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The Americas; Jan 2009; 65, 3; ProQuest Central
pg. 351

The Americas
65:3 January 2009, 351-374
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Franciscan History

COMPLAINING LIKE A LIBERAL: REDEFINING LAW, JUSTICE, AND OFFICIAL MISCONDUCT IN VENEZUELA, 1790-1850*

One night in April 1822, a slave snuck into Caracas' main plaza, and under cover of darkness, threw the feces of his entire household into the public well. A month later, a local magistrate appeared at the store of José Castellano and Manuel Gonzalez with a contingent of soldiers and arrested them for having ordered their slave to commit this heinous crime. From their jail cell, the two men asserted their innocence and insisted that the magistrate had behaved unacceptably: "Because we have never had any previous warning, because we have not previously been called to appear in court and also because there is no proof . . . [the magistrate] cannot have been authorised to commit the public insult that he has shamelessly and scandalously put upon our persons."[1] Their defense relied not only on questions of evidence but also on attacks against the magistrate's civility; they claimed that his actions had transgressed both proper legal and social behavior. This combination of legislative and non-legislative concerns was typical for complaints against officials from the colonial period, and we see it persist directly after independence. In the coming years, however, the formal responsibilities of government employees would change, as would the paradigm for complaints against them.

From the mid-eighteenth century through the mid-nineteenth century, the Bourbon colonial government, and then the independent republican government attempted to establish a more regularized, centralized administration than had previously been in place. In so doing, both states sought to establish legislation from the central government as the preeminent factor for determining the codes of justice. This objective called for myriad changes in

* I would like to offer particular thanks to Linda Arnold and Chris Albi for helping me to refine my ideas, and to Richard Warren, Greg Thomas, and the reviewers from *The Americas* for reading drafts and offering invaluable suggestions.

[1] Archivo General de la Nación de Venezuela (AGN), Civiles y Criminales (CC), 1822, C-19, f1-4.

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state institutions, official behavior, state-subject relations, and the standards of what would be considered legitimate behavior. This study illuminates one facet in this ambitious project—changes in the criteria for determining whether an official behaved in a legitimate manner.

This investigation tracks changes in the architecture of complaints presented to state institutions against state officials. This essay does not study laws themselves, nor does it seek to examine actual criminal behavior. Rather, it adds to the study of administrative practice by considering the paradigms of administrative and judicial discourse, which thus far have received little scholarly attention. The sources derive from court documents[2] as well as correspondence within the Ministry of the Interior and Justice. The study will show that from the 1790s through the 1840s, a significant change took place in the standards used within state institutions to determine the legitimacy of official behavior. At the beginning of this period, complainants used numerous norms to address matters of misconduct. By 1840, however, legislation had become the preeminent norm for addressing misdeeds within these state institutions.

The magnitude of this change should not be underestimated, as the ascent of legislative norms required significant modifications to the character of law, justice, and state responsibilities from what they had been under the old regime. The Bourbon Reforms of the late eighteenth century sought to regularize administrative and judicial practices and make them conform to royal legislation. Such efforts, however, had inconsistent success at best. The colonial government continued to gain its legitimacy through compliance with an array of norms such as religion, reverence for the monarchy, written law, tradition, and local custom. These norms were not arranged in any particular hierarchy, so that governmental legislation was not afforded any greater importance than, say, local customs or religious law.[3] Good, legitimate government upheld tradition and sought to establish a "regime of justice" that maintained these norms in a harmonious balance.

[2] The courts remained adequately strong and effective after independence, as republican Venezuelans continued to use the courts as much as their colonial forebears had. Reuben Zahler, "Honor, Corruption, and Legitimacy: Liberal Projects in the Early Venezuelan Republic, 1821-50" (PhD diss., University of Chicago, 2005), pp. 224-233.

[3] The judicial "magistrate could modify the legally-prescribed sentence in order to render a judgment that sought *equidad* (equity) and maximized the common good. . . . [This process represented] an opportunity to shape the law to reflect, or at least strike some balance between, popular and elite expectations." Michael Scardaville, "Justice by Paperwork: A Day in the Life of a Court Scribe in Bourbon Mexico City," *Journal of Social History* 36, no. 4 (2003): pp. 989-990.

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After independence, republican leaders promoted ambitious changes using the language of republican and liberal revolution. Many of their "revolutionary" goals had obvious antecedents in the Bourbon Reforms, i.e., the efforts to establish a more centralized state, a regulated administration, state dominance over the Church, and to reshape the masses to be more orderly and economically productive.[4] Of particular interest here, the republic continued the effort to establish legislation as the dominant norm, so that laws created by congress would always be afforded greater respect and importance than customs or religious practice. In effect, the country's leaders hoped to transform the colonial "regime of justice" into a republican "regime of law." This essay looks at one facet in the development of modern bureaucracy and state-craft: the formation of a "regime of law," under which bureaucrats would follow clear guidelines and civilians would relate to the state through written legislative norms.

The principal dataset for this article includes 54 expedientes: For the colonial period, 11 expedientes from the Audiencia. For the republican period, 22 expedientes from the courts, and 21 expedientes come from the Ministry of Interior and Justice (1830-50).[5]

COLONIAL ADMINISTRATION

Late Bourbon rule sought to gain increased control over political and fiscal matters through promoting a more professional bureaucracy and tighter adherence to specific regulations. These efforts enjoyed mixed results throughout the colonies. For instance, the advent of comercio libre did facilitate an increase in commercial activity and in state revenues.[6] Further, the administrative bureaucracy in late colonial Mexico City became quite pro-

[4] Recent scholarship has revised the interpretation of the post-independence republics as radical departures from the past, but rather has increasingly recognized the continuity between late colonial and post-independence state projects. Some excellent examples include Jeremy Adelman, *Republic of Capital: Buenos Aires and the Legal Transformation of the Atlantic World* (Stanford, CA: Stanford University Press, 1999); Sarah Chambers, *From Subjects to Citizens: Honor, Gender, and Politics in Arequipa, Peru, 1780-1854* (University Park, PA: The Pennsylvania State University Press, 1999); Victor Uribe-Uran, *"Honorable Lives": Lawyers, Family, and Politics in Colombia, 1780-1850* (Pittsburgh: University of Pittsburgh Press, 2000); Pamela Voekel, *Alone before God: The Religious Origins of Modernity in Mexico* (Durham, NC: Duke University Press, 2002).

[5] The archives of the Ministry of Interior and Justice contain correspondence from throughout the country. The court cases come from the provinces of Caracas, Carabobo, and Coro, which correspond roughly to what are today the Distrito Federal and the states of Guarico, Carabobo, Aragua, Miranda, Falcón, Vargas, and Cojedes.

[6] John Fisher, "The Effects of Comercio Libre in New Granada and Peru," in *Reform and Insurrection in Bourbon Nueva Granada and Perú*, ed. J.R Fisher, A.J. Juethe, and A. McFarlane (Baton Rouge and London: Louisiana State University Press, 1990).

