish America, in: *The Americas* 69,3, 303–321
- HERZOG, TAMAR (2015), *Frontiers of Possession: Spain and Portugal in Europe and the Americas*, Harvard University Press, Cambridge
- HESPANHA, ANTONIO MANUEL (1994), *As Vésperas do Leviathan: instituições e poder político: Portugal – sec. xvii*, Livraria Almedina, Coimbra
- HESPANHA, ANTÓNIO MANUEL (2004), Legal History and Legal Education, in: *Rechtsgeschichte* 4, 41–56, online: <http://dx.doi.org/10.12946/rg04/041-056>
- HEVIA BOLAÑOS, JUAN DE (1783 [1603]), *Curia philipica*, primero y segundo tomo, Josef Doblado, Madrid
- HOEKEMA, ANDRÉ (2005), European Legal Encounters between Minority and Majority Culture: Cases of Interlegality, in: *Journal of Legal Pluralism* 51, 1–28
- HOEKEMA, ANDRÉ (2008), Multicultural Conflicts and National Judges: A General Approach, in: *Law, Social Justice & Global Development* 2, 1–14
- HOEKEMA, ANDRÉ (2014), Legal Pluralism: Conflicting Legal Commitments without a Neutral Arbiter, in: *Jura Gentium* XI, 61–103
- HONORES, RENZO (2007), Los caciques y las pruebas: El uso de las testimoniales en las disputas por cacicazgos en la Audiencia de Lima, 1550–1610, in: *XI Jornadas Interescuelas/Departamentos de Historia*, Universidad de Tucumán, San Miguel de Tucumán
- HONORES, RENZO, JOSÉ CARLOS DE LA PUENTE LUNA (2016), Guardianes de la real justicia: alcaldes de indios, costumbre y justicia local en Huarochirí colonial, in: *Histórica* XL,2, 11–47

- ISRAEL, JONATHAN (1994), The Jews of Spanish Oran and their expulsion in 1669, in: *Mediterranean Historical Review* 9,2, 235–255
- KAGAN, RICHARD (2000), A World without Walls: City and Town in Colonial Spanish America, in: TRACY, JAMES D. (ed.), *City Walls: The Urban Enceinte in Global Perspective*, Cambridge University Press, Cambridge, 117–153
- KAMEN, HENRY (2014), *The Spanish Inquisition: A Historical Revision*, 4th ed., Yale University Press, New Haven
- KANTOROWICZ, ERNST (2016), *The King's Two Bodies: A Study in Medieval Political Theology* Princeton University Press, Princeton N.J.
- KELLOGG, SUSAN (1995), *Law and Transformation of Aztec Culture, 1500–1700*, University of Oklahoma Press, Norman
- KIMMEL, SETH (2015), *Parables of Coercion: Conversion and Knowledge at the End of Islamic Spain*, University of Chicago Press, Chicago
- LADERO QUESADA, MIGUEL ÁNGEL (1992), Mudéjares y repobladores en el Reino de Granada (1485–1501), in: *Cuadernos de Historia Moderna* 13, 47–71
- LADERO QUESADA, MIGUEL ÁNGEL (2004), Castile: An Overview (Thirteenth to Fifteenth Centuries), in: CLUSE, CHRISTOPH (ed.), *The Jews of Europe in the Middle Ages (Tenth to Fifteenth Centuries): Proceedings of the International Symposium held at Speyer, 20–25 October 2002*, Brepols, Turnhout, Belgium, 151–161
- LADERO QUESADA, MIGUEL ÁNGEL (2007), Judíos granadinos al tiempo de expulsión, in: *En la España medieval* 30, 281–315
- LADERO QUESADA, MIGUEL ÁNGEL (2011), Juden im Nasridenreich von Granada, in: HERBERS, KLAUS, NIKOLAS JASPERT (eds.), *Integration – Segregation – Vertreibung: Religiöse Minderheiten und Randgruppen auf der Iberischen Halbinsel (7. bis 17. Jahrhundert)*, Lit Verlag, Berlin, 145–170
