

Legitimised Violence in Colonial Spanish America

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Killing a Spaniard

A decade after her son's brutal murder, Inés de Paz was still consumed with grief and anger. In a series of petitions to the Spanish king, and in lawsuits that dragged on for years before the Council of the Indies, doña Inés lamented how her son Rodrigo had been seized, racked, waterboarded, burned and – barely still alive after weeks of torment – hanged. As her lawyer put it, he was 'subjected to many kinds of tortures, with cords, garrotte, water, and hot bricks'. Then 'he was hanged, despite his innocence, and was robbed of more than twenty thousand castellanos'.¹

The hanging took place in 1525 in the central plaza of Tenochtitlán, the Aztec capital city captured only four years earlier – supposedly destroyed and rebuilt as Mexico City, but in reality reoccupied and rebuilt by Nahuas, with only the very centre inhabited by a small, fractious group of Spaniards, who still called the city 'Temistitan'. The larger context to the killing of Rodrigo de Paz was therefore the war of the Spanish invasion (traditionally termed the Conquest of Mexico), begun in 1519 and dragging on across Mesoamerica into the 1540s (but usually given a terminal date of 1521). Considering the astonishing mortality of that war – discussed in parallel chapters in this volume² – it may be surprising to find in the archives expressions of indignation over the murder of a single Spaniard, repeatedly expressed in a legal dossier over a thousand pages long.

On the surface of things, we could dismiss such outrage as originating with Rodrigo's anguished mother and two brothers (who also appear in these

1 Series of legal files or *legajos* dated 1526–1537 in the Archivo General de Indias, Seville (hereafter AGI), Justicia 1018, no. 1, ramo 1, fo. 2. The account in Bernal Díaz, *The True History of the Conquest of New Spain* (London: Hakluyt Society, 1916), vol. v, pp. 77–8, mentions but barely conveys the horror of Paz's slow death.

2 See Chapters 7 and 30.

records); after all, high infant mortality rates and mass death from plague and warfare do little to soften the blow of losing a child or sibling. Similarly, we might be tempted to assign little meaning to the killing of a Spaniard in Mexico in 1525 beyond that larger context of it being an exceptionally violent place and time.

But to better understand violence in Spanish America in the sixteenth to eighteenth centuries we need to dig deeper than that. What were the lawsuits over the killing of Rodrigo de Paz really about? What made his demise either emblematic or different from the violent deaths of thousands of other Spaniards, thousands of people of African descent and millions of indigenous peoples in the Mesoamerica of the era? What clues might we follow in order to grasp how violence was categorised and perceived at the time – and what categories of our own might potentially be relevant?

Follow the Money

The lawyer (quoted above) who worked for the Paz family in Spain in the 1530s was insistent that one simply needed to follow the money – to borrow a phrase popularised in the Watergate era – in order to see that Paz's death was murder and the motive was financial.

The culprit was, allegedly, Gonzalo de Salazar, sent to New Spain in 1524 as the royal *factor*, or tax collector. The governor, Hernando Cortés, was absent in Honduras (where he had gone to arrest fellow conquistador Cristobal de Olid for defying his authority, to find that one of Cortés's cousins had already murdered Olid under cover of a treason trial). So Salazar took advantage of Cortés's absence, deploying duplicity and violence to take over the governing junta, then using rumours of Cortés's death in 1525 to seize the properties – including tens of thousands of indigenous slaves – held in Mexico by Cortés and many of those who remained loyal to him. Rodrigo de Paz, another of Cortés's cousins, was one such loyalist. In the words of the Paz attorney, during 1525

under cover of the powers supposedly given to him by the Marqués del Valle and governor, don Hernando Cortés, but having seized them from and abused those who were the governor's true lieutenants, and against the will of the council of the city of Mexico, and fully armed, and with a great upheaval and scandal, [Salazar] began to wield the governorship as a tyrant.³

Paz was tortured to reveal where Cortés had hidden the already fabled missing treasure of Moctezuma. The application of fire to Paz – hot bricks, and the

³ AGI, Justicia 1018, no. 1, ramo 1, unnumbered folio about forty folios in.

burning of oil-soaked feet – was a torture that Cortés had applied to Moctezuma's successor, Cuauhtemoc, shortly after his capture in 1521. Then too the goal of the torturers was to discover where gold and other treasures had been hidden. Cortés and Salazar were hardly alone in their quest for the elusive bounty; it was a veritable Spanish obsession throughout the 1520s and 1530s, the subject of most of the two decades' long official inquiry into the Cortés-led expedition and administration (the *residencia* and related proceedings).⁴

The hidden treasures of Moctezuma, Cuauhtemoc and Cortés almost certainly never existed. Nonetheless, Cortés and scores of other conquistadors were able to acquire and ship to Spain the equivalent of fortunes in modern currencies. Salazar was among those who successfully extracted wealth from Mexico, both directly from indigenous people (as loot or by selling them as slaves) and indirectly by stealing it from other Spaniards. This despite the fact that his reign of terror ended abruptly in January of 1526 when Cortés, very much alive, returned to the city; the Spanish settlers took to the streets, armed, in factions. The resulting confrontations ended in Salazar's arrest and display in a cage in the central plaza. A few months later he was exiled to Spain, and was thus living in Granada – as a very wealthy man – when the Paz lawsuits were filed in the 1530s.

