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Rebels With a Cause in Spanish America

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Rebels With a Cause in Spanish America*

Five hundred years ago, Hernán Cortés launched his invasion of Mexico (1519–1521), which culminated in the fall of Tenochtitlán. A little over a decade later, the Inca realm was destroyed by Francisco Pizarro's clan in Peru (1532–1533). The decisive factors and myths of the Spanish »conquests« are treated in the pertinent historiography. Recent literature has had less to say on the subsequent phase of early colonial history, when the Castilian Crown and its representatives in the »New World« tried to reinforce their dominance – essentially *against* the interests of the first generation of *conquistadores*. This tumultuous period is the subject of Gregorio Salinero's book, which re-examines disobediences, political trials and governance in Spanish America, as the subtitle reads. It is an augmented version of Salinero's *La trahison de Cortés* (Paris 2014), now skillfully translated into Spanish by Manuela Águeda García Garrido. The author, professor of history at the Université Paris 1 Panthéon-Sorbonne, is well known for his research on transatlantic relations between Spain and Spanish America.

One legal cornerstone of early colonial rule was the corpus of *Leyes Nuevas* promulgated in 1542 by Charles V. Not only did these »New Laws« establish the Viceroyalty of Peru (seven years after that of New Spain had been created), they also prohibited the slavery of indigenous peoples and the passing of *encomiendas* from one generation to another »in perpetuity«. This quasi-feudal institution, which the Crown granted to men (and a few women) as a lucrative compensation for their »merits« earned during the period of conquest, had become the most sought-after royal grant for Spanish settlers. Multiple protests against this aspect of the New Laws in American regions forced the Crown to suspend their application. However, the seeds of revolt were planted, not least by rumours and uncertainties about the policies an-

nounced from Castile for its overseas territories. Salinero rightly stresses the fact that not all insurgent movements were reactions to the New Laws. Nor should they be seen exclusively as revolts of the nobility, because other groups – often poor Spanish emigrants and soldiers as well as indigenous participants – joined the uprisings in order to strive for social mobility. The Crown's struggle against these revolts tried to counter the consolidation of feudal mentalities in the New World. As Salinero shows, an effective disciplinary measure of the Crown against disobedient vassals that was an alternative to military repression – and longer lasting – were juridical-political trials conducted by university-trained jurists and clerics sent from Spain as *oidores* or *comisarios*.

There were also other obstacles to colonial entrenchment, such as indigenous resistance, the inaccessibility of remote frontier regions, as well as the precarious governance institutions of both state and church. Without a doubt, the proliferation of American acts of disobedience between the 1540s and 1560s caused a significant threat to early colonial domination. In the introduction, Salinero outlines the lexical field used for such violent political conflicts. He distinguishes *ius commune* categories found in the learned jurists' commentaries from those applied by royal officials in American *audiencia* courts. Here the author could have mentioned not only the *Corpus Iuris Civilis* in general but Castilian laws such as the *Siete Partidas*. These legal traditions became part of an emerging *derecho indiano* – which did not deal only with indigenous issues, as Salinero seems to assume (31).

In legal terms, rebels were guilty of the *crimen laesae maiestatis* – a general category developed casuistically by medieval jurists and explored by Mario Sbriccoli in his classic study of 1974.¹ Salinero finds that the term *lesa majestad* was not

* GREGORIO SALINERO, *Hombres de mala corte. Desobediencias, procesos políticos y gobierno de Indias en la segunda mitad del siglo XVI* (traducción de Manuela Águeda García Garrido), Madrid: Cátedra 2017, 483 p., ISBN 978-84-376-3641-2

1 MARIO SBRICCOLI, *Crimen laesae maiestatis. Il problema del reato politico alle soglie della scienza penalistica moderna*, Milan 1974.

used in cases such as the sentencing of Martín Cortés in 1573 for his Mexican conspiracy of 1565–1566, whereas the internal juridical arguments of *audiencia* officials or members of the *Consejo de Indias* did apply the vocabulary of high treason for insurrections opposing royal authority. According to Salinero's hypothesis, such a difference between an internal assessment and a public proclamation of convictions was due to the authorities' political interest in an »edificación moral de los colonos« (24). Other insightful passages refer to the legal semantics of related concepts. The term *tiranía*, for instance, was used by prosecutors to condemn alleged rebels – who, in turn, legitimated their actions as against the »tyranny of the king«, often in the name of »liberty« (21–23, 32–33).

The book's structure consists of four main parts: the first and last parts deal with Mexico, framing the two Andean parts in the middle. »Hombres de mala corte« is not only the book's telling title but that of the first chapter, too. Salinero here uses the fate of Bernardino Maldonado to illustrate the international scope of prosecuting crimes of treason. Maldonado's judicial prosecution involved proceedings in Peru, Mexico, Spain, France and Flanders (39–56). He was finally executed in Antwerp in 1575. Regarding New Spain, the author covers the rebellion of Taxco (1550) before moving on to the fragmented frontier of the Gran Chichimeca in Nueva Galicia where »traitors« could easily hide. In order to implement governance reforms in New Spain and to prevent future revolts, the Crown dispatched *visitadores*, such as Tello de Sandoval, whose reform programme recommended the establishment of a royal army and the creation of dioceses in each province (114).

