

Sex, Crime, and Empire: The Body Politic in the Audiencia of Quito during the Age of Charles III (1760-1790)

I. Project Narrative

I am applying for an NEH Fellowship to complete work on a book called *Sex, Crime, and Empire: The Body Politic in the Audiencia of Quito during the Age of Charles III*. This project changes the way we analyze and understand the relationship between sexuality, gender, and early modern empire. Scholars have had trouble understanding popular sexual desire during Spain's rule in the Americas because of the difficulty in locating its expression in the documentary record. That documentary lacuna changed in the late-18th century, as controlling sexuality came to play a significant role in the state-craft of Empire. In the period between 1760 and 1790, the Spanish imperial state made dramatic claims to the control of the bodies and sexual behaviors of its subjects. Royal authorities increasingly encroached on the traditional ecclesiastical territory of pastoral surveillance and moral correction. Through judicial mechanisms the state worked to make gender roles and sexual activities in the urban and rural parishes conform to a model that mirrored the Bourbon Monarchy's dream of a centralized, patriarchal, Enlightened absolutism. Criminal prosecutions of illicit sexual behavior reveal the extent to which the gendered and sexual expectations of royal authorities diverged from popular practices. The case files that preserve those prosecutions provide unique evidence for constituting popular sexual practices and expectations. Moreover, the state's increased willingness to root out and prosecute sexual crimes coincided with new models of punishment that emphasized moral correction through economic productivity in Crown-established Royal tobacco and textile factories. My book will demonstrate that the renewed criminalization of sexuality during the imperial reign of Charles III (1759-1788) turned individual sexual practices into contested ground upon which the Empire sought to establish its expansive claims to political and moral authority, connected to economically productive citizenship. Thus, my research works along parallel tracks: it documents the ways that the imperial state sought to buttress its authority through the control of sexual practices, while using the paper trail produced by this endeavor to locate and describe eighteenth-century sexualities.

The state's interest in illicit sex and criminality coincided with a crisis in royal authority caused by fallout from Spain's participation in the Seven Years War. Saddled with debt and with its defensive shortcomings exposed by the British Navy, the court of Charles III pursued a series of administrative, fiscal, and military reforms intended to centralize, rationalize, and magnify the Crown's authority. Traditional scholarship on the Bourbon period has centered on these reforms, as well as the often-violent reactions they elicited from subject populations that spanned the length of the Andes between 1765 and 1785. More recent scholarship, including my first book, *The Limits of Gender Domination: Women, Law, and Political Crisis in Quito, 1765-1830*, has increasingly turned attention to judicial and social regulations pursued by Bourbon officials, including the construction of poor houses and orphanages, efforts to transform the legal culture, increased state attempts to curtail vagabondage, control alcohol consumption, and the like. The two strains of reform, those aimed at efficiency, tax collection, and the centralization of political power, and those aimed at social control shared an underlying political theory of absolutist sovereignty. This claim to political authority collided with a centuries-old political culture of decentralism and "negotiated consent" that provided impressive stability to the global Spanish Monarchy after the age of conquest. The tensions produced by the so-called Bourbon reforms represented a protracted attempt at the modernization of imperial control in the Americas. Nowhere was that tension more intimately felt than in state actions to monitor and control sexuality.

Despite these two trajectories in scholarship on the Bourbon reforms, we lack a study that connects the Crown's administrative, fiscal, and legal activism to its enforcement of sexual norms as a strategy of empire. In part, this gap is the result of the difficulties in locating descriptions of sexual practices outside of the prescriptive literatures of the church and state. And, in part, it is the result of the tendency of historians to simply accept post-Tridentine church teachings as socially normative. *Sex, Crime, and Empire* corrects these tendencies by integrating a large body of empirical trial data into the changing legal, medical, penal, and

political prescriptions of the Bourbon period and the Spanish Enlightenment. The Audiencia of Quito, roughly equivalent to modern Ecuador, provides an excellent place to study this relationship. Situated between the viceregal centers of Bogotá and Lima, Quito became the object of tax reformers in the mid-1760s, attention that led to a significant city-wide revolt from 1765-1766. The impulse for the state to monitor and control the body politic and its sexual practices emerged as a central part of the Crown's attempt to restore royal authority and social control in the wake of the rebellion. But the connection between royal authority and the control of bodies and sexual practices was not simply a strategy for restoring control in an area of unrest. An infrastructure of neighborhood surveillance was constructed immediately after the rebellion that changed the exercise of state authority for decades after the populace was pacified. Controlling sex was never simply about the sex, but rather also about the enforcement of governing authority. The state's newfound prerogative to social control left an extensive documentary record of prosecution, testimony, confession, and punishment. Using this record, *Sex, Crime, and Empire* argues that the impulse to monitor, control, and reform through factory work the sex lives of subjects was emblematic of a fundamental shift in the relationship between institutions of rule and their subjects.

II. Methods and Work Plan

This project grew out of my first book, forthcoming this fall from the University of New Mexico Press, on women's legal identity in the city of Quito from 1765 to 1830. In the process of researching that book, I discovered a significant increase in moral policing of the city as well as sexual prosecutions during the reign of Charles III. I found that there were an impressive number of cases where both long-term illicit relationships and short-term indiscretions were made public and notorious and prosecuted. That book, though, was limited to analyzing women's capacity to make legal acts, and therefore explored civil law, property rights, and some forms of criminality. I largely ignored the impact of changes in the legal system on men, and also ignored the changing nature of punishment. I analyzed five-year case sets drawn from the city's First Notary, and separated by twenty-year blocks, leaving large parts of the vast archive untouched. Based on trends I noticed, but never developed, I am now specifically studying the political implications of the intersection of imperial power, local sexual practices, and corrective punishment. I have been experimenting further with approaches to criminal sexual prosecutions in conference papers and invited talks, as well as an article manuscript I am submitting to *The Americas*. This article, which will become a chapter in the current project, demonstrates how aberrant sexuality became increasingly understood in terms of gendered behaviors in the late eighteenth century by investigating two prosecutions of female-female sex acts. Methodologically, the article also offers an approach for bridging the gulf between prescription and practice at the intersection of imperial power and sexual politics.

