

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 deceased 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 let the condition of enslavement obscure the lives of the people themselves—their intimate life, their hopes and struggles. Through the past ten years of historical research, I have immersed myself in the documents that enslaved people left behind. I use these documents to carefully reconstruct the constellation of relationships and networks in enslaved communities that are far removed in space and time from my leafy office in Eugene.

In Catalina's case file, there is a statement from don Alonso's sister recalling how her brother glowed with pride when he beheld Catalina's son for the first time, and how he remarked favorably on the resemblance between himself and his grandson. How does this statement fit into Catalina's legal battle for her freedom? How should we construe this testimony and the sentiments it described in the context or dynamics of a slaveholding colonial society? If don Alonso felt as strongly as he did about his illegitimate daughter, why did he not issue her a letter of freedom before he died? Why did he insist in a subsequent codicil to his will that Catalina serve his wife for eight years after his death?

As a humanist and a lawyer, I believe that people's words and actions are what matter most. Over the course of my research, I also have become more inclined to take seriously emotions like the ones don Alonso expressed. Historians of slavery do not like emotions as a general rule. Emotions are too similar to archival fictions, and perilously close to paternalism. The equanimity of the historian's craft is inevitably ruffled when analyzing an owner's will that bequeathed an eiderdown and bedsheets to her slave. Was this bequest "evidence" of an emotional bond? Sheets, bedding, shawls, and earrings were some of the most prized articles in testamentary disposition, especially amongst people with little material wealth. And so in the chapters of my book that chronicle cases of baptism, marriage, and death, I use emotional expressions as a window to view how the gendered and racialized experience of inequality and enslavement affected men and women's intimate relationships.

What to make of Catalina's case? Did she win or lose? We don't know. (There is no final judgment). Five years ago, I wrote briefly about Catalina's case in an article reviewing how enslaved people used the colonial legal system—particularly the ecclesiastical courts. Last year, I went back to my notes on Catalina's case as I was writing a chapter on childhood emancipation and re-enslavement. Whereas I had skimmed over the details of the witness testimonies in my article, I now paid close attention to the way people portrayed the relationship between Catalina and her father, and the vitriolic terms with



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which they referred to doña Violeta. People at roadside taverns (*tambos*) reminisced how don Alonso and Catalina ate at the same table as the traveling party rested on the long trip to Lima. Their words were formulaically rendered for the court's consideration, but at their core, people recounted an event at a tavern that stuck out in their memory and resurfaced decades later: a slave child who shared her father's plate and witnessed his tenderness.

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 spiteful 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 reconcile 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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