The second part of the book deals with »the laboratory of the monarchy«, Peru. The »Pizarrist« rebellion of the 1540s and its legitimation soon served as blue-prints for insurrectionary movements in other Spanish American regions. In the wake of the conquest, Francisco Pizarro and his (half-)brothers upheld an extended network of supporters and allies which proved to be more efficient than the feeble administrative institutions.

Between 1544 and 1548, Gonzalo Pizarro led a major rebellion in the Andes. In letters to the king and in treatises, e.g. Juan Coronel's *De bello justo*, the rebels and their legal advisers legitimized their deeds and denied the accusation of disobedience. Their arguments – studied by Guillermo Lohmann Villena in 1977² – stemmed from the normative universe of *ius commune*, Castilian *iura propria*, and natural and divine law.

Gonzalo Pizarro's main antagonist was Pedro de La Gasca, *comisario* and *presidente de la audiencia* sent to Peru by Emperor Charles V in 1547. With a set of measures combining carrot and stick, he won back supporters for the royal cause. After the battle of Xaquixaguana (April 1548), Gonzalo Pizarro was sentenced to death as a traitor and decapitated the day after, together with about twenty other rebels. Their severed heads and extremities were exposed in Peruvian towns as a deterrent. Faced with having to judge nearly a thousand men accused of insurgency, La Gasca made use of different types of lists (to identify rebels and to document their sentences), which Salinero analyzes carefully (184–190). About 700 sentences were passed, which overwhelmingly aimed at the deportation of rebels from the region (service on galleys, military expeditions to Chile, exile from Peru). Condemnation and confiscation went hand in hand, even against dead rebels, as a number of trials against their memory illustrate. Priests who had backed the rebellion were punished by bishops according to canon law: some were defrocked and exiled (like Juan Coronel), others were sentenced to the conventual life.

When he left Peru in 1550, La Gasca had suppressed the Pizarrist rebellion but not achieved a long-lasting »pacification« of that *reino*; he even granted more *encomiendas*. The book's third part, »Las réplicas de la desobediencia«, focuses on revolts in High Peru and the Cuzco region during the 1550s, which cost the lives of about 500 Spaniards and more than 2000 *indios*. After treating the cases of Sebastián de Castilla and Egas de Guzmán in the cities of La Plata and Potosí (1553–1554), the author discusses »one of the first

2 GUILLERMO LOHMANN VILLENA, *Las ideas jurídico-políticas en la rebelión de Gonzalo Pizarro: la tramoya doctrinal del levantamiento contra las Leyes Nuevas en el Perú*, Valladolid 1977.

great political trials of the Indies against a rebel« (227), that of Vasco Godínez, executed in 1553. Salinero stresses that these sentences were no longer passed quickly on the basis of lists but as a result of trials involving testimonies and judicial disquisitions – a step towards the »judicialización del ámbito de lo político« (240).

Not only did news about the Peruvian turmoil spread quickly in Spanish America, but some of the people involved in the Andean revolts circulated, too, including to Mesoamerica. The fourth part of the book examines Cortés' conspiracy of 1565–1566 in Mexico. Martín Cortés was the only legitimate son of the infamous *conquistador* Hernán Cortés, *marqués del Valle de Oaxaca*. Salinero describes the different phases of the conspiracy and reconstructs its »circles«. However, before the rebellion could break out, the *oidores* of Mexico were informed and, in July 1566, initiated judicial proceedings against the presumed traitors. Salinero carefully examines the rich material – in particular the denunciators' rhetoric – of these 70 legal cases drawn from the prosecutors' investigations into various social and religious contexts. Of particular interest is the complementary treatment of »confesión judicial« and »confesión espiritual« (345–350). Before a new viceroy arrived in New Spain in October 1566, the *oidores* had arrested about 30 traitors. After an exemplary political trial, Alonso de Avila and Gil González were decapitated. A period of intense repression against the rebels began when the two royal *comisarios* Muñoz and Carrillo reached Mexico. They sentenced 68 persons in November 1567: about 40 men were expelled from Mexico, and ten publicly executed (399–400). Salinero vividly describes the trials of major suspects and their defense strategies. Among them, Martín Cortés' brothers, Luis and Martín »el mestizo«, were exiled to Spain.

