

Thomas Duve and Otto Danwerth, eds.

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The result of a research project conducted from 2016 to 2018 in Frankfurt, *Knowledge of the Pragmatici* unites eleven contributions of the highest quality that announce a paradigm shift in the field of legal history. Longtime dominated by attempts to retrace the origins of modern state law from a Eurocentric perspective, the specific type of legal historical research developed in this volume starts from a global perspective instead. In doing so, it defies geographical boundaries, while abandoning a positivistic understanding of law that has been adamant in stressing the differences between law, morality, and religion. Moreover, traditional scholarship has shown a tendency to concentrate on learned legal literature, often written in Latin and addressed at legal elites. But these biases fail to do justice to the reality of normative practices in early modern Ibero-America, the editors indicate, where religious authorities, including members from religious orders, had a huge impact on the regulation of behavior and the resolution of conflicts. Therefore, this volume concentrates on so-called “pragmatic normative literature,” defined by Thomas Duve and Otto Danwerth as “books written for the orientation and use of legal practitioners, crown officials, or for persons in charge of the *cura animarum*, the missionaries, priests and other office-holders in ecclesiastical institutions” (vii). A theoretical framework for further study of this source material is provided by Thomas Duve in “Pragmatic Normative Literature and the Production of Normative Knowledge in the Early Modern Iberian Empires (16th–17th Centuries).” It draws on insights from information science, legal theory, translation studies, and the history of knowledge to offer an introductory article of a truly programmatic nature.

Readers of this journal will be particularly interested in Gustavo César Machado Cabral’s contribution, “Jesuit Pragmatic Literature and Ecclesiastical Normativity in Portuguese America (16th–18th Centuries).” It highlights the seminal role of the Society of Jesus not only in founding colleges in Salvador, Rio de Janeiro, and São Luis do Maranhão, but also, on a more general level, in building the normative structure of the colonial enterprise in Portuguese America from their arrival there in 1549 until their expulsion in 1759. Special attention is paid to Manuel da Nóbrega and João de

Azpilcueta, probably some of the most famous first-generation Jesuits who arrived in Portuguese America. Educated at the university of Coïmbra and Salamanca, Nóbrega and Azpilcueta offer fine examples of the translation of the symbiosis of legal and moral theological knowledge typical of early modern Scholastic learning on the European continent into Brazilian normative practice. Simultaneously, they actively contributed to shaping the normativity developed at Portuguese and Spanish universities by exposing authorities at the university of Coïmbra to their experience in Portuguese America. This is illustrated by a fascinating text from the 1580s (*Sententiae circa resolutionem aliquorum casuum qui in Brasilia frequenter occurrunt*), containing the responses by Fernão Perez, Gaspar Gil, Martín de Azpilcueta, and Luis de Molina to five questions submitted by the Jesuits in Brazil to authorities in Portugal. But sometimes cases of conscience were solved locally, albeit with the help of normative knowledge from the Old World. In discussing the solution of a case of conscience submitted to Nóbrega by Quirício Caxa, a local Jesuit priest, Machado Cabral concludes that Nóbrega dealt with particular problems that happened in America while grounding his opinions on arguments derived from the *ius commune* and moral theologians from Salamanca and other European universities.

This process of mutual influence between the normative experiences of the Old and the New World is also highlighted by Manuela Bragagnolo in a groundbreaking article on the textual evolution, between successive editions, of Martín de Azpilcueta's famous *Manual for Confessors*—undoubtedly the most widespread piece of pragmatic normative literature circulating in the Ibero-American world, as can be derived from Otto Danwerth's well-documented chapter on the circulation of pragmatic normative literature in Spanish America. In "Managing Legal Knowledge in Early Modern Times: Martín de Azpilcueta's *Manual for Confessors* and the Phenomenon of Epitomisation," Bragagnolo shows that Azpilcueta's *Manual* was "a living text." He adapted and updated its content in response to societal challenges, especially following from the colonial experience. Both Nóbrega, a former student of Martín de Azpilcueta and João de Azpilcueta, Martín's nephew, exchanged letters with the prominent canon lawyer, submitting their doubts about practical matters such as child slavery and the confession of Indigenous people through interpreters to his advice. Consequently, Martín de Azpilcueta updated his *Manual for Confessors* following conversations with them and with other Jesuits in Portuguese America. For example, the 1552 edition of the *Manual* features a specific reference to the sale of *indios* as slaves in Brazil. That edition also includes a Portuguese translation of a passage in Martín de Azpilcueta's

commentary *De poenitentia* from 1542, which had been cited by Nóbrega on the occasion of a dispute, in the summer of 1552, with the bishop of Bahia concerning the Jesuits' practice of confessing *indios* with the help of interpreters. The legal and moral theological writings of the School of Salamanca, then, were not only passively consumed by the missionaries in the Americas, but also actively shaped by them.

The contribution of Jesuit theologians to the development of pragmatic normative literature in the Ibero-American world is not limited, of course, to Portuguese America. In a chapter on the Third Mexican Provincial Council (1585), Osvaldo R. Moutin highlights the paramount role of the Jesuit theologian Juan de la Plaza in drafting a manual for confessors (*Directorio para confesores y penitentes*) and three catechisms meant to implement the decisions made by the council. Through the example of the *Directorio*, Moutin is able to elucidate one of the typical features of pragmatic normative literature: it does not necessarily replace erudite normative knowledge but renders it more accessible. As such, the *Directorio* served both as a guide for confessors solving cases of conscience and as a textbook for candidates for the priesthood across New Spain and beyond. The Jesuits, then, had a far-reaching impact on the diffusion of pragmatic normative literature across New Spain, even if pastoral care in the Mexican territories was dominated by Franciscan missionaries—as David Rex Galindo's solid article on missionary literature in colonial Mexico illustrates. But this is only one of the many, corollary insights one gains from reading the manifold contributions to the collective work under review, which also features chapters by specialists in the history and sociology of law, such as Christoph H. Meyer, Renzo Honores, José Luis Egío, Pilar Mejía, and Agustín Casagrande. Apart from its merits in broadening the scope of legal historical research, this groundbreaking volume opens up many avenues for further research on a host of topics that are of interest to researchers specializing in a variety of scholarly subjects, ranging from the history of the Jesuit order through colonial studies or, for that matter, the translation, in Ibero-America, of the early modern synthesis between moral theology and *ius commune*.

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