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fessionalized, with advancement based on merit, an adherence to written rules, and a drop in corrupt practices.[7] Such successes, however, could hardly be called pervasive, as administration in other locations such as Buenos Aires still relied heavily on favoritism, nepotism, and cronyism.[8] Overall, as Alan Knight asserts, the reforms were overly ambitious and structurally unable to enforce strong regulation over such a vast, agriculture-based society.[9]

Late colonial administration was a mixture of traditional methods and the new, centralizing techniques promoted by the Bourbons. Over the eighteenth century, royal legislation came to dominate over competing legal traditions in Spain. In the Indies, however, the king's law never achieved that same level of dominance, largely because of the vast size of the Americas and their enormous distance from the metropolis. Colonial administrators and judges continued to work under the legal framework of *ius commune*, under which justice derived from complying with natural law, canon law, and custom. They applied royal legislation only with consideration to these other legal principles.[10] The fundamental job of officials was not to follow specific rules and regulations,[11] but rather to uphold justice, which was understood as giving each person his or her due. Penal codes assisted in this process, as they reflected social conventions based on respect and honor, so that legal punishments varied according to the status of the culprit and thereby upheld customary hierarchies. Officials enjoyed considerable flexibility in performing their duties, and the government gained legitimacy far more from preserving social harmony, justice, and the status quo than from strictly complying with legislation.[12] For instance, if one of the king's laws conflicted with a religious law or a city's customs, a balance would have to be found. Charges against colonial officials for misconduct, therefore, thoroughly blended matters of property, physical injury, honor, loyalty, respecting authority, and civility.

[7] Linda Arnold, "The Professionalization of the Bureaucracy in Late Colonial Mexico City," *New World* 1 (1986).

[8] Susan Migden Socolow, *The Bureaucrats of Buenos Aires, 1769-1810: Amor al Real Servicio* (Durham: Duke University Press, 1987).

[9] Alan Knight, *Mexico*, vol. II (The Colonial Era) (New York City: Cambridge University Press, 2002), Part 2, Chapter 2.

[10] Chris Albi, "Derecho Indiano Versus the Bourbon Reforms: The Legal Thought of Francisco Xavier Gamboa," in *Enlightened Reform in Southern Europe and Its Atlantic Colonies, C1750-1830*, ed. Gabriel Paquette (London: Ashgate, forthcoming in 2009).

[11] "Arbitrarism was an inherent part of a system that gave judges not only the power to implement laws but also (and mainly) the task of administering justice. A preference for justice over legality instructed judges to ignore what was legal for the sake of preferring what was just, thus making arbitrarism necessary." Tamar Herzog, *Upholding Justice: State, Law and the Penal System in Quito (1650-1750)* (Ann Arbor: University of Michigan Press, 2004), p. 35.

[12] Ibid., pp. 9-21.

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By the end of the colonial period, government offices still often functioned as something akin to private property in that they could be bought and sold, used by the holder as a source of revenue for his family, and could even be inherited.[13] For these reasons, charges of abuse of power typically stemmed not from the use of the office for personal gain, but from the use of the office to the detriment of others and social harmony. For example, a judge might be accused of misconduct for penalizing one network of merchants to the benefit of another network.[14] Alternatively, a colonial judge might be accused of corruption not for stealing funds but for disrespecting local custom and tradition, or for permitting subalterns too much dignity. Since written law served as but one ingredient in achieving social harmony, social mores, the Church, and family and community relations all held an importance in maintaining political-social order that could be equivalent or superior to written law.

Bourbon officials who sought to create a more centralized, rational, and disciplined state and society frequently had to compromise with local conditions and traditions. Historians Horst Pietschmann and Anthony McFarlane explain that colonial creoles never internalized modern administrative techniques promoted by metropolitan bureaucrats, in part because such reforms reduced the power of local elites and also made the government less responsive. Rather, colonists pursued less formal methods of administration, which some today would call corrupt, because they allowed for greater flexibility and greater access to bureaucratic elites.[15]

As elsewhere, Bourbon Reforms brought to Venezuela a number of new structures designed to create a more orderly administration and society. Colonial Venezuela existed as a province within the Viceroyalty of Nueva Granada, but the region gained considerable autonomy during the reign of King Carlos III. Caracas became the seat of the province's Intendencia and Capitanía General (1776), Audiencia (1786), merchant guild (Real Con-

[13] See Francisco Tomás y Valiente, *La Venta de Oficios en Indias (1492-1606)* (Madrid: Instituto Nacional de Administración Pública, 1982); Kenneth J. Andrien, "Corruption, Self-Interest, and the Political Culture of Eighteenth-Century Quito," in *Virtue, Corruption, and Self-Interest: Political Values in the Eighteenth Century*, ed. Richard K. Matthews (Bethlehem, PA: Lehigh University Press, 1994).

[14] Tamar Herzog, "Reglas Jurídicas E Integración Social: El Comercio (Quito, Primera Mitad del Siglo XVIII)," in *Actas y Estudios del XI Congreso del Instituto Internacional de Historia del Derecho Indiano, Tomo IV* (Buenos Aires, Argentina: Instituto de investigaciones de historia del derecho, 1997).

[15] Anthony McFarlane, "Political Corruption and Reform in Bourbon Spanish America," in *Political Corruption in Europe and Latin America*, ed. Walter Little and Eduardo Posada-Carbó (New York, NY: St. Martin's Press, 1996). Horst Pietschmann, "Corrupción en las Indias Españolas: Revisión de Un Debate en la Historiografía Sobre Hispanoamérica Colonial," in *Instituciones y Corrupción en la Historia*, ed. Manuel González Jimenez et al. (Valladolid, Spain: Universidad de Valladolid, 1998).

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sulado, 1793) and the Archdiocese (1803). The Bourbon Reforms, therefore, granted the region far more autonomy from Bogotá, but less autonomy from Caracas, Seville, and Madrid, as salaried colonial officials and intendentes gained power over local elites and the creole-dominated cabildos.

These changes, however, met mixed responses. Provincial cabildos resisted Caracas' increased prestige and its increased power, as the city exerted far greater control than had the distant viceroyal capital.[16] The cabildo of Caracas itself had originally supported the formation of the Audiencia, as this move would bring increased power and prestige to the city. Shortly, however, struggles erupted as the cabildo resisted the Audiencia's interference in its internal affairs and elections, and protested the fact that peninsulares had far greater access to Audiencia positions.[17] In the face of these unwelcome changes, Arlene Díaz shows that Caracas elites upheld a long tradition of "not following the order of a superior in rank (e.g., a top-ranked Spaniard) or by challenging certain dispositions of the king."[18]

Additionally, the aforementioned premise, that a royal law could not necessarily supercede non-legislative norms (i.e., customs), remained in tact. As an example, in 1796 the ayuntamiento of Caracas wrote to King Charles IV to call for the "the replacement of the Ministers that currently compose the Royal Audiencia, which is hated generally by the people, and especially the Judge don Francisco Ignacio Cortínez, whose ill will to the neighbors and natives of the country manifests itself frequently, particularly the people of distinction."[19] The initial problem stemmed from the royal cédula of 1795 regarding gracias al sacar, which the creoles of Caracas believed allowed too much racial mobility and thereby threatened their status. Indeed, the creoles objected to the 1795 cédula so strenuously that Venezuela eventually became the only colony that effectively blocked implementation of gracias al sacar.[20]

[16] Alí Enrique López Bohórquez, *Los Ministros de la Audiencia de Caracacs (1786-1810), Caracterización de Una Elite Burocrática del Poder Español en Venezuela* (Caracas: Biblioteca de la Academia Nacional de Historia, 1984), pp. 65-74.