In Salazar's violent actions – in how he justified them and escaped punishment for them – we can see the complex interplay between violence and the law in Spanish America. Lawyers visited Salazar in his palatial Granada home to take his testimony, which consisted of the simple defence that Rodrigo de Paz had been a rebel. Salazar claimed he was then, and continued to be, a loyal and trusted crown official; that Paz, as a rebel against royal authority, had been legally subject to interrogation under torture; that Salazar's actions were justified by 'the notorious crimes that Rodrigo de Paz had committed and confessed';⁵ that the treasures Paz was hiding included taxes owed to the king, a treasonous deception; that Paz's torture and killing were just, judicious and legitimate – carried out under cover of law. As transparent as that argument may seem, Salazar was able to escape arrest in Spain. The accusation against him – that he had illegitimately assumed the governorship and acted as 'a tyrant' – did not stick.

4 AGI, Justicia 220–225, comprising thousands of folios (but see in responses to question 47 accusations that Pedro de Alvarado conspired with Cortés to hide Moctezuma's treasure); also see further references and context in Matthew Restall, *When Montezuma Met Cortés: The True Story of the Meeting That Changed History* (New York: Ecco/HarperCollins, 2018), ch. 8.

5 AGI, Justicia 1018, no. 1, ramo 1, unnumbered folio about forty folios in.

Critics of conquistador methods, such as the famous Dominican friar Bartolomé de las Casas, would likewise unsuccessfully attempt to use the ‘tyrant’ label to halt conquest activities or bring courtroom condemnation of specific Spaniards.⁶

The law favoured perpetrators like Salazar. Lawyers for the Paz family never extracted from him more than the court costs. In 1540 he returned to New Spain as factor; nicknamed El Gordo, he lived corpulent and wealthy into the 1560s. Thus the battle of accusations between ‘rebel’ and ‘tyrant’ was not a fair fight. Applied to fellow Spaniards – provided the rituals of arrest, accusation and interrogation were more or less followed, complete with a notarised written record; and as long as the accused was not socially and politically higher ranked than the accuser – the charge of ‘rebel’ permitted levels of violence that made ‘tyrant’ a hollow allegation. Applied to indigenous peoples, it granted *carte blanche* to inflict violence of various and many kinds.



Figure 21.1 One of the engravings Theodor De Bry created to illustrate the 1595 Frankfurt edition of Girolamo Benzoni’s *Historia del Mondo Nuovo* (Plate III), depicting the excessive methods of punishment that Spaniards used to discipline and control indigenous and African slave workers. Note how the acts of torture and mutilation are legitimised by the presence of a presiding Spanish officer; his dress, chair, baton, and two attendants signify his position of authority and lend the proceedings a veneer of legalised and ritual legitimacy.

6 Most notably, in Bartolomé de las Casas’s *Brevísima relación de la destrucción de las Indias* of 1552; e.g. *An Account, Much Abbreviated, of the Destruction of the Indies*, ed. Franklin Knight, trans. Andrew Hurley (Indianapolis: Hackett, 2003).

Here, then, were the twin elements of a violence that would sweep the hemisphere for centuries. One was the promise of wealth and status, as the motivating factor that drove men to violence. The other was an ideology of justification that legitimised such violence; that is, it made violence permissible and defensible by law, either officially supported by the institutions of justice and government, or unofficially through a veneer of legality or legitimacy. The slippage between those two categories permitted more violence in the colonies and on their frontiers. For acts of violence that might strike us as homicidal, personal, arbitrary or contrary to Spanish law (from the murder of a woman by her husband to the mass enslavement of indigenous villagers) could be justified and legitimised, and thus committed with impunity, as if legally sanctioned from the start.

Looking at the broad sweep of Spanish America from the 1490s into the nineteenth century, the contexts of violence that Spaniards saw as justifiable or legitimate were not restricted to invasion, conquest and frontier scenarios; as Europeans in the Americas and their descendants moved across the hemisphere, they carried with them broadly applicable notions of violence that they viewed as legitimate (or that could be legitimised). But within the ever-shifting frontier of initial contact, conquest or prolonged resistance, the primary victims of such violence were not individual Europeans but indigenous peoples – and on a massive scale. It is true that Spaniards mostly sought to profit from indigenous communities through their preservation and the maintenance of a *pax colonial* (which was mostly not the case in English and Portuguese colonies). But that general pattern did not prevent Spaniards from slaughtering and enslaving hundreds of thousands of indigenous peoples.

A Dance of Bureaucracy

The written record of life in colonial Latin America is replete with acts of violence that might strike us as excessive, cruel, unwarranted and committed with astonishing impunity. The value placed on notarised record keeping in the Spanish and Portuguese world means that thousands (perhaps hundreds of thousands) of archival cases of violence have survived. The contours of violence became increasingly complex over the centuries, the range in their patterns of motivation and victimisation enormous. But for our purposes here, I briefly outline eight historical developments around which acts of violence proliferated in Spanish America, along with concomitant structures of justification or legitimisation (one and two stem from the wars of conquest; three and

four relate to Inquisition activities; five and six centre on slavery; seven is violence against women; and eight is the violence used to suppress revolt).