- LANDERS, JANE G. (2006), Cimarrón and Citizen: African Ethnicity, Corporate Identity, and the Evolution of Free Black Towns in the Spanish Circum-Caribbean, in: LANDERS, JANE G., BARRY M. ROBINSON (eds.), *Slaves, Subjects, and Subversives: Blacks in Colonial America*, University of New Mexico Press, Albuquerque, 111–146
- LARRAINZAR, CARLOS (1982), La naturaleza del «derecho consuetudinario» según Francisco Suárez, in: *Ius Canonicum* 22, 763–782
- LAS CASAS, BARTOLOMÉ DE (1552), Aquí se co[n]tiene[n] treynta proposiciones muy jurídicas: : en las quales sumaria y succinctamente se toca[n] muchas cosas pertencie[n]tes al derecho q[ue] la yglesia y los principes christianos tienen, o puede[n] tener sobre los infieles de qualquier especie que sean ... En Casa de Sebastián Trugillo, Sevilla
- LAUER, RENA N. (2016), Jewish Law and Litigation in the Secular Courts of the Medieval Mediterranean, in: *Critical Analysis of Law* 3,1, 114–132
- LEMPÉRIÈRE, ANNICK (2004), *Entre Dieu et le roi, la République: Mexico, XVIe–XIXe siècle*, Belles Lettres, Paris
- LEÓN TELLO, PILAR (1989), Disposiciones sobre judíos en los fueros de Castilla y León, in: *Medievalia* 8, 223–252
- LOCKHART, JAMES (1992), *The Nahuas, after the Conquest: A Social and Cultural History of the Indians of Central Mexico, Sixteenth through Eighteenth Centuries*, Stanford University Press, Stanford
- LOCKHART, JAMES, FRANCES BERDAN (eds.) (1986), *The Tlaxcalan Actas: A Compendium of the Records of the Cabildo of Tlaxcala (1545–1627)*, Univ. of Utah Press, Salt Lake City
- LÓPEZ ORTIZ, JOSÉ (1941), Fatwas Granadinas de los siglos XIV y XV, in: *Al-Andalus* 6, 72–127
- MARTÍN GONZÁLEZ, ÁNGEL (1978), *Gobernación Espiritual de Indias, Código Ovandino, Libro 1 Colección Histórica*, Guatemala
- MARTINEZ ALMIRA, MARIA MAGDALENA (2008), Los moriscos ante la real audiencia valenciana. La progresiva pérdida de competencias jurisdiccionales, in: FERRERO, REMEDIOS, LLUÍS GUIA (eds.), *Corts i parlaments de la Corona d'Aragó: Unes institucions emblemàtiques en una monarquia composta*, Universitat de València, València, 201–222
- MARTÍNEZ ALMIRA, MARIA MAGDALENA (2002), Estudios e investigaciones sobre las fuentes, derecho privado, penal y procesal islámico en Al-Andalus: una aproximación historiográfica, in: *Interpretatio* 8, 175–227
- MARTÍNEZ ALMIRA, MARIA MAGDALENA (2006), *Derecho procesal malikí hispanoárabe*, Edizioni Scientifiche Italiane, Napoli
- MARTÍNEZ ALMIRA, MARIA MAGDALENA (2012), La minoría islámica en el Reino de Valencia y la aplicación de la justicia penal, in: *Homenaje al Profesor José Antonio Escudero, vol. III*, Editorial Complutense, Madrid, 129–154
- MARTINEZ BARACS, ANDREA (2008), *Un gobierno de Indios: Tlaxcala, 1519–1750*, Fondo de Cultura Económica, México
- MARTÍNEZ DHIER, ALEJANDRO (2007), Algunas consideraciones sobre la historia del derecho musulmán en España, in: *Historia. Instituciones. Documentos* 34, 189–206
- MARTÍNEZ, HILDEBERTO (1984), *Tepeaca en el siglo XVI: tenencia de la tierra y organización de un señorío*, CIESAS, México D.F.
