Spanish Court Records from Late Colonial Guatemala
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HOPING TO WRITE a doctoral dissertation on the history of colonial-era Central America, I went in 1996–97 to the Archivo General de Centroamérica in Guatemala City (AGCA), the main repository of civil government records from Spanish Central America.¹ The colonial-era jurisdiction of the Captaincy General of Guatemala (later the Kingdom of Guatemala) included today’s Chiapas, Guatemala, Honduras, El Salvador, Nicaragua, and Costa Rica. The capital city, at its various locations across the colonial period, served as the seat of the Audiencia of Guatemala and was also a seat of provincial government.

I found that the bulk of records in the AGCA are from the capital and its immediate environs, and most are from the late colonial period. Therefore I decided to focus precisely on this area and time period. The seat of government was relocated after a ruinous series of earthquakes that struck in 1773; the administrative offices and the majority of homes and businesses, as well as the surrounding Indian communities, were re-established over the next decade at a new site some forty-five miles to the east. The pre-1773 locale, which retained some of its population (especially in the indigenous communities), is now known as Antigua Guatemala; the new capital, at first called Nueva Guatemala, is today simply called Guatemala City. The AGCA’s records include those from both locations, mixed together somewhat indiscriminately for the period after the establishment of the new city.

Based on my study of the historiography of early Latin America, I had anticipated that notarial records would be a major source for my research. However, I was somewhat disappointed in reading the Guatemalan notarial records from the late colonial era. I found that by the late eighteenth century, the overwhelming majority of records kept by the city’s notaries were wills and transactions made by the wealthy Spaniards. Apparently, the normal business activities of non-elite people had become routine and were left unrecorded, while notarized business transactions had become essentially the preserve of the elite.

In contrast, I found the breadth of Guatemalan urban society in the late colonial and early national years to be better reflected in the court documents of that time. Litigation records, including both criminal trials and civil suits, contain petitions by people from a wide range of backgrounds who moved within Hispanic society. The hundreds of court cases held in the AGCA include transcriptions of oral testimony by ordinary people who sued, pressed criminal charges, or defended themselves in the royal (and later state) judicial system. Court-appointed notaries recorded the testimonies of the largely illiterate populace, often in extensive detail. The colloquial wording in many of the records

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¹I have been told that most of the colonial-era Costa Rican records have been repatriated to Costa Rica; I suspect there are also at least some colonial-era records from other parts of Central America in the relevant national or regional archives. The research did in fact result in a dissertation, Komisaruk 2000.
suggests that some of the transcriptions were fairly accurate reflections of oral testimonies and depositions.

The court records in the AGCA include those of the local and provincial civil courts, as well as those of the Audiencia. The Audiencia served in effect as a court of appeals, hearing cases brought by people whose petitions had been unsuccessful in the lower courts, particularly those in the capital city. In the AGCA’s holdings for the late colonial years if not the earlier period, the local and provincial court records appear to be mixed together with cases heard by the Audiencia, though the whole body of documents is kept in chronological order.

I chose not to limit my study to indigenous people, since the corpus of litigation records seems to have a certain integrity as a whole, not only because these records were all generated within a single judicial system but also because so many of the individual records include depositions by witnesses and litigants of various social ranks and identities. In this respect, the court records don’t seem to fall into completely separate categories by social group; rather, the records reflect the multi-ethnic nature of the society.

Potential of these sources

One of the major potential uses of Spanish American court records has been for the study of crimes and legal disputes themselves, as a number of important works have illustrated. In particular, a growing body of historiography has analyzed riots and rebellions or revolts, based on caches of trial records that have been found for moments (or periods) when large numbers of rioters or rebels were arrested and put on trial. 2

In my work on Guatemala, though, very few of the court records I am using were generated because of rebellions. My research does bridge the moment of independence, as I have looked at records from the 1760s up to the 1840s. But in Central America the decade leading up to 1821 was marked by the relative infrequency of localized rebellions compared with the Valley of Mexico. Independence in Central America in 1821 does not seem to have followed a particularly rebellious epoch. 3 Thus my analysis of court records in Guatemala has been concerned less with crime or litigation itself, and more with information about ordinary social structures, behaviors, and relationships—information that I have been able to glean from the narratives transcribed as court testimonies or depositions. 4

