(91). It can also be considered a postmodern piece of neobaroque entertainment in which, as Davis describes, "a room assemble and flies apart, singers and heavenly bodies float over the stage, Isabella's elaborate court dissolves into a ship at sea, a rocket soars from the head of Miss Liberty, [and] soft drinks tumble from a cosmic Coke machine" (91). In a sense, The Voyage has more to do with baroque "historical" operas on the colonization of the New World than with nineteenth-century adaptations such as Alberto Franchetti's Cristoforo Colombo.54 Like Dryden and Purcell's The Indian Queen or Ottoboni's II Colombo o vero l'India scoperta, Glass playfully collapses time and geography in his re-creation of historical events in complete disregard of the classical units of time, space, and action. In The Voyage, they become malleable and are at the service of the composer/dramaturge's imagination. Also as in seventeenth- and early eighteenth-century musical dramas and operas, Glass makes extensive use of the fantastic and the spectacular. But, as I have already argued in the preceding sections, he uses a science fiction imaginary to re-create otherness and the exotic instead of classical mythology or supernatural events. Finally, comedy and tragedy are also combined in ways reminiscent of baroque plays and French operettas. In The Voyage, the discovery of America is seen through the tragic eyes of Columbus as much as through the—at times openly parodic—"eyes" of an extraterrestrial being, and the discovery itself is presented as a sort of "crash-landing." The connection with (neo)baroque aesthetics in a composer usually associated with postmodernism might seem surprising. But as with the historical baroque, "given that neo-baroque spectacle provides polycentric and multiple shifting centers, the spectator, in a sense, remains the only element in the image/viewer scenario that remains centered and stable. It is the audience's perception and active engagement with the image that orders the illusion."55 In the case of The Voyage, that illusion is Columbus himself.

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An Old Father in a New Tragedy: Fatherhood in the Legal Theater of the Spanish Atlantic, 1770–1820

By the 1790s, all of the dramatic changes in authority that marked the age of Atlantic Revolutions—family, royal, and cultural authority—were being played out on the stages of the capital cities of Spanish America. This is not to say that colonial audiences, still subject to a king over thirty thousand leagues away, were treated to theatrical renditions of the beheading of Louis XVI. The plot was more complex than that.

Where once audiences from all walks of life piled into the stands of private theaters in hospitals, convents, and alcoholes, now neatly dressed city inhabitants of the middling sort were to file into new coliseums, and they were expected to do so before the curtain went up.1 Mexico City opened the arched door of its newly renovated theater in 1789; Lima and Havana followed in short succession with coliseums of their own. Once the audiences had hooted and hollered along with the humorous satires that broke out between successive stagings of baroque tragicomedies called comedias. Now theatergoers were to politely clap at the end of overtly didactic neoclassical tragedies in which the "sentimental narrative" of misfortune prevailed.2 Once Spanish Golden Age


playwrights such as Lope de la Vega and Calderón de la Barca reigned. Now someone else was in charge: the judges.

"The [theater] house is comfortable and tidy," a Creole newspaper editorially reported of Lima’s Real Coliseo de Comedias (1783), "and it is a good order reigns under the vigilance of Judges." The judges most immediately responsible for the good order of the theater were the Inquisition’s censors, who approved and banned plays. Their efforts met only partial success, but they were undaunted. After all, many royal reformists, including one of the Spanish king’s closest advisers, Gaspar Melchor de Jovellanos y Ramírez, believed that theater reforms were an exercise in creating both good citizens and good domestic subjects. Jovellanos saw the theater as a school for audiences, where they would learn respect for "the laws and the agents [depositarios] of authority, for conjugal fidelity, paternal love, filial obedience and tenderness." In short, he said, the aim should be "a theater that presents good and magnanimous princes, humane and incorruptible judges, citizens full of virtue and patriotism, prudent and watchful fathers of families." To impart these new, law-abiding family sensibilities, reformist judges preferred overtly moralizing plays. And they had a taste for French neoclassical dramas written in what was called the genre sérioso, which in Spanish they dubbed comedias lágrimoosas and promoted over the howls of nationalist defenders of the Golden Age plays.

The tension between the traditional Spanish comedia and French-inspired lachrymose theater was so sharp that one literary scholar has called it a "war" pitting proponents of the people’s theater against reformists who held up the foreign style as a model even as France’s monarchy collapsed. But the war was over more than theatrical style; it was also over political substance. In the Spanish Atlantic, the content of the plays, particularly the lessons they contained about family, law, and state authority, had a life beyond the stage. In particular, urban colonial inhabitants reproduced elements of the sentimental narrative as they recounted their own family dramas while narrating the events of their lives in court.