The first pair of sibling developments are (one) the mass enslavement, brutalisation and demographic collapse of indigenous peoples on the Caribbean islands and in circum-Caribbean coastal regions from the 1490s into the mid sixteenth century, by which time such communities had literally been decimated (reduced by 90 per cent); and (two) the wars of the Conquest of Mexico, initiated by the Spanish–Aztec War of 1519–21, the violence of which has traditionally been downplayed, distorted, misunderstood or glorified.

Both are vast topics with huge literatures of published primary and secondary sources, especially the Mexican topic – and, furthermore, they have been tackled in a parallel chapter.⁷ So suffice to suggest here that the two are better understood if seen as part of a single process, guided and enabled by a rapidly developing ideology of legitimised violence. For example, as early as the 1490s Cristobal Colón (Columbus) and his collaborators and successors constructed an abiding myth of cannibalism in the Caribbean (whose very name derives from the word ‘cannibal’). They were motivated by beliefs – backed up by royal law, beginning in 1503 – that cannibals could rightfully be enslaved. Spaniards called these alleged man-eaters *caribes* (‘the term that they used to make free people into slaves’, as Bartolomé de Las Casas put it), and expected (some perhaps hoped) to find them on the American mainland too.⁸ Accounts by Juan Díaz (a Spanish priest who travelled with the conquistadors) and Pietro Martire d’Anghiera (an Italian historian who died in 1526, known in English as Peter Martyr), published in 1520 and 1521 and based on what Spaniards claimed to have seen on the 1518 Grijalva expedition along the Yucatec and Mexican coastline, generated engraved imaginings of indigenous orgies of idolatry, sacrificial slaughter and cannibalism that were reproduced for many generations.⁹ When Spaniards witnessed ritual executions and ritual violence in Mexico – including what is usually termed ‘human sacrifice’ – they quickly paired that transgression with cannibalism as twin sins. As an account of 1566

7 See Chapter 7 in this volume.

8 Bartolomé de Las Casas, *Apologética historia de las Indias* (Madrid: Bailly-Baillere é Hijos, 1909), p. 380; also see a variant in the *Historia de la Indias* (1561), book 3, ch. 117 (*History of the Indies*, ed. and trans. Andrée Collard (New York: Harper Torchbooks, 1971), p. 231); Neil L. Whitehead, *Of Cannibals and Kings: Primal Anthropology in the Americas* (University Park: Pennsylvania State University Press, 2011), p. 15.

9 Whitehead, *Cannibals and Kings*, pp. 9–15; David Abulafia, *The Discovery of Mankind: Atlantic Encounters in the Age of Columbus* (New Haven, CT: Yale University Press, 2008), pp. 125–30; Surekha Davies, *Renaissance Ethnography and the Invention of the Human: New World, Maps and Monsters* (Cambridge: Cambridge University Press, 2016), chs. 3, 4 and 8; Restall, *When Montezuma Met Cortés*, ch. 3.

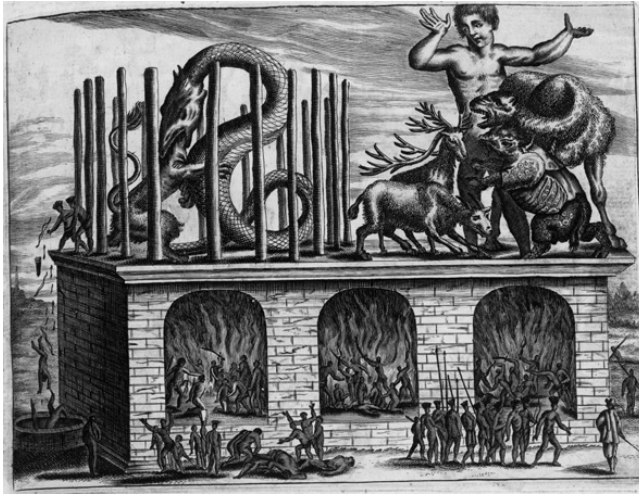


Figure 21.2 In 1518, Spaniards claimed they saw a sacrificial altar on the coast of the Gulf of Mexico; by 1671, illustrated versions of that claim had evolved into this image, included in *America*, the great compendium of New World geography and history published in English by John Ogilby (1670) and in Dutch by Arnoldus Montanus (1671).

told European readers in several languages, indigenous Mexicans ‘are the cruellest people to be found in warfare, for they spare [nobody], killing them all and eating them’.¹⁰

Added to a supposed treasonous propensity for rebellion, human sacrifice and cannibalism formed a trio of legitimising ‘facts’ that gave Spaniards licence to invade the many regions that became the viceroyalty of New Spain (the Caribbean islands, the sea’s rim and Mesoamerica) – despite Las Casas’s decades of arguing in print and at court that the wars of conquest caused greater harm and evil than human sacrifice by Aztecs and other ‘Indians’.¹¹ The *quebrantamiento*, or great ‘breaking’, of the Taino and other indigenous groups in the Caribbean and coastal Central America was followed by mass enslavement of Mesoamericans from 1519 into the 1540s, and then of other indigenous

¹⁰ Anonymous [uno gentil’uomo del Signor Fernando Cortese; el Conquistador Anónimo], ‘Relatione di Alcune Cose della Nuova Spagna [Relación de Algunas Cosas de la Nueva España]’, in Giovanni Battista Ramusio, *Navigazioni et Viaggi* (Venice: Giunti, n.d. [1556]); Joaquín García Icazbalceta (ed.), *Colección de Documentos para la Historia de México*, 2 vols. (Mexico City: Andrade, 1858–66), vol. 1, p. 374.