The court records I have found contain much detail about numerous aspects of daily life, as viewed and described by mostly illiterate people whose words I have not found recorded elsewhere. The speakers range widely in terms of age, gender, ethnicity, economic status, and occupation. In Guatemala the

3 More than a decade after independence, the important 1837 political shift in Central America did start with a revolt based in rural eastern Guatemala. In her work uncovering the social origins of this revolt, Ann Jefferson (2000) has used some litigation records to study early roots of discontent in the rebellious region dating back to the mid-eighteenth century.
4 In this respect, my approach has been similar to Lisa Sousa’s work with criminal records from Mexico, and to Kimberly Gauderman’s work with litigation by women in Quito.
Spanish judicial system provided free legal representation to slaves and Indians as well as poor Spaniards and mestizos. Anybody who arrived at the offices of the court or the home of the local alcalde, it seems, could press criminal charges or file a civil lawsuit.

Not only are court records rich in depth in the details of neighborhood and household life, but also they reveal various phenomena that I have not found, or would not have been able to detect, in other types of records. To illustrate, this essay discusses two phenomena that became clearer to me through my reading of several hundred court cases—the collapse of African slavery, and the labor of Indian women in the Spanish economy.

**The collapse of slavery**

One phenomenon that emerged in my reading of court records surrounds the enslavement and emancipation of people of African descent. I could see in the notarial records from the period that slaves were being bought and sold, but something further appeared in the court records: slavery had nearly collapsed by the late colonial era, even before the edict of 1824 that declared a general emancipation. The society was increasingly ethnically mixed, and slaves were increasingly able to pass unarrested into free society. The court records also suggest the extent to which Hispanic society in Guatemala, by the early nineteenth century, recognized and accepted slaves’ physical mobility and their ability to (re)negotiate the conditions of their bondage. The Spanish courts gave slaves a degree of judicial franchise similar to that of poor free people by providing free legal counsel and representation. An impressive number of slaves came into the courts as litigants petitioning for liberty or other concessions. These individuals often had already gained a remarkable degree of physical mobility, as illustrated by their very appearance in court to file suit. Such litigants frequently indicated that they were not even working for—or in custody of—the legal slaveholder. In addition to their physical mobility (or perhaps because of it), slaves in general seem by the late colonial years to have achieved an ability to negotiate the terms of their labor.

The slaves from the Hacienda San Gerónimo provide an example. Located in the rural Verapaz region, the hacienda was owned by the Dominican order. It was the largest slaveholding enterprise in Guatemala, with about six hundred slaves in addition to other workers. Across the first two decades of the 1800s, several groups of male slaves from San Gerónimo arrived in the capital city to file lawsuits on behalf of themselves and their fellow slaves at the hacienda. In the early stages of this litigation process, the petitioners had negotiated for the slaves on the estate to be paid cash wages. A few years later, they successfully sued for their workload to be reduced and regulated to equal the daily workload of the Indians on the estate. Finally they demanded, and were granted, overtime pay in a legal decision that effectively gave them a higher wage than Indian workers on the same estate. The San Gerónimo plaintiffs fit the pattern of slaves’ physical mobility, and this mobility probably strengthened their negotiating power. Some of the slaves reported in their testimonies that they were working only seasonally

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5Several of the lawsuits are contained in AGCA Sig. A1/leg. 2556/exp. 20577.
or occasionally on the hacienda, essentially, it seemed, when they couldn’t get work elsewhere, or when their wives impelled them to go earn some wages. (The wives—also legally enslaved—similarly appear to have been employed only at times on the hacienda.)