[17] Ibid., pp. 111-125. For more on the struggles between Caracas creoles and Bourbon colonial institutions, see Robinzon Meza, "La Élite Caraqueña Frente a la Reorganización Político-Administrativa de Venezuela en el Último Cuarto del Siglo XVIII," *Islas* 100 (Sept-Dec 1991).

[18] Arlene Díaz, *Female Citizens, Patriarchs, and the Law in Venezuela, 1786-1904* (Lincoln, NE: University of Nebraska Press, 2004), pp. 24-25.

[19] Found in Héctor García Chuecos, *Estudios de Historia Colonial Venezolana, Tomo 2* (Caracas: Tipografía americana, 1938), pp. 92-94.

[20] German Carrera Damas, *Una Nación Llamada Venezuela: Proceso Sociohistórico de Venezuela (1810-1974)* (Caracas: Monte Avila Editores, C.A., 1984), p. 40. See also Elías Pino Iturrieta, *Fueros, Civilización y Ciudadanía* (Caracas, Venezuela: Universidad Católica Andrés Bello, 2000), pp. 7-11.

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In this letter of complaint about the Audiencia, the ayuntamiento essentially accused the judges of upholding the law. The councilmen charged that the Audiencia gave such leniency to non-whites (pardos) that they "publicly scorn and deride the honorable members of the city, with such injustice and temerity as to declare themselves Whites." These were serious accusations that charged the judges with making unjust decisions, in that the judges did not grant the honorable people the respect they were due, and therefore threatened to destabilize the status quo. Amid lengthy charges of causing social instability, the ayuntamiento also made a brief, somewhat vague accusation of inappropriate procedures, indicating that the judges dragged out cases, made unclear sentences, and divested local magistrates of their authority. Nonetheless, the most prominent, repeated charges were those of a social nature, and there was no implication that the judges personally benefited from their misbehavior.

Accusations of a very different sort could still evoke similar language. In 1799, the Capitán General of Coro complained to the governor that the administrator in charge of the mail was incompetent. The Capitán General asserted that the mail administrator was slow and cumbersome in delivering the mail, and he suggested that this inefficiency was a sign of disloyalty to the king. The military officer wrote that letters destined for the mail carrier's friends arrived in a timely manner, while "those in the service of the King and public tranquility are detained. With this motive, these subversives try to impede authority in order to promote their corrupt ends . . . [they] sow confusion and disorder."[21] The officer's objections to inefficiency would make sense under any circumstance, but notably his complaint pushed well beyond concern for mere incompetence. Like the previous example from 1796, the officer linked bad administration with the destruction of political and social harmony.

Complaints of incompetence or subordination could be serious issues under any form of administration. Nonetheless, as these colonial cases show, the legitimacy of an official's actions could be determined through a combination of norms. Legislation, social rules, morality, and political loyalty were all intertwined. An infraction against one could be an infraction against them all. If a man was too morally compromised to perform his professional duties efficiently or to enforce the racial hierarchy, he was neither a decent member of society nor a loyal vassal to the king.

[21] Letter from Andres Boggiero, December 1, 1799. Archivo de la Academia Nacional de Historia (AANH), CCC, 1800, Sevilla: Ministerio de Educación y Cultura. Archivo General de Indias. Ags/Secretaria Guerra, 7205, Exp. 9, f729-30.

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INDEPENDENCE AND THE REPUBLIC

Due to a number of factors, some of which originating from the late colonial period, post-independence Venezuela charted a course that was quite liberal when compared to other Spanish American republics. During the last decades of colonial rule, a certain proto-liberalism had begun to gain favor among Venezuelan elites. Venezuelan creoles enjoyed almost complete control of their export activities, as foreign-born merchants did not dominate export trade nearly to the degree that they did in many of Spain's other colonies.[22] Further, the region benefited greatly from the Bourbon policy of comercio libre and became "Spain's most successful agricultural colony."[23] The land-owning/merchant class became profoundly dedicated to an export economy and free trade, and developed a sense of private rights, particularly inviolable personal property rights.[24]

Throughout the war against Spain (1811-21) and after independence, the leaders of the revolution espoused a particularly liberal form of republicanism, which called for both a break from and continuity with the old regime. Distinct from their past, they promoted a society devoid of caste or estate, a free economy driven by market forces, a constitution that defended natural and civil rights, and a government that should be secular, representative, and transparent. On the other hand, like their Bourbon predecessors, they continued the trend towards a more orderly and "rational" state, bureaucracy, and public. Also, like nineteenth-century liberals elsewhere, Venezuela's leaders rejected aristocratic estate but upheld the ancient legacy of legal inequality. Slavery persisted until 1854, and property and literacy requirements limited male suffrage until 1858 (women did not get the vote until 1946). Elites also feared that the poor, uneducated masses were not yet ready to manage freedom responsibly and that they must be "taught" to be orderly, productive citizens. The government therefore instated laws that limited the movement and economic freedom of the rural

[22] See P. Michael McKinley, *Pre-Revolutionary Caracas: Politics, Economy, and Society 1777-1811* (Cambridge, UK: Cambridge University Press, 1985), p. 63.

[23] Malcolm Deas, "Venezuela, Colombia and Ecuador: The First Half-Century of Independence," in *Cambridge History of Latin America*, ed. Leslie Bethel, 3 (Cambridge, UK: Cambridge University Press, 1989), p. 511. Also, see David Bushnell, *The Santander Regime in Gran Colombia* (Newark, DE: University of Delaware Press, 1954), p. 1.

[24] For example, in 1799 the consulado and cabildo of Caracas argued against the crown's trade restrictions. Their discourse about property rights sounded nearly liberal in content in that they asserted, "their private rights practically entitled them to violate political dictates, which came close to claiming that private property rights came before political decisions." Jeremy Adelman, *Sovereignty and Revolution in the Iberian Atlantic* (Princeton, NJ: Princeton University Press, 2006), p. 113.

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poor.[25] Typical of liberal reformers of the time, Venezuela's propertied males advocated full freedoms and rights for themselves, but did not extend these benefits to others.

These reforms gained purchase in the aftermath of the war in part because elite support for liberal reform came far closer to a consensus than was the case in other Spanish American republics. The great majority of merchants, hacendados, politicians, and military leaders supported representative government, elections, a free-market economy, civil rights, legal equality (more so for free white males than others), freedom of speech and religion, and reduction of power of the Church and the military. The press editorialists asserted that the republic had made a sharp break with the colonial past and they supported the establishment of the "new and liberal" government to be guided by "our new liberal laws."[26] In turn, the constitution guaranteed liberal political and economic structures and a liberal notion of freedom.[27] Though the country's elites disagreed with each other vehemently, the topics of debate tended to remain within the sphere of liberal reform. The Conservative and the Liberal political parties, which emerged in the 1830s, both promoted liberal standards and, confusingly, the Conservative Party was actually more liberal than the Liberal Party.

