

LAH 3931: Race, Gender, and Law in Colonial Latin America

Prof. Max Deardorff

deardorff.max@ufl.edu

Office Hours: Monday 10:45am - 12:45pm; Friday 10:45-11:45am (339 Grinter)

Class Location: Keene-Flint 0119

Time: M, W, F Period 3 (9:35 AM - 10:25 AM)



An illustration of the imprisonment of the famous mestizo cacique of Turmequé (Colombia), ca. 1580

Description:

In 1579, a sturdily-built young man, about 30 years old, mounted a horse to go into the new colonial Spanish capital in Santafé (now Bogotá, Colombia). There, he hoped to find justice. Instead, when colonial administrators met him at the edges of town, they chained him up and carted him off to jail. The man was Diego de Torres, the former *cacique* (chieftain) of the native village of Turmequé (Colombia), who also happened to be a *mestizo* (of mixed Spanish-indigenous heritage). When the native community of Turmequé tapped him to become its leader a decade earlier, it hoped that Torres would help it navigate the tortuous politics of post-conquest society. Meanwhile Spaniards, knowing that Torres was the son of a Spanish *encomendero* and the half-brother of one of the colony's

wealthiest settlers, assumed Torres would be their ally. When Torres instead became an activist pursuing better treatment of the native community (by Spaniards), he became the target of many criminal accusations and spurious legal challenges. One of the more successful of those challenges alleged that Torres, as a person of mixed-ethnic background, did not meet the legal requisites for becoming a *cacique*. How can a modern scholar or student today even determine if that accusation was legally valid?

This legal history course takes a journey through family squabbles over inheritance, business deals gone bad, criminal accusations of violence and assault, and disputes over land on the way to understanding the roles that race and gender played in the application of law in the Spanish Empire. Could natives, Africans, and their descendants expect to get a fair shake in court? Did the legal system provide women legal instruments to overcome the will of abusive husbands? By the end of the semester, students will have the tools necessary to reach their own conclusions.

Required Texts:

Kimberly Gauderman, *Women's Lives in Colonial Quito: Gender, Law, and Economy in Spanish America* (Austin: University of Texas Press, 2009) ISBN: 9780292722231

Nora E. Jaffary and Jane E. Mangan eds., *Women in Colonial Latin America, 1526 to 1806: Texts and Contexts* (Indianapolis: Hackett, 2018) ISBN: 9781624667503

Course Reserves:

One copy of “Required Texts” listed above will be available at Library Desk for consultation.

Course goals:

- (1) Students will be able to identify ways in which the colonial legal system of the Spanish Empire differed from our own, including the specific juridical personhood it recognized for subjects according to their gender and race/ethnicity.
- (2) Students will learn to read historical legal texts in a critical fashion, with an eye to understanding the statutory basis that led to their creation, and how they were read and received by their contemporary audiences.
- (3) Students will improve their writing and communication skills, by writing short and medium-length essays that ask historical questions and muster evidence from primary sources to support their theses. All papers will be graded and returned with significant feedback so as to encourage better performance on future papers.
- (4) Students will engage in critical conversation with their peers and professor about the work of doing history.

ASSIGNMENT TYPES

###Attendance and Participation: Attendance at lectures and discussions is mandatory. Please attend section having read the assigned materials for the meeting and bring a copy with you. Reading comprehension quizzes may occasionally be administered via Canvas, and the results of those quizzes will be integrated into the Attendance and Participation Grade. Spotty attendance, unpreparedness, or failure to bring readings to discussion section will certainly lower your grade and poor attendance is grounds for failing the course; excellent attendance and especially energetic and informed participation will raise final grades.

Excused Absences: One absence will automatically be excused without question. Further absences must be justified by official documentation. Students who will not be able to take an exam at the scheduled time or need an extension of the due date for a paper must provide medical documentation of their condition at the time of the scheduled assignment. The same holds true for any course meetings beyond the first that students might miss because of extended illness. Students who have other conflicts that will prevent them from being able to complete an assignment on time or who will incur absences due to UF-sanctioned activities (such as participation in UF teams, etc.) must notify the professor in advance.

