Legal Documents as a Source for Ethnohistory

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WHEN I WAS A SENIOR in college—during the fall semester of 1973 at SUNY Buffalo—I heard a talk by Professor Edward Calnek of the anthropology department of the University of Rochester. I guess you could say that talk changed my life. I was somewhat familiar with the “Aztecs,” having been in a class on comparative urbanism taught by Warren Barbour (a former student of René Millon, also of the University of Rochester), but Ed gave a lecture that was challenging, eye-opening really, and in that very low-key but slyly humorous way of his, he introduced me to the idea that would shape my intellectual and professional life, i.e., that one could use the concepts and tools of anthropology to interpret historical documents.¹ In this essay, I trace how I came to develop that idea into what eventually became my Law and the Transformation of Aztec Culture, 1500-1700 (1995), focusing especially on the changing ways legal documents have been used as an ethnohistorical source.

As Ed sat on the desk at the front of the room chain smoking (his preferred style of lecturing in all the years I studied with him), he talked about Tenochtitlan, its urban history in comparison to that of other prehispanic Mesoamerican cities, especially Teotihuacan, its layout and housing, and the chinampas (raised garden plots surrounded by water) and their economic significance in Tenochtitlan’s economy. But even more significant was his discussion of sources, lawsuits over property, most of them housed in the Archivo General de la Nación in Mexico City (AGN). Ed talked about the words and images embedded in these ancient texts, many dating back to the mid- to late-sixteenth century. He also mentioned that some texts were in Nahuatl, the language spoken by the Mexica (the inhabitants of Tenochtitlan) and other related peoples throughout central Mexico. Having intended to study cultural anthropology, perhaps in the Middle East (after reading Elizabeth Fernea’s still-moving and insightful book, Guests of the Sheik, that same fall—obviously an impressionable period in my life), I grew steadily more interested in Mesoamerican archaeology and ethnohistory and decided to undertake graduate study at the University of Rochester.

It was there in the fall of 1974 that I met the second scholar to influence my thinking, René Millon, whose mapping project of the site of Teotihuacan had just been published.² The synergy between René’s and Ed’s projects was deeply felt, and while I thought my deepest interest lay in ethnohistory, studying archaeology with René Millon was challenging and exciting. He constantly reinforced three useful ideas for thinking about how to approach the historical study of native peoples. The first is that the present is relevant to interpreting the past; second,
and not unrelated, was that world ethnography could and should be used in archaeological and ethnohistorical interpretation; and, third, that all places, even urban settings like Tenochtitlan, that seem unique, should be interpreted in the light of a comparative perspective. Ultimately I decided that I preferred archives to digging up dirt, and that decision took me to Mexico City in early 1977. There I would meet the third scholar who had a great impact on my intellectual development, James Lockhart.

I already knew from discussions with Calnek and from looking at photocopies and microfilm that documents in Nahuatl were scattered among the thousands of pages in the *ramo* (section) Tierras of the AGN, a voluminous collection of documents dealing with land and property conflicts. As I began struggling to read the sixteenth-century documents in Spanish, it dawned on me that I was finding much more Nahuatl documentation than expected. Having made an effort to learn some Nahuatl at Rochester, I soon realized that I would have to learn more and began to study with the late Thelma Sullivan, a well-known scholar of Nahuatl who resided in Mexico City.³

Later that spring I met Jim Lockhart for the first time. My first impressions were lasting: his indefatigability and his determination to find and translate every last Nahuatl document still remain vivid memories to this day. The incredible volume of work he has published over the last quarter century bears out these impressions.⁴ His devotion to teaching also struck me—he treated anyone junior working in the area of Nahuatl documents as someone to whom he could impart information and advice. I also had the good fortune over the years to meet many of his students. In Mexico City, I especially got to know Sarah Cline, working then on the Culhuacan testaments.⁵ Passing on leads and documents, occasionally helping each other out with paleography or translations, informal collaborations with Jim, Sarah, and others proved beneficial for my research and undermined my assumption that ethnohistory was a solitary pursuit in contrast to the team approach of archaeology.⁶

Amidst the adjustment to life in Mexico City, I still faced reading all those documents in search of information on “Aztec” kinship and family structures.⁷

³Among her significant works are 1976 and 1982.