- MARTÍNEZ, MARÍA ELENA (2004), The Black Blood of New Spain: Limpieza de Sangre, Racial Violence, and Gendered Power in Early Colonial Mexico, in: *The William and Mary Quarterly* 61,3, 479–520
- MARTOS QUESADA, JUAN (2008), Islam y derecho: las escuelas jurídicas en al-Ándalus, in: *Arbor* 184,731, 433–442
- MATIENZO, JUAN DE (1967 [1567]), *Gobierno del Perú, édition et étude préliminaire* par GUILLERMO LOHMANN VILLENA, Institut français d'études andines, Lima
- MCALISTER, LYLE N. (1984), *Spain and Portugal in the New World 1492–1700*, University of Minnesota, Minneapolis
- MEADE DE ANGULO, MERCEDES (ed.) (1984), *Documentos y reales cédulas de la ciudad de Tlaxcala*, Instituto Tlaxcalteca de la Cultura, Tlaxcala
- MENEGUS BORNEMANN, MARGARITA (1994), *Del señorío a la república de indios. El caso de Toluca: 1500–1600*, CNCA, México
- MENOCAL, MARIA ROSA (2002), *The Ornament of the World: How Muslims, Jews and Christians Created a Culture of Tolerance in Medieval Spain*, Little, Brown, Boston
- MEYERSON, MARK D. (1995), Slavery and the Social Order: Mudéjars and Christians in the Kingdom of Valencia, in: *Medieval Encounters* 1,1, 144–173
- MICELI, PAOLA (2012), *Derecho consuetudinario y memoria. Práctica jurídica y costumbre*, Leon XI–XIV, Universidad Carlos III de Madrid, Madrid

- MICHAELS, RALF (2009), Global Legal Pluralism, in: *Annual Review of Law & Social Science* 5, 243–262
- MILLER, KATHRYN A. (2000), Muslim Minorities and the Obligation to Emigrate to Islamic Territory: Two Fatwās from Fifteenth-Century Granada, in: *Islamic Law & Society* 7,2, 256–277
- MILLER, KATHRYN A. (2008), *Guardians of Islam: Religious Authority and Muslim Communities of Late Medieval Spain*, Columbia Univ. Press, New York
- MILLS, KENNETH (1997), *Idolatry and its Enemies: Colonial Andean Religion and Extirpation, 1640–1750*, Princeton University Press, Princeton, N.J.
- MOHNHAUPT, HEINZ, DIETER GRIMM (2012), *Constituição: Historia do conceito desde a Antiguidade até nossos dias*, Livraria Tempus, Belo Horizonte
- MOLÉNAT, JEAN-PIERRE (1998), Les vieux mudejars de Castille face à la justice des Rois Catholiques, selon les sentences exécutoires de la Chancellerie de Valladolid (1486–1502), in: *Ponencias del IV Congreso Internacional de Civilización Andalusí*, El Cairo, 27–40
- MOLÉNAT, JEAN-PIERRE (1999), A propos d’Abrahen Xarafi: Les alcaldes mayores de los moros de Castille au temps des Rois Catoliques, in: *VII Simposio Internacional de Mudejarismo: Teruel 19–21 de Septiembre de 1996, actas*, Centro de Estudios Mudéjares, Teruel
- MOLÉNAT, JEAN-PIERRE (2000), En los últimos años del siglo XV: El fin de los »mudéjares viejos« de Castilla, in: GARCÍA DE CORTÁZAR, JOSÉ ÁNGEL, JEAN-PIERRE MOLÉNAT et al. (eds.), *Fines de siglo y milenarismo*, Universidad de Valladolid, Valladolid, 33–56
- MOLÉNAT, JEAN-PIERRE (2003), L’élite mudéjare de Tolède aux XIV et XV siècles: Alfaquís, alcaldes et alcaldes mayores de moros, in: BARTHÉLÉMY, DOMINIQUE, JEAN-MARIE MARTIN (eds.), *Liber largitorius. Études d’histoire médiévale offertes à Pierre Toubert par ses élèves*, Droz, Genève, 563–577