This article is about one character in the sentimental genre that would come to embody all of the tensions produced by shifting concepts of authority in the age of Atlantic Revolution. Its focus is on the father as he appeared in the legal theater of the Spanish Atlantic world. "Legal theater" here has two meanings. I am concerned first with European literary and theatrical works during the era in which the themes of fathers and the law figured prominently. But I am also concerned with how such dramas were performed in the Spanish American colonies—both literally, on stage, and figuratively, in court.

It should be made clear that the colonial Spanish American court was not always a place in which litigants actually appeared and performed; in fact, most of the exchanges that took place in the legal sphere occurred in writing, not in person. Nonetheless, litigants who sued over family matters in Spanish America enacted dramas in their petitions and through lawyers’ statements, where they applied emergent prototypes of good and bad fathers. By examining these documents alongside theatrical representations of fathers and the law, I hope to show that eighteenth-century Spanish American fatherhood, operating not only as a theatrical but also as a "cultural narrative," straddled emergent and traditional theatrical genres, models of authority, and concepts of time itself.

Historians of the Spanish Empire, and particularly those who study gender, understandably approach drama with some caution. The theatrical wife-killings and ironclad honor codes of Lope and Calderón long provided a conveniently spectacular, but ultimately misplaced, backdrop to our understanding of women’s history in Spain and Spanish America. Scholars such as Ann Twinnam and Scott Taylor have convincingly shown that Spain’s much vaunted honor system looks much more flexible and pliable in local archives than it did on the stage. Yet, as María M. Carrión has put

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6. Charles B. Quila, “The Campaign to Substitute French Neoclassical Tragedy for the Comedia, 1737–1800,” PMLA 54.1 (1939): 184–211, 184. It should also be pointed out that, according to Hilaire Kallenbord in Contenidos en el escenario: Como se vestía a la comedia en Early Modern Spain (Toronto: U of Toronto P, 2007), the comedias did contain moralizing undertones, although it eluded the genre’s late eighteenth-century critics.


it in her study of marriage, drama, and law in seventeenth-century Spain, scholarly caution should not translate into suspicion “that the truth and purity of the law separate it from the falseness and the speciousness of the comedy.”

Theatrical, legal, and gender drama interpenetrated in multiple ways. Take eighteenth-century Mexico, for example, where Doña Teresa Exhanojáuregui sued her husband after he took up with an actress whose nickname was “la Lechuga” (the Lettuce), and where María Teodora, an indigenous woman from Xochimilco, was beaten by her husband when he suspected that rather than going to Mass, as she had told him, she was headed to watch the cómico who had come to their pueblo. Of course, theater and the law informed each other in far more subtle ways, too, as contemporary dramas and the plots of the stories told in court mutually constructed individuals’ ideas of the roles that they should perform in canonical and legal institutions such as marriage and family.

Throughout the revolutionary Atlantic, on the stage as well as at the bench, fathers came to play increasingly ambiguous roles in these legal dramas. In the colonial regions of Spanish America, lawyers and litigants drew from multiple Atlantic reference points when they imbued fatherhood with meaning—particularly in cities such as Mexico City, Lima, and Havana, where middle- to upper-class inhabitants could as easily get season tickets for the coliseums as file a civil suit. The result was that paternal authority became a conflicted and unstable metaphor for legitimate authority. Fathers frequently were portrayed as cruel and inhuman—a product of the declining faith in paternal monarchical authority that was part of the age. But an intriguing new kind of father also occasionally showed up before audiences and Audencias: sentimental, grieving men who had, to some degree, been drained of social or political power. The appearance of the sentimental father amidst a cast stacked with father-tyrants provides us unique insight into the political contradictions of the colonial Enlightenment in the Spanish Atlantic.

Like the conflicted prototype of fatherhood in the late eighteenth century, this article has multiple points of origin and crosses the Atlantic multiple times. It begins with an actress in Mexico City, moves through the historiography of gender and law in late colonial Spanish America, and then turns to prerevolutionary France. The first cross-oceanic voyage reveals that Spanish American fatherhood, though not the subject of intense historical inquiry, is a strikingly obvious dramatic metaphor for royal authority throughout the Atlantic world during the era. Next comes a visit to a seamy salon in Seville in the 1770s, where, from amid a repertoire of European plays about fathers, one originated that would soon delight audiences in various Spanish American cities. Following the play back to the colonies, the story then settles on the narratives of court documents, drawing from the hundreds of late colonial domestic conflict suits that I have examined in several regions of the Spanish Atlantic, concentrating on capital cities where the state-sponsored coliseums were first established: Mexico City, Lima, and a short visit at the end to Havana. The legal documents examined are civil cases over alimentos, or alimony and child support, ecclesiastical divorce suits, as well as criminal prosecutions of adultery, rape and seduction, and abuse.