¹¹ Glen Carman, ‘Human Sacrifice and Natural Law in Las Casas’s Apologia’, *Colonial Latin American Review* 25.3 (2016), 278–99; Restall, *When Montezuma Met Cortés*, chs. 5 and 8; see also Chapter 5 in this volume.

peoples in the Mexican far north and beyond. The claim that Moctezuma had surrendered to Cortés in 1519 underpinned the use of the rebellion loophole, one used to justify the massacre and enslavement of hundreds of thousands. While the elimination of 'Indians' was never an official Spanish or Portuguese policy (contrary to policies in some parts of British America), individual officials and settlers periodically engaged in sustained levels of violence that were tantamount to genocide – arguably in effect if not in intent.¹²

The third and fourth historical developments relate to the evolution of activities in the Americas by Spanish church officials. The third was the Spiritual Conquest, or the conversion of indigenous peoples, overwhelmingly by Spanish priests and friars. The fourth was that of activities by the Holy Office (also known as the Inquisition), most notably anti-Semitic campaigns in seventeenth-century Mexico City and Lima. These two developments comprised a pair of ecclesiastical movements that displayed periodic outbursts of violence, legitimised through judicial process.

The Spiritual Conquest was an often peaceful process, and is increasingly being understood by historians as a collaborative one, leading to numerous regional variations in belief and practice. But there were also moments of frustration by church officials, leading to violent campaigns of extirpation. Recidivism and the persistence of so-called idolatry were viewed as a pestilence or disease whose cure sometimes necessitated systematic torture – legitimised by following a specific series of torments, set by the ecclesiastical authorities, with torture sessions recorded in detail by a notary. Investigations and extirpations also often necessitated violent public humiliation, and even execution, of the afflicted.

A well-known and illustrative example is the campaign against 'idolatry' conducted during the summer of 1562 in the small province of Yucatán. Some 4,000 Maya men and women were interrogated under torture, all notarised and conducted according to proper judicial procedure, culminating in the death of several hundred Mayas and the public humiliation of leaders in auto-da-fé rituals of penance. Fray Diego de Landa, the *provincial* or head of the Franciscans in the colony, led the campaign. He later explained in straightforward terms what justified the campaign and what legitimised its violent methods. Having been 'instructed in the religion' the local Mayas were 'turned to idolatry' by their priests, whose 'sacrifices' included those of 'human blood'; thus Landa followed the inquisitorial procedure of *processos*

12 For a comparative discussion of conquest violence in the invasion wars in Mexico and Peru, see Chapter 30 in this volume.

(denunciations, investigations and trials) and an *auto*. Although Landa had the support of key Spanish officials, the campaign was opposed by the governor and the conquistador settlers. Their objection was economic, not moral; they feared for the profitability of their *encomiendas*, or grants of tribute goods and labour rights from groups of Maya villages. Although moral objections were eventually raised – by an incoming bishop – resulting in the campaign being halted and Landa being dispatched back to Spain, the fearsome friar later returned as bishop himself.¹³

Largely as a result of violent anti-idolatry campaigns like that of Landa, which were carried out under cover of the powers of the Inquisition or Holy Office, indigenous peoples were removed from the jurisdiction of the Spanish Inquisition in the Americas after the 1570s (in Mexico, for example, from 1571, when the Mexican Inquisition was established). As a result, regional inquisitions continued to police orthodoxy among the growing non-indigenous populations in the colonies, generating a relatively small but steady stream of prosecutions. In Mexico, at least 400 people were officially investigated for heresy between 1571 and the abolition of the Mexican Inquisition in 1820, of whom at least fifty were executed. A small number of these were foreign Protestants, mostly captured pirates, tried and executed by the inquisitions of Mexico, Lima and Cartagena in the sixteenth and seventeenth centuries. But most notably more than half of those who were tortured and executed in public rituals were condemned for being crypto-Jews – which brings us specifically to the fourth historical development, anti-Semitic violence lead and legitimised by the Inquisition.

It was therefore New Christians, many of them Portuguese, who suffered the most under the Inquisition. Merchant families were especially targeted for practising the ‘Law of Moses’, although records show that awareness of alleged heretical beliefs or practices among the accused varied tremendously; some of those jailed viewed themselves as good Catholics, and regularly attended mass, whereas others openly proclaimed themselves practising Jews, and were even willing to be martyrs for their faith. In Mexico, the most violent outburst of church-sanctioned, Inquisition-led anti-Semitism occurred in the 1640s (for example, in one week in 1642 some 150 accused

13 Landa quotes from Matthew Restall et al., *The Friar and the Maya: Diego de Landa's Account of the Things of Yucatan* (Boulder, CO: University Press of Colorado, in press), but the passage can be found in any modern edition as the final paragraph of chapter 18. Also see Inga Clendinnen, *Ambivalent Conquests: Maya and Spaniard in Yucatan, 1517–1570*, 2nd edn (Cambridge: Cambridge University Press, 2003); Matthew Restall, *Maya Conquistador* (Boston, MA: Beacon Press, 1998), pp. 144–68.