⁴Lockhart’s writings are cited throughout this volume. Those with particular significance for my work include 1985 (now in an updated version in 1999), 1991, and 1992. See also see Anderson, Berdan, and Lockhart 1976. Much related work is reviewed in Restall 2003.

⁵See Cline and León-Portilla 1984 and Cline 1986.

⁶Most important among others was Ross Hassig, a very prolific ethnohistorian who has concentrated more on the prehispanic period. For the book that came out of his dissertation, see Hassig 1985.

⁷While archaeologists continue to use “Aztec” for both the expansionist Triple Alliance empire or state of the late Postclassic period and the broad conglomeration of Nahuatl-speaking peoples of Central Mexico, historians prefer “Nahua” for the latter meaning, since the term Aztec was a little used secondary appellation and in any case referred only to the Mexica of Tenochtitlan and Tlatelolco. The term “Mexica” is used here to refer to the ethnic group inhabiting Tenochtitlan and Tlatelolco and who dominated political and economic activity across and beyond the Valley (or Basin) of Mexico.
The goal of my dissertation was to reconstruct Mexica kinship, family, and household structures in the prehispanic period in the same fashion as would a social anthropologist who worked with contemporary people. The Nahuatl documents embedded in the Tierras lawsuits proved to be invaluable in this inquiry, however illusory my goal ultimately proved to be.

The reason for concentrating heavily on Tierras’ Mexico City documents was in part that they were the earliest and richest source for shedding some archivally-based light on late prehispanic Tenochtitlan, and in part because thinking like an ethnographer demanded an intense focus on something like a local community, even if the one I chose was a large urban center, in order to comprehend its networks of social relationships. If other ramos (such as Hospital de Jesús and Indios), archives (the Bibliothèque Nationale de Paris or the Archivo de Notarías del Distrito Federal), and sources (parish records microfilmed by the Mormons) proved valuable, Tierras lawsuits (in which at least one side comprised indigenous litigants, residents of either San Juan Tenochtitlan or Santiago Tlatelolco, the native sectors or parcialidades as the Spanish termed them of what became Mexico City of which there were some seventy cases, with several others coming from different ramos or archives for a total of seventy-three) remained at the core of my study. The documentation produced by Tierras litigation over property, ranging from small urban house sites to huge rural estates, typically includes statements by plaintiffs and defendants, lists of questions known as interrogatorios to be answered by each party’s witnesses which together with witnesses’ answers are called probanzas; the testimony of expert witnesses; documentation submitted to prove claims (including bills of sale, drawings and maps, and wills); petitions and summaries presented by lawyers; and officials’ and judges’ decisions, along with some evidence of earlier attempts at conflict resolution at lower levels. In reading such records, I realized that I could not simply begin by extracting information on kinship ties and family relations; rather I first had to comprehend the legal process that was shaping the documentation and kinds of information embedded in it.

That wills, sixty-three in total from the years 1548 to 1699 (drawn up for individuals who were resident in Mexico City), many in Nahuatl, some in Spanish, were an especially important source of data about family, kinship, gender, property, and changing religious beliefs, and that the Spanish translations of them were not always accurate also became apparent. Wills proved to be a particularly rich source for a number of reasons. They provide an image of an individual at a particular point in time, reflect an individual’s accounting of his or her social relations and rights to property past and present, permit examination of variations in patterns of ownership, family structures, even expressions of piety at one time or over time, and they allow comparison of gendered patternings of social and material relations. Comparison of early colonial Spanish wills and those made by indigenous inhabitants of the Mexico City region also showed that while Spanish law and procedure influenced indigenous testament production, indigenous testaments reflected distinctive patterns of language, social relations, changing forms

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8On wills as sources of data for Nahua and other Mesoamerican and Latin American native peoples, see the essays in Kellogg and Restall 1998.
of economic organization, along with transformations in forms of property ownership and customary practices regarding its transmission. Analysis of colonial indigenous testaments also offers insight into how the practice of writing wills developed and spread and the role such texts played in changing legal strategies.9