In the various slaves’ lawsuits that I have studied, certain words and phrases that were used frequently reveal much about the structure of slavery and the society’s understanding of it on the eve of the general emancipation. An example is the papel de venta (literally, paper of sale)—a notice given to a slave by the slaveholder announcing that the slave was for sale. Slaves themselves then solicited their buyers in a process carried out with some regularity especially in the capital city. (In fact, the concentration of Spanish homes and wealth made the city a magnet for rural slaves seeking a new master.) A slaveholder willing to sell a slave gave him or her a papel de venta, normally consisting of a note about the slave’s name and price, and the name of the slaveholder or another person to be contacted to arrange the sale. Sometimes slaves actually carried their papeles de venta door-to-door, looking for a buyer. While the legal authorities did not consistently require slaveholders to sell slaves who wished to be sold, some slaves requested and obtained papeles. This occurrence was frequent enough that the phrase pedir papel (literally meaning “to ask for a paper”) was understood in the colony’s court documents to refer to the slave’s request for a papel de venta from the slaveholder. I have also seen that the term tener papel (literally, “to have a paper”) referred to the slave’s having received the papel de venta and being in a position to seek a new buyer.\footnote{For example, AGCA Sig. A1/leg. 2863/exp. 26000; Sig. A1/leg. 4358/exp. 35390; Sig. A1/leg. 2799/exp. 24580; and Sig. A1/leg. 2862/exp. 25957.}

I have found a few papeles de venta attached to court documents, although I have not found any in the notarial record books, and without using litigation I would perhaps never have become aware of this interesting phenomenon.

Court records show that some slaves used the papel de venta not only to change residence and employer, but also as a strategy to position themselves for self-purchase and manumission. Such positioning might be achieved through price manipulations (and lowering) that could accompany successive sales, or through sale to a slaveholder who was willing to accept the slave’s self-purchase on credit.

Another telling phrase that appears frequently in slaves’ court depositions is trabajo personal (literally, personal work)—a term that usually described work that slaves did on their own time to earn income for themselves. This wasn’t necessarily a ticket to self-purchase; many slaves were required to use their own money to pay for food, clothing, or medical treatment. From the viewpoint of research methods, though, the Hispanic population’s widespread understanding of slaves’ “trabajo personal” as a source of cash wages for the support of themselves and their families helps demonstrate the disintegration of some the traditional structures of slavery. Not only were slaves working for wages, but also they were providing for themselves and their families with their own money. These economic activities help delineate the contours of a transformation—at both the
individual level and a broader social level—from slavery towards free labor.

**Indian women’s labor in the Spanish economy**

Another phenomenon that surfaces in the court records from late colonial Guatemala is that of Indian women’s labor in the Spanish economy. While indigenous women’s labor in Spanish Central America and elsewhere in Spanish America has been noted based on other types of sources, court records may offer some new perspectives, as suggested by some of the records I have found in Guatemala.

Spanish administrative records, notably the files of requests for repartimiento (public draft) workers, have been the main source for study of indigenous laborers in the Spanish economy in Central America. Using these records, the historiography has developed an image of a largely male indigenous labor force in Spanish enterprises. Indigenous women working for Spaniards are mentioned occasionally—such as a *molendera* (woman to grind maize) or two requested by an hacendado owner to be sent along with a crew of male workers, or wet nurses required as part of the tribute payment from one or more Indian communities. Also, women’s work in spinning thread and weaving cloth in their homes has received substantial attention, particularly in literature describing the repartimientos (distribution) of cotton and thread that women were required to spin and weave as tributary labor. Based on reading secondary sources, my impression before consulting archival records was that most indigenous women in colonial Central America performed labor at their homes, while men left the home and community at intervals to work for stints abroad. Indeed, this impression was borne out in the archived *padrones* (censuses taken by the Spaniards for tribute purposes), which reflect a high absentee rate among adult males in numerous Indian communities in late colonial Guatemala.

The colonial court records, because they include investigations into complaints and disputes over labor practices, significantly expand the picture of women’s labor. Reading in the court records, I found a few scattered but extensively documented cases depicting indigenous women’s migratory, often seasonal or temporary labor for Spanish enterprises and households. Three examples here will suggest some of the ways such records may be useful:

1) **A view of women’s seasonal recruitment and labor on a Spanish estate.** A 1765 petition by the Indian officers of the communities of Utateca and Jocotenango, on the outskirts of the capital, accused sugar estate owner doña Manuela Dardón of abusive recruitment and labor practices. The Spanish governmental authorities sent a committee to investigate both in the pueblos and on the estate, which was located in rural eastern Guatemala. The resulting document, consisting largely of depositions by various townspeople and workers, provides a portrait of labor on the estate, including repartimiento workers, individually contracted indigenous workers, and various non-Indians.

