

Liberalism as Utopia

The Rise and Fall of Legal Rule
in Post-Colonial Mexico, 1820–1900

TIMO H. SCHAEFER



This is a remarkable study of Mexican legal culture and local experiments in inclusion. Following the long tail of early nineteenth-century revolutions and the egalitarian aspirations of their protagonists, Schaefer shows how these ideals took institutional roots. Though legal equality ran challenged by social hierarchies, townsfolk and hacienda settlers forged their own egalitarian, ethical worlds.

Jeremy I. Adelman, Princeton University

Liberalism as Utopia is an impressive rethinking of nineteenth-century Mexican history that challenges long-held orthodoxies about nation and state formation. Schaefer convincingly unites social, legal and political history, to tell a remarkable story of Mexico's experiment with liberal and egalitarian legal cultures, especially at the level of local, lived experience.

James E. Sanders, Utah State University

Timo H. Schaefer examines revolutionary liberalism to rethink nineteenth-century Latin America, Mexico in particular. He not only revives important debates about politics, regionalism, law, and the lower classes, but also contributes to our understanding of liberalism and the utopian quest for social justice. This is an engaging, timely book that deserves a broad readership.

Charles F. Walker, University of California, Davis

Liberalism as Utopia is a remarkable, learned, and original work. By placing engagement with the law at the heart of popular politics, Timo H. Schaefer has redefined how we should view nineteenth century liberalism not only in Mexico, but also throughout Latin America and even Europe. If there is any justice (and if this book teaches us anything – it is that this is relatively rare), this work should inspire numerous comparative works on what Schaefer terms “legal culture” in decades to come.

Benjamin T. Smith, Reader in Latin American History, University of Warwick

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Liberalism as Utopia

Liberalism as Utopia challenges widespread perceptions about the weakness of Mexico's nineteenth-century state. Schaefer argues that after the War of Independence non-elite Mexicans – peasants, day laborers, artisans, local merchants – pioneered an egalitarian form of legal rule by serving in the town governments and civic militias that became the local faces of the state's coercive authority. These institutions were effective because they embodied patriarchal norms of labor and care for the family that were premised on the legal equality of adult, male citizens. The book also examines the emergence of new, illiberal norms that challenged the egalitarianism of the early republican period and, at the end of the century, overwhelmed it. By comparing the legal cultures of agricultural estates, mestizo towns, and indigenous towns, *Liberalism as Utopia* proposes a new way of understanding the social foundations of liberal and authoritarian pathways to state formation in the nineteenth century.

Timo H. Schaefer received his PhD in history from Indiana University. Between 2015 and 2017, he was a postdoctoral fellow at the University of British Columbia.

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For Allison. For our little history.

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Contents

| | |
|--------------------------|----------------|
| <i>Acknowledgments</i> | <i>page ix</i> |
| Introduction | I |
| I Liberalism as Utopia | I |
| II Peasant and Nation | 7 |
| III Law and Revolution | 13 |
| I Mestizo Towns | 20 |
| I Politics | 20 |
| II Soldiers | 26 |
| III Patricians | 37 |
| IV Municipalities | 48 |
| 2 Family and Legal Order | 62 |
| I Families | 62 |
| II Recruitment | 65 |
| III The Civic Militia | 79 |
| IV Civil War | 89 |
| 3 Haciendas | 97 |
| I Land and Revolution | 97 |
| II Disorder | 101 |
| III Metamorphosis | 105 |
| IV Despots | 112 |
| V Regions of Refuge | 122 |
| 4 Indigenous Towns | 129 |
| I A Separate People | 129 |
| II Colonial Legacies | 133 |
| III Land Conflicts | 152 |

| | | |
|---|--|-----|
| 5 | Dictatorship | 161 |
| | I Mythologies | 161 |
| | II <i>Jefes Políticos</i> | 165 |
| | III Privatization | 178 |
| | IV Labor | 187 |
| | V Local Courts | 197 |
| | Conclusion: Law and Exception in the Making of Modern Mexico | 204 |
| | <i>Bibliography</i> | 216 |
| | <i>Index</i> | 239 |