Trials against rebels could be very short – as in summary procedures – or last for years if they involved higher judicial instances in Spain. The latter was the case regarding the trial of the principal suspect of the Mexican *coniuratio*: Martín Cortés. The Mexican judges sent him to Spain for further trial in 1567. Five years after the accusation was made, the first sentence was pronounced in Madrid in 1571: permanent expulsion from America and ten years of military service in Oran in Northern Africa. The subsequent phase of appeal ended in 1573, reaffirming the sentence. Cortés had to pay a fine of 50 000 *ducados* as well as the

legal expenses of the trial, which had lasted for seven years. Surprisingly, not all of his property was confiscated, nor was he deprived of his noble title of *marqués* (435). Between 1567 and 1573, he was held in the prison of Torrejón de Velasco. It is not known whether he served his sentence in Oran, returned to prison, or received a mitigation of punishment. By 1582, however, Martín Cortés can be found again doing business at the royal court of Philip II, and he died as a free man in Madrid in 1589.

Despite the differences between this Mexican complot and the rebellions which afflicted the Andean region for nearly twenty years, both examples of disobedience threatened the Spanish colonial project in America and represented »frontiers of authority«, as the concluding chapter is entitled (443–453). Salinero sketches their topography only briefly, however. Within the »dominio poli-periférico« of the »monarquías indianas« (445), he identifies interior frontier regions dominated by *encomenderos* who did not respect the authority of the *audiencias*, as well as territories beyond the Crown's control where rebels could take refuge. He describes as external frontier regions the areas to which potential or convicted rebels were exiled. In the end, the author concludes, the Crown was able to reconquer the Spanish American frontiers of authority: it won the military conflicts, the juridical fights, and the war of memory (452).

In sum, this book of about 450 pages constitutes an intriguing narrative history of the post-conquest period in Spanish America, focusing on various movements of Spaniards' disobedience and the colonial authorities' political and legal responses. Gregorio Salinero presents a fine selection of case studies from the Mexican and Peruvian vicerealties, which are described based on archival material (from the *Archivo General de Indias* in Sevilla) and edited sources (published in multiple *Colecciones de documentos inéditos*); in addition, he also draws on *crónicas*. His close reading of the sources and his compelling prose convey the differentiated role of social groups involved in disobedient activities: secular and religious ones (priests as well as mendicant friars), aristocrats and lower classes alike. This impressive »cast«, listed in a useful onomastic index (467–483), includes fascinating biographies and allows striking comparisons between different regions.

The author depicts a wide spectrum of legal-political responses to insurrections: from pre-emp-

tive pardons (*perdones*) and financial sanctions to deportation and capital punishment. From a legal historical perspective, further aspects of his analysis are of special interest: the casuistic interpretation of the *crimen laesae maiestatis*, the use of »prácticas del secreto administrativo y judicial«, and the reconstruction of both the rebels' and the Crown's normative arguments. Some of the rebels' causes revealed an early Creole consciousness, because they aimed for a government represented by American Spaniards. The Spanish authorities, on the other hand, do not appear homogeneous either, as the discrepancies and conflicts among the different representatives of colonial power show. The author pays close attention to both inter-American and trans-Atlantic entanglements. He illustrates the mobility of people as well as the circulation of ideas between Mesoamerica, the Andes and Europe – and even mentions a »trans-American network of rebels« (205).

This broader perspective distinguishes the book from more regional studies focusing on particular American rebellions. Salinero includes these works in the comprehensive bibliography (455–466) but cites pertinent works too rarely in the footnotes, if at all. (A few names are misspelled, such as Schwartzhoff for Schwerhoff, or Zavalza instead of Zavala.) Furthermore, the reader would have profited from a consideration of other relevant aspects. For instance, there is no discussion of the suppression of municipal revolts in Spain itself (e.g. the Castilian *Comunidades* in the early 1520s). Moreover, although some indigenous allies of Spanish rebels are mentioned, a parallel look at indigenous revolts, which took place simultane-

ously with inter-Spanish ones in America, could have revealed differences or similarities as to the colonial reactions to both phenomena.

Salinero considers the judicial treatment of the political sphere as an effective means of disciplining subjects (451). However, it would be worth discussing whether this aspect was the only or even the decisive one for implementing codes of conduct and modes of behavioural control in the viceroalties that helped to impede insurrectional movements. Or were the establishment of colonial rule and the »moral edification« of the population rather due to a more efficient colonial administration from the 1570s onward – think of viceroys such as Martín Enríquez in New Spain (1568–1580) and Francisco de Toledo in Peru (1569–1581) or of Post-Tridentine ecclesiastic institutions and actors? Despite its subtitle, the book focuses more on the turmoil in the Indies during the mid-16th century (from the late 1540s to the early 1570s) than on the century's second half. A brief sketch of the major developments of the last three decades of the 16th century would have made it possible for the author to bring out the specific character of the period studied in contrast to the subsequent one. Nevertheless, readers of this well-written monograph will find much inspiration for further questions, such as comparing the Spanish American disobediences with rebellions in other European and non-European regions during the early modern period. Some answers might be offered by a recently published collective volume on rebellious paradigms co-edited by Salinero.³



3 GREGORIO SALINERO, ÁGUEDA GARCÍA GARRIDO et al. (eds.), *Paradigmes rebelles. Pratiques et cultures de la désobéissance à l'époque moderne*, Brussels 2018.