

The enlightenment on trial: ordinary litigants and colonialism in the Spanish empire

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Abstrak

This book demonstrates that ordinary, often illiterate colonial subjects of the Spanish empire were among the Enlightenments most adept practitioners. Broadly situated within postcolonial debates about the Enlightenment and modernity, it employs approaches from comparative social science, intellectual history, and legal history to demonstrate that, at end of the 1700s, colonial Spanish Americans began to sue one another with a zeal unseen on the peninsula. Part I examines how and how many lawsuits were generated in the empire. It analyzes civil litigation rates in six areas of Mexico, Peru, and Spain, including Mexico City, Oaxaca, Lima, Trujillo, Peru, the Montes de Toledo, Spain, and the peninsular high court of Valladolid. With chapters on the process of suing, and on the intellectual transformations and absolutist royal policy reforms on law and its practice, it explores legal culture in diverse capital cities and rural districts. Part II zeroes in on three types of civil cases that increased even more rapidly than the general rise of civil suits. The cases that colonial women, Indian commoners, and slaves initiated against masters, native leaders, and husbands challenged an older model of justice aimed at extralegal outcomes and casuistic jurisprudence. As they produced new ideas about freedom, natural rights, history, and merit in court, these subordinate litigants ultimately created an Enlightened law-centered culture. The conclusion considers why Spain and its colonies have remained marginal to the story of the advent of the modern.