Introduction

I Liberalism as Utopia

The nineteenth century began with the Declaration of the Rights of Man and ended with the triumph of new class- and race-based hierarchies. Across Europe and Latin America, wherever new, liberal ideals contended with entrenched structures of privilege, the equalizing experiments of the age of revolution eventually gave way to a reactionary resurgence. At the end of the century, new structures of exclusion had taken the place of the old. Though this is not, of course, the only way to tell a story about the nineteenth century, it may be the one that does most to acknowledge the weight of its historical legacy: it assesses the century by the light of a utopia – of the equality of men – that animated challenges to old-regime structures at the time and in many places continues to do so today.

Most historians now agree that the societies of Europe and Latin America emerged transformed from the decades of warfare and political experimentation first set in motion by the French Revolution. Legal privilege had been abolished or greatly diminished; absolute rule gave way to constitutional rule; governments, to count themselves legitimate, henceforth needed to serve the glory not of God but the people. Politics had acquired a social depth that made it strange to itself. How the post-revolutionary societies of Europe and Latin America grappled with the meanings of their new realities differed between countries and, within countries, between regions and localities. The rhythm of Europe's nineteenth-century history was marked by the fissure of the 1848 revolutions, which replaced the social fluidity and political instability of previous decades with a more stringent social hierarchy, policed by a state with growing repressive capacities. Differences remain not only in the temporal frameworks in which stories of utopian failure played out but also in the degrees to which alternative storylines suggest themselves. Take France and England, the countries that would become paradigmatic of a liberal-democratic historical trajectory.¹

1 Some scholars of European history have described a strong division between countries developing in a liberal or democratic direction and those consolidating into modern autocracies; where the

Following more than a half-century of successive waves of political mobilization, France after 1851 achieved stability under the aggressively illiberal regime of the Second Empire, ushered in by a four-month state of exception that witnessed the harshest and most systematic country-wide crackdown on political dissent of the century.² In nineteenth-century Britain, history followed a gentler course. There, as Gareth Stedman Jones has famously argued, social mobilization was driven by a critique of political monopoly-power that faltered once governments proved themselves capable of incorporating popular demands into an elite-led national project.³ A whiggish interpretation of history, positing a steady, gradual ascent toward freedom, has always seemed most at home in the British context. Yet in Britain, too, the second half of the century saw a renewed insistence on social hierarchy as elites stepped up efforts at suppressing the “rowdy” elements in working-class culture.⁴ In both France and Britain, politics remained exclusionary until the final decades of the century,

Russian, Habsburg, and German Empires remained firmly under the grip of autocratic rulers at the end of the century, France had turned into a republic with full manhood suffrage and Britain was well on the way to including its entire adult population in the political process as well. The classic statement of that view is Barrington Moore, Jr., *Social Origins of Dictatorship and Democracy: Lord and Peasant in the Making of the Modern World* (Boston: Beacon Press, 1966). Other historians stress areas of similarity that existed in spite of such seemingly divergent experiences. Arno Mayer has argued that all of Europe by the outbreak of the First World War remained heavily dominated by landed, aristocratic interests and mentalities. Geoff Eley and Robin Blackburn have also called attention to the areas of similarity between German and English paths to nineteenth-century state formation. See Arno J. Mayer, *The Persistence of the Old Regime: Europe to the Great War* (New York: Pantheon Books, 1981); and David Blackburn and Geoff Eley, *The Peculiarities of German History: Bourgeois Society and Politics in Nineteenth-Century Germany* (New York: Oxford University Press, 1984).

