CONTINGENT LIBERTY IN THE AMERICAS

With the support of a Fulbright Fellowship, a CSWS Faculty Research Grant, and other funding, Michelle McKinley is working to complete her book, Bound Biographies: Reconstructing the Lives of African Descent Peoples in the Early Modern Iberoamerican World, 1585-1685.

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In 1672, Catalina Conde, a mulata slave, asked the ecclesiastical court in Lima, Peru, to issue censuras, summoning any witnesses who possessed knowledge or evidence about her paternity. Catalina used the process of censuras—akin to spiritual subpoenas—to strengthen her case against her father's widow, who refused to honor her husband's promise to free Catalina after his death.

Catalina was the product of an illicit relationship between the decoased Alonso and his slave, María Bran. Over forty people came to the church court with knowledge of Alonso’s lifelong desire to emancipate Catalina. Ten years after don Alonso’s death, his widow, doña Violeta, refused to free Catalina. Witnesses attested to strong words and insults between the two women and a lifelong hatred that doña Violeta harbored towards Catalina. Don Alonso’s sister chided his bereaved widow for failing to honor her brother’s wishes. Yet the pressure was not enough to sway Alonso’s widow to grant Catalina her freedom. So Catalina used the power of the pulpit and the bench to marshal evidence of her father’s intent to liberate her after his death.

When people think today about the condition of enslavement, we are understandably disheartened by the fact that historically, we bought and sold human beings as property. But what I insist upon in my work is that we don’t understandably disheartened by the fact that historically, we bought and sold freedom. So Catalina used the power of the pulpit and the bench to marshal evidence of her father’s intent to liberate her after his death.

As historians we rely heavily on witness testimony to reconstruct social worlds, reaffirm shared memories of events, and to chart the multiple and crisscrossing paths to the events that precede a lawsuit. What we rely on is gossip. Yet gossip has a bad press. Gossip is denigrated as women’s talk—the work of idle wagging tongues, and a sin against God. But gossip was what people heard or whispered about—and more importantly for our purposes of reconstruction—rumors did not stay in this sibilant zone. Gossip moved knowledge that was known by a few people linked by horizontal social bonds into the public zone of admissible evidence in a courtroom.

Don Alonso’s relationship with Catalina’s mother María Bran occupied the sibilant zone of furtive whispers (what Limeños alliteratively call susuros). The immoral nature of Catalina’s paternity had to be balanced with people’s acceptance of it. The witnesses claimed that don Alonso’s sister told his wife and other people in his social circle on many occasions that he meant to free Catalina. This evidence, coupled with the terms of the testament, would be sufficient for the court to compel doña Violeta to grant Catalina and her son their liberty. What moved Catalina’s case into the realm of publicly held knowledge with moral (if not legal) consequences was the delightful disregard of a dead man’s testamentary mandate to free his child. Other censuras publicized knowledge that never left the private realm of conscience. The lawsuits, or censuras, prompted a public recognition of private compacts—especially those that resulted from intimate negotiations of liberty.

Was there “women’s” talk, or did men and women talk about events differently? In certain contexts, of course they did. Particularly in commercial disputes, inquisitorial proceedings, and concubinage accusations, men and women demonstrated different kinds of knowledge. Many men denied any knowledge of acts such as lovers’ trysts or sexual couplings that they deemed beneath their dignity or interest. However, even the “important men” of Catalina’s community testified in her favor. As one seemingly aloof alderman put it, “They say the said Catalina is don Alonso’s child and this witness does not know if that is true but from what this witness has seen, the said Catalina bears a strong resemblance to the late don Alonso Conde.”

Catalina’s case underscored the importance of public opinion—and gossip—in the legal arena. Moving these private compacts, unscrupulous dealings, and changes of heart into the public sphere exposed an owner’s undesirable traits: his callousness, caprice, and by extension his untrustworthiness and diminished honor. Legal action forced people to recognize their private acts with the honor and beneficence attendant to their office and their public persona, and the memory of their lineage. And it left a record that those of us from later times can use to reconstruct a fuller picture of what happened.

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