Corruption and Justice in Colonial Mexico, 1650–1755

Corruption is one of the most prominent issues in Latin American news cycles, with charges deciding the recent elections in Mexico, Brazil, and Guatemala. Despite the urgency of the matter, few recent historical studies on the topic exist, especially on Mexico. For this reason, Christoph Rosenmüller explores the enigma of historical corruption. By drawing upon thorough archival research and a multi-lingual collection of printed primary sources and secondary literature, Rosenmüller demonstrates how corruption in the past differed markedly from today. Corruption in Mexico’s colonial period connoted the obstruction of justice; judges, for example, tortured prisoners to extract cash or accepted bribes to alter judicial verdicts. In addition, the concept evolved over time to include several forms of self-advantage in the bureaucracy. Rosenmüller embeds this important shift from judicial to administrative corruption within the changing Atlantic world, while also providing insightful perspectives from the lower social echelons of colonial Mexico.

Christoph Rosenmüller is a professor at Middle Tennessee State University. His publications include the edited volumes Corruption in the Iberian Empires: Greed, Custom, and Colonial Networks (2017), “Dávidas, Dones, Dinero”: Aportes a la nueva historia de la corrupción (2016, with Stephan Ruderer), and the book Patrons, Partisans, and Palace Intrigues: The Court Society of Colonial Mexico, 1702–1710 (2008).
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Corruption and Justice in Colonial Mexico, 1650–1755

CHRISTOPH ROSENMÜLLER

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Acknowledgments

Mephistopheles. But choose some faculty, I pray!
Student. I feel a strong dislike to try the legal college.
Mephistopheles. I cannot blame you much, I must acknowledge.

I know how this profession stands today.
Statutes and laws through all the ages
Like a transmitted malady you trace;
In every generation still it rages
And softly creeps from place to place.
Reason is nonsense, right an impudent suggestion;
Alas for thee, that thou a grandson art!
Of inborn law in which each man has part,
Of that, unfortunately, there’s no question.


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A Note on Terms

Colonial Mexico was known as Nueva España (New Spain), and its inhabitants were the colonial Mexicans or the novohispanas and novohispanos, including Indians, blacks, and mestizos. Those originating from the Spanish peninsula are called peninsular Spaniards in this book, while I call all residents of the empire Spaniards, in lack of a better word. Americans refers to the inhabitants of the Spanish Americas in tune with eighteenth-century usage when “America” rivaled “the Indies.” Even today, Latin Americans often refer to themselves as Americanos/as (Americans). Novohispanos also had a range of labels for racial groups. I have not translated all of them, as their English equivalents are sometimes offensive, and for this reason mulata/o (a person of mixed African descent), mestiza/o (of mixed indigenous descent), and other terms appear in the text in italics.¹

In addition, historians have usually translated the offices of alcaldes mayores and corregidores as district officials or provincial administrators, because they levied taxes and tributes and commanded the local militia. Yet the alcaldes mayores derived their name from the Arabic al-qadi for judge, and they ruled on justice, which was their most distinctive feature for the colonial society. The best translation for these ministers is district judge in my view. Meanwhile, the first-instance magistrates of the Native and Spanish-speaking towns were the alcaldes and alcaldes ordinarios. The audiencia (appeals or high court) of Mexico City consisted of oidores.

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A Note on Terms

(civil judges) and alcaldes de crimen (criminal judges). A fiscal del crimen (criminal prosecutor) and a fiscal de lo civil (civil prosecutor) joined them. In the sources, these prosecutors and judges were sometimes called ministros superiores (superior ministers) and sometimes even jueces (judges), although they had different roles. I occasionally refer with judges to both judges and prosecutors of the audiencia to make the prose flow easier, as long as the context is clear.

Spaniards rarely labeled the district, municipal, or high court judges as oficiales (officials) and usually reserved this term for those without judicial powers, including notaries, scribes, or jailers. These officials also appeared as oficiales subalternos (subaltern officials) or ministros inferiores (lower ministers). Town council members, for example, assessed tax burdens and coordinated public works, and they “had some administration of justice,” as one notary put it. Yet they differed from judges in the colonial understanding. When speaking of both judges and officials at the same time, the word ministros (ministers) often appears in the sources, and I follow this usage. I have also employed the terms “legal experts” or “legal practitioners” when referring to procurators and other officials who learned their legal skills mostly on the job, as well as academically trained civil and canon jurists. Moreover, I have translated the legal terms as much as possible but have kept the word prueba, which connotes the reasoning of a judge for a verdict. ²

² Pedro Robledo to Francisco Garzarón, Mexico City, 2 June 1719, Archivo General de Indias, Seville (hereinafter cited as AGI), Escribanía 280 C, Q[juader]no 12, fols. 453v–454.