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7 Examples include MacLeod 1973, Sherman 1979, and Lutz 1994.

8 This literature includes works such as those just cited in note 7, as well as Hill 1992, Martínez Peláez 1994, and Sousa 1998. Sousa has given thorough consideration to Indian women’s work in spinning and weaving.

9 AGCA Sig. A2/leg. 40/exp. 830.
Among the individually contracted Indian laborers was a group of women and men from Jocotenango who had traveled together, along with their children, to work for a few months at the estate. Their depositions indicate that Dardón herself recognized and relied on the marital structures among the townspeople in her tactics for ensuring a supply of female labor at her estate. The women in particular noted that Dardón would advance wages to their husbands only if they too (the wives) went to work on the estate grinding corn and doing other work in the kitchen. Significantly, the group included almost as many women (eight) as men (ten). By giving a view deep into labor on a particular estate, this court case illustrates how women’s migratory seasonal labor was integrated with that of men, not only in the system of labor procurement but also in the productive process on the estate itself, where women’s labor was needed to provide food for the male workers.

These phenomena have not appeared clearly in other types of records, and they raise the possibility that indigenous women may have been more frequently involved in migratory, seasonal labor in colonial Guatemala (and Spanish America) than we have recognized based on administrative records. The records I have studied are mostly from the late colonial period; and, like this example of female indigenous workers on doña Manuela Dardón’s estate, most of the cases of indigenous labor that I have studied represent the post-repartimiento, individually arranged labor form that Jim Lockhart has described as belonging to “Stage 3.” I suspect that colonial court records for earlier periods might contain information about women in encomienda and repartimiento-era labor structures. This is an important potential for future research in Spanish American court records.

2) A view into an Indian community and the impact there of women’s labor in the colonial economy. In another court case from Jocotenango, this one starting in 1797, the parish priest wrote an alarming appeal to the Audiencia. He feared that the recruitment of indigenous women to serve as wet nurses in the Spanish capital was causing the abandonment and starvation of native infants. The Audiencia ordered an investigation. As was characteristic of the royal government, it ultimately issued relatively little regulatory response. But the record of the investigation, with its numerous and detailed depositions, contains a wealth of information about indigenous women’s labor in the Spanish city. The Audiencia’s investigative committee went to the pueblo and learned of twenty-one Indian women who were serving as wet nurses in Spanish households in the capital; the committee’s notary recorded detailed information on the circumstances of each woman and her children. The investigators also visited a number of urban Spanish households to interview the wet nurses themselves. One wet nurse in particular, a woman named María Contán, gave an extensive deposition. She explained her need for cash to cover her absent husband’s tribute.

10Lockhart’s stages delineate the pattern that he has identified in transformation of native labor procurement, language, and various other cultural forms; see Lockhart 1992 passim.

11The case is contained in two separate documents, AGCA Sig. A1/leg. 162/exp. 4883 and AGCA Sig. A1/leg. 154/exp. 3063.
debts, for which the Indian governor had been hounding her. She described her
ccontract arrangements with her employer, and she enumerated the ways she had
used her earnings of four pesos per month—paying her husband’s debts, remitting
some of her wages to several other Indian women (including her mother) in the
pueblo who were caring for her children, and still retaining some money to buy
clothing for herself. About a year later, the Audiencia investigators returned to the
pueblo for a follow-up inquiry, and this report, too, is included in the court docu-
ments.

Perhaps most immediately obvious in reading the records of this case is the
information it yields about social relationships, childcare and nursing practices,
and household structures—particularly in female-headed households—among
women in an Indian community. All or almost all of the twenty-one wet nurses
were single heads of their families: about half had husbands who were “huidos”
or “ausentes,” four were widows, three were reported simply as “alone,” and one
had a husband who was reported as “loco.” Most of the women relied on female
relatives to take care of their children; several had hired other Indian women in
the pueblo as wet nurses for their own infants. Indeed, the frequency and
familiarity of wet nursing among these women (who were Spanish speakers) is
suggested by the wording used in several depositions. The phrase criar a media
leche (literally, to nurse at half milk) was understood to refer to the practice in
which a woman breast-fed two children; criar a leche entera (literally, to nurse at
full milk) specified that a woman was suckling only one child.