- 2 On the provincial insurrection and its repression by Louis Napoleon's post-coup government, see Ted Margadant, *French Peasants in Revolt: The Insurrection of 1851* (Princeton: Princeton University Press, 1979); and Peter McPhee, *The Politics of Rural Life: Political Mobilization in the French Countryside, 1846–1852* (New York: Oxford University Press, 1992). On the consolidation of the Second Empire as a police state see also Howard C. Payne, *The Police State of Louis Napoleon Bonaparte 1851–1860* (Seattle: University of Washington Press, 1966); and Miranda Spieler, *Empire and Underworld: Captivity in French Guiana* (Harvard: Harvard University Press, 2012), 104–108.
- 3 Gareth Stedman Jones, *Languages of Class: Studies in English Working Class History 1832–1982* (Cambridge: Cambridge University Press, 1983), 106. The argument about the differential incorporation of popular demands is based on the work of Stedman Jones and comes from Ernesto Laclau, *On Populist Reason* (New York: Verso, 2005), 89–93. For a similar argument, based on a study of Chartism in the cotton town Ashton-under-Lyne near Manchester, see Robert Hall, *Voices of the People: Democracy and Chartist Political Identity, 1830–1870* (Monmouth: Merlin Press, 2007), chapter 5.
- 4 Richard Price, *British Society 1680–1880: Dynamism, Containment, Change* (New York: Cambridge University Press, 1999), 307–308; and Robert Storch, “The Policeman as Domestic Missionary: Urban Discipline and Popular Culture in Northern England, 1850–1880,” *Journal of Social History* 9/4 (1976).

at which time race-based forms of labor coercion appeared in their new colonies.⁵

In Latin America's post-colonial republics, liberalizing efforts of varying strength were similarly followed by a turn toward autocratic consolidation. For example, in the ethnically divided republics of Bolivia, Ecuador, and Peru, revolutionary utopias of progress and social harmony that animated creole independence leaders – who in the Andean nations imposed independence at the head of occupying armies – left their mark on popular culture but were not widely shared in elite circles.⁶ Measures like the abolition of indigenous tribute were quickly undone, and any vestige of the liberal ideal collapsed in the second half of the century under the pressure of economic modernization schemes premised on elite control over indigenous land and labor.⁷ In Colombia, a more resolute liberalism drew strength from the mobilization of poor and dark-skinned laborers in the middle decades of the century, yet after 1879 was cut short by a conservative regime that proscribed popular political associations, employed harsh vagrancy laws, and in some Caribbean towns prohibited the mingling of plebeian and elite Colombians in public spaces.⁸

5 In spite of some setbacks in the 1870s, France can probably be said to have become an inclusive and liberal polity for its male adult population after the fall of the Paris Commune in 1871, albeit within limits most strongly suggested by the Dreyfus affair. For an overview of the early history of the third republic, see Robert Tombs, *France 1814–1914* (New York: Longman, 1996), chapter 21. Although Britain did not establish full manhood suffrage until 1918, Richard Price argues that with the electoral reform bill of 1867 “[t]he bias of the definition of the political nation had shifted from how people were to be excluded to how they were to be included.” Price, *British Society*, 290. For discussions of global forms of labor coercion in the nineteenth century, see C. A. Bayly, *The Birth of the Modern World 1780–1914: Global Connections and Comparisons* (Malden, MA: Blackwell Publishing, 2004), 407–409; and Jürgen Osterhammel, *The Transformation of the World: A Global History of the Nineteenth Century*, trans. Patrick Camiller (Princeton: Princeton University Press), 682–683. For a case study of the particularly brutal labor regime that held sway in the mining industry of the British protectorate of Southern Rhodesia – where natives were forced to work under conditions leading to annual death rates by illness and accident that, in 1906, reached as high as 7.6 percent – see Charles van Onselen, *Chibaro: African Mine Labour in Southern Rhodesia 1900–1933* (Johannesburg: Ravan Press, 2001), chapters 2 and 3.