were arrested and most of them questioned under torture; in 1649 twelve alleged secret 'Judaizers' were burned at the stake in Mexico City).¹⁴ Because anti-Semitism was itself legitimate, its violent expression could quickly spread under cover of law. The 1649 outburst of legitimised anti-Semitic violence in Mexico followed an equally deadly one in Peru; in the viceregal capital city of Lima in the late 1630s the Inquisition arrested and interrogated 100 alleged participants in the *complicidad grande*, or Great Jewish Conspiracy. Fifty-two of the accused were whipped, humiliated in public auto-da-fé rituals, and exiled; a dozen were burned alive at the stake. In a controversial study of the Inquisition in Peru, Irene Silverblatt characterised the activities of the Holy Office as a 'dance of bureaucracy and race, born in colonialism', contributing ominously to 'the creation of the modern world'. In other words, Silverblatt saw the Spanish Inquisition's culture of legitimised anti-Semitic violence as a central root of twentieth-century manifestations of similar violence – most obviously the Holocaust.¹⁵ Whether she went too far or not, in drawing a line from seventeenth-century Peru to twentieth-century Europe, there is no doubt that colonial administrators and church officials in Spanish America developed ways to commit violence under cover of government and the law.

Viceregal and provincial capitals and their hinterlands in Spanish America evolved demographically; they went from being regions of conquest violence against indigenous peoples to places where government officials feared revolts by African slaves and church officials worried about crypto-Jews and other heretics in their midst. Spaniards had as much reason as other Europeans in the Americas to fear resistance and revolt by African slaves – over four centuries, 11 million Africans were brought to the hemisphere to toil against their will. Our fifth violence-infused historical development is thus the trade and treatment of African and African-descended slaves in Spanish America. Violence deployed to prevent and discourage slave revolt was therefore seen as a legitimate means of preserving order, even if it counterproductively provoked violent reactions; as Trevor Burnard notes of the trans-Atlantic slave trade, 'violence permeated every aspect of its operations'.¹⁶ The Atlantic slave trade predated the European discovery of the Americas, and the trade thus soon became an established element of Iberian expansion; as it grew, so did tales of its violent nature – the high

14 John F. Chuchiak IV, *The Inquisition in New Spain, 1571–1820: A Documentary History* (Baltimore, MD: Johns Hopkins University Press, 2012), p. 236.

15 Irene Silverblatt, *Modern Inquisitions: Peru and the Colonial Origins of the Civilized World* (Durham, NC: Duke University Press, 2004), pp. 4, 31.

16 See Chapter 1 in this volume.

mortality rate on the middle passage, the brutal treatment of slaves by owners in all colonies, the allegedly violent nature of slaves themselves, and the use of ritual, public executions to suppress slave revolts and terrorise the growing African and African-descended communities in the hemisphere.

An example of the latter is worth mentioning because it took place in Mexico, a region less often associated with violence against slaves than plantation zones such as northern Brazil, Saint-Domingue and the US south. On a May morning in 1612 thirty-five black men and women were summarily tried and convicted as rebel conspirators, paraded through the streets of Mexico City and hanged before the city populace in the central plaza. Before the crowds dispersed, twenty-nine bodies were decapitated and their heads spiked atop the gallows, while the other six were quartered, their body parts displayed at the city's entrances. The significance of the event for our purposes is twofold. First, the high number of executions and their public nature were a vivid example of how the display of legitimate violence acted as a spectacle of state terror (as did *auto-da-fé* rituals). Second, no rebellion had actually taken place, nor was its plot well evidenced. In fact, the trial, which was no more than a brief investigation by the *audiencia* (the city and district's high court), and the mass execution appear now to have been a judicial contrivance designed to permit a public performance of state terrorism. With a sharp growth, beginning in the 1590s, of the enslaved and free black population in the city and its environs, Spanish officials and settlers grew increasingly fearful of an uprising by those they perceived as innately prone to rape, robbery and murderous revolt. Prejudice and fear meant that rumours of the alleged revolt were quickly believed. But the response was not racist mob violence or covert state persecution, but a public deployment of judicial process to lend a justificatory veneer to cautionary lynchings.¹⁷

The site of the greatest mass brutality against African-born and Afro-descended slaves was the sugar plantation, as Cécile Vidal details for the British and French colonies.¹⁸ (In a topographical study of violence in the Americas, the plantation would surely play a central role).¹⁹ As slave-worked sugar operations expanded in the eighteenth century – maintained by every European empire, from the British and Portuguese to the Dutch and Danish –

17 María Elena Martínez, 'The Black Blood of New Spain: Limpieza de Sangre, Racial Violence, and Gendered Power in Early Colonial Mexico', *William and Mary Quarterly* 61.3 (2004), 479–520.