At a broader level, though, the records in this court case are not only about
women and female social relationships. The proceedings provide a window onto
an entire tributary community’s experiences, particularly those of female-headed
households that remained behind in the absence of male migrant laborers and
debt-dodgers. The court record reveals that the community also sent female
migrants to work in the Spanish economy, and it illustrates how migrant women’s
wages were remitted to the native pueblo and invested in both the community
coffers (including its amassing of tributes) and in individual households.

3) An in-depth portrait of an Indian woman working in the Spanish econ-
omy. A third example from the court records provides an in-depth view of a
single life. An Indian woman named Francisca Victoria García described her own
history and circumstances in a lawsuit she pursued over an inheritance in 1807.12
Born in the pueblo of Ciudad Vieja (Almolonga) outside Antigua Guatemala,
García left home at age the age of six. She traveled some fifty kilometers to the
new capital, where she would work for wages in wealthy households. At the time
her father dictated his will in Ciudad Vieja, more than twenty years had passed
since she left home. For reasons that are not completely clear in the record, a
dispute had arisen within the family. The father’s testament excluded Francisca in
no uncertain terms, asserting that the disinheritance had been her late mother’s
will as well. Francisca then filed her suit, arguing that some of the property in her
parents’ estate had been purchased with her wages, on her behalf. In her petition,
she described a process in which her parents had regularly come into the new

12AGCA Sig. A1/leg. 2958/exp. 27971.
capital and collected the cash portion of her salary, and she listed in impressive
detail several parcels of land and various movable items that had been kept at her
parents’ home for her.

García’s testimony adds to other evidence I have found in court records
showing that Indian parents collected wages on behalf of their daughters working
in the Spanish city. The depth of her case is useful for its revelations about the
kinds of investments the parents made with their daughter’s earnings—kitchen-
ware, furniture, religious icons, clothing, livestock, lands, and farm equipment.
García also noted that she had loaned her father forty pesos “for the care of a
milpa” in her native community. The purchase of lands, as well as the main-
tenance of laborers to make the lands productive, tied the pueblo’s agricultural
economy to cash earned by a daughter working in the city. Like the court inves-
tigation about the wet nurses from Jocotenango serving in the capital, García’s
case not only helps demonstrate Indian women’s participation as migrant workers
in the Spanish economy, but also suggests a link between their work and the
survival of the native community.

Because the case is a lawsuit pursued by an individual, though, it contains a
degree of information on Francisca García herself that transcends most of the
cases filed by (or on behalf of) communities, like those I have described above.
Through the depositions of García and others, a portrait of her life emerges in
which she had become increasingly ensconced in the Hispanic world of the capital
city. While her parents and brothers continued to live in the Indian pueblo of
Ciudad Vieja, Francisca had left at a tender age for the capital, where she lived
and worked in the homes of Spaniards. She undoubtedly quickly learned Spanish,
if she had not already known it. She married a man who was probably an Indian,
but he had been born in the capital and was so Hispanized that the term “indio”
had been dropped from the label people used to describe him. Her parents, she
noted, did not like her husband. She continued to live in the Spanish city and, as
she pointed out, had no intention of moving back to the pueblo. When she learned
of a threat to her inheritance, she appealed immediately to the Spanish authorities
in the capital, and she repeatedly sought their aid, continuing to use the Spanish
court system to litigate toward her ends. Not only did she rely on Spanish
institutions, but she also named several of her Spanish former employers as
witnesses in her case.

Thus while on one level García’s lawsuit tells a tale of a family’s feud over
filial loyalty and inheritance, on another level it informs us about an Indian
woman’s migration and acculturation into the Hispanic, urban society of Nueva
Guatemala. The story suggests some ways in which family and community
loyalties were closely intertwined with cultural identities. Her father’s testament
justified his exclusion of his daughter from the inheritance on grounds that she
had failed in obedience and loyalty to her parents and the home. He complained
not only that she had quarreled with her mother, but that she had at one point been
“huida [gone, run away] without knowing about the death of my wife”—that her
absences from home were so long that she hadn’t immediately learned of her
mother’s death. Significantly, though, this rift with her family appears as part of a
broader breach in her relationship to the community of Ciudad Vieja. Even after
the Spanish court ruled largely in her favor, the Indian officers in Ciudad Vieja stonewalled her efforts to take control of her property, siding instead with her brothers. Francisca García herself described the Indian governor’s reaction in terms of the breach in her connection to the community: “that since I am not going with my husband to live in the pueblo I do not have a right to the inheritance.”