- MOLÉNAT, JEAN-PIERRE (2006), Alcaldes et alcaldes mayores de moros de Castille au XVe siècle, in: GÉAL, FRANÇOIS (ed.), *Regards sur al-Andalus (VIIIe–XVe siècle)*, Éditions Rue d’Ulm, Paris, 147–168
- MOLÉNAT, JEAN-PIERRE (2008), Hornachos fin XVe–début XV siècles, in: *En la España medieval* 31, 161–176
- MOLÉNAT, JEAN-PIERRE (2011–2013), Des »vieux mudéjars« aux morisques de Castille (fin XVe–début XVIe siècle), in: *Sharq al-Andalus* 20, 67–81
- MÜLLER, CHRISTIAN (1999), *Gerichtspraxis im Stadtstaat Córdoba: Zum Recht der Gesellschaft in einer mälikitisch-islamischen Rechts-tradition des 5./11. Jahrhunderts*, Brill, Leiden
- MÜLLER, CHRISTIAN (2000), Judging with God’s Law on Earth: Judicial Powers of the Qādī Al-Jamā’a of Cordoba in the Fifth/ Eleventh Century, in: *Islamic Law & Society* 7,2, 159–186
- MUMFORD, JEREMY (2012), *Vertical Empire: The General Resettlement of the Indians in the Colonial Andes*, Duke University Press, Durham
- MUMFORD, JEREMY (2016), Las llamas de Tapacarí: un documento judicial de un alcalde de indios en la Audiencia de Charcas, 1580, in: *Histórica* XL,2, 171–185
- MUÑOZ ARBELÁEZ, SANTIAGO (2015), *Costumbres en disputa: Los Muisca y el Imperio español en Ubaque, siglo XVI*, Universidad de los Andes, Bogotá
- NADER, HELEN (1990), *Liberty in Absolutist Spain: The Habsburg Sale of Towns, 1516–1700*, Johns Hopkins University Press, Baltimore
- NIRENBERG, DAVID (2004), Love Between Muslim and Jew in Medieval Spain: A Triangular Affair, in: HAMES, HARVEY J. (ed.), *Jews, Muslims, and Christians In and Around the Crown of Aragon, Essays in honour of Professor Elena Lourie*, Brill, Leiden, 127–155
- NIRENBERG, DAVID (2015), *Communities of Violence: Persecution of Minorities in the Middle Ages*, 2nd ed., Princeton University Press, Princeton
- Nuevo código nacional de policía y convivencia (Ley 1801 de 2016 – Julio 29), Bogotá, Editorial SKLA
- OFFNER, JEROME A. (1983), *Law and Politics in Aztec Tezcoco*, Cambridge University Press, Cambridge
- OWENBY, BRIAN (2008), *Empire of Law and Indian Justice in Colonial Mexico*, Stanford University Press, Stanford
- PAVÓN ROMERO, ARMANDO (2010), El gremio docto: Organización corporativa y gobierno en la Universidad de México en el siglo XVI, *Universitat de Valencia*, Valencia
- PELÁEZ PORTALES, DAVID (1999), La habilitación de testigos en el Derecho Musulmán medieval, in: *Cuadernos de Historia de Derecho* 6, 301–324
- PELÁEZ ROVIRA, ANTONIO (2009), *El emirato Nazarí de Granada en el siglo XV: Dinámica política y fundamentos sociales de un estado Andalusí*, Universidad de Granada, Granada
- PENNY, S. ELIZABETH (2017), Pleitos coloniales: »Historizando« las fuentes sobre pueblos de indígenas de los Andes, in: SAIRO, AKIRA, CLAUDIA ROSAS LAURO (eds.), *Reducciones: La concentración forzada de las poblaciones indígenas en el Virreinato del Perú*, 439–473
- PÉREZ BOYERO, ENRIQUE (1997), *Moriscos y cristianos en los señoríos del Reino de Granada (1490–1568)*, Universidad de Granada, Granada
- PIZZIGONI, CATERINA (2012), *The Life Within: Local Indigenous Society in Mexico’s Toluca Valley, 1650–1800*, Stanford University Press, Stanford