18 See Chapter 2 in this volume.

19 I am not aware of such a study yet written, but see Werner Riess and Garrett G. Fagan (eds.), *The Topography of Violence in the Greco-Roman World* (Ann Arbor: University of Michigan Press, 2016).

so did the reputation of the slave trade as excessively violent spread within Europe itself. In the closing decades of the eighteenth century British public opinion finally turned against it, helping to fuel the abolition movement, while the eventual success of the slave revolt in Saint-Domingue (Haiti) served as an inspiring or terrifying lesson in how the over-application of violence by masters in a slave society could backfire. Nonetheless, Europeans were quick to take refuge in relativist evaluations of slave regimes, insisting that their colonies were full of contented black families, while other empires treated slaves abominably (arguably, a tacit recognition that not *all* forms of violence against slaves were legitimate). This finger pointing was most notable in border regions, such as that between the British logging settlement in Belize and the neighbouring Spanish colonies in Yucatán, Guatemala and Honduras.²⁰ Beneath the rhetoric of colonial officials lay a grim truth that African slaves in the Americas suffered legally sanctioned violence of every kind, to degrees unimaginable to us, in all colonies. It was only when public opinion, and then the law itself, ceased to view such violence as legal or legitimate that the abolition movement became possible.

The slave system in the colonial Americas was intrinsically violent, built upon seizure, dislocation, rape, murder and at times micro-genocidal community destruction. As the transatlantic trade in enslaved Africans grew along with European colonies in the New World, the phenomenon of enslaving indigenous people – the sixth of our eight violence-oriented historical developments – persisted along the ever-shifting frontiers of European expansion. In Mexico, those frontiers were in the near north in the sixteenth century, but soon moved to the far north, and then all over North America, as indigenous groups felt the impact of multiple Spanish, French, English and eventually even Russian incursions and settlements. In South America the frontiers were numerous, but most notably ran into and around Amazonia. Portuguese slavers were persistent and wide-ranging, even causing border conflicts between Brazil and Spanish colonies.

While the topography of frontier violence and indigenous enslavement was in constant flux, its illegality, coupled with the loopholes on cannibalism and rebellion, continued to apply. To clarify: it was illegal to enslave ‘Indians’ in Spanish America for most of the colonial period, and the vast majority of indigenous inhabitants of Spain’s provinces in the New World were not

20 Mark Lentz, ‘Black Belizeans and Fugitive Mayas: Interracial Encounters on the Edge of Empire, 1750–1803’, *The Americas* 70.4 (2014), 645–75; Matthew Restall, ‘Crossing to Safety? Frontier Flight in Eighteenth-Century Belize and Yucatan’, *Hispanic American Historical Review* 94.3 (2014), 381–419.

slaves; but the loopholes or exceptions to the law were abused far more than was recognised at the time, with the result that indigenous enslavement has often been ignored since then. For that reason alone, it is worth our attention, but it is particularly relevant here because it represented the abuse of law – the use of the letter of the law in violation of its spirit – to deploy legitimated violence against indigenous families.

The following description comes from an Italian traveller, Girolamo Benzoni, and refers to the Venezuelan coast in the 1540s. Those details aside, and despite Benzoni's unreliability in many matters, this comment offers a grimly accurate glimpse into how indigenous groups outside European colonies continued to suffer in much of the Americas, and for centuries, the kind of violence outlined above for the very early Caribbean and Mexico. One day, Benzoni narrates, a Spanish captain returned from raiding nearby indigenous villages

with more than 4,000 slaves. He had captured many more, but they had died on the journey from hunger, overwork, and exhaustion, as well as from sorrow at leaving their country, their fathers, their mothers, or their children. When some of the slaves could not walk, the Spaniards tried to prevent them from making war later by burying their swords in their sides or in their breasts. It was really an upsetting thing to see the way these sad, naked, tired and lame creatures were treated. They were exhausted with hunger, illness, and sadness.

Just as in the Caribbean and Mexico, the oft-ignored theme of sexual slavery was central to the phenomenon in South America. Adds Benzoni: 'Nor was there a woman who had not been violated by the predators. Because there were so many Spaniards who indulged their lust, many were left broken.'²¹

Benzoni's comment brings us to the seventh violence-themed historical development, a thread that has run through all eight of the above topics: violence against women. Sexual slavery, especially of teenage girls, was at the heart of the violence that tore apart families and swept through towns and villages in the wars of invasion in the Caribbean, Mexico and Central America.

²¹ Girolamo Benzoni, *The History of the New World*, ed. Jana Byars and Robert C. Schwaller (University Park: Pennsylvania State University Press, 2017), p. 28. It is important to remember that indigenous enslavement was a hemispheric phenomenon, and thus included the sweeping, even genocidal, subordination and removal of indigenous communities by the English and their descendants in North America, from the north-east coastal colonies in the seventeenth century through to California in the late nineteenth. See Andrew Woolford, Jeff Benvenuto and Alexander Laban Hinton (eds.), *Colonial Genocide in Indigenous North America* (Durham, NC: Duke University Press, 2014); Andrés Reséndez, *The Other Slavery: The Uncovered Story of Indian Enslavement in America* (New York: Houghton Mifflin Harcourt, 2016); see also Chapter 19 in this volume.