In addition, Venezuela saw far less conservative opposition and political instability during the first three decades of independence than did most other Spanish American republics. The colonial Church and aristocracy were comparatively weak in Venezuela, due to the distance from the viceregal centers (Santo Domingo and then Bogotá). With the advent of independence, therefore, powerful groups that typically stressed conserva-

[25] The "*jornalero*" [day laborer] laws, which were in place throughout the first decades of independence, prohibited the rural poor from practicing subsistence farming and instead required them to be employed by wealthier landowners. As president Simón Bolívar wrote when he decreed a *jornalero* law in 1827, he lamented the "corruption of customs in the population and laziness in the countryside" and hoped the law would rid the poor of their tendencies toward "gambling, drunkenness, theft, and crimes of all classes that cause disorder." Found in *Materiales para el Estudio de la Cuestión Agraria en Venezuela (1808-1865)*, vol. 1 (Caracas: Universidad Central de Venezuela, 1979), p. 71. For more on this subject, see Robert Paul Matthews, *Violencia Rural en Venezuela, 1840-1858: Antecedentes Socioeconómicos de la Guerra Federal* (Caracas: Monte Avila Editores, 1977), pp. 39-59. See also John V Lombardi, *Venezuela: The Search for Order, the Dream of Progress* (Oxford: Oxford University Press, 1982), p. 177.

[26] *El Venezolano*, Caracas, Venezuela, No. 84, 1 May 1824; *El Argos*, Caracas, Venezuela, 8 April 1825, pp.1-2.

[27] Both the 1821 and 1830 constitutions expressed similar positions on these subjects. The 1821 constitution guaranteed to "protect your security, liberty, property, and equality before the law"; Article 128 promised, "no type of work . . . or commerce will be prohibited to the Colombians, except those that for now are necessary for the subsistence of the Republic."

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tivism, such as clergy and aristocracy, were less numerous and powerful than in places such as Mexico, Peru, or Nueva Granada. Also, the post-independence military, which could serve as a bastion of conservatism, did not antagonize liberal reformers as much as in other republics. Antonio Páez, the country's military leader and dominant strongman until 1848, gave imperfect but strong support to constitutionalism, rule of law, and free trade. Páez dominated the military and enjoyed great support from the llaneros, and thus could control the two groups most capable of armed rebellion. When he served as president (1830-34 and 1839-43), he did so only through lawful election.

Violence and unrest persisted after independence, but did not engulf the entire country. The countryside continued to see banditry, regional flare-ups, racial and social tensions, and local rebellions, but these did not spread to become wider conflagrations. Venezuela emerged from the independence war as a province within the larger country of Gran Colombia, which also included what are today Ecuador, Colombia, and Panama. Twice Venezuelans sought secession from Gran Colombia, but both the aborted movement of 1826 and the successful movement of 1830 occurred peacefully. One conservative rebellion, in 1835, did capture Caracas and attempted to undo liberal reforms. In response, Páez left his hacienda, led civilian militias to defeat the rebel officers, and then returned to his hacienda. The elected president (José Vargas) and congress lost control of Caracas for just three weeks. Not until 1858 was there a successful, violent overthrow of the government—before then, all changes in government occurred through elections.

One can not say that Venezuela enjoyed a rapid and smooth transition to a liberal political culture. Throughout all of Spanish America, obstacles to reform included the prevalence of caudillos, regionalism, racial prejudice, a steep social hierarchy, the paucity of state resources, and the crisis of political legitimacy. Such issues seriously impeded any attempt to enact republican or liberal models of administration.[28] Within Venezuela, ideo-

[28] For example, bureaucrats in post-independence Peru, like their counter-parts throughout the continent, proved unable to build national consolidation in the face of violent political instability, poor communication across rough geography, and an impoverished government. Teodoro Hampe Martínez and José Gálvez Montero, "De la Intendencia al Departamento, 1810-1830: Los Cambios en la Administración Pública Regional del Perú," in *Dinámicas de Antiguo Régimen y Orden Constitucional: Representación, Justicia y Adminstración en Iberoamérica, Siglos XVIII-XIX*, ed. Marco Bellingeri (Torino, Italy: Otto Editore, 2000), p. 360. In Mexico City, the professionalization of the late-colonial administrative bureaucracy eroded after independence, as bureaucrats increasingly came under the control of politicians and worked to serve political, rather than administrative, ends. Arnold, "Professionalization." At the same time, in both Mexico City and Buenos Aires, the lack of both clear administrative guidelines

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logical conflicts arose due to such issues as the status of women, the emancipation of slaves, and credit laws.[29] Further, like other Spanish American republics, Venezuela's government faced a severe lack of qualified officials and had trouble keeping those it did have because the government was poor and paid its administrators a low, inconsistent wage.[30] Still, compared to other republics such as Mexico, Nueva Granada, Rio de la Plata, or Peru, liberal reforms faced far less conservative opposition and political instability.

Like the Bourbon government before it, the republican government sought to establish tighter state control over a variety of aspects of public life, such as, the Church, the military, social behavior of the citizenry, and official administration. As part of this effort, the republic endeavored to establish legislation as the dominant norm, so that the constitution and congressional legislation would always be afforded greater respect and importance than customs or religious practice. Elena Plaza explains that during the war years, patriotism had been described in highly militaristic terms, but by the 1830s-40s the country's political and economic elite made frequent references to "enlightened patriotism." Rather than focusing on military courage and duty, "enlightened patriotism" combined love of the patria with dedication to the written laws and the constitutional pact as the means to create a new, independent state.[31] Simón Bolívar, the greatest hero of independence, had already established this precedent during the war years when he stressed, "everybody should submit themselves to the laws' beneficent rigor. . . . Love of the patria, love of the laws, love for the authorities, these are the noble, exclusive passions that should fill the soul of a republican."[32] In this same spirit, in his 1842 address to congress, President José Antonio Páez optimistically tied Venezuelan patriotism to the law: "through the

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and a robust bureaucracy led to the strengthening of the executive at the expense of the judiciary, and thus enabled the erosion of a republican separation of powers. Linda Arnold, "Vulgar and Elegant: Politics and Procedure in Early National Mexico," *The Americas* 50, no. 4 (1994); Osvaldo Barreneche, *Crime and the Administration of Justice in Buenos Aires, 1785-1853* (Lincoln, NE: University of Nebraska Press, 2006).

[29] Díaz, *Female Citizens*, p. Chapter 6; John V Lombardi, *The Decline and Abolition of Negro Slavery in Venezuela, 1820-1854* (Westport, CT: Greenwood Publishing Corporation, 1971); Matthews, *Violencia Rural*; Elías Pino Iturrieta, *País Archipiélago: Venezuela 1830-1848* (Caracas: Fundación Bigott, 2002).

[30] The archives of the Ministry of the Interior and Justice are full of letters regarding disgruntled, incompetent, or negligent personnel.