- PLATT, TRISTAN, THÉRÈSE BOUYSSÉ-CASSAGNE, OLIVIA HARRIS (eds.) (2011), *Qaraqara-Charka: Mallku, Inka, y Rey en la provincia de Charcas (siglos XV–XVIII)*, IFEA, Lima
- POLO DE ONDEGARDO, JUAN (1571), *Relación de los fundamentos acerca del notable daño que resulta de no guardar a los indios sus fueros*
- PORRAS ARBOLEDAS, PEDRO ANDRÉS (1997), *La Orden de Santiago en el Siglo XV*, Dykinson/Caja Provincial de Jaén, Murcia
- POUTRIN, ISABELLE (2012), *Convertir les musulmans: Espagne, 1491–1609*, Presses Universitaires de France, Paris

- PREMÓ, BIANCA (2014), Custom Today: Temporality, Law, and Indigenous Enlightenment, in: *Hispanic American Historical Review* 94,3, 355–379
- PREMÓ, BIANCA (2017), *The Enlightenment on Trial: Ordinary Litigants and Colonialism in the Spanish Empire*, Oxford University Press, Oxford
- PROCTOR, FRANK »TREY« (2009), Slave Rebellion and Liberty in Colonial Mexico, in: VINSON III, BEN, MATTHEW RESTALL (eds.), *Black Mexico: Race and Society from Colonial to Modern Times*, University of New Mexico Press, Albuquerque, 21–50
- PRODI, PAOLO (2016), Una historia de la justicia: De la pluralidad de fueros al dualismo moderno entre conciencia y derecho, Katz Editores, Buenos Aires
- PUENTE LUNA, JOSÉ CARLOS DE LA (2007), Los curacas hechiceros de Jauja: Batallas mágicas y legales en el Perú colonial, Fondo Editorial de la Pontificia Universidad Católica del Perú, Lima
- PUENTE LUNA, JOSÉ CARLOS DE LA (2018), *Andean Cosmopolitans: Seeking Justice and Reward at the Spanish Royal Court*, University of Texas Press, Austin
- PUENTE LUNA, JOSÉ CARLOS DE LA, RENZO HONORES (2016), Guardianes de la real justicia: alcaldes de indios, costumbre y justicia local en Huarochirí colonial, in: *Histórica* XL,2, 11–47
- PULIDO SERRANO, JUAN IGNACIO (2003), Consentir por necesidad. Los judíos de Orán en la Monarquía Católica durante los siglos XVI y XVII, in: GARCÍA-ARENAL, MERCEDES (ed.), *Entre el Islam y Occidente. Los judíos magrebíes en la Edad Moderna*, Casa de Velázquez, Madrid, 201–222
- QUIJANO VELASCO, FRANCISCO (2017), *Las repúblicas de la Monarquía: Pensamiento constitucionalista y republicano en Nueva España 1550–1610*, Universidad Nacional Autónoma de México, México
- RAMÍREZ, SUSAN ELIZABETH (2005), Amores Prohibidos: The Consequences of the Clash of Juridical Norms in Sixteenth Century Peru, in: *The Americas* 62,1, 47–63
- RAMOS, GABRIELA, YANNA YANNAKAKIS (eds.) (2014), *Indigenous Intellectuals: Knowledge, Power, and Colonial Culture in Mexico and the Andes*, Duke University Press, Durham
- RAMOS NÚÑEZ, CARLOS (1999), Consideración de la costumbre en la doctrina jurídica virreinal. De la valoración clásica a su impugnación moderna, in: HAMPE MARTÍNEZ, TEODORO (ed.), *La tradición clásica en el Perú virreinal*, Universidad San Marcos, Lima, 285–308
- RAPPAPORT, JOANNE (2014), *Disappearing Mestizos: Configuring Difference in the Colonial New Kingdom of Granada*, Duke University Press, Durham, NC
- RAY, JONATHAN (2006), *The Sephardic Frontier: The Reconquista and the Jewish Community in Medieval Iberia*, Cornell University Press, Ithaca
