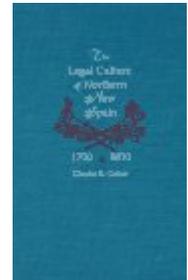




Charles R. Cutter. *The Legal Culture of Northern New Spain, 1700-1810.* Albuquerque: University of New Mexico Press, 1995. xii + 227 pp. \$39.95, cloth, ISBN 978-0-8263-1641-7.



Reviewed by Victor M. Uribe-Uran

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This is the most recent addition to the legal historical literature on colonial Mexico. It looks at the workings of ordinary (that is, non-ecclesiastical and non-military) colonial Spanish law in New Spain's (today's Mexico) peripheral areas of New Mexico and Texas during the eighteenth and early nineteenth centuries. Charles Cutter, who teaches at Purdue University's Department of History, argues that the operation of the law in such peripheries was probably more representative of what happened in New Spain as a whole than was the legal practice and culture of large metropolitan areas.

Relying on more than six hundred civil and criminal cases (which are acknowledged to be only a fragment of the legal actions developed at the time--others were not recorded, or the records have been lost), Cutter discusses in detail the formal legal institutions (most of them part of the *derecho indiano*), the authorities, and the procedures that prevailed in this outlying region. To be sure, he also pays attention to the role of customary law and *equidad* ("communally defined sense of fairness," p. 34) in the adjudication of cases. He insists throughout that the maintenance of social

harmony and the satisfaction of people's expectations were key guiding principles for magistrates.

Cutter's revisionist work reiterates continually that Spain's colonial law and legal officials had a significant impact on people's daily lives and were generally more attuned to the people's needs than many historians today are willing to concede. Magistrates, for instance, are said to have "sought equitable solutions, and avoided excessive legalism" (p. 10). It further asserts that New Mexico and Texas yield little evidence of nepotism or collusion of high-ranking magistrates with local elite groups, and even those local settlers who, in their capacity as *alcaldes ordinarios*, participated in the administration of justice, were not as corrupt as has been argued. They "acted responsibly" and mediated social conflict in a proper way (p. 102).

This will be quite a controversial book. Its ideal vision of the functioning of colonial law and society presents a few major problems. It does not establish a dialogue with recent social historians and ethnologists, particularly Steve J. Stern and Susan Kellogg, who have demonstrated the key role that colonial law played in the development

of Spain's hegemony in the New World. It does refer in one passage to the "consensual hegemony" symbolized by justice administration in colonial Spanish America (p. 148). This comment, though, is a little confusing because hegemony is by its very nature consensual. Second, Cutter's work does not discuss the abundant comparative evidence of nepotism, corruption, and family networking in the colonial bureaucracy of numerous regions of colonial Latin America. One wonders whether New Mexico and Texas were exceptional places, which Cutter comes close to suggesting (p. 148), but which does not seem to have been quite the case judging by the research of, among others, Ramon Gutierrez (*When Jesus Came the Corn Mothers Went Away: Marriage, Sexuality and Power in New Mexico, 1500-1846*, Stanford University Press, 1991).

These and other minor quibbles aside, Charles Cutter's new book is a welcome addition to a field of research that is starting to produce significant developments. Cutter's own previous works on the Corregidor de Indios and the legal procedures of eighteenth-century New Spain are among such developments. He and a few others should be credited for reawakening attention on an important dimension of Latin American history.

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