³ On ministros subalternos, see Rodrigo de Zepeda to king, n.d., attached to the consulta of the Council of the Indies, 5 Dec. 1721, AGI, México 670 A. Early modern sources were not always consistent on distinguishing oficiales from judges. Viceroy Count of Revillagigedo to Marquis of la Ensenada, Mexico City, 23 Jan. 1752, AGI, México 1506, separated robed ministers from alcaldes mayores and financial oficiales. The issue hinges in part on whether the kings had the exclusive right to appoint ministers of justice. Jerónimo Castillo de Bobadilla, Política para corregidores y señores de vasallos, en tiempo de paz, y de guerra […] (Barcelona: Jerónimo Margarit, 1616), book 5, chap. 1, para. 227, distinguished between the “judge or the official,” while in book 2, chap. 11, para. 17, esp. note e, he translated the term agentes in Justinian’s Novels 8.1 in Corpus Iuris Civilis, eds. Paul Krueger and Theodor Mommsen (Berlin: Apud Weidmannos, 1954), accessed under Y. Lassard, and A. Koptev, eds., The Roman Law Library, http://web2.upmf-grenoble.fr/DroitRomain, as oficiales de justicia (judicial officials). Judges are at least sometimes labeled oficiales in Latin. Antonio Fernández de Otero, Tractatus de Officialibus Respublicae, necnon oppidorum utrasque Castellae, tum de eorundem electione, usu, exercitio. Opus non solum trionibus, sed etiam magistris necessariarum, duplici indice, capitum scilicet, & rerum locupletatum. Edito Tertia, auctior et accuratior (Colonia [Geneva]: Fratres de Fonties, 1732), part 1, chap. 1, for example, maintained that
Despite all scholarly claims to the contrary, the term state increasingly appeared in seventeenth-century sources in various shades of meaning. In 1687, for example, Juan Alfonso de Lancina spoke of materias de Estado (state matters) and of secretos de los Estados (state secrets) to indicate a more unified understanding of government over territory. In addition, English speakers today rarely use the word functionary and prefer civil servant or officer. In early eighteenth-century Spanish, the word función (function) referred to “the exercise of an employment, faculty, or office.” Within a broader Atlantic perspective, a jurist from the Holy Roman Empire writing in Latin demanded in 1695 an oath from “those who are accepted to public function,” indicating that the term was older. French encyclopedists recorded the term fonctionnaire (functionary) for the first time in 1770 in tune with the professionalizing of administrations. The Spanish pendant funcionario is attested in dictionaries in 1835. Yet lexicons usually delayed recording political innovations, and there is a good chance that the Spanish term emerged earlier. Finally, the early modern word prince referred to supreme rulers of a state who recognized no superior, and they could have been kings, queens, dukes, or have other titles, while today the notion is largely restricted to the heirs of the reigning families.

“officials are derived … from office, and they use this name to describe magistrates or those who look after public service.”


5 Diccionario de la lengua castellana, en que se explica el verdadero sentido de las voces, su naturaleza y calidad, con las phrases o modos de hablar, los proverbios o refranes, y otras cosas convenientes al uso de la lengua, ed. Real Academia Española (Madrid: Imprenta de Francisco del Hierro, 1732). http://buscon.rae.es/ntlle/SrvltGUILoginNtlle, 811.


Abbreviations

AEA  Anuario de Estudios Americanos, Seville, Spain
ACR  Archive of the Counts of Revillagigedo, Special Collections of the University of Florida Library, Gainesville, USA
AGI  Archivo General de las Indias, Seville, Spain
AGN  Archivo General de la Nación, Mexico City
AHCM  Archivo Histórico de la Ciudad de México, Mexico City
EEHA  Escuela de Estudios Hispano-Americanos, Seville, Spain
exp.  expediente (file)
HAHR  Hispanic American Historical Review
JbLA  Jahrbuch für Geschichte Lateinamerikas, Cologne, Germany
leg.  legajo (folder)
Law of Castile  Recopilación de las leyes destos reynos hecha por mandado de la Magestad Catholica del Rey don Philipe Segundo [...]. Alcalá de Henares: Juan Iñiguez de Liquerica, 1581.
Q.no  Quaderno or cuaderno (folder)
List of Abbreviations

**Siete Partidas** (Seven Parts) Sanponts y Barba, Ignacio, Ramon Martí de Eixalá, and José Ferrer y Subirana, eds. *Las Siete Partidas del sabio rey Don Alfonso el IX, con las variantes de mas interés, y con la glosa del Lic. Gregorio Lopez, vertida al castellano y estensamente adicionada con nuevas notas y comentarios y unas tablas sinópticas comparativas, sobre la legislacion española, antigua y moderna, hasta su actual estado*. Barcelona: Bergnes, vol. 1 (1843)–vol. 4 (1844).