From the point of view of Indian officeholders throughout the region, townspeople’s physical presence in the community was a necessary condition for the payment of tributes and other obligations that comprised community membership. Paradoxically, though, people typically needed to leave their pueblos to earn wages. As historians have described for various regions in Spanish America, these departures, evidenced by high numbers of absentees from Indian communities, contributed much to the growth of the Hispanized population. In Guatemala, the administrative records of the colonial government’s assignment of tribute laborers contain repeated complaints by Indian officials that the frequency and duration of workers’ return trips to the native community were diminishing. Indeed, the same lament was at the core of the judicial petition by the Utateca and Jocotenango officials about doña Manuela Dardón in the example described above. Francisca García’s court case further illustrates some of the broad patterns that emerge in the records of such legal petitions by communities—patterns of Indian women’s out-migration and return migration, labor in the Spanish economy, remittances and investment, links to native communities, and Hispanization. García’s case, like a number of other lawsuits pursued by individuals, adds to the picture by revealing a longitudinal portrait of one person, showing broad social transformations reflected in an individual life.

**Limitations and need for caution in using these sources**

Most of the judicial records for the late colonial era in the AGCA are from the Guatemala City courts. Therefore most of the depositions are by people who lived in or near the city, or had reason to come into the city. Further, the depositions are mainly limited to Spanish speakers, although occasionally an interpreter was employed by the court to translate for a non-Spanish speaker. But those who litigated in the Spanish courts were necessarily connected in some way with Hispanic society. Even those named only as witnesses in court cases were at least connected to Hispanic society through a neighbor or acquaintance.

Another limitation inherent in court records is that the testimonies were given orally, whereas the surviving records are transcriptions or summaries written by notaries. The records therefore reflect notarial practice, and are not necessarily full and accurate transcriptions of speech. Oral depositions in the judicial system were not free-form narratives; in most cases the speaker responded to a specific interrogation or set of questions or accusations. The *interrogatorio* often structured the order of the narrative, and at times apparently suggested to the speaker what his or her statements should be—either through leading questions or because of the pressure placed on the speaker to defend herself against accusations.

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13 For Guatemala, many of these complaints appear in documents housed in AGCA, Signatura A3, legajos numbering in the 220s and 2560s.
These pressures presumably were quite heavy in many cases, given that some of the speakers were being charged with crimes or costly civil transgressions. Most defendants (and some witnesses) were jailed, sometimes for several days, before testifying; the magistrates and notaries would typically depose defendants at the jail—hardly a comfortable position in which to think and narrate. Even when speakers were not jailed or were not even defending themselves, as in the depositions of some witnesses, the relatively high social status and authority of the Spanish magistrates and notaries must have been obvious, and may have limited what ordinary people would say in their narratives.

Such an analysis of court records—considering the ways that legal and social contexts shaped the production of the texts—might in itself be the primary goal of a study. Similarly, for a legal history of the judicial system itself, the procedures that structured the court records would be of central interest. However, for the purposes of social history of the people using the courts, I am ultimately concerned with the content of testimonies for what they reveal about social structures beyond the legal system.

From this perspective, perhaps the larger or more interesting challenge in using these records lies not in the process of legal deposition or notarial transcription, but rather in the limited purpose of the civil court system—to punish criminals and mediate in civil disputes. Since the narratives I am studying were initiated because of crimes or lawsuits, certain kinds of social phenomena (crimes, disputes) and related information appear frequently. However, I think that some other important phenomena are left out, or appear only infrequently. Two examples are described below.