While court cases from Spanish America capture a wide variety of fathers of diverse social class, caste, and geographic backgrounds—including indigenous fathers and slave fathers—most of the cases I discuss here involve Creole (American-born Spanish) men who can be considered colonial counterparts to the “bourgeois” fathers prominently featured in novels and plays of the eighteenth century. This is in part because some of the most fuscous, and ferocious, legal commentaries on fatherhood appear in suits involving men of middle- to upper-class rank, a fact that by itself is telling in terms of who was meant to take direction concerning fatherhood, for it was precisely these classes that state

footnotes:
12. Slave fathers did utilize sentimental discourses quite eloquently in their suits to free or buy their children or transfer them to more benevolent owners, but legal recognition of their paternal authority over children was already weakened by the condition of slavery itself, and thus the “grieving, sentimental father” was more effective, and perhaps less threatening, role for them to play in court cases. See Bianca Premo, *Children of the Father King: Youth, Authority and Legal Minority in Colonial Lima* (Chapel Hill: U of North Carolina P, 2005).
As theater reforms were implemented around the Spanish Empire—new theaters erected, new plays approved and old ones "hacked up" to conform to the new style, new casts hired—not everyone was pleased with the changes, including the actors. Leading lady Barbara González of Mexico City, for example, found herself demoted to segunda dama for the 1879 season. Understandably upset by the shake-up of order among the troupe, she appealed to a judge to release her altogether from her contract at the coliseum. The reason she gave is notable, in that it called upon the very moral order that the judges sought to instill in the colonial populace through the plays. She wished to leave the stage, she said, to take care of her four children whose father was absent.

Those familiar with the wide range of studies of European, North American, and Latin American women that began in the late 1970s will recognize that, in González’s attempt to dodge demotion, she cleverly invoked the new, civic importance invested in motherhood during the Enlightenment eighteenth century—a significance that presaged the conceptual separation of public and private spheres and the division of the rational world of politics from the sentimental world of the home.

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15. See Manuel Mañón, Historia del Teatro Principal de México (Mexico City: Editorial Culma, 1932), 35; Viqueira Albán, Propiedad y Permanencia, 53.

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17. Vicente de Seixo, Discurso filosófico y político sobre la capacidad e incapacidad natural de las mujeres para las ciencias y artes (Madrid, 1801), 34–35; Mónica Bolufer, "Transformaciones: Luces y sombras," in Historia de la mujer en España y América Latina, ed. Isabel Morant (Madrid: Cátedra, 2005), 2490.
The question of whether modernity has been good or bad for women is one that has enchanted scholars of European feminist history, particularly those who study the French Revolution, as well as those who examine the Enlightenment in Spain. For scholars of Spanish America, it is a tendency that lies quietly beneath scholarship on gender and the law in the late colonial period and early republican periods. Crucially, some of the more recent of these studies not only draw back from positivistic notions of progress in women’s rights, but also challenge the long-held belief that independence from Spanish rule simply substituted one kind of patriarchal gender oppression for another, instead showing that there was an interregnum between mature colonialism and the rise of republicanism in which women and children were able to exploit an increasingly powerful, modern legal system to challenge the domestic power of fathers.

What is less clear in most of these studies is the uneven impact that the secular beatification of the mother had on the cultural images and legal representations of fatherhood and, critically, on the lived experience of being a father. That is not to say that historians have overlooked the complex questions of how citizenship affected men differently based on class and caste in new republics, and how the metaphorical concept of nations shifted from paternalistic monarchies to exclusive fraternities. But we have not yet come to appreciate fully how ambiguous and conflictive the available archetypes of fatherhood were for men in Spanish America and how complicated were the political and social implications of defending one’s paternal actions and rights in a colonial environment during the Age of Revolution.

Late eighteenth-century Spanish American court cases demonstrate a growing propensity for judges to recognize mothers’ rights over children, even though codified laws from the Middle Ages held that men alone held patria potestad, or ultimate rights over the persons and properties of minors of age. The legal documents likewise reveal an increased judicial supervision of fathers’ authority over children throughout the empire during the late eighteenth century, even if the phenomenon did not always occur at the same rate in different regions of the empire or manifest itself in the same way. But, far from Seix’s tidy transition in which women simply assumed (or were recognized for) control of the household, very few of the men who stood before judges in the Spanish Atlantic happily relinquished domestic authority or conceded to financial demands to support families.

Most fathers reacted to suits over fulfillment of their fatherly duties with recalcitrance, refusing to answer to court filings for days, weeks, and even months on end. When they were forced to respond to claims of abuse or neglect, they frequently appealed to inheritance laws or codified rights, specifically invoking the inviolability of patria potestad. Many others turned the tables on women, as they had for years before in divorce or abuse suits, and countered that women’s failure to fulfill domestic duties or behave honorably had somehow released them from their own fatherly obligations.