But before any such analysis could be undertaken, an intensive period of archival research began. In this period I focused on Tierras cases and related documents in other ramos and archives, translated Nahuatl documents, especially the wills, re-read chronicles and codices in light of what I was finding archivally, and read more about the colonial period, especially Spanish law. One of the single most exciting days was when I found a document in which a witness spoke about a Mexica kinship concept, tlacamecayotl (person-rope, cord of people), that informants for Sahagún’s Florentine Codex, had mentioned but without very much detail.10 I still remember staring at a photocopy because I was having trouble deciphering the writing, when all of a sudden I realized that the document was talking about this kinship-related term. Reading the handwriting and interpreting the meaning and significance of the term of course turned out to be two quite different tasks.

Because even ethnographers cannot expect to find kinship groups as clearly defined and unambiguously structured as earlier anthropologists made them out to be, interpreting the meaning of fragmentary historical data and ambiguous clues can never be easy or straightforward, and scholarly disagreement must be expected. Thus some scholars believe that households constitute the only significant kin-related grouping in Nahua societies. Others argue that lordly households form the basis for significant and complex kin-based units. Still others contend that kin-based units beyond the level of the household existed at all socioeconomic levels of society. This interpretation emphasizes that the concept of tlacamecayotl constitutes the basis for a cognatic descent structure that combined elements of a kindred (a unit of kin as defined by an individual person) with a lineage structure (a line of descent connecting living people to an ancestor; cognatic structures trace this descent through male and female relatives).11 While such puzzles have an arcane air to those not fascinated by the cultural characteristics of long-dead Mesoamerican peoples, interpreting the nature of Nahua or Mexica kinship helps scholars understand late prehispanic household organization, inheritance and marriage patterns, the nature of shared legal obligations, even ceremonial life.

9Insightful discussions of wills as sources include Salomon 1988, Zulawski 1990, and Graubart 2000, ch. 4. Lockhart 1992 illustrates their exploitation, and extensive discussion of them as a source and a genre can be found under the index item “testaments.” See also “Between the Lines” in Lockhart 1999, which demonstrates how to learn a vast amount from three testaments as a sample, and Horn and Lockhart forthcoming, with a large section on testaments as texts.
11For the argument that households are the major kin-based grouping, see Offner 1983, ch.5, and Lockhart, 1992, pp. 59–73. On the significance of lordly households, teccalli or tecpan, see Carrasco 1976; Hicks 1986; as well as the very persuasive argument by Chance about kinship and Nahua concepts of the noble house (2000). For discussions of descent-based units, see Calnek 1974; n.d.; and Kellogg 1995, ch.5.
These became the subjects analyzed in my dissertation, which concentrated on patterns of social structure in late prehispanic Tenochtitlan.\textsuperscript{12}

But even as I was writing the dissertation, I was nagged by the thought that the texts I was combing so thoroughly for clues to the prehispanic past were less about that past and more about making that past usable in the chaotic colonial “present” of the post-1521 sixteenth century. That constituted the period on which I had collected data, having decided that 1600 was a reasonable cut-off for a project focused primarily on the precontact past. Those thoughts about the relationship between “past” and “present” would nag me for a long time.

As life and a weak academic job market intervened and other projects took up time, the fields of both anthropology and history began to experience upheaval and change with the development of postmodernism and cultural studies.\textsuperscript{13} For anthropologists, among the issues raised by sustained questioning of fundamental assumptions were the related tendencies to downplay the impacts of colonization, westernization, and modernization on so-called “non-western” peoples, along with reliance on the concept of the “ethnographic present” with its tendency to treat rapidly changing societies as frozen in time. For historians, these developments called into question the relationship between researcher and document, suggesting that the interpretive framework of the historian helps shape not only interpretations but even the information he or she might find in a document. For historians studying non-western societies, these intellectual upheavals served to emphasize how critical the colonial era was in shaping modern nation-states, even the organization of continents and hemispheres.\textsuperscript{14}