- RESTALL, MATTHEW (1999), *The Maya World: Yucatec Culture and Society, 1550–1850*, Stanford University Press, Stanford
- RESTALL, MATTHEW (2003), A History of the New Philology and the New Philology in History, in: *Latin American Research Review* 38,1, 113–134
- REYES GARCÍA, LUIS (1972), Ordenanzas para el gobierno de Cuahtinchan, año 1559, in: *Estudios de Cultura Náhuatl* 10, 259–263
- RODRÍGUEZ LLOPIS, MIGUEL (1986), *Señoríos y feudalismo en el Reino de Murcia*, Universidad de Murcia, Murcia
- ROJAS, ULÍSES (1965), *El Cacique de Turmequé y su época*, Impr. Departamental, Tunja
- ROMAN, JERÓNIMO (1575), *Repúblicas del mundo*, 25 Vol., Francisco del Canto, Medina del Campo
- RUIZ BEJARANO, BARBARA (2015), *Praxis islámica de los musulmanes aragoneses a partir del corpus aljamiado-morisco y su confrontación con otras fuentes contemporáneas*, Unpublished Ph.D. Dissertation, Universidad de Alicante
- RUIZ GÓMEZ, FRANCISCO (2005), La convivencia en el marco vecinal: El régimen apartado de las juderías castellanas en el siglo XV, in: MORENO KOCH, YOLANDA, RICARDO IZQUIERDO BENITO (eds.), *Del pasado judío en los reinos medievales hispánicos*, Universidad de Castilla-La Mancha, Cuenca, 247–288
- SÁEZ SÁNCHEZ, EMILIO (1943), Ordenanzas de la aljama de Abanilla, in: *Anuario de Historia de Derecho Español* XIV, 519–529
- SAFRAN, JANINA M. (2013), *Defining Boundaries in al-Andalus: Muslims, Christians, and Jews in Islamic Iberia* Cornell University Press, Ithaca
- SAKRANI, RAJA (2014), The Law of the Other, in: *Rechtsgeschichte – Legal History* 22, 90–118, online: <http://dx.doi.org/10.12946/rg22/090-118>
- SAKRANI, RAJA (2016), Convivencia: Reflections about its ‚Kulturbedeutung‘ and Rereading the Normative Histories of Living Together, in: *Max Planck Institute for European Legal History Research Paper Series*, No. 2016-02
- SÁNCHEZ BELÉN, JUAN ANTONIO (1993), La expulsión de los judíos de Orán en 1669, in: *Espacio. Tiempo y Forma. Historia Moderna* 6, 155–197
- SÁNCHEZ BLANCO, RAFAEL BENÍTEZ (1992), Control político y explotación económica de los moriscos, régimen señorial y protección, in: *Chronica Nova* 20, 9–26
- SÁNCHEZ HERRERO, JOSÉ (1976), Concilios Provinciales y Sínodos Toledanos de los siglos XIV y XV: la religiosidad cristiana del clero y pueblo, Universidad, Secretariado de Publicaciones, La Laguna
- SCHAUB, JEAN-FRÉDÉRIC (1999), *Les juifs du roi d’Espagne. Oran, 1509–1669*, Hachette Littératures, Paris
- SECO DE LUCENA PAREDES, LUIS (1959), La escuela de juristas Granadinos en el siglo XV, in: *Miscelánea de Estudios Árabes y Hebraicos* 8, 7–28
- SEMPAT ASSADOURIAN, CARLOS (1990), Fray Bartolomé de las Casas obispo: la condición miserable de las naciones indianas y el derecho de la Iglesia (un escrito de 1545), in: *Allpanchis* 35/36, 29–104
- SERRANO RUANO, DELFINA (1998), La escuela de alfaquíes Toledanos a través del Mi‘yar de al-Wansharisi, in: *Revista del Instituto Egipcio de Estudios Islámicos en Madrid* 30, 127–153
- SHATZMILLER, MAYA (2007), *Her Day in Court: Women’s Property Rights in Fifteenth-century Granada*, Harvard University Press, Cambridge, Mass.