The pattern was repeated across the Americas for centuries. Young women, eventually numbering in the hundreds of thousands, saw their male relatives killed, were subjected to gang rape or serial rape, then sold and condemned to a life of slave labour, often among people of alien languages and cultures – European, African, indigenous. A parallel pattern lasted for centuries among African and African-descended women on both sides of the Atlantic. Such women had little recourse to protection or retaliation, and none to justice; their slave status provided a veneer of legitimacy to their abuse. Meanwhile, women were not spared the violence of the Inquisition, including the two case clusters given above – in Yucatán in 1562, for example, over 100 Maya women were subjected to the torture-based interrogation; and women, almost as much as men, of Spanish and Portuguese ancestry in Peru in the 1640s were victims of anti-Semitic Inquisition violence.

Although heretics were relatively rare in colonial Latin America, witches were not. The topic of witchcraft is worth a brief note in the context of violence against women, simply because in the Americas, as in Europe during these centuries (but especially the seventeenth), such violence also took the peculiar but virulent form of the witch craze. Hundreds were tried and convicted across the whole colonial period. In English colonies such as Massachusetts, the patterns of violence were gender-related and on a larger scale, as in northern Europe at this time. But in Spanish America (as in Portuguese Brazil), alleged witches were virtually never arrested en masse, much less executed. Also unlike Anglo-North America and Europe, the folk and religious cultures of African and indigenous peoples complicated practices that inquisitors sometimes investigated as heretical or indicative of witchcraft, and that meant men were also investigated by the Inquisition or by a separate investigative body of the church in Spanish America, the *Provisorato* (sometimes called the Indian Inquisition). A minority of such investigations were violent, and most of the accused were spared execution, following public humiliation, flogging or exile – or some combination of the three.²²

A final phenomenon within the larger topic of violence against women is worth mention, in part because it illustrates the wide-ranging and multi-faceted nature of judicial violence in the colonial Americas: domestic violence. A brief case study introduces the phenomenon well. The talk of the town in La Plata (today's Sucre, Bolivia) in the winter of 1595 was the cold-

22 On the longue durée patterns of witch-craze violence in Europe, see Chapter 26 in this volume.

blooded murder by the audiencia notary of his wife. Freely admitting to the murder, the notary's defence was the accusation that his wife had been sleeping with the court's prosecutor and that the lovers had planned to use witchcraft to kill him. As it happened, the *oidor* (judge of the court), who lived next door to the notary and found him standing over his wife's corpse, had himself murdered his wife and her lover in Quito back in 1581. Both uxoricides (the notary and the judge) successfully claimed the right to commit violence that was technically illegal (as murder) but was justified and legitimated by the circumstances (social norms regarding men's rights over women), and as a result they suffered no worse than prosecution and temporary career setbacks.²³ In other words, women constituted a vulnerable sector in a society where violent acts, if classified as judicious, could be committed with impunity – even encouraged as being a form of justice and a restoration of the social hierarchy.

The final thread to be considered here (our eighth) is another large topic, that of colonial rebellions. The historiography of the twentieth century generally followed the lead of Spanish, Portuguese and British authorities during the colonial period – that any violence stemming from conquest or initial settlement was rapidly succeeded by a pax colonial, with the occasional uprising being an exception that proved the rule of peaceful rule. The very existence of the pax colonial now seems questionable. At the very least, it must be offset by three considerations.

First, the violence of conquest and settlement was far more extensive, even genocidal, and prolonged than has been recognised – from the Caribbean and Mesoamerican cases through to the sustained campaign by white settlers to eliminate indigenous Californians in the late nineteenth century.²⁴ Second, looking at the *longue durée* sweep of the colonial Americas, 'revolts were rare but violence was frequent' (in Murdo Macleod's words). That is, organised rebellions were rare due to policies such as the maintenance of local semi-autonomous rule by indigenous municipalities in Spanish America; but such revolts should be seen as 'one extreme of a continuum of violence' that included various kinds of 'evasions, defiances, and resistance' to colonial demands.²⁵

23 The murder cases are in the Archivo Nacional de Bolivia, in La Paz, and the AGI; see Thomas A. Abercrombie, 'Affairs of the Courtroom: Fernando de Medica Confessed to Killing His Wife', in Richard Boyer and Geoffrey Spurling (eds.), *Colonial Lives: Documents on Latin American History, 1550–1850* (New York: Oxford University Press, 2000), pp. 54–76.

24 Benjamin Madley, *An American Genocide: The United States and the California Indian Catastrophe, 1846–1873* (New Haven, CT: Yale University Press, 2016).

25 Murdo Macleod, 'Some Thoughts on the Pax Colonial, Colonial Violence, and Perceptions of Both', in Susan Schroeder (ed.), *Native Resistance and the Pax Colonial in New Spain* (Lincoln: University of Nebraska Press, 1998), pp. 141–2.

Third, the outbreak of organised revolts in the final half-century of Spanish colonial rule is now seen as more than a few well-known dramatic rebellions, such as that of the Inca revivalist Túpac Amaru in Peru. For example, the Great Andean Rebellion of 1780–2 is increasingly understood in the context of uprisings up and down the Andes beginning in the 1740s. At the same time, as more studies of specific uprisings are published, scholars are increasingly conscious of the larger context, one that includes everything from indigenous Totonac resistance to tobacco reforms in the Veracruz region of Mexico to the Maya rebellion in Yucatán in 1761 led by Jacinto Canek.²⁶

The relevant point here is that rebellions tested the efficacy of the legitimised violence used by Spanish officials to maintain colonial order. Just as the violence used to keep slaves at work could be counterproductive, so did violent responses to petitions and protests by indigenous leaders often stimulate a cycle of violence; not everyone shared the belief held by colonial officials that arrests, interrogations accompanied by beatings and public floggings were legitimate actions. At times, Spanish officials understood that a negotiated end to the conflict could cut that cycle, but more often than not it resulted in spectacular displays of extreme, legitimised violence in the form of public executions of rebel leaders – of which the slow deaths of Túpac Amaru and Jacinto Canek are examples.