Yet, other men participated in the construction of new discourses about both parental and judicial authority, as the Spanish Bourbon legal system intervened more deeply in domestic affairs. In fact, some fathers defended themselves and their children by wrestling with newer visions of the justice system as modern, rational, and impartial. They did this even when it meant casting themselves neither as absolute rulers of a household nor, alternatively, as rational, useful citizens of an emerging public sphere. Instead, some participated in the construction of a highly sentimentalized version of fatherhood.

21. For example, several early eighteenth-century divorce cases in the Archivo Arzobispal de Trujillo (AAT), AAT, end with the men in “rebeldia,” not responding at all to summons to appear or to requests to pay child support and alimony during the suit. Typical suits include Sagristía y Torrecon contra Orízco de Bracamonte (1735), Linares contra Ullés (1752), and Centeno contra Gamboa (1759).

22. A fine articulation of the male defense of reciprocal gender responsibilities is the 1801 Mexico City case in which, responding to his wife’s accusations of having dissipated her dowry and being drunk, a husband maintained that he had provided for his family financially while she was lazy and unproductive and neglected household duties (AGN-M, Tribunal Superior de Justicia [TSJ], Corregidor-Criminal, vol. 17, exp. 59, f. 1-1v [1801]). Also, Steve J. Stern, The Secret History of Gender: Women, Men, and Power in Colonial Mexico (Chapel Hill: U of North Carolina P, 1995); Lipsitz-Rivera, “Marriage and Family”; and Dávila-Mendoza, Hasta que la muerte.

In order to appreciate the political ambiguity in the images of fatherhood running through legal dramas in the Spanish Atlantic, to fully savor the novelty of the sentimental, natural-rights-based judicial discourse that some fathers advanced at the end of the eighteenth century, it is worthwhile to describe what came before with respect to concepts of justice, paternalism, and fatherhood. Certainly, fathers had loved their children before the advent of Enlightened sentimental narrative. Expressions of paternal emotion can be detected in a wide variety of legal sources well before the late eighteenth century, especially in wills and testaments. But, as with romantic love, paternal love came to be expressed more openly and frequently at the close of the eighteenth century.24

As the century advanced, key changes were in the jurisdiction of secular courts affected the frequency with which fathers and mothers ended up standing before royal judges, answering questions about their emotions, power, and responsibilities over children. A series of royal orders providing Spanish royal courts jurisdiction over parental objections to the marriage choice of their children (1776; 1778 for the colonies); over alimony, child support, and dowries (1789); and over bigamy (1790) all put fathers before the royal courts more frequently, usually as defendant rather than plaintiff.25

Changes less juridical and more cultural also contributed to the increasingly conflicted role that fathers played at the bench and on the stage. When promoting their theater reforms in the Spanish Empire, Bourbon state officials such as Jovellanos showed an increasing partiality to French theater, and specifically to a new style known as the genre sérieux that Enlightenment authors such as Diderot and Rousseau promoted. In Spain these works would be known as comedias lacrimosas, tragedies and tales of misfortune that were overwhelmingly about family crises. As Sarah Maza has shown for France, the lachrymose tragedy worked in a reciprocal relationship with the narratives of family court cases. “If trial briefs successfully drew their inspiration from the stage,” she writes,


marido (If the woman is president, she will dominate and vanquish the husband). The Golden Age plays now had company. Some theatrical works performed in the Spanish colonial capital cities indeed were contemporary—written in the eighteenth century and promoted by Bourbon-era censors. These included a number of neoclassical plays imported directly from France. To broadcast their moral lessons, these plays too were christened with new, more obvious and instructive titles. For example, Mexico City and Lima audiences were treated to Jean Racine’s Andrómaca (1667), which was provocatively renamed El amor de madre, no hay efecto que le iguale (A mother’s love, there is nothing like it). In Havana, Belgian composer André Grétry’s opera L’émire et Azor (1771) was honored with a performance on Christmas Day 1790 under the more explicit subtitle O el amor del padre y el deber de una hija (Or the love of a father and the duty of a daughter).

One of the new plays of Spanish origin deserves special attention: royal advisor Jovellanos’s own lachrymose El delincuente honrado (The honorable culprit/delinquent) (1772). Limeños (people from Lima) saw it on July 15, 1792; habaneros in Cuba had been treated to a performance of the same play in March of the preceding year; and the capitalinos of Mexico had seen it in their new coliseum the year before that, in June. When he wrote the play, Jovellanos perhaps would not have predicted the American success of El delincuente honrado. In a sense, he wrote the play on a lark. Jovellanos had participated in a debate in a Sevillian tertulía over the virtues of the genre sérience where someone proposed a contest to see who could best write a play in the new style. El delincuente honrado was Jovellanos’s answer to the challenge.

