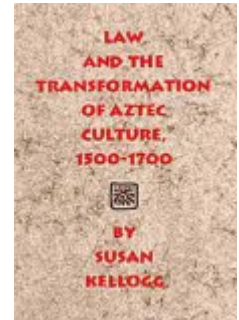


Susan Kellogg. *Law and the Transformation of Aztec Culture, 1500-1700.* Norman: University of Oklahoma Press, 1995. xxxiii + 285 pp. \$34.50, cloth, ISBN 978-0-8061-2702-6.



Reviewed by Edward B. Sisson

Published on H-LatAm (July, 1995)

This work makes significant, specific contributions to the social history of early colonial Mexico City. Attention focuses on changes in kinship, family structure, household size and composition, gender roles, and property ownership. The work also demonstrates how law and the courts diffused and channeled indigenous dissent, helped transformed indigenous society, and helped establish, without violence, Spanish hegemony. In a broader sense, the work makes contributions to the study of the Spanish colonial enterprise in the New World and to the study of Spanish colonial legal history.

According to Kellogg (p. 214), "During the early colonial period, the court system served as a critical arena of cultural conflict and transformation. The courts served both as an instrument of cultural resistance - through which the Mexica contested colonial authority, sought redress for political and economic grievances, resisted tribute and labor demands, and opposed Spanish encroachment on Mexica lands -and as an instrument of cultural conversion and acculturation."

Data analyzed by Kellogg are extracted from the surviving documents from 73 legal cases heard by the Real Audiencia between the 1530s and 1700. The bulk of these (55) are from the 16th century. These case records give voice to over 900 Indian men and women who would be otherwise voiceless. A second and equally important source of data is the analysis of 63 wills written in Mexico City between 1550 and 1700.

The Mexica were the Nahuatl-speaking inhabitants of Tenochtitlan, what is today the heart of Mexico City. They were also the dominant power in the alliance with the Tepanec of Tlacopan and the Alcolhua of Texcoco, the alliance which is most commonly known as the Aztec Empire. These people, the Mexica, are the focus of Kellogg's study.

In spite of their crushing defeat at the hands of Cortes and his lieutenants, the Mexica were not passive participants in the Colonial legal system. They participated actively and attempted to use the courts to their own advantage against both Spanish and other Mexica opponents. Kellogg argues that this active participation in the evolving

Colonial legal system both diffused and channeled indigenous dissent and contributed to the nonviolent establishment of Spanish Colonial hegemony. Furthermore, "the colonial legal system became... a powerful tool of acculturation, profoundly altering Mexica... conceptions of family, property, and gender (p. xxix)."

A brief summary of the contents of the book follows. This is then followed by a short discussion of its place in the literature on early colonial society.

Chapter one is entitled "Actors in the Archive" and focuses on the categories of people involved in litigation: the oidores of the Real Audiencia, the lawyers, the indigenous officials, the litigants, and the witnesses. The number of oidores grew from an original 4 to 12 by 1700. Originally paternally protective of Mexica rights, the oidores became less so in the 17th century. Lawyers became increasingly important through time and more visible in the court records. Mexica litigants and witnesses, on the other hand, were increasingly represented only in written documents and were less frequently heard directly by the oidores. Indigenous litigants included both elite and nonelite; but, elite litigants more often received favorable judgements. Mexica ethnicity was advantageous in suits involving Spaniards in early cases but became less so in the 17th century. Women were important as litigants throughout the period; but, after 1600 they appeared less frequently as independent actors. By 1700 indigenous women were reduced to the status of legal minors.

Chapter two is entitled "Social Dramas as Narratives; Texts, Representations and Symbols". Here Kellogg examines the statements of litigants and witnesses as social constructs and argues that "...the very process of enacting social dramas through the written legal procedures... exerted strong acculturative influence" (p. 37). "...Indians, through their strategic, rhetorical, and symbolic efforts, were able to exert a significant influence on the outcomes of specific lawsuits. Yet the prac-

tices and procedures involved in presenting cases before the audiencia, especially the shifting rhetoric for portraying social dramas, provided equally strong influences on Mexica conceptions of property, personhood, time, and kinship" (p.82).

Chapter three entitled "Land and the Transformation of Women's Roles" discusses the transformation of gender roles. In pre-Hispanic times, men and women had parallel and complementary roles in the economic, political, religious and family household spheres. Although women did not have access to the highest statuses, especially in the political and military sectors, they were significant and independent actors in most realms of life. In part their independence in both the pre-Hispanic and early colonial periods was based on their access to property and their labor contributions to the economy.

The decline and disappearance of native institutions and the development of Spanish colonial law contributed to the decline in the status and independence of women. Especially critical was the emphasis placed upon the nuclear family and the husband's role within it. Because of demographic factors immediately after the Conquest, the death of so many males, the role and status of women was initially enhanced. By 1700, however, they were reduced to the status of legal minors and represented before the court by their husband.