- SILVERBLATT, IRENE (2004), *Modern Inquisitions: Peru and the Colonial Origins of the Civilized World*, Duke University Press, Durham
- SOIFER, MAYA (2009), Beyond *convivencia*: critical reflections on the historiography of interfaith relations in Christian Spain, in: *Journal of Medieval Iberian Studies* 1, 19–35
- SOLÓRZANO PEREYRA, JUAN DE (1648), *Política indiana sacada en lengua castellana de los dos tomos del derecho y gobierno municipal de las Indias*, Madrid
- SOUSA SANTOS, BOAVENTURA DE (1987), Law: A Map of Misreading. Toward a Postmodern Conception of Law, in: *Journal of Law and Society* 14,3, 279–302
- SOUSA SANTOS, BOAVENTURA DE (2002), *Toward a New Legal Commonsense*, 2nd ed. 2012, Butterworths, London
- SPALDING, KAREN (1984), *Huarochirí: An Andean Society under Inca and Spanish Rule*, Stanford University Press, Stanford
- STERN, PHILIP J. (2013), »Bundles of Hyphens«: Corporations as Legal Communities in the Early Modern British Empire, in: BENTON LAUREN, RICHARD J. ROSS (eds.), *Legal Pluralism and Empires, 1500–1850*, New York University Press, New York and London, 21–48
- STERN, STEVE J. (1982), *Peru's Indian Peoples and the Challenge of Spanish Conquest: Huamanga to 1640*, University of Wisconsin Press, Madison
- STOW, KENNETH (2012), *Favor et Odium Fidei: Conversion Inuitibus Parentibus in Historical Perspective*, in: *Archivio Italiano per la Storia della Pietà* 25, 55–86
- SUÁREZ, FRANCISCO (1968 [1612]), *Tratado de las leyes y de Dios legislador en diez libros [De legibus ac Deo legislatore in decem Libros distributos]*, Instituto de Estudios Políticos, Madrid
- SWEET, JAMES H. (2003), *Recreating Africa: Culture, Kinship, and Religion in the African-Portuguese World, 1441–1770*, University of North Carolina Press, Chapel Hill, NC
- TAMANAHA, BRIAN Z. (2008), Understanding Legal Pluralism: Past to Present, Local to Global, in: *Sydney Law Review* 30, 375–411
- TAPIA SÁNCHEZ, SERAFÍN DE (1989), Los mudéjares de la Extremadura castellano-leonesa: notas sobre una minoría dócil (1085–1502), in: *Studia Historica. Historia Medieval* 7, 95–125
- TAU ANZOÁTEGUI, VÍCTOR (1992), *Casuismo y sistema*, Instituto de Investigaciones de Historia del Derecho, Buenos Aires
- TAU ANZOÁTEGUI, VÍCTOR (2001), *El poder de la costumbre: Estudios sobre el Derecho consuetudinario en América Hispana hasta la emancipación*, Instituto de Investigaciones de Historia del Derecho, Buenos Aires
- TAU ANZOÁTEGUI, VÍCTOR (2016), *El Jurista en el Nuevo Mundo. Pensamiento. Doctrina. Mentalidad*, Max Planck Institute for European Legal History, Frankfurt
- TAVÁREZ, DAVID (2013), *Invisible War: Indigenous Devotions, Discipline, and Dissent in Colonial Mexico*, Stanford University Press, Stanford