**Domestic servants.** One topic for which court records have been an especially rich source is domestic service. I was interested in studying domestic servants and found little information about them outside the court records, but these girls and women appear with really remarkable frequency in the court records. It seems that there was an “indizuela,” an Indian servant girl employed in one house or another, present at most of the crime or dispute scenes that I have seen described by non-Indians. This alone (and it is confirmed by census records) indicates the high numbers of indigenous women serving in the city’s households in the period under study. But typically, if these women were called to testify, they said little or their narratives were not recorded in much detail.

At the same time, though, a significant number of court cases involve domestic servants as principal parties. These include cases where domestic servants brought litigation against their employers, or where litigation resulted after some other event that reveals relationships between servant and employer—typically, struggles between servants and employers, and complaints by employers that servants had fled their households with advance wages or stolen goods. Such cases are rich sources of information about the conditions of servants’ lives and their recruitment and labor in the Hispanic city. As I have suggested with the examples of Jocotenango and Francisca García, court cases may enable us to (re)consider domestic servants within some of the patterns of labor recruitment and cultural transformations that have been identified for other parts of early Mesoamerica.

However, I believe that an important sector within the city’s impressively
large population of domestic servants is not well depicted in court records. I have found very few court cases dealing with children in service, although censuses and frequent allusions to child servants in other depositions suggest a large number of children (most of them indigenous girls) living in Hispanic homes working for their bed and board if not also a cash wage. I have found a couple of records in which parents litigated for their servant children, but I suspect that most servant children were either orphans or their parents were not members of the Hispanic city and would not have appealed to the Spanish courts.

**Informal unions.** Spanish civil court records have been a fruitful source for the study of informal unions. Such unions are often mentioned in passing as part of a deposition about a separate dispute, indicating the frequency of illicit relationships in the society. (For example, neighbors and crime witnesses might identify each other as “el concubino de Fulana” or “la amasia de Fulano.”) Further, a significant number of court cases were brought specifically by spouses to complain about a marital partner who was involved in an extramarital affair. (Most but not all the complainants were women. I have also found a few cases in which parents came to court to complain about their unmarried children’s love affairs.) These are rich sources that have enabled me to analyze informal unions and marital separations as important social structures.

Somewhat to my surprise, especially given the frequency of marital separations and illicit heterosexual relationships, I have not found any court cases that are suggestive of homosexual relationships. Unfortunately, because parish records for Guatemala City are limited in their availability, I have not been able to verify whether people reported homosexual activities that they observed in their community to their priest. Nor have I found cases of homosexuality in a sample of Inquisition records that I examined from the late colonial period.

Meanwhile, though, I have begun to think that the absence of homosexual relationships among the informal unions I have found in civil court records may be a function of the court records themselves—of the limited purposes for which court records were generated. Typically, the concubinatos or amistades ilícitas that the courts looked into had been reported by a wronged spouse or lover (or sometimes a disappointed parent). Wronged spouses would have suffered economic repercussions, and this was typically part of their complaint. Wives who came to the courts charging their husbands with amancebamiento typically complained that the husband was misspending his money on the amasia and not giving enough money to the wife. Husbands who reported their wives for amancebamientos complained that their wives were not in their house regularly preparing food. Parents who brought charges to court to try to end their offspring’s premarital relationships (and these are less frequent in the court records than spousal complaints) probably feared the economic repercussions of an out-of-wedlock birth or a marriage to a partner of lower status than their child. Perhaps homosexual relationships, if they were detected by parents or spouses of the people involved, were not reported to the civil courts because they didn’t pose any of these threats to existing social structures that the courts served to protect. Homosexual relationships would have been in a sense extraneous to the often-contentious economic and social structures of marriage and inheritance.
This explanation complements new research on homosexual behavior in early modern Spain, which shows that homosexuality was hidden by the society’s normative homosociality. Because it was socially appropriate for people of the same sex to socialize and work together without supervision or chaperoning, people did not notice homosexual relationships in their neighborhoods or households.\textsuperscript{14} Thus, homosexuality may have been hidden by the homosocial behavior that everyone expected. In this light, homosexuality would not have disrupted the society in the same ways that illicit heterosexuality did, and it is not surprising that homosexual relationships are absent from the court records that I have found.