[31] Elena Plaza, "El 'Patriotismo Ilustrado', o la Organización de los Poderes Públicos en Venezuela, 1830-1847," *Revista Politeia*, no. 29 (2002): p. 73.

[32] Simón Bolívar, 'El Discurso de Angostura,' 1819. Found in Manuel Perez Vila, ed., *Simón Bolívar: Doctrina del Libertador* (Caracas, Venezuela: Biblioteca Ayacucho, 1985), pp. 101-126.

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wisdom of her laws, through the enlightened patriotism of her citizens, (. . .) Venezuela has begun to realize her destiny."[33]

Press editorialists also promoted this sentiment, as they saturated their newspapers with exhortations that advocated strict fidelity to the written law. Editorials of the time asserted, "only laws can perfect the grand work of liberty, because they are the font and origin of all happiness, and because in a popular representative government everything should come from the laws, nothing from the particular whim of those who rule."[34] In this spirit, editors used pseudonyms such as "The lover of the law" to publish stories about administrators who abused their authority, explaining that they brought these matters to light in order to end illegal practices.[35]

Both official and non-official voices, then, promoted the standard that the independent, liberal state should now act only on the basis of legislation rather than enforcing other norms. Theoretically, the government could not rule arbitrarily and the citizenry could not simply uphold customary practices. Instead, legislation would define the rights and duties of all Venezuelans with precision. The constitution would represent the highest law of the land, and the state would punish a person only if he broke a written law that had existed before he committed the crime.[36] Congresses in Gran Colombia (1825) and sovereign Venezuela (1838) both explicitly listed the hierarchy of legislation, giving preference to post-independence legislation but also including Spanish colonial law as long as it did not contradict any more recent legislation.[37]

Political leaders hoped to establish a system of disinterested government officials functioning within a transparent system. The constitution required that public functionaries swear to obey the republic's legislation,[38] that government expenditures strictly follow legal and congressional mandates, and

[33] José Antonio Páez, *Autobiografía del General José Antonio Paéz* (Lima, Peru: Ediciones Antártida, 1960), pp. vol. 2, 295.

[34] *El Observador Caraqueño*, 1 Jan. 1824, p. 2a.

[35] See, for example: *El Constitucional*, 25 Oct. 1825, p.4; *El Argos*, 8 April 1825, pp. 3-4.

[36] 1821 constitution, Article 167: "Nobody can be judged, much less punished, except in virtue of a law that exists prior to the crime or action, and after having been legally heard and cited. . . ." The text of the 1830 constitution, Article 196, is virtually identical. The 1830 constitution, Article 190 stated, "Venezuelans have the freedom . . . to do whatever is not prohibited by the law."

[37] See Tulio Chiossone, *Formación Jurídica de Venezuela en la Colonia y en la República* (Caracas: Universidad Central de Venezuela, 1980), p. 192. For a wider and more theoretical discussion of legislative changes, see Tomás Enrique Carrillo Batalla, *Historia de la Legislación Venezolana* (Caracas: Academia de Ciencias Políticas y Sociales, 1984).

[38] 1821 constitution, Article 185.

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that all expenses be published for public review.[39] Further, all Venezuelans should now enjoy equal protection under the law such that race and estate would no longer define a citizen's legal or political standing.[40] The expected role of officials therefore changed with independence, as they no longer were to maintain a stable social harmony at the expense of legislation, but instead were to ensure the enactment of the law.

REPUBLICAN ADMINISTRATION

To consider the enactment of the aforementioned standards, this study will now examine official correspondence from the Ministry of Interior and Justice. This Ministry oversaw virtually all aspects of governance not covered by the two other main ministries, War & Navy, and the Treasury.[41] The majority of government correspondence, from both before and after independence, concerned basic administrative matters and was related in a rather bland, bureaucratic manner. Post-independence complaints about and by government officials, however, underwent substantive changes in that they came to reflect legislative standards for judging proper conduct.

While complaints against colonial officials often concerned matters of decency and social stability, a letter from 1830 complaining of judicial misconduct presented a very different list of charges. This correspondence, written by several landowners from the town of Jibraltar[42] to the Venezuelan congress, listed the following charges against their district magistrates: "killings, falsification of reports, usurpation of public rents, production of fines to benefit these judges and other frauds, abuses and outrages against honorable vecinos, scandalous thievery, raids on houses, gauging; and finally, disobedience and insult to the firm civil authority of this Department."[43] As a remedy, they requested that congress send an "incorruptible and impartial man" to investigate the situation. Unfortunately, the expediente ends just as the Ministry of Interior began its investigation, so we do not know how the matter resolved.

[39] 1821 constitution, Article 180; 1830 constitution, Articles 185 and 210.

[40] 1830 constitution, Article 188. The constitution did establish property requirements to enjoy the franchise, but otherwise a citizen's political power (i.e., the power of his vote) and legal standing should not vary based on economic or social status.

[41] The Ministry of Interior held responsibility for such diverse areas as the judicial system, communication between provinces, administrative standards and conduct, police, domestic peace, public education, religion, indigenous peoples, public health, the indigenous population, etc. For more on this lengthy list of responsibilities, see Plaza, "Patriotismo Ilustrado," p. 75.

[42] In the contemporary state of Zulia.

[43] AGN, Ministro de Interior y Justicia (I&J), Tomo 6, Expediente 45, f289.

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Nonetheless, the charges themselves indicate a notable shift. These charges against the judges overwhelmingly concerned property rights and indicated that the perceptions of what constituted abuse of official power had changed from maintaining a social balance to obeying far more precise procedures and rules. While the 1796 complaint against the Audiencia had accused judges of upholding legislation to the detriment of social order, the 1830 complaint accused judges of violating legislation. Charges of illegal fines and court orders, misuse of public funds, and abuse of private property all suggested that the officials were to adhere to specific rules and clear guidelines.

At the same time, amid these numerous "legislative accusations," the 1830 charges also included a concern for social propriety and honor. The judges not only insulted citizens, but they offended "honorable vecinos." Like the ayuntamiento's charges from 1796, the landowners suggested the existence of a social hierarchy in their region, and thought that an affront to honor and proper hierarchy deserved the attention of congress. The fact that the landowners would beseech congress to protect their position, to ensure that they received proper respect from the judges, did not necessarily contradict the republican project. While the republicans eliminated race as a legal category and abandoned feudal titles and dignities, they remained concerned with preserving social order.

Significantly, this blending of social and property concerns came from a complaint written by civilians to the government. Internal government correspondence, on the other hand, had by 1830 already become far more legislative, exhibited far less concern for social structure, and voiced virtually no imputation of socio-moral infractions. (I use two terms throughout: "socio-moral" infractions or accusations follow the old regime model of focusing simultaneously on numerous norms [tradition, religion, legislation], and "legislative" accusations which focus overwhelmingly on legislation.)