*****Case Analysis:** Multiple times throughout the semester you will be expected to perform a case analysis on the assigned historical documents. For each Case Analysis you will be asked to A) identify the legal statute that prompted the litigation; B) elaborate the facts of the case, stating who was involved and what issues were under dispute; C) analyze the case based on the introductory information that accompanies the reading and whatever other relevant context you have learned in class to this point. Each case analysis should be roughly 800 words.

*****Concept Papers:** This is a legal world different than our own. Twice during the semester, you will be asked to write a short analysis of roughly 1000-words addressing a legal-historical concept (for example: “dowry”, “natural law”, or slave’s rights).

*****Midterm Exam:** On Friday, October 11th we will have an in-class Midterm Exam. The exam will draw from concepts and themes treated in the prior weeks of the course.

*****Final Essay:** One 5-7 page essay will be due at the end of the semester. Questions will be distributed two weeks in advance. These essays will involve critical analyses of primary documents that we will have studied in class. **No outside sources should be consulted without justification to the instructor.** See discussion on grading and my policy on **plagiarism** at the end of this syllabus.

Grading:

Attendance and Participation:	15%
Case Analysis (x2):	20%
Concept Papers (x2):	20%
Midterm Exam:	20%
Final Essay:	25%

You cannot pass this course without passing all component parts, including attendance. If you miss too many sections or fail to attend lecture regularly (as determined by the professor and/or teaching assistant) you will fail the course.

If you have any concerns, including disabilities or other issues that might affect your performance, please let me know as soon as possible so that we can make any accommodations necessary.

Personal Technology Policies: All cell phones must be turned to vibrate at the beginning of class. Internet websurfing, texting, checking of email, or other tasks unrelated to note-taking during lecture, discussion or other classroom activities is not permitted. For this reason, **laptops are not allowed in class** except in the case of express, written consent from Professor Deardorff, provided beforehand. Any student found engaging in these activities during class may be asked to leave the classroom. A second violation will result in disciplinary sanction.

Schedule of Readings: Please note that readings will be posted on CANVAS under “Files.” This syllabus and any handouts or assignments will also appear on CANVAS.

1. Introduction:

~~Mon 8/19~~, Wed 8/21, Fri 8/23

Wednesday 8/21: Syllabus, opening lecture

READING**:
THE SYLLABUS

Friday 8/23: Broad overview [Lecture, with comprehension questions]

READING**:
Christoph Rosenmüller, “Mexico in Spain’s Oceanic Empire, 1519–1821,”
read pages 1-17

THEMATIC SECTION ONE: INDIGENOUS SUBJECTS UNDER THE CROWN

2. The Right to Conquest

Mon 8/26, Wed 8/28, Fri 8/30

Monday 8/26: Medieval Background and Early Justifications [Lecture & Reading Discussion]

READING**:
James Muldoon, chapter 7 “The Spanish Experience,” pp. 132-152 from
Popes, Lawyers, and Infidels (1979)

Wednesday 8/28: Legal Sources on Evangelization and Conquest [Discussion]

READING**:
Pope Alexander VI, *Demarcation Bull Granting Spain Possession of Lands
Discovered by Columbus* (1493)

Vitoria, “On the Evangelization of Unbelievers,” in *Colonial Latin America: A
Documentary History* 65-77

The Requirement

Friday 8/30: The *Encomienda*, Rights and Obligations of Conquistadors, & Indigenous Slavery [Discussion]
READING**: [Laws of Burgos \(1512-1513\)](#)
Erin Stone, "Slave Raiders vs. Friars: *Tierra Firme* 1513-1522," *The Americas* 74:2 (2017):139-170

3. Indigenous Slavery

Mon 9/2, Wed 9/4, Fri 9/6

Wednesday Wed 9/4: Debating the Justice of Indigenous Slavery [Reading Discussion]
READING**: [1542 New Laws](#)
Sepúlveda, excerpt from Valladolid debate, on natural slavery (Canvas)
"Las Casas's Views on Indigenous Slavery. Defense of the Indians, by the Most Reverend Fray Bartolomé de las Casas," in *Documenting Latin America*, 60-64
Pope Paul III, *Sublimus Dei* "On the Enslavement and Evangelization of Indians" (1537)
[\[http://www.papalencyclicals.net/Paul03/p3subli.htm\]](http://www.papalencyclicals.net/Paul03/p3subli.htm)