\textbf{Spanish sources for ethnohistory?}

In my research in the AGCA, I have not found court records from the late colonial era written in any indigenous languages. (In the colonial Guatemalan capital, as today, numerous native languages were spoken.) The judicial system was administered largely by Spaniards, and when the occasional defendant or witnesses did not speak Spanish, the court simply called in an interpreter, and the deposition—or a summary of it—was recorded in Spanish. On a few occasions, non-Spanish-speaking plaintiffs appear as victims of crimes, but I did not find any individuals who sued in civil cases through an interpreter. Presumably, non-Spanish speaking individuals would have turned to their local Indian magistrates or parish priest rather than approaching the Spanish judiciary. Cases heard in the Spanish courts originating in indigenous communities were typically filed by the corporate community, with petitions penned by the notary of the cabildo, as in the complaint we have seen from the cabildos of Utateca and Jocotenango regarding doña Manuela Dardón’s labor management practices. Occasionally the priest serving the community petitioned on behalf of its residents, as in the complaint filed by the priest of Jocotenango on behalf of Indian wet nurses.

In all of the court cases described above—including those brought by slaves as well as those surrounding Indian labor—all the litigants and witnesses spoke Spanish, and no interpreters were used. This is indeed the case in the majority of the court records from late colonial Guatemala, though almost certainly Spanish was only a second language for many witnesses and litigants.\textsuperscript{15} Nevertheless, most speakers in the court testified in Spanish. The court records were instigated

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\textsuperscript{14}Garza Carvajal, pp. 00–00. I am very grateful to Pete Sigal for explaining this point to me and referring me to this study.

\textsuperscript{15}In some depositions by people identified as Indians, the court notary included a descriptor indicating that the person knew Spanish—“india ladina,” “indio bien ladini-zado,” “indio de bastante ladinez,” or “india bien instruida en el idioma castellano”—and did not need an interpreter. But the very fact that the notaries even saw the necessity of making these points explicit seems to suggest that some of the litigants and witnesses, like many Spanish speakers in Guatemala today, also knew a native language. In particular, the phrases “de bastante ladinez” and “instruido en el idioma castellano” connote that Spanish was acquired or learned after the mother tongue. In cases where several indigenous witnesses were interviewed sequentially in the same location, such as in the native pueblo or at a crime scene in the capital, the notary’s inclusion of such notes—sometimes for witness after witness—tends to convey a sense that the witnesses may have been gathered and speaking among themselves in a Mayan language even while the Spanish magistrate and notary carried on the investigation.
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and testimonies spoken in Spanish by Indians and other non-Spanish individuals as well as Spaniards. As is well known, colonial-era Indians’ knowledge of Spanish was usually greatest where the Spanish populations were most concentrated, and the proportions of Indians who spoke Spanish generally increased over time. We would expect, then, that Spanish-language records may be useful for the study of indigenous people especially in regions of relatively large Spanish population and in the later periods.

We must be aware of the usual limitation of Spanish sources in relation to indigenous people, that they do not contain key categories of all kinds that existed in those people’s native languages. But a translated version of a culture is better than no version. And Spanish categories for these people who increasingly spoke Spanish and existed in a Hispanic world were no longer something extraneous, but a part of the fabric of their lives. All of the subtle analysis applied to indigenous social and cultural terminology can be applied to Spanish terminology as well, as I have demonstrated to an extent in the above.

A major potential of late colonial Spanish court records, as suggested by the illustrations above, is to study some of the same kinds of topics and questions that ethnohistorians have studied using native-language sources from other areas in Mesoamerica. In particular, Spanish court records from Guatemala offer some close-up views of the processes of cultural contact and change that have interested ethnohistorians. Through the medium of Spanish, which had become the lingua franca in the Central American capital, the royal judicial records open a window onto daily interactions between individuals of different cultural and linguistic backgrounds. The Spanish courts’ transcriptions of testimony—about bar-room challenges and brawls, domestic life and disputes, neighborhood gossip and scandals, passions and jealousies, people’s problems at work—reveal the intricacies of ordinary relationships between Indians and non-Indians, between Africans and non-Africans. These mundane relationships lie at the heart of postconquest cultural contact and transformations that have largely defined the broad concerns of not only the Mesoamerican ethnohistory movement, but also the social history of colonial Spanish America.

Bibliography