For example, a series of inter-departmental correspondence from 1830 about a colonel who was causing disturbances in the countryside, and the local corregidor who had failed to arrest him, demonstrated a surprisingly bureaucratic blandness and focus on proper procedure. During the independence war, Colonel Juan Estanislao Castañeda had fought on the side of the Republicans. He retired in 1830, but shortly began insurrectionary activities.[44] On November 13, 1830, the government sent out a memo ordering his arrest. On November 21, a local official named Hernandez wrote to the provincial military com-

[44] Fundación Polar, "Diccionario de Historia de Venezuela," (CD ROM, Caracas: Fundación Polar, 2000). "Castañeda, Juan Estanislao"

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mander to explain that authorities had failed to bring in Colonel Castañeda, and that he continued his "revolutionary," "fratricidal" goals that "threaten our sacred cause [the republic] with sedition." On December 1, the local military commander wrote to the provincial governor (Carabobo Province), requesting permission to fire the corregidor of Barquisimeto,[45] who had failed in his duty. The general explained that he needed a corregidor who was "energetic, trustworthy, and knowledgeable" [actividad, confianza y conocimiento], but the current corregidor was old and sickly. The general also referred to articles 117 and 127 of the constitution, which authorized the governor to fire public employees. The governor then wrote to the Secretary of the Interior with an explanation of the situation and a request to fire the corregidor, in light of articles 117 and 127 of the constitution.[46]

These letters presented a simple, straightforward account of the offenses in question. Colonel Castañeda should be arrested because he espoused insurrection. The corregidor should be fired because he failed to fulfill his duty and comply with orders. Notably absent in the correspondence was any mention of the corregidor's disloyalty, his character flaws, or his impulse for social discord. Rather, the correspondence stressed that the colonel and the corregidor had broken the law and the administrative chain of command, and should be dealt with as the law required.

In another example, in 1834, Fermin Toro,[47] a customs agent of Margarita island,[48] brought a suit against the provincial governor for abuse of power. Toro had requested leave to attend some business on the mainland. The governor of Margarita refused the request and ordered Toro to remain at his post. Toro disobeyed the order and went to the mainland for several days. Upon his return to the island, the governor had Toro jailed for three days. Toro filed a complaint, listing five articles of the constitution and two articles of the ley orgánica de las provincias that the governor had violated, and requested that the governor be removed from office. The Ministry of the Interior sought the opinion of the *Consejo* of the Superior Court, which found that Toro's complaint had no merit. The consejo went through Toro's complaint part by part, and explained that the governor had not violated any of the statutes that the customs agent had listed. The Superior Court found that, according to the ley orgánica of the Treasury, employees could not "abandon their posts" without

[45] In the contemporary state of Lara.

[46] I&J, Tomo 4 (1830), Expediente 8, f54-58.

[47] Fermín Toro (1806-65) was a very prominent figure in early republican Venezuela. He was a prolific writer and powerful politician who became one of the leaders of the Liberal Party and served a number of government posts during the 1830s-60s.

[48] In the contemporary state of Nueva Esparta.

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permission from the governor or "without orders from the chief of state." An employee from the Ministry of Interior agreed with the decision by the Superior Court, and listed the statutes that prevented an employee from leaving his post without permission from his superiors.

Toro resubmitted his complaint, and in early 1835 the Ministry reviewed the case again. This second review came to the same conclusion: "we cannot call for the suspension of the Governor because the suit does not have any merit." The three days that Toro spent in jail "was in compliance with article 33 of the political regime for having disobeyed the express orders of the Government not to leave the province. Consequently, there is nothing to be done."[49] All correspondence to and within the Ministry discussed the case in a strictly impersonal manner. The Superior Court and the Ministry officials confined their comments to the statutes and constitutional articles that had been violated or not violated. Support for the governor's actions stemmed solely from legal procedure.

Striking a similar tone, in 1834 the governor of Maracaibo Province[50] informed the Ministry that he had nullified the elections of three judges because of electoral fraud. Three of the candidates in the town of Perija were ex-convicts, but the town mayor had archived (hidden) their criminal records "without legal cause." The exchange between the Ministry and the governor concerned nothing other than the improper actions of the mayor, and the justification to "nullify" the elections.[51]

One problem facing Venezuela's government, indeed facing all bureaucracies, stemmed from officials not fulfilling their duties. In July 1828, the medical faculty [*facultativos en medicina o cirugía*] of Caracas published a notice in the government gazette in which they promised to stop helping officials to be delinquent. Civil servants were avoiding their responsibilities by getting a doctor's note that attested to some false malady. Therefore, the medical faculty passed a resolution that "prohibited doctors from providing [health] certificates, except due to a judicial order and from a competent authority." In 1834, however, the Jefe Político of Caracas complained to the Ministry of the Interior that this "ruinous practice" continued and that it would not stop "unless the Supreme Executive Power decreed a resolution capable of punishing this abuse." The Ministry communicated to the medical faculty and requested a response. The medical faculty answered

[49] I&J, Tomo 87 (1834), Expediente 28, f291-3.
[50] In the contemporary state of Zulia.
[51] I&J, Tomo 91 (1834), Expediente 15, f108-110 and Expediente 16, f111-14.

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promptly that they would stop this "abuse . . . as is appropriate according to the liberal principles of the day."[52]

In 1849 the same problem arose in Ciudad Bolívar,[53] as the provincial government complained that civil servants used doctors' notes of false ailments in order to shirk their responsibilities. Doctors would provide whatever sort of note best served the delinquent official: "they claim that sitting is impossible if the job is sedentary, that moving is impossible if discharging his duties requires bodily exercise, etc." The memo mentioned four men who had been appointed as neighborhood alcaldes, but refused to take their posts because of health reasons, but they "continued in their private activities with the same constancy as those who enjoy perfect health." In both the 1834 and 1849 memos, the authors described this behavior as an abuse of public duty or "a practice that is very prejudicial to matters of public interest."[54] The complaint, therefore, remained concerned with the violation of official rules and responsibilities, but did not concern larger social or moral codes.

The record of correspondence to and from the Ministry of the Interior and Justice indicates that this legislative perception had permeated the government. All of the 21 expedientes examined, coming from numerous provinces and from various government offices (provincial, local, military, judicial, and treasury), conform to this legislative focus. This attention to legislation remained consistent on all topics: complaints by a department governor against a magistrate, or from a mayor suspending a judge, or military men for robbing villagers or other military men, or even an accusation against a provincial governor for encroaching on his neighbors' lands.[55]

In court cases from the first years after independence, litigants lodged legal complaints using a language of socio-moral failings that differed little from colonial court cases. As an example, let us return to the 1822 case mentioned at the beginning of this article, in which a magistrate arrested José Castellano and Manuel Gonzalez for having their slave throw excrement into the well at Caracas' main plaza.[56] From their jail cell the two sent an impassioned written defense to the public prosecutor, in which they described the magistrate's improper behavior:

[52] I&J, Tomo 91 (1834), Expediente 4, f13-18.

[53] In the contemporary state of Bolívar.

[54] I&J, Tomo 387 (1849), Expediente 55.

[55] See for example, I&J, Tomo 3 (1830), Expediente 36, f356; Tomo 4 (1830), Expediente 8, f54-58; Tomo 1 (1830), Expediente 1; Tomo 5 (1830), Expediente 31, f423-27; Tomo 91 (1834), Expediente 1, f1-8.

[56] La Plaza Mayor, today called Plaza Bolívar.