Friday 9/6: Fighting for Freedom in Spanish Courts [Discussion]
READING**: "Beatríz, *india's*, Lawsuit for Freedom from Slavery (Castile, Spain, 1558-1574)," pp. 14-29 in in Jaffary & Mangan, *Women in Colonial Latin America, 1526 to 1806* (2018)

---Friday 9/6: CASE ANALYSIS #1 DUE* by class-time, via Canvas: (Beatríz, india's, Lawsuit for Freedom)**

4. Two Republics & the Extirpation of Idolatry

Mon 9/9, Wed 9/11, Fri 9/13

Monday 9/9: Priests and Punishment under Spanish Rule
[Integrated Lecture & Discussion]
READING**: Osvaldo Pardo, "How to Punish Indians: Law and Cultural Change in Early Colonial Mexico," *Comparative Study of Society and History* (2006): 79-109

Wednesday 9/11: Religious Conflict Between Mayas and Spaniards in the Yucatan [Lecture]
READING**: ***consult these documents in preparation for Friday***
Excerpt from *Recopilación de las Leyes de Indias*, book VI, title V, law 35
Excerpt from Murillo Velarde (1791), title 21, "On Divination"

Friday 9/13: Case Study [Discussion]
READING**: Inga Clendinnen, "Appendix: A Sampler of Documents," pp. 195-209 from
Ambivalent Conquests: Maya and Spaniard in Yucatan, 1517-1570
ASSIGNMENT***: **CONCEPT PAPER DUE NEXT WEDNESDAY**

5. CLASS CANCELLED THIS WEEK

Mon 9/16, Wed 9/18, Fri 9/20

---Weds. 9/18: 1000-word Concept Paper (A) due via Canvas by 12pm

THEMATIC SECTION TWO: THE REPUBLIC OF THE SPANIARDS

6. The Mestizo Question

Mon 9/23, Wed 9/25, Fri 9/27

Monday 9/23: Race, Class, and *Mestizo* Paranoia [Lecture]
READING**: Douglas Cope, Chapter 1 "Race and Class in Colonial Mexico City, 1521-1660," pp. 9-26 in *The Limits of Racial Domination: Plebeian Society in Colonial Mexico City, 1660-1720* (Wisconsin, 1994)

Wednesday 9/25: Who is Qualified to be a Priest? [Reading Discussion]
READING**: Stafford Poole, "Church Law on the Ordination of Indians and *Castas* in New Spain," *The Hispanic American Historical Review* 61:4 (1981): 637-650

Friday 9/27: Legal Statutes and Legal Doctrine [Discussion]
READING**: "The Mestizo: Seed of Tomorrow" excerpted from *Politica Indiana* (1648), in Keen, *Latin American Civilization* (2000), 121-123.
An excerpt from *Recopilación de leyes de los reynos de las Indias* (1680) – professor's translation
Excerpt from Peña Montenegro, *Itinerario de Parrochos* (1668), trat. 8, sess. 1, num. 4 // sess. 3, num. 1-5 -- professor's translation

7. Blood Purity

Mon 9/30, Wed 10/2, ~~Fri 10/4~~

Monday 9/30: Blood Purity as a Legal Obstacle in Spanish Society [Lecture]
READING**: María Elena Martínez, "Appendix: Questionnaire Used by the Spanish Inquisition," in *Genealogical Fictions* (2008), pp. 279-280

Wednesday 10/2: Transforming Conceptions of Blood Purity [Reading Discussion]
READING**: Peter B. Villella, "'Pure and Noble Indians, Untainted by Inferior Idolatrous Races': Native Elites and the Discourse of Blood Purity in Late Colonial Mexico," *HAHR* 91:4 (2011): 633-663