Spanish criminal prosecutions developed along regular and predictable steps, from allegation to appeal. Court-appointed notaries, utilizing a combination of boilerplate and organic language, carefully documented each of these steps. Defendants were presumed guilty. The prosecuting magistrate directed both the investigation and adjudication of a crime, reading the charges and framing the initial interrogation of witnesses. Witnesses responded to questioning in terms established by the court. Confessions, on the other hand, temporarily dissembled the discursive control of the magistrate. Defendants argued their cases on their own terms, submitting petitions and their own witnesses and appealing to law and custom in a manner that opened the seemingly closed world of popular sexual practices to new scrutiny. Interestingly, when defendants were found guilty, their appeals immediately reverted to the arguments and norms of the magistrate. This predictable flow of cases in the Spanish judiciary reached to all corners of the Empire, thus allowing us to comparatively evaluate local popular sexual practices in disparate settings.

Ethno- and social historians have long used court cases as sources rich for mining ancillary details and anecdotal data to give voice to the popular sectors. *Sex, Crime, and Empire* pioneers an approach to criminal cases with an awareness of both the text and the judicial context. The concentration of a significant number of cases in the Audiencia of Quito, and the predictable flow of those cases, enable us to do more with the evidence than simply collect anecdotes. Borrowing from the ethnographic toolbox of qualitative data analysis,

I am coding transcripts of the cases to control for the procedural development of a prosecution, for the gender, age, and ethnicity of various participants, and for the influence of magistrates on the language of various parts of a case. This also enables me to differentiate institutional and popular discourses on sex and gender, allowing me to chart who is speaking when, in what context, and how that person portrays sex, gender, and authority. By paying such close attention to both form and content in sexual prosecutions, this method opens new avenues to analyze popular sexual practices and their complicated relationship to institutional norms. I put this close analysis of criminal prosecutions into the broader context of imperial governance, and the new legal, economic, penal, and medical literatures produced by the Spanish Enlightenment. Finally, I look at the system of punishment constructed to discipline those caught by the state's increased policing of sex, and specifically the role that economic activity in state-owned factories played in their reformation.

The evidentiary base of this project is built on 719 cases of sexual, and sexual-related crimes (cohabitation, adultery, fornication, sodomy, statutory and violent rape, abduction, verbal assaults, contested marriage claims, bigamy, as well as domestic violence radiating from sexual disputes) prosecuted in Quito between 1760 and 1790. The cases come from the *Criminales*, *Matrimonios*, *Civiles*, and *Notaría* sections of the Archivo Nacional del Ecuador. I have digital photographs of all of these manuscripts. In addition to the criminal prosecutions, I have weekly jail censuses covering thirteen years of the period under study. From these censuses, I have a database of approximately 7900 arrestees, their gender, crime, supervisory magistrate, ethnicity, and, occasionally, occupation. The jail censuses provide quantifiable documentation of the state's increased policing of sexuality. These arrest records are supplemented by institutional records of the jails and royal factories from the *Prisiones* and *Hospitales* sections of the archive. I also work with the records of the Presidency of the Audiencia of Quito, municipal records from the Archivo Municipal de Quito, and other miscellaneous documents from the Biblioteca "Aureliano Espinosa Pólit," the Archivo Histórico Banco Central, the Fondo Antiguo Luciano Andrade Marín in Quito, and the Archivo General de Indias in Seville, Spain. Finally, I draw on a large body of published primary texts, such as legal and investigatory manuals, medical texts, and politico-scientific treatises to locate imperial governance during the Spanish Enlightenment. The narrative of the book is structured around locations and actions. Chapter 1, "Barrios," introduces the parishes of Quito, looking at households, streets, plazas, and institutions to establish the social milieu of the era. Chapter 2, "Bodies," examines changing theories of the body in the medical, legal, and political texts (see Bibliography) of Spanish imperial theory in the late-18th century. Chapter 3, "Adulterers and Concubines" turns to the actual crimes, and analyzes the most common forms of illicit sexuality. Chapter 4, "Deviants," looks at sexual crimes such as sodomy and bestiality, deemed the most objectionable by state authorities. Chapter 5, "Assailants," examines the sexual implications of violence and verbal assaults. Chapter 5, "Jails," draws together the various crimes in their first location of punishment, the city jails and their weekly censuses. Finally, Chapter 6, "Factory," analyzes the formation of tobacco and textile factories as penal sites of correction. Along the way, the book argues that on the cusp of modernity, imperial power was constructed through the control of sexuality for the production of economically productive citizen-subjects.

I have collected all of the necessary documents necessary for this project. Over the past year, and through July 2011, I am coding and analyzing the trial transcripts using the qualitative data analysis software TAMS Analyzer. Because I have already undertaken significant research for this project, including an article and several conference papers, I will be able to complete a book-length manuscript during the academic year 2011-2012 with support from the NEH Fellowship. In addition to book publication, and in cooperation with the Archivo Nacional del Ecuador, I will be hosting my transcriptions, the database of criminals, maps, images, and other supporting materials for the project on <http://bourbonquito.com>, a web domain I have already purchased. The website is currently in development, and will utilize the open source web publishing platform Omeka (omeka.org) developed by the Center for History and the New Media at George Mason University. Omeka is designed specifically for museums, digital curators, and historians to present historical collections on the web, and thus provides a natural and powerful architecture to present my research.