In part because of the unusual origins of the play, and in part because writers throughout Western Europe often engaged in artistic “emulation,” Jovellanos borrowed not only style but also subject matter from other plays, especially following the plotlines of L’bonnête criminel (1765) by Charles-Georges Fenouilhot de Falbair de Quangey and Diderot’s Le fils naturel (1770). But the innovations and twists that Jovellanos lent to the story, especially its ending, would appeal particularly to Spanish American audiences who, surrounded by Atlantic revolutions, remained subject to a distant king.

In Jovellanos’s version, the story was about the conflict between austere legal tradition and sentimental modernity. An incorruptible but humane judge must follow the king’s harsh prohibition of dueling, which requires any man who kills another in a duel to die, in turn, at the hands of the state. The titular “honorable culprit,” however, has dueled with a bad husband and killed him. He later marries the wife of the man he had cut down with his sword, and this woman’s father happens to be a provincial magistrate, the Corregidor. The killer, eventually crumbling under the weight of his secret and unable to let another man be punished for his crime, finally admits what he has done. His father-in-law—the fiery old Corregidor who believes in the inflexible application of the laws and ridicules the “moderns, with their cries of humanity, reason, and nature” (todos estos modernos gritan: la razón, la humanidad, la naturaleza)—seeks passionate vengeance against the man “who has entered my family and taken the place of a son” (haberle agregado a mi familia y tenido en lugar de hijo). Persuaded by his incorruptible nature, the magistrate who is in charge of the case, Don Justo, decides to impose the death penalty. But the filial plot twists still are not over: When imposing the sentence Don Justo discovers that this “honorable delinquent” is in fact his own long-lost illegitimate son.

Don Justo thus faces the dilemma of being either a sentimental father or a good judge. He anguishes and cries. Ultimately, pained and conflicted, he chooses to follow the law. In other French versions of the plot, the curtain falls here. But in the Spanish adaptation, Jovellanos offers a new ending. The king—as a kind of rex ex machina—sends a letter granting clemency at the very last
moment, saving the undeserving criminal from the harsh, impartial fate that the law requires.

Literary scholars consider the play a stylistic and thematic amalgam in which the rigid formalism of neoclassical theater is pierced through with unexpected sentimentalism. Stylistically, with soliloquies that wrench the heart and stage cues for weeping, *El delincuente honrado* prefigured nineteenth-century romanticism. Thematically, it represents an “experiment in freer theater with social implications,” an example of the tension in Jovellanos’s reformist vision of the Spanish Empire as he is torn between the “promise of the new and the affection for the old.”

But what I find most important in Jovellanos’s *El delincuente honrado* is something that other scholars have regarded as “entirely extraneous to the plot”: the ultimate reversal to royal mercy to save the hero in the end. Jovellanos cannot dispose of the king, and he does not trust the audiences to feel their way to the play’s ultimate moral lesson about the harshness of antiquated laws. A fair ending must be ensured, and the monarch must play a central, almost divine role. In casting the king as savior, Jovellanos ultimately flattens out the other male characters, reversing his efforts to create “modern” versions of the bad and good father and the bad and good judge. Thus, the play captured the struggle and imbalance of the Spanish Enlightenment, as multiple types of paternalism—the royal, the judicial, the biological—vied to monopolize the preeminent place of patriarach.

Given the number of jurisdictional changes and Bourbon social policies that implicated fathers as potential parties to lawsuits in the late eighteenth century, Spanish American court cases provided colonial inhabitants a roomy stage on which they could test the balance between patriarchal powers as they enacted their own domestic dramas. Enact those dramas they did, often moving in several spotlight levels at once, since they frequently pursued suits and countersuits in multiple jurisdictions simultaneously. However, even when men were the initiators of suits, both statistically and contextually they were mostly on the defensive, forced into the role of the antiquated, aggressive, or absent protagonist.


36. I have found no male-initiated cases over custody or *alimentos* in either Mexico or Peru; none of abuse or neglect leveled by fathers against mothers; and—leaving aside

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Women took full advantage of such changes, peppering many of their suits for alimony or child support with appeals to their “natural rights” as mothers, derived from “el amor de madre” (the love of a mother). This was a legal move that positioned fathers’ authority over children as a right that might have existed in law, but not necessarily in nature. Women and their lawyers classified abuse or neglect of fatherly duties as “barbarity,” “tyranny,” “inhumanity,” and “unnaturalness” in order to set women up as the appropriate educators, civilizers, and humanizers of the young. Procurador Gregorio Gúido de Lima was particularly fond of playing on notions of retrograde fathers. For example, he called Don Miguel Luque, who faced the Audiencia of the city in a case over *alimentos*, “an inhuman and barbarous father” who dragged his family back to his hometown of Lambayeque almost as if he were dragging them back in time, where they lived in a home with a dirt floor and ate a daily ration of only bananas.

