

HUMAN RIGHTS IN LATIN AMERICA

19TH CENTURY

Putting Latin America in the picture Later chapters will show how Latin Americans have frequently been in the forefront of modern human rights campaigns – sometimes ahead of the West, not to mention the rest of the world. But Latin America is often neglected in human rights history. Partly this is because Latin American nations have not wielded the military or economic clout of their Western counterparts. Partly it is because of the undeniable oscillations of Latin American politics, with frequent periods of strong man rule (*caudillismo*) and repression (but many Western countries have not been exempt here). Human rights have been, and are, a battleground in Latin American history. This said, it is important to recognize that, in the wake of Western developments in the 18th century, human rights thinking was implanted early as an element in the modern Latin American political tradition.

The Background There is no question that much of the Latin American human rights tradition originated with the familiarity of many independence leaders with Enlightenment thought, particularly in France (though the North American precedent had some role as well). The French Declaration of the Rights of Man and the Citizen was translated into Spanish in the 1790s (the translator was thrown into jail by the colonial authorities). Many Latin Americans began to express their “yearning” (as one Venezuelan put it) for this kind of freedom. However, Latin American leaders were also influenced by the older Catholic tradition of natural law, which was taught in universities in the region until the Spanish tried to clamp down. As a result, the Latin American approach to human rights may have differed from the French in three ways. First, it was less systematically anti-government, more sympathetic to positive government action as well as protection of individuals against abuse. Second, it was less anti-Catholic, willing to see the state enforce appropriate Catholic rules (a feature still visible today, for example in resistance to gay rights legislation in otherwise liberal countries). To be sure, Catholic support for authoritarian rule pushed many Latin American liberals to urge reduction of the Church role, for example in education, but some distinctions may have lingered. Finally, the Latin American human rights tradition was less broadly based, more confined to the leadership of people of European origin who, in fact, carried through the independence movements without wide popular support.

Bolivar and independence. Simon Bolivar, the leading independence figure, was thoroughly versed in French Enlightenment authors, and particularly Rousseau. Bolivar believed deeply in individual liberty – and was profoundly opposed to slavery, a “shameless violation of human dignity”. Like the North American revolutionary leaders, Bolivar believed that people possessed certain inalienable rights; as the Colombian constitution of 1812 put it, “the right of man in society are legal equality and liberty, security and property.” However, Bolivar placed more emphasis on the duties of citizens, and less simply on protecting their rights, than was true of the United States Bill of Rights. And, faced with the huge difficulties of governance after independence was won, he reluctantly relaxed protection of rights like freedom of the press in favor of efforts at stability. At the same time it is important to recognize that all the constitutions issued in the wake of independence in the early 19th century – including Colombia – carefully included a declaration of rights. Thus Mexico not only banned slavery but also torture, while stipulating freedom of the press. In Argentina San Martin, proclaiming that “liberals of the world are brothers everywhere”, instituted press freedom and emancipation for the children of slaves, though more than Bolivar he came to find strong government essential.

Juarez Benito Juarez, who governed Mexico at several points in the 1850s and 1860s, is another figure who maintained the Latin American human rights tradition. He sponsored a law in 1855 that established equality under the law and restricted the powers of the Catholic Church and the military. His success was short-lived, as foreign intervention and then, in the 1870s, the establishment of another period of strongman rule created the context for the Mexican revolution of 1910.

The Mexican Revolution The constitution of 1917 set forth a clear list of citizen rights – specifically now called human rights (*derechos humanos y sus garantias*, First Title, chapter 1). Particularly noteworthy

were efforts to limit the role of the Catholic Church in education and other matters – arguably, significantly limiting Catholic liberty because of beliefs that the Church would seek to undermine a liberal, secular state; however, the restrictions were not always enforced subsequently. Even more important was the addition of social rights to the usual list – here, Mexico set a model for later constitutions like that (1918) of the Soviet Union. Social rights included rights to education, support for land reform, and measures seeking to protect labor in areas such as hours of work, social insurance, and safety. (“The Nation shall have at all times the right to impose on private property such limitations as the public good demands.”) Definitions of rights were expanding, though it is also true that the establishment of one-party rule from the 1920s to the 1990s significantly limited political rights in fact. Again, the Latin American human rights tradition was real but undeniably checkered into recent decades.

Study questions:

1. Why was French example on the whole more relevant to Latin American rights development than examples from the United States?
2. What were some distinctive features of human rights development in 19th-century Latin America?
3. In what ways did the Mexican revolution and its aftermath represent a new turn in human rights?

Further reading:

Paolo Carozza, “From Conquest to Constitutions: retrieving a Latin American tradition of the idea of human rights,” *Human Rights Quarterly* 25 (2003): 281-313.

John Lynch, *Simon Bolivar. A Life* (Yale University Press, 2006).

Michael Gonzales, *The Mexican Revolution, 1910-1940* (University of New Mexico Press, 2002).