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> . . . from which decorum and urbanity, and even the very laws of our sacred constitution, have uproariously and outrageously been torn to pieces, by not having gone according to process, by not having presented a warrant for the arrest, through his insulting manner with which he comported himself in the presence of innumerable people that were in the store.[57]

The defense demonstrated a powerful interplay between proper behavior (decorum and urbanity) and compliance with the law. Fernandez had broken both the laws of the "sacred constitution" as well as the laws of decency. He had affronted the defendants' honor and, therefore, he was the real criminal. At this moment, only one year after independence, a legal document could combine into a charge of official misconduct such elements as lack of evidence, arrest without a warrant, false accusations, insulting behavior, and uncultured conduct. Social codes and legislation remained as interwoven as in colonial cases, such that it could be difficult to determine whether the most serious part of a legal accusation was poor behavior (e.g., impoliteness and disrespect), disloyalty to the state and the official ideology, or violating written law.

However, within a relatively short time after independence, non-legislative issues appeared less frequently in documented complaints, and had actually disappeared from court cases by the 1830s. Accusations of misconduct took on a far more "legislative" tone—being more grounded in legislation—and became more morally neutral. At the same time, the constitution established the premise that the state could prosecute people only when they had broken legislation.[58] With this new standard in place, a more modern sense of state jurisdiction began to take root, in which there was a clearer divide between breaking written laws and breaking social or religious norms. Under such a system, breaking legislation should remain a matter of public concern, while breaking social or religious law should become matters of private concern, outside the state's interests.

Two cases from 1826 show this transformation in process. A Caracas butcher, Felipe Hernandez yelled obscenities at the *regidor*, after the *regidor* fined him for selling under-weight meat. During the heated exchange, the butcher threatened that he would make the official eat a large bull's penis [*un Gran bergajo*]. The matter went before the local alcalde, charging Hernandez "for the insults against the interim *regidor* Sr. Dionicio Flores, and in his person against all of the Very Illustrious Municipality." In the end, the

[57] AGN, CC, 1822, C-19, f1-4.

[58] See footnote 36.

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alcalde fined Hernandez ten pesos and court costs for "contradicting the functions of the Sr. *regidor* . . . and speaking in terms that were indecorous and inappropriate between civilised people."[59] As in the colonial courts, the judicial system at this time could view a civilian's indecorous behavior towards a public official as a punishable infraction against the entirety of government and society.

Alternatively, another case, also from 1826, followed a more legislative model. José Antonio Bolet from the city of Guarenas[60] requested that the judicial system recuse two alcaldes from his case. He was the guardian of an orphan girl, and these two alcaldes owed her money. Bolet wrote to local judicial authorities and explained that when he went to the alcaldes to collect for the girl, they "disregarded legal recourse and instead they responded with violent and offensive expletives against my reputation, going to the extreme to arrest me simply because I respectfully refused to listen to [them]." After explaining these basic circumstances, Bolet continued, "Article 135 of the law of procedures stipulates that an accusation against one municipal alcalde . . . be presented before the other municipal alcalde of the same canton; but in the present case we find both alcaldes disqualified for the same reason . . . so the law does not provide a contingency in this case nor does it designate the judge to which I should go."[61] He then went on to discuss some other articles of the law, concluding that he needed a new magistrate to adjudicate the matter. The court officer (with the title "Oficial Mayor") agreed that the two alcaldes should be recused and transferred the case to an alderman. The paperwork of this case marks a notable shift from its colonial counterparts in that the litigant (Bolet) suffered a verbal and physical assault, but confined his complaints simply to legislative concerns. He did not discuss damage to his honor, civilization, or the government. He pithily explained the event that demonstrated why he could not rely on either alcalde for legal help, then offered an argument based in legislation for why he needed them recused from the case. The Oficial Mayor, in turn, responded with commensurate attention to the situation's legislative requirements.

This legislative quality to accusations can be seen again in a case from 1832, in which the juez de paz of Agua Larga[62] threw José Bernardo Gomez in jail for five days for disturbing the peace. When released,

[59] AGN, CC, 1826, H-10, f2b-3 and f3b-4.
[60] In the contemporary state of Miranda.
[61] AGN, CC, 1826, 1826, B-02, f1-2b.
[62] In the contemporary state of Falcón.

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Bernardo brought charges against the juez for excessive punishment. Bernardo admitted that he had argued with a woman in public, but protested that "a lack of public decency or a minor excess" should provoke "the punishment indicated in article 154 of the organic Judicial Law."[63] He complained, "the justice of the peace, for a civil matter, exceeded the length of arrest that was authorised and omitted parts of the trial including my answering the charges and my review of the documents and examination of the witnesses." His argument did at one point become more heated when he added, "we should not be astonished at the true brutishness [bruta] of said justice of the peace who lost the path of the law and reason, but we should be astonished at the Hispanic disposition to expel me from my domicile with loathing for the guarantee of article 190 of the constitution." This one personal jab at the official, and the one comparison to Hispanic tyranny, stood out in a complaint that otherwise focused on legal infractions and Bernardo's demand for satisfaction for the "costs, damages, and losses" he suffered.

Court cases became even more legislative in succeeding years, and by the 1840s they had acquired a decidedly legalistic, morally neutral tone. For example, in 1844 a judge fined and jailed a professor from the Universidad Central de Venezuela (in Caracas) for refusing to say the standard oath when being sworn in as a courtroom witness. The professor then sued the judge for abuse of power. The Superior Court found that, legally, the professor should have said the oath but, at the same time, the judge had erred in some technicalities of the legal procedure. In the end, the Superior Court revoked the fine against the professor, and both parties split the court costs.[64] Likewise, in 1850 Felipe Marcano charged a juez de paz in Charallave (Caracas Province) with abuse of power for throwing him in jail without charge or trial. Marcano's attorney listed several articles of the constitution that had been violated (articles 199-207) and showed that, even aside from the procedural irregularities, the punishment had been excessive.[65] Regrettably the existing documents do not contain the juez's defense, so it remains unclear how he justified his arrest of Marcano. The complaint against the juez, however, remained notably concentrated on matters of laws and rights.

The moral character, civility, and loyalty of the juez did not enter the argument. According to Marcano's testimony, the greater implication for the juez's abuses was a threat to the constitution. Notably, however, the consti-

[63] Archivo Histórico de Coro (AHC), CC, 1832, #171, f1-1b.
[64] AGN, CC, 1844, C-28.
[65] AGN, CC, 1850, M-02, f7-8b.

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tution represented the legislative safeguard of society, but it did not represent society and civility themselves. Official misconduct threatened legislative order, but did not threaten all of society or all good government.

A minor exception to this trend can be found in another 1850 case in which a judge abused his power. Francisco Castillovestia, from Ocumare del Tuy,[66] wrote to the Superior Court requesting protection from the town's parochial judge. Castillovestia claimed that the judge had falsely accused him of participating in public disturbances during the last election and intended to imprison him. He asserted that he was innocent of the charges and that the judge belonged to a faction that sought to hurt him and had already cost him his job. The Superior Court launched an investigation into the charges against Castillovestia. The investigation discovered no legal proceedings against him, except some paperwork from another town, San Sebastián, in which a resident wanted Castillovestia to vacate his house. The Superior Court, therefore, found that there was insufficient evidence to substantiate Castillovestia's incarceration and moved the case from the parochial judge to an inferior judge.