Chapter four entitled "Wills, Property and People" is based on the analysis of 63 wills from Mexico City. The writing of wills was a Spanish introduction. The clergy encouraged the writing of wills and provided instruction on what constituted a proper will. This practice influenced Mexica concepts of property and inheritance.

Mexica kinship was cognatic. Kinship ties were traced through both male and female lines from individual egos. Inheritance was also through both males and females; and, land, property and movable goods could be divided for the purpose of inheritance. Lineal and collateral relatives were favored in inheritance over spouses. In

early wills, women tended to favor female inheritors; and sons received little.

Later wills demonstrate a decline in the size of Mexica households, a greater emphasis on patrilineal and nuclear family relationships, the growing impoverishment of Mexica families, more marital and family stress, and greater emphasis on movable goods especially Christian items.

In the chapter entitled "Law and the Changing Family Structure", Kellogg describes four transformations which occurred in Mexica family structure. These are: 1) the decline in the importance of kin groups larger than the nuclear family, groups which had structured inheritance and property ownership; 2) the replacement of complex multifamily households by smaller, simpler households based on the married couple or on parent - child pairs; 3) a new emphasis on the married couple with monogamous marriage sanctified by the Catholic Church as the new norm; and 4) a more varied pattern of postmarital residence. Kellogg argues that the causes of these transformations may be found 1) in the demographic disaster of early colonial period; 2) in the imposition of tribute obligations on the residents of Mexico City in 1564; 3) in the introduction of the Spanish legal system; and 4) in the introduction of Catholicism.

Multifamily households were replaced by nuclear families. The husband's authority over the wife replaced the independent woman who occupied roles parallel and complementary to those of the man. An emphasis on sibling and intergenerational ties was replaced by patrilineal ties.

In summary, "by 1700, it was clear that the Mexica impulse for self-determination was to be asserted through two primary Spanish colonial institutions: the courts and the Church. Yet in these arenas this impulse was subject to constant acculturative pressures and coercion (p. 212).

...the court system helped to shape and limit the authority of the Spanish colonial state, on the

other hand, it also played a pivotal role in consolidating Spanish cultural hegemony... Mexica reliance on colonial legal institutions undercut the authority of indigenous officials, tied the Mexica to Spanish authorities, and weakened any sense of a separate Mexica sovereignty.

...the law played a critical role in defining and disseminating new conceptions of property, family and kinship, and gender relationships" (pp. 214-215).

In the last forty years, there has developed a cadre of ethnohistorians with an interest in the pre-Hispanic societies of central and southern Mexico and in their transformation as a consequence of the Spanish Conquest. Building on the work of their predecessors, these younger scholars have relied more heavily on analyses of the voluminous local documents generated by the colonial government of New Spain. Nowhere has this research been more intense than in the Valley of Mexico. As a consequence of this more detailed examination of local documents, the general, monolithic picture of pre-Hispanic societies and of early colonial society is being replaced by a more textured one in which local and regional variation is apparent. Kellogg is one of these younger scholars who is actively contributing to this more textured picture.

As Kellogg makes abundantly clear in this work, detailed analyses of court records and wills not only add details important for an understanding of social history but they also give voice to the indigenous peoples in general and to women in specific. In earlier general histories these voices were muted or unheard. In her superb, recently-published commentary on the *Codex Telleriano-Remensis*, the art historian Eloise Quinones Keber (p. 244) remarks that "the *Codex Telleriano-Remensis* contributes to the conversation of humankind, which requires for its fulfillment that the conversation be joined by all. It retrieves voices long unheard in the conversation and joins other voices similarly retrieved." Kellogg's work

helps Mexica men and women join the conversation.

Kellogg sees her work as the "via media" between two major paradigms for understanding the history of indigenous central Mexican societies following the Conquest. One, the earlier, stressed the transformation and Hispanicization of indigenous societies. The other stresses the continuities within indigenous societies and the survival of "distinctive cultural values and behaviors." Kellogg (xxii), however, stresses "... a process of cultural transformation in which Indians drew on both pre-Hispanic traditions and practices and Spanish values and practices to create a new cultural synthesis." This seems a logical and reasonable approach; but, one which will only be successful to the extent that Indian voices are heard along with Spanish and Creole ones.

Note:

Eloise Quinonesk Keber, *Codex Telleriano-Remensis: Ritual Divination and History in a Pictorial Aztec Manuscript*. Austin, University of Texas Press, 1995).

Copyright (c) 1996 by H-Net, all rights reserved. This work may be copied for non-profit educational use if proper credit is given to the author and the list. For other permission, please contact H-Net@H-Net.MSU.EDU.

If there is additional discussion of this review, you may access it through the network, at

<https://networks.h-net.org/h-latam>

Citation: Edward B. Sisson. Review of Kellogg, Susan. *Law and the Transformation of Aztec Culture, 1500-1700*. H-LatAm, H-Net Reviews. July, 1995.

URL: <https://www.h-net.org/reviews/showrev.php?id=93>



This work is licensed under a Creative Commons Attribution-Noncommercial-No Derivative Works 3.0 United States License.