As I began to think about turning my dissertation into a book, the reading I was doing, especially in critical legal studies (an area of legal scholarship that examines the connections among law, discourse, and power and property relations), proved important in re-thinking my earlier research.\textsuperscript{15} All this was tied also to a realization that the colonial era constituted a crucial link between present and past in Mesoamerica and that law provides a key to understanding how colonizers and the colonized routinized their political, economic, and social relationships after a conquest takes place.\textsuperscript{16}

That indigenous people and communities found Spain’s legal system as it was first transplanted and then evolved to be both usable and malleable appears

\textsuperscript{12}Kellogg 1980.
\textsuperscript{13}There is an immense literature on these topics. Worthwhile readings to acquaint oneself with the issues include During 1999; Marcus and Fisher 1986; and Beverly, Aronna, and Oviedo 1995.
\textsuperscript{14}For discussions of the impact of cultural studies and postmodernism on Latin American history see Seed 1993 and Mallon 1994.
\textsuperscript{15}The thread of critical legal studies most useful to me was that which explored the narrative structure of legal texts, and here I found Fuller 1967, Posner 1988, White 1985 and special issues of the journals History and Anthropology 1985, the Journal of Legal Education 1990, and Representations 1990, all dealing with legal texts, narrative structures, and rhetorical forms particularly helpful. Note that not all the authors cited on legal narratives would necessarily see themselves as part of the critical legal studies movement.
\textsuperscript{16}Also see Benton 2002.
highly likely given the enormous written record made up of thousands of legal cases taken to Spanish officials and courts. Litigants frequently appealed decisions because venues for pursuing conflicts abounded, especially before the 1591 creation of the Juzgado General de los Indios (General Indian Court). 17 In addition, because Spanish policy and practice encouraged judges to follow native tradition in their decision-making, as long as such traditions conflicted with neither Christian belief nor practice, such policy created an indeterminacy that allowed native litigants to battle over what traditional practices were and thereby encouraged litigation. 18

The outpouring of codifications of Spanish law and policies and the voluminous civil, criminal, and ecclesiastical litigation that resulted from conquest and the construction of colonial administrative structures has allowed historians to mine both legal compilations and case materials using a variety of approaches. Such approaches include studies of the development of the colonial legal system that analyze its emergence and structure. Other scholarship charts changing laws and policies. But many historians use legal cases primarily as a sort of repository of information about New Spain's society, culture, and political and economic systems. But whatever the approach taken, scholars often overemphasized the role of Spanish institutions and laws in reshaping native life. 19 Leaving behind that more institutional approach and influenced by emerging anthropological and legal literatures that stressed the relationship between law and other systems of power and social control, I began to see the property litigations not solely as conflicts in which useful information about Nahua kinship and family structures was embedded. I started to approach them also as narratives that used language, Nahuatl and Spanish, to create a persuasive rhetoric and maintain or manipulate power structures within households, neighborhoods, and communities.

Thus I began to ask different kinds of questions: What was the impact of conquest and colonization on early colonial Mexica and other Nahua peoples? Through what mechanisms did cultural change take place? How did demography and political economy influence legal and cultural change? What was the role of law in facilitating, even creating, cultural change? These questions reshaped my approach to the material I had analyzed in my earlier work, led me to do new research on the seventeenth century, and encouraged me to think more about the impact of a wider variety of colonial officials—especially lawyers and parish priests—on indigenous people and their belief systems. Another helpful development as I reencountered my own research and began working on a book was a renewed emphasis by others on the examination of how the Nahuatl language had changed over time during the colonial era. This analysis shows clearly three

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17 On the creation of the Juzgado, see Borah 1983, ch.4. On the structure of Spanish courts and the frequency of appeals, in addition to Borah, see Kagan 1981.
19 Borah 1983 provides the best overview of the Spanish colonial legal system, especially from the point of view of indigenous use of the legal system, but other helpful readings include Ots Capdequi 1941 and Góngora 1951. For examples of studies that use legal cases as sources of information see Taylor 1979; Van Young 1981; Behar 1987; Stern 1993; 1995; and Lipsett-Rivera 1999.
stages of linguistic change, with Lockhart in particular emphasizing how language change paralleled other cultural and social changes while showing that Nahuatl texts of the colonial era still revealed many continuities with prehispanic cultural patterns.20

