

and engaging way. The arguments about the construction of public space from below and collective and participatory approaches to public art are compelling.

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YANNA YANNAKAKIS. *Since Time Immemorial: Native Custom & Law in Colonial Mexico*. Durham, NC: *Duke University Press*, 2023.

So much of historians' understanding about the colonial world hinges on how they portray the effects of the encounter and conquest of AmerIndian societies. For centuries historians have discounted the impact of Indigenous politics and culture, painting colonial society as largely the creation of Spanish conquistadors. More recently scholars have gone full circle and questioned the very notion of conquest, portraying conquistadors as deeply integrated into and dependent upon Native political circles. In her book *Since Time Immemorial*, Yanna Yannakakis enters this debate in a sophisticated fashion, exploring the evolution of Native custom and law during the three centuries of colonial rule in Mexico and arguing that we must resist overly simple depictions of rupture or continuity between the precolonial and postcolonial worlds.

How did Mexico's early colonial laws and legal practices evolve? Yannakakis begins with an examination of "the idea of custom as a source of law and social convention" in medieval Europe (p.23), culminating in the publication of the *Siete partidas*, the basis for much of the Spanish world's legal tradition. According to the *Siete partidas*, the laws of a land should be deeply shaped by its inhabitants' customary practices. The extant customs of people should be primary in the shaping of laws. In America this meant that early colonial intellectuals, especially clerics, scrutinized Indigenous customs (as presented in Indigenous codices or Spanish-produced *relaciones geográficas*) for their moral compatibility with Catholicism, tolerating non-heretical customs as the basis for local laws. Already we see the centrality of the Indigenous world on the legal practices that evolved. Some Indigenous customs, polygamy for example, failed the "repugnancy test" (p. 69) and were theoretically suppressed by Spanish officials, though polygamy survived in more remote colonial regions like Oaxaca, the main focus of this work. Importantly, as Yannakakis argues, Indigenous custom was critical in shaping broad categories of colonial law, from land tenure to labor obligations to the Indigenous village elections and exercise of politics. Colonial law was not merely imposed from above; it was adapted from Native customs and practices while being molded by Spanish filters. Colonial law was shaped by both preconquest customs and postconquest frameworks.

The law is not stagnant, however. Colonial law might have borrowed heavily from pre-conquest practices, but colonialism created new customs, resulting, in part, from new demands placed on Native societies, and these new customs sometimes conflicted with traditional practices leading to conflict and the emergence of new laws. Indeed, much of Yannakakis's work examines the evolution and interpretation of customs as the basis for legal precedent. For example, Yannakakis documents cases in which Native individuals or communities found it legally advantageous to condemn their opponents for their alleged adherence to "old law," shorthand for preconquest customs, some of which became unacceptable or even criminal. Obedience to Catholicism forged new customs that became the basis for the evolving colonial law (p. 126).

Indigenous communities grew increasingly clever in their ability to use the legal system to protect their "customary" rights, though what was called customary was open to innovation and might be partially fictitious. Depopulation from disease and the subsequent forced resettlement of survivors in *congregaciones* led to significant plundering and depletion of Indigenous landholdings (in absolute terms but not per capita) but also encouraged Native communities to employ legal mechanisms to defend their landed resources. Litigant villages claimed to have possessed their lands "'since time immemorial,' which served often as a category of proof," thus demonstrating how custom was used to justify their legal standing. They further petitioned the courts to recognize customary agreements they shared with neighboring, and often rival, communities to exploit the vacant lands (*tierras baldías*) that lay between them. Called partnership contracts, these "represented a strategy to pool land and natural resources and to join forces against powerful outsiders" (p. 169). They employed Spanish legal constructions to protect "customary" arrangements, even those that were dubiously ancient.

Continuity with the preconquest era was prominent in immediate postconquest political structures, most notably with the Indian cabildos that governed Indigenous communities. Most early colonial cabildo officers emerged from preconquest ruling lineages and held office for a long time despite laws prohibiting their reelection. Control of office allowed Native elites to better enforce traditional demands upon commoners, whether tribute payment or labor obligations. Put differently, traditional elites could harness the authority of the Spanish Crown and its legal system to impose traditional, customary burdens born by Native commoners. But colonialism greatly reordered economic and political opportunities and by the eighteenth century, if not sooner, "commoners entered the ranks of cabildo offices, jostling for power with principales and defining their interests against those of the hereditary elite" (p. 177). Commoners also turned to the Spanish courts to sue for relief from excessive (though customary)

burdens, employing Enlightenment-inspired “conceptions of ‘utility’ and the ‘common good’ in which local practice and justice had to serve the benefit of all” (p. 181). In short, they “pitted new customs against old ones” (p. 197) in an effort to effect beneficial change.

While the book provides numerous examples from central Mexico, its main emphasis is the province of Oaxaca. This perhaps helps explain the work’s broad temporal focus. Yannakakis suggests that codification of customs in central Mexico occurred promptly following the fall of the Aztec Empire. In contrast, her discussion of Oaxaca’s legal evolution continues deeply into the eighteenth century, justified by Oaxaca’s much less profound penetration by Hispanic settlers. Oaxaca’s isolation meant that the development of postconquest legal practices was much more drawn out and that the process lasted far longer.

Since Time Immemorial shows persuasively how preconquest custom shaped the laws governing the Indigenous world of postconquest Mexico. But it equally demonstrates the complex ways that traditional customs were manipulated to reflect new realities as well as how new customs contributed to the evolution of legal practices in colonial society.

Yannakakis’s book is highly recommended but readers should be warned that the ideas and concepts are quite difficult. Much of the discussion revolves around definitions or interpretations of Zapotec (or other) Indigenous terms and can be overwhelming to non-linguists, including many colonial scholars. The overarching conclusions, however, are important and the reader is clearly rewarded.

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AMY K. KAMINSKY, *The Other/Argentina: Jews, Gender, and Sexuality in the Making of a Modern Nation*. Albany: SUNY Press, 2021.

Professor Emerita Amy Kaminsky’s new book, *The Other/Argentina*, is an outstanding contribution to the vast body of scholarship on Argentine Jewry and identity. Kaminsky seamlessly weaves together an array of cultural texts to illustrate the complexities of Jewish representation and self-depiction in Argentine society. Her compelling work allows the reader to understand how the Jewish identity has played a central role throughout history and into the present.

The book’s early chapters address how Argentina emerged as a nation with a substantial Jewish immigrant presence in the early twentieth century. The country’s Jewish population spanned from Argentina’s agricultural centers to more cosmopolitan areas as well—most notably, the capital city of Buenos