- TERRACIANO, KEVIN (2004), *The Mixtecs of Colonial Oaxaca: Ñudzahui History, Sixteenth through Eighteenth Centuries*, Stanford University Press, Stanford
- TODOROV, TZVETAN (1999), *The Conquest of America: The Question of the Other*, University of Oklahoma Press, Norman
- TOLEDO, FRANCISCO DE (1986–89), *Disposiciones gubernativas para el Virreinato del Perú*, 2 Vol., CSIC, Sevilla
- TORRES FONTES, JUAN (1962), *Alcalde Mayor de las Aljamas de Moros en Castilla*, in: *Anuario de historia del derecho español* XXXII, 131–182
- VALENCIA, PEDRO DE (2005 [1610]), *Tratado acerca de los moriscos*, Unión de Bibliófilos Extremeños, Badajoz
- VERGARA ORMEÑO, TERESA (2015), *Piedad barroca e interés económico: la cofradía de Crispín y Crispiniano de los zapateros indígenas de Lima (1634–1637)*, in: MAYER, ALICIA, JOSÉ DE LA PUENTE (eds.), *Iglesia y sociedad en la Nueva España y el Perú*, PUCP, Instituto Riva-Agüero, Lima
- VIGIL, RALPH H. (1987), *Alonso de Zorita: Royal Judge and Christian Humanist, 1512–1585*, University of Oklahoma Press, Norman
- VILLARDEL, GASPAR DE (1738), *Gobierno Eclesiástico-Pacífico y unión de los dos cuchillos pontificio y regio*, En la oficina de Antonio Marín, Madrid
- VITORIA, FRANCISCO DE (1960), *Obras. Relecciones teológicas*, Biblioteca de Autores Cristianos, Madrid
- WERNER, MICHAEL, BÉNÉDICTE ZIMMERMANN (Feb. 2006), Beyond Comparison: *Histoire Croisée* and the Challenge of Reflexivity, in: *History and Theory* 45,1, 30–50
- YANNAKAKIS, YANNA (2008), *The Art of Being In-between: Native Intermediaries, Indian Identity, and Local Rule in Colonial Oaxaca*, Duke University Press, Durham
- YANNAKAKIS, YANNA (2010), *Costumbre: A Language of Negotiation in Eighteenth-Century Oaxaca*, in: RUIZ MEDRANO, ETHELIA, SUSAN KELLOGG (eds.), *Negotiation within Domination: New Spain's Indian Pueblos Confront the Spanish State*, University of Colorado Press, Boulder, 137–171
- YANNAKAKIS, YANNA, MARTINA SCHRADER-KNIFFKI (2016), Between the »Old Law« and the New: Christian Translation, Indian Jurisdiction, and Criminal Justice in Colonial Oaxaca, in: *Hispanic American Historical Review* 96,3, 517–548
- ZAVALA, SILVIO (1973), *De encomiendas y propiedad territorial en algunas regiones de la América española*, Editorial Porrúa, México D.F.
- ZOMEÑO, AMALIA (2000), *Dote y matrimonio en al-Andalus y el norte de África: Estudio sobre la jurisprudencia islámica medieval*, CSIC, Madrid
- ZORGAT, RAGNHILD JOHNSRUD (2012), *Pluralism in the Middle Ages: Hybrid Identities, Conversion, and Mixed Marriages in Medieval Iberia*, Routledge, New York
- ZORITA, ALONSO DE (1963), *Breve y sumaria relación de los señores de la Nueva España*, UNAM, México