These new frameworks and questions led me to see the Tierras property lawsuits and documents, whether in Nahuatl or Spanish, in different ways. I began to approach each case and the conflict it represented as a miniature social drama. While practices relating to who owned what (and how they came to own it) in the past informed the “present” of many of the cases, it became clear that these dramas and the documents they generated were primarily about property and social relations in that present. Litigants used accounts of the past in the service of those present-day dramas. This realization meant that, while in some of the lawsuits, which side had the more plausible argument was relatively clear (frivolous lawsuits not being limited solely to present-day U.S. courts), for many of the lawsuits determining any absolute truths about who did what in the past or present was not possible. Nonetheless, officials’ and judges’ determinations of such “truths” held important consequences for sixteenth- and seventeenth-century litigants.

Going before an indigenous alcalde (a local first-instance judge who was also a member of the cabildo or municipal council) in May of 1593, Felipe de Santiago, for example, claimed a house site over which his half-brother, Diego Francisco, had already filed suit against him earlier that month. Felipe made three arguments to support his unfettered ownership: that he was the eldest son of the family; that the site had been owned, not by his father (who had left it to Felipe and Diego), but by his mother Inés (who was not Diego’s mother); and that she had inherited it from her grandparents, who owned the site in the prehispanic era. Santiago’s witnesses offered extensive testimony about this ancestral couple’s ownership and how the site passed to their children, then to his mother, and ultimately to Santiago. While this argument persuaded the local indigenous official, it failed to impress don Antonio Valeriano (the elder), the native governor of the indigenous municipality of Tenochtitlan, which continued to exist as a corporation in the same territory occupied by the Spanish capital Mexico City. Valeriano appeared to find Diego Francisco’s argument that Felipe de Santiago had unjustly sold part of the house while Diego was jailed in an obraje (a textile workshop) persuasive. That the ownership and value of the property in 1593 was the driving force behind the case becomes clear as Diego energetically pursued his claim in multiple venues and Felipe, just as energetically and perhaps more creatively, countered Diego’s arguments by seeking to root the legitimacy of his ownership not just in the present but in the events of a more remote past.21

Once I began to see property cases as texts with narrative accounts structured around dramas, it led me to re-think the nature of the types of documentation, especially the Nahuatl texts which, in the sixteenth century, constituted a wide

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20 For discussions of linguistic change, see Karttunen and Lockhart 1976, pp. 49–51. For a fuller analysis, see Lockhart 1992 (especially chs. 7–9).

21 This case (BNP 112, 1593) is discussed in greater detail in Kellogg 1995, pp. 6–8.
array of types of documents. These included: testimony of witnesses; wills; documents concerned with the possession, sale, or transfer of property; orders from indigenous officials; and/or statements by litigants to local or court officials. Chronological examination of such documentation also made clear that over time the significance of this documentation changed somewhat. By the seventeenth century, the overall amount of Mexico City documentation in Nahuatl had declined even as its symbolic importance as a sign of the special legal rights of indigenous litigants increased. While Mexico City litigants continued to present Nahuatl-language wills, property sale and transfer documents, orders from native officials, and texts accompanying site maps or house plans as evidence in lawsuits after 1610, they presented no testimony by witnesses in Nahuatl, and litigants themselves made fewer statements in Nahuatl or Spanish as their lawyers played a more active mediating role. Nonetheless possession of written documentation, preferably in Nahuatl, itself became an argument or strategy on which litigants could base their claims. Paradoxically, at the same time, the legitimacy of such documentation often came under attack by both indigenous litigants and their Spanish lawyers, and even by judges.