6 On popular appropriations of republican ideals in Peru, see Charles Walker, *Smoldering Ashes: Cuzco and the Creation of Republican Peru, 1780–1840* (Durham, NC: Duke University Press, 1999), chapters 5–7; Cecilia Méndez, *The Plebeian Republic: The Huanta Rebellion and the Making of the Peruvian State, 1820–1850* (Durham, NC: Duke University Press, 2005); and Sarah Chambers, *From Subjects to Citizens: Honor, Gender, and Politics in Arequipa, Peru, 1780–1854* (University Park: The Pennsylvania State University Press, 1999).

7 Brooke Larson, *Trials of Nation Making: Liberalism, Race, and Ethnicity in the Andes, 1810–1910* (New York: Cambridge University Press, 2004), 45–50, 68–69, 117–122, 155–156, 166–176, 216–217.

8 James Sanders, *Contentious Republicans: Popular Politics, Race, and Class in Nineteenth-Century Colombia* (Durham, NC: Duke University Press, 2004); Jason McGraw, *The Work of Recognition: Caribbean*

In all of these instances, high-minded ideals did not simply run up against the limits of the possible and settle into compromises that seemed stale to their adherents. Rather, a trend toward a partial and, necessarily, compromised institutionalization of liberal principles in the second half of the century gave way to new forms of hierarchy and exclusion. These forms found justification in dominant strands of nineteenth-century thought. Social-Darwinist ideas underwrote race-based systems of domination in Europe's colonies and fueled debates about the inferiority of the lower classes at home.⁹ In Latin America, late-century positivism united national elites, after fifty years of political divisions, around a shared commitment to forms of progress that integrated the categories of scientific racism into national political projects.¹⁰ For example, in the Andean republics the consolidation of autocracy and exclusion at the end of the century was accompanied by what one scholar calls "a redefinition of Indianness . . . to an inferior 'race' sentenced to the margins of nation and civilization."¹¹

Among post-revolutionary nations in Europe and Latin America, Mexico stands out both for the profundity of its liberal experiment and the oppressiveness – indeed, the pervasive indecency – of the regime that came to power in the final quarter of the nineteenth century.¹² The Mexican War of Independence (1810–1821) was from its beginning accompanied by a social revolution that overturned colonial hierarchies and established popular actors as active participants in the country's political affairs. After achieving freedom from colonial rule, Mexicans inaugurated a national community premised on the equality of citizens. They abolished slavery in 1829, five years before owning slaves became illegal in the British

Colombia and the Postemancipation Struggle for Citizenship (Chapel Hill: University of North Carolina Press, 2014), esp. p. 170 on the prohibition against the mixing of social classes.

- 9 Greta Jones, *Social Darwinism and English Thought: The Interaction between Biological and Social Theory* (Atlantic Highlands, NJ: Humanities Press, 1980), esp. chapter 8; Thomas Holt, *The Problem of Freedom: Race, Labor, and Politics in Jamaica and Britain, 1832–1938* (Baltimore: John Hopkins University Press, 1992).
- 10 Charles Hale, "Political and Social Ideas in Latin America, 1870–1930," in *The Cambridge History of Latin America*, vol. 4. (Cambridge: Cambridge University Press, 1986).
- 11 Larson, *Trials of Nation Making*, 246. On Peru, see also Mark Thurner, *From Two Republics to One Divided: Contradictions of Postcolonial Nationmaking in Andean Peru* (Durham, NC: Duke University Press, 1997).
- 12 The steepness of this arc in the cases of both Mexico and Colombia is stressed in James Sanders, *The Vanguard of the Atlantic World: Creating Modernity, Nation, and Democracy in Nineteenth-Century Latin America* (Durham, NC: Duke University Press, 2014). For a useful comparative study of indigenous society in Mexico and Peru in the independence era, stressing the relatively significant adoption of new, republican norms in the former country as against the latter, see Claudia Guarisco, *La reconstitución del espacio político indígena: Lima y el Valle de México durante la crisis de la monarquía española* (Castelló de la Plana: Universitat Jaume I, 2011).