

Michelle A. McKinley. *Fractional Freedoms: Slavery, Intimacy, and Legal Mobilization in Colonial Lima, 1600-1700.* Studies in Legal History Series. Cambridge: Cambridge University Press, 2016. 294 pp. \$99.99, cloth, ISBN 978-1-107-16898-5.

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In *Fractional Freedoms*, Michelle A. McKinley invites us to the intimate domestic spaces of seventeenth-century Lima and surprises us with the legal acumen, resourcefulness, and determination of enslaved women to achieve freedom. Spanish law, codified in the thirteenth-century *Siete Partidas* and brought to the American colonies, characterized slavery as “an unfortunate and unnatural condition” and therefore provided some pathways toward liberty, although long and difficult (p. 241). In colonial Spanish American societies, it was common for enslaved people to work with some measure of autonomy and for slaves to keep a portion of their earnings or do extra work for cash. Legal freedom was a possibility, either through self-purchase or manumission, and enslaved women in Lima actively planned, worked, and negotiated to achieve their own liberty. As the title suggests, the author argues that complete freedom was elusive because ties of dependency delayed legal liberty or kept slaves close to former owners even after manumission or self-purchase. These opportunities for freedom occurred in a society where “law mattered” (p. 241), and where female slaves actively pursued a better life by bringing suits in ecclesiastical court to compel owners to honor self-purchase or manumission

promises, or to uphold marital rights, among other matters.

The author’s purpose is to explore slaves as “legal protagonists,” showing “instances in the lives of enslaved women when they acted as subjects rather than human property” (p. 2). McKinley studied legal cases in the Archbishop’s court brought by enslaved women, or where female slaves were subjects of suits or petitions. Throughout the work, she details how slaves collected and transmitted legal knowledge, and why they put themselves through the time, expense, and aggravation of painfully slow legal processes, “when the chances of favorable outcomes were negligible” (p. 6). In the process, she creates a “legal ethnohistory” of enslaved women in Lima, with remarkable detail, painstakingly gathered in biographical and cultural research (p. 239).

McKinley provides a nuanced approach to the legal history of slavery. She keeps the structure of Spanish American slavery law, as described by Frank Tannenbaum and others, as a starting point of her investigations of individual cases, while continuing the line of recent historiography, which explores the relative importance of structure and culture in the real application of the law. Throughout the book, she focuses on enslaved women’s agency in claiming legal opportunities

for partial or complete liberty. Central to this focus is the idea that “apertures—or fissures—in slavery’s legal edifice could be wedged open when claims were brought within a jurisprudential framework that valued liberty” (p. 9). She shows that enslaved women had more space to maneuver and more structural support from the church and the courts than was previously thought. However, the reader is left with the view that although slaves were treated in some instances as persons before the law, especially in marital rights cases, slaves’ status as legal property was always the default legal and social reality. Although the law and the institutional church discouraged slavery, elite Lima society supported it, including priests and nuns, who, like other owners, consistently fought to uphold their property rights in slaves. Even in manumissions, which had been viewed by previous generations of historians as benevolent acts by owners, McKinley shows that money changed hands to affect freedom for enslaved children, while slaves and owners negotiated manumission as a form of deferred liberty, in exchange for a female slave’s promise to stay with an elderly or infirm owner. Overall the book deepens our understanding of the complexity of this “society with slaves,” and even when compared to the rigidity and hopelessness of North American slavery, we are reminded that all slaves suffered under bondage.

Fractional Freedoms breaks new ground in a number of significant ways. The seventeenth century is under-studied in Latin American colonial history in general, and certainly in legal history, so McKinley’s work is a welcome addition. Similarly, ecclesiastical courts and proceedings have been relatively neglected as historical sources, in comparison to cases before the secular *Real Audiencia* or royal court. Chapter 1 takes us into the world of the court, with one of the clearest and most detailed descriptions yet written of legal personnel, processes, history, and role of courts. It explores how slave litigants could access this world, and surprisingly, how courts pursued due process

in slaves’ cases. We find that the church took an active role in bringing slave owners to account in legal actions. One of McKinley’s most significant contributions is her scholarship on *censuras hasta anatema*, church summons for defendants to appear and respond to suits brought against them, on pain of excommunication, and for parishioners to aid in court investigations and “relieve their consciences” with pertinent information (p. 50). Chapter 2 explores cases and complaints surrounding slaves’ marital rights. The church upheld the principle of free marriage for all, slave and free, as well as the conjugal rights associated with marriage. Church courts compelled visitation for married slaves of different owners, and enslaved women and men used legal means to prevent separation when spouses were relocated against their will. Chapters 3 and 4 look at the effect of long-term, close relationships between slaves and owners, and the legal outcome of affective ties, such as testamentary manumissions or the baptismal manumission of slave children. McKinley shows the true affection of owners for some slaves, evident even in formulaic notarial and court documents, and the reality that even when loved by owners, slaves had to strive for freedom by negotiating and paying for manumission with service or cash. Chapters 5 and 6 build on this point by focusing on slaves’ experiences in society and law as both property and persons. Chapter 5 explores the case of a woman who appropriated her own status as property in a legal suit against heirs unwilling to grant her manumission, and chapter 6 describes redhibition lawsuits, where buyers sued sellers of “faulty” slaves, so described because of illness, infirmity, or supposed character flaws (p. 18).

This book is an exciting and noteworthy read for students of slavery, legal history, or the Latin American colonial world. McKinley brings a wealth of legal knowledge to bear on the cases detailed in her study, giving the reader a glimpse behind the curtain of the formalistic notarial and court records, to a view of the legal system as it

was practiced and experienced, not just theorized. At every juncture, the author analyzes the cases as extraordinary or common, the legal issues and history involved in the proceedings, and the impact of the particular legal action on our general understanding of slaves in Lima and in the Atlantic world. The details gleaned from Lima's archives bring to life the characters, as well as the daily rhythm of the city, making this work valuable for students of colonial society and culture for that alone. McKinley seems to love the archive and the people she found there. The reader is slightly overburdened with details and characters to keep straight, but overall, it is well worth the effort.

The work also elicits a couple of questions, anticipated by the author but not fully explored. First is the question one could ask of all microhistories: were the cases discussed and so thoroughly analyzed either representative of more generalized experience or indicative of norms through the exposition of exceptions to norms? The cases clearly show what was possible in the colonial legal system, a valuable addition to the historiography in itself, but did they show what was probable in terms of slaves' experiences with the law? There is not enough information available to answer these questions. Second, how did the gender of plaintiffs affect the reception and processing of suits brought before ecclesiastical courts? The study focuses on women slaves' experiences with the law but not necessarily the legal community's gendered approach to women as "legal protagonists" or on differences, if any, between female and male enslaved plaintiffs.

This remarkable book is a valuable contribution to the legal history of slaves and slavery, social and cultural studies of urban Latin America, and colonial history. The wealth of historiographical and legal connections the author provides make it a pleasure to read, and it will certainly be an important impetus for further research.

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