Again, I must reiterate that what was new in these suits was not precisely the accusations that men had failed to take on their reciprocal family responsibilities. Such articulations of men’s duties to children easily might appear in divorce or inheritance suits in the sixteenth and seventeenth centuries. But the opening of multiple new legal avenues for suing fathers, particularly in royal courts, did mean that fatherhood, and the fatherly responsibilities of living as opposed to dead men, were featured more frequently as a topic for lawyerly musings.

children and focusing only on marital disputes—far fewer men who initiate divorce or adultery charges compared to women.

37.Archivo General de la Nación del Perú (AGN-P), Real Audiencia (RA), Civil, leg. 338, c. 3080, f. 27v (1795). Some examples in Lima from women’s own petitions, as opposed to lawyers’ written arguments, include Archivo Arzobispal de Lima (AAL), Divorcios, Merida contra Guevara, leg. 68, c. 1317, f. 1 (1799), in which the father is called “el más bárbaro y atrevido”; AGN-P, RA, Civil, leg. 206, c. 1706, f. 1–1v (1778) (un padre tirano y madrastura cruel); AGN-P, RA, Civil, leg. 366, c. 3554, s/f (1798); and AGN-P, RA, Civil, leg. 366, c. 3554, s/f (1798) (a father failing to support child that is ‘un padre desnaturalizado’).

What is more, an increased Enlightened interest in children and education meant that a case such as a divorce or abuse case could serve as a theater for deeper discussions about fatherhood and its relationship to “modern” society and politics. Lawyers saw in seduction, adultery, and alimony suits opportunities to expound on the delicate balance between discourses of the good and bad father, discourses that were frequently situated in a historical moment of “now” or “today.” Cristóbal de la Cuerva, for example, opined that “padres de familia” (fathers of families) should always take care that their children not associate with those of the lower spheres, “today more than ever, especially if they are females” (emphasis mine). Nevertheless, he reminded the judge, “It also should be noted that the treatment of children is not founded on laws of rigor, and [no father] can proceed on the basis of law with certainty if the treatment is excessive, since paternal correction must be tightly aligned [menz arreglada] with the most mild of means that piety dictates.” If a father is too strict, he warned, “that is more cruelty than fatherly correction.”39

The prototype of the bad, tyrannical father could be especially effective in cases of domestic abuse. There, it seemingly transformed the physical abuse of women from a moral infraction or crime in and of itself to a larger social ill because of its effects on children. A very consistent trend emerged from cases in which elite women accused husbands or lovers of physical or emotional abuse. Frequently, such actions were said to provide a bad example to the young, as well as to other household dependents such as servants and slaves. (Indeed, it was not uncommon for women to mention that abusive partners were cruel to servants, as well.) The implication was that the home was a theater, and men’s actions had an audience—both in terms of nonelite society as well as down through the generations.

When Doña María Fernández de Allende brought suit against her husband, a merchant in Mexico City whom she described as drunken, irrational, and abusive, she made sure that witnesses testified over and over to the “bad example” that he set for “his children, servants, and the entire neighborhood.” Her lawyer cast the implications of his actions even more broadly: “What do we have when we add [to consideration] the perverse example that he provides to his daughters and sons, in grave danger to their souls and prejudice to the republic, exposing them to lessons in his indecent language and intolerable vice when they have no other mirror in their childhood in which to catch sight of their actions than the conduct of their father?”40 The image of the mirror was a familiar one: Opening a mid-eighteenth-century performance in Mexico City’s coliseum, a theater manager announced, “A wise man called the theater the mirror of life (and with reason),” but went on to argue that men were portrayed on stage in a more flattering light than in real life.41

Undoubtedly bristling under such criticism, some men preemptively delivered statements of love and affection for their children in court, particularly when they fought for custody of their children. But since natural rights provided one of the preeminent discourses for women’s challenges to fathers for custody and child support or accusations of abuse, their place in the eighteenth-century image of sentimental father was uncertain. Don Mariano of Lima, who wanted to take custody of his illegitimate (natural) daughter from her mother, argued that his codified legal rights as father were greater than a mother’s natural rights. “The laws commend to the father in particular the education of his children,” he argued, “giving him more faculties than necessary, above and beyond those which nature gives.” Yet even his appeal to written law did not prevent him from capping his statement with an expression of emotion. “No one,” he claimed, “will care better than I for my daughter, whom I love with a paternal love.”42

It was a tricky matter to figure out what exactly litigants and lawyers meant by fathers’ natural rights and what exactly the relationship was between natural rights and laws on questions such as patria potestad, illegitimacy, and financial responsibility. A court representative in Lima known as the Defender of Minors, who advised the high court of Peru on cases over children, tried to make it simple in the case of children born out of wedlock. He wrote in a 1755 suit that parental love, endowed by “nature,” does not distinguish between legitimate and illegitimate children.43 But Spanish laws certainly did, and so too did many fathers who

