

CSWS Research Matters

Illicit Intimacies and Fractional Freedoms: Slavery, Legal Activism and Ecclesiastical Courts in Colonial Lima

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On August 19, 1659, Ana de Velasco went to court to file a complaint against her master. Ana asked the court to impose an obligatory transfer of ownership—to an owner of her choosing—on the basis of defloration and cruel punishment that she had suffered at the hands of her master. Finally, Ana requested a new appraisal of her purchase price, and restitution of back wages that remained unpaid. In concluding her complaint, Ana asked the court to protect her from the wrath that Pedro would surely unleash upon learning of her complaint to the authorities. Fearing reprisal, Ana requested that she be placed in “deposit” (protective custody) where Pedro could not locate her until the prosecutor had a chance to investigate the charges and find her another owner. Ana further asked that the court grant her request for a new day-wage arrangement where she would have at least two hours a day to attend to her litigation, which, as she said, was the time customarily allotted to those slaves pursuing legal

claims. Anticipating Pedro’s wrath and ability to prolong the investigation, Ana astutely left little room for either maneuver in Pedro’s response.

I read this case many times during the course of my research into seventeenth century slave litigation in colonial Lima. It was not atypical of the thousands of lawsuits brought by slaves to redress the terms of their bondage. But it was particularly poignant to me as I delved through Ana’s testimony and rummaged around in old dusty registers of wills and baptisms to piece together fragments of her life after the lawsuit. Despite Ana’s enslaved status, she sought legal recourse against her master, and tried to control the terms of her enslavement by both changing owners and lowering her purchase price. Ana’s case raised interesting questions that animate my research, among them: How could a young, enslaved woman assert claims to personhood, wages, and virtue when her status was that of mere property?

Ana’s fulsome testimony provided tremendous insights into the dynamics of sexuality, status, and gender that shaped the contours of Lima’s slave-holding society. Last year, I traveled to Lima with a research grant from CSWS. I poured over 350-year-old documents, thinking that if I looked deeply

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CENTER FOR THE STUDY OF WOMEN IN SOCIETY

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Eugene OR 97403-1201

Research Matters

Research Matters is published by the Center for the Study of Women in Society. For more information, call (541) 346-5015, or visit our website: csws.uoregon.edu

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enough, I might discover something new, something I missed before. This is what Derrida called archive fever—*le mal d'archive*. These records contain testimonies of women like Ana, dutifully recorded with the administrative efficiency of legal scribes who charged by the word. I scrutinized the ways that women navigated between marriage and slavery (two not entirely distinct modes of oppression) in their search for freedom.

My work situates enslaved women as legal agents who simultaneously occupied multiple identities as mistresses, workers, wives, mothers, wet nurses, and domestics that conditioned their experience of slavery. Despite the variable outcomes of their lawsuits, I show how enslaved women used channels of

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affection and sexuality to access freedom and prevent the generational transmission of enslavement to their children. Although attentive to the overarching oppressive structures of slavery, my project reveals instances in the lives of enslaved women when they acted as subjects other than human property. More broadly, a review of the voluminous amounts of slave litigation demonstrates that access to courts indubitably affected the construction of colonial slaveholding

societies, potentially constrained the repressive behavior of slave owners, and afforded the enslaved a measure of autonomy over their lives in bondage. A retrospective look at these proceedings tells us how litigants and their advocates strategically exploited the rhetorical power of liberty within the courts, even when their lived realities were decidedly *unfree* and *unequal*.

As a lawyer, a woman of color, and a feminist, I continue to be amazed and inspired by the testimonies that were spoken by women like Ana de Velasco. The cases show us how the master-slave relationship traversed reciprocity and submission, intimacy and domination, and legitimized the use of violence through perpetuating conditions of extreme vulnerability. Many years ago, Moses Finley claimed that, “the final

proof of non status is the free sexual access to slaves which is a fundamental condition of all slavery. Sexual exploitation is a denial, not a recognition of a woman’s humanity, whether she is slave or free.” This is perhaps the harshest truth in the Finley-Patterson thesis of slavery as social death. My work does not dispute Finley’s point, but refutes his implacable denial of agency and personhood to all enslaved women. Ana drew upon incredible strength and

fortitude to denounce Pedro to a court of his peers, something I have a hard time reconciling with the posture of a weak, alienated woman.

Skeptics may reasonably query whether the appeal to the law was not, after all, proof of Ana’s ultimate disempowerment. She had no one else to turn to: Ana seemingly led an isolated and sequestered life away in convents or in servitude with co-conspirators of her owner. It is true that those who seek legal recourse are often the most powerless, and unwittingly reify patriarchal structures through their appeals rather than challenge them. Other skeptics may challenge the very words that touch me as a reader—how can we know that Ana really spoke those words? Though she was not illiterate, Ana’s words must be mediated through the notary’s pen. Her

testimony is chaste, circumspect, and almost virginal—which, in seventeenth-century Spanish is even more compelling. “*Me solicitó diversas veces para tener mi amistad ilícita persuadiéndome a que saliese de dicho monasterio y con efecto mediante las caricias que me hizo me reduje a ello.*”

Separated by time and space, there are layers of truths in these recondite records. No one can lay claim to any single version of what really happened, all we know is that multiple outcomes were possible in these scenarios as women like Ana sought their freedom.