A 1699 case illustrates the point. In that year the neighbors of Felipe de Santiago (by then deceased and in any case not the same Felipe as in the case mentioned earlier) claimed a will presented by Santiago’s widow and son was fraudulent; the neighbors claimed ownership of a plot of land they contended he had sold them. Presenting several witnesses who described in vivid language how Felipe had been gored by a bull during a fiesta and then died in the royal Indian hospital, the neighbors argued that because of Santiago’s severe injuries, he had no time to dictate a will. Such accusations of fraud became more common in the seventeenth century as indigenous litigants and their lawyers stressed documentation, adherence to procedure, even adversaries’ character rather than earlier strategies that defended property claims as based on customary practice, inheritance, or sale.22

Another point that became evident was the power of law as an acculturative agent. When Spaniards provided indigenous people and communities access to their courts, especially the Real Audiencia (the high court of New Spain), they probably did not realize what a powerful colonizing tool courts and lawsuits would become. As much as native people engaged in cases against individual Spaniards or indigenous communities pursued lawsuits against tribute assessments, boundaries of property, or against officials or decisions viewed as unjust, the use of a litigation strategy for attaining one’s ends inevitably involved indigenous people with Spanish officials, especially lawyers and judges. Crafting arguments to sway those judges thus meant reshaping facts and terminology so that even when litigants or witnesses testified in Nahuatl or submitted documents such as wills in Nahuatl, such texts represented compromises that helped lead eventually to shifts in conceptualizations of property rights, the means to resolve conflicts, and social relationships.

22 The discussion of this case (AGN, Tierras 163, exp. 5, 1699) draws on Kellogg 1995, pp. 50–52.
One kind of social relationship that lawsuits reveal in some depth and that proved important in understanding cultural change during the early colonial period is that between men and women, or gender. Because so much scholarship on Nahuas had earlier concentrated on war, diplomacy, and generalized political and economic organization, recovering more about women’s lives and roles became an important goal of my research and analysis. This goal required examining women’s roles in both the precontact and early colonial period. By examining their roles in litigation and their patterns of property ownership and transmission in testaments in light of codices and other published sources, I was able to reconstruct the wide range of activities—political, economic, ceremonial, and familial—women carried out in the prehispanic period as well as to argue that gender played a key role in the development of colonial power and social structures. These colonial structures excluded indigenous women from many public roles in the political, economic, and ritual realms of colonial life. Yet these transformations do not mean that women became completely powerless. The religious realm offers an example. No longer able to serve as priestesses and excluded from the possibility of becoming nuns until the eighteenth century, Nahua women continued to play a central role in familial or household-centered ritual, served as matchmakers and healers, and took on church-related responsibilities, especially through cofradías (confraternities, church-related lay organizations also known as sodalities). While cofradías were “designed for social welfare, the façade and perhaps the fact were that women eventually took on numerous church-related duties, which surely pleased the clergy but which were intended to enhance the well-being of indigenous corporate institutions within colonial communities as well.”

If the overall arguments about law and gender as crucial components of the cultural hegemony that helped Spain forge a stable empire especially in the Valley of Mexico and throughout the central plateau area remain valid interpretations, nonetheless I would certainly revise some aspects of my approach and interpretations if I were researching and writing now. For one thing, while the book reveals a variety of legal strategies used by indigenous litigants, in places it overemphasizes the notion of two lines of argumentation, one leaning upon indigenous ownership, customary practices, or special legal rights, the other based on Spanish law and forms of property rights and ownership. While such a divide existed, indigenous strategies even in the 1550s, when the Audiencia first began to hear these cases, had already been deeply influenced by Spain’s legal system, and a greater emphasis might have been placed upon differentiating among strategies and legal rhetoric used by native litigants.

A second point that has become clearer over time is that the years between 1521 and 1550, before the Real Audiencia began to hear property cases, con-

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23 Schroeder 1997, p. 10. Also see Kellogg 1995, ch. 4, as well as the essays on Nahua women in Schroeder, Wood, and Haskett 1997.
stituted a crucial period in which indigenous people began to educate themselves about the Spanish political and legal systems. Native leaders and communities turned first to the drawing and writing of codices to create written and illustrated records of conflicts, often against Spaniards, that they brought before the first viceroy for resolution. Ethelia Ruiz has explained that "the existence of a juridical tradition in prehispanic times and, later, the administrative resolution by the viceroy of all litigation presented by Indians, permitted, among other things, the acceptance of codices as valid documents on diverse matters." Exploration of this period of codex production which relied heavily on visual images steeped in prehispanic styles of representation, a topic studied more generally by Elizabeth Hill Boone, Dana Leibsohn and Stephanie Wood, would have helped me reach a deeper understanding of how and why Nahua legal systems gave way to a Spanish system relying on Spanish bureaucrats, high officials, and institutions to resolve a variety of conflicts between and among indigenous people, officials, communities, and/or Spaniards.