40. AGN-M, Bienes Nacionales (BN), vol. 1090, exp. 12, fl. 8, 12 (1776). There are a number of instances of such arguments to be found in AGN-M, Civil, vol. 1627, exp. 2 (1772); AGN-P, RA, Criminal, leg. 107, c. 936 (1748); AGN-P, RA, Civil, leg. 206, c. 1760 (1760); AAT, Divorcios, Barretta y Castro contra Iacii (1761); AGN-M, TS, Corregidor, Criminal, vol. 17, exp. 14 (1796).
41. Qd. in Viqueira Albán, Propriety and Permission, 40.
42. AAI, Santa Catalina, leg. 8, c. 49, f. 1 (1790).
43. AGN-P, RA, Civil, leg. 124, c. 1023, f. 69 (1755).
struggled to avoid paying child support to their sons and daughters by casting doubt on their paternity.

Even so, some fathers attempted to counter such cases in which they were portrayed as inhuman or barbaric for avoiding taking on the financial responsibility of illegitimate children by twisting their legal rights into new discourses of sentiment and nature. Miguel Suárez, the lawyer for a man who was sued for alimony in Lima by the mother of a newborn, faced a particularly tough act of contortion when he tried to invoke sentiment and nature to defend his client. He wrote “to recognize and support a child is the most powerful sentiment in nature, because all things of the world are moved to raise and care for that which is born to them,” but he pronounced, “It is irrational to compel a man to become the author of a child.” In other words, sentiment and reason worked together; if there was reasonable doubt about a man’s paternity, no sentiment could exist, and, presumably, if a father felt no love because he could not know if a child was his, he had no obligation.

Logically, this contorted rendering of nature and emotion was a tough sell. It was rare that sentiment or lack of love might be invoked as a valid way of getting out of providing for a child. More commonly, fathers and men invoked their “carito, conato, y esmero” (tenderness, consideration, and diligent care) for children in their petitions for their legal rights to custody or to seek justice in their children’s names. It is worth noting that fathers usually garnered reference to sentiment with proof of financial responsibility, such as taking children to physicians or providing clothing or education. Nonetheless, some men departed from the generically material nature of their claims to responsible fatherhood and admitted performing the actual labor of child rearing. Francisco Quintero, a father from Piura, in coastal Peru, responded to the divorce suit his wife filed against him by arguing that she had abandoned her duties as mother and that he had been raising his children alone.

Fathers of girls and young women were especially prone to express emotion in court, and cases in which adolescent girls or older daughters had been seduced, had been raped, or even had willingly engaged in sex with a suitor frequently brought tears to their fathers’ eyes. The suitors often charged, in turn, that the young women were fleeing domestic despots. For example, Francisco Llagas claimed that his lover, Doña Ana, had begged him to steal her away from her home because her father, Don Manuel, ruled over her with an “inhuman potestad.” Don Manuel lost his suit against Francisco for seducing his daughter, and upon appeal he bitterly teared up: “If [my daughter] does not take the love with which I have raised her, and that a father always offers for the best direction of his children by secure means, this cannot be used as an excuse for seduction and other crimes.” In such cases, love and pain were not the only emotions expressed; fathers also described tears produced from the sting of “dishonor” and “fury.”

Other fathers lamented their daughters’ poor treatment by husbands or lovers. These fathers tended to face judges who determined that they should stay out of their children’s affairs, and it was not uncommon to see verdicts ending in marital reconciliations include a statement warning parents about their meddling. Yet some sentimental fathers, such as Don Rafael José Cabellero of Havana, were not dissuaded.

In 1797 Don Rafael appealed to the Council of Indies in Seville concerning his daughter Doña Margarita’s divorce case. Margarita had married very young, at thirteen, and six years later, after she claimed her husband had engaged in so many repeated public affairs that he had been given the nickname “el Galán” (the leading man), she decided to divorce him. Her husband, however, went to the governor of Havana to have her forcibly removed from her self-imposed deposit in her father’s home and to have Don Rafael thrown in jail for resisting secular authority. The crux of this legal maneuver, then, concerned whether it was just that a father be imprisoned for protecting and supporting his daughter through her...
divorce—a divorce, Don Rafael wrote, that caused him great emotional pain, "which afflicts me even more when, in the middle of her grief[,] she reproaches me for having executed an immature marriage."52

Incarcerated, Don Rafael decided to appeal to the highest judicial authority in the colonies, the Council of Indias, reporting with the most flowery of language that he was

sin poder ocu rir a prestar con suelo ni a sus queridos hijos... por atender al cuidado de la casa, de modo que en quatro dias, se ha arruinado, o destruido un Pobre vecino Campestre y útil a la Republica? Y, por qué? ¿Es posible, Señor, que a los Perros se les permita ladrar, y ular [sic, perhaps audor or aulor] el grito en defensa de sus amos, y a mi hombre racional, y Padre no solo se me niegue el llorar, sino es que me pene y casique por qué? fui deferente a los sentimientos de la razon, y de la naturaleza? ¿Estamos acaso en los dias tenebrosos de aquellos siglos pasados, en que no podían los padres ponerse luto por los hijos...? ¿Qué tiene que hacer el Padre ansiano en esta tragedia?