The expediente departed from a legislative focus in only one instance. In one of Castillovestia's letters to the Superior Court, he asserted that even his enemies knew that "I am not capable of such crimes because there are witnesses to my irreproachable conduct (*conducta intachable*)."[67] In this letter, among other arguments, the defendant sought to use his reputation for "irreproachable conduct" to sway a judicial decision, and thus did not entirely confine his arguments to legislative concerns. Nonetheless, he discussed his reputation in only one sentence and did not present it as his main evidence, but rather paid more attention to the lack of proof against him and the conspiracy he faced. The Superior Court, in turn, made no reference to the question of character, but simply found that the parochial judge could not substantiate the case, and therefore moved the case to another judge. One sentence from the defendant in the expediente made reference to sociomoral standards, but the great majority of the case restricted itself to legislative standards.

Other cases from these years[68] demonstrated the same shift in legal arguments, away from moral failings and the potential destruction of decent soci-

[66] In the contemporary state of Miranda.

[67] AGN, CC, 1850, C-09, f6.

[68] For example: AHC, CC, 1838, #441; 1839, #503. See also AGN, CC, 1835, C-02; 1849, M-01; 1849, P-06; 1850, C-14 #1; 1850, C-15.

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ety, towards a concern for infractions against legislation and the potential weakening of the constitution. This investigation reviewed 33 court cases that concerned complaints against government officials. Of the 11 expedientes from the Audiencia, nine included accusations of a highly socio-moral nature, while two presented a predominantly legislative character. Of ten expedientes from the 1820s, in six the litigants and/or court officials invoked socio-moral accusations, while four demonstrated an entirely legislative character. Of the 12 expedientes from 1830-50, all remained overwhelmingly legislative. These later expedientes occasionally included a socio-moral comment from an outraged litigant, but otherwise litigants and court officers constructed their arguments and decisions without reference to socio-moral concerns.

The legislative focus of the republican cases did not transpire suddenly but rather occurred as a gradual trend over years, with areas of overlap. For instance, it would be misleading to suggest that the legislative tone of the 1840s cases was unique. Cases from the colonial period or from the 1820s could also simply discuss legal arrangements. For instance, if the parties of a court case amicably sought to refinance a debt or to partition some land, such cases could lack any rancorous quality. On occasion, some pre-1830s cases that involved a more heated contest, such as insulting a judge, could rely less on charges of socio-moral defect and more on charges of breaking the law.[69] It also would be misleading to say the 1840s courtroom arguments were dispassionate. The righteous anger of a wounded party still resounds in those documents. The contending parties, however, expressed their outrage less about civility and loyalty and more about their legal, constitutional rights and the fact that their opponent had broken X and Y laws. Therefore, in general, cases from the late eighteenth-century through the 1820s used the language of socio-moral transgressions. Then, by the 1830s, use of such language dropped precipitously, and by the 1840s, virtually disappeared.

CONCLUSION

The leaders of independent Venezuela inherited from the colonial regime a decades-long process of state efforts to centralize power and regularize administration. Since the mid-eighteenth century, Bourbon monarchs had attempted to place state regulations above Church, customs, or local considerations. Imperial leaders could not simply rule through legislation. Colonial jurisprudence still considered social harmony to be of paramount impor-

[69] For a colonial example, see AANH, 1804, 14-5736-1. For republican examples, see AGN, CC, 1822, L-04; 1826, M-05.

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tance and regarded traditions, local customs, and religious beliefs to be as significant as legislation in the maintenance of justice. Criminal activity, therefore, could be associated with disrespect to the king, tradition, religion, and proper decorum (socio-moral transgressions). Consequently, colonial accusations of misconduct intertwined issues of civility, moral decency, legal behavior, and political loyalty.

After independence and the collapse of the old regime, republican statesmen, bureaucrats, and citizens looked to a weak, impoverished state to bring order and justice. One direction Venezuelans pursued was to advocate for the strict adherence to objective standards of written law. The republican state, therefore, declared that it would prosecute infractions only against written laws but not against customs, social conventions, or religion. Within the first three decades of independence, the government successfully made this shift, as demonstrated by the discourse and treatment of official misconduct within the courts and governmental communication. Correspondence within the Ministry of the Interior shows that legislative accusations appear solidly in place by the 1830s. Within the courts, socio-moral accusations slowly dissipated throughout the 1820s-30s and were replaced entirely by legislative accusations by the 1840s. Elena Plaza studied legislation and elite discourse and argues that, during the 1820s-40s, Venezuelan state administration was "routine, orderly, tenacious and systematic," and that it sought "to achieve the institutionalization of society."[70] The archival sources used in this article, though different from Plaza's, coincide with her characterization. Venezuelan leaders did move the state from a "regime of justice" to a "regime of law" in so far as they achieved considerable changes in state standards of legitimacy.

Exactly why the language of incivility and indecency disappeared from complaints is not precisely certain. Perhaps it disappeared because the litigants no longer thought as their colonial counterparts did. Or perhaps litigants had not changed their mode of thinking, but simply adjusted their language because they realized that socio-moral accusations no longer moved state officials. While it is uncertain to what degree civilians internalized the legislative standards, they clearly knew how to manifest these new standards when interacting with the state. Republican officials, as well as civilians who stepped into the state's sphere of the courthouse, adopted a language that conformed to a "regime of law," which placed legislation above other considerations.

[70] Plaza, "Patriotismo Ilustrado," p. 78.

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However, this archival evidence does not necessarily indicate how Venezuela's polity would develop throughout the rest of the century. Read in isolation, these sources could suggest that Venezuela would dovetail smoothly with liberalizing trends throughout the Atlantic world, which included the dominance of legislation over other normative orders,[71] and that she would soon become a paradigmatic liberal republic. Nevertheless, the numerous countervailing forces within Venezuela contradict any teleological interpretation of modernity. The late 1840s brought another significant political shift, as violent conflict among both elite and plebeian classes increased and eventually led to the very bloody Federal War (1859-63). Also in the late 1840s, the presidency came under the control of authoritarian caudillos and remained so for another century. Such phenomena highlight the prevalence of non-liberal forces at work and demonstrate the lack of a firmly rooted, broad-based consensus on political-legal standards.

Nonetheless, during the first decades of independence, a significant level of liberal change did occur within some governmental institutions and among civilians who interacted with those institutions. Liberal norms provided not just superficial platitudes or theoretical musings, but, along with the legacies of both the colonial regime and the independence war, formed an important part of the new political-legal culture.

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[71] For example, starting in the late eighteenth century, both Britain and France used legislation to impose new strictures on officials that stressed merit over status for acquiring jobs, and that prohibited officials from enriching themselves through their public office. William Doyle, "Changing Notions of Public Corruption, C.1770-C.1850," in *Corrupt Histories*, ed. Emmanuel Kreike and William Chester Jordan (Rochester, NY: University of Rochester Press, 2004).

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