Of course, as important as the sixteenth century remains as a critical period of change, the time period examined could also have been expanded by analyzing indigenous legal strategies in the eighteenth, even nineteenth, centuries. A new generation of scholars has begun to do this, especially Marcela Dávalos of the Instituto Nacional de Antropología e Historia in Mexico City. She has studied indigenous barrios (districts, neighborhoods) and their conflicts over property in eighteenth-century Mexico City. She analyzes Tierras lawsuits brought by indigenous litigants of this later period for their rhetoric, the light they shed on political and economic hierarchies within indigenous barrios, and the politics of indigenous claims to land and water. Patricia Martínez, a graduate student at the University of Texas, is studying the Tlaxcalan communities of Coahuila in the period 1770–1810. She looks not only at the impact of the Bourbon reforms on these communities but also at legal cases between the towns of San Esteban de la Nueva Tlaxcala and Saltillo (over land, church fees, and the jurisdictions of Spanish officials from the Archivo Municipal de Saltillo and the Archivo General de Coahuila) and how Tlaxcalans narrated their town histories in these legal disputes. These documents provide insight into how Tlaxcalan leaders mobilized concepts relating to history, memory, and identity for their legal and political goals.

Also focusing on Tlaxcala is Jovita Baber, currently on the faculty of Texas A & M. Her study focuses on the years between 1580 and 1640, uses lawsuits and especially petitions (many from the Archivo General de Indias), to examine how

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251999, p. 48.
27Dávalos’s chapter, “El uso de la tierra en los barrios” (part of her doctoral dissertation in progress) offers an in-depth look at eighteenth-century property claims by inhabitants of the barrio La Candelaria de los Patos in Mexico City. Martínez’s dissertation is entitled “‘Noble’ Tlaxcalans: Race and Ethnicity in Northeastern New Spain, 1770-1810.”
Tlaxcalan nobles argued for privileges and tried to limit the impact of Spanish livestock and ranches on native communities and fields. Baber argues that as Tlaxcalan leaders grew ever more sophisticated in their understanding and use of the Spanish legal system, they used that system to further both individual and community ends and, by doing so, did not just respond to but actively shaped an evolving colonial legal system. Yanna Yanakakis examines lawsuits from the Villa Alta district in Oaxaca, most housed in the Archivo del Poder Judicial de Oaxaca, over jurisdiction of Spanish political authorities and administrative units. She traces how ladino legal intermediaries helped create a colonial political and legal culture in the Sierra Norte of Oaxaca in the period from 1660 to 1769. These indigenous intermediaries played important political, economic, and social roles as community leaders and used the law to protect or enlarge their autonomy, yet they were subject to the expectations of and pressures from Spanish officials and elites who sought to influence, even control, their actions.28

As my earlier and some of these more recent studies show, analyses of colonial-period indigenous-language and Spanish-language legal documentation remain compelling approaches. If scholars cannot reconstruct the broader context of every lawsuit, a close reading of many cases from a variety of locations and archives suggests that the deep engagement with Spanish law described in this essay carried many consequences for native peoples. Perhaps the most important of these consequences lies in the way legal interactions aided in the creation of a colonial indigenous culture that itself evolved and changed within a Spanish American empire that would evolve, then dissolve, even as indigenous cultures and peoples survived.

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28Baber’s unpublished essay, “Native Subjects, the Imperial Bureaucracy and Derecho Indiano: The Co-construction of Empire” lays out her argument about the impact of native litigiousness on colonial law. See also Yannakakis 2003.

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