Conclusion: Black Legend, White Legend, Red Legend

The impression thus given that the societies of colonial Latin America were especially violent is, of course, meaningless (all past human societies were violent, as the volumes of *The Cambridge World History of Violence* attest). However, perceived relative violence is a meaningful category of analysis. If violence is ubiquitous to human societies, then so too is the tendency of one society to judge another as being more violent – or being violent in the wrong ways. This is particularly relevant to early Latin America, for three reasons.

First, the Protestant world of the seventeenth to nineteenth centuries developed a judgement of Spanish conquest and colonialism as excessively

26 Charles F. Walker, *The Tupac Amaru Rebellion* (Cambridge, MA: Belknap Press of Harvard University Press, 2014); Jake Frederick, *Riot! Tobacco, Reform, and Violence in Eighteenth-Century Papantla, Mexico* (Sussex Academic Press, 2016); AGI, México 3050; and Robert W. Patch, *Maya Revolt and Revolution in the Eighteenth Century* (Armonk, NY: M. E. Sharpe, 2002), and 'Culture, Community, and "Rebellion" in the Yucatec Maya Uprising of 1761', in Schroeder (ed.), *Pax Colonial*.

violent; the colonialism exercised by other European nations was thereby rendered benign by comparison. Imperial rivalries fuelled this hypocritical distortion of the colonial track record, boosting it as late as the decades following the Spanish–American War, when a Spanish apologist for his nation’s lost empire dubbed that distorted reputation ‘the Black Legend’.²⁷ Historians have spent the century since debating and debunking Black and White legends (the White being the fiction that Protestant colonists were more benign and enlightened than Catholic ones), in parallel to similar debates regarding comparative slave systems in the Americas. But despite overwhelming evidence that nowhere in the Americas did Europeans maintain benign systems to exploit indigenous and African-descended peoples, and that variations in how subject peoples were treated were regional (not national or imperial), myths like the Black Legend persist.

Second, Spaniards themselves had earlier developed what we might call the Red Legend – the notion that some, if not all, indigenous peoples in the Americas were inherently barbarous and savage, prone to certain cultural depravities. While important categories of depravity included the religious (‘idolatry’) and the sexual (sodomy), forms of violence were crucial to this ideology of superiority. In other words, what made indigenous peoples inferior was not simply that they were violent (after all, as the next point reflects, Spaniards were too), but that the context of their violent acts was transgressive. The specific context upon which Spaniards fixated in their early decades in the Americas was that of cannibalism; on the Mesoamerican mainland, it was that of ‘human sacrifice’. Spaniards propagated with great persistence through the colonial centuries the Red Legend of Aztec society as blood-drenched and violent to its core; the legend survives to this day.

The three legends per se – Black, White and Red – do not help us to better understand violence in the early Americas. The partisanship and prejudice that underpin them cannot be easily reconciled with our claims to objectivity; as the late Tzvetan Todorov put it, ‘what if we do not want to have to choose between a civilization of sacrifice and a civilization of massacre?’²⁸

27 ‘Black Legend’ was coined in 1914 by Julián Juderías y Loyot. For the mid-twentieth-century debate among US historians Charles Gibson, Lewis Hanke, Benjamin Keen and William Maltby, see Benjamin Keen, ‘The Black Legend Revisited: Assumptions and Realities’, *Hispanic American Historical Review* 49.4 (1969), 703–19; for an update on the debate, and claims that the legend persists, see María José Villaverde Rico and Francisco Castilla Urbano (eds.), *La sombra de la leyenda negra* (Madrid: Editorial Tecnos, 2016).

28 Tzvetan Todorov, *The Conquest of America: The Question of the Other*, trans. Richard Howard (Norman: University of Oklahoma Press, 1999), p. 145.

But they do help us to see how violence has tended to be justified or condemned in relative terms, which leads us to our third point: within Spanish culture generally, and specifically within its political and legal culture, there was a relativist understanding of violence. Violence was a valid and acceptable mechanism for exercising authority, communicating political and religious orthodoxy, restoring honour, punishing transgressors and righting wrongs. But there were contexts to when, and rules to how, it could be committed. Violence was never just violence; it had to be *just* violence. And if an act of violence violated those rules, and was unjust, then violence against its perpetrators could be legitimate – in a way, restorative. Silverblatt, in discussing Hannah Arendt on Western civilisation and Michael Taussig on the early Americas, remarked that ‘Violence and civilization: they are inseparable. They need each other, they feed on each other – a realization that can stop your heart.’²⁹ In colonial Latin America, violence was not antithetical to, or incompatible with, what European colonists considered civilised life; on the contrary, in various ways it was classified and exercised as legitimate and legitimising, as the performance of civilisation itself.

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²⁹ Silverblatt, *Modern Inquisitions*, p. 14.

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