(powerless to console either my beloved children or myself [or] to return to the care of my home, so that in four days a poor country vecino, useful to the Republic, has been ruined and destroyed. And why? For having been faithful to the tender emotions of nature... Is it possible, Señor, that dogs are permitted to bark, to howl, in defense of their owners, and I, a rational man and father, am denied the ability to cry, to howl, or I will be penalized and punished because I was deferent to the sentiments of reason and nature? Are we in the case of the dark days of those centuries past in which parents could not grieve for their persecuted children...? What can an old Father do in such a tragedy?)53

Aside from his clear delineation of parental sentimentality as part of a new, modern order and the outpouring of passionate prose worthy of any lachrymose play, Don Rafael’s petition also goes on to flatter the ministers of the council as wise, enlightened, and incorruptible judges. Don Rafael asks them to put themselves in his shoes and imagine themselves as fathers, something, he claimed, Cuba’s governor had failed to do. The governor, he claimed, acted only out of personal interest and corruption: "Esta historia conocerá VE que es historia de odio y venganza" (This story, Your Highness will recognize, is a story of hatred and vengeance).54 The two kinds of paternal judges; the modern, sentimental father; the "leading man"; the rejected daughter; the tears—it was almost as if Jovellanos himself had scripted it.

If the archetype of the wife and mother as an empress of her home was the counterpart to the creation of a rational, public male citizen at the end of the eighteenth century, this has little to do with the tragic state in which Don Rafael found himself when writing a letter to the Council of Indias. The rise of enlightened discourses of sentiment and natural rights did not bypass late colonial Spanish American men. Indeed, in Don Rafael’s own formulation, these were markers of "new times" that the old man thoroughly embraced. What I have attempted to suggest here is that binary discourses of sentiment and reason, public and private, home and government, and new times and legal tradition, mixed, sometimes uneasily, in the legal culture of late colonial Spanish America.

From the perspective of a judge overseeing a domestic dispute in 1775 or even 1815, the movement from colonial patriarchy to republican separate spheres surely appeared piecemeal and partial. This is partly due to the fact that a detailed prototype of the good father, free of the king’s authority, never quite emerged from the Spanish Atlantic legal theaters to effectively undermine the onslaught of accusations of tyranny and inhumanity against abusive or absent fathers. It is also in part because many men involved in court cases surrounding children clung to long-standing legal practices of avoidance or aggressive self-defense as they denied paternity, fought against providing financial support to children, or simply refused to appear before judges. These older tactics still often proved successful. There were, as I have tried to show here, some men who sought to portray themselves as good fathers using modern measures of sentiment. Yet they inevitably grappled to find a powerful persona to inhabit lest they end up coming across like poor Don Rafael.

I have also suggested that the very complexity of fatherhood as a signifier of authority, and the indeterminacy of what the duties of fatherhood entailed, were especially pronounced in the late colonial Spanish American context. There, a powerful paternal monarch would remain, and indeed strengthen his own authority over households, while skillful lawyers painted portraits of petty

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52. AGI, Estado, vol. 18, exp. 52, f. 3 (1798).
53. AGI, Estado, vol. 18, exp. 52, ff. 4–4v (1798).
54. AGI, Estado, vol. 18, exp. 52, f. 5v (1798).
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Captivity and Narrative Interest in the Early Modern Atlantic

Does the Atlantic world require new narrative forms? Does it distinctively modify existing ones? These were among the questions posed by the organizers of the Atlantic Narratives symposium at the University of Miami and Florida International University in February 2010. Although far from new, narratives of captivity among cultural and religious others gained particular prominence in the early modern Atlantic world, as a broader range of peoples came into contact for the first time—an encounter that not infrequently resulted in the hostile, strategic, or accidental integration of an individual into a foreign society. Whether real or imagined, the experience of captivity and return lends itself well to narrativization, according to even the strictest modern definitions of the form. Tales of captivity typically feature, for example, what J. Hillis Miller calls one of the basic elements of narrative—“an initial situation, a sequence leading to a change or reversal of that situation [for example, the capture], and a revelation made possible by the reversal of situation”—as well as what he identifies as the minimal characters necessary for narrative: “a protagonist [for example, the captive], an antagonist [the captor], and a witness who learns.”

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