8. The Inquisition and its Jurisdiction

Mon 10/7, Wed 10/9, Fri 10/13

- Monday 10/7: The Indian Question, the Inquisition, and Jurisdiction [Lecture & Reading Discussion]
- READING**: David Tavárez, chapter 3, “Legally Indian: Inquisitorial Readings of Indigenous Identity in New Spain,” pp. 81-100 in *Imperial Subjects: Race and Identity in Colonial Latin America* (2009)
- Wednesday 10/9: Popular Medicine, Witchcraft, and the Inquisition [Case Study Discussion]
- READING***: “Isabel Hernández, Midwife and Healer, Appears Before the Inquisition (Mexico, 1652)” in Jaffary & Mangan, *Women in Colonial Latin America, 1526 to 1806* (2018), pp. 128-144
- Excerpt from Murillo Velarde (1791), title 21, “On Divination”

---Friday 10/11: Midterm Exam

9. Married Women and Property Rights

Mon 10/14, Wed 10/16, Fri 10/18

- Monday 10/14: Gender and Law in Spanish America [Lecture]
- READING**: Kimberley Gauderman, preface & Introduction, pp. ix-xii & 1-6 from *Women’s Lives in Colonial Quito* (2003)
- Wednesday 10/16: Married Women, Property Rights, and *Patria Potestas* – Is father always right? [Reading Discussion]
- READING**: Kimberley Gauderman, chapters 1 & 2, pp. 12-47 from *Women’s Lives in Colonial Quito* (2003)
- Friday 10/18: Women Engaging the Legal System [Discussion]
- READING**: chapter 3 “Women’s Wills,” pp. 30-50 & chapter 4 “Midwife Francisca Diaz’s Petition to Return to Mexico,” pp. 51-59 in Jaffary & Mangan, *Women in Colonial Latin America, 1526 to 1806* (2018)

10. Women and the Criminal Justice System

Mon 10/21, Wed 10/23, Fri 10/25

- Monday 10/21: Women and the Criminal Justice System [Interactive Lecture]
- READING**: Kimberley Gauderman, chapter 3 “Women and the Criminal Justice System” pp. 48-70 from *Women’s Lives in Colonial Quito* (2003)

Wednesday 10/23: Sexual Violence and the Law [Discussion]
READING**: chapter 7 “Criminal Complaint by Angela de Palacios on Behalf of her Daughter, Leonor Arias” pp. 84-94 in Jaffary & Mangan, *Women in Colonial Latin America, 1526 to 1806* (2018)

Friday 10/25: Justifiable Homicide? [Discussion]
READING**: Thomas Abercrombie, “Affairs of the Courtroom: Fernando de Medina Confesses to Killing His Wife (Charcas, 1595)” pp. 54-76

11. Abortion, Infanticide, and the Law

Mon 10/28, Wed 10/30, Fri 11/1

Monday 10/28: Sex, Gender, Medicine, and the Law [Lecture]
READING**: Nora Jaffary, “Introduction” in *Reproduction and Its Discontents in Mexico: Childbirth and Contraception from 1750 to 1905* (2016): 1-19

Wednesday 10/30: Abortion as a Prosecutable Offense [Discussion]
READING**: chapter 12, “Don Juan de Vargas y Orellana Accuses his Wife doña Francisca de Marquina of Abortion (Potosí, 1703),” pp. 145-153 in Jaffary & Mangan, *Women in Colonial Latin America, 1526 to 1806* (2018)

Friday 11/1: Infanticide [Discussion]
READING**: chapter 21, “María del Carmen Ventura’s Criminal Trial for Infanticide (Zacualtipan, Mexico, 1806),” pp. 250-264 in Jaffary & Mangan, *Women in Colonial Latin America, 1526 to 1806* (2018)

---Friday 11/1: CASE ANALYSIS #2 DUE*: Choose one of the cases from Weeks 9-11 and conduct a case analysis. To be turned in to Canvas before the start of class.**

