

de autores como el mismo González.² Lo novedoso en el libro de Escobar es la pretensión por hacer central en el relato la agencia de los sujetos, motivo por el cual realiza una lectura crítica que valoramos positivamente, en la cual evita forzar las fuentes para suponer proyectos de nación, pues lo que motivó los memoriales, como bien identifica la autora, es la defensa de intereses inmediatos.

[450]

Con todo, la investigación permite apreciar las posibilidades que brindan los estudios subalternos, la capacidad de agencia, así como las perspectivas regional y local en estudios sobre grupos que conforman la sociedad, y que como en el caso de los sectores populares en Colombia y particularmente en el Tolima, se les ha atribuido historiográficamente una serie de características sobre las que es necesario volver e indagar.

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Gilberto Enrique Parada García.

Ley formal y ley material. La ley penal y su codificación en la construcción del Estado colombiano, 1819-1837.

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Even within the historiographical lacunae that exists for the years between the Independence and the Regeneration, the two decades between Bolívar's final military triumphs in Gran Colombia and the War of the Supremes are understudied. Thus, Gilberto Enrique Parada García's examination of the law and the development of the New Granada legal code during these years is a much needed study on politics and public life at the beginning of the republic. The book focuses on the history of the legal system in the early republic, specifically the juridical and historical context within which the Penal Code of 1837 was developed. The study engages with legal theory and legal studies while remaining grounded in social and political history. Parts of the study have been published as individual articles and here are placed in a broader, more informative, discussion.

2. Fernán González, "Relaciones entre identidad nacional, bipartidismo e Iglesia católica, 1820-1886", *Para leer la política*, tomo 2, pág. 270-271.

The work has two parts. In the introduction and first two chapters, Parada García locates the reader by surveying the relevant legal scholarship and the colonial antecedents to republican legal systems. This section blends the historical trajectory of Spanish legal thought with a discussion of the scholarship about that thought. It is here that Parada García explains his methodology and presents his historical argument, though the latter is only developed in the second half of the book. His methodology is informed by the contention that explaining the links between penal law and politics involves considering how law codes developed, and the role of state formation in the process. Accordingly, Parada García approaches the topic as a social history of the law, and draws on both legal and non-judicial sources to understand the broader historical context. With this context established, he explains:

[451]

El argumento central de este libro resalta la producción de la ley penal y su codificación en la República de Nueva Granada como procesos históricos que respondieron a necesidades del poder político y de la sociedad, en el proceso de conformación de una organización sociopolítica estatal, fenómenos que se observan, especialmente durante la década de 1830. (p. 29)

Chapter 1, “La cuestión historiográfica de la ley penal,” presents the author’s conceptualization of the intersection of legal studies, public culture, and the social history of the law. The review is well constructed and instructs readers on the relevant bibliography, while presenting his arguments about the development of Colombia’s first law code. In chapter two Parada García turns to the historical antecedents of the code by surveying the legal history of Spain. The first part of the chapter lays out the development of Spanish law under both the Hapsburgs and Bourbons; and explains the developing philosophy of law, particularly the role that religion articulated through the Inquisition had in building the fragmented system constructed out of overlapping authorities. This system was transplanted to the Americas, where it was further complicated by the challenges of distance, the existence of various indigenous cultures, and the distinct legal republics of the Americas. These factors impeded the development of a cohesive system of law and, importantly, neither reflected modernity nor included clear notions of what constituted a crime.

In the final two chapters Parada Garcia turns to the law in the republic. Chapter three “El Nuevo orden jurídico-penal en la era republicana 1819-1837” traces the history of the law from the heady days of the Patria Boba to the following decades when ambitious visions of utopian Independence had been

[452]

overwhelmed by republican reality. In these crucial years the impression of chaos and competing authority was exacerbated by the politics of the moment, and by the simultaneous reliance on colonial codes and republican legislation. The effort to create a judicial infrastructure in the early republic was an exercise in state building undertaken by regimes with scarce resource and little power to realize their visions. In examining these decades, Parada García introduces individual stories, drawing on trial transcripts to ground larger discussions in concrete examples of how the law shaped individual lives before 1837. In turn he considers the various challenges to political stability; how elite fears of lawless plebian society in Bogotá shaped this trajectory; and the influence of Benthamist ideals in the shaping of juridical philosophy. These sections also contain instructive explanations of the judicial geography of the young republic.

The final chapter returns to the distinction between *ley formal* and *ley material*, presenting specifics on trials taking place from the 1820s through the 1840s. Here Parada García presents a number of criminal histories, including a trial for a murder in Girón where the legal process stretched on for half a decade, emphasizing the arbitrary and inefficient nature of the legal system. He also examines the role that the attempt against Santander led by José Sardá played in establishing the practice of judicial retribution in republican politics. In conclusion, this study represents a significant advance in how we understand the history of the early Republic and how to approach the history of the law within a broader societal context. It will prove necessary reading for those seeking to understand the history of the early Republic.

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