12. Women’s Lives: Work and Marriage

Mon 11/4, Wed 11/6, Fri 11/8

Monday 11/4: Women in the Public Square [Reading Discussion]
READING**: Kimberley Gauderman, chapter 4 “Women as Entrepreneurs,” pp. 71-91 from *Women’s Lives in Colonial Quito* (2003)
chapter 6 “Mothers and Wives in Labor Agreements,” pp. 77-83 in Jaffary & Mangan, *Women in Colonial Latin America, 1526 to 1806* (2018)

Wednesday 11/6: Sexuality, Illegitimacy, Discrimination and the Impact of the Royal Pragmatic of 1778 [Lecture]
READING**: Ann Twinam, “Antecedents,” pp. 3-34 in *Public Lives, Private Secrets: Gender, Honor, Sexuality, and Illegitimacy in Colonial Spanish America* (1999)

Friday 11/8: Social Class, Marriage, and Parental Prerogatives [Discussion]
READING**: Christian Büschges, “Don Manuel Valdivieso y Carrión Protests the Marriage of His Daughter to don Teodoro Jaramillo, a Person of Lower Social Standing,” pp. 224-235

THEMATIC SECTION THREE: SLAVERY

13. Fractional Freedoms

Mon 11/14, Wed 11/13, Fri 11/15

Wednesday 11/13: Slavery, Manumission, and Property Law [Lecture]
READING**: Excerpts from the *Siete Partidas* (1265), TBA

Friday 11/15: Slaves & Their Rights in Court [Discussion]
READING**: Michelle McKinley, “Fractional Freedoms: Slavery, Legal Activism, and Ecclesiastical Courts in Colonial Lima, 1593-1689,” *Law and History Review* 28:3 (2010): 749-790

14. Slavery, Manumission, and Property Law

Mon 11/18, Wed 11/20, Fri 11/22

Monday 11/18: Slaves & Ecclesiastical Courts, Case Studies [Discussion]
READING**: chapter 17, “Natividad, Negra, Sues her Owner for Freedom (Lima, 1792),” pp. 205-213 in Jaffary & Mangan, *Women in Colonial Latin America, 1526 to 1806* (2018)
Maribel Arrelucea Barrantes et al., “The Complaint of Manuela, Zamba Slave, that she be sold in Lima [November 3, 1783],” chapter 16 in *Afro-Latino Voices*

Wednesday 11/20: Self-manumission in the Spanish Empire [Discussion]
READING**: Alejandro De la Fuente, “Slaves and the Creation of Legal Rights in Cuba: *Coartación* and *Papel*,” *Hispanic American Historical Review* 87:4 (November 2007): 659-692

Friday 11/22: Enslaved Landownership and the Challenge of Multiple Jurisdictions [Discussion]
READING**: chapter 15 “Isabel Victoria García Sues the Hacienda del trapiche over Land Ownership (Pamplona, Colombia, 1777),” pp. 180-192 in Jaffary & Mangan, *Women in Colonial Latin America, 1526 to 1806* (2018)

---Sun. 11/24: 1000-word Concept Paper (B) due via Canvas by midnight (concept TBA)

THEMATIC SECTION FOUR: SEXUALITY

15. Common-Law Marriage and Inheritance Rights in Colonial Florida

Mon 11/25, ~~Wed 11/27~~, ~~Fri 11/29~~

Monday 11/25: Common-Law Marriage and Inheritance Rights in Colonial Florida [Lecture]
READING**: “Ana Gallum, Freed Slave and Property Owner (Florida, 1801,” pp. 224-239
in in Jaffary & Mangan, *Women in Colonial Latin America, 1526 to 1806* (2018)

16. Criminalization of Transgressive Gender/Sexuality

Mon 12/2, Wed 12/4, ~~Fri 12/6~~

Monday 12/2: Transgender in Colonial Spanish America [Discussion]
READING**: Chapter 18, “A Colonial Cross-Dresser,” pp 214-223 in in Jaffary & Mangan,
Women in Colonial Latin America, 1526 to 1806 (2018)
Wednesday 12/4: WRAP-UP

---Final Essay due on Canvas by Monday Dec. 9th, 5:00 pm

Grading Criteria for Essays and Other Written Assignments:

If you believe an error has been made in grading your work, please bring it to the instructor's attention, and he will review the situation. Once it has been verified that no error has been made, *GRADES ARE NON-NEGOTIABLE*.

A Work that goes beyond instructor's expectations: is careful, thoughtful, original, and thorough. Truly outstanding work – even for a “good” student.

A- Very good work with most of the attributes of “A” work but either deficient in some technical aspect, in thoroughness and care or not as strikingly incisive, original, or creative as “A” work. Excellent.

B+ Better than good, competent work, even for the typical student at this university. Some aspects are very strong, but not uniformly excellent.

B Good competent work, which meets all requirements the instructor could specify in advance. Reasonably thorough. Alternatively, work with some excellent aspects that are balanced by serious deficiencies.

B- Almost up to specifiable standards. Often characterized by vagueness and signs of lack of effort or insufficient engagement with the material. Sometimes the result of correctable misunderstanding. Talk to instructor.

C+ Below the specifiable standards for good work. Talk to instructor.

C Minimally passing work, showing serious misunderstanding or lack of effort or engagement. Talk to instructor

C- or below: Talk to instructor immediately.

Plagiarism policy

Please familiarize yourself with the University's academic honor code. Unintentional plagiarism results in an “F” for the paper. Intentional plagiarism results in an “F” for the course, or worse. All plagiarism charges will be reported to the University administration.

The University of Florida Honor Pledge: We, the members of the University of Florida community, pledge to hold ourselves and our peers to the highest standards of honesty and integrity by abiding by the Student Honor Code. On all work submitted for credit by Students at the University of Florida, the following pledge is either required or implied: “On my honor, I have neither given nor received unauthorized aid in doing this assignment.”

How to avoid the (unintentional) appearance of plagiarism

Make sure that all quotations from primary and secondary sources are always in quotation marks, and cite the source.

Always cite sources for ideas that are not your own. If the source is a book not assigned in the course, a lecture, or a conversation with a friend, or something said by another student in a discussion section, say so in a footnote or endnote.

The papers in this course are not research papers – they ask you only to think about material already assigned. So you do not need to consult readings other than what is assigned (if you happen to have read something not assigned that you think is relevant, feel free to use it, but with a proper citation). If someone has helped you with this paper (by reading it for clarity and grammar, or by listening to you talk about it) state in an acknowledgement who that person is, and how he or she helped you. It is fine to get help, as long as your helper does not in any way write the paper for you, or provide you with the argument(s) of the paper. It is best to get help from someone who is not taking the course.

Accommodations for Students with Disabilities: Students requesting classroom accommodation must first register with the Dean of Students Office. The Dean of Students Office will provide documentation to the student who must then provide this documentation to the Instructor when requesting accommodation. Contact the Disability Resources Center (<http://www.dso.ufl.edu/drc/>) for information about available resources for students with disabilities.

Counseling and Mental Health Resources: Students facing difficulties completing the course or who are in need of counseling or urgent help should call the on-campus Counseling and Wellness Center (352-392-1575); <http://www.counseling.ufl.edu/cwc/>.

Online Course Evaluation Process: Students in this class are participating in the pilot evaluation of the new course evaluation system called GatorEvals. The new evaluation system is designed to be more informative to instructors so that teaching effectiveness is enhanced and to be more seamlessly linked to UF's CANVAS learning management system. Students can complete their evaluations through the email they receive from GatorEvals, in their Canvas course menu under GatorEvals, or via https://urldefense.proofpoint.com/v2/url?u=https-3A_ufl.bluera.com_ufl_&d=DwIGaQ&c=sJ6xIWYx-zLMB3EPkvcnVg&r=1qtWVKU2uNohMAWR5pYYVu0F_ty9jxk4wL-DcSEfmKub76k8eaDIYyGQkZMpCQZ6&m=KCQMaruvDccGkQ95LBWWejChKpHpd3olzGps63zo0Ao&s=2ry1lk1Sd2MT9xMTXgaRslOLmzE7-Mky8W2E_HUO3wQ&e= . Please note your other classes this semester may be evaluated in the current GatorRater online evaluation system at [<https://evaluations.ufl.edu>]. Thank you for serving as a partner in this important effort.